

(150004) Published in The Wichita Eagle on 7-23-04  
ORDINANCE NO. 46-212

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY  
OF THE CITY OF WICHITA, KANSAS.

**SECTION 1.** That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

**Case No. ZON2004-00029**

Request for zone change from "LC" Limited Commercial to "OW" Office Warehouse on property described as:

The north 2 acres of Lot 12, except the west 260 feet thereof, Russell Tracts Addition. Generally located south of 33<sup>rd</sup> Street North and west of Amidon.

**SUBJECT TO LOT SPLIT AND THE PROVISIONS OF THE FOLLOWING PROTECTIVE OVERLAY #143:**

1. The following uses shall be permitted:
  - a. Animal care, limited; automated teller machine; bank or financial institution; broadcast/recording studio; college or university; community assembly; construction sales and service (need not comply with Art. III, Sec. III-D.6.bb of the Unified Zoning Code); day care, limited and general; government service; library; park and recreation; office general; personal care service; personal improvement service; post office substation; printing and copying, limited; recycling collection station, private and public; retail, general; reverse vending machine; safety service; utility, minor; vocational school; wireless communication facility; and similar uses that may be established by the Unified Zoning Code allowed by right in both the "LC" Limited Commercial and the "OW" Office Warehouse districts.
  - b. Wholesale or business service for the expressed use of the property owner. No warehousing of goods by outside companies shall be permitted.
  - c. The following uses shall be permitted only if granted approval as a Conditional Use subject to Art. V, Sec. V-D of the Unified Zoning Code: animal care, general; monument sales; nurseries and garden centers; warehouse, self-service storage; and manufacturing, limited.

2. Outdoor storage and display shall be in conformance to current "LC" zoning standards, except that no portable storage containers or storage of goods in trailers, shall be permitted.
3. All site development regulations, including but not limited to landscaping, signage, screening and setbacks shall be the same as the current "LC" zoning standards.
4. All delivery vehicles shall be parked west of the existing building and south of the proposed building to prevent vehicles from view from Amidon as well as the office and residential uses to the east and northeast.
5. Development shall be in general conformance to the site plan and building elevation submitted by the property owner as a part of the application.
6. The property shall be Lot Split within one year from approval of the zone change.
7. Overnight parking of delivery vehicles shall be prohibited. No extra parking in the back of the building shall be allowed and vehicle storage yard shall be a prohibited use.

**SECTION 2.** That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

**SECTION 3.** That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED AT WICHITA, KANSAS, 7-28-04

Carlos Mayans  
Carlos Mayans, Mayor

ATTEST:

Karen Sublett  
Karen Sublett, City Clerk



(SEAL)

Approved as to form:

Gary E. Rebenstorf  
Gary E. Rebenstorf, City Attorney



AGENDA ITEM NO. 16

**STAFF REPORT**  
MAPC June 10, 2004  
DAB VI June 7, 2004

CASE NUMBER: ZON2004-00029

APPLICANT/AGENT: Discount Inc c/o Jim Aboud (Owner/Applicant); Ferris Consulting c/o Greg Ferris (Agent)

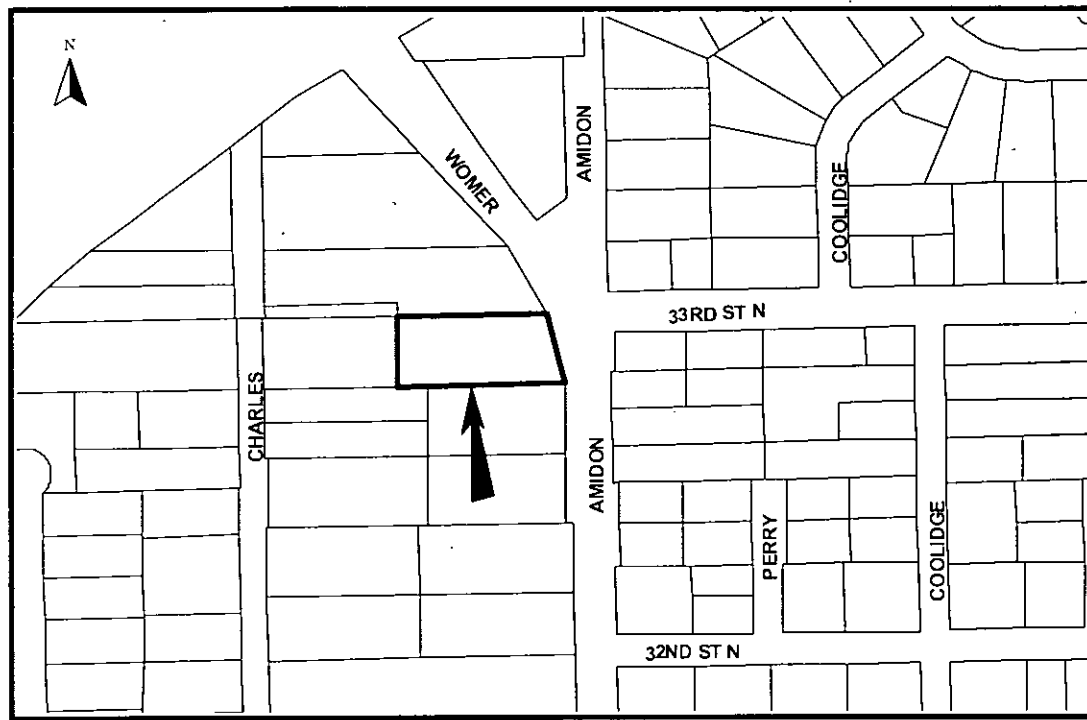
REQUEST: "OW" Office Warehouse with a Protective Overlay

CURRENT ZONING: "LC" Limited Commercial

SITE SIZE: 0.963 acres

LOCATION: South of 33<sup>rd</sup> Street North and west of Amidon

PROPOSED USE: Wholesale and retail use



**BACKGROUND:** The applicant requests a zone change from "LC" Limited Commercial to "OW" Office Warehouse on a 0.963-acre platted tract located south of 33<sup>rd</sup> Street North and west of Amidon. The applicant also requests a Protective Overlay to limit use and site development requirements to those of the "LC" district except for adding wholesaling as a permitted use (see attached letter).

A retail/wholesale operation is currently in operation on the property although a wholesale use is not in conformance with "LC" zoning. The owner sells products at retail and also sells the products to other retailers at wholesale. The owner states that he uses only vans or box vans and no semi-tractor trailer trucks to deliver the wholesale products to other retailers, although he likely receives the shipments of the goods from semi-tractor trailer trucks. This differs from strictly retail use only in the magnitude of semi-trucks expected to deliver products to the site. In a strictly retail business, the number of deliveries received would be less because it is the final retail site, whereas in a wholesale business, outside shipments are received and then delivered to other sites.

Currently the site has a number of portable storage containers and trailers storing products for distribution. If the rezoning is approved, the owner has stated he will be constructing a larger building to house the merchandise and would eliminate the outdoor storage presently onsite.

The property to the north is zoned "LC" and "GO" General Office. A dental office is located on property zoned "GO" General Office and the "LC" property is vacant. The abutting property to the west is zoned "LC" but is occupied by a single-family residence. The abutting lot to the south is an office or perhaps a retail use and is zoned "LC". Two churches are located south of this commercial use on property zoned "SF-5" Single-family Residential. The remaining property to the southwest and all the property east of Amidon also is zoned "SF-5" and is in single-family residential use.

**CASE HISTORY:** The subject property is platted as a portion of Lot 12 of Russell Tracts Addition, recorded 1911.

**ADJACENT ZONING AND LAND USE:**

|        |              |                                                              |
|--------|--------------|--------------------------------------------------------------|
| NORTH: | "LC"; "GO"   | Vacant, dental office                                        |
| SOUTH: | "LC"; "SF-5" | Commercial building, two churches, single-family residential |
| EAST:  | "SF-5"       | Single-family residential                                    |
| WEST:  | "LC"; "SF-5" | Single-family residential                                    |

**PUBLIC SERVICES:** The subject property has access to Amidon, a four-lane arterial street. The property has one drive opening onto Amidon and a cross-lot connection to an existing driveway on the property to the north under the same ownership. The subject property is currently served by municipal water and sewer service.

**CONFORMANCE TO PLANS/POLICIES:** The Wichita Land Use Guide in the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* classified the subject tract as "commercial". Commercial location guidelines contained in the 2002 update of the *Wichita-Sedgwick County Comprehensive Plan* indicate that commercial sites should: (1) be located adjacent to arterial

streets or major thoroughfares; (2) be coordinated with mass transit routes, high density residential, employment or other intensive uses; (3) have site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential uses; (4) be located in compact clusters or nodes versus extended strip development; (5) should not feed traffic directly onto local residential streets and (6) be located in areas of similar development, and where traffic patterns, land uses and utilities can support such development. Several locational guidelines of the *Comprehensive Plan* apply directly to the physical development of the application area, particularly related to location on a principal arterial, being in a compact cluster of commercial use and using the protective overlay to limit noise, lighting and other adverse impacts.

The *Unified Zoning Code* states that the "OW" district is "primarily intended to accommodate office and warehousing activities for the building trades and similar businesses with operating characteristics that do not require highly visible locations or the type of vehicular access needed for retail and high-intensity office development. The OW district is generally compatible with both the 'Commercial' and 'Industrial' designations of the Wichita-Sedgwick County *Comprehensive Plan*."

**RECOMMENDATION:** The Protective Overlay use restrictions and site development restrictions are key to recommending approval of the request. The P-O enhances the compatibility with the policies of the Comprehensive Plan and reduces incompatibility of the current use with nearby low-density residential areas. Some of the most traffic-intensive uses such as restaurants and vehicle serving uses such as car wash, convenience store, and service station are eliminated because the uses are not permitted in the "OW" district. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to replatting and the following provisions of a Protective Overlay District:

1. The following uses shall be permitted:
  - a. Animal care, limited; automated teller machine; bank or financial institution; broadcast/recording studio; college or university; community assembly; construction sales and service (need not comply with Art. III, Sec. III-D.6.bb of the Unified Zoning Code); day care, limited and general; government service; library; park and recreation; office general; personal care service; personal improvement service; post office substation; printing and copying, limited; recycling collection station, private and public; retail, general; reverse vending machine; safety service; utility, minor; vocational school; wireless communication facility; and similar uses that may be established by the Unified Zoning Code allowed by right in both the "LC" Limited Commercial and the "OW" Office Warehouse districts.
  - b. Wholesale or business service for the expressed use of the property owner. No warehousing of goods by outside companies shall be permitted.
  - c. The following uses shall be permitted only if granted approval as a Conditional Use subject to Art. V, Sec. V-D of the Unified Zoning Code: animal care, general; monument sales; nurseries and garden centers; warehouse, self-service storage; and manufacturing, limited.
2. Outdoor storage and display shall be in conformance to current "LC" zoning standards, except that no portable storage containers or storage of goods in trailers shall be permitted.

3. All site development regulations, including but not limited to landscaping, signage, screening and setbacks shall be the same as the current "LC" zoning standards.
4. All delivery vehicles shall be parked west of the existing building and south of the proposed building to prevent vehicles from view from Amidon as well as the office and residential uses to the east and northeast.
5. Development shall be in general conformance to the site plan and building elevation submitted by the property owner as a part of the application.
6. The property shall be replatted within one year from approval of the zone change.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property to the north is zoned "LC" and "GO" General Office. A dental office is located on property zoned "GO" General Office and the "LC" property is vacant. The abutting property to the west is zoned "LC" but is occupied by a single-family residence. The abutting lot to the south is an office or perhaps a retail use and is zoned "LC". Two churches are located south of this commercial use on property zoned "SF-5" Single-family Residential. The remaining property to the southwest and all the property east of Amidon also is zoned "SF-5" and is in single-family residential use.
2. The suitability of the subject property for the uses to which it has been restricted: The property could continue to be used as a general retail use as well as a variety of other uses allowed by right in the "LC" zoning district. The protective overlay allows the wholesale use and those uses allowed both by the "LC" and "OW" Office Warehouse district; it would maintain the Conditional Use approval for those uses considered a conditional use in the "LC" district except for construction sales and service use, which eliminates the requirement for being a primarily retail establishment. Asphalt and concrete plant, limited is eliminated.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The protective overlay adherence to "LC" site development standards should ensure that screening, lighting, setback, and compatibility standards of the Unified Zoning Code and landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance are met. This should limit noise, lighting, and other activity from adversely impacting surrounding residential areas. Expansion of the building and elimination of outdoor storage containers and trailers for wholesale storage should improve the appearance of the site and be less of a detriment to the neighborhood.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Wichita Land Use Guide in the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* classified the subject tract as "commercial". Commercial location guidelines contained in the 2002 update of the *Wichita-Sedgwick County Comprehensive Plan* indicate that commercial sites should: (1) be located adjacent to arterial streets or major thoroughfares; (2) be coordinated with mass transit routes, high density residential, employment or other intensive uses; (3) have site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential uses; (4) be located in compact clusters or nodes versus extended

strip development; (5) should not feed traffic directly onto local residential streets and (6) be located in areas of similar development, and where traffic patterns, land uses and utilities can support such development. Several locational guidelines of the *Comprehensive Plan* apply directly to the physical development of the application area, particularly related to location on a principal arterial, being in a compact cluster of commercial use and using the protective overlay to limit noise, lighting and other aspects adverse effects.

5. Impact of the proposed development on community facilities: The proposed "OW" use at this location will generate more truck traffic, but less overall traffic than the site could potentially generate under many "LC" uses such as restaurants, car wash, convenience store, and service station that are eliminated by the "OW" zoning district.