

OCA150006 BID 37529-009 CID #76383
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ORDINANCE NO. 47-712

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. ZON2007-00048

Request for a zone change from "SF-5" Single-family Residential to "LC" Limited Commercial, on approximately 4.7-acres of property described as:

The North half of the East 10 acres of the North 20 acres of the West half of the Northwest Quarter of Section 15, Township 28 South, Range 1 East of the 6th P.M., subject to road rights-of-way of record, Wichita, Sedgwick County, Kansas. Generally located on the south side of MacArthur Road and east of Hydraulic Avenue.

**SUBJECT TO PLATTING WITHIN A YEAR & THE FOLLOWING PROVISIONS OF PROTECTIVE
OVERLAY DISTRICT #196:**

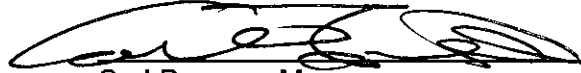
1. Prohibited uses on the site include limited and general correctional placement residences, private and public recycling collection stations, bed and breakfast, hotels/motels, recreational marine facility, heliport, parking area commercial, mining and quarrying, oil or gas drilling, rock crushing, solid waste incinerator, and asphalt or concrete plant, limited and general, recreational vehicle campground, tavern and drinking establishment and pawn shop.
2. On site pole lights shall be no higher than 20-foot, including the base. They shall be hooded and directed onto the site and away from abutting and adjacent residential development and zoning, and shall not face to the north. No pole lights shall be located within the required setbacks.
3. Flashing signs, (including signs showing only time, temperature and other public service messages), rotating or moving signs, signs with moving lights, electronic or video message boards or signs which create illusions of movement are not permitted.
4. Portable and off-site signs are not permitted.
5. All freestanding signs must be monument type, shall have a maximum height of 16 feet and shall be oriented perpendicular to MacArthur Road.
6. The subject property shall be limited to a total of three signs.
7. Any use of backlit canopies and neon or fluorescent tube lighting on buildings is not permitted.

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.

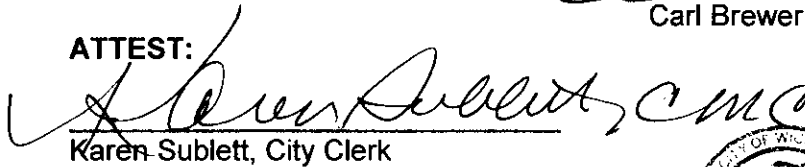
SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED AT WICHITA, KANSAS, December 11th 2007.



Carl Brewer - Mayor

ATTEST:



Karen Sublett, City Clerk

(SEAL)



Approved as to form:



Gary E. Rebenstorf, City Attorney

City of Wichita
City Council Meeting
December 4, 2007

TO: Mayor and City Council

SUBJECT: ZON2007-48 – Zone change from “SF-5” Single-family Residential to “LC” Limited Commercial with Protective Overlay #196. Generally located on the south side of MacArthur Road and east of Hydraulic Avenue. (District III)

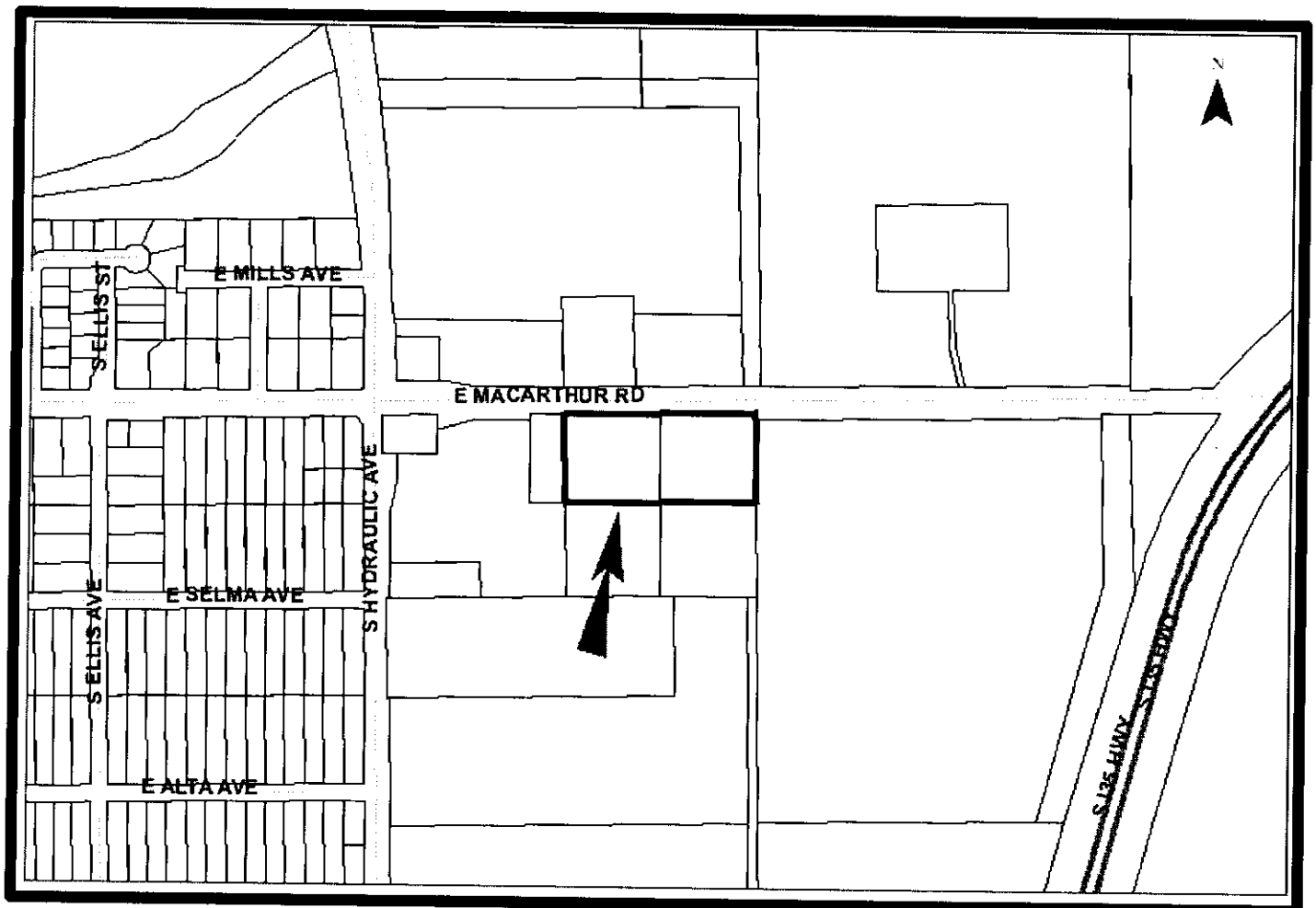
INITIATED BY: Metropolitan Area Planning Department *JLS*

AGENDA: Planning (Consent)

MAPC Recommendations: Approve unanimously (12-0), subject to staff recommendations.

MAPD Staff Recommendations: Approve, subject to the provisions of the Protective Overlay and platting.

DAB recommendation: Approve (10-1), subject to staff recommendations



Background: The applicant is requesting "LC" Limited Commercial zoning for the 4.7-acre unplatted "SF-5" Single-family Residential zoned site. The site is partially developed with a single-family residence located on its west portion. The site is located approximately 660 feet east of the Hydraulic Avenue and MacArthur Road intersection with frontage/access onto MacArthur. The requested "LC" zoning would allow the applicant to market the site for commercial development.

The site abuts the east side of a 0.89 acre "SF-5" zoned KG&E electric substation, which is located between the subject site and the applicant's partially developed First Pentecostal Church site (Pentecostal 2nd Add, 12-1-1982 and the Ed Dwire Add, 3-20-1978). The applicant's church site is zoned largely "LC" Limited Commercial (County zoning, 1958) with a smaller, undeveloped "B" Multi-family Residential zoned portion. The site also abuts the north side of a 13 acre unplatted, undeveloped "SF-5" zoned property. This 13 acre "SF-5" zoned property is also owned by the applicant and has frontage/access onto MacArthur Road. The 13 acre site is being considered for "GO" zoning on today's agenda (ZON2007-49). If the applicant's requested zoning changes (ZON2007-48 & -49) are approved, then KG&E's "SF-5" zoned substation site will be the last of the developable "SF-5" zoned property on the west side of Hydraulic, for approximately ¼-mile south of MacArthur Road. The developed "SF-5" properties in this area are located largely on the west side of Hydraulic. The area's configuration is defined by I-35, I-135, 47th Street South and the Arkansas River.

There are "MH" Manufactured Housing zoned manufactured home complexes abutting the east side of the site (Z2753 {1986} and Z3209 {1996}). Properties north of the site, across MacArthur Road, are zoned "MH," "GC" and "LI" and are developed as a manufactured housing complex, an indoor roller skating rink and Wichita's last drive-in theater, the twin screen Starlite. The "GC" and "LI" zoned drive-in theater is the largest portion of CUP DP-47, which was approved in 1972. DP-47 has four parcels; the largest parcel (A) allows only the drive-in theater. The three smaller parcels allow restaurants, service stations and retail in Parcel B; Parcels C and D allow indoor/outdoor sale and services as allowed in "GC" zoning. The owner of the drive in theater has expressed concerns about the impact of additional lighting and noise in the area, as allowed by the current zoning cases.

Analysis: On November 1, 2007, the MAPC voted unanimously (12-0) to recommend approval of the zone change subject to platting within one year and the provisions of PO #196. There were no speakers in opposition to the request at the MAPC meeting. On November 7, 2007, DAB III voted (10-1) to recommend approval of the zone change subject to platting within one year and the provisions of PO #196. There were no speakers in opposition to the request at the DAB III meeting. No protest petitions have been submitted, and staff has received no telephone calls protesting the proposed zone change. The provisions of PO #196 are:

1. Prohibited uses on the site include limited and general correctional placement residences, private and public recycling collection stations, bed and breakfast, hotels/motels, recreational marine facility, heliport, parking area commercial, mining and quarrying, oil or gas drilling, rock crushing, solid waste incinerator, and asphalt or concrete plant, limited and general, recreational vehicle campground, tavern and drinking establishment and pawn shop.
2. On site pole lights shall be no higher than 20-foot, including the base. They shall be hooded and directed onto the site and away from abutting and adjacent residential development and zoning, and shall not face to the north. No pole lights shall be located within the required setbacks.
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4. Portable and off-site signs are not permitted.
5. All freestanding signs must be monument type, shall have a maximum height of 16 feet and shall be oriented perpendicular to MacArthur Road.

6. The subject property shall be limited to a total of three signs.
7. Any use of backlit canopies and neon or fluorescent tube lighting on buildings is not permitted.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality.

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendation/Actions:

1. Concur with the findings of the MAPC and approve the zone change, subject to the additional recommended provisions of Protective Overlay #196 and subject to the condition of platting; instruct the Planning Department to forward the ordinance for first reading when the plat is forwarded to the City Council; or
2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)