RESOLUTION NO. 116-2018

Published on: August 8, 2018

A RESOLUTION GRANTING A CONDITIONAL USE FOR CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-D AS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY KANSAS, DECEMBER 12, 1984, AND SUBSEQUENTLY AMENDED.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS

SECTION I. That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section V-D of the Wichita Sedgwick County Unified Zoning Code, a Conditional Use for the lands legally described hereby is approved as follows:

Case No. ZON 2018-00017

A Zoning Case to amend existing Protective Overlay #214 on property zoned LC Limited Commercial (LC) and legally described as follows:

The East ¼ of the North 440 feet of the Northeast Quarter of Section 12, Township 27 South, Range 2 East of the 6th Prime Meridian; Sedgwick County, Kansas; EXCEPT the East 800 feet and EXCEPT the West 660 feet and EXCEPT the North 50 feet for road.

SECTION II. That application ZON2018-00018 is hereby approved and Protective Overlay #214 is hereby amended to read as follows:

Protective Overlay PO #214:

1. All allowed uses permitted within the LC, Limited Commercial Zoning District with the following EXCEPTIONS; Manufactured Home; Group Residence, Limited and General; Cemetery; Correctional Placement Residence, Limited and General; Golf Course; Recycling Collection Station, Private and Public; Recycling Processing Center; Reverse Vending Machine; Utility, Minor; Car Wash; Construction Sales and Service; Convenience Store; Funeral Home; Marine Facility, Recreational; Monument Sales; Nightclub in the County; Pawn Shop; Recreation and Entertainment, Indoor; Restaurant with drive-in or drive-through services; Secondhand Store; Sexually Oriented Business in the County; Tavern or Drinking Establishment; Vehicle and Equipment Sales; Vehicle Repair, Limited and General; Asphalt or Concrete Plant, Limited and General; Storage, Outdoor; Agricultural Research; and Agricultural Sales and Services.

2. Front, interior side and rear building setbacks shall be 35 feet, where adjacent to residential zoning.

3. If redeveloped commercially, a masonry screening wall or landscaped berm shall be installed along the side or rear property lines where adjacent property is zoned TF-3 or

Dated this 1st day of August, 2018.

BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

ATTEST:

KELLY B. ARNOLD, County Clerk

DAVID T. DENNIS, Chairman
Commissioner, Third District

DAVID M. UNRUH, Chair Pro Tem
Commissioner, First District

APPROVED AS TO FORM:

JUSTIN M. WAGGONER
Assistant County Counselor

MICHAEL B. O'DONNELL, II
Commissioner, Second District

RICHARD RANZAU
Commissioner, Fourth District

JAMES M. HOWELL
Commissioner, Fifth District

AGENDA ITEM NO. 8

WICHITA–SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

STAFF REPORT

MAPC June 21, 2018
County Commission District 1

CASE NUMBER: ZON2018-00017

APPLICANT/AGENT: Ron and Leah Garcia (Owners/Applicants)

REQUEST: Amendment of Protective Overlay #214

CURRENT ZONING: LC Limited Commercial

SITE SIZE: 4.86 acres

LOCATION: Located on the south side of East 21st Street North and approximately 1/5-mile west of 159th Street East (15621 East 21st Street North)

PROPOSED USE: Allow existing agri-tourism uses including "event center in the County" and "Farmer's Market in the County"



BACKGROUND: The applicant is seeking to modify the provisions of the Protective Overlay (PO #214) which was placed on the property when it was rezoned to LC Limited Commercial ("LC") zoning in July, 2008. The application area consists of one unplatted tract zoned SF-20 Single-family Residential ("SF-20"). The site is located on the south side of 21st Street North and approximately 1/5 mile west of 159th Street East and is developed with a single-family residence and several accessory buildings. The site has approximately 445 feet of frontage on 21st Street. The owners have had a home occupation on the property in the past which utilized many of the accessory buildings, but the owners are now engaged in the development of a small "organic" farming operation with a small orchard and garden areas. They also host a "farm-to-market" dinner on a regular basis and have "farmer's market" sales on-site for their own produce, as well as commodities from other vendors.

The rezoning in 2008 which established the Protective Overlay was presented with the full intention the property would be sold and developed commercially. The requirements of the Protective Overlay (PO #214) read as follows, with the requested changes of the owners shown in "italics" following:

1. Even though the site is zoned LC zoning, permitted uses are those permitted in the NR Neighborhood Retail ("NR") district, but not including the special individual commercial use size limits found in the NR district, and the GO General Office ("GO") district. Overhead-doors, service stations, fuel outlets or gas pumps are also prohibited if located within 100 feet of any single-family residential lot or if these uses are facing any single-family lot. *I am asking the NR restriction be removed to allow for our property to fall under LC uses as zoned. Specifically, I wish to apply the agritourism rules to my LC zoning. At a minimum, I want to be able to use "Event Center in the County" and "Farmer's Market in the County" as permitted LC uses.*

2. Front, interior side and rear building setbacks shall be 35 feet, where adjacent to residential zoning. *I assume this is for new building, so it doesn't apply to me and can be left in. Add "for new buildings" to clarify.*

3. Masonry screening walls or landscaped berm shall be installed along the side or rear property lines where adjacent property is zoned TF-3 or more restrictive; otherwise applicable code screening standards shall be required. *I am asking that this item be removed. The properties to the East and South have already built their own earth berms and our property is not visible to them. The property to the West has a home-based limousine service being run in a building between their house and our property line. To the north is 21st Street and beyond that, the property is zoned LC, so this restriction doesn't apply there.*

4. All buildings within the tract are to share similar architectural character, color and predominate exterior building materials, as approved by the Planning Director. Building walls shall not utilize metal as a predominate exterior façade material. *I assume this is for new buildings, so it doesn't apply to me and can be left in. Add "new" in front of buildings to clarify?*

5. Lighting elements (pole, fixtures, lamps, hoods, etc.) shall be similar in character with a maximum height of 25 feet above ground. If the light pole is to be located within 100 feet of a residence pole height is limited to 15 feet above ground. Extensive use of back lit canopies and neon or fluorescent tube lighting on buildings is not permitted and is prohibited. *We are not adding any lighting, so this item doesn't apply to me and can be left in. Suggest adding "for new buildings" to clarify.*

6. Signage shall be per code except: no flashing, moving, portable, billboard, off-site, banner or pennant signs (except time and temperature) shall be permitted; ground signs shall be monument style, sharing similar elements of design; spaced 150 feet apart with a maximum height of 20 feet and have a maximum sign face area of 150 square feet. Window signage shall be limited to 25 percent of window area. Building wall signage shall not be permitted on any façade that faces an abutting lot zoned TF-3 or more restrictive. *I am asking that this item be restricted to new signage.*

7. No occupancy permits shall be issued for any development without public sewer and water service. *I am asking that this item be removed. Public sewer is not available to us. We use septic tanks on our house and shop facilities, but the public does not have access to these. We bring port-a-pots in for all events. I am asking that this item at least be restricted to new buildings.*

8. Access shall be as approved by the appropriate traffic engineer. Internal and cross lot circulation shall be provided at the time of platting to ensure smooth circulation between abutting tracts and within the tract. Prior to the issuance of a building permit the Traffic Engineer shall approve all access and circulation improvements. *I am asking that this item be restricted to new building. Please add clarifying language.*

9. A pedestrian circulation system shall be provided that connects all buildings within the development and with each other and sidewalks. *I am asking that this item be restricted to new building. Please add clarifying language.*

The property to the north across 21st Street is zoned LC Limited Commercial and is platted as Monarch Landing 4th Addition. The property to the east and south is zoned SF-5, Single Family Residential (SF-5) and has been platted as The Ranch Addition. The property to the west is zoned SF-20 is zoned SF-20 and is developed with a single-family residence and outbuildings, and is presently occupied with a "limousine rental business" being conducted as a home occupation.

CASE HISTORY: The property is currently unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	vacant
SOUTH:	SF-5	single family residential
EAST:	SF-5	vacant
WEST:	SF-20	single family residential

PUBLIC SERVICES: East 21st Street North is a fully improved arterial street with four lanes, a dedicated turning lane, and full traffic controls. Public water is along 21st Street North, but there is no sanitary sewer service to the property.

CONFORMANCE TO PLANS/POLICIES: The 2035 Wichita Future Growth Concept map (MAPC approval November 19, 2015) indicates the site is appropriate for "residential employment mix." The residential/employment mix encompasses areas of land that will likely be developed or redeveloped by 2035 with uses predominately of a mixed nature. The overall spirt and intent of this CUP appears to be in conformance with the stated policies and guidelines of the adopted Plans for the City of Wichita.

RECOMMENDATION: Based upon the information available at the time the staff report was completed, staff recommends approval of the request to modify Protective Overlay #214 to read as follows:

Protective Overlay PO #214:

1. All allowed uses permitted within the LC, Limited Commercial Zoning District with the following EXCEPTIONS; Manufactured Home; Group Residence, Limited and General; Cemetery; Correctional Placement Residence, Limited and General; Golf Course; Recycling Collection Station, Private and Public; Recycling Processing Center; Reverse Vending Machine; Utility, Minor; Car Wash; Construction Sales and Service; Convenience Store; Funeral Home; Marine Facility, Recreational; Monument Sales; Nightclub in the County; Pawn Shop; Recreation and Entertainment, Indoor; Restaurant with drive-in or drive-through services; Secondhand Store; Sexually Oriented Business in the County; Tavern or Drinking Establishment;

Vehicle and Equipment Sales; Vehicle Repair, Limited and General; Asphalt or Concrete Plant, Limited and General; Storage, Outdoor; Agricultural Research; and Agricultural Sales and Services.

2. Front, interior side and rear building setbacks shall be 35 feet, where adjacent to residential zoning.

3. If redeveloped commercially, a masonry screening walls or landscaped berm shall be installed along the side or rear property lines where adjacent property is zoned TF-3 or more restrictive unless already existing on adjacent properties; otherwise applicable code screening standards shall be required.

4. If redeveloped commercially, all buildings within the tract are to share similar architectural character, color and predominate exterior building materials, as approved by the Planning Director. Building walls shall not utilize metal as a predominate exterior façade material.

5. Lighting elements (pole, fixtures, lamps, hoods, etc.) shall be similar in character with a maximum height of 25 feet above ground. If the light pole is to be located within 100 feet of a residence pole height is limited to 15 feet above ground. Extensive use of back lit canopies and neon or fluorescent tube lighting on buildings is not permitted and is prohibited.

6. Signage shall be per code except: no flashing, moving, portable, billboard, off-site, banner or pennant signs (except time and temperature) shall be permitted; ground signs shall be monument style, sharing similar elements of design; spaced 150 feet apart with a maximum height of 20 feet and have a maximum sign face area of 150 square feet. Window signage shall be limited to 25 percent of window area. Building wall signage shall not be permitted on any façade that faces an abutting lot zoned TF-3 or more restrictive.

7. No occupancy permits shall be issued for any commercial redevelopment without public sewer and water service.

8. Platting shall be required prior to any commercial redevelopment. Access shall be as approved by the appropriate traffic engineer. Internal and cross lot circulation shall be provided at the time of platting to ensure smooth circulation between abutting tracts and within the tract. Prior to the issuance of a building permit the Traffic Engineer shall approve all access and circulation improvements.

9. Prior to any commercial redevelopment, a pedestrian circulation system shall be provided that connects all buildings within the development and with each other and sidewalks.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property to the north across 21st Street is zoned LC Limited Commercial and is platted as Monarch Landing 4th Addition. The property to the east and south is zoned SF-5, Single Family Residential (SF-5) and has been platted as The Ranch Addition. The property to the west is zoned SF-20 is zoned SF-20 and is developed with a single-family residence and outbuildings, and is presently occupied with a "limousine rental business" being conducted as a home occupation.

2. The suitability of the subject property for the uses to which it has been restricted: The restrictions placed on this property were in anticipation of imminent commercial redevelopment. That did not happen and the modifications are deemed appropriate to address the present uses of the owners.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed modifications will not harm surrounding properties nor the ability for further development to occur.

4. Length of time the property has been vacant as currently zoned: The property has been occupied residentially for years and this change will allow the continued use of the property by the owners until such time more intensive commercial development might occur.

6. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2035 Wichita Future Growth Concept map (MAPC approval November 19, 2015) indicates the site is appropriate for "residential employment mix." The residential/employment mix encompasses areas of land that will likely be developed or redeveloped by 2035 with uses predominately of a mixed nature. The overall spirt and intent of this CUP appears to be in conformance with the stated policies and guidelines of the adopted Plans for the City of Wichita.

7. Impact of the proposed development on community facilities: This change will have no impact on existing community facilities, nor require additions to any facilities.

Staff Report Attachments:

1. Aerial Photo