

Z-3305

CW98-1963 (First Published in The Daily Reporter, December 24, 1998)

ORDINANCE NO. 44-127

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. Z- 3305

Zone change request from "LC" Limited Commercial District to "GC" General Commercial District, described as:

That part of Lot 1, Lowe's Addition, Wichita, Sedgwick County, Kansas described as commencing at the SW corner of said Lot 1; thence northeasterly 167.9 feet along south line of said Lot 1; thence north 20 feet to the existing southwest corner of the Lowe's building for a point of beginning; thence west 130 feet; thence north 250 feet; thence east 85 feet; thence south 95 feet; thence east 45 feet; thence south 155 feet to the point of beginning (containing 28,225 square feet, more or less, or 0.65 acres). Located south of Maple and west of Mid-Continent Airport Road.

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 22, 1998.

Bob Knight, Mayor

ATTEST: (Seal)

Pat Burnett, City Clerk

(D24)

Keith
Dale
Rose
Kubby
Karen

STAFF REPORT

CPO (5) November 18, 1998
MAPC November 19, 1998

CASE NUMBER: Z-3305 and DP-37 Amendment #1

APPLICANT/AGENT: Lowe's Home Centers, Inc., c/o Neil Hamilton (Owner); and
Baughman Co., P.A. (Agent)

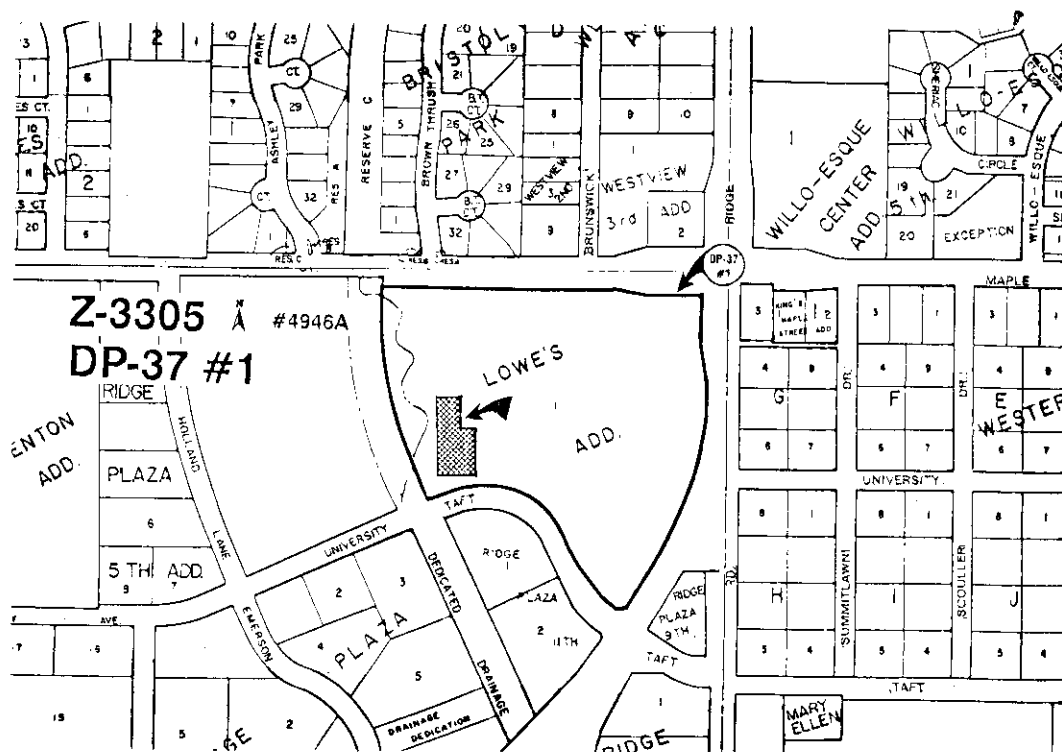
REQUEST: Zone change from "LC" to "GC" and an amendment to
Parcel 5

CURRENT ZONING: "LC" Limited Commercial

SITE SIZE: .65 acre

LOCATION: South of Maple and west of Mid Continent Airport Road

PROPOSED USE: Outdoor storage



BACKGROUND: The applicant is requesting to rezone a 0.65 acre portion of Parcel 5 of the Ridge Plaza CUP (DP-37) and amend Parcel 5 to allow for outside storage as an accessory use. The parcel of land is located at the southwest corner of Maple and Mid Continent Airport Road and is currently zoned "LC" Limited Commercial and developed with a Lowe's Home Center.

The applicant is requesting to rezone a portion of Parcel 5 to allow outside storage. This area would be located along the south ½ of the western edge of the building as shown on the attached site plan. The Unified Zoning Code limits the outdoor display of merchandise in the "LC" district to within 10 feet of the building, subject to no portion of the display shall be on publicly owned property unless the applicant shall first have obtained appropriate approval of such use from the governing body, no required off-street parking space or loading area shall be utilized for display and other conditions found in Section III-B.14.e of the Unified Zoning Code.

The UZC also limits outdoor storage in the "LC" district to the following conditions:

- (a) **Fence or wall enclosure.** The area used for outdoor storage shall be enclosed by a fence or wall not less than six feet in height nor less than the height of the merchandise to be screened. The fence or wall shall be comprised of material capable of screening the merchandise from view. One opening, not exceeding ten feet in width, may be left open during business hours. When the material of the enclosure is not of the same general material as the main building, landscaping as approved by the Zoning Administrator shall be provided and maintained outside the enclosure. For outside storage areas within a CUP the fence or wall screening provisions may be modified provided that a design plan is submitted with the CUP application and such plan is deemed by the Planning Commission to provide an acceptable environment for the surrounding area based on the physical characteristics of the property, distances from adjacent properties and public streets, and the type of merchandise to be stored.
- (b) **Size of storage area.** The enclosure around the storage area shall be attached to the principal building, and the area within such enclosure shall not exceed ten percent of the floor area occupied by the principal use within the building. Such enclosure shall comply with the same setback as is required for the main building. The area within the enclosure shall be calculated as floor area in determining the number of required off-street parking spaces. Outdoor storage of between ten percent and twenty percent may be allowed upon application and approval of a conditional use permit processed in accordance with Sec. V-D of these regulations.
- (c) **Conflicting provisions.** The provisions of this section shall not be deemed to

prevent the display of merchandise required in the servicing of vehicles when located on service islands at filling stations, nor shall it supersede any of special conditions of approval imposed on development projects, plans or permits.

- (d) **Exemptions.** These outdoor storage requirements shall not apply to holiday tree sales and associated temporary activities.

The applicant needs more outside storage than the 20 percent (approximately 23 to 24 percent) of the floor area permitted in the "LC" zoning district with a Conditional Use. Therefore the applicant must request a rezoning of a portion of the site to the "GC" district. There is an existing area of outside storage already located in the general vicinity of the zone change, which is shown on the attached site plan. This area is fenced with a chained link fence. The applicants intend to continue this fence around the entire portion of the outside storage area.

The Office of Central Inspection has received complaints about the storage area which exists to the north of the building. After visiting the site, Central Inspection asked for changes to the storage area which would bring this area into compliance with the regulations of the Zoning Code, which Lowe's is in the process of doing.

The site is surrounded by residential and commercial development to the north. Single family homes and a dry cleaner exists just to the east of this site. South and west of this application area is vacant land which is zoned for commercial development.

CASE HISTORY: This site was platted in 1997 as the Lowe's Addition.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-6" and "LC"	Single-family homes and commercial development
SOUTH:	"LC"	Undeveloped land
EAST:	"SF-6"	Single-family homes and a dry cleaner
WEST:	"LC"	Undeveloped land

PUBLIC SERVICES: This site has access to Maple, a four lane arterial, which has current traffic volumes of 16,842, and Mid-Continent Airport Road a four lane arterial with current traffic volumes of 16,586. The 2020 Transportation Plan estimates the traffic volumes along Maple to increase to 19,747 and along Mid Continent Airport Road to increase to 24,879. Municipal services are available to serve this site.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for commercial uses. The Plan recommends that commercial developments of this size should be located in "planned centers" versus extended strip developments. Such "centers" should be designed with shared internal vehicular and pedestrian circulation, combined signage, similar landscaping and

building materials, and combined ingress/egress locations. Commercial development should be developed with site design features which limit noise, lighting, and other activity so as to not adversely impact surrounding residential areas.

RECOMMENDATION: This request is in conformance with past rezonings for large box retailers which need outside storage. These type of stores require a large area for storage of materials not able to be stored indoors and should have limited impact on surrounding land uses with the use of screening. Therefore, based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**, subject to the following conditions:

1. The applicant shall screen all outside storage from surrounding properties using the same black mesh as used along the north side of the building.
2. The proposed uses for Parcel 5 shall be amended to permit outside storage as a permitted use in the area zoned "GC."
3. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
4. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
5. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
6. The applicant shall submit 4 revised copies of both C.U.P.'s to the Metropolitan Area Planning Department within 30 days after approval of this amendment by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Residential properties are located to the north and east and commercial properties are located at the northwest and southeast corners of Maple and Mid-Continent Airport Road. The

remainder of the property to the south and west is vacant but is approved for commercial zoning subject to platting.

2. The suitability of the subject property for the uses to which it has been restricted: The site is currently being used as a commercial development and will not be altered with this rezoning. A larger area than currently permitted in the existing zoning district is needed by the applicant for outside storage and therefore the applicant is filing this request.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The residential property to the east should not be able to see the area being asked to be rezoned. The residential property to the north will be located approximately 480 feet north of the application area. The required screening of the storage area should help alleviate any potential negative impact on the surrounding uses.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The area is classified as appropriate for commercial uses by the Land Use Guide of the Comprehensive Plan. This request does conform to the Comprehensive Plan.
5. Impact of the proposed development on community facilities: This rezoning application should not generate any additional traffic than currently exists and therefore should not have an impact on the community facilities in the area.