

ORDINANCE NO. 48-362

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. ZON2009-00015

Zone change from SF-5 Single-family Residential ("SF-5") to Limited Commercial ("LC") subject to the provisions of Protective Overlay #232 on property described as:

Lot 1, Block Q, Callahan Addition, Wichita, Sedgwick County, Kansas; generally located south of Maple Street, on the southwest corner of the University Street – Tyler Road intersection.

SUBJECT TO APPROVAL BY THE GOVERNING BODY AND THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #232:

- A. No off-site or portable signs shall be permitted on the subject property. No building signs shall be permitted along the south or west face of any building that is adjacent to any property that is zoned residential.
- B. Signs shall be in accordance with the City of Wichita sign code, with the exception that signs shall be monument-style and limited to 15 feet in height. No LED signs.
- C. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from any abutting or adjacent properties that are in a residential zoning district. Light poles shall be limited to a maximum height, including the base of the light pole, of 15 feet. Light poles shall not be located within any setbacks.
- D. Outdoor speakers and sound amplification systems shall not be permitted.
- E. No buildings shall exceed one story in height with a maximum building height of 25 feet.
- F. At the time the site is redeveloped the owner shall install and/or maintain a 6-8-foot high cedar fence located parallel to the south and west property lines of the subject site, where it abuts existing residential zoning, along its south and west sides.
- G. At the time the site is redeveloped landscaping shall be installed that meets the Landscape Ordinance.
- H. Adjustments or variances to the parking standards can be considered at the time the fire station/emergency service facility is redeveloped, as needed.
- I. The following uses shall not be permitted: adult entertainment establishment; correctional placement residence; recycling collection station; reverse vending machine; car wash; convenience store; night club; recreation and entertainment; restaurant with drive-in or drive-thru facilities; service station; tavern and drinking establishment.

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.

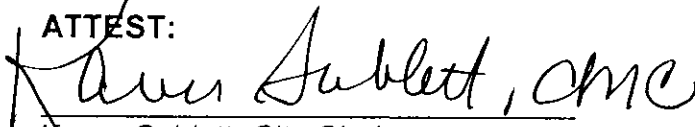
SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED AT WICHITA, KANSAS,

July 14, 2009

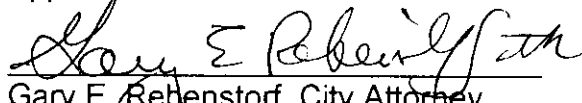

Carl Brewer - Mayor

ATTEST:


Karen Sublett, City Clerk



Approved as to form:


Gary E. Rebenstorf, City Attorney

City of Wichita
City Council Meeting
July 7, 2009

To: Mayor and City Council

Subject: ZON2009-00015 - City zone change from SF-5 Single-family Residential ("SF-5") to LC Limited Commercial ("LC") with a Protective Overlay ("PO"); generally located south of Maple Street and west of Tyler Road. (District V)

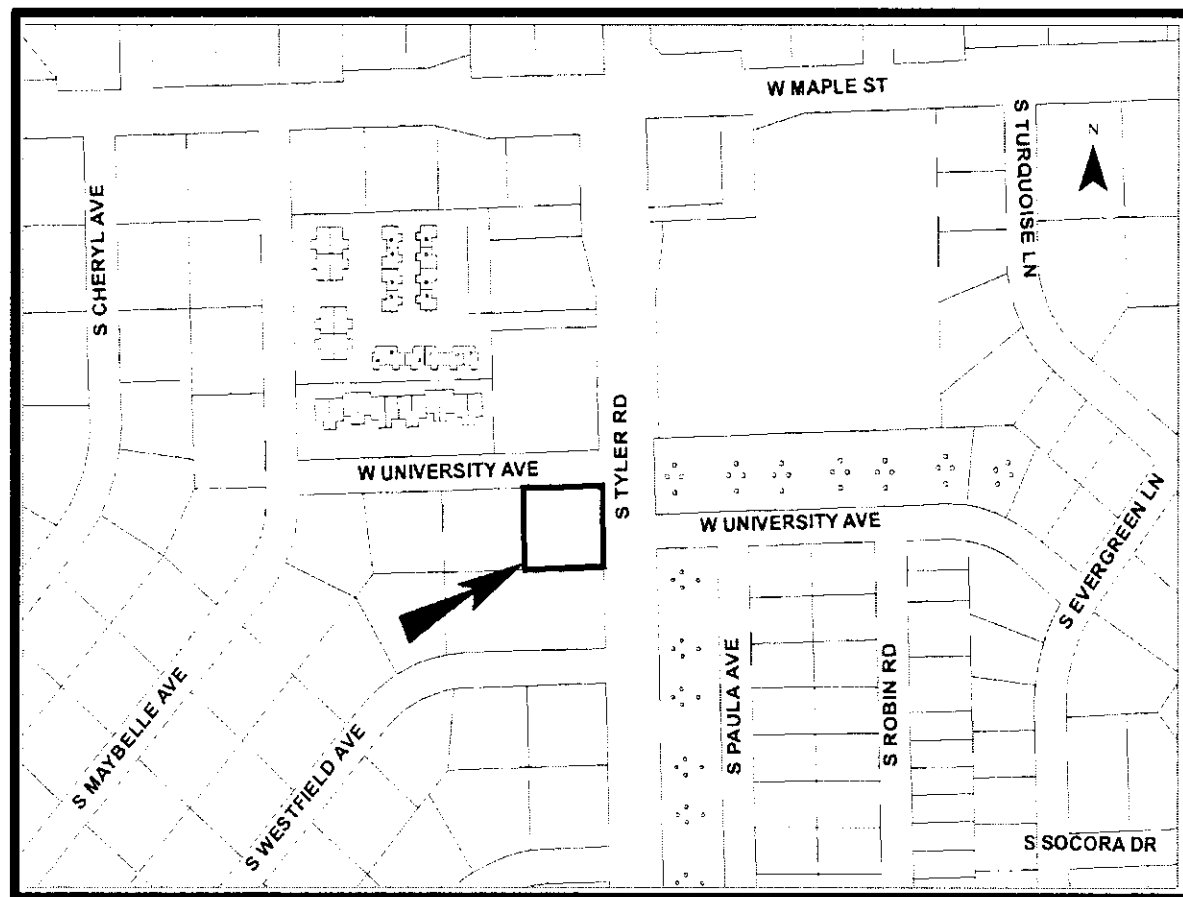
Initiated By: Metropolitan Area Planning Department *JLS*

Agenda: Planning (Non-consent)

MAPC Recommendation: Approve unanimously (12-0), subject to the provisions of the Protective Overlay.

MAPD Staff Recommendation: Approve, subject to the provisions of the Protective Overlay.

DAB V Recommendation: Approve unanimously (7-0), subject to the amended provisions of the Protective Overlay.



Background: The applicant requests a zone change from SF-5 Single-family Residential (“SF-5”) to LC Limited Commercial (“LC”), with a Protective Overlay (PO) on Lot 1, Block Q, Callahan Addition. The approximately 0.49-acre site (150 feet x 140 feet) is located on the southwest corner of Tyler Road and University Avenue. The site is currently developed with a decommissioned 8,115 square foot, one-story fire station/emergency service building (built 1954-1955), with a total of 10 bay doors facing both Tyler Road and University Avenue. This was an active building until the last few months. Access to the site is off of Tyler Road, a principal arterial, and the residential street University Avenue. The proposed LC zoning with the PO will allow more opportunities for the reuse of this facility.

The surrounding area is characterized by a mixture of single-family, duplex and multi-family residences, some office, public/civic and commercial uses. The properties to the south and west of the subject site are zoned SF-5 and are mostly developed as a single-family subdivision, the Callahan Addition. A church (on two lots) abuts the south side of the subject site. An undeveloped lot, owned by the same church, abuts the west side of the subject site. North of the site, across University Avenue, there is LC zoned (with a CUP overlay) property with the following uses: an open bay, self service car wash, apartments, a day care, small retail and office. East of the site, across Tyler Road, are MF-29 Multi-family Residential (“MF-29”) and LC zoned apartments, a bar and TF-3 Duplex (“TF-3”) zoned duplexes.

To buffer the abutting and adjacent existing single-family residences from the commercial redevelopment of the site, the applicant has proposed a PO. The proposed PO limits signage, lighting, noise and building height. It also requires a six to eight foot tall cedar fence along the west and south sides of the site and a six foot wide landscape buffer, consisting of the existing landscape, along the south property line; both the landscaping and the screening fence requirement will be activated by redevelopment of the site. If the existing landscape does not meet the minimum requirement of the Landscape Ordinance, it is proposed that there be additional planting of evergreens. Per the Landscape Ordinance, evergreens are to be a minimum of 5 feet in height. The proposed PO also prohibits certain uses that are less compatible with residential development.

The applicant has not addressed the required landscaping on the west, interior side yard, where the subject site abuts an undeveloped SF-5 zoned lot. The west side of the subject site appears to have concrete parking right up to the property line, thus preventing the easy installation of the required landscaping. Any installation of landscaping along the west side would possibly take away the few existing, on-site parking spaces. An exception to the Landscape Ordinance that may apply to this site allows for the waiver of parking lot screening if the applicant is “...renovating a nonresidential building, but the renovation does not increase the value of the property by more than 50%...” or “...does not alter the parking lot.” At this point there is no specific redevelopment plan for the building, thus the application of this exception cannot be applied at this time, but could in the future when a new use has been identified. Modification to the Landscape Ordinance can be made by the Planning Director. The BZA can waive the landscape requirements. Landscaping, parking and other code standard considerations are not uncommon on residential sized lots that are developed for nonresidential use.

Analysis: At the MAPC meeting held on June 4, 2009, the MAPC voted (12-0) to approve the requested zoning, subject to the provisions of the PO. There were no protests to the request at the MAPC meeting. At the DAB V meeting held on June 8, 2009, the DAB unanimously (7-0) recommended approval of the requested zoning, with one change to the PO. The DAB recommended that “no LED signs should be permitted.” The DAB recommendation is different than what was recommended by the MAPC, thus it will require a 2/3 majority of the Council to approve the request per DAB’s recommendation. There were no protests at the DAB meeting and the applicant agreed to the DAB’s recommended change. Staff has not received any written protests or calls protesting the request. The MAPC recommended approved of LC zoning, subject to the provisions of PO #232 listed below (the PO listed below does not include the DAB recommendation to prohibit LED signage):

- A. No off-site or portable signs shall be permitted on the subject property. No building signs shall be permitted along the south or west face of any building that is adjacent to any property that is zoned residential.
- B. Signs shall be in accordance with the City of Wichita sign code, with the exception that signs

- shall be monument-style and limited to 15 feet in height.
- C. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from any abutting or adjacent properties that are in a residential zoning district. Light poles shall be limited to a maximum height, including the base of the light pole, of 15 feet. Light poles shall not be located within any setbacks.
 - D. Outdoor speakers and sound amplification systems shall not be permitted.
 - E. No buildings shall exceed one story in height with a maximum building height of 25 feet.
 - F. At the time the site is redeveloped the owner shall install and/or maintain a 6-8-foot high cedar fence located parallel to the south and west property lines of the subject site, where it abuts existing residential zoning, along its south and west sides.
 - G. At the time the site is redeveloped landscaping shall be installed that meets the Landscape Ordinance.
 - H. Adjustments or variances to the parking standards can be considered at the time the fire station/emergency service facility is redeveloped, as needed.
 - I. The following uses shall not be permitted: adult entertainment establishment; correctional placement residence; recycling collection station; reverse vending machine; car wash; convenience store; night club; recreation and entertainment; restaurant with drive-in or drive-thru facilities; service station; tavern and drinking establishment.

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. Adopt the findings of the MAPC, approve the zone change subject to the provisions of Protective Overlay #232; place the ordinance establishing the zone change on first reading; 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.)

Attachment: None.