

ORDINANCE NO. 49-005

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. ZON2010-00002

Zone change request from SF-5 Single-Family Residential ("SF-5") to NO Neighborhood Office ("NO"), with a PO Protective Overlay on properties described as:

Lots 1, 2, 3 and 4, Block 3, Brookhaven Estates Addition

SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #250:

- A. In addition to those uses permitted by right in the SF-5 district, only the following NO uses are permitted: Office, General and Medical Service.
- B. Signage shall be per the sign code except ground or pole signage shall be monument style; building signage shall not face to the north or west and there shall not be any ground or pole signage located along Lancaster. Also prohibited are: portable signs, temporary signs, electronic message signs, animated signs, advertising decorations (streamer, string pennant and pinwheel type signs), banner signs, commercial balloon signs and moving, flashing or rotating signs.
- C. Complete access control along Lancaster shall be dedicated prior to the issuance of occupancy permits except that single-family uses can have access to Lancaster. Prior to the issuance of occupancy permits, access control as requested by the appropriate engineer shall be dedicated along 159th Street and Central Avenue. Prior to the issuance of building permits, additional right-of-way along Central and 159th Street shall be dedicated that is sufficient to meet adopted intersection standards.
- D. Buildings constructed on the site shall share similar architectural features, such as exterior color, exterior façade materials and roof styles. Exterior building facades facing a street shall be of materials and colors similar to those found in the adjoining neighborhood, such brick or stone. Roof styles shall be hip or gable (no flat or parapet roofs are permitted).
- E. Uniform parking lot lighting standards and fixtures shall be installed. Light sources located on the application area shall comply with UZC standards such as Sec. IV-B.4.
- F. Maximum building height shall be twenty-five feet.
- G. No exterior speaker or amplified voice systems are permitted.
- H. Landscaping that is one and one-half times required by the Landscape Ordinance shall be installed along Lancaster.
- I. At the time Office, General or Medical Service uses are developed, a masonry wall at least six feet tall shall be installed along the northern property line of the application area.

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 this 17th day of May, 2011.

ATTEST:


Karen Sublett, City Clerk


Carl Brewer, Mayor



Approved as to form:


Gary E. Rebenstorf, Director of Law


City of Wichita
City Council Meeting
May 10, 2011

TO: Mayor and City Council

SUBJECT: ZON2011-00002 – City zone change from SF-5 Single-Family Residential to NO Neighborhood Office, subject to Protective Overlay #250, generally located northeast of Central Avenue and 159th Street East. (District II)

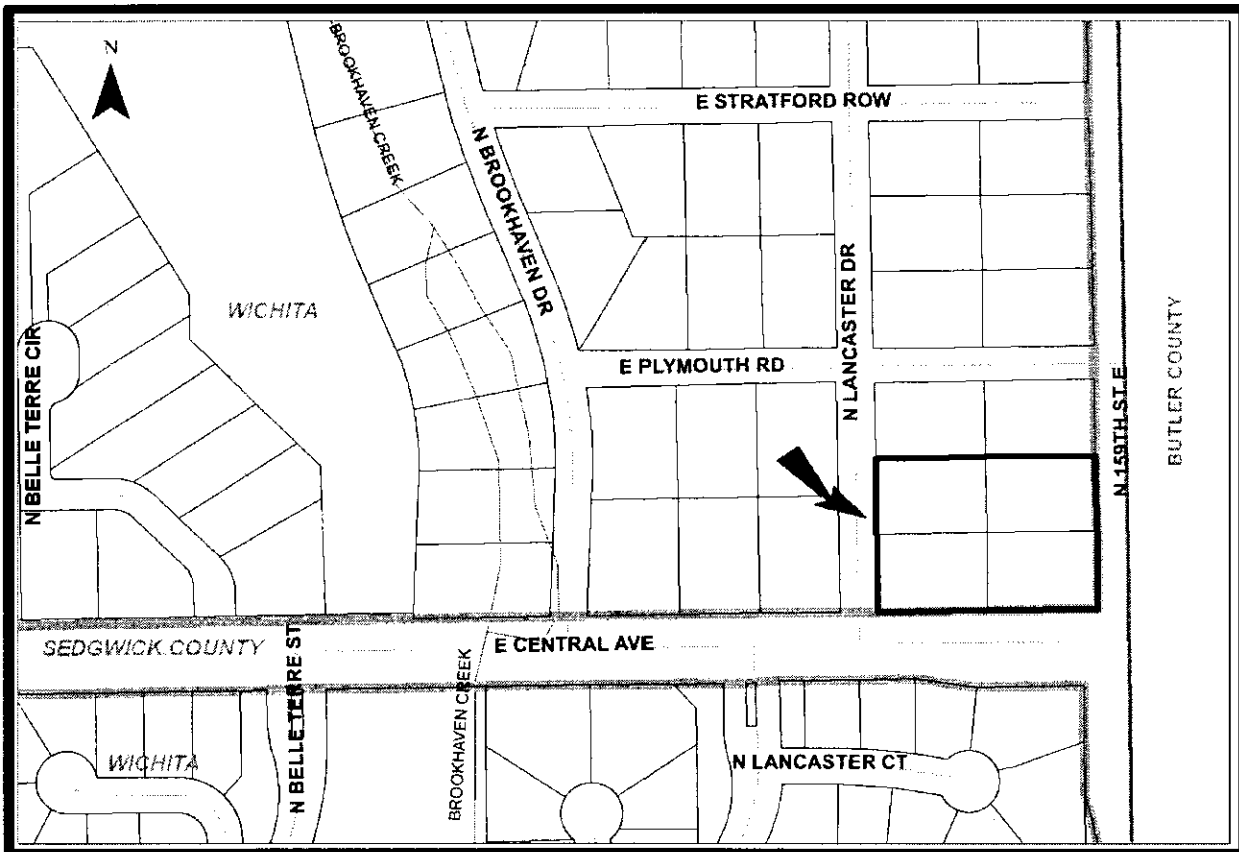
INITIATED BY: Metropolitan Area Planning Department *JLS*

AGENDA: Planning (Non-Consent)

DAB II Recommendation: Approve, vote (9-0).

MAPC Recommendation: Approve, vote (13-0).

MAPD Staff Recommendation: Approve.



Background: The applicant was originally seeking GO General Office (“GO”) zoning for 2.04 acres, zoned SF-5 Single-family Residential (“SF-5”), that are located at the northwest corner of Central Avenue and 159th Street East. At the District Advisory Board (DAB) II meeting held on March 7, 2011, a number of neighboring property owners spoke in opposition. District Advisory Board II voted to defer action and asked the applicant to meet with concerned neighbors. The applicant met with neighboring property owners on March 16, 2011, at which time the neighbors presented a list of thirteen requests, detailed below. Two key requests from the neighbors were for the applicant to change the application from the GO zoning district to the NO Neighborhood Office (“NO”), subject to Protective Overlay #250 that limits the permitted NO uses to Office, General and Medical Service and to install a masonry wall along the north property line. Other concessions requested by the neighbors are also discussed below.

The subject property is platted as Lots 1, 2, 3 and 4, Block 3, Brookhaven Estates. Lots 1, 2 and 3 are vacant. Lot 4, the northwest corner of the application area, is developed with a single-family home that is owned by the applicant. The plat depicts forty-foot building setbacks along Lancaster and 159th Street East. The application area has 360 feet of frontage along Central Avenue and 246.66 feet along 159th Street East and Lancaster Street.

Two single-family homes, zoned SF-5, are located immediately north of the application area. East, across 159th Street, is the Terradyne office building and southeast is an animal care clinic, both of which are in the City of Andover and zoned B-1 Office Business district. The land east of the application area (159th Street and east) is located in the City of Andover. Land located south of the application area is developed with a single-family residential subdivision (Belle Terre Addition), zoned SF-5, as is the land located to the west (part of Brookhaven Estates Addition).

Examples of uses permitted by right in the NO district include: Single-family Residential, Duplex, Group Home, Church, Library, Parks and Recreation, Automated Teller Machine, Medical Service and Office, General. No individual commercial use permitted in the NO district can exceed 8,000 square feet of gross floor area. The NO district permits building heights up to 35 feet.

If this request is approved, the Unified Zoning Code (UZY) requires non-residentially zoned lots that are adjacent to SF-5 or TF-3 Two-family Residential (“TF-3”) zoned lots to provide screening along the common rear and interior lot lines. The required screening can be fencing, evergreen vegetation, berm or a combination of the three. If fencing alone is used for screening, the landscape ordinance will also require one tree every forty feet along the common property line. Additionally, the landscape ordinance will require landscape street yard plantings along the south and west property lines and parking lot screening.

The UZY requires outdoor loading or work areas and dumpsters located within 150 feet of the property line to be screened. Dumpsters may not be located within twenty feet of any property zoned TF-3 or SF-5. Rooftop mechanical equipment must be screened from ground view. Compatibility setbacks of at least fifteen feet are required where side and rear lot lines of MF-18 Multi-family Residential (“MF-18”) or more intense zoning are adjacent to property zoned SF-5 or TF-3. Compatibility building height standards limit buildings to thirty-five feet in height unless additional setback is provided. UZY lighting standards require outdoor lighting sources, including base or pedestal, pole and fixture to employ cut-off luminaires to minimize light trespass and glare, and shall be mounted at a height not exceeding one-half the distance from the neighboring lot, unless evidence is provided to the satisfaction of the Zoning Administrator that the light source will be aimed or shielded such that the light source is not visible from the neighboring lot. Lighting sources shall be limited to 15 feet in height within 200 feet of residential zoning districts.

The NO district permits one ground or pole sign up to thirty-two square feet in size on a single-tenant zoning lot. Multi-tenant lots sharing the same sign may have up to twenty-four square feet each, up to a maximum sign size of ninety-six square feet. If more than one business is located on a zoning lot,

additional pole or ground signs may be permitted when the signs are separated by 150 feet. Ground or pole signs are prohibited from being located within fifteen feet of an adjacent property line. Sign height is limited to twenty-two feet. Maximum pole or ground signage on a zoning lot shall not exceed one-half square foot per linear foot of street frontage. Lighting of signs is limited to indirect or internal illumination of white light only. Flashing or moving images are prohibited. Institutional uses may be permitted for portable signs in certain circumstances. Building signage not exceeding thirty-two square feet in area or thirty feet in height, and limited to one per building elevation for each major use in the building, provided the total amount of building signage for each major use in the building does not exceed thirty-two square feet; and provided that the building elevation to which any sign is to be attached shall have one of the following: street frontage, be adjacent to a nonresidential zoning district or if adjacent to a residential district, there must be parking, loading or open space area with a depth of 150 feet or more as measured from the face of the sign to the property line which adjoins the residential district.

At the March 16, 2011, meeting between the applicant and neighbors, the neighbors presented a list of concerns. The neighbor's concerns and the applicant's position regarding each issue is presented below:

1. Change the zone request to NO (Neighborhood Office). The applicant has accepted this request.
2. Screening to the North and West will be some sort of a concrete or brick wall. The applicant initially declined to accept this request but at the Metropolitan Area Planning Commission (MAPC) meeting agreed to install the wall after the two adjoining property owners agreed to contribute to the cost of the wall. In this instance, the code does not require a masonry or concrete screening wall. Staff was asked to obtain an estimate of the linear foot cost to install a six-foot tall masonry wall. Staff was provided an estimated \$45.00 per liner-foot cost or \$16,200 for the 360-foot length across the northern property line.
3. Architecture, style, materials or colors similar to those in neighboring communities, such as a gable or hip roof and brick / stone façade facing towards the street. The applicant has accepted this request.
4. Signage to be monument style with no moving or LED signage allowed. The applicant has accepted this request. See item 12 below for additional sign limitations.
5. Single story structures only. The applicant agreed to limit building height to 25 feet.
6. Lighting (building & parking lot) designed to prevent light pollution. The applicant agreed to comply with Unified Zoning Code Sec. IV-B.4 standards regarding outdoor lot lighting standards.
7. Noise - no outdoor speakers or PA systems to prevent noise pollution. The applicant agreed to this request.
8. Landscaping. In addition to the screening wall noted in item 2 above, the applicant agreed to install materials consistent with Landscape Ordinance minimums. The MAPC recommended that the applicant plant one and one-half times the minimum requirement along Lancaster, and the applicant agreed.
9. Prevent rezoning of the property once approved for a period of 30 years. The neighbors are concerned that the applicant will be back in a year or so to request commercial zoning if the NO district fails to develop. The applicant has declined to accept this recommendation, and the MAPC did not include it in its recommendation.
10. No residential street access. The applicant has agreed to complete access control along Lancaster.
11. In addition to SF-5 uses, only allow Office, General and Medical Facility uses; remove Assisted Living and Nursing Facility as permitted uses. This request was agreed to when the applicant amended the application to NO instead of GO zoning, per item 1 above.
12. No temporary signage. The applicant also agreed to eliminate: electronic message signs, animated signs, advertising decorations (streamer, string pennant, pinwheel type signs), banner signs, commercial balloon signs, moving, flashing or rotating signs.
13. Drainage plan; don't want this development to force the neighborhood to pay for sewer system, etc. The applicant has agreed to dedicate right-of-way along Central and 159th Street sufficient to meet code minimums, limit access to access management standards and provide guarantees for their proportional share of improvements. The establishment of assessment districts and those properties included in any

given district are established following procedures defined in state law that is outside the ability of the zoning process to address.

Analysis: District Advisory Board II heard this case on March 7, 2011, and they recommended by a vote of 6-1 to defer the case until April 4, 2011, to allow the applicant and neighbors to work out their differences. The MAPC first reviewed the case on March 10, 2011, and they recommended by a vote of 11-0 to defer action until DAB II made a recommendation. On March 16, 2011, planning staff, the applicant and approximately fifteen neighbors met and discussed the thirteen items of concern discussed above. As noted above, agreement was made on all but three of the neighbor's concerns: the masonry wall along the north property line, increased screening along Lancaster and a prohibition against requests for a zone change for thirty years. District Advisory Board II reheard the request on April 4, 2011. At the second DAB II meeting, the main discussion point was the neighbor's request for the masonry wall. On a 9-0 vote, DAB II recommended the request be approved subject to staff's recommendation plus a requirement that an agreement be reached to split the cost of a masonry wall between the applicant and the two affected homeowner located to the north; otherwise, the recommendation was to deny the request. The second MAPC meeting took place April 7, 2011. At that meeting, the applicant agreed to all of the neighbors' requests except the thirty year ban on additional zone changes. The MAPC approved (13-0) NO Neighborhood Office zoning, subject to Protective Overlay #250, described below:

- A. In addition to those uses permitted by right in the SF-5 district, only the following NO uses are permitted: Office, General and Medical Service.
- B. Signage shall be per the sign code except ground or pole signage shall be monument style; building signage shall not face to the north or west and there shall not be any ground or pole signage located along Lancaster. Also prohibited are: portable signs, temporary signs, electronic message signs, animated signs, advertising decorations (streamer, string pennant and pinwheel type signs), banner signs, commercial balloon signs and moving, flashing or rotating signs.
- C. Complete access control along Lancaster shall be dedicated prior to the issuance of occupancy permits except that single-family uses can have access to Lancaster. Prior to the issuance of occupancy permits, access control as requested by the appropriate engineer shall be dedicated along 159th Street and Central Avenue. Prior to the issuance of building permits, additional right-of-way along Central and 159th Street shall be dedicated that is sufficient to meet adopted intersection standards.
- D. Buildings constructed on the site shall share similar architectural features, such as exterior color, exterior façade materials and roof styles. Exterior building facades facing a street shall be of materials and colors similar to those found in the adjoining neighborhood, such brick or stone. Roof styles shall be hip or gable (no flat or parapet roofs are permitted).
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- F. Maximum building height shall be twenty-five feet.
- G. No exterior speaker or amplified voice systems are permitted.
- H. Landscaping that is one and one-half times required by the Landscape Ordinance shall be installed along Lancaster.
- I. At the time Office, General or Medical Service uses are developed, a masonry wall at least six feet tall shall be installed along the northern property line of the application area.

The two abutting northern property owners and the applicant reached agreement, dated April 19, 2011, regarding the construction of a masonry wall along their common property line, fulfilling the DAB II requirement needed to maintain a positive recommendation.

Protests totaling 13.51 percent have been filed. All of the protests involve land located in the Belle Terre subdivision located south of East Central Avenue.

Financial Considerations: There are no financial considerations in regards to the zoning request.

Goal Impact: Approval of the request will 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 #250, authorize the Mayor to sign the ordinance and place the ordinance on first reading (simple majority vote required); 2) Deny the zone change request by making alternative findings, and override the MAPCs recommendation (two-thirds majority vote required) or 3) Return the application to the MAPC for further consideration (simple majority vote required).

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

Attachments:

- MAPC Minutes of March 10, 2011 and April 7, 2011
- DAB Memos, meetings of March 7, 2011 and April 4, 2011
- Ordinance
- Protest map
- Letters/emails: Zellers, Stovak; McGill, Zwiener and Zellers; French, Lanie, Noah, McGill, Adamson, Park, Handyside, Kirby, Noah