

ORDINANCE NO. 48-156

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. ZON2008-00057

Zone change from B Multi-family Residential ("B") to Limited Commercial ("LC") subject to Protective Overlay #223 on property described as:

Lots 20-26, Block 14, East Highlands Addition to the City of Wichita, Sedgwick County, Kansas

SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #223:

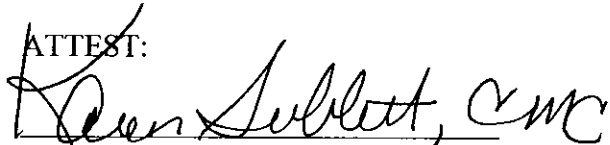
1. Prior to the issuance of building permits, the applicant shall provide, either by replat or dedication, cross lot access between the site and the applicant's abutting property to the south and west; and dedicate complete access control onto Elm Street and Glendale Avenue.
2. Prior to the issuance of building permits, the applicant shall obtain an approved drainage plan for the site.
3. Signage shall be per the Sign Code, except that ground or pole signs shall be restricted to monument style; ground or pole signage is not permitted along Elm Street or Glendale Avenue frontages; wall or building signage is not permitted on facades that face residential zoning and off-site or billboard signs are prohibited.
4. Light poles or standards shall be limited to a maximum height of 15 feet including base/pedestal. Light fixtures shall be shielded and directed to prevent light from escaping the site.

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, January 13, 2009.

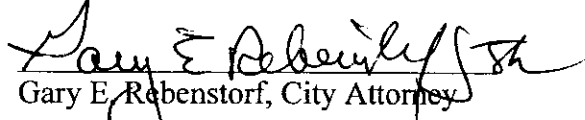

Carl Brewer - Mayor

ATTEST:

Karen Sublett, City Clerk



(SEAL)

Approved as to form:


Gary E. Rebenstorf, City Attorney

STAFF REPORT

MAPC 12-4-2008

DAB I 12-1-2008

CASE NUMBER: ZON2008-00057

APPLICANT/AGENT: Central & Oliver Holdings, LLC and MGW, Inc. (Roger Mathews) / Tim Austin (Poe & Associates, Inc.)

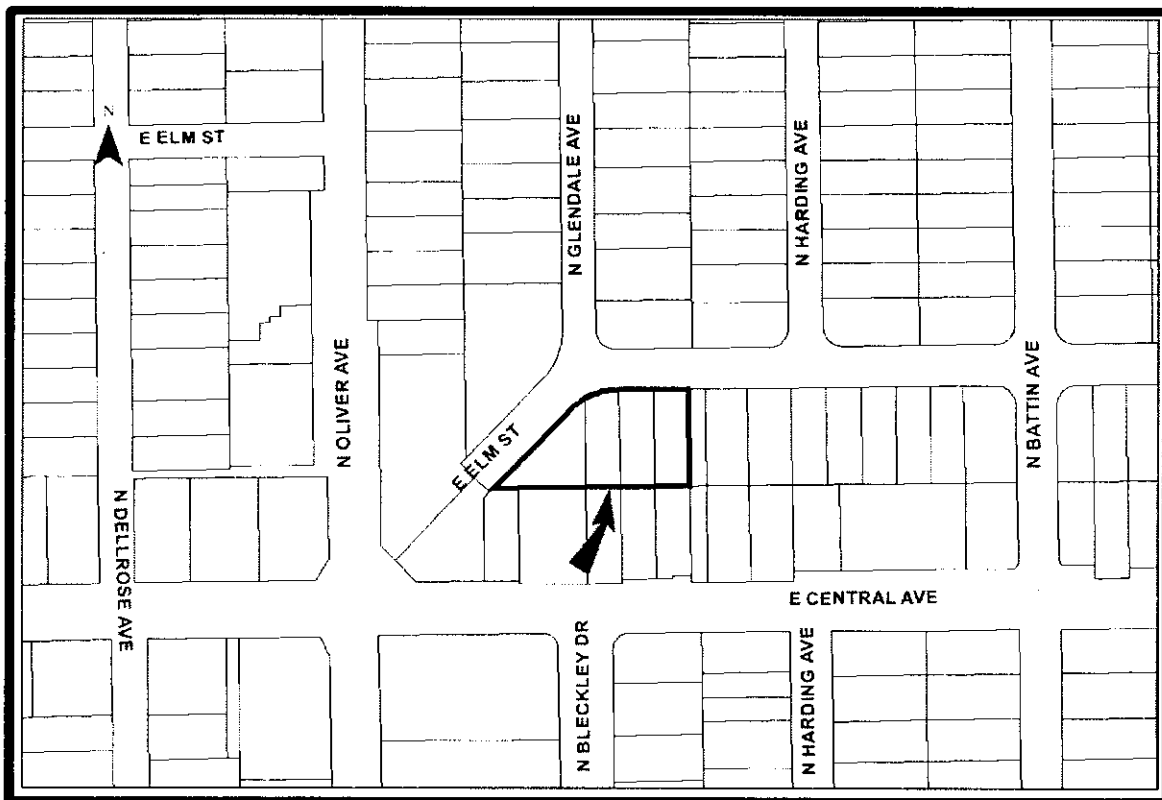
REQUEST: LC Limited Commercial ("LC")

CURRENT ZONING: B Multi-family Residential ("B")

SITE SIZE: 0.7 acre

LOCATION: Southeast corner of Elm and Glendale (Northeast of the intersection of Central and Oliver)

PROPOSED USE: Unknown



BACKGROUND: The co-applicants are seeking to rezone .7-acre from B Multi-family Residential ("B") to LC Limited Commercial ("LC") located at the southeast corner of the intersection of Elm and Glendale (4901-4911 East Elm Street) or northeast of the intersection of Oliver and Central Avenue. The application area contains 29,566 square feet. The application area is owned by the same two companies, Central & Oliver Holdings, LLC and MGW, Inc. that own the property located to the south, southwest and northwest of the application area. In 2007, the property to the northwest was rezoned from B to LC (ZON2007-58, subject to PO-201). The application area has three residences located on the property. The application area has street frontage on Elm Street, a local residential street with 60 feet of right-of-way that runs east-west, marking the northern limits of the application area; Elm Street then diagonals to the southwest, forming the western boundary of subject site. The stub portion of Elm Street is the subject of a vacation application (VAC2008-18). If approved, the vacated portion of Elm Street would create for the applicants a fully unified ownership pattern.

Property to the north of the subject site is zoned TF-3 Two-family Residential ("TF-3") and SF-5 Single-family Residential ("SF-5"), and developed with residences. Property to the east and southeast is zoned SF-5 and B, and is developed with residential uses. Property located to the south is zoned LC, as is the land to the west and northwest. A portion of the land to the northwest is subject to PO-201, noted above. The land to the northwest and west is currently being redeveloped. Since the owners of the subject site are also the owners of the land to the south and west, it is anticipated the subject site will be added to the applicants other properties to create a larger site with unified zoning.

Zoning screening, compatibility standards (setbacks, height, screening of dumpsters) and landscape ordinance requirements will aid in mitigating anticipated impacts.

CASE HISTORY: The application area is platted as Lots 20-26, Block 14, East Highlands Addition.

ADJACENT ZONING AND LAND USE:

NORTH:	TF-3 Two-family Residential, SF-5 Single-family Residential; residences
SOUTH:	LC Limited Commercial; retail sales and restaurant
EAST:	SF-5 Single-family Residential; residences
WEST:	LC Limited Commercial; vacant, fast food restaurant

PUBLIC SERVICES: All municipal services and utilities are available. Glendale Avenue is a paved residential street, as is Elm Street, with 60 feet of street right-of-way.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide," of the Comprehensive Plan identifies the site as appropriate for "urban residential." The urban residential category includes all densities of residential development found within a large urban municipality. The site is also located within the *Central Northeast Area Plan* that recommends retaining existing businesses and attracting new businesses that would provide more neighborhood serving retail and personal services.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the provisions of Protective Overlay 223:

1. Prior to the issuance of building permits, the applicant shall provide, either by replat or dedication, cross lot access between the site and the applicant's abutting property to the south and west; and dedicate complete access control onto Elm Street and Glendale Avenue.
2. Prior to the issuance of building permits, the applicant shall obtain an approved drainage plan for the site.
3. Signage shall be per the Sign Code, except that ground or pole signs shall be restricted to monument style; ground or pole signage is not permitted along Elm Street or Glendale Avenue frontages; wall or building signage is not permitted on facades that face residential zoning and off-site or billboard signs are prohibited.
4. Light poles or standards shall be limited to a maximum height of 15 feet including base/pedestal. Light fixtures shall be shielded and directed to prevent light from escaping the site.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Zoning in the area surrounding the application area is a mix of zoning and uses: SF-5 Single-family Residential, TF-3 Two-family Residential and LC Limited Commercial zoning with a variety of uses ranging from single-family to fast food restaurants, retail shopping and vacant. The application area is an "edge" of a long established neighborhood whose earlier commercial uses have become obsolete. With the redevelopment of the original commercial sites, it is natural for peripheral adjoining property to be acquired and rezoned to compliment the redevelopment of the original retail core.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned B Multi-family Residential with residences located on two of the lots. The B district permits medical office use and a wide range of multi-family residential to single-family residential uses. The site could continue to be used as currently zoned and developed. However, the desirability of the property for residential uses has probably decreased with the commercial redevelopment of the property to the west, and the existing retail uses located to the south. Approving the requested zoning so the application area can be added to the larger redevelopment efforts will enhance the corner of Oliver and Central.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval will move non-residential uses closer to the residential uses located to the north of Elm. However, required screening, setbacks and landscaping, and the proposed conditions of approval should minimize foreseeable detrimental effects.
4. Relative gain to the public health, safety and welfare as compared to the loss in

value or the hardship imposed upon the applicant: Approval should allow for improved redevelopment opportunities that should provide an increased level of neighborhood serving retail uses. Denial presumably would be an economic hardship on the applicant.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The request is not consistent with the city-wide view of the "Comprehensive Plan's" designation as "urban residential." However, the more detailed *Central Northeast Area Plan* indicates that it is appropriate to take actions that would attract new businesses that would provide more neighborhood serving retail and personal services. This application accomplished that specific goal.
6. Impact of the proposed development on community facilities: Traffic generation will increase, however existing improvements to Central and Oliver are capable of carrying the increased trips. All other services are available.