CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

February 11, 2009

W G Enterprises, LLC
8100 E 22nd St N, Ste 1700-2
Wichita, KS 67226

RE: **ZON2008-00071** - City zone change from TF-3 Two-family Residential and GO General Office to LC Limited Commercial, generally located south of Central Avenue, on the west side of Oliver Street.

Dear Ladies and Gentlemen:

At its regular meeting on **February 10, 2009**, the Wichita City Council considered the above captioned request. The action of the Council was to **APPROVE** the request, subject to the following conditions:

1. Building signs are not allowed to face towards the south and west property lines.

2. Portable billboards and off-site signs are not permitted.

If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,

Derrick K. Slocum
Associate Planner
Current Plans Division

DKS:mc

Copies to: Belmont Place, Jeff Mills, 323 N. Belmont St, Wichita, KS 67208
College Hill, Celia Gorlich, 402 S. Crestway St., Wichita, KS 67208
Country Overlook, Bill Wynne, 934 N. Crestway, Wichita, KS 67208
Crown Heights North, Lacy Clarke, N/A, Wichita, KS 67208
Crown Heights South, Pam Swedlund, 131 S. Old Manor, Wichita, KS 67218

ORDINANCE NO. 48-187

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. ZON2008-00071

Zone change request from TF-3 Two-family Residential ("TF-3") and GO General Office ("GO") to LC Limited Commercial ("LC") subject to Protective Overlay #229 on properties described as:

The East 18.75 feet of Lots 1, 3, 5, 7, 9 and 11 and the East 18.75' of the North 20 feet of Lot 13, on Dellrose Avenue AND Lots 2, 4, 6, 8, 20, 13, 14, 16, 18 and 20, on Oliver Avenue, all in East Lawn Second Addition to Wichita, Kansas, Sedgwick County, Kansas EXCEPT Beginning at the Northeast corner of Lot 2, on Oliver Avenue, East Lawn Second Addition to Wichita, Kansas, Sedgwick County, Kansas; thence S 00 degrees 56'58" E, 25.00 feet along the East line of said Lot 2, said Addition; thence N 27 degrees 08'33" W, 27.51 feet to a point lying on the North line of said Lot 2; thence N 88 degrees 56'12" E, 12.50 feet along said North line to the point of beginning; generally located south and west of the intersection of Central Avenue and Oliver Street.

SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #229:

1) Building signs are not allowed to face towards the south and west property lines.

2) Portable, billboards and off-site signs are not permitted.

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 24 **day of** February, **200**9.

ATTEST:

Karen Sublett, City Clerk

Carl Brewer, Mayor

(SEAL)

Approved as to form:

Gary E. Rebenstorf, Director of Law

AFFIDAVIT

STATE OF KANSAS \
\- SS.
County of Sedgwick /

Nicole Mandina, of lawful age, being first duly sworn, deposeth and saith: That she is Record Clerk of The Wichita Eagle, a daily newspaper published in the City of Wichita, County of Sedgwick, State of Kansas, and having a general paid circulation on a daily basis in said County, which said newspaper has been continuously and uninterruptedly published in said County for more than one year prior to the first publication of the notice hereinafter mentioned, and which said newspaper has been entered as second class mail matter at the United States Post Office in Wichita, Kansas, and which said newspaper is not a trade, religious or fraternal publication and that a notice of a true copy is hereto attached was published in the regular and entire Morning issue of said The Wichita Eagle for _1_ issues - ~~weeks~~, that the first publication of said notice was

made as aforesaid on the **27th** of

February A.D. **2009**, with

subsequent publications being made on the following dates:

And affiant further says that she has personal knowledge of the statements above set forth and that they are true.

Nicole Mandina

Subscribed and sworn to before me this

27th day of February, 2009

Janice L. Trammell

Notary Public Sedgwick County, Kansas

JANICE L. TRAMMELL
Notary Public - State of Kansas
My Appt. Expires 4-29-2012

Printers Fee: $43.20

LEGAL PUBLICATION

Published in the Wichita Eagle
February 27, 2009 (2929787)

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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 24 day of February, 2009.

ATTEST:
Karen Sublett, City Clerk
Carl Brewer, Mayor

RECEIVED
MAR 0 2 2009
METROPOLITAN PLANNING
ROUTE

ORDINANCE NO. _____

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ADOPTED this _____ day of _____, 200__.

AGENDA ITEM NO. 4

WICHITA–SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

STAFF REPORT

MAPC January 8, 2009
DAB-II January 5, 2009
Tentative City Council Date: 2/10/09

CASE NUMBER: ZON2008-00071

APPLICANT/AGENT: W.G. Enterprises, LLC (Owner/Applicant)
W.T. Farha (Agent)

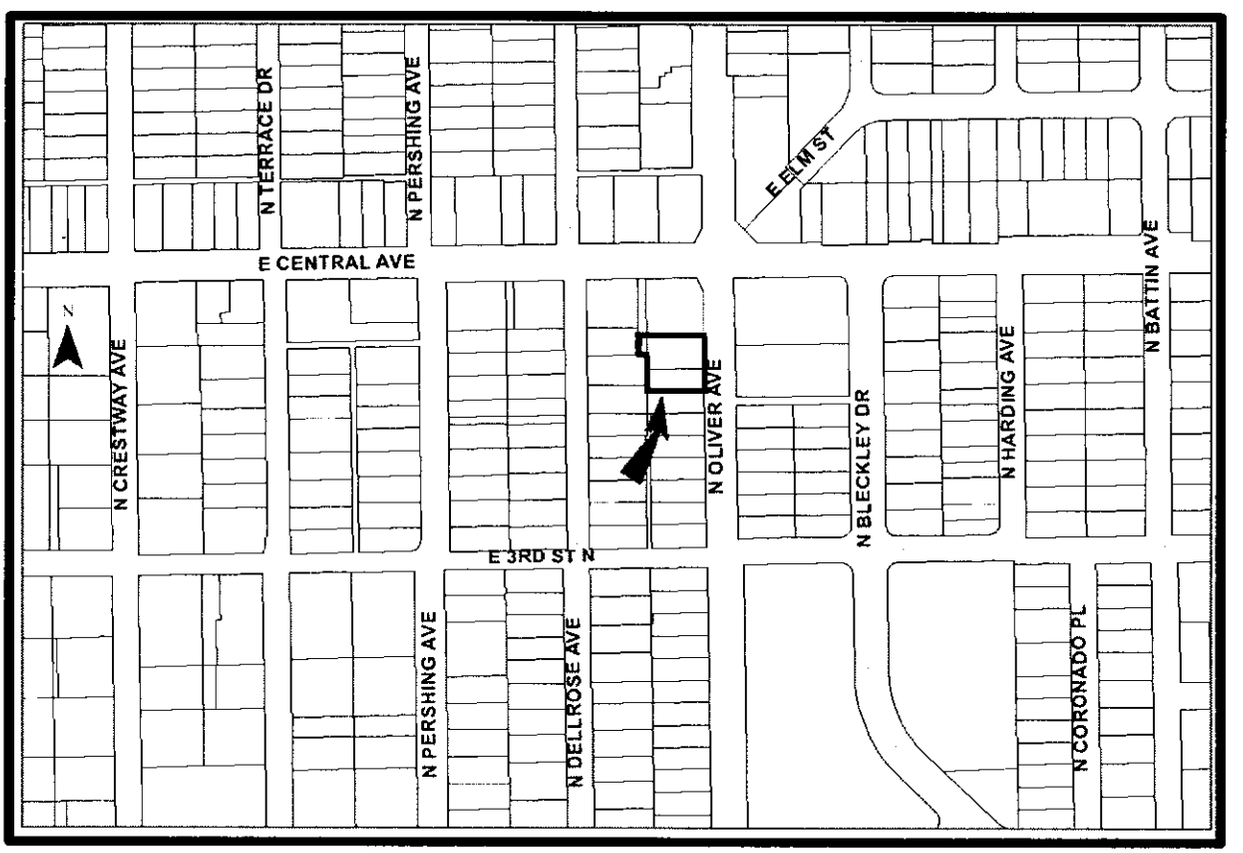
REQUEST: Rezone to LC Limited Commercial ("LC")

CURRENT ZONING: GO General Office ("GO")
TF-3 Two-family Residential ("TF-3")

SITE SIZE: Total Area = 0.50 acres

LOCATION: Generally located south and west of the intersection of Central Avenue and Oliver Street.

PROPOSED USE: Undetermined



BACKGROUND: The applicant is requesting a zone change from GO General Office ("GO") and TF-3 Two-family Residential ("TF-3") (Lots 12, 14, 16, 18, 20, on Oliver Avenue, and the east 18.75 feet of lot 11 and the east 18.75 feet and north 20 feet of Lot 13, on Dellrose Avenue, all in East Lawn Addition, Wichita, Sedgwick County, Kansas) to LC Limited Commercial ("LC"). The application area contains approximately 0.50 acre with 125 feet of frontage located along Oliver Street, less than one block south of Central Avenue. The subject site is currently developed as a parking lot serving the retail use abutting the north side of the application area.

The site is developed as a parking lot; the entire lot is paved, and used for parking and traffic circulation for the businesses that abut the site to the north. There are approximately thirty parking stalls, with what appears to be one handicap accessible stall, located at the rear of the building.

Properties west of the site, across an alley, are zoned SF-5 Single-family Residential and TF-3, and are developed with single-family residences and office uses. Property owned by the applicant, zoned LC, abuts the north side of the application area, and is developed with retail uses. Property to the south is zoned TF-3 and is developed with single-family residential uses. The property east of the subjects site, across Oliver Street, is zoned LC and is developed with office and retail uses.

Any development on the subject property will be required to meet access management regulations, all compatibility setback, height, noise and design standards, landscaping, screening and any other applicable codes and development standards.

CASE HISTORY: The subject properties are platted as Lots 12, 14, 16, 18, 20, on Oliver Avenue , and the east 18.75 feet of lot 11 and the east 18.75 feet and north 20 feet of Lot 13, on Dellrose Avenue, East Lawn Addition. The East Lawn Addition was recorded with the Register of Deeds January 12, 1927. In 1958, BZA1-58 was approved for Lots 18 and 20 to allow the operation of a ceramic school or art studio with occasional sales to the general public.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Strip Store
SOUTH:	TF-3	Single-family Residential
EAST:	LC	Strip Store/Office
WEST:	SF-5/TF-3	Office/Single-family Residential

PUBLIC SERVICES: All public services are available at the subject site. Central Avenue is a four-lane principal arterial with 40,801 Average Daily Traffic (ADTs). Oliver Avenue is a four-lane minor arterial with 31,853 ADTs. The subject site currently has access drives off of both Central and Oliver, by virtue of the applicant's ownership.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies the south part of this site as appropriate for "urban residential" type uses and the north part of the site appropriate for "local commercial" type uses. The "urban residential" category encompasses areas that reflect the full diversity of

residential development densities and types typically found in a large urban municipality. The "local commercial" category The "Wichita Land Use Guide, as amended "05/26" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies the application area as appropriate for "local commercial", which reflects the application area's site's development.

The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The Unified Zoning Code (UZC) requires compliance with compatibility setbacks between non-residential and residential zoning, lighting, screening, and landscaping. Uses appropriate in the local commercial designation are local in their customer base and include: commercial, office, personal services, medical, auto repair, grocery stores, florist shops, service stations, restaurants and on a limited presence basis mini-storage warehousing and small scale light manufacturing. The requested LC zoning and the uses permitted in it would be classified as "local commercial" by the Guide. However, the subject site is bordered to the north and east, by properties categorized as "local commercial" on the land use guide and commercial and industrial uses are common at major intersections.

RECOMMENDATION: The subject site seems to have been used for freestanding retail and parking since the 1960s, the application will bring the area into long over due compliance. The proposed zone change is in conformance with the recommended Commercial Locational guidelines of the Plan.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request for "LC" zoning on Lots 12, 14, 16, 18, 20, on Oliver Avenue, and the east 18.75 feet of lot 11 and the east 18.75 feet and north 20 feet of Lot 13, on Dellrose Avenue, all in East Lawn Addition be APPROVED, with the contingent dedication of 20-foot of ROW along the application area's site where it fronts Central Avenue, the contingent dedication of 30-foot of ROW along the application area's site where it fronts Oliver Street, compliance with the UZC's compatibility setbacks, screening, lighting, access and landscaping and subject to the provisions of a Protective Overlay:

1) Signs are not allowed to face towards the south and west property lines.

2) Portable, billboards and off-site signs are no permitted.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** Properties west of the site, across an alley, are zoned SF-5 Single-family Residential and TF-3, and are developed with single-family residences and office uses. Property owned by the applicant, zoned LC, abuts the north side of the application area, and is developed with retail uses. Property to the south is zoned TF-3, and is developed with single-family residential uses. The property east of the subjects site, across Oliver Street, is zoned LC, and is developed with office and retail uses.

2. **The suitability of the subject property for the uses to which it has been restricted**: Approval of LC zoning would introduce some uses not in character with adjacent existing residential uses. Commercial uses generate more average daily traffic; introduce larger signage and more lighting than is found in typical residential areas putting increased pressure on existing nearby residences.

3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The proposed LC zoning would allow similar types of development as already established north and east of the area. The implementation of the standards of the Unified Zoning Code over the whole site would limit the adverse impact on the adjacent residential developments.

4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies the south part of this site as appropriate for "urban residential" type uses and the north part of the site appropriate for "local commercial" type uses. The "urban residential" category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The "local commercial" category The "Wichita Land Use Guide, as amended "05/26" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies the application area as appropriate for "local commercial", which reflects the application area's site's development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The Unified Zoning Code (UZC) requires compliance with compatibility setbacks between non-residential and residential zoning, lighting, screening, and landscaping. Uses appropriate in the local commercial designation are local in their customer base and include: commercial, office, personal services, medical, auto repair, grocery stores, florist shops, service stations, restaurants and on a limited presence basis mini-storage warehousing and small scale light manufacturing. The requested LC zoning and the uses permitted in it would be classified as "local commercial" by the Guide. However, the subject site is bordered to the north and east, by properties categorized as "local commercial" on the land use guide and commercial and industrial uses are common at major intersections.

5. **Impact of the proposed development on community facilities**: Provided that drainage and traffic access policies are met, community facilities should not be impacted. Other usually provided municipal services are available.