

OCA 150004

ORDINANCE NO. 50-960

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. ZON2019-00006

City Zone Change to Amend PO #300 to Allow for Limited Restaurant Uses on a Property Zoned NR Neighborhood Retail Generally Located North of West Maple Street and Approximately 450 Feet West of South Ridge Road (7330 W Maple), described as:

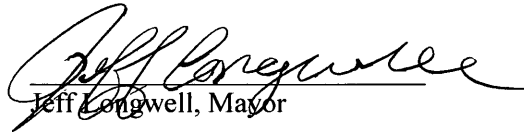
Lot 9, Block D, Westview Addition, Wichita, Sedgwick County, Kansas

Subject to the following amendments to Protective Overlay District #300:

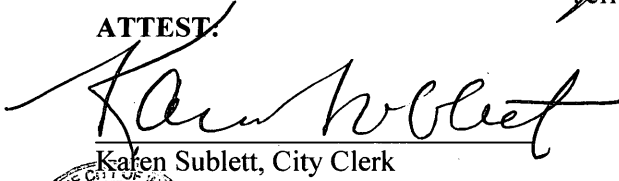
- (1) Permitted uses are an automated teller machine, a bank or financial institution, general office, personal care services, general retail, personal improvement services, medical offices, and restaurants up to 2,000 square feet as permitted in the NR district.
- (2) Restaurant uses are permitted but are not allowed the use of Type I Ventilation Systems, conduct frying operations, or operate drive-throughs.
- (3) The hedge like line of mature trees running parallel to the site's west property line shall be maintained or improved as needed to provide a solid landscape buffer. A line of six-foot tall (at the time of planting) evergreens shall be planted on 12-foot centers along the north property line. A six-foot tall solid fence shall be installed south of the line of evergreens. The rest of the required landscaping shall be per the Landscape Ordinance.
- (4) Compatibility setback shall be reduced by five-feet along the north property line, height and light standards and all applicable Unified Zoning Code standards will apply to the development of the site. A drainage plan must be approved by the Public Works.
- (5) No parking or lighting within the rear and interior side yard setbacks.

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.

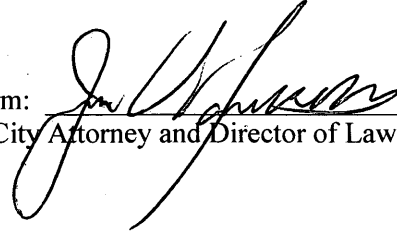

Jeff Longwell, Mayor

ATTEST:


Karen Sublett, City Clerk



Approved as to form:
Jennifer Magaña, City Attorney and Director of Law



BACKGROUND: This application was filed to amend Protective Overlay #300 on the subject property zoned NR Neighborhood Retail. The subject property is located at 7330 West Maple Street, on the north side of West Maple Street, approximately 415 feet west of South Ridge Road. With this request, the applicant would like to amend the Protective Overlay to allow for limited restaurant use. The Unified Zoning Code (UZC) by right allows restaurant uses up to 2,000 square feet in the NR district (Sec III. D-6.t).

The applicants request to amend the PO includes the following: changing provision #1 to allow up to 2,000-square foot of restaurant use and adding a provision to prohibit restaurant uses from having drive-throughs and certain ventilation types. The original provisions of PO #300 are:

- (1) Permitted uses are an automated teller machine, a bank or financial institution, general office, personal care services, general retail, personal improvement services and medical offices.
- (2) The hedge like line of mature trees running parallel to the site's west property line shall be maintained or improved as needed to provide a solid landscape buffer. A line of six-foot tall (at the time of planting) evergreens shall be planted on 12-foot centers along the north property line. A six-foot tall solid fence shall be installed south of the line of evergreens. The rest of the required landscaping shall be per the Landscape Ordinance.
- (3) Compatibility setback shall be reduced by five-feet along the north property line, height and light standards and all applicable Unified Zoning Code standards will apply to the development of the site. A drainage plan must be approved by the Public Works.
- (4) No parking or lighting within the rear and interior side yard setbacks.

CASE HISTORY: On October 6, 2015, the Wichita City Council approved ZON2015-00031 which rezoned the south 160 feet of Lot 9, Block D, Westview Addition from SF-5 Single Family Residential to NR Neighborhood Retail with the provisions of Protective Overlay #300 (see Background, second paragraph). During the August 20, 2015 MAPC meeting, the applicant (at the time) withdrew restaurants as a permitted use (as permitted in the NR zoning district) in the PO. Planning Staff had recommended restaurants as a permitted use in the PO.

On April 21, 2016, the MAPC heard ZON2016-00012 and CON2016-00007 in which new applicants (at the time) requested a zoning change of Lot 3, Westview 2nd Addition—the lot abutting the subject property on the north—from SF-5 to TF-3 Two-Family with an Conditional Use for ancillary parking and an amendment to PO #300. The amendment to PO #300 was to change provision #1 to allow a 2,500-square foot restaurant with outdoor seating and to change provision #3 to reduce the compatibility setbacks to 10 feet on the west side of the property. Staff noted restaurants in the NR district shall not exceed 2,000-square feet, which includes the outdoor seating area as stated in the UZC Sec III. D-6.t. The parking requirement for the site with a mix of a 2,000-square foot restaurant and 6,775 square feet of retail (one space per 333-square feet) would require an estimated 53 parking spaces.

At the April 21, 2016 MAPC meeting, the owners of the north butting SF-5 zoned single family residence to Lot 3 protested the proposed amendment to PO #300 to allow a 2,000-square foot restaurant and the proposed TF-3 zoning with the condition use for ancillary parking. The protesters had concerns about possible traffic generated by the restaurant onto Brunswick Street, restaurant patrons parking on Brunswick Street, the hours of trash being picked up, trash generated by a restaurant, possible late hours, noise, and cooking and trash odors. The applicant requested a deferral to discuss with the Traffic Engineer their proposal to have a drive onto Maple Street. The MAPC approved a deferral until May 5, 2016 as to allow DAB V to consider these cases.

At the May 3, 2016 DAB V meeting, these cases were presented and members of the adjacent neighborhood addressed the Board in opposition to the change. The DAB V passed a motion 5-4 to deny the requested amendment to PO #300 for a restaurant use and to reduce the compatibility setbacks and to deny the requested zone change to TF-3 with the Conditional Use for ancillary parking.

At the May 5, 2016, MAPC meeting the applicant again requested a deferral and the MAPC granted an indefinite deferral. There were protesters at the MAPC meeting.

At the July 21, 2016 MAPC meeting, the Commission approved a motion to deny the requested zone change and amendment to PO #300

On August 30, 2016, ZON2016-00012 and CON2016-00007 were withdrawn by the applicant.

On December 9, 2016, an Administrative Adjustment to P.O. #300 (BZA21016-00050) was granted to alter items 2 and 3 to reduce the height of the fence along the north property line from 8 feet to 6 feet and allow the compatibility setbacks on the north property line to be reduced by 5 feet.

ADJACENT ZONING AND LAND USE:

North:	SF-5;	Single-family residences
South:	LC, GC;	Big box home improvement, big box retail.
East:	LC;	Carpet sales, small commercial strip, convenience store, restaurant
West:	SF-5;	Single-family residences

PUBLIC SERVICES: The site is served by all normally supplied municipal services. The site has one access drive onto Brunswick Street, a paved two-lane local street which intersects with West Maple Street, a paved four-lane arterial, with center turn lanes at this location. The site currently has an access drive onto West Maple Street on the west side of the property.

CONFORMANCE TO PLANS/POLICIES: The site is located just outside (separated by Ridge Road) the "Community Investments Plan's" Established Central Area, which is comprised of the downtown core and the mature neighborhoods surrounding it in a roughly three mile radius. The Land Use Compatibility component of the Plan recommends that higher intensity development should be discouraged from locating in areas of existing lower -intensity development, particularly established low intensity residential areas. The subject site abuts urban single-family residential development on its north and west sides.

The Community Investments Plan's "2035 Wichita Future Growth Concept Map" designates the site as "new employment." The new employment designation encompasses areas that likely will be developed or redeveloped by 2035 with uses that constitute centers or concentrations of employment primarily in manufacturing, warehousing, distribution, construction, research, technology, business services, or corporate offices. In certain areas, especially those in proximity to existing residential uses, higher density housing and convenience retail centers likely will be developed. The subject site abuts urban scale single-family residential zoning on its north and west sides. The previously approved NR zoned portion of the site, subject to the provisions of PO#300 fits the just noted development projection of the new employment designation. The subject site's current NR zoning and PO serve as a buffer between the area's LC and GC zoned businesses and the immediate earlier established single-family residential development, thus meeting the Plan's "Development Pattern" guidelines for areas outside the Established Central Area. The Maple Street – Ridge Road intersection has experience redevelopment from single-family residential to commercial during the last, at least, two and a half decades. Most of the commercial development has

happened south of this intersection, extending south a half-mile to Kellogg Street/Us Highway-54. Commercial development ends approximately 520 feet north of the Maple Street – Ridge Road intersection.

RECOMMENDATION: Approving amendments to the PO to allow for restaurant but prohibiting drive-throughs and deep fat frying operations may present an opportunity to make the subject site more marketable. Amending the PO to allow a restaurant allows very-low intensity retail and office development and other complementary land uses that serve and are generally appropriate near residential neighborhoods.

Based upon the information available at the time the staff report was prepared, it is recommended that the following amendments to PO #300 be **APPROVED:**

- (1) Permitted uses are an automated teller machine, a bank or financial institution, general office, personal care services, general retail, personal improvement services, medical offices, and restaurants up to 2,000 square feet as permitted in the NR district.
- (2) Restaurant uses are permitted but are not allowed the use of Type I Ventilation Systems, conduct frying operations, or operate drive-throughs.
- (3) The hedge like line of mature trees running parallel to the site's west property line shall be maintained or improved as needed to provide a solid landscape buffer. A line of six-foot tall (at the time of planting) evergreens shall be planted on 12-foot centers along the north property line. A six-foot tall solid fence shall be installed south of the line of evergreens. The rest of the required landscaping shall be per the Landscape Ordinance.
- (4) Compatibility setback shall be reduced by five-feet along the north property line, height and light standards and all applicable Unified Zoning Code standards will apply to the development of the site. A drainage plan must be approved by the Public Works.
- (5) No parking or lighting within the rear and interior side yard setbacks.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: SF-5 zoned neighborhoods abut the north and west sides of the subject site. The west abutting SF-5 zoned single-family residences (built in the early 1990s) are separated from the subject site by a hedge like line of mature trees and their subdivision's six-foot brick wall. None of the houses located west of the site have front yards facing Maple Street and their back or interior side yards butt the subject site. The north abutting SF-5 single family residence is separated from the subject site by a 6-foot wooden fence. An LC zoned small Horton's carpet store (built 1996), small commercial strip with gas pumps (built 1983) and an Outback full service restaurant (built 1999) are located east of the site, across Brunswick Street; Z-2337, Z-3162, and Z-3237. The 0.68-acre carpet store and 0.70-acre commercial strip sites present a similar scale of commercial development that could occur on the 1.03-acres -acre subject site, if the conditional use is approved. South of the site, across Maple Street, are the LC and GC General Commercial zoned big box, 17.71-acre Lowes home improvement store (built 1998) and the LC zoned big box, 15.72-acre Target department store (built 2004); Z-3306/DP-37 and Z-3326, ZON2003-00055/DP-270. Lowes and Target are the two largest commercial developments located along the Ridge Road – Maple Street intersection, which includes full service restaurants, casual dining restaurants, furniture stores, commercial and strip buildings.
2. The suitability of the subject property for the uses to which it has been restricted: The site zoned

NR with the provisions PO #300 allows very-low intensity retail and office development and other complementary land uses that serve and are generally appropriate near residential neighborhoods.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approving the addition of restaurant as a permitted use contingent with the additional provisions governing the restaurant use would seem to have a minimal negative effect on the abutting single-family residential development.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The site is located just outside (separated by Ridge Road) the “Community Investments Plan’s” Established Central Area, which is comprised of the downtown core and the mature neighborhoods surrounding it in a roughly three mile radius. The Land Use Compatibility component of the Plan recommends that higher intensity development should be discouraged from locating in areas of existing lower –intensity development, particularly established low intensity residential areas. The subject site abuts urban single-family residential development on its north and west sides.

The Community Investments Plan’s “2035 Wichita Future Growth Concept Map” designates the site as “new employment.” The new employment designation encompasses areas that likely will be developed or redeveloped by 2035 with uses that constitute centers or concentrations of employment primarily in manufacturing, warehousing, distribution, construction, research, technology, business services, or corporate offices. In certain areas, especially those in proximity to existing residential uses, higher density housing and convenience retail centers likely will be developed. The subject site abuts urban scale single-family residential zoning on its north and west sides. The previously approved NR zoned portion of the site, subject to the provisions of PO#300 fits the just noted development projection of the new employment designation. The subject site’s current NR zoning and PO serve as a buffer between the area’s LC and GC zoned businesses and the immediate earlier established single-family residential development, thus meeting the Plan’s “Development Pattern” guidelines for areas outside the Established Central Area.

The Maple Street – Ridge Road intersection has experience redevelopment from single-family residential to commercial during the last, at least, two and a half decades. Most of the commercial development has happened south of this intersection, extending south a half-mile to Kellogg Street/Us Highway-54. Commercial development ends approximately 520 feet north of the Maple Street – Ridge Road intersection.

5. Impact of the proposed development on community facilities: The recommended additions to the PO will have minimal impact on community facilities.

Staff Report Attachments:

1. Area Map
2. Zoning Map
3. Site Pictures



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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. ZON2015-00031

Zone change from SF-5 Single-Family Residential ("SF-5") to NR Neighborhood Retail ("NR"), subject to the provisions of a Protective Overlay ("PO") on an approximately 0.70-acre property described as:

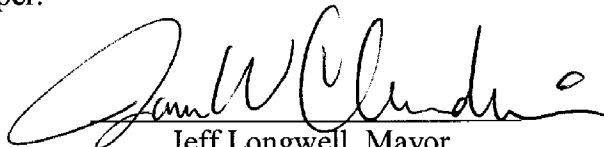
The south 160 feet of Lot 9, Block D, Westview Addition, Wichita, Sedgwick County, Kansas, generally located east of Ridge Road on the northwest corner of Maple and Brunswick Streets.

Provisions of PO #300:

- (1) Permitted uses are an automated teller machine, a bank or financial institution, general office, personal care services, general retail, personal improvement services and medical offices.
- (2) The hedge like line of mature trees running parallel to the site's west property line shall be maintained or improved as needed to provide a solid landscape buffer. A line of six-foot tall (at the time of planting) evergreens shall be planted on 12-foot centers along the north property line. An eight-foot tall solid fence shall be installed south of the line of evergreens. The rest of the required landscaping shall be per the Landscape Ordinance.
- (3) Compatibility setback, height and light standards and all applicable Unified Zoning Code standards will apply to the development of the site. A drainage plan must be approved by the Public Works.
- (4) No parking or lighting within the rear and interior side yard setbacks.

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.


Jeff Longwell, Mayor

ATTEST:

Karen Sublett, MMC

Karen Sublett, City Clerk



Approved as to form: J. Magana

Jennifer Magana, City Attorney and Director of Law

City of Wichita
City Council Meeting
October 6, 2015

TO: Mayor and City Council

SUBJECT: ZON2015-00031 – City Zone Change from Single-Family Residential to Neighborhood Retail with a Protective Overlay on Property Located West of Ridge Road on the Northwest Corner of Maple and Brunswick Streets. (District V)

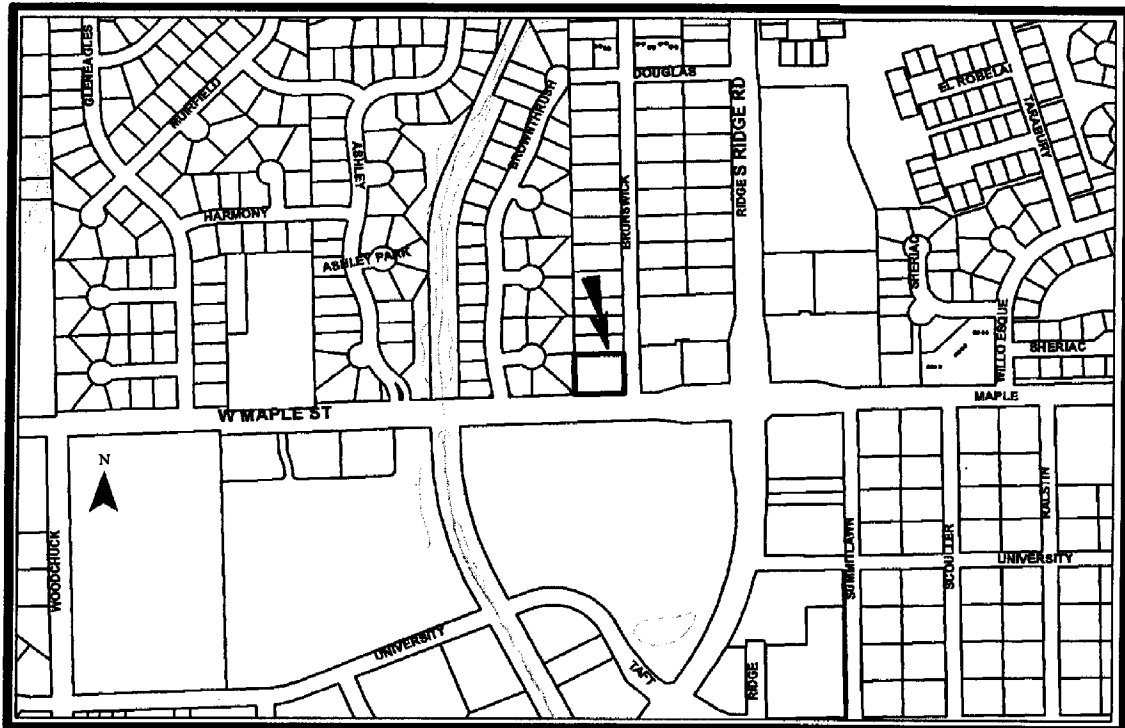
INITIATED BY: Metropolitan Area Planning Department *WDB DM*

AGENDA: Planning (Consent)

MAPC Recommendation: The MAPC recommended approval of the request (11-0).

DAB Recommendation: District Advisory Board V recommended approval of the request (9-0).

MAPD Staff Recommendation: The Metropolitan Area Planning Department staff recommended approval of the request.



Background: The applicant is requesting a zone change from SF-5 Single-Family Residential (“SF-5”) to Neighborhood Retail (“NR”) on the platted 160-foot (x) 187-foot (0.70-acres) site; the south 160 feet of Lot 9, Block D, Westview Addition. The site is a corner lot located one-block west of Ridge Road on the northwest corner of Brunswick and Maple Streets. The site’s one-story, brick, ranch style house’s (built 1948) front yard faces Maple Street, a paved four-lane arterial, with two center-turn lanes at this location. The site has large mature deciduous trees located throughout it, including a hedge-like line of mature trees running parallel to its west property line.

SF-5 zoned neighborhoods abut the north and west sides of the SF-5 zoned site. The west abutting SF-5 zoned single-family residences (built in the early 1990s) are separated from the subject site by the noted hedge-like line of mature trees and a six-foot brick wall. None of the houses located west of the site have front yards facing Maple Street. A similar landscape buffer does not separate the north abutting SF-5 zoned single-family residences (built late 1970s) from the subject site. A Limited Commercial (“LC”) zoned small Horton’s carpet store (built 1996), a small commercial strip with gas pumps (built 1983) and an Outback full-service restaurant (built 1999) are located east of the site, across Brunswick Street; zoning cases Z-2337, Z-3162, and Z-3237. If the zoning is approved, the 0.68-acre carpet store and 0.70-acre commercial strip site present a similar scale of commercial development that could occur on the 0.70-acre subject site. South of the site, across Maple Street, are the LC and GC General Commercial zoned big box, 17.71-acre Lowes home improvement store (built 1998) and the LC zoned big box, 15.72-acre Target department store (built 2004); zoning cases Z-3306/DP-37 and Z-3326, ZON2003-00055/DP-270. Lowes and Target are the two largest commercial developments located along the Ridge Road – Maple Street intersection, which includes full service restaurants, casual dining restaurants, furniture stores, commercial and strip buildings. Based on the built dates (as shown on the Sedgwick County Appraiser’s information) the subject site’s one-story, brick, ranch style house (built 1948) is one of the oldest, if not the oldest building in the area. The site’s house was built prior to the adoption of the Unified Zoning Code (UZC) and prior to the 1958 Sedgwick County zoning of county land located within a three mile-ring of the Wichita city limits.

Analysis: On August 20, 2015, the Metropolitan Area Planning Commission (MAPC) considered and approved (11-0) the request, with the following provisions of a protective overlay:

- (1) Permitted uses are an automated teller machine, a bank or financial institution, general office, personal care services, general retail, personal improvement services and medical offices.
- (2) The hedge like line of mature trees running parallel to the site’s west property line shall be maintained or improved as needed to provide a solid landscape buffer. A line of six-foot tall (at the time of planting) evergreens shall be planted on 12-foot centers along the north property line. An eight-foot tall solid fence shall be installed south of the line of evergreens. The rest of the required landscaping shall be per the Landscape Ordinance.
- (3) Compatibility setback, height and light standards and all applicable Unified Zoning Code standards will apply to the development of the site. A drainage plan must be approved by the Public Works.
- (4) No parking or lighting within the rear and interior side yard setbacks.

There were no protesters at the MAPC meeting.

On September 14, 2015, District Advisory Board V (DAB V) considered the request. DAB V voted 9-0 to approve the request for the NR zoning with the above provisions of a protective overlay. There were no protesters at the DAB V meeting. Planning staff has received no valid protests to the request.

Financial Considerations: Approval of this request will not create any financial obligations for the City.

Legal Considerations: The Law Department has reviewed and approved the ordinance as to form.

Recommendation/Actions: It is recommended that the City Council concur with the findings of the MAPC and approve the zoning with the provisions of Protective Overlay 300 and place the ordinance on first reading (simple majority of four votes required).