

ORDINANCE NO. 48328

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. ZON2009-00008

Zone change request from LC Limited Commercial ("LC") to GC General Commercial ("GC") subject to Protective Overlay #230 on properties described as:

Lots 4 and 5 Except the South 10 feet for Street and that part of Lot 6 described as beginning at the Northwest corner; thence South 90.3 feet; thence East 1.13 feet; thence Northerly 90.3 more or less to beginning, Edminster Gardens Addition, Sedgwick County, Kansas; generally located northeast of the intersection of K-15 and 31st Street South (2822 E. 31st Street South)

SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #230:

- (1) Permitted uses are those permitted by right in the LC Limited Commercial ("LC") zone district plus "vehicle repair, general" as allowed in the GC General Commercial ("GC") zone district.
- (2) No off-site or portable signs shall be permitted.
- (3) All vehicles parked or stored outside of a building in need of "vehicle repair, general" must be located behind the buildings on the west side of the property and screened from ground view from 31st Street South, and from adjoining and adjacent properties. "Vehicle repair, general" work is only permitted inside an enclosed building. The outside storage of parts is prohibited. Activities deemed by the Unified Zoning Code to be "wrecking or salvage" are not permitted.
- (4) The site shall be developed in conformance with all applicable regulations.

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 19 day of May, 2009.

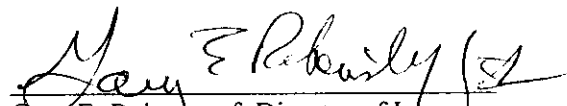
ATTEST:


Karen Sublett, City Clerk


Carl Brewer, Mayor



Approved as to form:


Gary E. Rebenstorf, Director of Law



AGENDA ITEM NO. 5

STAFF REPORT

MAPC April 9, 2009

DAB III April 1, 2009

Tentative City Council Date: May 12, 2009

CASE NUMBER: ZON2009-00008

APPLICANT/AGENT: Laverne Miller (Owner/Applicant)

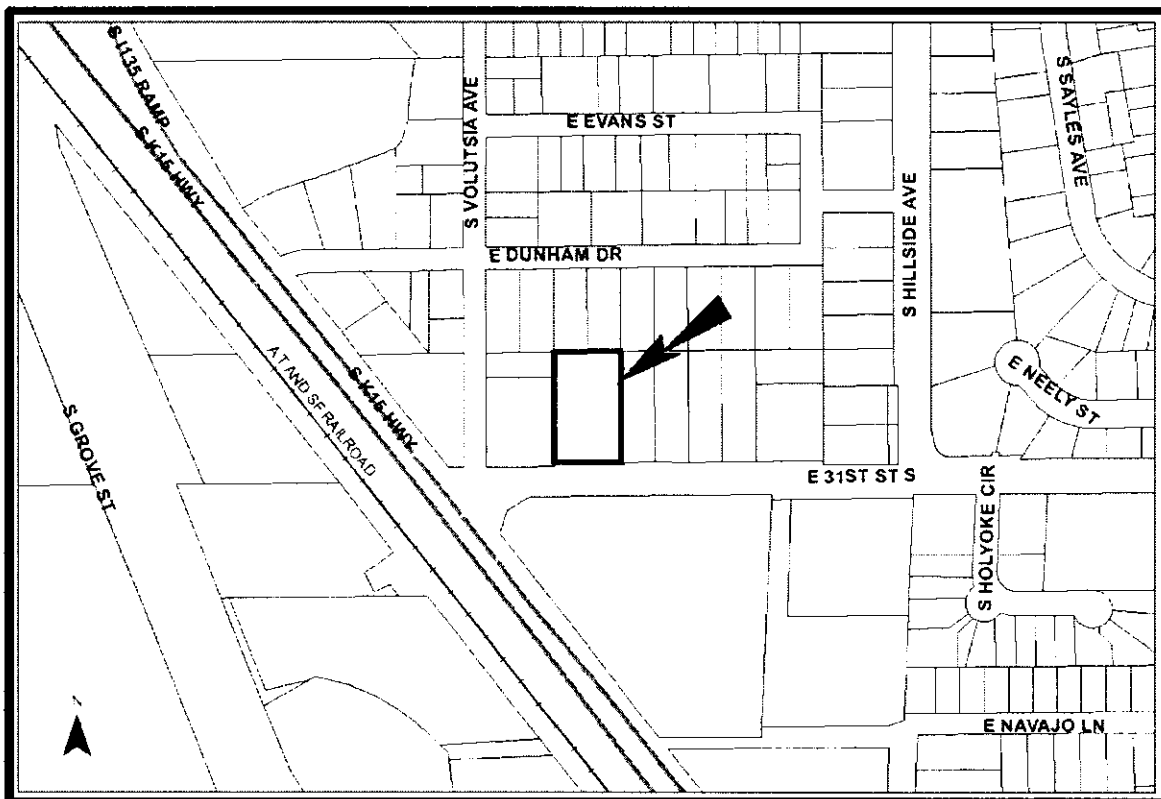
REQUEST: GC General Commercial ("GC")

CURRENT ZONING: LC Limited Commercial ("LC")

SITE SIZE: Total Area 1.20 acre

LOCATION: Generally located northeast of the intersection of K-15 and 31st Street South (2822 E. 31st Street South)

PROPOSED USE: To come into conformance with the uses currently operating on the site.



BACKGROUND: The application area is located northeast corner of 31st Street South and K-15, and is currently zoned LC Limited Commercial ("LC") and the applicant is requesting the property be rezoned to GC General Commercial ("GC"). Access to the site is off of 31st Street South. The site currently classified as being developed with an automobile service garage with a paint shop. The use of the site as an automobile service garage is a legal activity in the LC district, per the Unified Zoning Code ("UZC"); however, the use of the paint shop for detailing and vehicle body work is not permitted in the LC zoned district. This site has been used for automobile related uses over the years. The applicant has applied for the rezone to bring the site into conformance with the uses currently operating on the site. Staff recommends that a Protective Overlay ("PO") be included with this zone change to limit the uses allowed on this site. The proposed PO will exclude all uses within the GC zone district except vehicle repair, general. The PO will also have the applicant remove all inoperable vehicles from the property and require that any vehicles waiting for repair be screened from ground view from 31st Street South and from adjoining and adjacent properties.

The zoning of the surrounding property is predominately LC. Property to the north is zoned SF-5 Single-family Residential ("SF-5") and is currently developed with single-family residences. Property to the east of the subject site is zoned LC Limited Commercial ("LC") and OW Office Warehouse ("OW") and is currently developed as a bar/tavern and a warehousing operation. Property to the south of the subject site is zoned LC, and is developed with a mobile home park. Property to the west of the subject site is zoned LC and is developed with a vehicle repair shop and an available commercial building.

The subject site is in Flood Zone X, which identifies the area being in a flood insurance rate zone that corresponds to areas outside the 100-year floodplain, and by areas protected from the 100-year flood by levees.

CASE HISTORY: The application area is platted as Lots 4 & 5, Edminster Gardens Addition, recorded May 9, 1951.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Residences
SOUTH:	LC	Mobile Home Park
EAST:	LC	Bar
WEST:	LC	Auto Repair/Paint Shop/Detailing

PUBLIC SERVICES: All public services are available to the site. 31th Street, along the south side of the subject site, is a paved four-lane minor arterial, (Source: Federal Roadway Functional Classification Map, WAMPO) with approximately 22,000 average daily trips. Southeast Boulevard (K-15) is a paved four-lane freeway and expressway with approximately 30,000 average daily trips. Volutsia Street, just west of the subject site, is a paved two-lane local road with no daily trip counts. All municipal services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as "Local Commercial." "This category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of recommended uses includes: medical

or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. On a limited presence basis, these areas may also include mini-storage warehousing and small scale, light manufacturing.” In terms of conformance with commercial goals/objectives/strategies and locational guidelines, the application conforms with the **Commercial/Office Objective** to “Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses,” as well as **Strategy III.B.6** recommends that traffic generated by commercial activities be channeled to the closest major thorough-fare with minimum impact upon local residential streets.

Commercial Locational Guideline #1 of the *Comprehensive Plan* recommends that commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion. The proposed development complies with this guideline. **Commercial Locational Guidelines #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use; **#5** commercially-generated traffic should not feed directly onto local residential streets; and **#6** commercial uses that are not located in planned centers or nodes (including large free-standing buildings, auto-related and non-retail uses) should be guided to other appropriate areas such as the CBD fringe; segments of Kellogg; established areas of similar development; and, areas where traffic patterns, surrounding land uses and utilities can support such development.

RECOMMENDATION: Auto body work and paint shops have traditionally been separated from more limited repair shops in the zoning code, because of their tendency to generate more noise, odors and outside storage. However, this site has been operating as a vehicle repair, general operation for many years. Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**, subject to the provisions of a Protective Overlay (PO):

1. Permitted uses are those permitted by right in the LC Limited Commercial (“LC”) zone district plus “vehicle repair, general” as allowed in the GC General Commercial (“GC”) zone district.
2. No off-site or portable signs shall be permitted.
3. All vehicles parked or stored outside of a building in need of “vehicle repair, general” must be located behind the buildings on the west side of the property and screened from ground view from 31st Street South, and from adjoining and adjacent properties. “Vehicle repair, general” work is only permitted inside an enclosed building. The outside storage of parts is prohibited. Activities deemed by the Unified Zoning Code to be “wrecking or salvage” are not permitted.
4. The site shall be developed in conformance with all applicable regulations.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The zoning of the surrounding property is predominately LC. Property to the north is zoned SF-5 Single-family Residential (“SF-5”), and is currently developed with single-family residences. Property to the east of the subject site is zoned LC Limited Commercial (“LC”) and OW Office

Warehouse ("OW"), and is currently developed as a bar/tavern and a warehousing operation. Property to the south of the subject site is zoned LC, and is developed with a mobile home park. Property to the west of the subject site is zoned LC and is developed with a vehicle repair shop and an available commercial building.

2. **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned LC Limited Commercial. The LC district permits a wide range of retail and office uses that could be appropriate at this location.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** This property is located adjacent to or near LC, OW and LI zoned property. Approval of this request will not introduce zoning or potential uses into the area that do not already exist.
4. **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Denial of the request would cause the applicant an economic hardship since one of the uses on the site is an existing vehicle repair, general operation. Approval of the request will allow this property to be utilized in a manner appropriate for this location and the proposed PO will mitigate any potential negative impacts that could affect nearby properties.
5. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The Land Use Guide of the Comprehensive Plan identifies this area as "Local Commercial." "This category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. On a limited presence basis, these areas may also include mini-storage warehousing and small scale, light manufacturing." The current zoning request for GC, subject to the recommended protective overlay, for the 0.3-acre subject site is in conformance with the Comprehensive Plan's recommended development. In terms of conformance with commercial goals/objectives/strategies and locational guidelines, the application conforms with the **Commercial/Office Objective** to "Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses," as well as **Strategy III.B.6** Channel traffic generated by commercial activities to the closest major thorough-fare with minimum impact upon local residential streets.
6. **Impact of the proposed development on community facilities:** All services are in place, and any increased demand on community facilities can be handled by current infrastructure.