

ORDINANCE NO. 48-358

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. ZON2009-00011

Zone change from GO General Office ("GO") to OW Office Warehouse ("OW") subject to the provisions of Protective Overlay #231 on property described as:

Lot 1, Block 1, Oak Knoll 3rd Village Addition, Wichita, Sedgwick County, Kansas; generally located southeast of the Oak Knoll – Pawnee Avenue intersection, east of Rock Road.

SUBJECT TO APPROVAL BY THE GOVERNING BODY AND THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #231:

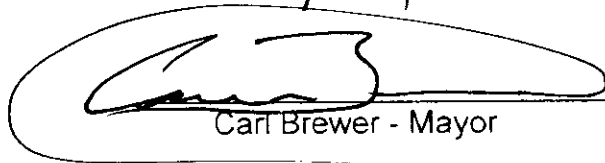
- (a) Retain the GO General Office ("GO") zoning along the east and south 25 feet of Lot 1, Block 1, Oak Knoll 3rd Addition (subject site). This will serve as a 25-foot setback, open space, landscape buffer on the south and east sides of the subject site, where it abuts the existing residential developments.
- (b) No paving, storage, parking, or placement of equipment, including cars, trucks, graders, power shovels, skid steer, forklifts, chemicals, fuels, sand, gravel, forms, rebar, ties, hand tools or any materials or products within the 25-foot setbacks that serve as the open space, landscape buffer. No trash receptacles may be placed within the 25-foot setbacks that serve as the open space, landscape buffer, and all trash receptacles shall be screened.
- (c) No operation of power equipment is permitted within the 25-foot setbacks that serve as the open space, landscape buffer. Power equipment for mowing, trimming and care of the landscape within the 25-foot setbacks that serve as the open space, landscape buffer are the exception and are permitted.
- (d) No stacking of materials higher than 7 feet is permitted. All dirt, gravel or sand stored on the site will be watered to control dust, and placed on the northwest end of the site, at a distance no greater than 200 feet south of Oak Knoll and 200 feet from the west property line and will be enclosed on three sides with solid screening.
- (e) The Unified Zoning Code's Compatibility height standards are in effect, except that no building shall exceed a maximum height of 50 feet.
- (f) No bay doors or openings on buildings are allowed on their south or east facing walls.
- (g) All vehicle repair shall be done inside existing or new buildings

- (h) Parking of trucks and motorized equipment on the site will be no closer than 100 feet from the subject site's south side, where it abuts single-family residential development, and no closer than 50 feet around the rest of the subject site, where it abuts multifamily residential and/or condo development. All parking and storage areas will be per City Code; gravel for the areas where there is the storage of equipment and materials, paving for any drives and circulation aisles into the storage areas. The gravel areas will be watered, as needed, to control dust.
- (i) The following uses are permitted, except over the east and south 25 feet of the lot: College or University; Government Service; Community Assembly; Day Care, General; Library; Safety Service; Animal Care Limited; Automated Teller Machine; Bank or Financial Institution; Broadcast/Recording Studio; Construction Sales and Service; Farmer's Market in the City; Monument Sales; Nurseries and Garden Centers; Office, General; Personal Care Service; Personal Improvement Service; Post Office Substation; Printing and Copying, Limited; Retail General; Vocational School; Warehouse, Self-service Storage; Research Services; Warehousing; Wholesale or Business Services.
- (j) The limitation on outdoor storage contained in the OW district is waived. Materials that may be stored outside shall be limited to those associated with the uses permitted by this PO. Materials stored outside shall not occupy any setback or buffer areas established by this PO.
- (k) Lighting standards must be no taller than 15 feet, including the base, and be hooded to direct light onto the site, away from residential property. No lights shall be placed within the 25-foot setbacks that serve as the open space, landscape buffer.
- (l) A mix of evergreens, as listed in the landscape ordinance, shall be planted with a minimum height of two to three feet above the existing 8 foot concrete screening wall and planted on 16-foot centers, within the 25-foot setback, open space, landscape buffer, along the south and east sides of the subject site. Any replacement of dead evergreens would be per the same minimum height of two to three feet above the existing eight-foot concrete screening wall and will be done during the planting season when they died. The landscape plan shall be prepared by a licensed landscape architect, be reviewed and approved by the Planning Department prior to the ordinance being published. The landscape plan shall include an irrigation system for maintenance of the approved landscape. All planting and the irrigation system must be in place within the 2009 planting season.
- (m) The solid masonry screening walls, along the east, south and north sides of the subject site shall be retained and shall be maintained in good repair.
- (n) No outside speakers/amplification communication system capable of being heard beyond the applicant's property line shall be utilized.
- (o) The applicant shall dedicate 10 feet of ROW, as agreed by the applicant and the Traffic Engineer, along Oak Knoll, and provide proof of the dedication prior to the ordinance being published.
- (p) The site shall be developed and operated in conformance with all applicable local, state and federal codes.
- (q) If the Zoning Administrator finds that there is a violation of any of the provisions of the Protective Overlay, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the zoning is null and void.

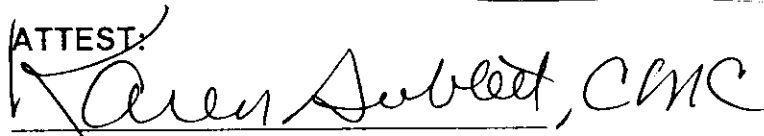
SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

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, July 7, 2029

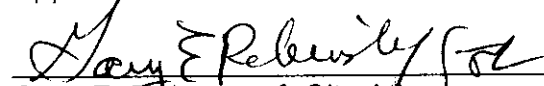

Carl Brewer - Mayor

ATTEST:


Karen Sublett, City Clerk

(SEAL)

Approved as to form:


Gary E. Rebenstorf, City Attorney

City of Wichita
City Council Meeting
June 23, 2009

To: Mayor and City Council

Subject: ZON2009-00011 - City zone change from GO General Office ("GO") to OW Office Warehouse ("OW") with a Protective Overlay ("PO"); generally located southeast of the intersection of Oak Knoll Street and Pawnee Avenue, approximately 1/3 mile east of Rock Road. (District II)

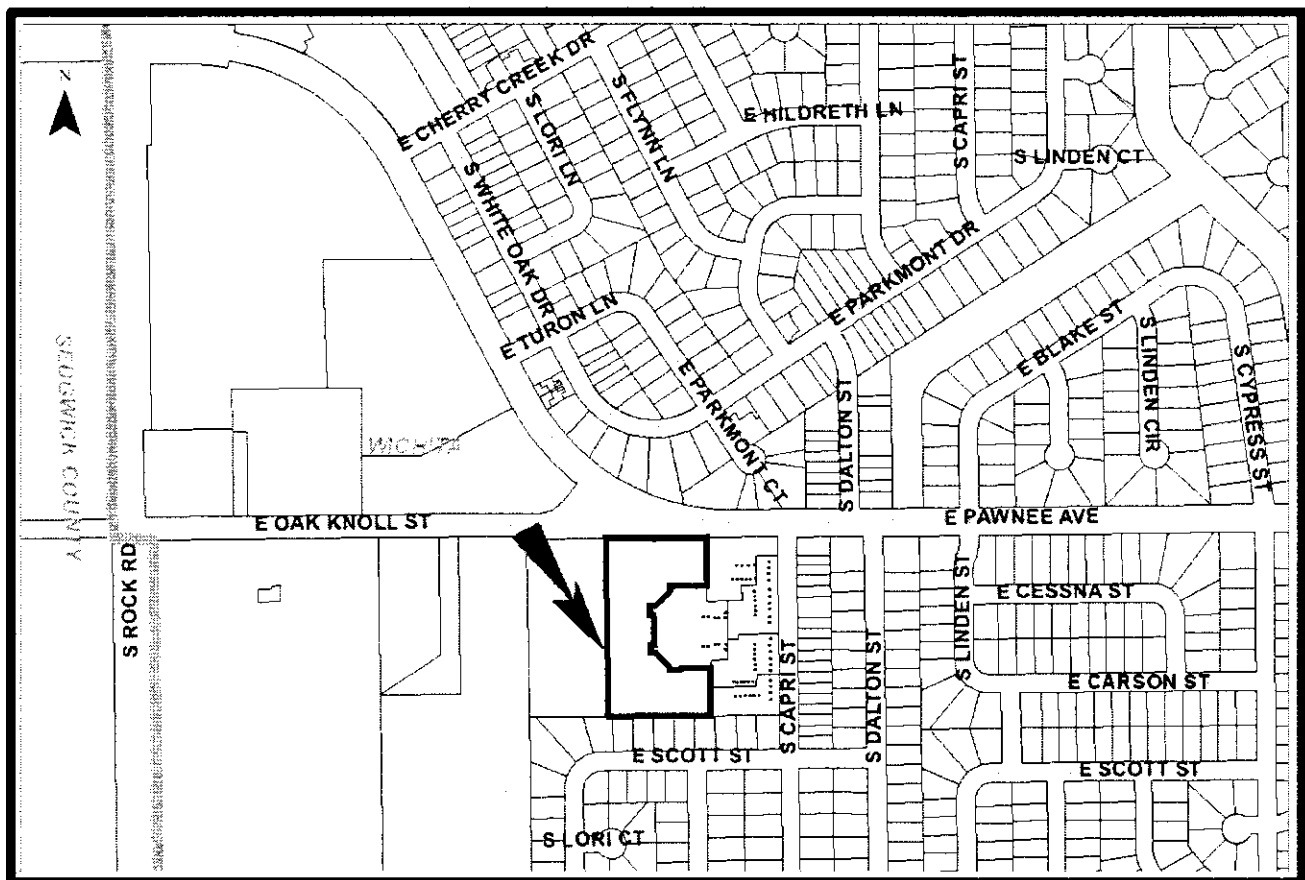
Initiated By: Metropolitan Area Planning Department *JLS*

Agenda: Planning (Consent)

MAPC Recommendation: Approve unanimously (12-0), subject to the provisions of the Protective Overlay

MAPD Staff Recommendation: Approve, subject to the provisions of the Protective Overlay

DAB II Recommendation: Approve unanimously (9-0), subject to the provisions of the Protective Overlay



Background: The applicant originally requested consideration for LI Limited Industrial ("LI") zoning, with a Protective Overlay (PO), for Lot 1, Block 1, Oak Knoll 3rd Addition. The subject site is a 3.8 acre, undeveloped, GO General Office ("GO") zoned property. At the DAB II hearing held on April 6, 2009, the requested LI zoning was approved with changes to the PO. At the MAPC hearing held on April 9, 2009, the MAPC deferred a recommendation on the zone change, directing the applicant to meet with protesters from the abutting residential neighborhoods in an attempt to resolve the issues associated with the zone change. The applicant has met with the neighborhood with the result being that the applicant is now requesting OW Office Warehousing ("OW") zoning with a revised PO.

The applicant owns the western, abutting, 3.72 acre, LI zoned, Lot 1, Block A, Bray Lines 2nd Addition; recorded on 6-19-1984. This abutting western property is developed as the applicant's concrete contractor's yard; SCZ0493, "R-1" Suburban Residential to "E" Light Industrial, approved on 11-04-1981. This contractor's yard has an office, warehouses/garages, outdoor storage of concrete forms, rebar, ties, fuel, chemicals, sand, gravel, trucks, scoops and other equipment and materials needed for the business of forming concrete walls and other concrete products. The proposed OW rezoning would allow the applicant to expand the business while eliminating some uses objected to by the neighborhood. The applicant has built an 8-foot masonry wall along the subject site's east and south sides. The applicant has also placed an 8-foot masonry wall separating the subject site's north ¼ from the south ¾ of the site.

Property abutting and adjacent to the site on its west and north (across Oak Knoll Street) sides are zoned LI and OW. Besides the applicant's existing LI zoned contractors yard, there is a Durham school bus staging yard, gas storage tanks (probably the oldest development in the area), an electrical substation, self storage warehouse and platted (1999), undeveloped land. A SF-5 Single-family Residential ("SF-5") zoned, developed, single-family residential subdivision (Oak Knoll Addition, recorded 10-31-1979) abuts the south side of the site. A MF-29 Multi-family Residential ("MF-29") zoned condo developments (Oak Knoll Addition, recorded 10-31-1979) abuts the site's east side. The southern abutting residential development existed prior to the applicant's existing contractor's yard. There are MF-29 and TF-3 Duplex ("TF-3", platted mid 1970s) zoned duplexes located north of the site, across Pawnee Avenue.

Analysis: At the DAB II meeting held on April 6, 2009, the DAB voted (9-0) to recommend approval of the zone change from GO to LI, subject to the provisions of a PO. The DAB made several changes to the PO. There were numerous members from the surrounding neighborhood present at the DAB meeting, with several of them protesting the proposed zone change. At the MAPC meeting held on April 9, 2009, the MAPC voted (10-1) to defer a recommendation on the requested zoning. The deferral was in response to representatives from the surrounding neighborhood protesting the proposed zone change. The MAPC suggested the applicant meet with the neighbors to see if they could resolve the issues associated with the zone change. The neighbors, the applicant and staff did meet at the applicant's site. The result of that meeting was presented at the MAPC meeting on May 21, 2009. There were not any protests to the proposed revised zoning request at the second MAPC meeting, and staff has not received any written protest. The MAPC voted unanimously (12-0), to approve OW Office Warehouse ("OW") zoning, subject to the following provisions of PO #231:

- (a) Retain the GO General Office ("GO") zoning along the east and south 25 feet of Lot 1, Block 1, Oak Knoll 3rd Addition (subject site). This will serve as a 25-foot setback, open space and landscape buffer on the south and east sides of the subject site, where it abuts the existing residential developments.
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- (c) No operation of power equipment is permitted within the 25-foot setbacks that serve as the open space and landscape buffer. Operation of power equipment for mowing, trimming and care of the landscape and plant materials located within the 25-foot setbacks that serve as the open space and landscape buffer is permitted.

- (d) No stacking of materials higher than 7 feet is permitted. All dirt, gravel or sand stored on the site will be watered to control dust, and placed on the northwest end of the site, at a distance no greater than 200 feet south of Oak Knoll and 200 feet from the west property line and will be enclosed on three sides with solid screening.
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- (q) If the Zoning Administrator finds that there is a violation of any of the provisions of the Protective Overlay, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the zoning is null and void.

Financial Considerations: None.

Goal Impact: 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 additional recommended provisions of the Protective Overlay; place the ordinance establishing the zone change on first reading; or
2. Return the application to the MAPC for reconsideration.

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

Attachment: Dedication of street right-of-way and notice of protective overlay.