

ORDINANCE NO. 48-335

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. ZON 2008-16

Zone change from SF-5 Single-family Residential to GC General Commercial for property described as:

Lot 7, Block 1, Girrens Addition, Wichita, Sedgwick County, Kansas.

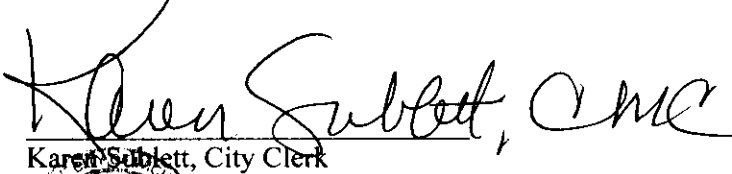
Generally located on the southwest corner of Pawnee and 119th Street West.

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.

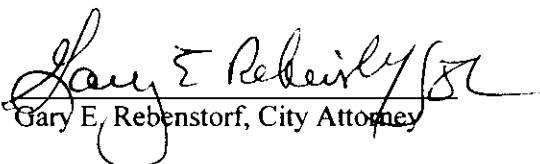
Adopted this 2 day of June 2009

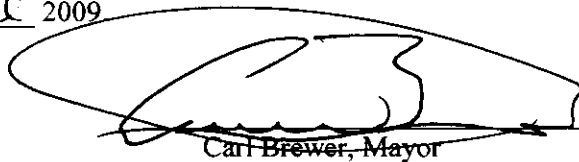
ATTEST:


Karen Sublett, City Clerk



Approved as to form:


Gary E. Rebenstorf, City Attorney


Carl Brewer, Mayor

BACKGROUND: The applicant proposes to create a commercial community unit plan ("CUP") containing 33.97 acres with eight parcels. Part of the application area is located within the county while part is in the city.

The requested zone change and CUP within the unincorporated area of Sedgwick County (CUP2008-11 and ZON2008-16) consists of one parcel (Parcel 7-5.44 acres) located one-fourth mile south of the intersection of Pawnee Avenue and 119th Street West. Proposed zoning for this parcel is GC General Commercial ("GC"). Currently the property is subject to a conditional use for a rural home occupation for a landscape contractor's business (CON2000-58), granted for a 10-year period that expires December 21, 2010. As requested by this CUP application, the parcel could continue in use as a landscape contractor's storage yard (construction sales and service) in the future with the same conditions as CON2000-58 except the time limit would be removed. The conditions of the CON2000-58 are incorporated as "Note A" on the CUP.

The requested zone change and CUP within the City of Wichita (CUP2008-10 and ZON2008-13) consists of Parcels 1-6 and Parcel 8. Requested zoning for Parcel 1 (1.40 acres), Parcel 2 (1.55 acres) and Parcel 3 (1.36 acres) is GO General Office ("GO"). These parcels are located south of Pawnee Avenue on the west end of the proposed development. Requested zoning for Parcels 4-6 and Parcel 8 is LC Limited Commercial ("LC"). Parcel 4 (1.59 acres) is located along Pawnee Avenue and adjoins Parcel 5 (1.45 acres) at the intersection of Pawnee Avenue and 119th Street West. Parcel 8 comprises the majority of the CUP (19.35 acres). Parcel 6 is a smaller parcel (1.86 acres) surrounded by Parcel 8 and currently is developed with a residence.

The applicant has eliminated the following uses: adult entertainment establishment, sexually oriented business, correctional placement residences, nightclub in the City, nightclub in the County and tavern or drinking establishment. Restaurants with drive-through windows, convenience stores, service stations and vehicle repair, limited, will not be permitted within 200 feet of residential uses, and drive-through lanes are to be designed to ensure queuing lanes do not align vehicle headlights facing residential zoning. No overhead doors shall be allowed within 200 feet of residential uses and shall not be facing any residential zoning district. Exterior audio systems that project sound beyond the boundaries of the CUP are prohibited.

Prior to the CON2000-58 case, a requested zone change to LI Limited Industrial ("LI") to operate the contractor's business (without the associated rural home occupation) was withdrawn after recommendation for denial by staff and opposition from surrounding landowners. LI zoning was viewed as inappropriate due to its intensity and its potential to be a deterrent to future residential development in the area. Another factor was the mid-mile location of the site, which is contrary to commercial locational guidelines. The ten year time-frame anticipated the operation of a use that is more rural in character until the time when the vicinity was ripe for urban-type development.

The current request for GC for Parcel 7 would prohibit the following GC uses: manufacturing, limited and general; welding/machine shop, gas and fuel storage and

sales, warehousing, wholesale or business services, printing and publishing, general, vehicle repair, limited and general, recreational vehicle campground, recycling processing center, animal care, general, kennel, hobby and boarding/ breeding/ training, monument sales, microbrewery and auditorium or stadium. GC is the first zoning district that both allows a full-scale contractor's storage yard and allows residential uses. It is recommended that these restrictions be further limited to allowing the continued use of the parcel as the landscape contractor's storage yard (including the continued occupation of the residence as a part of the conditional use requirements) or to those uses permitted in the GO district.

Maximum building coverage for the CUP and the parcels would be 30 percent; maximum gross floor area would be 35 percent of total land area, and maximum building height would be 35 feet. The number of permitted buildings would be one for Parcels 4 and 5, three for Parcel 6, four for Parcels 2-3 and five for Parcels 7 and 8.

The CUP provides wall requirements (except wood is added as a possible material), screening of trash receptacles, loading docks, outdoor storage and loading areas and roof-top equipment and exterior setbacks per the UZC. It provides architectural compatibility, shared landscape palette and consistency in parking lot elements with heights limited to 24 feet for base, pole and fixtures to enhance the planned appearance of the development. Use of wood material requires approval by the Governing Body as a deviation from the UZC CUP requirements.

Monument signage would be limited to 20 feet in height. Portable and off-site signs would be prohibited. Flashing signs (except time and temperature signs and public service messages), rotating or moving signs, signs with moving lights or signs which create illusions of movement would be prohibited; window signs would be limited to 25 percent of window area and wall signage on the rear of buildings prohibited. The CUP requires cross-lot circulation, pedestrian connectivity between the buildings and the arterial streets and internal circulation not impeding movement between parcels.

The property is in agricultural use except for the residence on Parcel 6, located on land zoned SF-5, and except for the residence associated with the rural home occupation for the landscape contractor's business on Parcel 7, located on land zoned SF-20 with CON2000-58. The property to the north is being developed with a single-family subdivision, Turkey Creek Addition, on property zoned SF-5. A nine-acre vacant tract zoned SF-20 is located at the northwest corner. A church is located on the northeast corner on property zoned SF-5, surrounded by Flat Creek Addition with single-family residences. The land to the east of 119th Street West is zoned SF-20 and in agricultural use. The property to the south also is zoned SF-20 and is in agricultural use. The remnant of CON2000-58 extends about 400 feet south of Parcel 7 to include a "future building" that has not been built. The tributary to the Calfskin Creek and its floodplain is located to the west of the CUP on property zoned SF-5 and SF-20. West of the Calfskin tributary, single-family residences are being developed in the Southwest Passage Addition.

CASE HISTORY: The property is unplatted. The portion in Sedgwick County was part of a zone change request for LI zoning that was withdrawn in 2000 (ZON2000-15) and subsequently approved as CON2000-58.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5, SF-20	Single-family residential, vacant, church
EAST:	SF-20	Agricultural
SOUTH:	SF-20	Agricultural
WEST:	SF-5, SF-20	Calfskin Creek tributary, single-family residential, vacant, agricultural

PUBLIC SERVICES: 119th Street West is classified as an urban minor arterial and is paved as a two lane paved rural principal arterial, and a future project will add shoulders and improve the paving of 119th Street West between Kellogg and Pawnee Avenue. Pawnee Avenue (23rd Street South) west of 119th Street West is classified as a rural major collector and also is paved as a two lane rural road. East of 119th Street West, Pawnee Avenue is classified as an urban minor arterial and is being constructed to four-lane urban standards, including some intersection improvements. The road right-of-way is in the City of Wichita for approximately 350 feet south and west of the intersection and in Sedgwick County for the remainder of the frontage. 2007 traffic volumes (ADTs) were 4,051 vehicles per day on 119th Street West south of Pawnee Avenue and 829 vehicles per day on Pawnee Avenue west of 119th Street West. This would increase substantially with normal levels of commercial development. Calculating an average of 40 trips per day per 1,000 square feet of potential gross floor area (an amount average for a shopping center but substantially below volumes generated by high-traffic uses such as convenience stores, banks with drive-through windows or restaurants), the site could be estimated to generate up to 20,000 trips per day. This amount probably would not be realized in full due to multi-stop shopping trips and pass-by trips or development of parcels at a level below authorized gross floor area that would reduce traffic generation, still the development would radically alter the volume of traffic in the neighborhood.

Access points shown on the CUP generally follow the access management guidelines, with two full movement and two right in/right out approaches on Pawnee Avenue and three full movement and two right in/right out on 119th Street West, most of which are shared openings. It is recommended the westernmost full movement entrance on Pawnee Avenue be aligned with Upland Hills Street.

Water is available at the intersection and sewer is available from Turkey Creek Subdivision to the north of Pawnee Avenue. Other normal public services are available.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide, Map as amended May 2005" of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "urban development mix." The property is within the "Wichita 2030 Urban Growth Area." The CUP and proposed LC/GO zoning conforms to the future Land Use Guide Map, except with

respect to the amount of commercial zoning (approximately 25 acres) is more than the 4-15 acres recognized in the land use category description of the *Comprehensive Plan* as typical of neighborhood centers associated with local commercial development at arterial intersections. The GC zoning is not in conformance.

In terms of conformance with commercial goals/objectives/strategies and locational guidelines, it partially conforms to **Commercial Goal/Objective B** of "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." It could be construed that it conforms to **Strategy III.B1** of locating local commercial development (neighborhood centers) in areas shown on the Land Use Guide at the intersection of two arterial streets and it is within the area shown for urban expansion. The CUP incorporates provisions conforming to **Strategy III.B.2** of integrating out parcels to planned centers through shared internal circulation, similar landscaping and building materials, and combined ingress/egress. **Strategy III.B.3** seeks to reduce access points along arterial streets; the recommendations conform to the Access Management Policy. **Commercial Locational Guideline #1** of the *Comprehensive Plan* recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use, and **#4** recommends compact clusters versus extended strip development. The proposed CUP restricts the height of parking lot lighting to 24 feet, restricts overhead doors and drive-through windows in proximity to residential zoning. The use of wood for the screening wall does not comply with the UZC requirements. The distance between the CUP and the adjacent subdivision is one-third mile, across a 100-year flood plain; however, the terrain is flat so the rear facades of the commercial activities still would be visible. **Office Locational Guideline #1** states office uses should be generally adjacent to arterials, **Guideline #3** recommends incorporating local, service-oriented offices within or adjacent to neighborhood and community scale commercial development and **Guideline #4** sees low density office use as a transitional use. Parcels 1-3 are restricted to GO, and staff recommends limiting the southern portion of the CUP to GO uses. The GC request does not conform to plans and policies due to its location at a mid-mile location and the intensity of GC that is a zoning district intended for regional commercial or industrial locations. It does allow the continuation of an existing use that was developed as a rural home occupation while the surrounding property was more rural in character.

RECOMMENDATION: Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2008-13) to LC for Parcels 4, 5 and Parcel 8 except the south 350 feet and GO for Parcels 1, 2, 3, 6 and the south 350 feet of Parcel 8.
- B. APPROVE the zone change (ZON2008-16) to GC subject to Note A for Parcel 7:

C. APPROVE the Community Unit Plan (DP-312), subject to the following conditions:

1. Provide guarantees for left turn center lanes and right turn decel lanes to all full movement approaches at time of platting.
2. Align a western drive on Pawnee Avenue with Upland Hills Street.
3. Restrict Parcel 7 to those uses permitted in the GO zoning district and the rural home occupation as approved by CON2000-58.
4. Restrict Parcel 6 and the southern 350 feet of Parcel 8 to GO zoning.
5. If wood is used for the screening wall of parcels zoned LC or GC abutting residential zoning, a buffer of evergreen trees planted at a rate of one tree (with a mature height of at least 20 feet) per 20 linear feet shall be provided in conjunction with the wood fence.
6. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
7. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
8. The ordinance/resolution establishing the zone change shall not be published until the platting has been recorded with the Register of Deeds.
9. Prior to publishing the ordinance/resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-312) includes special conditions for development on this property.
10. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property is in agricultural use except for the residence on Parcel 6, located on land zoned SF-5, and except for the residence associated with the rural home occupation for the landscape contractor's business on Parcel 7, located on land zoned SF-20 with CON2000-58. The property to the north is being developed with a single-family subdivision, Turkey Creek Addition, on property zoned SF-5. A nine-acre vacant tract zoned SF-20 is located at the northwest corner. A church is located on the northeast corner on property zoned SF-5, surrounded by Flat Creek Addition with single-family residences. The land to the east of 119th Street West is zoned SF-20 and in agricultural use. The property to the south also is zoned SF-20 and is in agricultural use. The remnant of CON2000-58 extends about 400 feet south of Parcel 7 to include a "future building" that has not been built. The tributary to the Calfskin Creek and its floodplain is located to the west of the CUP on property zoned SF-5 and SF-20. West of the Calfskin tributary, the single-family residences are being developed on the Southwest Passage Addition.

2. The suitability of the subject property for the uses to which it has been restricted: The current zoning, SF-5 and SF-20, is suited for development of perhaps half of the property, since the expectation is for a total of 4-15 acres for local commercial development and the remaining property for urban residential mix. The GO zoning reduces the impact from LC zoning to more in line with the amount of commercial use expected at the arterial intersection.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: GC uses are detrimental to the future desirability of the surrounding properties for residential use, particularly due to the placement of Parcel 7 in the mid-mile location. The length of requested LC zoning extending one-fourth mile south of the intersection would be detrimental to residential use in the vicinity. The recommended restrictions to GO would help mitigate these effects. Wood material for the exterior property line is not in conformance with the CUP standards of the UZC, and, due to the flat terrain, the commercial use could be visible to the adjacent residential developments. To mitigate this impact, increased evergreen buffering is recommended. The additional landscape buffering, coupled with the wide distance of the floodplain separating the commercial and residential development, would be mechanism to comply with the UZC requirement for Governing Body waiver of CUP standards, which is that the waiver meets the objectives of the Comprehensive Plan and good planning practice. Alternatively, the standard masonry wall coupled with the normal Landscape Ordinance buffer requirements would be suitable to screen the commercial and residential uses.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "2030 Wichita Functional Land Use Guide, Map as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "urban development mix." The property is within the "Wichita 2030 Urban Growth Area." The CUP and proposed LC/GO zoning conforms to the future Land Use Guide Map, except with respect to the amount of commercial zoning (approximately 25 acres) is more than the 4-15 acres recognized in the land use category description of the *Comprehensive Plan* as typical of neighborhood centers associated with local commercial development at arterial intersections. The GC zoning is not in conformance. In terms of conformance with commercial goals/objectives/strategies and locational guidelines, it partially conforms to **Commercial Goal/Objective B** of "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." It could be construed that it conforms to **Strategy III.B1** of locating local commercial development (neighborhood centers) in areas shown on the Land Use Guide at the intersection of two arterial streets and it is within the area shown for urban expansion. The CUP incorporates provisions conforming to **Strategy III.B.2** of integrate out parcels to planned centers through shared internal circulation,

similar landscaping and building materials, and combined ingress/egress.

Strategy III.B.3 seeks to reduce access points along arterial streets; the recommendations conform to the Access Management Policy. **Commercial Locational Guideline #1** of the *Comprehensive Plan* recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use, and **#4** recommends compact clusters versus extended strip development. The proposed CUP restricts the height of parking lot lighting to 24 feet, restricts overhead doors and drive-through windows in proximity to residential zoning. The use of wood for the screening wall does not comply with the UZC requirements. The distance between the CUP and the adjacent subdivision is one-third mile, across a 100-year flood plain; however, the terrain is flat so the rear facades of the commercial activities still would be visible. **Office Locational Guideline #1** states office uses should be generally adjacent to arterials, **Guideline #3** recommends incorporating local, service-oriented offices within or adjacent to neighborhood and community scale commercial development and **Guideline #4** sees low density office use as a transitional use. Parcels 1-3 are restricted to GO, and staff recommends limiting the southern portion of the CUP to GO uses. The GC request does not conform to plans and policies due to its location at a mid-mile location and the intensity of GC that is a zoning district intended for regional commercial or industrial locations. It does allow the continuation of an existing use that was developed as a rural home occupation while the surrounding property was more rural in character.

5. Impact of the proposed development on community facilities: The development will add traffic to the arterial streets, which will be mitigated somewhat by shared access drives and by additional left-turn center lanes and right-turn decel lanes. Street improvements underway on Pawnee Avenue east of 119th Street West and planned for 119th Street South between Kellogg and Pawnee Avenue will help alleviate traffic impacts to the north and east. Other municipal services are available.