

ORDINANCE NO. 48-740

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. ZON2010-00012

Request to amend Protective Overlay 219 on property described as:

Lot 1 and Reserves "A" and "B", Block A, Ridge 400 Addition to the City of Wichita, Sedgwick County, Kansas. Generally located southeast of the intersection of Mid-Continent Drive and west University Avenue.

THE AMENDED PROVISIONS OF PROTECTIVE OVERLAY DISTRICT 219:

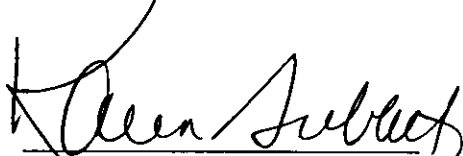
- 1) Item (C) shall be amended to read: *"Outdoor speakers and sound amplification systems shall not be permitted, with the exception of restaurant order boards."*
- 2) Item (G) shall be amended to read: *"All deliveries and trash service shall be between the hours of 8:00 AM and 10:00 PM."*
- 3) Item (J) shall be amended to read: *"The following uses shall not be permitted: adult entertainment establishment; group residence; correctional placement residence; recycling collection station; reverse vending machine; car wash; convenience store; night club; recreation and entertainment; service station; tavern and drinking establishment; and vehicle repair."*

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 18 day of May, 2010.

ATTEST;


Karen Sublett, City Clerk


Carl Brewer, Mayor

(SEAL)

Approved as to form:


Gary E. Rebenstorf, Director of Law

City of Wichita
City Council Meeting
May 11, 2010

TO: Mayor and City Council

SUBJECT: ZON2010-00012 – Amendment #1 to Protective Overlay #219 for items C and J;
generally located southeast of the intersection of Mid-Continent Drive and
University Avenue. (District V)

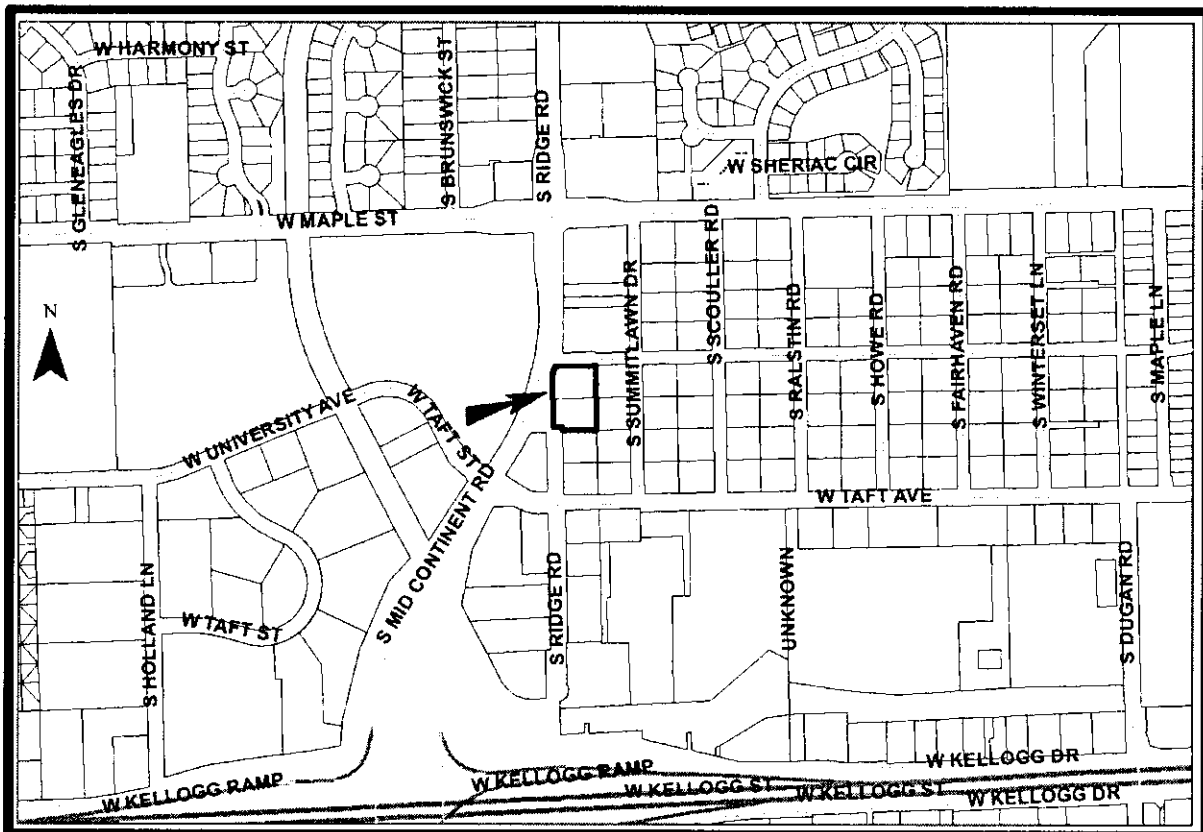
INITIATED BY: Metropolitan Area Planning Department *JVS*

AGENDA: Planning (Consent)

DAB IV Recommendation: Approve, vote (8-0).

MAPC Recommendation: Approve, vote (12-0).

MAPD Staff Recommendation: Approve.



Background: On December 16, 2008, the Wichita City Council approved ZON2008-00022, which granted LC Limited Commercial ("LC") zoning subject to Protective Overlay ("PO") #219 on 1.34 acres located at the southeast corner of South Ridge Road and West University Avenue. The 1.34 acres was platted in 2009 as the Ridge 400 Addition. PO #219 was adjusted in 2009 (a required 15-foot landscape buffer was reduced to 10 feet, item F) and currently exists as written below:

- A. No off-site or portable signs shall be permitted on the subject property. No signs shall be permitted along the face of any building that faces residential zoning or is across the street from any property that is in a residential zoning district. Signs shall be a monument style and all other signs shall be according to the City of Wichita sign code for the LC Limited Commercial zoning district.
- B. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from any abutting or adjacent properties that are in a residential zoning district. Light poles shall be limited to a maximum height, including the base of the light pole, of 15-feet. Light poles shall not be located within any setbacks.
- C. Outdoor speakers and sound amplification systems shall not be permitted.
- D. No buildings shall exceed one story in height with a maximum building height of 25 feet.
- E. A six (6) to eight (8) foot tall masonry wall shall be constructed parallel to the east property lines of the subject site, where it abuts existing single-family residences and SF-5 Single-family Residential zoning. A six (6) to eight (8) foot tall cedar fence shall be constructed parallel to the south property lines of the subject site, where it abuts existing single-family residences and the SF-5 Single-family Residential zoning.
- F. A 10-foot wide landscape buffer will be provided along the south and east sides of the subject site. A minimum of 5-foot tall evergreens will be planted at 20-foot centers along the south and east sides. Landscaping will be 1.5 times more than the minimum required by the Landscape Ordinance along the site's street frontages.
- G. All deliveries and trash service shall be between the hours of 6 AM and 10 PM.
- H. The subject site shall comply with the compatibility setback standards on the interior side yard (south) and rear yards (east).
- I. At the time of platting all access onto public right-of-way, cross lot access, utility easements, drainage and the final size and configuration of the subject site shall be resolved, per the standards of the Subdivision standards, as reviewed and recommended by the staff and the appropriate appointed and governing bodies.
- J. The following uses shall not be permitted: adult entertainment establishment; group residence; correctional placement residence; recycling collection station; reverse vending machine; car wash; convenience store; night club; recreation and entertainment; restaurant with drive-in or drive-thru facilities; service station; tavern and drinking establishment; and vehicle repair.

The applicant requests an amendment to Protective Overlay #219 for items C and J. Currently, item C reads that outdoor speakers and sound amplification systems shall not be permitted. The applicant proposes to add to item C: *"with the exception of restaurant order boards"* so that the amended item would state:

"Outdoor speakers and sound amplification systems shall not be permitted, with the exception of restaurant order boards."

The applicant would also like to amend item J by removing a use from the list of prohibited uses on the site. Currently, item J reads that a restaurant with drive-in or drive-thru facilities shall not be a permitted use on the subject site. The applicant proposes to remove *"restaurant with drive-in or drive-thru facilities"* so that the amended item would state:

"The following uses shall not be permitted: adult entertainment establishment; group residence; correctional placement residence; recycling collection station; reverse vending machine; car wash; convenience store; night club; recreation and entertainment; service station; tavern and drinking establishment; and vehicle repair."

The application area is located on the east side of South Mid-Continent Drive, just northeast of the Mid-Continent Drive and west Taft Avenue intersection. The property to the north is zoned LC and the land use consists of a fast food restaurant. The property to the south is zoned SF-5 Single-family Residential ("SF-5") and is developed with a single-family residence. The property to the west, across Mid-Continent Drive, is zoned LC and is developed with a large retail store (Lowe's). The property to the east is zoned SF-5 and is developed with single-family residences.

If approved, the order board would be subject to the noise compatibility standard (Sec. IV-C.6) that requires that no sound amplification system for projecting human voices shall be permitted on any property zoned NO Neighborhood Office or more intensive if the music and/or voices can be heard within any residential zoning district that is located within 500 feet of the subject site.

Average daily traffic ("ADT") counts for the peak hour on a Saturday for a sit-down restaurant without an order board have been reported at 20 ADT per 1,000 square feet of floor area; whereas restaurants with drive-thru or order boards have been reported at 59 ADT per 1,000 square feet of floor area.

Analysis: At the DAB V meeting held April 5, 2010, the DAB voted (8-0) to recommend approval of the Amendment to Protective Overlay #219. The DAB made the approval with an addition to the amendment request to change the hours of trash pickup and deliveries from beginning at 6am, moving that time up to 8am (Item G). The case was approved by consent and there was no one in the public to speak for or against the application.

At the MAPC meeting held April 15, 2010, the MAPC voted (12-0) to recommend approval subject to staff recommendations; the MAPC recommendation is to APPROVE subject to an amended PO #219 as follows:

- 1) Item (C) shall be amended to read: *"Outdoor speakers and sound amplification systems shall not be permitted, with the exception of restaurant order boards."*
- 2) Item (G) shall be amended to read: *"All deliveries and trash service shall be between the hours of 8:00 AM and 10:00 PM."*
- 3) Item (J) shall be amended to read: *"The following uses shall not be permitted: adult entertainment establishment; group residence; correctional placement residence; recycling collection station; reverse vending machine; car wash; convenience store; night club; recreation and entertainment; service station; tavern and drinking establishment; and vehicle repair."*

The case was approved by consent and there was no one in the public to speak for or against the application.

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 Amendment to Protective Overlay #219 and place the ordinance on first reading.