

OCA CODE 150004

ORDINANCE NO. 48-749

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. ZON2010-00013**

Amending provisions 1, 2, 3, 4, & 5, adding hours of trash pickup, and removing the masonry wall requirement of Protective Overlay #63 of Z-3350 on LC Limited Commercial ("LC") zoned property described as:

The west half of the south 57.5 feet of Lot 1, Block 1, Kings Maple Street 3rd Addition, Wichita, Sedgwick County, Kansas; generally located between Ridge Road and Summitlawn Drive, south of Maple Street.

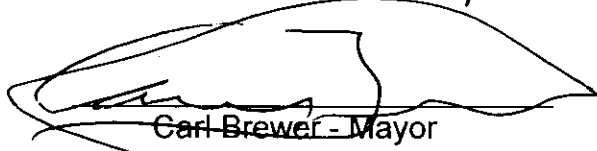
**SUBJECT TO THE FOLLOWING PROVISIONS AND AMENDED PROVISIONS 1, 2, 3, 4, & 5 OF PROTECTIVE OVERLAY DISTRICT #63:**

1. No building advertising signs shall be permitted along the face of any building or along any street frontage that faces or is across the street from any property that is in a residential zoning district. No off-site or portable signs permitted.
2. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from nearby residential zoning areas. Light poles shall be limited to a maximum height of 20 feet, including their base.
3. Outdoor speakers and sound amplification systems shall not be permitted except for drive-through and order boards.
4. No buildings shall exceed one story in height with a maximum building height of 35 feet.
5. The following uses shall not be permitted: adult entertainment establishment; group residence; correctional placement residence; group home; recycling collection station; reverse vending machine; car wash; convenience store; night club; recreation and entertainment; service station; tavern and drinking establishment and vehicle repair.
6. By separate instrument, the applicant shall dedicate additional right-of-way for Ridge Road (pursuant to Article 7-201 (H) of the Wichita-Sedgwick County Subdivision Regulations), access control except for one opening along the entire frontage along Ridge Road, and two additional feet (for a total of 10 feet) of utility easement along the east property line.
7. Trash pickup on the subject property shall be between 8:00 AM and 10:00 PM.

**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.

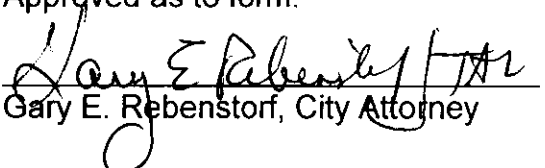
**SECTION 3.** That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED AT WICHITA, KANSAS, June 22, 2010

  
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 8, 2010

To: Mayor and City Council

Subject: ZON2010-00013 - City amendment to Protective Overlays #63, 70, 113 and 117 on properties zoned LC Limited Commercial ("LC"); generally located between Ridge Road and Summitlawn Drive, south of Maple Street. (District V)

Initiated By: Metropolitan Area Planning Department *JLS*

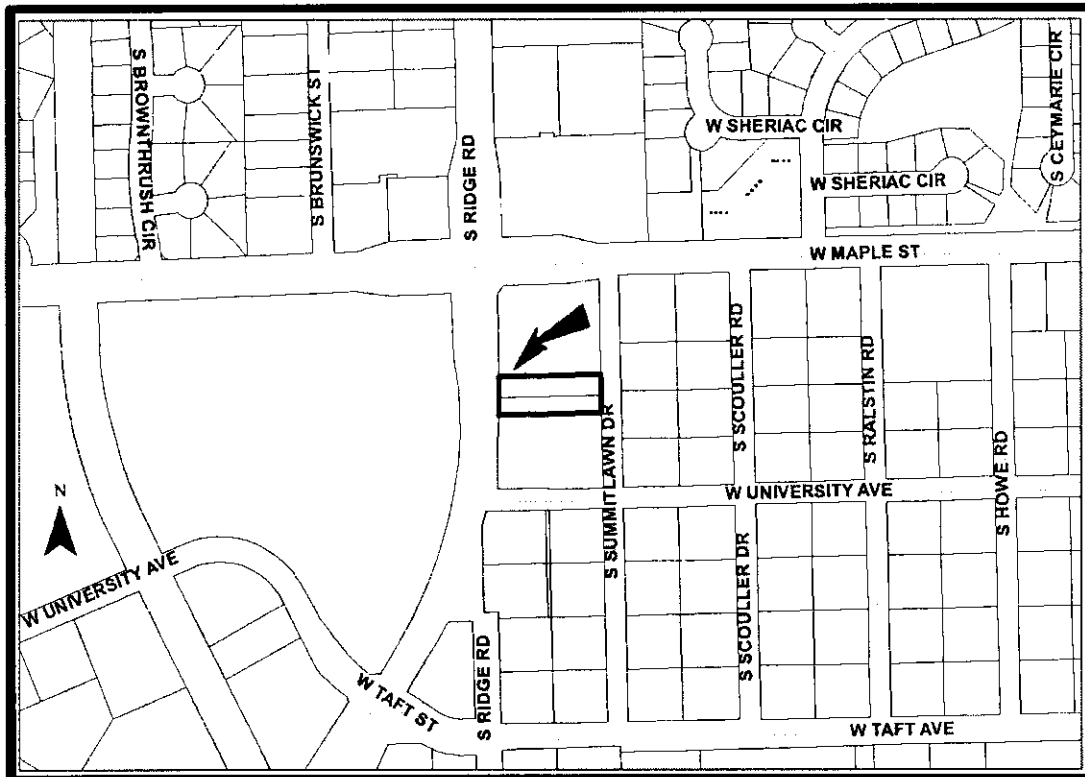
Agenda: Planning (Non-consent)

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**MAPC Recommendations:** Approve (12-0), subject to staff recommendation.

**MAPD Staff Recommendations:** Approve.

**DAB V Recommendations:** Approve (5-0), subject to staff recommendation and an additional provision.



**Background:** The applicant proposes to amend Protective Overlays (PO) #s 63, 70, 113 and 117 on the subject site; see 'Analysis' section of this report for the amended provisions. The subject site is the undeveloped land, left over from the final platting of the abutting Pizza Hut and Applebee developments, which abut the site's south and north sides. The site's current LC Limited Commercial ("LC") zoning will remain in place.

Precedent for the requested amendments has been established by the MAPC and City Council with the approval of ZON2008-00066 and PO #228. This applied to the current Applebee's development abutting the north side of the site. PO #228 allowed: (1) Light poles shall be limited to a maximum height, including the base of the light pole, of 20 feet. Light poles shall not be located within any setbacks. (2) Outdoor speakers and sound amplification systems shall not be permitted except for drive-through and order boards. (3) No buildings shall exceed one story in height with a maximum building height of 35 feet. The requested amendments also eliminated the no longer needed masonry wall along the site's south and north sides where it abuts the LC zoned development and between the subject sites. The Maple to Summitlawn to University to Ridge Road block was rezoned SF-5 to LC during the years from 1992 to 2002.

The surrounding area is characterized by a mixture of single-family residences, commercial uses and undeveloped LC zoned property. The properties located to the east, across Summitlawn Drive, are zoned SF-5 Single-family Residential ("SF-5") and are developed with single-family residences built in the mid 1950s to mid 1960s. This single-family residential subdivision is the oldest existing development in the area. The subject property was originally platted as part of this single-family residential subdivision. The property located west of the site, across Ridge Road, is zoned LC with a Community Unit Plan (CUP) overlay, DP-37, and is developed as a Lowe's (built 1998) building supply center. The property abutting the north of the site is the already mentioned Applebee's development, which is zoned LC with PO #228. The property abutting the south side of the site is a Pizza Hut Bistro restaurant built in 2005 and zoned LC with POs #113 and 117.

**Analysis:** At the DAB V meeting held on May 3, 2010, staff presented the following amendments to the provisions of POs #63, 70, 113 and 117, including the elimination of the masonry walls between the abutting LC zoning properties and between the subject sites, as follows:

Amended provisions 1, 2, 3, 4 and 6 of PO #63:

1. No building advertising signs shall be permitted along the face of any building or along any street frontage that faces or is across the street from any property that is in a residential zoning district. No off-site or portable signs permitted.
2. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from nearby residential zoning areas. Light poles shall be limited to a maximum height of 20 feet, including their base.
3. Outdoor speakers and sound amplification systems shall not be permitted except for drive-through and order boards. Note: PO # 63's east boundary ends approximately 160 feet from the Summitlawn Drive right-of-way.
4. No buildings shall exceed one story in height with a maximum building height of 35 feet.
6. A restaurant with a drive in or drive through facilities is allowed (while retaining the rest of the prohibited uses).

Amend provisions B, C, D & E of PO #70:

- B. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from nearby residential zoning areas. Light poles shall be limited to a maximum height of 20 feet, including their base. No light poles shall be located in the 20-foot eastern setback.
- C. Outdoor speakers and sound amplification systems shall not be permitted except for drive-through and order boards. No outdoor speakers and/or sound amplification systems shall be located in the 20-foot eastern setback.
- D. No buildings shall exceed one story in height with a maximum building height of 35 feet.

- E. A 6-foot high masonry wall shall be constructed parallel and along the entire length of the east property line and a 20-foot landscape street yard shall be provided adjacent to the east property line (not in public right-of-way) on the east side of the masonry wall.

Amend provisions B & D of Protective Overlay (PO) #113:

- B. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from nearby residential zoning areas. Light poles shall be limited to a maximum height of 20 feet, including their base.
- D. No buildings shall exceed one story in height with a maximum building height of 35 feet.

Amend provisions B, C & D of PO #117:

- B. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from nearby residential zoning areas. Light poles shall be limited to a maximum height of 20 feet, including their base. No light poles shall be located within the 20-foot eastern setback.
- C. Outdoor speakers and sound amplification systems shall not be permitted except for drive-thru and order boards. No outdoor speakers and/or sound amplification systems shall be located within the 20-foot eastern setback.
- D. No buildings shall exceed one story in height with a maximum building height of 35 feet.

The DAB recommended approval (5-0, without a quorum) of the staff recommended amendments, with an additional provision to the subject POs as underlined:

No trash pickup on the subject property shall happen before 8:00 AM.

The agent for the applicant told the DAB that he would need to check with the property owner in regards to the DAB's recommendation for hours of trash pickup. There were no members of the public that spoke in opposition at the DAB meeting.

At the MAPC meeting held on May 6, 2010, the agent for the property owner objected to the DAB's recommended hours of trash pickup. The MAPC voted to approve (12-0) the staff recommended amendments to the provisions of POs # 63, 70, 113, and 117, without the addition of the DAB's recommended hours of trash pickup. The DAB recommendation is different than what was recommended by the MAPC, thus it will require a 2/3 majority of the Council to approve the request per the DAB's recommendation. There were no members of the public that spoke in opposition at the MAPC meeting. Staff has received no valid protest to the requested amendments.

**Financial Considerations:** None.

**Goal Impact:** Promote Economic Vitality

**Legal Considerations:** The ordinances with the amended Protective Overlays has been reviewed and approved as to form by the Law Department.

**Recommendation/Actions:**

1. Adopt the findings of the MAPC, approve the provisions of Protective Overlays # 63, 70, 113 and 117, as recommended; and place the ordinances with the Protective Overlays on first reading; or
2. Adopt the findings of the MAPC, but modify its recommendation by the addition of the provision 'No trash pickup on the subject property shall happen before 8:00 AM.' to the amended Protective Overlays #63, 70, 113 and 117 as recommended by DAB V; and place the modified ordinances on first reading (An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.); or
3. Return the application to the MAPC for reconsideration.