

ORDINANCE NO. 48-170

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. ZON2008-00066

Replacing Restrictive Covenant 30, Protective Overlays 63, 69, and 70 with the provisions of Protective Overlay #228 on LC Limited Commercial ("LC") zoned property described as:

Lot 1, Block 1, Mapleridge Addition, Wichita, Sedgwick County, Kansas; generally located between Ridge Road and Summitlawn Drive, south of Maple Street.

SUBJECT TO PLATTING WITHIN A YEAR OF APPROVAL BY THE GOVERNING BODY AND THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #228:

- 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 or along any street frontage that faces or is across the street from any property that is in a residential 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 20 feet. Light poles shall not be located within any setbacks.
- C. Outdoor speakers and sound amplification systems shall not be permitted except for drive-thru and order boards.
- D. No buildings shall exceed one story in height with a maximum building height of 35 feet.
- E. A 6 to 8-foot high masonry wall shall be constructed parallel to the east property line. The masonry wall shall be setback from the east property line 10 feet. A 10-foot landscaped Summitlawn Drive street side yard shall be provided adjacent to the entire length of the east property line, located on the east side (outside) of the masonry wall. Landscaping shall be 1 ½ times more than required by the Landscape Ordinance.
- F. 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

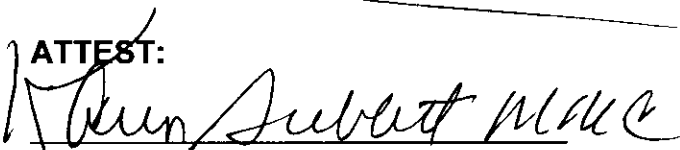
official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

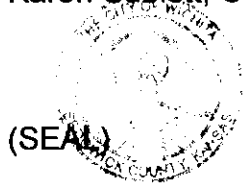
SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED AT WICHITA, KANSAS, January 27, 2009

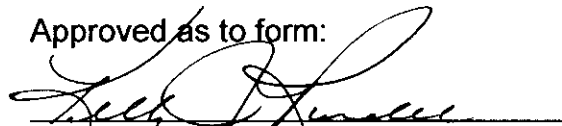

Carl Brewer Mayor

ATTEST:


Karen Sublett, City Clerk



Approved as to form:


Gary E. Rebenstorf, City Attorney

**City of Wichita
City Council Meeting
January 13, 2009**

TO: Mayor and City Council

SUBJECT: ZON2008-00066 – Replace multiple Protective Overlays and a Restrictive Covenant to adjust permitted uses and development standards; generally located between Ridge Road and Summitlawn Drive, south of Maple Street. (District V)

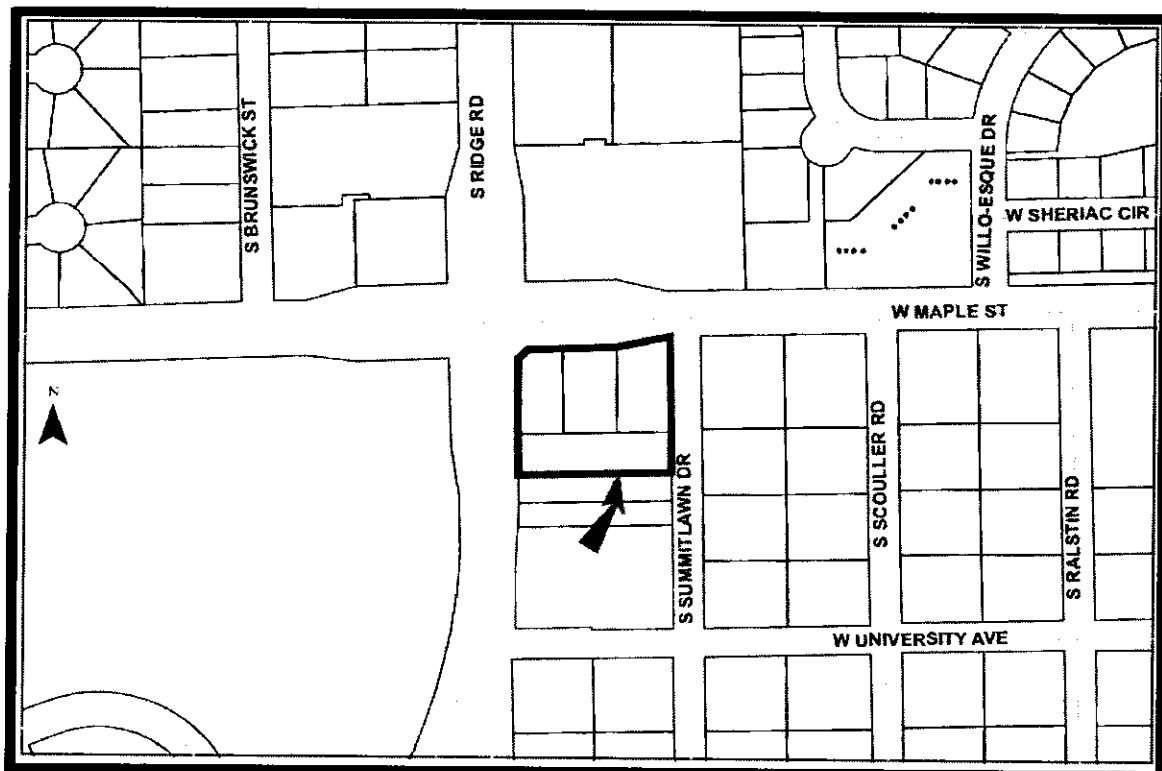
INITIATED BY: Metropolitan Area Planning Department *JLS*

AGENDA: Planning (Non-Consent)

MAPC Recommendations: Approve (11-1), subject to replatting within one year and the amended provisions of Protective Overlay #228.

MAPD Staff Recommendations: Approve, subject to replatting within one year and the amended provisions of Protective Overlay #228.

DAB Recommendations: Approve (8-0), subject to replatting within one year and the amended provisions of Protective Overlay #228. (DAB's recommendation is different from the MAPC.)



Background: The applicant's property is zoned LC Limited Commercial ("LC") subject to a Restrictive Covenant and three Protective Overlays ("PO") that, in general, restrict uses and require screening to protect residential uses located east of Summitlawn Drive. The multiple covenants and protective overlays were established individually over a period of time as each of the four lots was rezoned. Ownership of the property has now been consolidated, and the applicant proposes to replace Restrictive Covenant #30 and Protective Overlays (PO) 63, 69 and 70 with one document that establishes use and development standards for the larger unified site. The proposed PO would introduce outdoor speakers and sound amplification and allow drive-through restaurants, which are currently prohibited. Some other typical businesses that use these outdoor speakers are coffee shops, banks and drug stores. The proposed PO would also increase the maximum height of light poles, increase the maximum height of buildings and decrease the landscape buffer. Staff offered adjustments to this PO, which is reflected in what DAB V approved; see "Analysis." The subject properties are Lots 1 and 2, Block 1, King's Maple Street Addition; Lot 1, Block 1, King's Maple Street Second Addition; and Lot 1 (except the south 57.5 feet) of Block 1, King's Maple Street Third Addition. The current LC Limited Commercial ("LC") zoning would remain in place. The subject properties are currently undeveloped, with platted access onto Ridge Road (west) and Maple Street (north).

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 mid-1950s to mid-1960s. This single-family residential subdivision is the oldest existing development in the area. The subject properties were 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 big box Lowes (built 1998) building supply center. Properties located north of the site, (built 1983-1999) across Maple Street, are zoned LC, some with POs, and SF-5. The LC zoned sites are developed as strip retail, retail, a restaurant and a convenience store. The SF-5 zoned properties are developed as apartments with a CUP overlay. Properties located south, and abutting the subject properties, are not developed, with the exception of a Pizza Hut Bistro restaurant, which was built in 2005. The Pizza Hut site is the only developed LC property within the Maple - Summitlawn - University - Ridge Road block, which is where the subject properties are located. The Pizza Hut site has a PO that is similar to the DAB recommended PO and can be seen as the standard for redevelopment of this area, including the subject properties. The Maple - Summitlawn - University - Ridge Road block was rezoned from SF-5 to LC during the years 1992 to 2002.

The subject properties have been identified in the Comprehensive Plan as appropriate for "Local Commercial" uses. The close proximity of the subject properties to the established single-family neighborhood required any commercial uses to be developed so as to minimize any negative impact on that neighborhood. The current POs and restrictive covenant limits signage, lighting, noise, building height, requires a six foot high masonry wall, and a landscape buffer, outside the masonry wall, along the property lines. They also prohibited certain uses that are less compatible with the existing single-family residential development, including high-intensity, auto-oriented commercial uses. Because the subject properties were zoned essential two single-family lots at a time, it was reasonable to anticipate that some time in the future, the provisions of the POs and the restrictive covenant might be amended and the properties replatted to provide a larger, more coherent, unified site.

Analysis: DAB V considered this request at their December 1, 2008, meeting. Some citizens were concerned about access from the site onto Summitlawn Drive, landscaping and screening. The agent discussed with the DAB the agent's proposed adjustments, which would: reduce the landscape buffer from 20 feet to 10 feet, allow building heights to be 35 feet, but still only one-story, and allow lights to be 20 feet tall rather than 14 feet tall. The DAB approved (9-0), the following PO, subject to platting within one year:

- 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 or along any street frontage that faces or is across the street from any property that is in a residential 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 14 feet. Light poles shall not be located within any setbacks.

- C. Outdoor speakers and sound amplification systems shall not be permitted except for drive-thrus and order boards.
- D. No buildings shall exceed one story in height with a maximum building height of 25 feet.
- E. A 6-foot high masonry wall shall be constructed parallel to the east property line where property in a residential zoning district is across the street from the subject property. The masonry wall shall be setback from the property 20 feet, and a 20-foot deep landscaped street yard shall be provided adjacent to the entire length of the east property line on the east side of the masonry wall.
- F. 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 MAPC considered this request at their December 4, 2008, meeting. A citizen spoke at the MAPC meeting and expressed concerns about traffic from the site onto Summitlawn and about the need for landscaping along Summitlawn. The agent discussed with the MAPC their proposed adjustments to the DAB's PO. The agent's adjustments would reduce the landscape buffer from 20 feet to 10 feet, allow buildings to be 35 feet tall instead of 25 feet, but still only one-story and allow lights to be 20 feet tall rather than 14 feet tall. The MAPC voted to approve (11-1) the agent's request, subject to replatting within a year, and they increased the landscaping along Summitlawn to 1½ times more than what was required by the Landscape Ordinance.

The MAPC's conditions of approval for PO #228 are as follows:

- 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 or along any street frontage that faces or is across the street from any property that is in a residential 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 20 feet. Light poles shall not be located within any setbacks.
- C. Outdoor speakers and sound amplification systems shall not be permitted except for drive-thrus and order boards.
- D. No buildings shall exceed one story in height with a maximum building height of 35 feet.
- E. A 6 to 8-foot high masonry wall shall be constructed parallel to the east property line. The masonry wall shall be setback from the east property line 10 feet. A 10-foot landscaped Summitlawn Drive street side yard shall be provided adjacent to the entire length of the east property line, located on the east side (outside) of the masonry wall.
- F. Landscaping shall be 1½ times more than required by the Landscape Ordinance.
- G. 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.

No protests were received.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality and Affordable Living.

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, subject to platting within one year and the provisions of the Protective Overlay, PO #228, withhold publication of the ordinance until the plat is recorded; 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.)