

ORDINANCE NO. 47-995

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. ZON2008-00038**

Zone change from GO General Office ("GO") to LC Limited Commercial ("LC") subject to Protective Overlay #217 on property described as:

The West 68 feet of Lot 1, Dan Morgen Addition, Wichita, Sedgwick County, Kansas; generally located approximately north and east of the intersection of North Oliver Avenue and East Central Avenue (5002 East Central Avenue)

**SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #217:**

1. All uses allowed as permitted uses in the "LC" Limited Commercial zoning district except the following: adult bookstores; pawn shops; funeral home; adult entertainment; convenience stores; hotel or motel; night club; recreation and entertainment, indoor; service station; restaurants with drive-up window service or in-vehicle food service; tavern and drinking establishment; vehicle and equipment sales, outdoor and wireless communication facility;
2. Signage on the site shall be limited to that permitted in the "NR" Neighborhood Retail zone. No signage shall face property zoned or used for residential purposes;
3. Submission and approval of a drainage plan prior to issuance of any building permits and construction of a six to eight foot wooden fence on the west and north property line at the time of issuance of any building permits.
4. Dedication of access control except for one opening along Central Avenue.
5. The site shall be developed in conformance with code required noise, setback and height standards, zoning screening and buffering and landscaping requirements unless modified by this Protective Overlay;
6. No outdoor storage shall be permitted on the site;
7. Outdoor lighting on the site shall be restricted to 12 feet in height, including the base,

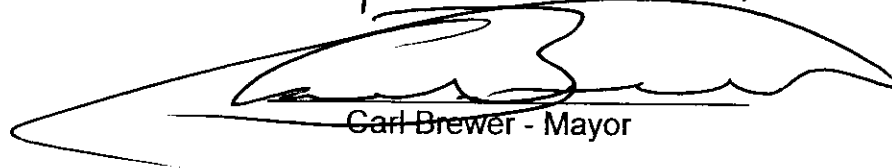
and shall be shielded away from residential zoning;

8. Outdoor speakers and sound amplification systems shall not be permitted.

**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, *September 16, 2008*


  
Carl Brewer - Mayor

ATTEST:

  
Karen Sublett, City Clerk



Approved as to form:

  
Gary E. Rebenstorf, City Attorney

City of Wichita  
City Council Meeting  
September 9, 2008

**TO:** Mayor and City Council

**SUBJECT:** ZON2008-00038 – Zone change from GO General Office (“GO”) to LC Limited Commercial (“LC”); generally located approximately north and east of the intersection of North Oliver Avenue and East Central Avenue (5002 East Central Avenue). (District I)

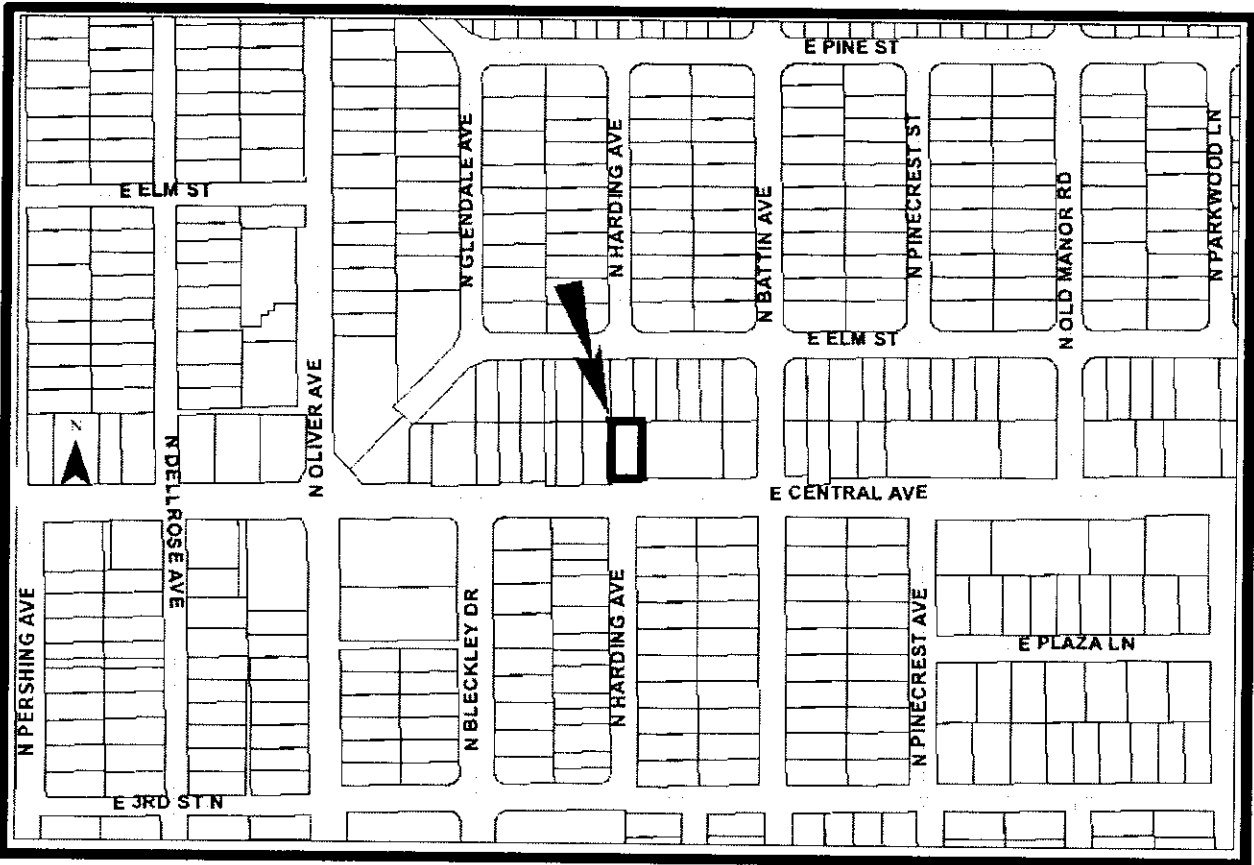
**INITIATED BY:** Metropolitan Area Planning Department *LS*

**AGENDA:** Planning (Consent)

**DAB I Recommendation:** Approve LC Limited Commercial (“LC”) with a Protective Overlay (6-0).

**MAPC Recommendation:** Approve LC Limited Commercial (“LC”) with a Protective Overlay (7-1).

**MAPD Staff Recommendation:** Deny LC Limited Commercial (“LC”) request  
Approve for NR Neighborhood Retail (“NR”)



**Background:** The applicant is requesting a zone change from GO General Office (“GO”) (west 68 feet of Lot 1, Dan Morgen Addition) to LC Limited Commercial (“LC”). The application area contains approximately 0.18 acres with 70 feet of frontage located along Central Avenue, two blocks east of Oliver. The lot is developed with an office building built in the early 1950s, with what appears to be ten off-street parking spaces serving the office use, one more space than what is required by the Unified Zoning Code (“UZC”). The applicant proposes the rezoning to allow for commercial development.

The subject site is located in flood zone AE. The AE flood zone is a flood insurance rate zone that corresponds to the 100-year floodplain and requires mandatory flood insurance purchase. The waterway that flows through this area, the West Branch of Dry Creek, begins just north of Claude Lambe Park and travels south through the LW Clapp Golf Course before joining Gypsum Creek southeast of Hillside and Pawnee.

Property south of the subject site, across Central Avenue, is zoned B Multi-family Residential (“B”) and is developed with single-family residences, built in the early 1940s. Property east of the site is zoned NR Neighborhood Retail (“NR”) and is developed with an office use and small-scale retail uses. Property north of the subject site is zoned SF-5 Single-family Residential (“SF-5”) and is developed with single-family residences. West of the subject site the property is zoned B and is developed with a four-plex residence.

**Analysis:** Staff had recommended approval of NR zoning rather than LC zoning, based on the small size of the site and presence of NR zoning on the abutting property to the east. At the District I Advisory Board meeting held on August 4, 2008, DAB I voted (6-0) to approve the LC zoning with the Protective Overlay. At the MAPC meeting held August 7, 2008, the MAPC voted (7-1) to approve the LC zoning with a Protective Overlay, but substituted a wooden fence for the masonry wall requirement along the north property line, abutting single-family residences. MAPC also deferred, at the applicants request, the fencing and landscaping until the time of obtaining a building permit. After discussion, the MAPC recommended approval of the LC request with a Protective Overlay with the following provisions:

1. All uses allowed as permitted uses in the “LC” Limited Commercial zoning district except the following: adult bookstores; pawn shops; funeral home; adult entertainment; convenience stores; hotel or motel; night club; recreation and entertainment, indoor; service station; restaurants with drive-up window service or in-vehicle food service; tavern and drinking establishment; vehicle and equipment sales, outdoor and wireless communication facility;
2. Signage on the site shall be limited to that permitted in the “NR” Neighborhood Retail zone. No signage shall face property zoned or used for residential purposes;
3. Submission and approval of a drainage plan prior to issuance of any building permits and construction of a six to eight foot wooden fence on the west and north property line at the time of issuance of any building permits.
4. Dedication of access control except for one opening along Central Avenue.
5. The site shall be developed in conformance with code required noise, setback and height standards, zoning screening and buffering and landscaping requirements unless modified by this Protective Overlay;
6. No outdoor storage shall be permitted on the site;
7. Outdoor lighting on the site shall be restricted to 12 feet in height, including the base, and shall be shielded away from residential zoning;
8. Outdoor speakers and sound amplification systems shall not be permitted.

There were no citizens that spoke in favor of the application and there was no opposition.

**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 provisions of Protective Overlay #217; and withhold publication of the ordinance until conditions of the protective overlay are met; or
2. Return the application to the MAPC for reconsideration; or
3. Deny the application.

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