

ORDINANCE NO. 46-411

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 2002-73

Zone change from "GC" General Commercial District and "SF-5" Single-Family Residential District to "OW" Office Warehouse District, on property described as:

Lot 1, Block A, Clarkdale Fourth Addition, Wichita, Sedgwick County, Kansas.

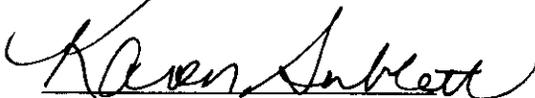
Generally located south of 61st Street South and east of Seneca.

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.

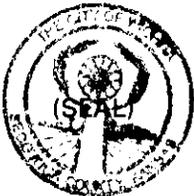
SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED this 14th day of December, 2004.

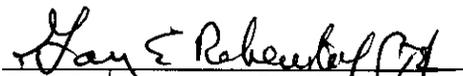
ATTEST:


Karen Sublett, City Clerk


Carlos Mayans, Mayor



Approved as to form:


Gary E. Rebenstorf, City Attorney

residential properties, a practice which is generally recognized as a good planning principle. The alternative action should be subject to replatting the property so that access, traffic improvement, drainage, and utility issues can be addressed. The alternative action can be based on the following alternative findings:

1. The zoning, uses and character of the neighborhood: The subject property is partially zoned for commercial uses and abuts property to the north that is owned by the applicant and also is zoned for commercial uses. While this commercially-zoned property does not currently contain commercial uses, the property has been developed with commercial uses in the past. Future commercial use of the subject property is consistent with the limited pattern of strip commercial development that exists along Seneca in this area.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is somewhat unique in that it is partially zoned for commercial uses, is divided by a drainage ditch, and is presently limited to cross-lot access from the commercially-zoned property to the north. These unique circumstances limit the desirability of the subject property for low-density residential uses. The "OW" Office Warehouse zoning district is intended to accommodate office and warehousing activities for the building trades and similar business that do not require highly visible locations or the type of vehicular access needed for retail and high-intensity office development. The subject property is suitable for the intended purposes of the "OW" Office Warehouse zoning district.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects on residentially-zoned properties in the area should be minimized by the screening, lighting, and compatibility standards of the Unified Zoning Code and the buffer, screening, and street yard requirements of the Landscape Ordinance, which should limit noise, lighting, and other activity from adversely impacting these properties. Additionally, the "OW" Office Warehouse zoning district has more stringent development standards in terms of screening, setbacks, and building height than the requested "GC" General Commercial zoning district. The "OW" Office Warehouse zoning district also does not permit auto-oriented and intensive retail uses that are most incompatible with residential uses.
4. Impact of the proposed development on community facilities: Community facilities should not be adversely impacted as long as sufficient right-of-way, access controls, traffic improvements, and utility extensions are provided for through the platting process.

STAFF REPORT
MAPC January 23, 2003
DAB IV February 5, 2003

CASE NUMBER: ZON2002-00073

APPLICANT/AGENT: D & M Enterprises c/o Dennis Niedens (Owner/Applicant)

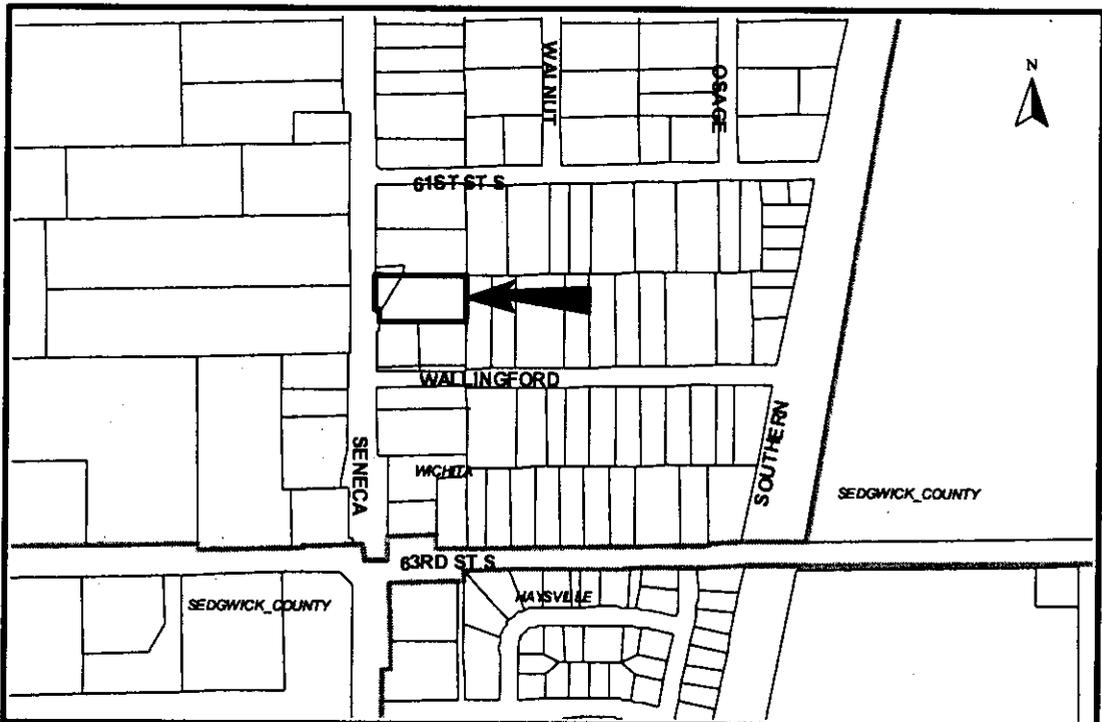
REQUEST: "GC" General Commercial

CURRENT ZONING: "GC" General Commercial and "SF-5" Single-Family Residential

SITE SIZE: 0.94 acres

LOCATION: South of 61st Street South and east of Seneca

PROPOSED USE: Undetermined



BACKGROUND: The applicant requests a zone change from "GC" General Commercial and "SF-5" Single-Family Residential to "GC" General Commercial on a 0.94 acre platted tract located south of 61st Street South and east of Seneca. The applicant has not determined a specific use for the subject property other than to state that the rezoning is requested to permit the construction of commercial buildings and that the "GC" General Commercial zoning district was specifically requested to allow for the potential to develop an auto-body shop.

The surrounding area is characterized primarily by suburban residential uses, with a few commercial uses along the Seneca corridor between 55th Street South and 63rd Street South. Most of the properties in the area are zoned "SF-5" Single-Family Residential and are developed with single family residences. Several residentially-developed and vacant properties along Seneca are zoned "GC" General Commercial and "LC" Limited Commercial, including the two vacant lots immediately north of the subject property, which are owned by the applicant. Vehicle repair businesses on property zoned "GC" General Commercial are located one-half block to the south on the west side of Seneca. The other two commercial business in this area are located one-quarter mile to north on the west side of Seneca. These businesses are a nursery and garden center on property zoned "GC" General Commercial and a manufacturing business on property zoned "LI" Limited Industrial.

CASE HISTORY: On March 23, 1958, the zoning for the subject property was first established as "R-1" Suburban Residential (now "SF-20"). At that time, the western third of the subject property was used as a salvage yard and vehicle sales lot in conjunction with the two lots to the north. Upon zoning of the subject property the salvage yard and vehicle sales lot became non-conforming uses.

In 1963, the property owner requested "F" Heavy Industrial (now "GI") for the western third of the subject property and the two lots to the north in an attempt to make the salvage yard and vehicle sales lot conforming uses. On April 18, 1963, the Board of County Commissioners denied the request for "F" Heavy Industrial and instead approved "C" Commercial (now "GC") zoning for the western third of the subject property. The decision was made in order to make the vehicle sales lot, but not the salvage yard, a conforming use.

In 1988, Sedgwick County condemned a portion of the subject property and constructed a drainage ditch through the property. The drainage ditch cuts through the portion of the subject property zoned for commercial uses and limits access to the portion of the subject property zoned for residential uses to cross-lot access from the abutting property to the north.

By 1991, the salvage yard had illegally expanded onto the western two-thirds of the subject property, which was still zoned "R-1" Suburban Residential. At that time, the County Zoning Administrator determined that if the western two-thirds of the subject

property were to be zoned "C" Commercial that the expansion would be considered a legal expansion of a non-conforming use. Therefore, the property owner requested "C" Commercial zoning for the western two-thirds of the subject property, but the request was denied by the Board of County Commissioners on October 23, 1991 because the Board did not want to legitimize the non-conforming salvage yard.

The salvage operation continued on the subject property as a non-conforming and partially illegal use that received notices of violation due to complaints from neighboring property owners. On May 3, 1999, the subject property was struck by a tornado and damaged to an extent greater than 50% of its value, thus losing its non-conforming use status as a salvage yard. On March 24, 2000, the subject property was annexed into the City of Wichita at which time the zoning of the western two-thirds of the subject property was changed to "SF-6" Single Family (now "SF-5"). The City of Wichita pursued removal of the salvage yard from the property since the use was no longer a legal non-conforming use. The subject property was subsequently cleaned up and sold to the present owner, who has requested "GC" General Commercial zoning to permit unspecified commercial uses on the subject property.

ADJACENT ZONING AND LAND USE:

NORTH:	"GC"	Vacant
SOUTH:	"SF-5"	Single-family
EAST:	"SF-5"	Single-family
WEST:	"SF-5"	Single-family

PUBLIC SERVICES: The subject property has frontage along Seneca, a four-lane arterial street with current traffic volumes of approximately 7,100 vehicles per day. The 2030 Transportation Plan estimates that traffic volumes on Seneca will increase to approximately 8,700 vehicles per day and recommends that Seneca remain a four-lane arterial street.

Since the use of the subject property has not been identified, planning staff cannot determine the number of trips to be generated by the subject property in the peak hour; however, uses permitted in the requested "GC" General Commercial zoning district have the potential to generate traffic in excess of 500 trips in the peak hour, which would require the applicant prepare a traffic impact study and possibly install traffic improvements prior to developing the property.

Public water and sewer service are not readily available to be extended to the subject property. Therefore, any development of the subject property would likely occur with on-site water and sewer facilities, and commercial development utilizing on-site facilities has a significant potential to lead to ground-water pollution.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for “Low Density Residential” development. The Future Development Concept Map in the South Wichita/Haysville Area Plan shows this area as appropriate for “Residential” development. The proposed zoning for the subject property does not conform with either of these land use guides, which recommend that commercial development in this area should be located in compact clusters or nodes at the intersection of two arterial streets. In fact, the South Wichita/Haysville Area Plan was adopted for the express purpose of promoting stabilization and revitalization of the area. The vision of this plan for subject property and the surrounding area is that it would be revitalized with residential uses.

The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial uses be located adjacent to arterial streets and have site design features that limit noise, lighting, and other aspects of commercial activity from adversely impacting surrounding residential uses. The Commercial Locational Guidelines also recommend that commercial uses locate in compact clusters or nodes versus strip developments and that any commercial uses not located in planned centers or nodes be located on the fringe of the central business district, along Kellogg, or in areas where similar development exists. While the subject property is located along an arterial street, the proposed zoning request would further a strip development pattern, which exists only to a limited extent along Seneca in this area, and does not conform to the Commercial Locational Guidelines.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request be **DENIED**. This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The surrounding area is characterized primarily by suburban residential uses, with only a few commercial uses along the Seneca corridor between 55th Street South and 63rd Street South. Commercial and industrial zoning exists in the area, but the amount of zoning is limited and exists in a strip development pattern contrary to adopted plans and policies for the area. Further strip commercial zoning along Seneca in this area is inconsistent the zoning, uses, and character of the neighborhood.
2. **The suitability of the subject property for the uses to which it has been restricted:** The subject property is zoned “GC” General Commercial and “SF-5” Single-Family Residential. The subject property is suitable for commercial development along Seneca and is suitable for development with residential and permitted institutional uses on the east side of the drainage ditch.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** If residential development of the subject property occurs consistently with the revitalization vision contained in the South Wichita/Haysville area plan,

the residential development likely would entail the extension of public water and sewer service to the area and combining the subject property with adjacent tracts to allow for an urban density of development. Changing the zoning of the subject property to "GC" General Commercial zoning would permit uses that are incompatible with residential uses and will make the already daunting task of revitalization even more difficult.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The proposed zoning for the subject property does not conform with adopted plans and policies for the area. Both the Comprehensive Plan and the South Wichita/Haysville Area Plan identify the subject property as appropriate for residential development, rather than the proposed commercial development. Additionally, the Locational Guidelines of the Comprehensive Plan recommend against the type strip commercial development that the proposed rezoning would entail.
5. Impact of the proposed development on community facilities: The requested change would expand commercial land uses to an area lacking appropriate community facilities. On-site water and sanitary sewer service for a commercial business at this location would lead to a significant potential for groundwater pollution, especially since the site is located within an area prone to shallow ground water. The right-of-way width for Seneca is 20 feet less than the standard set by the Subdivision Regulations, which could make any necessary traffic improvements difficult to achieve. The lack of access control along Seneca and the absence of a cross-lot access agreement could make it difficult to establish appropriate access to the subject property.
6. Opposition or support of neighborhood residents: Rezoning of the subject property to permit commercial uses has received consistent opposition from neighborhood residents. The 1991 request for "C" Commercial zoning was protested by five neighboring property owners and was denied by the Board of County Commissioners. At the time this report was prepared, 13 neighboring property owners had filed protest petitions (see attached) in opposition to request for "GC" General Commercial zoning.

ALTERNATIVE ACTION: In recognition of the difficulties and uncertainties involved with the ambitious revitalization efforts envisioned by the South Wichita/Haysville Area Plan, planning staff has identified an alternative action that the may be taken; however, this alternative action is inconsistent with adopted plans and policies for the area and is not recommended by planning staff, who instead support allowing time for the adopted plans and policies to be implemented in this area. The alternative action is to approve "OW" Office Warehouse zoning for the subject property instead of the "GC" General Commercial zoning requested. While such an action would further the strip commercial development of Seneca, it would "step-down" the zoning as it nears