

(150004) Published in The Wichita Eagle on 5-9-05
ORDINANCE NO. 46-541

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. ZON2004-00066

Request for Zone change from "SF-5" Single-family Residential to "LC" Limited Commercial, on property described as:

Tract A: That part of the NE/4 of Section 2, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas lying south of the south line of Flood Control Dedication, (Film 17, Page 1294), lying northeasterly of the northeast right-of-way of George Washington Blvd., lying west of the west line of Flood Control Dedication, (Film 17, Page 1295), and lying north of a line lying 1320.00 feet north of and parallel with the south line of said NE/4. (350 foot radius)

Tract B: That part of the NE/4 of Section 2, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas lying south of the south line of Flood Control Dedication, (Film 17, Page 1294), lying east of the east line of Flood Control Dedication, (Film 17, Page 1295), lying west of the west right-of-way line of Oliver St., and lying north of a line 1320.00 feet north of and parallel with the south line of said NE/4. (350 foot radius)

Tract C: That part of the NE/4 of Section 2, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas described as follows: Beginning at the intersection of the east line of said NE/4 with the southeasterly extension of the northeast right-of-way line of George Washington Blvd., thence northwesterly along said extended northeast right-of-way line, 347.28 feet; thence northeasterly with a deflection angle to the right of 110 degrees 27'36", 295.76 feet to a point on the east line of said NE/4; thence southerly along the east line of said NE/4, 369.15 feet to the point of beginning, EXCEPT Oliver Street right-of-way and EXCEPT Kansas Turnpike Authority right-of-way. Generally located northwest of Oliver and Washington Blvd.

SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #151:

1. Parking shall be provided in accordance with Section IV of the Unified Zoning Code.
2. Development of property shall comply with Section III-B-14 of the Unified Zoning Code (the "LC" limited commercial district).
3. Setbacks are as indicated on the plat of Krumsick & Barrett Addition.
4. A Drainage Plan shall be submitted to City Engineering for approval. Required guarantees for drainage shall be provided at the time of platting improvements.
5. Signs shall be in accordance with the Sign Code of the City of Wichita.
6. Access Controls shall be as shown on the final plat.
7. All exterior lighting shall be shielded to direct light disbursement in a downward direction.
8. All property shall share similar or consistent parking lot lighting elements (i.e., fixtures, poles, and lamps, etc.), and shall comply with the Unified Zoning Standard in Article IV-B.4.
9. Utilities shall be installed underground on all parcels.
10. Landscaping for this site shall be required as follows:
 - a. Development of all land shall comply with the Landscape Ordinance of the City of Wichita. Partial waivers can be granted by the Director of Planning based upon site constraints.
 - b. A landscape plan shall be prepared by a Kansas Landscape Architect for the above referenced landscaping, indicating the type, location, and specifications of all plant material. This plan shall be submitted to the Planning Department for their review and approval prior to issuance of a building permit.
11. Rooftop mechanical equipment shall be screened from ground level view per Unified Zoning Code.
12. Trash receptacles, loading docks, outdoor storage, and loading areas shall be appropriately screened to reasonably hide them from ground view, with these areas being screened by a screening wall/fence consisting of materials of the main structure and being connected to the building whenever possible.
13. All buildings shall share uniform architectural character, color, texture, and the same predominate exterior building material, as determined by the Director of Planning.
14. Fire lanes shall be in accordance with the Fire Code of the City of Wichita. No parking shall be allowed in said fire lanes, although they may be used for passenger loading and unloading. The Fire Chief or his designated representative shall review and approve the location and design of all fire lanes. Fire hydrant installation and paved access to all building sites shall be provided for each phase of construction prior to the issuance of building permits.
15. The Transfer of title of all or any portion of land does not constitute a termination of the Protective Overlay or any portion thereof, but said Protective Overlay shall run with the land and be binding upon present owners, their successors and assigns.
16. The development of this property shall proceed in accordance with the Protective Overlay as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
17. Any major changes in this Protective Overlay shall be submitted to the Planning Commission and to the Governing Body for their consideration.

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, 3-1-05
Carlos Mayans
Carlos Mayans - Mayor

ATTEST:

Karen Sublett
Karen Sublett, City Clerk

(SEAL)

Approved as to form:

Gary E. Rebenstorf
Gary E. Rebenstorf, City Attorney

**City of Wichita
City Council Meeting
February 15, 2005**

Agenda Report No. _____

TO: Mayor and City Council

SUBJECT: ZON2004-00066 - Zone change from "SF-5" Single-family Residential to "LC" Limited Commercial. Generally located northwest of Oliver and Washington Blvd. (District III)

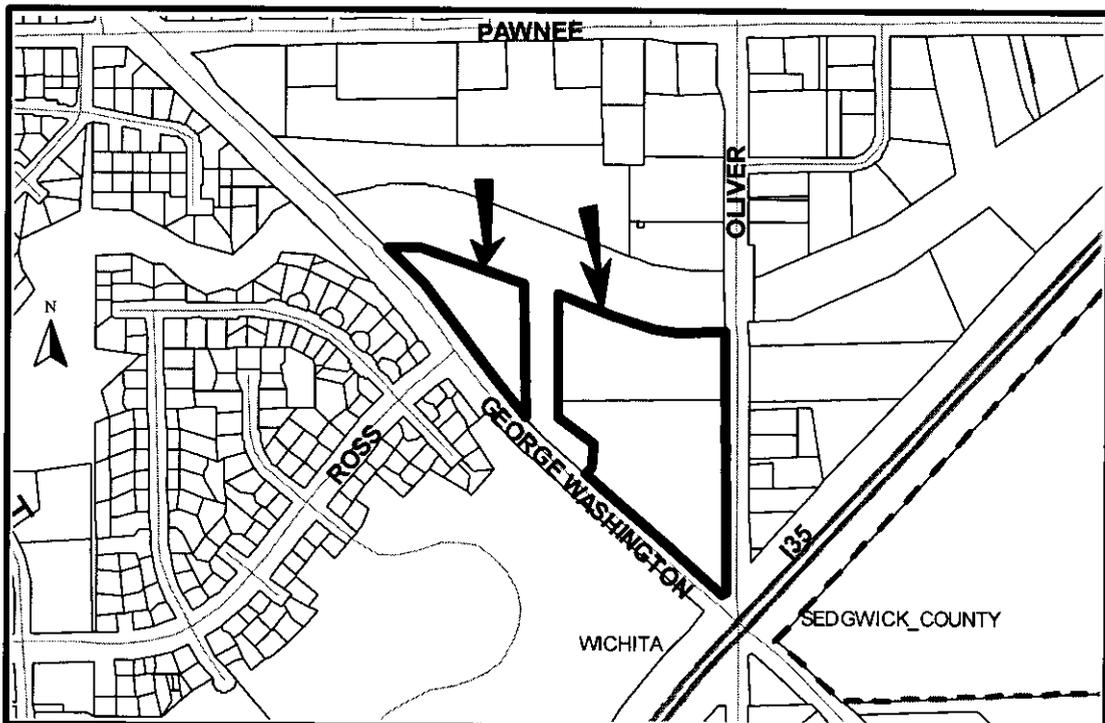
INITIATED BY: Metropolitan Area Planning Department *xLS*

AGENDA: Planning (non-consent)

MAPC Recommendations: Approval subject to the provisions of Protective Overlay #151; and forward the request to District Advisory Board III prior to sending the case to the City Council. (vote 8-2)

MAPD Staff Recommendations: Approval subject to the provisions of Protective Overlay #151.

DAB Recommendations: Will hear February 2, 2005. Planning Director will report on DAB action at the City Council meeting.



Background: The applicant requests a zone change from “SF-5” Single-family Residential to “LC” Limited Commercial on portions of two lots amounting to approximately five acres. The remainder of the application area, including the existing building, is already zoned LC. The proposed rezoning area lies along a public drainage-way, and is proposed to accommodate parking for a future US Postal facility. The applicant proposes a Protective Overlay (PO) on the entire 16.16 acre property. The subject property is located northwest of the Oliver and George Washington Blvd. intersection. The site houses a large warehouse-type building and associated parking. North of the application area is a drainage-way, and “GC” / ”LC” zoned retail uses. South and west of the application area are I-35, “SF-5” zoned open space, and “LC” zoned vacant land. East of the application area are “LC” and “GC” zoned commercial uses, including auto sales and services. West of the application area are “MF-29” zoned multi-family housing units in the Planeview neighborhood.

Analysis: At its regular meeting on January 13, 2005, the Wichita-Sedgwick County Metropolitan Area Planning Commission considered this request and approved it, subject to the following provisions of Protective Overlay #151:

1. Parking shall be provided in accordance with Section IV of the Unified Zoning Code.
2. Development of property shall comply with Section III-B-14 of the Unified Zoning Code (the “LC” limited commercial district).
3. Setbacks are as indicated on the plat of Krumsick & Barrett Addition.
4. A Drainage Plan shall be submitted to City Engineering for approval. Required guarantees for drainage shall be provided at the time of platting improvements.
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8. All property shall share similar or consistent parking lot lighting elements (i.e., fixtures, poles, and lamps, etc.), and shall comply with the Unified Zoning Standard in Article IV-B.4.
9. Utilities shall be installed underground on all parcels.
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 - b. A landscape plan shall be prepared by a Kansas Landscape Architect for the above referenced landscaping, indicating the type, location, and specifications of all plant material. This plan shall be submitted to the Planning Department for their review and approval prior to issuance of a building permit.
11. Rooftop mechanical equipment shall be screened from ground level view per Unified Zoning Code.

12. Trash receptacles, loading docks, outdoor storage, and loading areas shall be appropriately screened to reasonably hide them from ground view, with these areas being screened by a screening wall/fence consisting of materials of the main structure and being connected to the building whenever possible.
13. All buildings shall share uniform architectural character, color, texture, and the same predominate exterior building material, as determined by the Director of Planning.
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15. The Transfer of title of all or any portion of land does not constitute a termination of the Protective Overlay or any portion thereof, but said Protective Overlay shall run with the land and be binding upon present owners, their successors and assigns.
16. The development of this property shall proceed in accordance with the Protective Overlay as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
17. Any major changes in this Protective Overlay shall be submitted to the Planning Commission and to the Governing Body for their consideration.

District Advisory Board III is scheduled to hear this request on February 2, 2005. The Planning Director will report on the DAB action at the City Council meeting.

Financial Considerations: None.

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendation/Actions: It is recommended that the City Council

1. Concur with the findings of the MAPC and approve the first reading of the ordinance establishing the zone change subject to the provisions of Protective Overlay #151; or
2. Return the application to MAPC for reconsideration.

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