

the entire site and not on it's current configuration of three individual lots platted in the East Kellogg Acres Addition. Complete access control will be approved at the time that access from the site (not per individual lot) onto Greenwich is approved by the Traffic Engineer and implemented when commercial use replaces the current single-family uses. The current driveways for each lot's current single-family use/residences will remain in effect until such time that commercial use replaces the single-family residences. To be provided to Planning Staff for recording with the Register of Deeds, prior to the Ordinance being published.

6. In anticipation of future commercial development in the area, specifically on Lot 19, East Kellogg Acres Addition, which is under common ownership with one of the owner's of the southern abutting Lot 18, East Kellogg Acres Addition (the north portion of the subject site), the approved drainage plan and the restrictive covenant, as sited in PO #166, will extend onto Lot 19, East Kellogg Acres Addition. No access onto Trig Street from the site or Lot 19, East Kellogg Acres Addition. If needed dedicate 10-feet of right-of-way along the lot's Greenwich Road frontage.

**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,**

March 28, 2006

Carlos Mayans - Mayor

**ATTEST:**

Karen Sublett, CMC  
Karen Sublett, City Clerk



Approved as to form:

Gary E. Rebenstorf  
Gary E. Rebenstorf, City Attorney

ORDINANCE NO. 46-998

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. ZON2005-00053**

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

Lots 16, 17, 18, East Kellogg Acres, Wichita, Sedgwick County, Kansas.

Generally located midway between Kellogg Street & I-35 (KTA), on the west side of Greenwich Road.

**SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #166:**

1. On site pole lights shall be no higher than 14-foot, if within a 100-feet of property with residential zoning. They shall be hooded and directed onto the site and away from the residential developments and zoning west, north and south of the site. No pole lights shall be located within the required compatibility setbacks along the west and south sides of the property.
2. No signs shall be permitted along the face of any building or along any street frontage that faces any property that is in a residential zoning district.
3. A drainage plan including retention and compensatory storage must be provided to the Public Work's Storm Water Engineer for review and approval, prior to any building permits being issued.
4. Dedicate by separate instrument 10-foot of right-of-way along the site's Greenwich frontage. To be provided to Planning Staff for recording with the Register of Deeds, prior to the Ordinance being published
5. A restrictive covenant providing cross lot access between the site's lots and ensuring that conformance to the current access management standards can be applied to

recorded with the Register of Deeds. The ordinance has been reviewed and approved as to form by the Law Department.

**Recommendation/Actions:**

1. Concur with the findings of the MAPC and approve the zone change, subject to the recommended provisions of the Protective Overlay and place the ordinance on first reading; 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.)

City of Wichita  
City Council Meeting  
March 21, 2006



**FILE COPY**

Agenda Report No. \_\_\_\_\_

**TO:** Mayor and City Council

**SUBJECT:** ZON2005-00053 – Zone change from “SF-5” Single-family Residential and “GC” General Commercial to “LC” Limited Commercial. Generally located midway between Kellogg Street and Interstate Highway-35 (KTA), west of Greenwich Road.  
(District II)

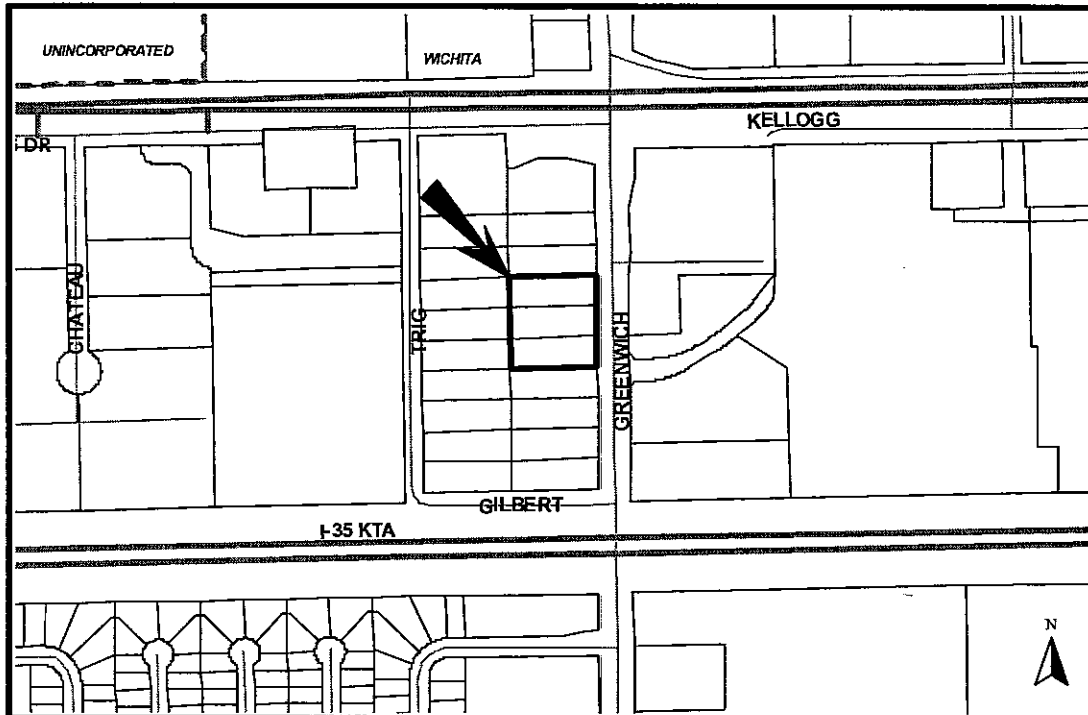
**INITIATED BY:** Metropolitan Area Planning Department *JLS*

**AGENDA:** Planning (Consent)

**MAPC Recommendations:** Approve, subject to provisions of Protective Overlay District #166 (9-2).

**MAPD Staff Recommendations:** Approve, subject to Protective Overlay District #166.

**DAB Recommendations:** Approve, subject to Protective Overlay District #166 (unanimous).



**Background:** The applicants are requesting a zone change from “SF-5” Single-family Residential and “GC” General Commercial on Lots 16, 17 & 18, East Kellogg Acres Addition (the site) to “LC” Limited Commercial. The “GC” General Commercial zoning is generally located along the north 20-feet of Lot 18, the north side of the site. Each of the three lots is approximately 0.66-acres in size, has 101.5-feet of frontage along Greenwich Road and all are 291-feet deep. The three lots are developed with single-family residences on each lot, and all the residences appear to be occupied. The applicants propose unspecified commercial uses.

Development east of the site and immediately across Greenwich Road, includes two retail strips (built 2002 and 2004), zoned “GC” and “LC”, a car sales business (built 1990) zoned “LI” Limited Industrial and an undeveloped “GC” platted lot. The undeveloped “GC” lot is under the same ownership as the car sales business. East of these businesses is a Wal-Mart (built 2002), a Lowe’s (built 2001), some free standing fast food restaurants and platted undeveloped commercial lots. Zoning on these properties is either “LI”, “GC” or “LC”. All of the properties east of the site, across Greenwich Road, are part of CUP DP-196, with the exception of the car sales properties. Abutting and adjacent to the south and west sides of the site are single-family residences and a vacant lot; all of them zoned “SF-5”. Properties abutting and adjacent to the site’s north side are single-family residences, zoned “GC”. The abutting northern “GC” zoned lot (Lot 19) with Greenwich frontage has one of the applicants listed as its owner. All of the mentioned abutting and adjacent northern, western and southern properties are in the same subdivision, the East Kellogg Acres Addition (recorded December 23, 1953), as the site.

A 10.5-acre undeveloped tract (approximately 300-feet west of the site, across Trig Street), the subject site and eleven other lots in the East Kellogg Acres addition are the last, isolated properties between Kellogg Street, I-35 (KTA), Webb Road and Brundige Street zoned with residential, “SF-5” zoning. Counting the subject site, there are a total of 15 single-family residences in this area, all in the East Kellogg Acres Addition. These single-family residences were built in the early and mid 1950s, the early and mid 1960s and the early 1970s. The area was annexed into the City sometime between 1961 and 1970. The rest of the area’s nonresidential-zoned properties (nonresidential zoning is the overwhelming majority of zoning on properties in the area) are experiencing recent (from 2000 to present) commercial development, including the already mentioned Lowe’s, Wal-Mart, the strip retails and a Green Lantern car wash.

The site and the East Kellogg Acres Addition, which the site is a part of, are in the “Spring Branch Master Drainage Plan”. Almost all of the East Kellogg Acres Addition is identified on the Plan’s Master Map as being in the 100-year flood boundary. The plan states “That there is an abrupt rise in the flood profile upstream of I-35 (KTA) and west of Greenwich Road.”, which is the location of the East Kellogg Acres Addition. It further states that “Floodwaters upstream of I-35 (KTA) reach nearly 10-foot in depth, and Greenwich Road is overtopped. In addition, Trig Avenue becomes impassable during major storm events.” These are the two roads that define the East Kellogg Acres Addition’s east and west boundaries. A 40-foot easement runs north to south through and between all of the residential lots in the East Kellogg Acres Addition to I-35 (KTA). The easement contains a sewer line and an open drainage ditch, with well-defined grass banks and bordering trees.

Seven of the single-family residences/lots (46.6% of the residences) in the East Kellogg Acres Addition are identified in the plan as having potential flood risk, including two of the three lots applying for the zone change. At the May 27, 2004 “Spring Branch Drainage Study” public meeting, six of the residences (40%) in the East Kellogg Acres Addition provided written comments expressing their experiences and concerns with the current drainage on their properties. Two of those residences that provided written comments at that public meeting are applicants applying for the zone change.

Any development on the site will be required to provide a drainage plan to the Public Works Storm Water Engineer for review and approval, meet the access management regulations, compatibility setback standards, landscaping and any other applicable codes and development standards.

**Analysis:** The Metropolitan Area Planning Commission, at their December 22, 2005 meeting, recommended approval (9-2) of the requested "LC" zoning with the provisions of Protective Overlay (PO) #166. One person spoke in opposition to the proposed zoning change at the MAPC meeting, but they would not go to the podium and identify themselves. Staff has received phone calls protesting the proposed zone change. The provisions of PO #166 are:

1. On site pole lights shall be no higher than 14-foot, if within 100-feet of property with residential zoning. They shall be hooded and directed onto the site and away from the residential developments and zoning west, north and south of the site. No pole lights shall be located within the required compatibility setbacks along the west and south sides of the property
2. No signs shall be permitted along the face of any building or along any street frontage that faces any property that is in a residential zoning district.
3. A drainage plan including retention and compensatory storage must be provided to the Public Work's Storm Water Engineer for review and approval, prior to any building permits being issued.
4. Dedicate by separate instrument 10-foot of right-of-way along the site's Greenwich frontage. To be provided to Planning Staff for recording with the Register of Deeds, prior to the Ordinance being published
5. A restrictive covenant providing cross lot access between the site's lots and ensuring that conformance to the current access management standards can be applied to the entire site and not on its current configuration of three individual lots platted in the East Kellogg Acres Addition. Complete access control will be approved at the time that access from the site (not per individual lot) onto Greenwich is approved by the Traffic Engineer and implemented when commercial use replaces the current single-family uses. The current driveways for each lot's current single-family use/residences will remain in effect until such time that commercial use replaces the single-family residences. To be provided to Planning Staff for recording with the Register of Deeds, prior to the Ordinance being published.
6. In anticipation of future commercial development in the area, specifically on Lot 19, East Kellogg Acres Addition, which is under common ownership with one of the owner's of the southern abutting Lot 18, East Kellogg Acres Addition (the north portion of the subject site), the approved drainage plan and the restrictive covenant, as sited in PO #166, will extend onto Lot 19, East Kellogg Acres Addition. No access onto Trig Street from the site or Lot 19, East Kellogg Acres Addition. If needed dedicate 10-feet of right-of-way along the lot's Greenwich Road frontage.

The District Advisory Board (DAB) II, at their January 9, 2006 meeting, recommended approval (6-0) of the requested "LC" zoning with the provisions of Protective Overlay (PO) #166. Approximately 20 people expressed their concerns over current and future drainage issues in the residential neighborhood in regards to more commercial development in the area.

Only one valid protest petition was filed and it was outside the protest area, thus the ¾ rule of the governing body to overturn the protest is not in effect.

**Financial Considerations:** None

**Legal Considerations:** Dedications, by separate instrument, of 10-foot of right-of-way along all of the lots' Greenwich Road frontage and a restrictive covenant binding and tying the lots together as one site for a drainage plan, cross lot access and conformance to current access management standards will be