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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 2008-17

Request for Zone change from SF-5, Single-Family Residential to LC, Limited Commercial Commercial and to P-O #212, Protective Overlay District, for property described as:

Lot 1, Block A, Shaw Addition, Wichita, Sedgwick County, Kansas.

Generally located on the north side of Central and east of Hoover Road.

SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #212:

1. The development parcel contains 0.75 net acres, more or less.
2. Prohibited uses: Group residence, correctional placement residence(limited and general), group home (general, and commercial), communication tower(commercial), kennel(boarding/breeding/training, and hobby), night club, riding academy or stable, tattooing and body piercing facility, tavern and drinking establishment, asphalt and concrete plant, gas and fuel storage, rock crushing, solid waste incinerator, convenience store, car wash, drive-through restaurants.
3. The transfer of title on all or any portion of the land included in the development does not constitute a termination of the overlay or any portion thereof, but said overlay shall run with the land for development and be binding upon the present land owners, their successors and assigns and their lessees unless amended. However, the Planning Director, with concurrence of the OCI Superintendent, may approve minor adjustments to the conditions of this overlay, consistent with the approved development plan, without filing a formal ordinance amendment.
4. Landscape and Parking Lot screening – Shall be in accordance with the City of Wichita Code. A landscape plan, prepared by a Landscape Architect licensed in the State of Kansas, indicating the location, type, and specification of plant material shall be submitted to the planning department for their review and approval prior to the issuance of any building permit(s). Parking lot screening on the east property line shall be evergreen plant material or shall be a solid parking lot screening fence of masonry or wood.
5. All signs shall be per city code, for property zoned LC. No portable or off-site signs allowed. No signs shall be allowed on the north side of the buildings, no building signs facing east shall be illuminated.
6. Parking – Shall be in accordance with the Wichita – Sedgwick County Unified Zoning Code.
7. Light standards shall be a maximum height of 25 feet and consistent in pole and fixture throughout the development.
8. All drainage ways and easements shall be determined at the time of platting.

9. Loading areas, trash receptacles, outdoor storage, and docks shall be screened from ground level view. Mechanical equipment on top of buildings shall be screened to the height of the unit. Outdoor storage shall be screened such that no stored material protrudes above the top of the screening.
10. The development of this property shall proceed in accordance with the development plan 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.
11. Outdoor speakers and sound amplification systems shall not be permitted on the site.
12. The zone change to LC Limited Commercial shall be subject to platting within one year. The plat shall dedicate access control to Central, except for one opening. The plat shall either guarantee full paving of Elder along the west frontage with one access point on Elder, or shall dedicate complete access control with no openings on Elder.

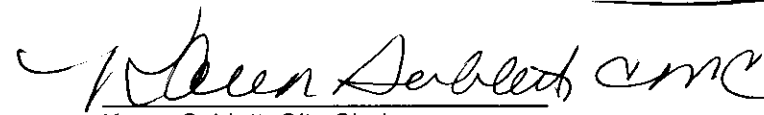
SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita-Sedgwick County Unified Zoning Code as amended.

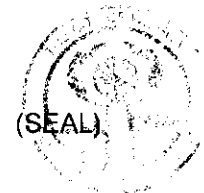
SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED this 1 day of July, 2008.

ATTEST:


Carl Brewer, Mayor


Karen Sublett, City Clerk



Approved as to form:


Gary E. Rebenstorf, City Attorney

STAFF REPORT

DAB VI April 16, 2008

MAPC April 24, 2008

CASE NUMBER: ZON2008-17

APPLICANT: Stephen Shaw (Owner), KE Miller Engineering (Agent)

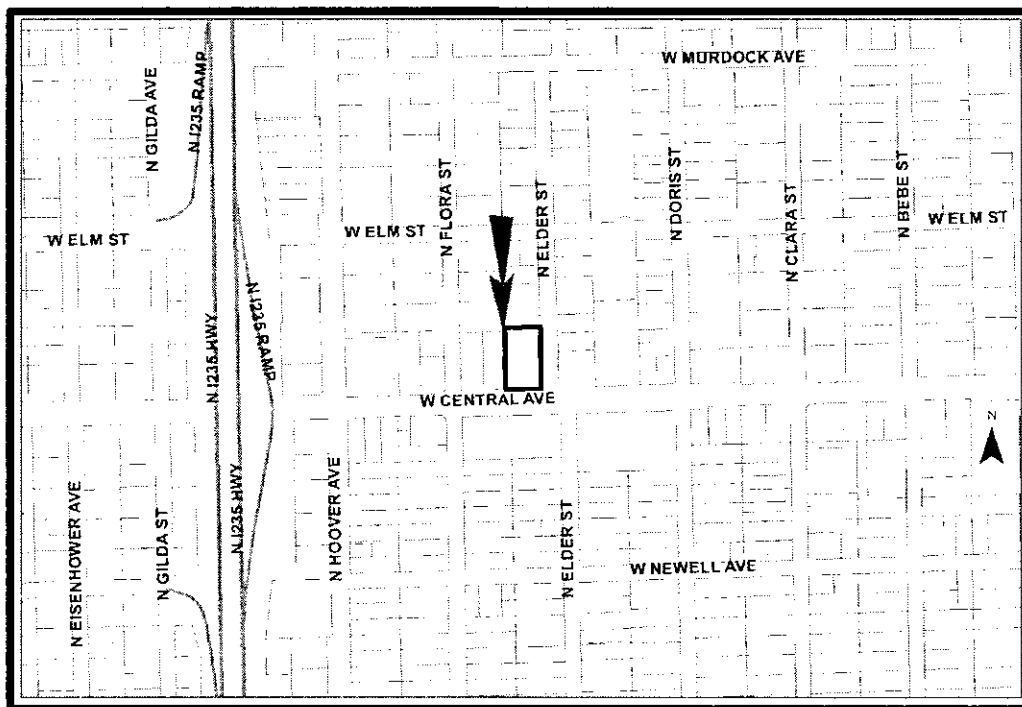
REQUEST: LC Limited Commercial with a Protective Overlay

CURRENT ZONING: SF-5 Single-family Residential

SITE SIZE: .75 acres

LOCATION: Generally located north of Central and west of Elder (5318 West Central).

PROPOSED USE: Commercial use.



BACKGROUND: The application area is zoned SF-5 Single-family Residential (“SF-5”) and was developed with a residence which was recently demolished. The .75 acre site is unplatted. The applicant wishes to develop the site with a commercial building and requests LC Limited Commercial (“LC”) zoning. The site has one access point on Central, and no access points from Elder.

The applicant proposes a Protective Overlay (PO), see the attached document. The proposed PO would restrict uses deemed incompatible with the surrounding residences; it would be redundant to existing codes regarding screening, and landscaping. It would also limit parking lot lights to 25 feet in height, and prohibit signs on the north sides of buildings.

This portion of Central is predominantly commercially zoned and developed. Property west of the site is zoned LC and is developed with a furniture store. North of the site is SF-5 zoning and single-family residences. East of the site, across Elder, are SF-5 zoned single-family residences. South of the site, across Central, is a police and fire station with LC and TF-3 Two-family Residential (“TF-3”) zoning.

CASE HISTORY: The site is unplatted, the former house on the site was built in 1948. This site requested a zone change to LC in 2001. The LC zoning was denied; the City Council instead approved NR Neighborhood Retail (“NR”) subject to platting within one year. The applicant (not the same person as the current applicant) failed to file a plat, and the case was voided for failure to plat.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family residential
SOUTH:	LC and TF-3	Police and fire station
EAST:	SF-5	Single-family residential
WEST:	LC	General retail

PUBLIC SERVICES: Elder is an unpaved local street with a 60-foot right of way (ROW). Central is a five-lane paved arterial at this location with a central turn lane, and a 100-foot ROW. Traffic counts on this portion of Central are 19,976 vehicles per day. The 2030 Transportation Plan identifies Central as remaining a 5-lane arterial. The site is approximately 1000 feet from I-235 to the west. The site’s drive on Central is 73 feet from Elder Street, and 240 feet from the next drive to the west on Central. Municipal water and sewer are available at the site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this site as appropriate for “Local Commercial.” The Comprehensive Plan Commercial Locational Guidelines state the following: commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion; commercial development should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact

surrounding residential land uses; commercial uses should locate in compact clusters or nodes versus extended strip developments; and commercially-generated traffic should not feed directly onto local residential streets.

The Unified Zoning Code (UZO) would require screening between single-family residential development and any future development on this site, and would require setbacks from all property lines. Future improvements on the site would require a landscape plan.

The Access Management Policy would require 200 feet between "right-in right-out" drives, and 400 feet between full movement drives.

RECOMMENDATION: Central frontage makes this site undesirable for future single-family residential development. However, this request raises some concerns with regard to safe access and compatibility with residences across Elder. Most property owners on Elder (one has contacted staff) will not support a paving petition. The drive spacing on Central is not conducive to safe traffic flow. Therefore, staff recommends that high traffic generating uses such as convenience stores and drive through restaurants be prohibited on this site. Prohibiting lit signage from facing the residences to the east should mitigate some potential problems with neighbors. The site requires platting; that process will deal with access control and road improvements. Staff recommends that the applicant either dedicate complete access control to Elder, or guarantee paving consistent with City policy, with one access point from Elder.

Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within one year, and subject to the applicant proposed PO with the following additions:

1. Add to Item 2, restricted uses: convenience store, car wash, drive-through restaurants.
2. Add to Item 4, parking lot screening on the east property line shall be evergreen plant material or shall be a solid parking lot screening fence of masonry or wood.
3. Add to Item 5, no building signs facing east shall be illuminated.
4. Add item 12: The zone change to LC Limited Commercial shall be subject to platting within one year. The plat shall dedicate access control to Central, except for one opening adjacent to the west property line. The plat shall either guarantee full paving of Elder along the west frontage with one access point on Elder, or shall dedicate complete access control with no openings on Elder.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: This portion of Central is

predominantly commercial zoning and development. Property west of the site is zoned LC and is developed with a furniture store. North of the site is SF-5 zoning and single-family residences. East of the site, across Elder, are SF-5 zoned single-family residences. South of the site, across Central, is a police and fire station with LC and TF-3 zoning.

2. The suitability of the subject property for the uses to which it has been restricted: The site could be developed under the current zoning with single-family residences. However, this may not be a desirable single-family residential location due to proximity to Central.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request would allow commercial development, restricted by a PO, which would bring additional traffic, trash, light, and noise to this portion of Elder. The proposed PO and staff recommended additions should mitigate potentially negative effects.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies this site as appropriate for "Local Commercial." The Comprehensive Plan Commercial Locational Guidelines state the following: commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion; commercial development should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses; commercial uses should locate in compact clusters or nodes versus extended strip developments; and commercially-generated traffic should not feed directly onto local residential streets.
5. Impact of the proposed development on community facilities: The proposed zone change should have no discernable increased impact on Central. However, without proper improvements or controls, commercial traffic could have a negative impact on Elder.

Protective Overlay

1. The development parcel contains 0.75 net acres, more or less.
2. Restricted uses: Group residence, correctional placement residence(limited and general), group home(limited, general, and commercial), communication tower(commercial), kennel(boarding/breeding/training, and hobby), night club, riding academy or stable, tattooing and body piercing facility, tavern and drinking establishment, asphalt and concrete plant, gas and fuel storage, rock crushing, and solid waste incinerator.
3. The transfer of title on all or any portion of the land included in the development does not constitute a termination of the overlay or any portion thereof; but said overlay shall run with the land for development and be binding upon the present land owners, their successors and assigns and their lessees unless amended. However, the Planning Director, with concurrence of the OCI Superintendent, may approve minor adjustments to the conditions of this overlay, consistent with the approved development plan, without filing a formal ordinance amendment.
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