

(150004) Published in The Wichita Eagle on June 22, 2005
ORDINANCE NO. 46-544

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. ZON2004-00065

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

Reserve F, Except the North 30 feet, on Hillside Avenue Maple Grove Addition, Wichita, Sedgwick County, Kansas, and except the East 20 feet thereof for Street, together with Reserve B, except the North 38 feet, on Lorraine Avenue Maple Grove Addition Wichita, Sedgwick County, Kansas and Except that part described as follows: beginning at the southeast corner of said Reserve B thence north 8 and one-half feet; thence in a southwesterly direction to a point twelve and four hundredths feet (12.04) west of the southeast corner of said Reserve B; thence east 12.04 feet to the place of beginning. Generally located between Hillside Avenue and Lorraine Street, approximately 305 – feet south of Central Avenue.

SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #150:

1. Dedication by separate instrument of access control onto Hillside Avenue and no access onto Lorraine Street, per the Traffic Engineer's recommendation.
2. Provide a restrictive covenant binding and tying the properties together.
3. The following uses are prohibited: manufactured home, correctional placement residence (limited and general), cemetery, broadcast and recording studios, animal care general, hospital, heliport, printing and copying limited, convenience store, car wash, construction sales and service, night club, tavern, pawn shop, recreation and entertainment indoor, vehicle repair limited, service station, reverse vending machine, wireless communication facilities, recycling collection station (private), asphalt or concrete plant, outdoor storage.
4. Maximum building height of 35 feet.
5. The speaker order board shall not project sound so as to be audible from the residential developments located to the west or the to the south, or any other residential use in the vicinity.
6. On site pole lights no higher than 14-foot. They shall be hooded and directed onto the site and away from the residential developments west and south of the site.

7. The trash dumpster shall be located a minimum of 20-feet from the west, north and south property lines with solid screening around it.
8. Solid screening around the south, west and north property lines shall be provided.
9. Signage will be as allowed in the "LC" zoning district, with no signs allowed on the west, north or south sides of the property or on the building.
10. Redevelopment plans for of the portion of the site located in the drainage easement, which is currently a parking lot, will need to be reviewed and approved by Strom Water, prior to construction.

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 1, 2005
Carlos Mayans 3/16/05
Carlos Mayans Mayor

ATTEST:

Karen Sublett
Karen Sublett, City Clerk



Approved as to form:

Gary E. Rebenstorf
Gary E. Rebenstorf, City Attorney



AGENDA ITEM NO. 5

STAFF REPORT

MAPC January 13, 2005

DAB I, January 3, 2005

CASE NUMBER: ZON2004-00065

APPLICANT/OWNER: Wichita Ear Properties, LLC c/o Richard Cummins (owner)
Walter Morris & Sons c/o Mike Boyd (contract purchaser)

AGENT: Baughman company, PA, Terry Smythe

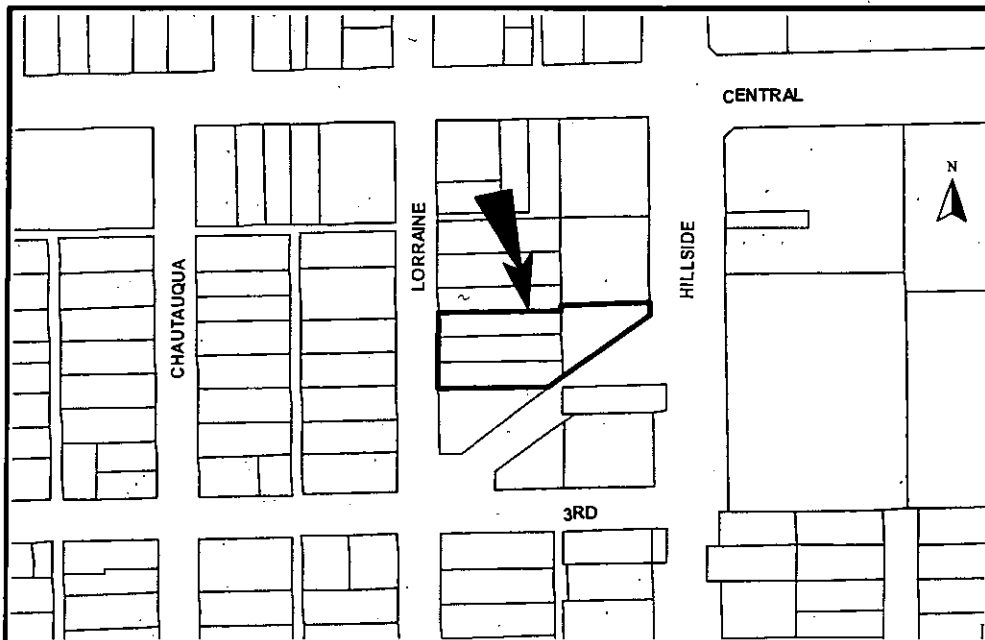
REQUEST: "LC" Limited Commercial

CURRENT ZONING: "B" Multi-family Residential & "GC" General Commercial

SITE SIZE: Approximately 0.84 acres

LOCATION: Between Hillside Avenue & Lorraine Street, approximately 305-feet south of Central Avenue

PROPOSED USE: Restaurant with drive up window



approximately 24,000 and 26,000 vehicles per day: Lorraine Street is a paved residential street that intersects with Central Avenue on its north end and dead ends at the drainage channel on its south end. Water, sewer and all other utilities are available.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide of the Comprehensive Plan classified the subject tract as "high density residential" on its western portion and "commercial" on its eastern portion. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The request, with the provisions of the proposed protective overlay, conforms to the Land Use Guide and the Commercial Locational Guidelines of the Comprehensive Plan.

RECOMMENDATION: Potential negative effects, from the expansion of commercial uses onto the western "B" zoned portion of the site, on the residential neighbors to the south and west would be mitigated by existing codes and a protective overlay.

Based upon information available prior to the public hearings, Staff recommends APPROVAL of "LC" zoning subject to PO #150

1. Dedication by separate instrument of access control onto Hillside Avenue and no access onto Lorraine Street, per the Traffic Engineer's recommendation.
2. Provide a restrictive covenant binding and tying the properties together.
3. The following uses are prohibited: manufactured home, correctional placement residence (limited and general), cemetery, broadcast and recording studios, animal care general, hospital, heliport, printing and coping limited, convenience store, car wash, construction sales and service, night club, tavern, pawn shop, recreation and entertainment indoor, vehicle repair limited, service station, reverse vending machine wireless communication facilities, recycling collection station (private), asphalt or concrete plant, outdoor storage.
4. Maximum building height of 35 feet.
5. The speaker order board shall not project sound so as to be audible from the residential developments located to the west or the to the south, or any other residential use in the vicinity.
6. On site pole lights no higher than 14-foot. They shall be hooded and directed onto the site and away from the residential developments west and south of the site.

property as appropriate for "commercial" or "high density residential" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. With the provisions of the proposed Protective Overlay the request conforms to the Land Use Guide and Commercial Locational Guidelines of the Comprehensive Plan.

5. Impact of the proposed development on community facilities: Community facilities should be minimally impacted.