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ORDINANCE NO.

48-923

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. ZON2007-00036**

Zone change request from SF-5 Single-family Residential, TF-3 Two-family Residential and LC Limited Commercial to MF-29, Multi-family Residential with a Protective Overlay #193 on property described as:

Lots 1 and 2, Block 1, Gardens at Wichita Place Addition, Wichita, Sedgwick County, Kansas.

Generally located south of 31<sup>st</sup> Street South and west of Broadway.

**SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #193:**

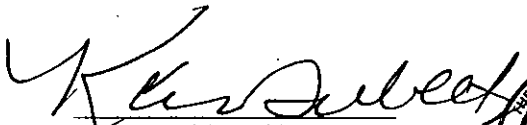
1. Maximum height (as defined by the UZC) of the buildings shall be 35 feet for all structures.
2. Solid screening, 6 to 8 feet tall shall be required along all property lines when adjacent to SF-5 zoning.
3. Solid screening shall be provided around all dumpsters, per existing code requirements.
4. Landscaping to be one and one-half times what is required by code.
5. 35-foot building setbacks will be established along the south and north property lines where adjacent to SF-5 zoning.
6. A 6-foot wrought iron fence shall be required along the west property line where across the street from SF-5 zoning.
7. No on-street parking will be allowed.
8. No off-street parking will be allowed to face the west property line.

**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.

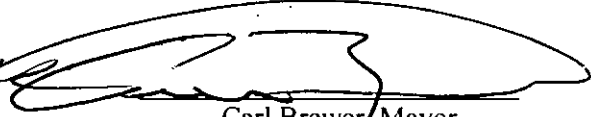
**SECTION 3.** That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED this 3rd day of January, 20 11.

ATTEST:

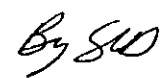
  
Karen Sublett, City Clerk



  
Carl Brewer, Mayor

(SEAL)

APPROVED AS TO FORM:

  
Gary E. Rebenstorf, Director of Law  
By 



AGENDA ITEM NO. \_\_\_\_\_

**STAFF REPORT**  
MAPC January 10, 2008  
(District III)

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**CASE NUMBER:** ZON2007-00036

**APPLICANT/AGENT:** Steel Sunflowers LLC (Owner, Applicant)  
Poe & Associates: c/o Tim Austin (Agent)

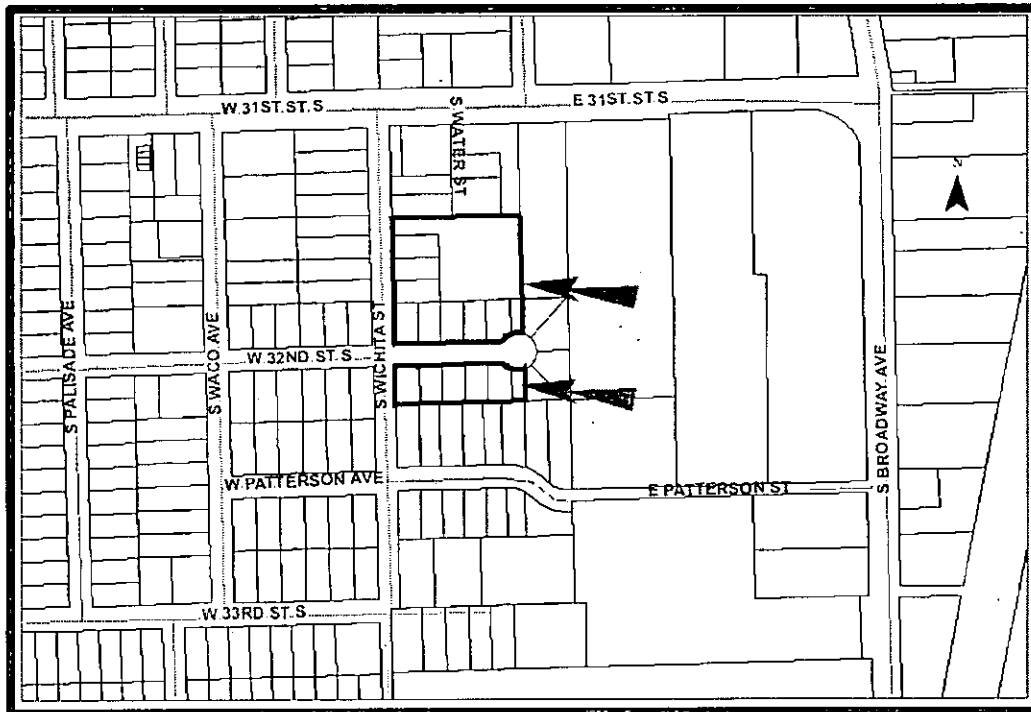
**REQUEST:** "MF-29," Multi-family Residential

**CURRENT ZONING:** "LC" Limited Commercial  
"TF-3" Two-family Residential  
"SF-5" Single-family Residential

**SITE SIZE:** 3.41 acres

**LOCATION:** South and east of the intersection of W. 31<sup>st</sup> Street South and South Wichita Street.

**PROPOSED USE:** Multi-family Residential



**BACKGROUND:** The application area is approximately 3.41 acres of platted land zoned LC, TF-3 and SF-5, located west of South Broadway Avenue and south of 31st Street South. The application area is undeveloped, but has been platted with single-family lots. The applicant is seeking "MF-29" zoning in order to develop an apartment/multi-family development. The current 32<sup>nd</sup> Street South Circle right-of-way, through the south one-third of the application area, will have to be vacated to ultimately be a part of the application. The street is platted but has not been installed.

Property zoned LC and SF-5 abuts the subject site on the east and is partially developed with an American Legion Post. Farther to the east is property zoned SF-5 and GC all developed as a salvage yard. To the west, is property zoned LC, B and SF-5 which is developed with a group quarters, single-family residences and contains vacant lots. To the south of the subject site is SF-5 zoning developed with single-family residences. The property to the north of the subject site is zoned GC and SF-5 which is developed with car sales lot, a construction service, offices, apartments and a couple single-family residences.

In this particular area, there is a mix of uses and zones. Just within a four square block area, there are properties zoned LC, GC, LI, SF-5, B and TF-3. This rezone would eliminate the TF-3 and LC zoned property within the application area. The Unified Zoning Code (UZO) permits MF-29 zoning for up to 29 dwelling units (DU's) per acre, while TF-3 allows 14.5 DU's (with a conditional use) and LC allows 75.1 DU's per acre. As currently zoned, the subject site could potentially allow up to a total of 119 dwelling units. With the rezone to MF-29, the site would be allowed 99 dwelling units, a reduction of 20 dwelling units with a rezone. Also, the MF-29 zone permits building heights up to 45 feet while the LC zone permits building heights up to 80 feet. The proposed rezoning of the subject site to MF-29 would also buffer the single-family residences on the south and west from the salvage yard / car dealership, which fronts Broadway, but is currently visible due to the undeveloped subject site.

The UZO has "compatibility development standards" dealing with increased setback and height limitations that may come into play depending on the development plan. A zone change request does not require submission of a site plan like a "conditional use" application does. The landscape code requires a landscape buffer of one shade tree or two ornamental trees, without a fence, per 40 lineal feet of the multi-family property line abutting SF-5 or TF-3 zoning, or 50 lineal feet, with a fence. The trees must be planted within 15 feet of the platted property line.

This case was referred back to the MAPC by the City Council once the applicant completed a traffic analysis. The applicant submitted the completed analysis to the Traffic Department for approval and planning staff received the approved traffic analysis on December 7, 2007. This case was then scheduled for the soonest MAPC meeting in regards to public notice timing.

**CASE HISTORY:** The existing SF-5 zoning was established when this property was annexed into the city between 1951-1960. The LC and TF-3 zoning was established in

a zone change (Z-2376), from SF-5 (or "AA") in 1982. Z-2377 was a rezone attempt on the southern half of the addition from "AA" (SF-5) to "A" (TF-3) in 1982, but the case was withdrawn. The application area is a part of the American Legion Addition, recorded in 1982.

**ADJACENT ZONING AND LAND USE:**

|        |                                  |                           |
|--------|----------------------------------|---------------------------|
| NORTH: | "GC" Limited Commercial          | Car Sales, Retail, Office |
|        | "SF-5" Single-family Residential | Single-family Residences  |
| SOUTH: | "SF-5" Single-family Residential | Single-family Residences  |
| EAST:  | "LC" Limited Commercial          | Civic Club                |
|        | "GC" General Commercial          | Salvage                   |
|        | "SF-Single-family Residential    | Salvage                   |
| WEST:  | "LC" Limited Commercial          | Group Quarters            |
|        | "B" Multi-family Residential     | Group Quarters            |
|        | "SF-5" Single-family Residential | Single-family Residences  |

**PUBLIC SERVICES:** 31<sup>st</sup> Street South at this location is a four-lane minor arterial with 95 feet of right-of-way. 31<sup>st</sup> Street South carries 8,215 average daily trips. Wichita Street, which runs along the west side of the subject, is a local road with a 60-foot right-of-way. Apartments, a common use in a MF-29 zone, generate approximately 6.6 average daily vehicle trips per unit. With SF-5 and TF-3 zoning, a single-family residence can generate 9.6 and a condo can generate 5.9 average daily vehicle trips per unit. Under LC zoning, a fast-food restaurant can generate 496.1 and a supermarket can generate 111.5 average daily vehicle trips per 1,000 square feet of gross floor area (Source: Institute of Transportation Engineers.) The applicant, at the request of the Wichita City Council, completed a traffic analysis examining the impact a multi-family development would have in the area in regards to traffic and the plan was approved by the Traffic Department. Other publicly provided services are available or can be extended to the site.

**CONFORMANCE TO PLANS/POLICIES:** Goal II of "The Wichita-Sedgwick County Comprehensive Plan Preparing for Change" indicates that there should be a variety of housing opportunities. Strategy II.A2 calls for requirements for medium and high-density residential development, which would include plan and architectural review to ensure compatibility with surrounding low-density residential areas. Residential Location Guidelines, p. 34 of the 1999 update of the Comprehensive Plan state: medium and high-density uses should be located within walking distance of neighborhood commercial centers, parks, schools and public transportation routes and within close proximity of employment centers; medium and high-density residential uses should be sited where they will not overload existing or planned facilities. The "2030 Wichita Functional Land Use Guide" reflects the sites current "LC" zoning by showing the site as being appropriate for "local commercial" uses and the sites currently SF-5 and TF-3 by showing those sites as being appropriate for "urban residential" uses.

**RECOMMENDATION:** A number of property owners in the immediate area are opposed to the zone change and proposed multi-family development. The property

owners feel that a multi-family use may conflict with the existing residences in the area and have a negative impact on the traffic in the area. Protest petitions were received in response to the MAPC (approval) decision at the September 6, 2007 meeting. The protest encompasses about 35% of the surrounding property area, which triggers the requirement of a three-fourths vote by the City Council to approve this request.

Under MF-29 zoning, the site could be developed in theory with up to 29 units per acre. However, the UZC setback, height, and parking requirements, as well as housing code requirements, will limit the project scale. Another possible issue with this site and the proposed "MF-29" zoning is access. The site can have access onto a local street, S. Wichita Street, abutting the subject site on the west. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to vacation of street right-of-way and replat within one year and the following provisions of Protective Overlay #193:

1. Maximum height (as defined by the UZC) of the buildings shall be 35 feet for all structures.
2. Screening to be one and one-half times what is required by code.
3. Solid screening shall be provided around all dumpsters, per existing code requirements.
4. Landscaping, per code, shall be required.
5. 35-foot setbacks will be established along the south and north property line where adjacent to SF-5 zoning.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property zoned LC and SF-5 abuts the subject site on the east. Farther to the east is property zoned SF-5 and GC all developed as a salvage yard. To the west, is property zoned LC, B and SF-5 which is developed with a group quarters, single-family residences and contains vacant lots. To the south of the subject site is SF-5 zoning developed with single-family residences. The property to the north of the subject site is zoned GC and SF-5 which is developed with car sales lot, a construction service, offices, apartments and a couple single-family residences. The application area is a transitional area as demonstrated by the diverse set of zones and land uses.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned LC, TF-3 and SF-5. This current zoning would allow for a wide range of uses. With the current zoning, there is the possibility for a mix of uses, some of which would be too intense for this particular area. Additionally, the number of dwelling units that can be allowed within this mix of zoning, according to the UZC, would be greater than the number of units that would be potentially allowed under the MF-29 zoning. Also, the proposed MF-29 zoning would not allow more intense commercial uses that are allowed within the LC zone.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of this request would downzone 35% of the property currently zoned LC. This down zoning would eliminate the possibility of intense commercial uses from operating in this area. The rezone would also create a buffer between commercial uses currently along South Broadway Avenue and single-family residential uses along Wichita Street, extending to the west. A traffic increase could occur if the primary access for any proposed residential development was established along S. Wichita Street. This is a point that should be addressed in the replatting process.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval would provide additional multi-family housing to the market. Denial would, in effect, only delay the development of the property as the site's LC zoning permits multi-family uses, with a higher density than what is allowed in a MF-29 zone.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The request is consistent with a majority of the comprehensive plan goals and objectives of providing a range of housing opportunities, and that multi-family uses should be located in areas where adequate services are available or can be extended.
6. Impact of the proposed development on community facilities: Any development on the site will increase traffic over its undeveloped state, however multi-family projects on a use by use basis are low generators when compared to commercial uses. South 31<sup>st</sup> Street is a four-lane facility that has capacity to accommodate the uses allow by the proposed zoning. Other services are available or can be extended through the platting process.