

(OCA150006 BID 37529-009 CID #76383)

Published in The Wichita Eagle on September 19, 2008

ORDINANCE NO. 47-929

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. ZON2008-00026**

Zone change from SF-5 Single-family Residential ("SF-5") and LC Limited Commercial ("LC") to GC General Commercial ("GC") subject to Protective Overlay #213 on property described as:

Lots 46 and 47, Linwood Acres Addition, Wichita, Sedgwick County, Kansas. Generally located on the south side of Lewis, a half block west of Zelta and one block north of east Kellogg (11002 & 11723 East Lewis).

**SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #213:**

1. Dedication of complete access control by separate instrument along East Lewis Street.
2. The applicant shall construct a 6 foot solid screening fence along Lewis Street 10 feet south of the right-of-way line.
3. Submit a "no protest" petition regarding the future paving of Lewis Street.
4. Establish a covenant tying the ownership of the subject site to the abutting lot to the south.

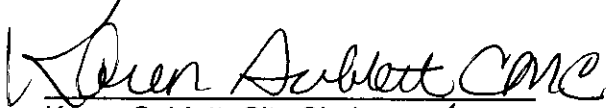
**SECTION 2.** That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

**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, July 15, 2028

  
Carl Brewer - Mayor

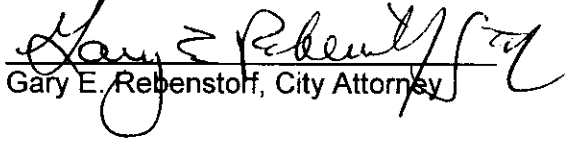
ATTEST:

  
Karen Sublett, City Clerk



(SEAL)

Approved as to form:

  
Gary E. Rebenstorf, City Attorney

DAB II June 16, 2008

This is a detailed street map of a residential area in Wichita, Kansas. The map shows a grid of streets including E Kelllogg Dr, E Lewis St, E Waterman St, and E Kellogg St. A specific lot is highlighted with a black square, and a large black arrow points to it from the top right. The map also shows surrounding areas labeled 'UNINCORPORATED' and 'WICHITA'. A north arrow is located in the top right corner.

Streets shown include:

- UNINCORPORATED (top left and top right)
- SAFARI ST
- JACKAL ST
- KUDUST
- ELAND ST
- ORYX ST
- WATCHA ST
- LION ST
- ATHENS LN
- E WATERMAN ST
- E LEWIS ST
- E KELLOGG DR
- E KELLOGG ST
- E KILGILBERT ST
- WICHITA
- GREENWICH RD
- SELISON ST
- S ZELVA ST
- S 115 HWY

A black square highlights a lot on E Lewis St, and a large black arrow points to it from the top right.

**BACKGROUND:** The applicants request a zone change from SF-5 Single-family Residential ("SF-5") and LC Limited Commercial ("LC") to GC General Commercial ("GC") on a site encompassing two properties. The property at 11002 East Lewis Street is 0.87 acres in size, while the property at 11728 East Lewis Street is 0.88 acres in size (Lots 47 and 46 respectively of the Linwood Acres Addition.) Lot 47 is developed with an outbuilding while Lot 46 is currently undeveloped. The applicants proposed to use the site for vehicle rental and additional outdoor storage.

The applicant is not requesting access to Lewis from the expanded site. Access to the subject site will be provided from the frontage road through the existing property along Kellogg Drive. The applicant will be asked to submit an agreement not to protest participating in the future paving of Lewis Street. The City's landscape code will require the frontage along Lewis Street to be landscaping with trees in front of a screening fence.

The surrounding area is characterized, predominantly, by large undeveloped and developed commercial properties zoned either LC or GC. Residential development is located north of the subject site, across Lewis, with property zoned MH Manufactured Housing District ("MH"), TF-3 Two-family Residential ("TF-3"), MF-18 Multi-family Residential ("MF-18") and SF-5 with development consisting of a Mobile Home Park and single-family residences. The property to the south (same property owner as the subject site) is zoned GC and is developed as an auto dealership. The property to the east of the subject site is zoned LC and SF-5 and is currently developed with a Manufactured Home Park along with some undeveloped property, while the property to the west of the subject site is zoned GC and is being developed as an automobile dealership.

**CASE HISTORY:** The subject site encompasses two properties, Lots 46 and 47 of the Linwood Acres Addition, recorded on October 1929. Property abutting the west property line was rezoned to GC with a Protective Overlay in 1998.

**ADJACENT ZONING AND LAND USE:**

|        |      |                                                             |
|--------|------|-------------------------------------------------------------|
| NORTH: | "MH" | Mobile Home Park                                            |
| SOUTH: | "GC" | Auto Dealership                                             |
| EAST:  | "LC" | Vacant, Manufactured Home Park                              |
| WEST:  | "GC" | Vacant Commercial Land (Auto dealership under construction) |

**PUBLIC SERVICES:** The subject site can be accessed off of East Lewis Street, an unimproved local road. However, the main access to the site is off of East Kellogg Drive, a paved two-lane frontage road running along the north side of East Kellogg Road, a four-lane freeway/expressway with a traffic count of approximately 50,000 average daily trips. Complete access control by separate instrument will be required along East Lewis Street. The subject property does have access to public sewer or public water service. The nearest sewer line runs along the south property line and the nearest water line runs along the north side of Lewis Street.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies this area as "Regional Commercial" within the Wichita 2030 Urban Growth Area.

“This category encompasses major destination areas (centers and corridors) containing concentrations of commercial, office, and personal service uses that have predominately regional market areas and high volumes of retail traffic. These areas are located in close proximity to major arterials or freeways. The range of uses includes major retail malls, major automobile dealerships and big box retail outlets with a regional market draw. Regional Commercial areas may also include higher density residential housing and uses typically found in Local Commercial areas.”

The current zoning request of GC for the 1.77-acre subject site is in conformance with the Comprehensive Plan’s recommended development. In terms of conformance with commercial goals/objectives/strategies and locational guidelines, the application conforms with the **Commercial/Office Objective** to “Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses,” as well as **Strategy III.B1** of regulating new strip commercial development to areas identified by the “Wichita Land Use Guide” and neighborhood/subarea plans for expansion. **Strategy III.B.6** seeks to channel traffic generated by commercial activities to the closest major thoroughfare with minimum impact upon local residential streets; the major access points for this proposed rezone directs traffic onto east Kellogg Road.

**Commercial Locational Guideline #1** of the *Comprehensive Plan* recommends that commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use, **#4** recommends compact clusters versus extended strip development, and **#5** stated that commercially-generated traffic should not feed directly onto local residential streets.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to a Protective Overlay:

1. Dedication of complete access control by separate instrument along East Lewis Street.
2. The applicant shall construct a 6 foot solid screening fence along Lewis Street 10 feet south of the right-of-way line.
3. Submit a “no protest” petition regarding the future paving of Lewis Street.
4. Establish a covenant tying the ownership of the subject site to the abutting lot to the south.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The surrounding area is characterized, predominantly, by large undeveloped and developed commercial

properties zoned either LC or GC. Residential development is located north of the subject site, across Lewis, with property zoned MH, TF-3, MF-18 and SF-5 with development consisting of a Mobile Home Park and single-family residences. The property to the south (same property owner as the subject site) is zoned GC and is developed as an auto dealership. The property to the east of the subject site is zoned LC and SF-5 and is currently developed with a Manufactured Home Park along with some undeveloped property, while the property to the west of the subject site is zoned GC and is being developed as an automobile dealership.

2. **The suitability of the subject property for the uses to which it has been restricted:**  
The subject property is currently zoned LC with a 30 foot strip of SF-5 zoning fronting East Lewis Street. Due to its close proximity to existing commercial zoning (LC to the east and GC to the south and west), it is unlikely that the subject property would be viable as a single-family residential property. This rezone request follows the zoning pattern for the properties located north of east Kellogg, between Greenwich and Zelta Street. The Protective Overlay for this request is patterned off the Protective Overlay that was placed on the property abutting to the west during its zone change in 1998.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The scale and impact of any development within GC zoning should be mitigated by the site development requirements related to access management, landscaping, screening, lighting and signage.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The Land Use Guide of the Comprehensive Plan identifies this area as "Regional Commercial" within the Wichita 2030 Urban Growth Area. "This category encompasses major destination areas (centers and corridors) containing concentrations of commercial, office, and personal service uses that have predominately regional market areas and high volumes of retail traffic. These areas are located in close proximity to major arterials or freeways. The range of uses includes major retail malls, major automobile dealerships and big box retail outlets with a regional market draw. Regional Commercial areas may also include higher density residential housing and uses typically found in Local Commercial areas."

The current zoning request of GC for the 1.77-acre subject site is in conformance with the Comprehensive Plan's recommended development. In terms of conformance with commercial goals/objectives/strategies and locational guidelines, the application conforms with the **Commercial/Office Objective** to "Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses," as well as **Strategy III.B.1** of regulating new strip commercial development to areas identified by the "Wichita Land Use Guide" and neighborhood/subarea plans for expansion. **Strategy III.B.6** seeks to channel traffic generated by commercial activities to the closest major thoroughfare with minimum impact upon local residential streets; the major access points for this proposed rezone directs traffic onto east Kellogg Road.

5. **Impact of the proposed development on community facilities**: All services are in place, and any increased demand on community facilities can be handled by current infrastructure.