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OCA 150004

ORDINANCE NO. 50-692

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:

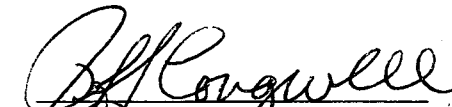
Case No. ZON2018-00006

**Zone change from LC Limited Commercial to GC General Commercial:**

Lots 2-except the south 152 feet of the east 40 feet thereof and 5, Block 1, Ann Walenta Commercial Addition, Wichita, Sedgwick County, Kansas; generally located at the southwest corner of South Oliver Avenue and East Kellogg.

**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.

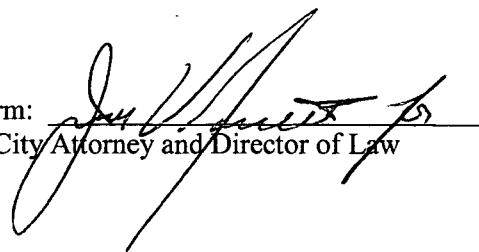
  
Jeff Longwell, Mayor

ATTEST:

  
Karen Sublett, City Clerk



Approved as to form:  
Jennifer Magaña, City Attorney and Director of Law





**BACKGROUND:** The subject site is the Oliver Retail Center Community Unity Plan (CUP) DP-261, which is located south of East Kellogg and on either side of Oliver Avenue. Total acreage of DP-261 is approximately 8.54 acres. The applicant is requesting a zone change to Parcel B and Parcel E (approximately 3.4 acres) from LC Limited Commercial (LC) to GC General Commercial (GC). Specific GC uses shall be prohibited as enumerated in General Provision #16. The proposed zone change will allow a broader range of uses than those allowed in LC.

In addition to amending General Provision #16, amendments are proposed to the general provisions for signage in General Provision 6(E) and General Provision #14 for consideration of exterior building materials. In general, the amendment to the signage increases the total square footage and allocates the location of the signage. The proposed zone change and CUP amendment to the existing CUP provides a broader range of uses and addresses potential tenant needs. The proposed CUP language for DP-261 is attached.

This CUP was established in 2008 in response to significant redevelopment of the properties resulting from the improvements to Kellogg Avenue. The Community Unit Plan was created and the property was replatted at that time, which addressed the redevelopment. The land remained zoned LC Limited Commercial. The current CUP has no GC zoning.

Land to the north of the application area is approximately 300 feet of Kellogg right-of-way. Properties located to the east (across South Oliver Avenue) are zoned LC and developed with convenience store and retail strip center. Properties to the west are zoned TF-3 Two-Family Residential (TF-3) and developed with single family residences. Property south of the site is zoned TF-3 and developed with Jefferson Elementary School.

**CASE HISTORY:** The Oliver Retail Center CUP was established in December 2008. This is the first Amendment and first zone change for the property since the CUP was established. Access to the site is only from South Oliver Avenue.

**ADJACENT ZONING AND LAND USE:**

North:	Kellogg Right-of-Way	
South:	TF-3	Jefferson Elementary School
West:	TF-3	Single-family residences
East:	LC	Convenience store and retail strip center

**PUBLIC SERVICES:** The site is served by municipal services. South Oliver Avenue is a paved four-lane arterial street with dedicated turn lane. All municipal services are in place and can accommodate the required services to the site.

**CONFORMANCE TO PLANS/POLICIES:** The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the mature neighborhoods within an approximate three-mile radius of the downtown core. The Plan encourages infill development within the Established Central Area that maximizes public investment in existing and planned infrastructure and services. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "new residential," encompassing areas that reflect the full diversity of residential development densities and types typically found in large urban municipality with appropriate neighborhood-serving businesses/retail. It is unlikely this

property will be redeveloped for residential uses, therefore the continued use for commercial purposes supporting the surrounding residential is deemed appropriate.

**RECOMMENDATION:** Based upon the information available at the time the report was prepared, staff recommends the zone change and amendments to CUP DP-261 be **APPROVED** subject to the development guidelines of the amended CUP and the following conditions:

- A. APPROVE the zone change (ZON2018-00006) to GC for Parcels B and E in DP-261.
- B. APPROVE the Amendments to CUP DP-261, subject to the following conditions:
  1. The amendments shall apply only to the parcels as specified in General Provision #6; the language added to General Provision #14 regarding building materials approved by the Director of Planning; and General Provision #16. All other requirements of the CUP remain in effect unless or until a separate zoning action is filed.
  2. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
  3. Prior to publishing the ordinance/resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-261) includes special conditions for development on this property.
  4. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Land to the north of the application area is approximately 300 feet of right-of-way. Properties located to the east (across South Oliver Avenue) are zoned LC are located within CUP DP-261 and developed with convenience store and retail strip center. Properties to the west are zoned TF-3 Two-Family Residential (TF-3) developed with single family residences. Property south of the site is zoned TF-3 developed with Jefferson Elementary School.
2. The suitability of the subject property for the uses to which it has been restricted: The Oliver Retail Center CUP was established in December 2008 and replatted in association with that zoning action. The LC zoning designation allows a wide range of residential, office and retail uses and could continue to be economically viable as currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed zone change and CUP amendments would broaden the range of uses. The requested changes should not detrimentally impact nearby property owners to any greater extent than the existing development as some of the more intense uses allowed in GC are prohibited by General Provision #16
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 of the request represents a gain to the public in that it contributes to the area's long term economic opportunity. Denial would

presumably represent a loss in economic opportunity to the property owner or future tenants.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the mature neighborhoods within an approximate three-mile radius of the downtown core. The Plan encourages infill development within the Established Central Area that maximizes public investment in existing and planned infrastructure and services.
6. Impact of the proposed development on community facilities: Existing improvements are in place to address anticipated demands.

**Attachments:**

Oliver Retail Center CUP Language  
DP-261