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ORDINANCE NO. 48-162

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 2007-49

Zone change request from SF-5 Single-family Residential to GO General Office and to PO #197 - Protective Overlay District, on property described as:

Lot 4 and Reserve A, First Pentecostal Church Addition.

Generally located on the southeast corner of MacArthur and Hydraulic.

SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #197:

1. Prohibited uses on the site include limited and general correctional placement residences, private recycling collection stations, bed and breakfast, hotels/motels, recreational marine facility, heliport, parking area commercial, mining and quarrying, oil or gas drilling, rock crushing, solid waste incinerator, and asphalt or concrete plant, limited.
2. On site pole lights shall be no higher than 20-foot, including the base. They shall be hooded and directed onto the site and away from abutting and adjacent residential development and zoning, and shall not face to the north. No pole lights shall be located within the required setbacks.
3. Flashing signs (including signs showing only time, temperature and other public service messages), rotating or moving signs, signs with moving lights, electronic or video message boards or signs which create illusions of movement are not permitted.
4. Portable and off-site signs are not permitted.
5. All freestanding signs must be monument type, shall have a maximum height of 16 feet.
6. Any use of back-lit canopies and neon or fluorescent tube lighting on buildings is not permitted.

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 13 day of January, 2009.

ATTEST:

Karen Sublett, City Clerk
Karen Sublett, City Clerk

Carl Brewer, Mayor
Carl Brewer, Mayor

(SEAL)



Approved as to form:

Gary E. Rebenstorf, Director of Law
Gary E. Rebenstorf, Director of Law

City of Wichita
City Council Meeting
December 4, 2007

TO: Mayor and City Council

SUBJECT: ZON2007-49 – Zone change from “SF-5” Single-family Residential to “GO” General Office with Protective Overlay #197. Generally located south of MacArthur Road, on the east side of Hydraulic Avenue. (District III)

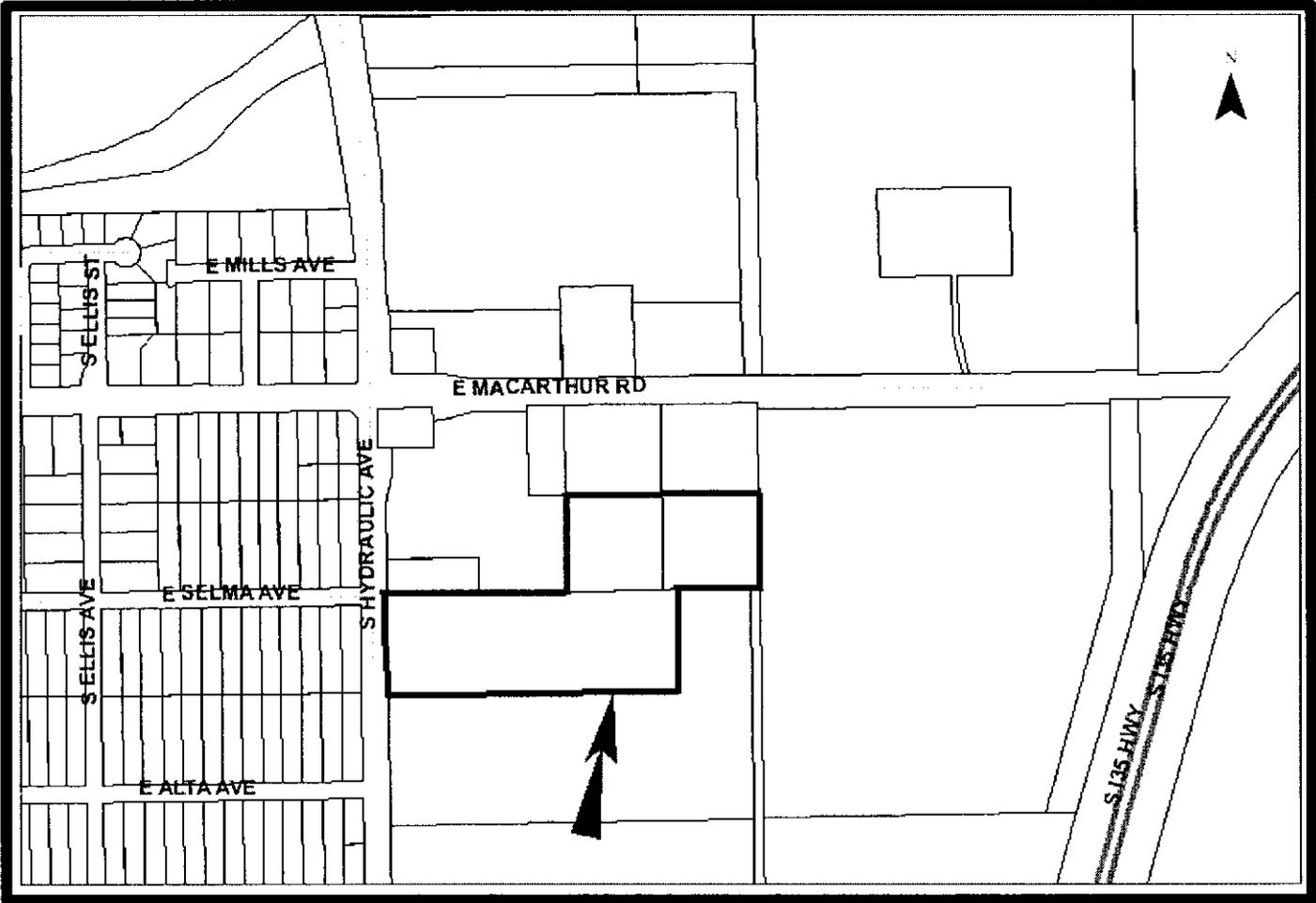
INITIATED BY: Metropolitan Area Planning Department *JLS*

AGENDA: Planning (Consent)

MAPC Recommendations: Approve unanimously (12-0), subject to staff recommendations.

MAPD Staff Recommendations: Approve, subject to the provisions of the Protective Overlay and platting.

DAB recommendation: Approve (10-1), subject to staff recommendations



Background: The applicant is requesting "GO" General Office zoning, with a Protective Overlay (PO), for the 13 acre unplatted, undeveloped "SF-5" Single-family Residential zoned site. The site is located approximately 635 feet south of the Hydraulic Avenue and MacArthur Road intersection with frontage/access onto Hydraulic. The requested "GO" zoning would allow the applicant possible development of the site for office, day care centers, assisted living, senior housing and additional church parking.

The site abuts the south and east sides of the platted (Pentecostal 2nd Addition, 12-1-1982; and the Ed Dwire Addition, 3-20-1978) partially developed First Pentecostal Church site, which is largely zoned "LC" Limited Commercial (County zoning, 1958) with a smaller, undeveloped "B" Multi-family Residential zoned portion. The site also abuts the south side of unplatted "SF-5" zoned property owned by the applicant, which is partially developed with a single-family residence with the rest being vacant. This "SF-5" zoned 4.7 acre church owned property has frontage/access onto MacArthur Road and is being considered for "LC" zoning on today's agenda (ZON2007-48). A "SF-5" zoned KG&E electric substation is located between the church site and its 4.7 acres of "SF-5" property. The substation abuts the northwest corner of the subject site. If the applicant's requested zoning changes (ZON2007-48 and ZON2007-49) are approved, the KG&E "SF-5" zoned substation site (less than an acre) will be the last "SF-5" zoned property on the west side of Hydraulic, for approximately ¼-mile south of MacArthur Road.

There are "MH" Manufactured Housing zoned manufactured home complexes (three of the area's ten) abutting the south and east sides of the site: Z2897 (1988), Z2753 (1986) and Z3209 (1996). Properties west of the site, across Hydraulic, are zoned "SF-5" (platted in the early 1950s) and developed as single-family residences. The developed "SF-5" properties in this area are located largely on the west side of Hydraulic. The greater area's configuration is defined by I-35, I-135, 47th Street South and the Arkansas River.

The Wichita Access Management Policy would require that Hydraulic have a 60 foot half-width right-of-way (10 feet more than what presently exists). The policy would also require 200 feet between right-in right-out openings and 400 feet between full movement openings. All applicable codes and development standards would apply to the subject site.

Analysis: On November 1, 2007, the MAPC voted unanimously (12-0) to recommend approval of the zone change subject to platting within one year and the provisions of PO #197. There were no speakers in opposition to the request at the MAPC meeting. On November 7, 2007, DAB III voted (10-1) to recommend approval of the zone change subject to platting within one year and the provisions of PO #197. There were no speakers in opposition to the request at the DAB III meeting. No protest petitions have been submitted, and staff has received no telephone calls protesting the proposed zone change. The provisions of PO #197 are:

1. Prohibited uses on the site include limited and general correctional placement residences, private recycling collection stations, bed and breakfasts, hotels/motels, recreational marine facility, heliport, parking area commercial, mining and quarrying, oil or gas drilling, rock crushing, solid waste incinerator, and asphalt or concrete plant, limited.
2. On site pole lights shall be no higher than 20-foot, including the base. They shall be hooded and directed onto the site and away from abutting and adjacent residential development and zoning, and shall not face to the north. No pole lights shall be located within the required setbacks.
3. Flashing signs (including signs showing only time, temperature and other public service messages), rotating or moving signs, signs with moving lights, electronic or video message boards or signs which create illusions of movement are not permitted.
4. Portable and off-site signs are not permitted.

5. All freestanding signs must be monument type, shall have a maximum height of 16 feet.
6. Any use of backlit canopies and neon or fluorescent tube lighting on buildings is not permitted.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality.

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendation/Actions:

1. Concur with the findings of the MAPC and approve the zone change, subject to the additional recommended provisions of Protective Overlay #197 and subject to the condition of platting; instruct the Planning Department to forward the ordinance for first reading when the plat is forwarded to the City Council; or
2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

4. **Case No.: ZON2007-49** – First Pentecostal Church Inc., c/o Rev. Marrell Cornwell, Baughman Co., c/o Russ Ewy Request City zone change from "SF-5" Single-family Residential to "LC" Limited Commercial on property described as;

The North half of the East 10 acres of the North 20 acres of the West half of the Northwest Quarter of Section 15, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, subject to road rights-of-way of record. Generally located on the south side of MacArthur Road and east of Hydraulic Avenue.

BACKGROUND: The applicant is requesting "LC" Limited Commercial zoning for the 4.7-acre unplatted "SF-5" Single-family Residential zoned site. The site is partially developed with a single-family residence located on its west portion. The site is located approximately 660-feet east of the Hydraulic Avenue – MacArthur Road intersection, with frontage/access onto MacArthur. The requested "LC" zoning would allow the applicant to market the site for commercial development.

The site abuts the east side of a 0.89-acre "SF-5" zoned KG&E electric substation, which is located between the subject site and the applicant's partially developed First Pentecostal Church site: Pentecostal 2nd Add, 12-1-1982 and the Ed Dwire Add, 3-20-1978. The applicant's church site is zoned largely "LC" Limited Commercial (1958), with a smaller, undeveloped, "B" Multi-family Residential zoned portion. The site also abuts the north side of a 13-acre unplatted, undeveloped "SF-5" zoned property. This 13-acre "SF-5" zoned property is also owned by the applicant and has frontage/access onto MacArthur. The 13-acre site is being considered for "GO" zoning on today's agenda: ZON2007-49. If the applicant's requested zoning changes, ZON2007-48 & -49 are approved, the KG&E "SF-5" zoned substation site will be the last of the developable "SF-5" zoned property on the west side of Hydraulic, for approximately ¼-mile south of MacArthur. The developed "SF-5" properties in this area are located largely on the west side of Hydraulic. The area's configuration is defined by I-35, I-135, 47th Street South and the Arkansas River.

There are "MH" Manufactured Housing zoned manufactured home complexes abutting the east side of the site (Z2753 {1986} and Z3209 {1996}). Properties north of the site, across MacArthur, are zoned "MH," "GC" and "LI" and are developed as a manufactured housing complex, an indoor roller skating rink and Wichita's last drive-in theater, the twin screen Starlite. The "GC" and "LI" zoned drive in theater is the largest portion of CUP DP-47, which was approved in 1972. DP-47 has four parcels; the largest parcel (A) allows only the drive-in theater. The three smaller parcels allow restaurants, service stations and retail, Parcel B, while Parcels C & D allow indoor – outdoor sale and services as allowed in "GC" zoning. The owner of the drive in theater has expressed concerns about the impact of additional lighting and noise in the area, as allowed by today's zoning cases.

CASE HISTORY: The site's area was annexed into the City sometime between 1961 – 1970.

ADJACENT ZONING AND LAND USE:

NORTH: "GC," "LI," "MH"	indoor roller skating rink, twin screen drive-in theater, manufactured housing complex
SOUTH: "SF-5," "MH"	undeveloped, manufactured housing complex
EAST: "MH"	manufactured housing complexes
WEST: "SF-5", "LC"	electric substation, church, auto repair, convenience store

PUBLIC SERVICES: The site has access to MacArthur Road, a four-lane arterial, with 40-foot of half-street right-of-way. Average daily trips (ADT) along this section of MacArthur are approximately 12,000 ADT. The 2030 Transportation Plan projects traffic along this section of Hydraulic to increase to approximately 14,000 ADT. Municipal sewer and water services and all other utilities are available.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this site as appropriate for “urban residential.” The “urban residential” category includes all densities of residential development found within the urban municipality. The requested “LC” zoning and the uses permitted in it would be classified as “local commercial” by the Guide. The “local commercial” category’s uses are local in their customer base and include commercial, office, personal services, medical, auto repair, grocery stores, florist shops, service stations, restaurants and on a limited presence basis mini-storage warehousing and small scale light manufacturing. The site’s proposed “LC” zoning is closer in its order of position in the list of zoning districts to the existing, abutting “MH” and adjacent “MH,” “GC” and “LI” zoning than its current “SF-5” zoning, which is isolated from the adjacent (west of Hydraulic) “SF-5” zoned single-family residential subdivisions.

RECOMMENDATION: The proposed “LC” is more appropriate for the site than the site’s current, isolated “SF-5” zoning. A protective overlay would help mitigate potential negative impact on the adjacent church, the adjacent and abutting “MH” zoned manufactured home complexes’ residences, as well as the drive-in theater. Staff recommends APPROVAL of the proposed “LC” zoning, subject to platting in a year and the following provisions of PO #197:

1. Prohibited uses on the site include limited and general correctional placement residences, private and public recycling collection stations, bed and breakfast, hotels/motels, recreational marine facility, heliport, parking area commercial, mining and quarrying, oil or gas drilling, rock crushing, solid waste incinerator, asphalt or concrete plant, limited and general, recreational vehicle campground, tavern and drinking establishment, and pawn shop.
2. On site pole lights shall be no higher than 20-foot, including the base. They shall be hooded and directed onto the site and away from abutting and adjacent residential development and zoning, as well as away from the drive in theater site. No pole lights shall be located within the required setbacks.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The zoning in the area ranges from “SF-5,” “TF-3,” “B” and “MH” to “LC,” “GC” and “LI.” Uses include manufactured home complexes, single-family residences, churches, auto repair, convenience store, an electric substation, small retail, a skating rink and the last drive-in theater in Wichita. There is also undeveloped land in the area, zoned “SF-5” and “B,” and most of it is owned by the applicant/church.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned “SF-5” and abuts a “SF-5” zoned electrical substation (west side), undeveloped “SF-5” zoned property (south side, owned by the applicant) and (east side) a “MH” zoned manufacturing housing complex. The “GC” and “LI” zoned drive in theater and roller skate rink, as well as a “MH” manufactured home complex are located

north of the site, across MacArthur. Existing zoning and development in the area has made the subject site less attractive for single-family residential development.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Denial of the request would not impose any negative affect on nearby properties. However, approval of the requested "LC" zoning with the proposed provisions of the PO would allow the property owner to develop the site with uses more similar to the existing abutting and adjacent uses than what is permitted in the current "SF-5" zoning.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The hardship imposed on the applicant is primarily economic. Approval of the requested "LC" zoning with the proposed provisions of the PO would allow the property owner to market the site for uses more similar to the existing abutting and adjacent uses than what is permitted in the current "SF-5" zoning.
5. 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 "urban residential." The requested "LC" zoning and the uses permitted in it would be classified as "local commercial" by the Guide. The site's location along MacArthur is appropriate for "local commercial" and the "LC" uses as permitted in the proposed PO are more compatible to existing uses and zoning than the site's current "SF-5" zoning.
6. Impact of the proposed development on community facilities: Traffic would increase with any development of the site, although the uses as permitted in the proposed PO, would generate traffic mostly during the working hours, with the possible exception of uses that would involve medical services and warehouse, self service storage, in that case evening and night traffic is a possibility. There is a seasonal increase of night traffic in the area generated by the remaining twin screen drive-in theater in Wichita. Platting will address access onto MacArthur (and the additional ROW needed) as well any drainage issues created by development of the site.

BILL LONGNECKER, Planning staff presented the staff report.

MOTION: To take items #4 (ZON2007-48) and #5 (ZON2007-49) as one item, since it was from the same applicant.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (12-0).
