

(OCA150004 BID 37529-009 CID #76383)

ORDINANCE NO. 48-318

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 2007-68

Zone change from SF-20 Single-family Residential to:

MF- 18 Multi-family Residential, for property described as Lot 10, Block A;

GO General Office, for property described as Lots 1 and 12, Block A;

LC Limited Commercial, for property described as Lots 2-8, Block A;

and

NR Neighborhood Retail, for property described as Lots 9 and 11, Block A

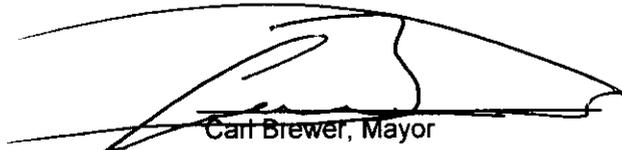
Ashton Creek Commercial Park Addition, Wichita, Sedgwick County, Kansas.

Generally located on the southwest corner of 29th Street North and 119th Street West.

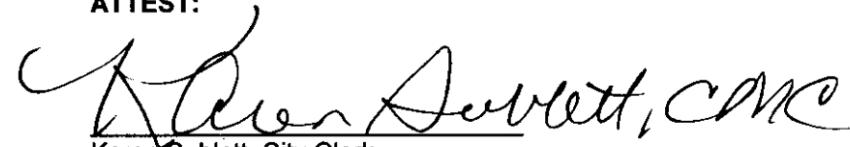
SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

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 21 day of April 2009.

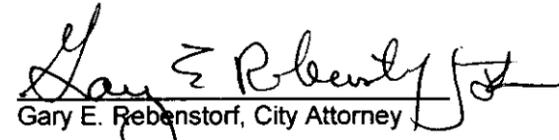

Carl Brewer, Mayor

ATTEST:


Karen Sublett, City Clerk



Approved as to form:


Gary E. Rebenstorf, City Attorney

BACKGROUND: The applicant proposes to create a commercial and residential community unit plan containing approximately 27 net acres with 12 parcels located on the southwest corner of 29th Street North and 119th Street West.

Proposed zoning is "LC" Limited Commercial at the corner of the intersection, with a strip of "NR" Neighborhood Retail along 119th Street West to the south and buffered by "GO" General Office at the edges of the CUP along 119th Street West and 29th Street North. An interior tract would be zoned "MF-18" Multi-family Residential.

The large LC tract (Parcel 3 – 8.63 acres) would occupy the north part of the CUP; together with six other parcels (Parcels 2 through 8) that are approximately 1.25 acres in size each and located abutting the arterial streets. The south part of the CUP would consist of the multi-family tract (Parcel 10 – 6.97 acres) that would be zoned MF-18 except for its main point of access onto 119th Street West that would be NR. Two parcels (Parcel 9 - 1.12 acre and Parcel 11 - 0.85 acre) would be zoned NR Neighborhood Retail and be located between 119th and the MF-18 parcel. The two parcels on the extreme western edge of 29th Street North and southern edge of 119th Street West (Parcel 1 - 1.56 acres and Parcel 12 - 0.85 acre) would be zoned GO General Office.

The zoning pattern would confine the more intensive uses to the parcels nearer to the intersection within the portion zoned LC. The NR district eliminates auto-oriented uses such as convenience stores and vehicle repair, large retail establishments, restaurants with drive-through windows and most freestanding commercial uses such as animal care, pawnshops, car washes and recreation and entertainment, indoor. The GO district further eliminates retail, general, and all restaurants. The MF-18 district eliminates all commercial uses except wireless communication, which is permitted in all zoning districts but subject to special restrictions. Uses prohibited entirely by special restrictions of the CUP are: adult entertainment establishments; sexually oriented business; correctional placement residences; group home, general and commercial; night club in the city; night club in the county; and tavern and drinking establishment. Group home, limited, also was proposed as a prohibited use, but it must be allowed per state statutory requirements.

The CUP has a maximum building coverage of 30 percent, maximum gross floor area of 35 percent and a maximum building height of 35 feet. 121 dwelling units are requested for Parcel 10, which represents 18.4 dwelling units per acre density. Four buildings are requested for Parcel 3 (the large LC tract) and two each for the remaining smaller commercial parcels. A six to eight foot high masonry wall is designated along the western and southern property lines adjoining SF-20 zoning.

The buildings would have uniform architectural compatibility and share similar lighting elements, with a maximum height of 24 feet for the light poles and fixtures, and share a similar landscape palette. The CUP requires internal circulation among parcels and cross-lot circulation.

Freestanding signs would be monument style with shared elements and a maximum height of 20 feet. The recommendation for the sign plan is to keep the amount of signage within

the range of the 0.8 x linear frontage for LC and 0.5 x linear frontage for the NR/GO on 119th Street. Flashing signs (except time, temperature, public service messages) moving, portable, billboard and off-site signs are prohibited.

The CUP is buffered by land in the same ownership as the CUP and intended for "SF-5" Single-family Residential or less dense type of residential use. It would separate the more intensive development on the CUP from the farmstead and low density residential uses to the south and west of the property. Currently, the property to the west is zoned "SF-20" Single-family Residential and developed with single-family suburban residential use. The property to the south is zoned SF-20 and in agricultural use with two farmsteads. The property to the east of 119th Street West is developed with an SF-5 residential development, West Ridge Estates, located directly east of the proposed NR and GO zoning. East of the proposed LC zoning, the property is located within DP- 235 West Ridge CUP and zoned LC and NR. This land is vacant. The property to the northeast of the 29th/119th intersection is approved as DP-296 Faber CUP with LC and GO zoning, subject to platting. The land is vacant except for a farmstead. The property on the northwest corner of the intersection is zoned B-1 and R-1, used as parkland/utilities, and is located within the City of Maize. The property farther northwest is zoned R-1 and developed with suburban residential development. The Calfskin Creek is located about one-fourth mile west of the property. None of the property is shown as in the floodplain.

CASE HISTORY: The property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	B-1 General Business R-1 Single-family Residential	Park, vacant, residential
EAST:	LC, NR, SF-5	Vacant, single-family residential
SOUTH:	SF-20	Farmsteads, agricultural
WEST:	SF-20	Large lot residential, agricultural

PUBLIC SERVICES:

Both 119th Street West and 29th Street North are classified as minor arterial streets. 29th Street North is unpaved between 119th and 135th Street West. The segment of 29th Street North eastward to Maize Road currently is under construction by the City of Wichita to a four-lane arterial street with curbs and gutters, and some intersection improvements at 29th Street North and 119th Street West are part of this project. 119th Street North is paved to two-lane county arterial standards south of 29th Street North and Sedgwick County is scheduled to begin a construction project to pave 29th Street North to 53rd Street North to two-lane county arterial standards with shoulders this year.

County traffic counts in 2006 on 119th Street West north of 29th Street North were 3,373 vehicles per day, up from 1,579 southbound and 1,798 northbound in 2005. Traffic counts were unavailable in 2006 and 2007 on 29th Street North due to construction, and 2005 counts were very low, in the range of 247 vehicles per day eastbound and 290 westbound. Traffic projections for 2030 from WAMPO are 3,419 vehicles per day northbound, 3,578 southbound, 3,634 eastbound and 3,499 westbound at the intersection.

The proposed access follows access management guidelines and consists of two full movement and two right-in/right out openings onto 29th Street North, and two full movement and three right-in/right-out movements onto 119th Street West. Openings are not directly aligned with platted openings on adjacent development except for Ryan Street. The access points on the other developments generally are closer spaced and nearer the intersection than current access management guidelines.

Municipal services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide, Map as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “local commercial” and “urban development mix.” The property is within the “Wichita 2030 Urban Growth Area.” The CUP and proposed zoning conforms with the future Land Use Guide Map, except perhaps that the amount of commercial zoning (approximately 20 acres) is more than the 4-15 acres recognized in the land use category description of the *Comprehensive Plan* as typical of neighborhood centers associated with local commercial development at arterial intersections.

In terms of conformance with commercial goals/objectives/strategies and locational guidelines, it conforms to **Commercial Objective** of “Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent s,” as well as **Strategy III.B1-2** of locating local commercial development in the County in areas shown on the Land Use Guide and incorporating provisions into the CUP to integrate out parcels to planned centers through shared internal circulation, shared signage, similar landscaping and building materials, and combined ingress/egress. The proposed CUP incorporates architectural and landscape requirements, parking lot elements and lighting consistency, restrained signage, cross-lot circulation, a site circulation plan, and combined ingress-egress. **Strategy III.B.3** seeks to reduce access points along arterial streets; the number of access points requested on the CUP is within the range allowed by urban standards of the Access Management Policy. Also, **Commercial Locational Guideline #1** of the *Comprehensive Plan* recommends that commercial sites should be located adjacent to arterial streets. 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, and **#4** recommends compact clusters versus extended strip development. The proposed CUP restricts the height of parking lot lighting to 24 feet, restricts Parcels 1 and 22 to GO and Parcels 9 and 11 to NR, and reduces the some uses on the LC zoning.

The residential goal of the *Comprehensive Plan* is “Provide for rural, suburban, and urban residential areas, which provide a variety of housing opportunities.” The objective/strategies and locational guidelines with which this proposed MF-18 tract mostly closely aligns are **Residential Objective A/Strategy II.A1** to use community unit plans and zoning as tools to promoted mixed, higher density residential and appropriate buffering, and

Residential Locational Guideline #3 with medium-density residential use serving as a buffer to low-density residential uses and **#5** with medium-density residential development being directly accessible to arterial streets. The purpose statement of the Unified Zoning Code (“UZC”) states that MF-18 “is intended for application primarily within the City of Wichita although it may be appropriate for application in areas of unincorporated Sedgwick County that have been designated as ‘urban service areas’.” (Art. III, Sec. III-B.7.a)

RECOMMENDATION: Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2007-68) to LC, NR, GO and MF-18 subject to platting within one year;
- B. APPROVE the Community Unit Plan (DP-309), subject to the following conditions:
1. Guarantee decel lanes and left turn lanes into full movement openings at time of platting.
 2. Reduce the amount of sign face area to Wichita Sign Code standards.
 3. Prohibit overhead doors facing residential zoning and located within 200 feet of residential zoning; prohibit drive-through windows located within 200 feet of residential zoning and ensure queuing lanes for drive-through windows do not align vehicle headlights facing residential zoning.
 4. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
 5. 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.
 6. The ordinance/resolution establishing the zone change shall not be published until the platting has been recorded with the Register of Deeds.
 7. 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-309) includes special conditions for development on this property.
 8. 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: The CUP is buffered by land in the same ownership as the CUP and intended for “SF-5” Single-family Residential or less dense type of residential use. It would separate the more intensive development on the CUP from the farmstead and low density residential uses to the south and west of the property. Currently, the property to the west is zoned “SF-20”

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2. The suitability of the subject property for the uses to which it has been restricted: The *Comprehensive Plan* recognizes local commercial use of the property at the intersection as suitable; the balance of the tract is shown as suitable for “urban development mix” rather than SF-20.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The CUP will alter the character of the area by introducing multi-family development on one parcel and will allow commercial use similar to that permitted on the northeast and southeast corners of 29th Street North and 119th Street West. It will urbanize the area west of 119th Street West, which currently is suburban or rural in character.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The “2030 Wichita Functional Land Use Guide, Map as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “local commercial” and “urban development mix.” The property is within the “Wichita 2030 Urban Growth Area.” The CUP and proposed zoning conforms with the future Land Use Guide Map, except perhaps that the amount of commercial zoning (approximately 20 acres) is more than the 4-15 acres recognized in the land use category description of the *Comprehensive Plan* as typical of neighborhood centers associated with local commercial development at arterial intersections. In terms of conformance with commercial goals/objectives/strategies and locational guidelines, it conforms to **Commercial Objective** of “Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent s,” as well as **Strategy III.B1-2** of locating local commercial development in the County in areas shown on the Land Use Guide and incorporating provisions into the CUP to integrate out parcels to planned centers through shared internal circulation, shared signage, similar landscaping and building materials, and combined ingress/egress. The proposed CUP incorporates architectural and landscape requirements, parking lot elements and lighting consistency, restrained signage, cross-lot circulation, a site circulation

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5. Impact of the proposed development on community facilities: The development will add traffic to the arterial streets and increase potential demand for widening the arterial streets from rural two-lane standards to urban four-lane standards in the future. Other municipal services should be available.
6. Opposition or support of neighborhood residents: A protest has been filed.