

(150004)

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ORDINANCE NO. 50-689

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. ZON2018-00003 and CON2018-00006**

Zone change from SF-5 Single-Family Residential and MF-29 Multi-Family Residential to LC Limited Commercial subject to the development standards contained in the Conditional Use Permit of Case No. CON2018-00006, on property described as:

Beginning at the Northeast Corner of the Northwest Quarter of Section 17, Township 28 South, Range 1 East; thence west 180.5 feet; thence south 300 feet; thence west 296.4 feet; thence south 300 feet; thence east 476.6 feet; thence north 600 feet to the point of beginning; except for right-of-way; in Section 17, Township 28 South, Range 1 East of the 6<sup>th</sup> P.M.; all in the City of Wichita, Sedgwick County, Kansas.

Said property CONTAINS: 3.07 acres of land, more or less, generally located on the south side of MacArthur Road and west of Gold Street at 537 West MacArthur Road.

**SECTION 2.** That this rezoning is subject to the restrictions of Conditional Use Permit of Case No. CON2018-00006, which establishes an Event Center in the City, subject to:

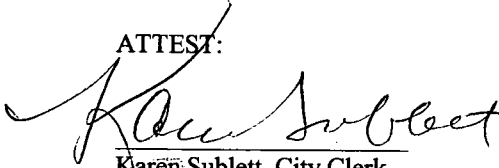
1. A detailed site plan shall be prepared and placed on file with the Metropolitan Area Planning Department addressing in detail the extent and use of the entire property, including designation of uses for outdoor areas on the property.
2. All access drives and parking areas shall be paved in compliance with the City of Wichita requirements.
3. All permits and approvals shall be obtained, with copies placed on file with the Metropolitan Area Building and Codes Department.
4. Compliance with all provision of the UZC concerning the event center and outdoor recreational uses must be maintained at all times.
5. The fencing provided as screening along the north property line adjacent to the single family homes along MacArthur Road is permitted to be of metal fencing.
6. If the Zoning Administrator finds there is a violation of any provision or condition of the Conditional Use, or any other provision of the Unified Zoning Code (UZC), the Zoning Administrator shall enforce all remedies of Section VIII of the UZC, and with the concurrence of the Planning Director, declare the Conditional Use null and void.

**SECTION 3.** 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.

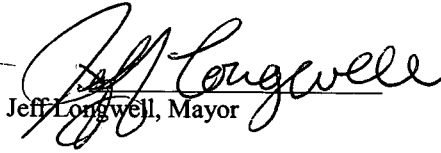
**SECTION 4.** That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED this 17<sup>th</sup> day of April, 2018.

ATTEST:



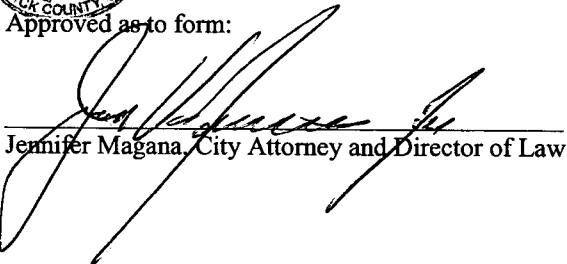
Karen Sublett, City Clerk



Jeff Longwell, Mayor



Approved as to form:



Jennifer Magana, City Attorney and Director of Law

Approve 100



AGENDA ITEM NO. 10

STAFF REPORT  
MAPC March 8, 2018  
DAB IV March 5, 2018

CASE NUMBER: ZON2018-00003 and CON2018-00006

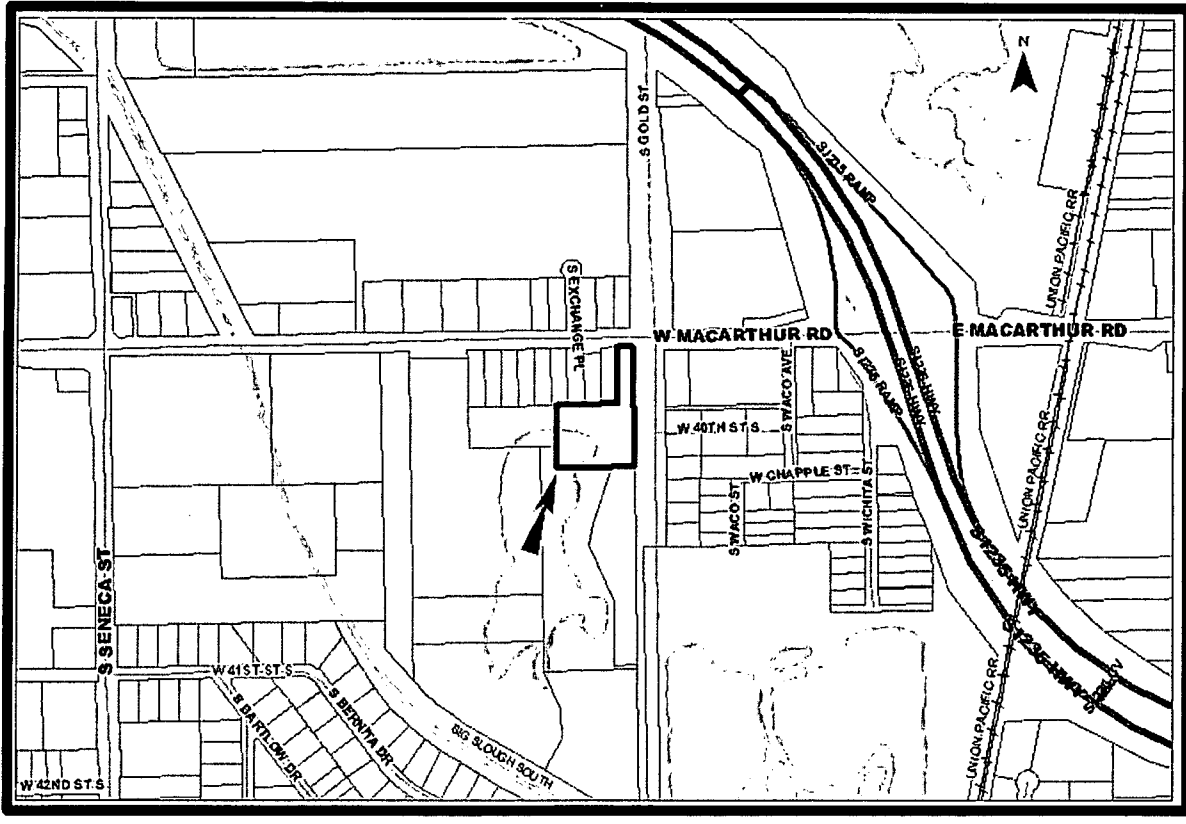
APPLICANT/AGENT: Mark Sr., LLC (Owner/Applicant); Ferris Consulting – Greg Ferris (Agent)

REQUEST: Rezone to LC Limited Commercial District and Conditional Use for an Event Center in the City

CURRENT ZONING: SF- 5 Single-Family Residential District and MF-29 Multi-Family Residential

SITE SIZE: 3.07 acres

LOCATION: Generally located on the south side of MacArthur Road and west side of Gold Street to the west of I-235 (537 West MacArthur Road)



**BACKGROUND:** The applicant is requesting a change in zoning from SF-5 Single-Family Residential District (SF-5) and MF-29 Multi-Family Residential District (MF-29) to LC Limited Commercial (LC), and a Conditional Use for an event center in the City for the 3.07-acre property at 537 West MacArthur Road, which is south of MacArthur Road on the west side of Gold Street and just to the west of I-235. The proposed event center will serve alcohol and have live entertainment. The attached applicant narrative proposes a set of operating conditions for the event center.

The rezoning is necessary to be able to pursue the conditional use for the event center. Since the event center will serve alcohol and have live entertainment, the Unified Zoning Code (UZY) defines the use as a nightclub, which requires a Conditional Use when located with 300 feet of a residential zoning district. The subject property abuts residentially-zoned properties to the north, south and west and is across the street from residentially-zoned property to the east.

A project site plan was submitted with the application and is attached. The site plan indicates some of the existing structures at this location are to be razed, while others will remain. There is also a proposed new building; however the size is not given. It is presumed this building will be the primary facility for all indoor activities. The application indicates that the entire property except for the lake may be used for outdoor events. The site plan indicates two areas devoted to off-street parking, the one immediately north of the proposed new building will have 40 spaces, including handicapped parking. The other area shown is west of the entrance from MacArthur Road and indicates space for 25 vehicles. Based on the 65 parking spaces provided, the occupancy of the event center will be limited to 130 persons. The site plan indicates a gravel drive and gives no indication as to surface of the parking areas, but the UZY requires the access drive and parking areas to be paved with asphalt or concrete. The site plan indicates a landscape buffer along the south half of the east property line; however, the UZY and Landscape Ordinance require screening and landscaping to be provided along the north, south, and west property lines also.

The use of this property as an event center is also subject to the restrictions of the Supplementary Uses, Article III, Section III(d)(6)(w) as follows:

1. No additional Parking Spaces or restroom facilities need be provided for the initial sixteen occupants to be served in the outdoor area, but Parking and restroom facilities shall be provided to full Code requirements for the portions of the permitted occupant load exceeding sixteen persons.
2. No noise generated in conjunction with the outdoor use shall exceed a sound level of five decibels as measured on the 'A' scale of a sound pressure level meter over the normal background noise that is discernible at any property line of a Lot within 1,000 feet that has a residential zoning classification. Normal back-ground noise shall be established by taking the average of ten sound level readings in any ten-minute period.
3. The outdoor area shall be screened from ground level view from any residential-zoned property within 150 feet of the outdoor area, by screening in accordance with the requirements of Sec. IV-B.
4. If lighting facilities are provided, the intensity of light and arrangements of reflectors shall be such as not to interfere with residential uses. The lighting shall be in compliance with the lighting requirements of Sec. IV-B 4.
5. The outdoor use shall be designed and maintained in compliance with all other licenses, regulations and requirements of the fire, health, and building codes, including requirements for emergency access to or from any barriers that limit ingress or egress.

The area surrounding this property is mostly residential, with single-family homes located immediately north of the property, on the east side of Gold Street, and on the north side of MacArthur Road. There are commercial uses on the south side of MacArthur Road, on the east side of Gold Street, as well as a commercial use on the north side of MacArthur Road to the west of the entrance to the subject property. Further north of MacArthur on the west side of Gold Street is a Manufactured Home Park, which was recently approved for rezoning to allow commercial uses. Industrial uses are northeast of the property.

The MacArthur Beach Community Unit Plan (DP-72) adjoins this property to the south and west. The bulk of the improvements on this property are the MacArthur's Lake Apartments, which will be west of the location of the proposed new building across the lake.

**CASE HISTORY:** The property is not platted. There are no other zoning cases shown for this property.

**ADJACENT ZONING AND LAND USE:**

NORTH:	GC and SF-5	Single-family residential and commercial
SOUTH:	MF-29 Multi-Family	Vacant/recreational
EAST:	SF-5	Residential
WEST:	SF-5	Vacant

**PUBLIC SERVICES:** West MacArthur Road is a fully improved arterial street. No access is available from Gold Street. The project site plan does not address issues such as connection to water and sanitary sewer service or the provision of fire protection services. These public service issues will be addressed through the platting process prior to the issuance any permit or license for the event center.

**CONFORMANCE TO PLANS/POLICIES:** The Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as residential on the Future Growth Map Concept Map. This location is also within the South Wichita/Haysville Plan area. While the proposed land use is inconsistent with the future land use designation for this area, recently approved commercial zoning north of MacArthur between Seneca and Gold indicates that this area is transitioning from residential to commercial in character.

**RECOMMENDATION:** Based upon the information available at the time the staff report was completed, staff recommends the requested rezoning be approved from SF-5 Single Family Residential and MF-29 Multi-Family Residential to LC Limited Commercial; and the conditional use be approved subject to the following conditions:

1. The facility will be operated similar to an event center where the building or facility is rented out for private activities, where the patrons are present by invitation only to attend a scheduled event, where events or activities are not repeated on a weekly basis and where the facility is not open on a daily basis at times other than when an event is scheduled. To the extent that the presence of entertainment and/or alcohol, which may technically classify the facility as an "entertainment establishment" or "nightclub in the city", approval of this "conditional use" shall not be deemed to create or allow a facility which is open to the general public whereby alcoholic drinks and/or cereal malt beverages are sold by individual drink and consumed on the property. No business that is classified as a "drinking establishment," "tavern," "class A club," or "class B club" as defined in Chapter 4.04, et seq., of the city Code of Ordinances shall be allowed. "Sexually oriented businesses," alcohol sales to the general public or the individual sale of liquor by the drink is prohibited.
2. The subject property shall be operated accordance with the development standards contained in Article III, Section III(d)(6)(w) of the Unified Zoning Code. *noise + lighting*

3. The subject property shall be platted prior to the issuance of any permit or license for an event center.
4. Prior to the issuance of any permit or license for an event center, a detailed site plan shall be approved by the Director Planning addressing in detail the extent and use of the entire property, including designation of uses for outdoor areas on the property, location and surfacing of circulation drives and parking, and method of compliance with the screening and landscaping requirements of the Unified Zoning Code and Landscape Ordinance.
5. Outdoor events shall be limited to the areas designated on the approved site plan. No events shall utilize the lake located on and adjacent to the property.
6. Hours of operation are limited to 6:00 a.m. to midnight, Sunday through Thursday and 1:00 a.m. on Friday and Saturday, except that any outdoor activities must cease operation by 10:30 p.m., Sunday through Thursday, and by 11:00 p.m. on Friday and Saturday.
7. The event center shall be limited to an occupancy of 130 persons unless greater than 65 on-site parking spaces are provided. In which case, the occupancy of the event center shall be limited to an occupancy of two persons per parking provided.
8. All access drives and parking areas shall be paved in accordance with Unified Zoning Code requirements.
9. Parking lot light poles shall be limited to a maximum of 15 feet in height, including the base, and shall be shielded to project the light downward and away from residential areas in accordance with Article III, Section III-D.6.w(4) of the Unified Zoning Code. Parking lot lighting shall be extinguished by 12:30 a.m. Sunday through Thursday and 1:30 a.m. Friday and Saturday.
10. Events larger than 30 persons shall have private security on-site at all times during the event.
11. All permits and approvals shall be obtained, with copies placed on file with the Metropolitan Area Building and Construction Department.
12. If the Zoning Administrator finds there is a violation of any provision or condition of the Conditional Use, or any other provision of the Unified Zoning Code (UZC), the Zoning Administrator shall enforce all remedies of Section VIII of the UZC, and with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area is a dominated by residential uses; however the subject property is adjacent to a large, outdoor recreational area. The introduction of the proposed use will not be out of character with the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The property is presently zoned SF-5 Single Family Residential and MF-29 Multi-Family Residential. The likelihood of this property being converted to residential uses is slim.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: As noted above, the use of this property for the event center is deemed compatible with the large, outdoor

recreation area dominant to the south and west.

4. Length of time the property has been vacant as currently zoned: The property has been privately used but the proposed use enhances the value of the property.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as residential on the Future Growth Map Concept Map. This location is also within the South Wichita/Haysville Plan area. While the proposed land use is inconsistent with the future land use designation for this area, recently approved commercial zoning north of MacArthur between Seneca and Gold indicates that this area is transitioning from residential to commercial in character.
6. Impact of the proposed development on community facilities: Public service issues will be addressed through the platting process prior to the issuance any permit or license for the event center.

Staff Report Attachments:

1. Applicant Narrative
2. Site Plan