

OCA 150004

PUBLISHED IN THE WICHITA EAGLE ON Nov. 16, 2018

ORDINANCE NO. 50-882

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. ZON2018-00037**

City zone change from LC Limited Commercial to GC General Commercial District and described as follows:

Lots 1, 2, 3, 4, 5, and 6 of Andrew's Resurvey of Lots 69, 71 and 73 Lawrence Avenue of J.P. Hilton's Addition to Wichita, Sedgwick County, Kansas, Generally located north of East Murdock Avenue between Broadway Avenue and Topeka Avenue (312 East Murdock Avenue).

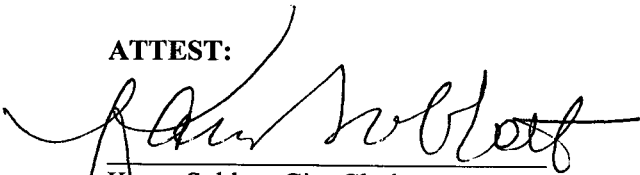
**SECTION 2.** That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

**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<sup>th</sup> day of Nov., 2018.

  
Jeff Longwell, Mayor

ATTEST:

  
Karen Sublett, City Clerk



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



AGENDA ITEM NO. 7

**STAFF REPORT**  
MAPC September 20, 2018  
DAB VI September 10, 2018

CASE NUMBER: ZON2018-00037

APPLICANT: Viafone Inc.

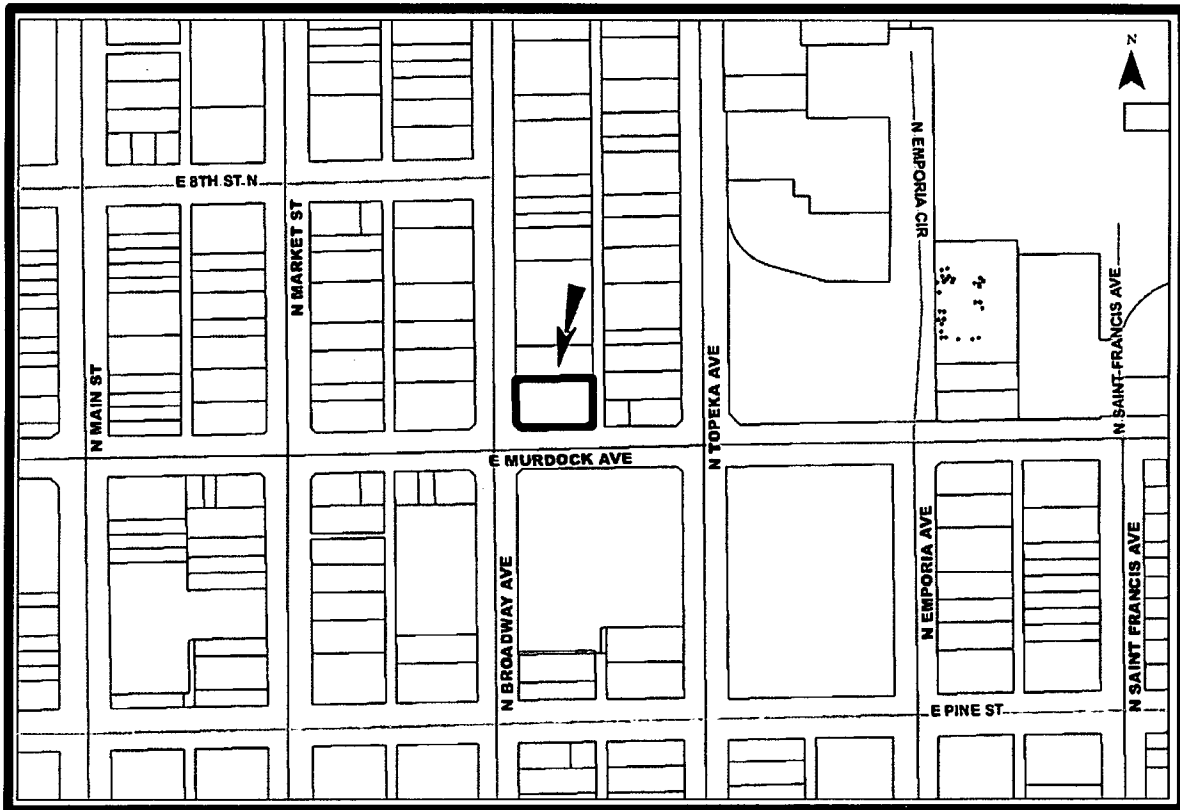
REQUEST: GC General Commercial

CURRENT ZONING: LC Limited Commercial

SITE SIZE: 0.5 acres

LOCATION: On the northeast corner of East Murdock Avenue and North Broadway Avenue (312 East Murdock Avenue)

PROPOSED USE: Tattoo Shop



**BACKGROUND:** The applicant is requesting a zone change from LC Limited Commercial zoning to GC General Commercial zoning to allow for a tattoo shop to operate on site. The Unified Zoning Code (UZC) defines Tattooing and Body Piercing Facilities as:

**Tattooing and Body Piercing Facility** means any room or space, or part thereof, where the act of Tattooing, Body Piercing or permanent color technology, as defined by K.S.A. 65-1940, as amended, is conducted.

The UZC states that Tattooing and Body Piercing Facilities are not permitted in LC Limited Commercial zoned lots. However, GC General Commercial zoning allows for the operation of Tattooing and Body Piercing Facilities, subject to the Supplemental Use Regulations listed in SecIII-D.ee:

1) All facilities shall be located a minimum of 200 feet from a school, park or residential zoning District. This distance shall be measured from the nearest lot line of the School, Park or residential zoning District to the nearest lot line of the premises on which the Tattooing and/or Body Piercing Facility is located or of any Parking Area designated to be used by the patrons of such businesses, whichever is closest. For purposes of this measurement, the required Parking Spaces for such a business located within a multi-tenant Structure or shopping center are those located nearest the public entrance to the business.

(2) All Tattooing and Body Piercing shall be conducted within an enclosed building.

The subject site meets the guidelines of provision number two, listed above, but does not meet the guidelines of provision number one. The applicant has applied for a variance, BZA2018-00053, to allow for this use to take place on this site. The presence of B Multi-Family Residential Zoning across the alley to the east being the trigger for this variance request.

The property to the north is zoned LC Limited Commercial and has surface parking and an event center use on site. East of the site along is zoned B Multi Family Residential and is currently a mix of surface parking and undeveloped parcels. Slightly further to the east, across North Topeka Avenue, is the site of the Via Christi Regional Medical Center. West of the site is zoned LC Limited Commercial is developed as commercial businesses. South of the property is zoned GC General Commercial and is the site of a gas station. The entirety of North Broadway Avenue from East Central Avenue to North Broadway Avenue is zoned GC General Commercial with the exception of a portion of the parcels that are zoned CBD Central Business District.

**CASE HISTORY:** The property was platted in the Andrew's Resurvey of J.P. Hilton on December 1, 1887. This case was also part of DR2004-00009, which was a case to approve a neighborhood wide rezoning effort per the *Midtown Neighborhood Plan*.

**ADJACENT ZONING AND LAND USE:**

NORTH:	LC;	Events Center
SOUTH:	GC;	Gas Station
EAST:	B, GO;	Undeveloped land, surface parking, Via Christi Regional Medical Center
WEST:	LC, GC;	Commercial Development

**PUBLIC SERVICES:** The site is located at the intersection of North Broadway Avenue (a paved four lane arterial) and East Murdock Avenue (a paved five land arterial). The site is served by all typical municipal services.

**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 downtown core and mature neighborhoods surrounding it in a roughly three-mile radius. 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 "residential and employment mix," encompassing areas that likely will be developed or redeveloped by 2035 with uses predominately of a mixed nature.

This site is within the area covered by the Midtown Neighborhood Plan. The plan focuses primarily on preserving and enhancing the residential uses of the area, focusing on residential neighborhood development, and discouraging large scale commercial or industrial uses. In the chapter on Future Land Use, the plan states "The commercial zoning on the preferred land use scenario foresees the incorporation of neighborhood serving stores, and specialty shops and services, such as insurance and dentists. Commercial uses to be discouraged through this land use scenario include auto-related uses and destination uses, such as hotels and motels, which do not serve the local population base." Tattoo and Body Piercing Facilities are not addressed as permitted or encouraged uses in the Midtown Neighborhood Plan.

The proposed rezoning is appropriate due to the proximity of higher intensity zoning districts and uses, as well as the fact that this use and rezoning will fit with the broader objectives of the Midtown Neighborhood Plan, the Infill Development Strategy, and Comprehensive Plan.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**. This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The property to the north is zoned LC Limited Commercial and has surface parking and an event center use on site. East of the site along is zoned B Multi Family Residential and is currently a mix of surface parking and undeveloped parcels. Slightly further to the east, across North Topeka Avenue, is the site of the Via Christi Regional Medical Center. West of the site is zoned LC Limited Commercial is developed as commercial businesses. South of the property is zoned GC General Commercial and is the site of a gas station. The entirety of North Broadway Avenue from East Central Avenue to North Broadway Avenue is zoned GC General Commercial with the exception of a portion of the parcels that are zoned CBD Central Business District.
2. **The suitability of the subject property for the uses to which it has been restricted:** The property is zoned LC which permits a wide range of uses, and is surrounded by many other properties zoned LC as well. While LC zoning permits a wide range of uses, the GC zoning category permits an even wider range of uses. The proximity of this property to downtown and other major uses, as well as its position at the intersection of two arterial streets, suggests this property's capacity for an expansion of permitted uses.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Approval of the request should have minimal impact nearby property owners. The site is already developed, as the use being requested would occupy a previously existing structure.
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 will make the property more marketable with a wider range of possible uses. Denial would presumably represent a loss of economic opportunity to the applicant or property owner. Furthermore, denial will restrict the applicant to parking

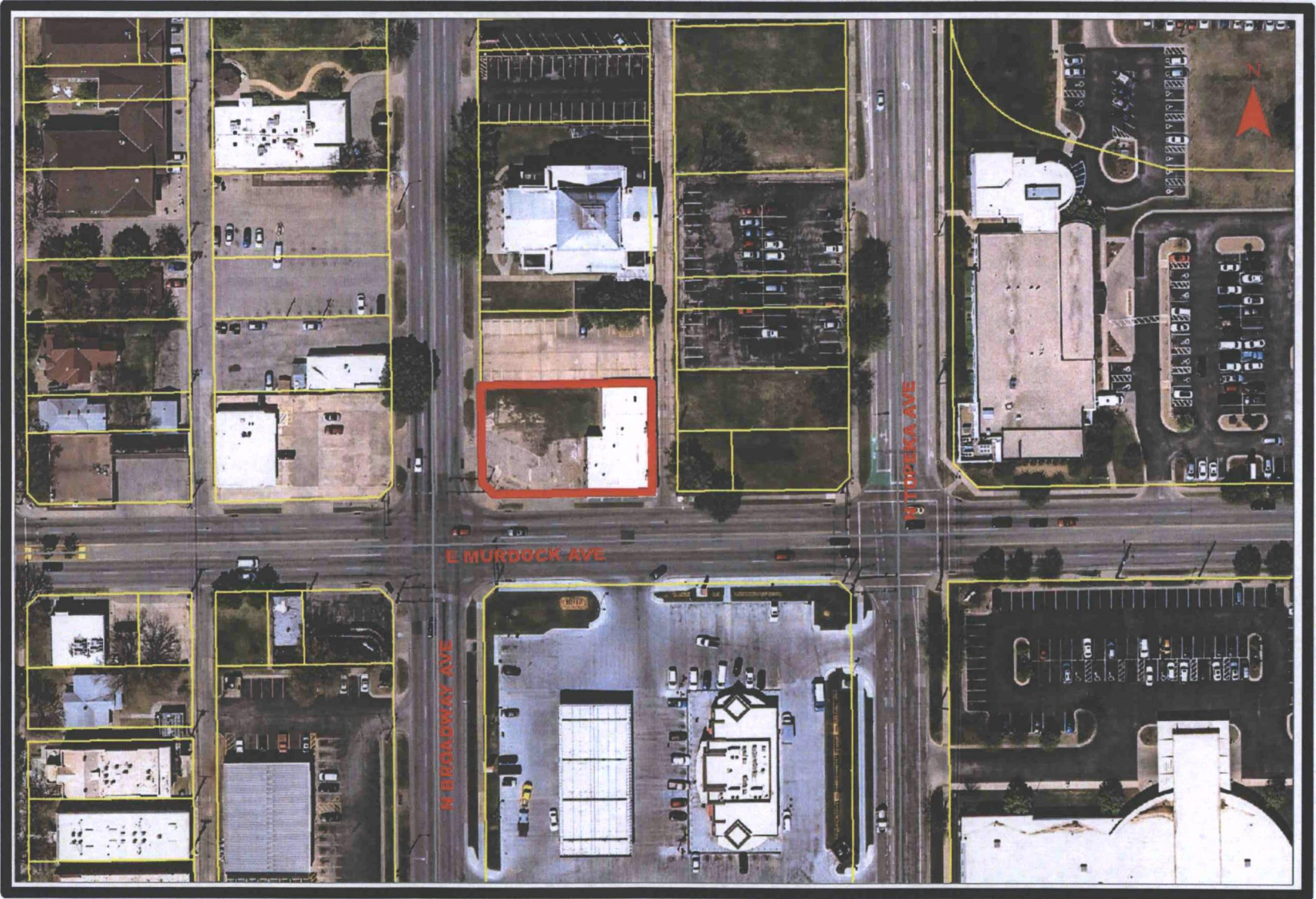
standards that would be very difficult for any tenant or property owner to meet given the development pattern of the building and surrounding area.

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 downtown core and mature neighborhoods surrounding it in a roughly three-mile radius. 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 "residential and employment mix," encompassing areas that likely will be developed or redeveloped by 2035 with uses predominately of a mixed nature.

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6. Impact of the proposed development on community facilities: Approval of the request should generate no additional impacts on community facilities. Existing public infrastructure at the site is already in place and should not require further public infrastructure investments.



E MURDOCK AVE

N BERGDAWAY AVE

UTCIKA AVE

