

ORDINANCE NO. 50-873

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. ZON2018-00035

City zone change from SF-5 Single Family Residential to LC Limited Commercial; described as:

Lots 29, Block A, The Ranch, an Addition to Wichita, Sedgwick County, Kansas.

Subject to the following Protective Overlay (**PO-330**):

1. Land Uses:

The following uses are permitted for Parcels within the P.O. as platted Lot 29, The Ranch, an addition to Wichita, Sedgwick County, Kansas:

A. All allowed uses permitted within the LC Limited Commercial Zoning District with the following EXCEPTIONS:

Manufactured Home; Group Residence, Limited and General; Cemetery; Correctional Placement Residence, Limited and General; Golf Course; Recycling Collection Station, Private and Public; Recycling Processing Center; Reverse Vending Machine; Utility, Minor; Animal Care Limited; Broadcast/Recording Studio; Construction Sales and Service; Funeral Home; Kennel, Hobby; Kennel, Boarding/Breeding/Training; Marine Facility, Recreational; Monument Sales; Nightclub in the City; Nightclub in the County; Parking Area, Commercial; Pawn Shop; Recreational Vehicle Campground, Recreation and Entertainment, Outdoor or Indoor; Service Station; Sexually Oriented Business in the City; Sexually Oriented Business in the County; Tavern or Drinking Establishment; Vehicle Repair, Limited and General; Vocational School; Asphalt or Concrete Plant, Limited and General; Mining or Quarrying; Oil and Gas Drilling; Rock Crushing; Solid Waste Incinerators; Agricultural Research; Agricultural Sales and Service; Manufacturing, Limited and General; and Vehicle Storage Yard; Welding or Machine Shop; Riding Academy or Stable; Rodeo in the City; Tattooing and Body Piercing Facility.

B. Secondhand Store, as defined by the UZC, shall be permitted only as incidental and subordinate to the principal use.

C. The uses permitted by the P.O. are only those uses permitted by right and not by conditional use unless specifically identified.

D. Parcel compatibility shall be managed by the developer with covenants, conditions, and restrictions.

2. Architectural Controls:

A. All buildings within the P.O. shall share a uniform architectural character, color, and similar predominate exterior building material, as determined by the Director of Planning.

- B. Building Heights shall be limited to 40 feet within 100 feet of residentially zoned property.
3. Landscaping for this site shall be required as follows:
- A. Landscaped street yards, buffers, and parking lot landscaping and screening shall be in accordance with the City of Wichita Landscape Ordinance. Also see private agreement recorded at the Sedgwick County Register of Deeds on Doc.#/Flm-Pg: 28928511 for additional screening requirements.
 - B. A landscape plan shall be prepared by a Kansas Landscape Architect for the above referenced landscaping, indicating the type, location, and specifications of all plant material. This plan shall be submitted to the Metropolitan Area Planning Department (MAPD) for its review and approval prior to issuance of any building permit(s).
 - C. A financial guarantee for the plant material approved on the landscape plan for that portion of the P.O. being developed shall be required prior to issuance of any occupancy permit, if the required landscape has not been planted.
 - D. Failure to properly maintain the required landscaping shall be considered a violation of the P.O. after the determination by the Director of Planning.
4. Lighting:
- A. Lighting shall be in accordance with the Wichita-Sedgwick County Unified Zoning Code, Section IV.
 - B. All lighting shall be shielded to direct light disbursement in a downward direction and directed away from residential areas.
 - C. Light poles including above ground base shall be limited to 27 feet tall, except 25 feet tall when within 50 feet of residential zoning with residential uses. (See private agreement recorded at the Sedgwick County Register of Deeds on Doc.#/Flm-Pg: 28928511).
7. Screening for this site shall be required as follows:
- A. Rooftop mechanical equipment shall be screened from ground level view per Wichita-Sedgwick County Unified Zoning Code.
 - B. Trash receptacles, loading docks, outdoor storage, and loading areas shall be appropriately screened to reasonably hide them from ground view with fencing and/or landscaping.
 - C. Unless otherwise noted Screening shall be in accordance with the Wichita-Sedgwick County Unified Zoning Code, Section IV.
 - D. A landscaped berm with evergreen trees shall be established on the south line of the parcel.
5. Setbacks shall be 25 foot along 21st Street and 159th Street frontages, if not shown they shall be as specified in Wichita-Sedgwick County Unified Zoning Code for the corresponding base zoning district property development standards or as specified below. If contiguous Parcels are developed under the same ownership, setbacks between such Parcels will not be required. Rear setback shall per as per Wichita-Sedgwick County Unified Zoning Code.
6. Parking: All Parcels, shall be in accordance with the Wichita-Sedgwick County Unified Zoning Code, Section IV-A, unless otherwise specified.
7. Utilities: No occupancy permits shall be issued for any development without services by municipal water and sewer services. All proposed new utilities shall be installed underground; unless it is prohibitive due to groundwater depth.
8. Signs: Are as permitted under the current Sign Code of the City of Wichita, and amendments thereto. Additionally, the following conditions apply:

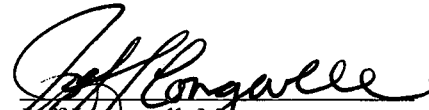
All signs types are permitted and shall be permitted in conformance with signs permitted in the LC zoning district, subject to the following restrictions.

- A. Flashing signs, rotating or moving signs, signs with moving lights, signs which create illusion of movement are not permitted; provided however, electronic message signs are allowed along arterial street frontage.
 - B. Portable, billboards, and off-site signs are prohibited.
 - C. Window display signs are limited to 25% of the window area.
 - D. Building signage shall be permitted within the P.O. Building signage shall not be permitted on any façade that faces an abutting lot zoned TF-3 or more restrictive, provided however, if the landscaping, berm, and wall screening completely obscures the sign at an elevation not visible by the TF-3 or more restrictive it may be allowed by the determination by the Director of Planning.
 - E. Accent lighting of monument signs shall be permitted.
 - I. The Developer / Owners shall be responsible for allocating the sign areas.
9. Transportation improvements and Parcel access shall be provided as follows:
- A. Cross-lot circulation agreements shall be required at the time of development to assure internal vehicular movement between Parcels within the P.O.
 - B. Access controls shall be as shown on the Final Plat of The Ranch, an Addition to Wichita, Sedgwick County, Kansas.
 - C. A plan for a pedestrian walk system shall be a requirement of the P.O. The walk system shall link proposed buildings with the entrances and sidewalks to 21st Street and shall be assured by required submission and approval of circulation plans by the Director of Planning prior to issuing building permits.
10. Title: The transfer of the title on all or any portion of the land included in the Protective Overlay 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 and amended. However, the Director of the MAPD, with the concurrence of the Zoning Administrator, may approve minor adjustments to the conditions in this overlay, consistent with the approved development plan, without filing a formal ordinance amendment.
11. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
12. Any major changes within this Protective Overlay shall be submitted to the Planning Commission and the Governing Body for their consideration. Amendments, adjustments, or interpretations to the P.O. shall be done in accordance with the Unified Zoning Code.


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 16 day of October, 2018.


Jeff Longwell, Mayor

ATTEST:


Karen Sublett, City Clerk



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



STAFF REPORT
MAPC September 6, 2018
DAB II September 10, 2018

CASE NUMBER: ZON2018-00035

AGENT: MKEC Engineering, Brian Lindebak
APPLICANT: Ranch 21, Amy Liebau

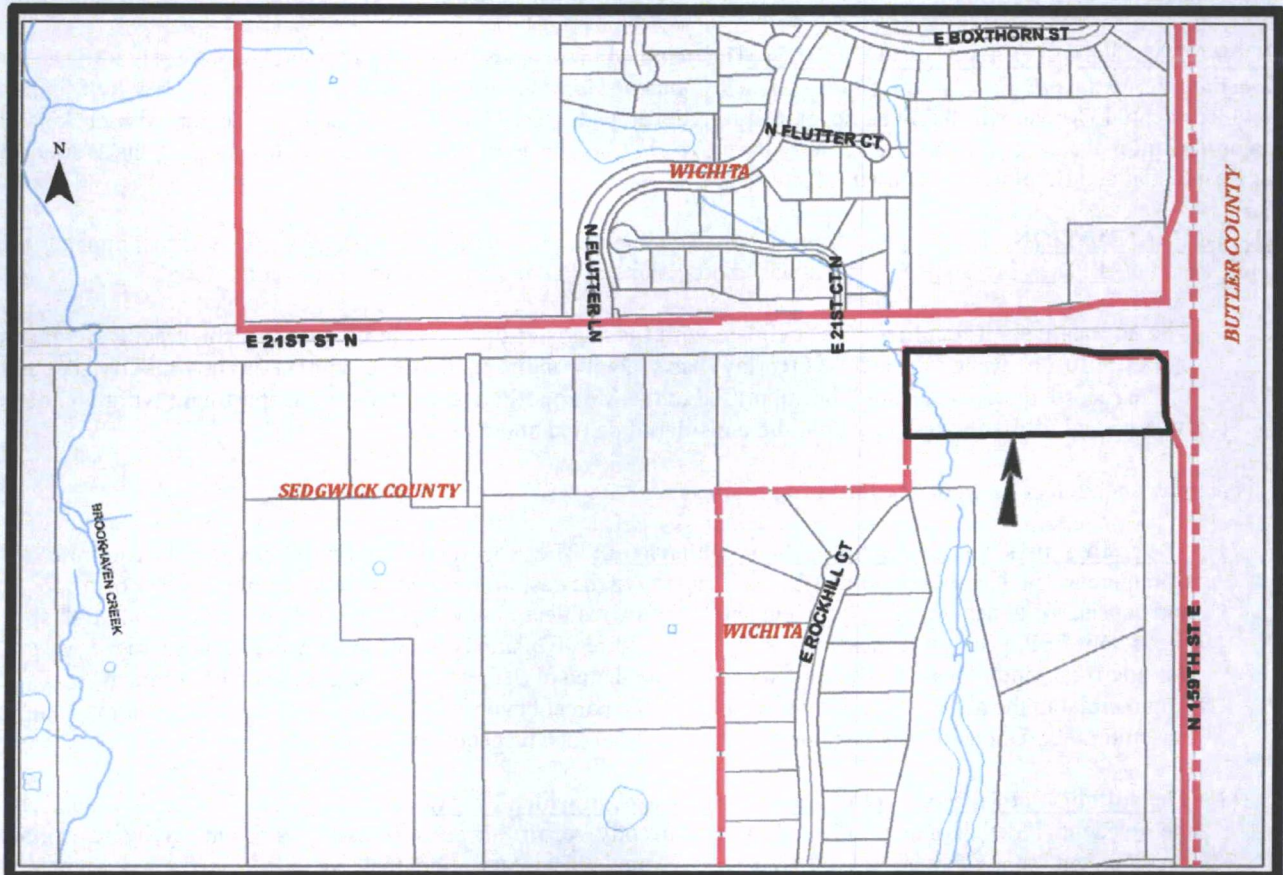
REQUEST: Rezone to LC Limited Commercial with a Protective Overlay

CURRENT ZONING: SF-5 Single Family Residential

SITE SIZE: Approximately 3.93 acres

LOCATION: Generally located on the southwest corner of East 21st Street North and North 159th Street East

PROPOSED USE: To allow for Limited Commercial uses, within a Protective Overlay



BACKGROUND: The subject site is zoned SF-5 Single-Family Residential (SF-5). The applicant is requesting LC Limited Commercial (LC) zoning to allow for the land to be developed per LC Limited Commercial development standards. The applicant is seeking the flexibility to develop the site for commercial uses, though no specific use is determined at this time. This rezoning would be accompanied by a Protective Overlay #330 to limit uses, define screening and landscaping, and create architectural controls.

The property north of the site is zoned LC Limited Commercial and is currently undeveloped. Property to the east of the site is located within the City of Andover and consists of undeveloped parcels and single family residential development. Property to the south of this site is zoned SF-5 Single Family Residential and is currently platted, undeveloped land. Property to the west of this site is currently located within the unincorporated area of Sedgwick County, is zoned LC Limited Commercial in the abutting property and SF-20 in the parcel beyond that, and is developed as a commercial agricultural based business and single family residential lots, respectively.

CASE HISTORY: This property was the site of ZON2007-00067, which also sought to rezone the property to LC Limited Commercial zoning, however this case was withdrawn prior to finalization. The site was platted in The Ranch Addition, which was recorded with the Sedgwick County Register of Deeds December 13, 2013.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Undeveloped
SOUTH:	SF-5	Undeveloped
WEST:	LC, SF-20	County, Agricultural Based Business, Single Family Residential
EAST:	Andover	Undeveloped, Single Family Residential

PUBLIC SERVICES: The site has access to East 21st Street North (a paved four lane arterial) and North 159th Street East (a paved two land arterial with turning lanes at the intersection abutting the subject property). However, current access restrictions on the plat show only one permitted access opening on East 21st Street North. The site has access to water lines along East 21st Street North.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, *the Community Investments Plan*, in the *Future Growth Concept Map* identifies the area as suitable for New Residential. New Residential Growth will likely be developed or redeveloped by 2035 as predominately residential with pockets of major institutional and commercial uses. The *Future Growth Concept Map* identifies the area just west of this as suitable for Residential and Employment Growth Mix.

RECOMMENDATION: Based on the information available prior to the public hearing, MAPD staff recommends the application be APPROVED, subject to the attached provisions of PO #330 and the following condition:

1. The applicant shall record a PO certificate with the Register of Deeds indicating that this tract (referenced as PO #330 The Ranch Protective Overlay) has special conditions for development on the property. A copy of the recorded certificate shall be submitted to the Metropolitan Area Planning Department within 60 days of approval of the request or it shall be considered denied and closed.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The property north of the site is zoned LC Limited Commercial and is currently undeveloped. Property to the east of the site is located within the City of Andover and consists of undeveloped parcels and single family residential development. Property to the south of this site is zoned SF-5 Single Family Residential and is currently platted, undeveloped land. Property to the west of this site is currently located within the unincorporated area of Sedgwick County, is zoned LC Limited Commercial in the abutting property and SF-20 in the parcel beyond that, and is developed as a commercial agricultural based business and single family residential lots, respectively.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is suitable for the residential development to which it is currently restricted. It is primarily surrounded by residential development, though there are other parcels around this intersection that are also zoned for commercial development.

- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The proximity of the intersection adjacent to this property and nearby commercial zoning make it more suitable for a change to commercial zoning than might otherwise be the case. The provisions of the Protective Overlay associated with this case will restrict the type of commercial development that could occur on site to uses compatible with the overall residential nature of its surroundings.
- (4) **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** There will be little impact either positively or negatively on the public health, safety, and welfare of the surrounding area if this request were to be approved. Denial of this request would restrict the property to primarily residential uses, given its current SF-5 zoning.
- (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*, in the *Future Growth Concept Map* identifies the area as suitable for New Residential. New Residential Growth will likely be developed or redeveloped by 2035 as predominately residential with pockets of major institutional and commercial uses. The *Future Growth Concept Map* identifies the area just west of this as suitable for Residential and Employment Growth Mix.
- (6) **Impact of the proposed development on community facilities:** Water mains are located in proximity to the proposed development, but sewer lines will have to be extended onto the site.

Attachments:

- Aerial images
- Protective Overlay #330



21



WICHITA

E BOXTHORN ST

N FLUTTER CT

N 169TH ST E

BUTLER COUNTY

E 21ST ST N

N FLUTTER LN

E 21ST ST N

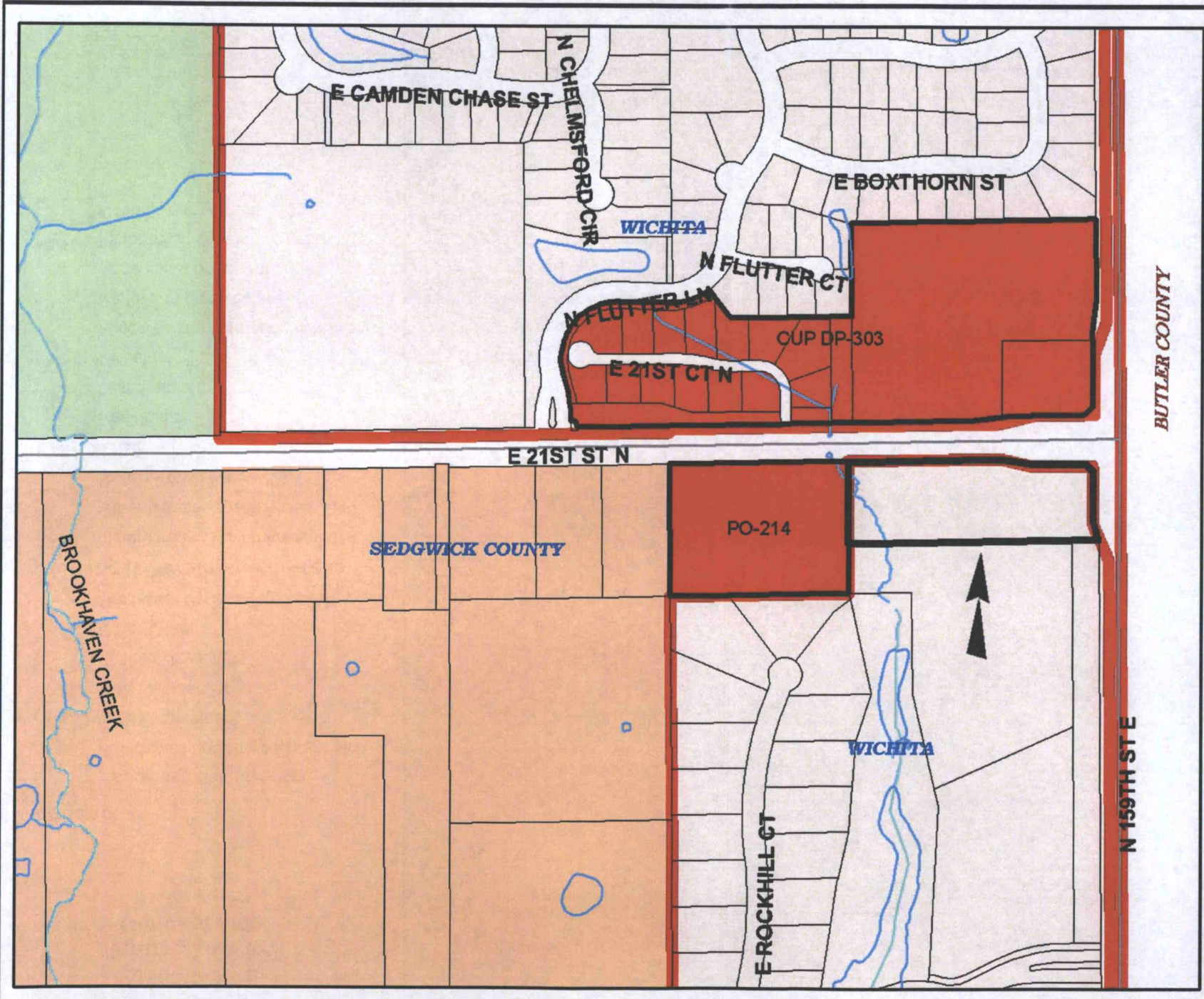
ANDOVER

SEDGWICK COUNTY

WICHITA

E ROCKHILL CT

E ROCKHILL ST



ZONING

RR
 SF-20
 SF-10
 SF-5
 TF-3
 MF-18
 MF-29
 B
 MH
 NO
 GO
 NR
 LC
 GC
 CBD
 OW
 IP
 LI
 IP-A
 GI
 AFB
 U
 PUD
 AIRPORT
 OLD TOWN

N

Protective Overlay – P.O. - 330

DEVELOPMENT GUIDELINES

General Provisions

1. Land Uses:

The following uses are permitted for Parcels within the P.O. as platted Lot 29, The Ranch, an addition to Wichita, Sedgwick County, Kansas:

- A. All allowed uses permitted within the LC Limited Commercial Zoning District with the following EXCEPTIONS:

Manufactured Home; Group Residence, Limited and General; Cemetery; Correctional Placement Residence, Limited and General; Golf Course; Recycling Collection Station, Private and Public; Recycling Processing Center; Reverse Vending Machine; Utility, Minor; Animal Care Limited; Broadcast/Recording Studio; Construction Sales and Service; Funeral Home; Kennel, Hobby; Kennel, Boarding/Breeding/Training; Marine Facility, Recreational; Monument Sales; Nightclub in the City; Nightclub in the County; Parking Area, Commercial; Pawn Shop; Recreational Vehicle Campground, Recreation and Entertainment, Outdoor or Indoor; Service Station; Sexually Oriented Business in the City; Sexually Oriented Business in the County; Tavern or Drinking Establishment; Vehicle Repair, Limited and General; Vocational School; Asphalt or Concrete Plant, Limited and General; Mining or Quarrying; Oil and Gas Drilling; Rock Crushing; Solid Waste Incinerators; Agricultural Research; Agricultural Sales and Service; Manufacturing, Limited and General; and Vehicle Storage Yard; Welding or Machine Shop; Riding Academy or Stable; Rodeo in the City; Tattooing and Body Piercing Facility.

- B. Secondhand Store, as defined by the UZC, shall be permitted only as incidental and subordinate to the principal use.
- C. The uses permitted by the P.O. are only those uses permitted by right and not by conditional use unless specifically identified.
- D. Parcel compatibility shall be managed by the developer with covenants, conditions, and restrictions.

4. Architectural Controls:

- A. All buildings within the P.O. shall share a uniform architectural character, color, and similar predominate exterior building material, as determined by the Director of Planning.
- B. Building Heights shall be limited to 40 feet within 100 feet of residentially zoned property.

5. Landscaping for this site shall be required as follows:

- A. Landscaped street yards, buffers, and parking lot landscaping and screening shall be in accordance with the City of Wichita Landscape Ordinance. Also see private agreement recorded at the Sedgwick County Register of Deeds on Doc.#/Flm-Pg: 28928511 for additional screening requirements.
- B. A landscape plan shall be prepared by a Kansas Landscape Architect for the above referenced landscaping, indicating the type, location, and specifications of all plant material. This plan shall be submitted to the Metropolitan Area Planning Department (MAPD) for its review and approval prior to issuance of any building permit(s).
- C. A financial guarantee for the plant material approved on the landscape plan for that portion of the P.O. being developed shall be required prior to issuance of any occupancy permit, if the required landscape has not been planted.
- D. Failure to properly maintain the required landscaping shall be considered a violation of the P.O. after the determination by the Director of Planning.

6. Lighting:

- A. Lighting shall be in accordance with the Wichita-Sedgwick County Unified Zoning Code, Section IV.
- B. All lighting shall be shielded to direct light disbursement in a downward direction and directed away from residential areas.
- C. Light poles including above ground base shall be limited to 27 feet tall, except 25 feet tall when within 50 feet of residential zoning with residential uses. (See private agreement recorded at the Sedgwick County Register of Deeds on Doc.#/Flm-Pg: 28928511).

7. Screening for this site shall be required as follows:

- A. Rooftop mechanical equipment shall be screened from ground level view per Wichita-Sedgwick County Unified Zoning Code.
 - B. Trash receptacles, loading docks, outdoor storage, and loading areas shall be appropriately screened to reasonably hide them from ground view with fencing and/or landscaping.
 - C. Unless otherwise noted Screening shall be in accordance with the Wichita-Sedgwick County Unified Zoning Code, Section IV.
 - D. A landscaped berm with evergreen trees shall be established on the south line of the parcel.
8. Setbacks shall be 25 foot along 21st Street and 159th Street frontages, if not shown they shall be as specified in Wichita-Sedgwick County Unified Zoning Code for the corresponding base zoning district property development standards or as specified below. If contiguous Parcels are developed under the same ownership, setbacks between such Parcels will not be required. Rear setback shall per as per Wichita-Sedgwick County Unified Zoning Code.
9. Parking: All Parcels, shall be in accordance with the Wichita-Sedgwick County Unified Zoning Code, Section IV-A, unless otherwise specified.
10. Utilities: No occupancy permits shall be issued for any development without services by municipal water and sewer services. All proposed new utilities shall be installed underground; unless it is prohibitive due to groundwater depth.
13. Signs: Are as permitted under the current Sign Code of the City of Wichita, and amendments thereto. Additionally, the following conditions apply:

All signs types are permitted and shall be permitted in conformance with signs permitted in the LC zoning district, subject to the following restrictions.

- A. Flashing signs, rotating or moving signs, signs with moving lights, signs which create illusion of movement are not permitted; provided however, electronic message signs are allowed along arterial street frontage.
 - B. Portable, billboards, and off-site signs are prohibited.
 - C. Window display signs are limited to 25% of the window area.
 - D. Building signage shall be permitted within the P.O. Building signage shall not be permitted on any façade that faces an abutting lot zoned TF-3 or more restrictive, provided however, if the landscaping, berm, and wall screening completely obscures the sign at an elevation not visible by the TF-3 or more restrictive it may be allowed by the determination by the Director of Planning.
 - E. Accent lighting of monument signs shall be permitted.
 - I. The Developer / Owners shall be responsible for allocating the sign areas.
14. Transportation improvements and Parcel access shall be provided as follows:
- A. Cross-lot circulation agreements shall be required at the time of development to assure internal vehicular movement between Parcels within the P.O.
 - B. Access controls shall be as shown on the Final Plat of The Ranch, an Addition to Wichita, Sedgwick County, Kansas.

- C. A plan for a pedestrian walk system shall be a requirement of the P.O. The walk system shall link proposed buildings with the entrances and sidewalks to 21st Street and shall be assured by required submission and approval of circulation plans by the Director of Planning prior to issuing building permits.
15. Title: The transfer of the title on all or any portion of the land included in the Protective Overlay 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 and amended. However, the Director of the MAPD, with the concurrence of the Zoning Administrator, may approve minor adjustments to the conditions in this overlay, consistent with the approved development plan, without filing a formal ordinance amendment.
16. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
17. Any major changes within this Protective Overlay shall be submitted to the Planning Commission and the Governing Body for their consideration. Amendments, adjustments, or interpretations to the P.O. shall be done in accordance with the Unified Zoning Code.