

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. ZON2017-0053**

City zone change from GO General Office District to NR Neighborhood Retail District and described as follows:

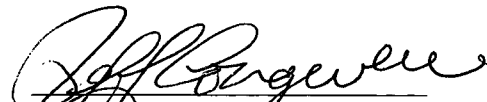
The west 70 feet of Lot 2, Atkisson Addition to the City of Wichita, Sedgwick County, Kansas.

Subject to the following Protective Overlay (**PO-323**):

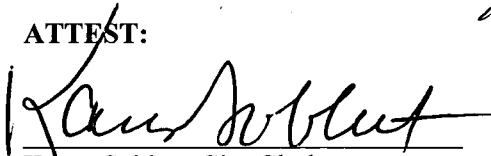
1. Uses shall be limited to those allowed by right in the NR zoning district, EXCEPT: businesses engaged in providing loans secured by car titles or other similar forms of security shall be prohibited.

**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.

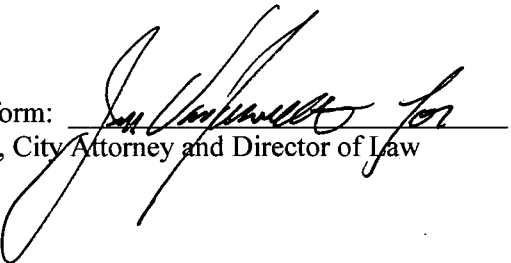
**SECTION 3.** That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

  
Jeff Longwell, Mayor

ATTEST:

  
Karen Sublett, City Clerk



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



**STAFF REPORT**  
MAPC December 21, 2017  
DAB I January 2, 2017

**CASE NUMBER:** ZON2017-00053

**APPLICANT/AGENT:** Daniel Mershon (Owner)

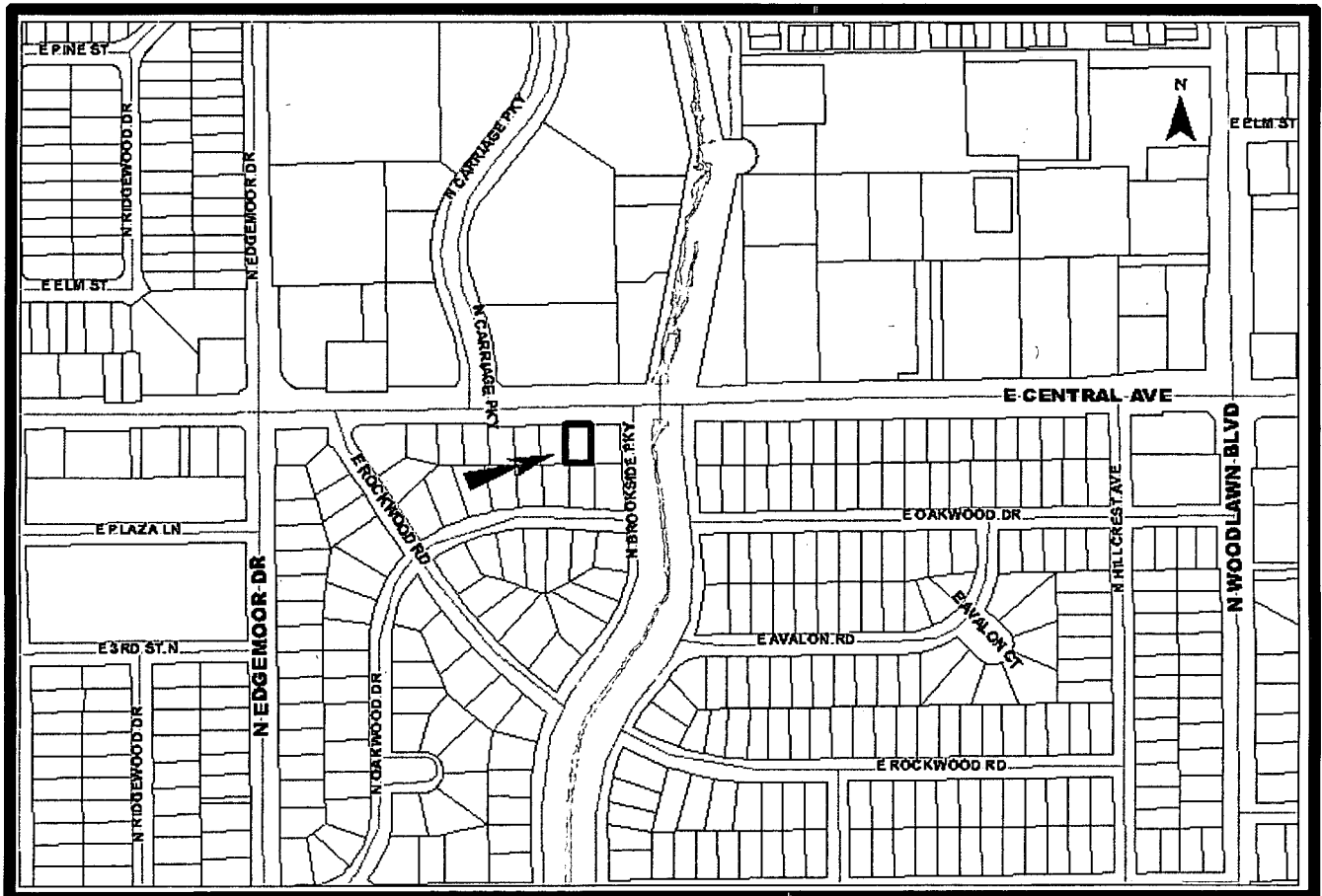
**REQUEST:** LC Limited Commercial

**CURRENT ZONING:** GO General Office

**SITE SIZE:** .18 acre

**LOCATION:** Located on the south side of Central Avenue and between Edgemoor Drive and Woodlawn Boulevard (5759 East Central Avenue)

**PROPOSED USE:** Commercial development



**BACKGROUND:** The applicant recently acquired this property, which has formerly been occupied by a Hair Salon and other similar uses, even though it is zoned GO General Office (GO), which does not permit personal care service businesses. The applicant is requesting the rezoning of the property to LC Limited Commercial (LC) in order to broaden the potential tenants that might occupy the premises legally.

The background for this area provides the necessary policy considerations for this request.

In late 1986, a number of property owners of those properties on the south side of Central Avenue between Rockwood Road and Hillcrest Avenue requested rezoning from residential to a commercial use. The City Council, following considerable discussion, adopted a policy generally stating that all those properties would be supported for GO General Office zoning subject to a number of conditions relating to replatting and some improvement requirements to Central Avenue. The policy indicated requests for more intensive zoning (such as LC Limited Commercial) or expansions to the residential neighborhood to the south would not be supported.

Within the policy area noted above, there have been requests submitted for some specific uses not permitted in the GO General Office district and those have been approved through certain Conditional Uses, such as a Conditional Use for a tailor shop at 6019 East Central and another personal care service at 5921 East Central. According to the records, all requests for more intensive zoning have generally been denied until about 2008 when some isolated properties were rezoned from GO General Office to NR Neighborhood Retail (NR). However, there have been no rezonings approved for this area more intensive than NR Neighborhood Retail.

Staff met with the applicant to review this history and discuss the policy opposition to LC Limited Commercial zoning. The result of that discussion is a listing of uses permitted in LC Limited Commercial the applicant/owner specifically wishes to have included in the zoning approval of the request. Those uses are as follows:

1. Government Service
2. University or College
3. Animal Care, Limited
4. Pawnshop
5. Secondhand Store
6. Tattooing/City
7. Tavern & Drinking Establishment
8. Vocational School

The above uses are not permitted in the NR Neighborhood Retail zoning district.

The applicant asked about having a Protective Overlay that would add these uses to an NR Neighborhood Retail rezoning; however, under the terms of the Unified Zoning Code it is not possible to add uses with a Protective Overlay. The only option would be to approve LC Limited Commercial Zoning and restrict all uses except for those requested by the applicant. This idea cannot be supported by staff because it violates the policy of the City Council since 1987, and would introduce LC Limited Commercial zoning to the south side of Central Avenue between Rockwood Road and Hillcrest Avenue.

As such, the position of staff is to deny this request, but recommend NR Neighborhood Retail zoning for the property at 5759 East Central, which is permitted by the Unified Zoning Code.

**NEIGHBORHOOD INFORMATION:** The surrounding neighborhood is a mixture of commercial and residential uses. All of the property on the north side of Central Avenue from Woodlawn Boulevard to Edgemoor Drive is zoned LC Limited Commercial and used commercially. However, these properties have been developed more in a “commercial strip” character on larger lots. There are also commercial nodes at the intersections of Central Avenue with Edgemoor Drive and Woodlawn Boulevard.

The individual properties along the south side of Central Avenue between Rockwood Road and Hillcrest Avenue, which were originally designed and constructed as single-family residential properties on more standard residential ZON2017-00053

lots, have retained their general residential appearance but have seen conversion to more commercial uses over the past several years; mostly as a result of the rezoning of this area in 1987 noted above.

All the neighborhood to the south remains zoned SF-5 Single Family Residential (SF-5) with some TF-3 Two Family Residential zoning toward the east end of that neighborhood toward Hillcrest Avenue.

As noted earlier, the bulk of the properties on the south side of Central Avenue were rezoned GO General Office in 1987, with some additional individual cases dealing with some Conditional Use permits and a couple of rezonings to NR Neighborhood Retail between Rockwood Road and Hillcrest Avenue.

**CASE HISTORY:** This particular property was included in a general rezoning to GO General Office in 1987 as noted above. The zoning classification as that time was “BB” Office District under the old Zoning Regulations of the City. This property was included in the Atkisson Addition to the City of Wichita, which was approved in May of 1988 and recorded with the Register of Deeds in June of 1988.

**ADJACENT ZONING AND LAND USE:**

NORTH:	LC	commercial
SOUTH:	SF-5	residential
EAST:	GO	commercial
WEST:	GO	commercial

**PUBLIC SERVICES:** Central Avenue is a fully improved commercial four-lane arterial street with turn lanes provided at certain intersections. The site is served by all municipal and private utilities and services.

**CONFORMANCE TO PLANS/POLICIES:** The Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the area in which the site is located as appropriate for New Employment within the established Central Area. The recommended rezoning is consistent with the spirit and intent of the Comprehensive Plan and the policies attached to the designation given to this property.

**RECOMMENDATION:** Based upon the information available at the time the staff report was completed, staff recommends deny the request as submitted and recommend approval of the zoning change from GO General Office to NR Neighborhood Retail. This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** Central Avenue is a commercial corridor; however specific actions have been taken in the past to protect the integrity of the residential development to the south of the subject property. The recommended action maintains the previous policies for this neighborhood.
2. **The suitability of the subject property for the uses to which it has been restricted:** The property is presently zoned GO General Office, but has been used more as a NR Neighborhood Retail site. This is consistent with other uses in the immediate vicinity. GO General Office restricts the property primarily to just office uses, which does limit the potential future uses of the property to some degree.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The proposed NR zoning is appropriate.
4. **Length of time the property has been vacant as currently zoned:** The property has been occupied in the past under the current zoning classification; however some of the tenant businesses may not have been fully in compliance with the GO General Office zoning. The change to NR broadens the potential uses for the site.
6. **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 area in which the site is located as appropriate for New Employment. The rezoning of the site would enhance the marketability of the property; thereby providing a greater tax base and employment opportunities.

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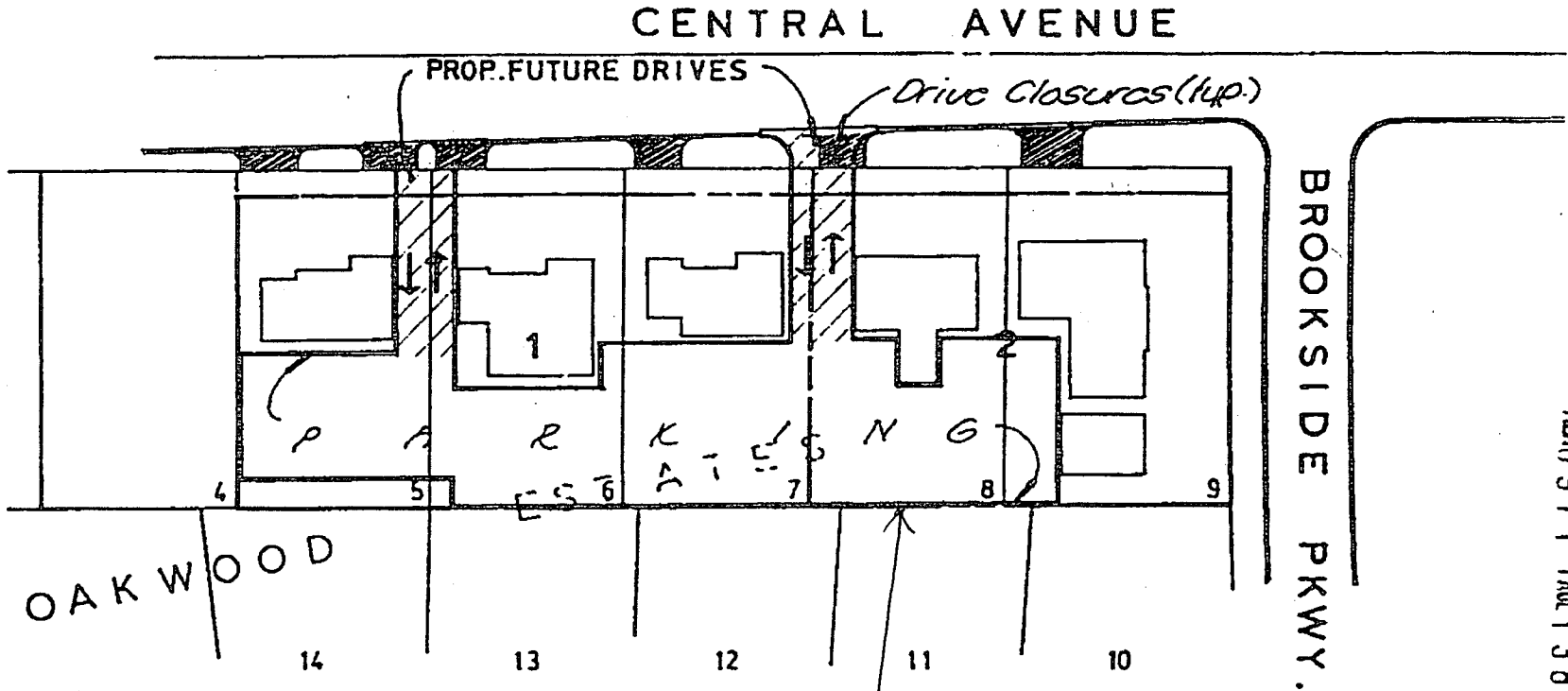
7. Impact of the proposed development on community facilities: Rezoning of the property would not have any impact on community facilities or resources. All public improvements are available to serve the property.

Staff Report Attachments:

1. Zoning Exhibit
2. 1987 Zoning Info

EXHIBIT "A"

# ATKISSON ADDITION



5759 E. Central Ave.  
Wichita, KS 67208