

Published in the Wichita Eagle on 3/20/2020

OCA 150004

ORDINANCE NO. SL-192

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. ZON2019-00056

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

Lots 1, Truth's Addition, an addition to Wichita, Sedgwick County, Kansas, subject to all road rights of way of record.

Subject to the following Protective Overlay (**PO-346**):

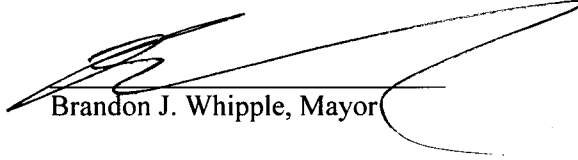
1. **Proposed Uses:** The subject property shall be limited to the following uses: All uses permitted within the "LC" Limited Commercial Zoning District with the following exceptions: Manufactured Home; Cemetery; Correctional Placement Residence, Limited and General; Marine Facility, Recreational; Monument Sales; Nightclub in the City; Pawn Shop; Sexually Oriented Business in the City; Tavern or Drinking Establishment; Teen Club in the City; Vehicle and Equipment Sales; Asphalt or Concrete Plant, Limited and General; Recycling Collection Station; Reverse Vending Machine; Event Center; and Recreation And Entertainment (Indoor). Restaurants that serve liquor can be developed and may serve liquor, as long as food is the primary service of the establishment. Restaurants with drive-through windows shall be designed to ensure queuing lanes for drive-through windows will not align vehicle headlights in such a manner as to face residential uses unless appropriately screened.
2. Signage shall be per the Wichita City Sign Code, except all signs shall be monument style and limited to 12 feet in height. Portable signs, off-site signs, banners, string pennants and the like shall not be permitted, except for a banner sign permitted for 30 days from the opening of business.
3. All outdoor lighting sources shall employ cut-off luminaries to minimize light trespass and glare. The site shall share similar or consistent parking lot lighting elements (i.e., fixtures, poles, and lamps, and etc.), and the height of light poles shall be limited to 15 feet within 200 feet of abutting residential-zoned property, and 20 feet on the remainder of the tract. Extensive use of backlit canopies and neon or fluorescent tube lighting on buildings is not permitted.
4. Rooftop mechanical equipment shall be screened from ground level view per the Unified Zoning Code.
5. Trash receptacles, loading docks, outdoor storage, and loading areas shall be appropriately screened, with similar materials to the main building, to reasonably hide them from ground view.
6. A plan for a pedestrian walk system shall be submitted and approved by the Director of Planning prior to the issuance of building permits. Said walk system shall link sidewalks along 21st Street North with the proposed buildings within the subject property.

7. Prior to publishing the ordinance establishing the zone change, the applicants shall record a document with the Register of Deeds indicating that this tract includes special conditions for development on this property.

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.

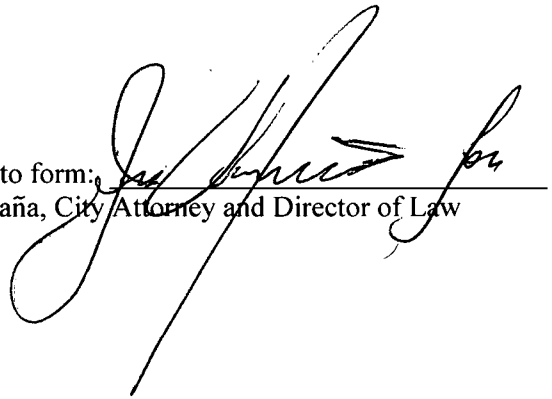
ADOPTED this 17th day of March, 2020.


Brandon J. Whipple, Mayor

ATTEST:


Karen Sublett, City Clerk



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

A 8-0



STAFF REPORT
MAPC January 23, 2020
DAB I February 3, 2020

AGENDA ITEM NO. 4.7

PO # 346

CASE NUMBER: ZON2019-00056

APPLICANT/AGENT: Wichita Unity Church – Mathew Lillie (Owner)/Baughman Company, P.A. – Russ Ewy (Agent)

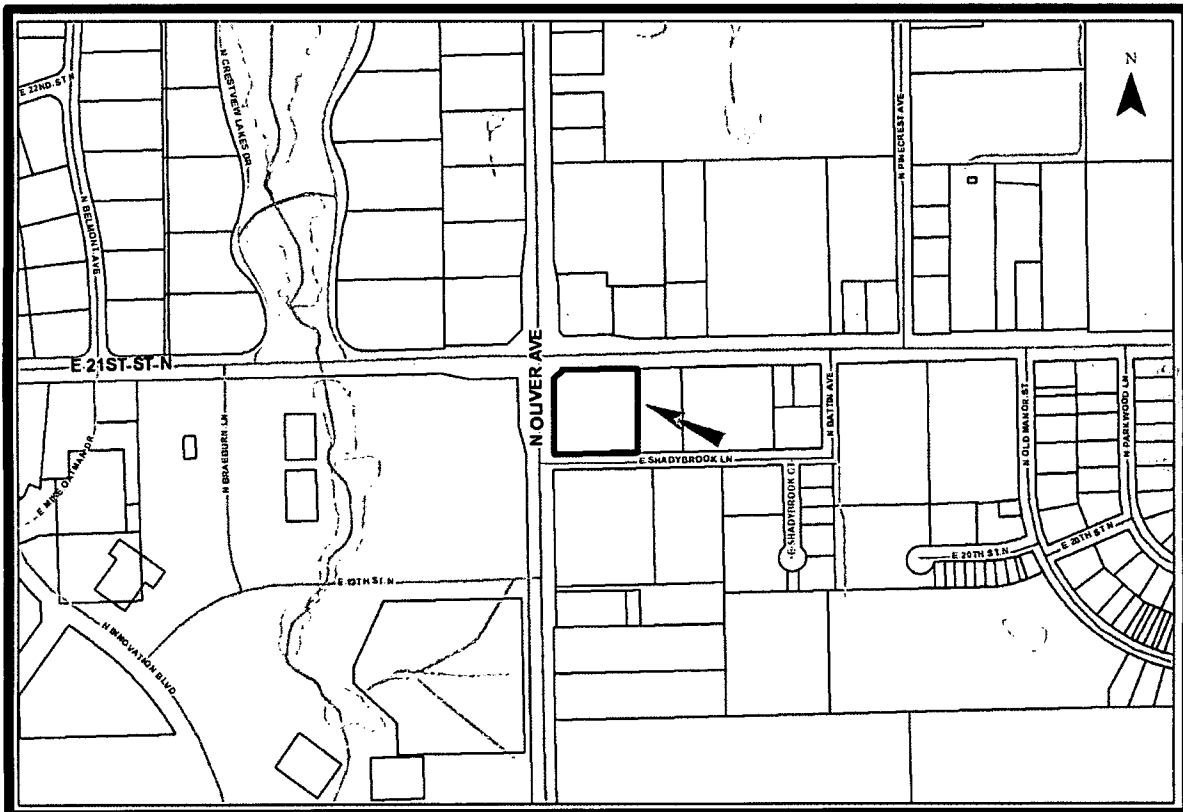
REQUEST: LC Limited Commercial

CURRENT ZONING: SF-5 Single-Family Residential

SITE SIZE: 2.13 acres

LOCATION: South side of East 21st Street North and east side of North Oliver Avenue (2160 North Oliver Avenue)

PROPOSED USE: Limited Commercial Development with Protective Overlay restrictions



BACKGROUND: The application request is to rezone the 2.13-acre lot at the southeast corner of 21st Street North and Oliver Avenue from SF-5 Single Family Residential (SF-5) to LC Limited Commercial (LC). The intent is to accommodate commercial redevelopment of the property. The agent has proposed the attached Protective Overlay for the rezoning to address some uses considered not appropriate for this location, similar to the development to the north; but will allow the redevelopment to occur following the same procedures that occur for LC zoned property not in a CUP further to the east along 21st Street.

The surrounding neighborhood is a mixture of uses. The property to the south across Shadybrook Lane is zoned SF-5 but is occupied with a church. Wichita State University is to the west across Oliver Avenue and the former Braeburn Golf Course is being developed as the “innovation campus.” The property to the north is zoned LC and is occupied by a convenience store/gas station and is part of University Gardens Community Unit Plan (DP-8). A mixture of uses and zoning exists further to the east along 21st Street, which is mostly zoned LC Limited Commercial (LC). The property immediately to the east is used as a medical office (Pollard/Licklider Clinic), a physical therapy clinic. Further to the east is a nursing facility.

CASE HISTORY: The subject property is located in the Truth Addition to the City of Wichita, Kansas, which was recorded with the Sedgwick County Register of Deeds on November 6, 1956. On April 9, 2004, an administrative adjustment (BZA2004-00024) was approved to allow the existing electronic sign on the property. There is no record of any other zoning action on the subject property.

ADJACENT ZONING AND LAND USE:

North: LC commercial
South: SF-5: church
East: LC: medical office
West: SF-5: Wichita State University

PUBLIC SERVICES: All public services are available to the site. The subject property has access to 21st Street at the far eastern edge of the property. A new drive was established as part of the improvements to 21st Street. There is a raised median to the west of the new drive entrance, but a left turn is permitted only 21st Street. The subject property does not have access to Oliver Avenue. The other access is to Shadybrook Lane along the south property line. Oliver Avenue is a four-lane, arterial street, as is 21st Street. Shadybrook Lane is classified as a local street. All municipal utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The 2035 Wichita Future Growth Concept map (MAPC approval November 19, 2015) indicates the site is appropriate for “residential employment mix,” and is located within Wichita’s 2035 Established Central area. The residential/employment mix encompasses areas of land that will likely be developed or redeveloped by 2035 with uses predominately of a mixed nature.

The *Community Investments Plan* discusses **Location Guidelines** in section 3 of the Future Land Use Policies. In the subsection titled **Development Pattern**, guideline 1.a. states “development should occur where necessary supporting infrastructure and services exist or are planned for extension concurrently with development. Guideline 3.c. states “small, neighborhood-serving retail and offices uses and high-density residential uses not located at arterial intersections should be limited to the intersection of an arterial and a collector street. Guideline 3.e. states “new development areas be separated from existing developed areas by major barriers (such as: highways, railroads, waterways, and airports) or by significant open space or undeveloped areas should be discouraged unless the scale of the development is sufficient to support the cost of extending infrastructure and services in a manner that supports additional development on surrounding sites.”

The site is located within the Established Central Area of the Community Investments Plan. The Wichita Urban Infill Strategy is focused on the Established Central Area – comprised of the downtown core and the mature neighborhoods surrounding it in a roughly three mile radius. Increased levels of infill redevelopment throughout the Established Central Area is a major policy goal of the Community Investments Plan. One of the strategies to promote infill redevelopment is to support regulatory changes, like the proposed amendment to this CUP, to permit infill projects.

The overall spirit and intent of this request appears to be in conformance with the above stated policies and guidelines of the adopted Plans for the City of Wichita.

RECOMMENDATION: Staff recommends the request for LC Limited Commercial zoning be **APPROVED** subject to the establishment of a Protective Overlay to read as follows:

1. **Proposed Uses:** The subject property shall be limited to the following uses: All uses permitted within the “LC” Limited Commercial Zoning District with the following exceptions: Manufactured Home; Cemetery; Correctional Placement Residence, Limited and General; Marine Facility, Recreational; Monument Sales; Nightclub in the City; Pawn Shop; Sexually Oriented Business in the City; Tavern or Drinking Establishment; Teen Club in the City; Vehicle and Equipment Sales; Asphalt or Concrete Plant, Limited and General; Recycling Collection Station; Reverse Vending Machine; Event Center; and Recreation And Entertainment (Indoor). Restaurants that serve liquor can be developed and may serve liquor, as long as food is the primary service of the establishment. Restaurants with drive-through windows shall be designed to ensure queuing lanes for drive-through windows will not align vehicle headlights in such a manner as to face residential uses unless appropriately screened.
2. Signage shall be per the Wichita City Sign Code, except all signs shall be monument style and limited to 12 feet in height. Portable signs, off-site signs, banners, string pennants and the like shall not be permitted, except for a banner sign permitted for 30 days from the opening of business.
3. All outdoor lighting sources shall employ cut-off luminaries to minimize light trespass and glare. The site shall share similar or consistent parking lot lighting elements (i.e., fixtures, poles, and lamps, and etc.), and the height of light poles shall be limited to 15 feet within 200 feet of abutting residential-zoned property, and 20 feet on the remainder of the tract. Extensive use of backlit canopies and neon or fluorescent tube lighting on buildings is not permitted.
4. Rooftop mechanical equipment shall be screened from ground level view per the Unified Zoning Code.
5. Trash receptacles, loading docks, outdoor storage, and loading areas shall be appropriately screened, with similar materials to the main building, to reasonably hide them from ground view.
6. A plan for a pedestrian walk system shall be submitted and approved by the Director of Planning prior to the issuance of building permits. Said walk system shall link sidewalks along 21st Street North with the proposed buildings within the subject property.
7. Prior to publishing the ordinance establishing the zone change, the applicants shall record a document with the Register of Deeds indicating that this tract includes special conditions for development on this property.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The surrounding neighborhood is a mixture of uses. The property to the south across Shadybrook Lane is zoned SF-5 but is occupied with a church. Wichita State University is to the west across Oliver Avenue and the former Braeburn Golf Course is being developed as the “innovation campus.” The property to the north is zoned LC and is occupied by a convenience store/gas station and is part of University Gardens Community Unit Plan (DP-8). A mixture of uses and zoning exists further to the east along 21st Street, which is mostly zoned LC Limited Commercial (LC). The property immediately to the east is used as a medical office (Pollard/Licklider Clinic), a physical therapy clinic. Further to the east is a nursing facility.
2. **The suitability of the subject property for the uses to which it has been restricted:** The subject property is occupied with a church building, which the owners have taken actions to sell. Given the nature of the changes to the neighborhood to the east and west, this request is reasonable.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** With the application of the provisions of the proposed Protective Overlay, the approval of the recommended zone change to LC should have minimal detrimental impact on nearby property.
4. **Length of time the property has been vacant as currently zoned:** The subject property has been used as a church for many years; however, given the commitment to sell the property, the change proposed will allow a transition to higher uses in an appropriate manner.
5. **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Approval of the request will expand commercial opportunities for the neighborhood which is generally considered a gain to the public welfare. Denial would presumably represent a loss of economic opportunity to the applicant and/or land owner.
6. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The 2035 Wichita Future Growth Concept map (MAPC approval November 19, 2015) indicates the site is appropriate for “residential employment mix,” and is located within Wichita’s 2035 Established Central area. The residential/employment mix encompasses areas of land that will likely be developed or redeveloped by 2035 with uses predominately of a mixed nature.

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The overall spirit and intent of this request appears to be in conformance with the above stated policies and guidelines of the adopted Plans for the City of Wichita.

7. **Impact of the proposed development on community facilities:** Negative impacts are not anticipated.

Attachment: Proposed Protective Overlay



PROTECTIVE OVERLAY FOR ZONE CHANGE – ZON2019-56

January 14, 2020

1. Proposed Uses: The subject property shall be limited to the following uses: All uses permitted within the "LC" Limited Commercial Zoning District with the following exceptions: Manufactured Home; Cemetery; Correctional Placement Residence, Limited and General; Marine Facility, Recreational; Monument Sales; Nightclub in the City; Pawn Shop; Sexually Oriented Business in the City; Tavern or Drinking Establishment; Teen Club in the City; Vehicle and Equipment Sales; Asphalt or Concrete Plant, Limited and General; Recycling Collection Station; Reverse Vending Machine; Event Center; and Recreation And Entertainment (Indoor). Restaurants that serve liquor can be developed and may serve liquor, as long as food is the primary service of the establishment. Restaurants with drive-through windows shall be designed to ensure queuing lanes for drive-through windows will not align vehicle headlights in such a manner as to face residential uses unless appropriately screened.
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