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RESOLUTION NO. 160-03

A RESOLUTION CHANGING THE ZONING CLASSIFICATION FOR CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C AS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, DECEMBER 12, 1984 AND SUBSEQUENTLY AMENDED.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS

SECTION I. That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section V-C of the Wichita Sedgwick County Unified Zoning Code, the zoning classification or district of the lands legally described hereby are changed as follows:

Case No. ZON2003-00022

Sedgwick County Zone change from "RR" Rural Residential to "LC" Limited Commercial on property described as:

Beginning at the Southwest corner of the Southwest Quarter of Section 17, Township 29 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas thence East 165 feet; thence North 525 feet; thence West 165 feet; thence South 525 feet to the point of beginning. Generally located at the northeast corner of 95th Street South and Rock Road.

SECTION II. That upon the taking effect of this Resolution, the notation of such zone change shall be entered in the official zoning atlas on file in the Office of the County Zoning Administrator and in the Office of the Wichita-Sedgwick County Metropolitan Area Planning Department.

SECTION III. That this Resolution shall take effect and be in force from and after its adoption by the Governing Body.

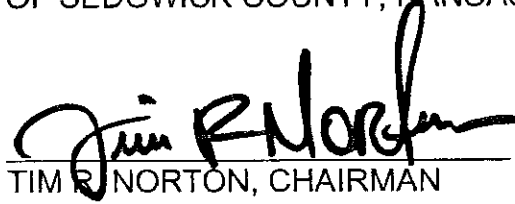
Commissioners present and voting were:

DAVE UNRUH	<u>aye</u>
TIM R. NORTON	<u>aye</u>
THOMAS G. WINTERS	<u>aye</u>
CAROLYN MCGINN	<u>aye</u>
BEN SCIORTINO	<u>aye</u>

DATED this 16th day of July, 2003

BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

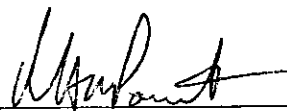
ATTEST:

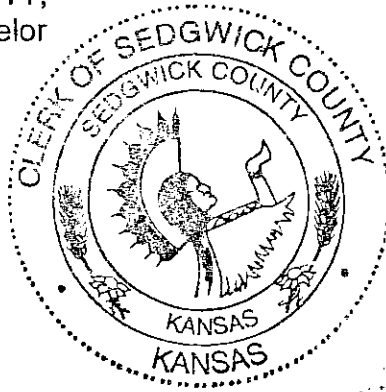

TIM R. NORTON, CHAIRMAN

Second District

for 
DON BRACE, County Clerk

APPROVED AS TO FORM:


ROBERT W. PARNACOTT,
Assistant County Counselor





STAFF REPORT

Derby, June 5, 2003
MAPC, June 19, 2003

CASE NUMBER: ZON2003-00022

APPLICANT/AGENT: Rick and Teresa Farber (Owners/Applicants)

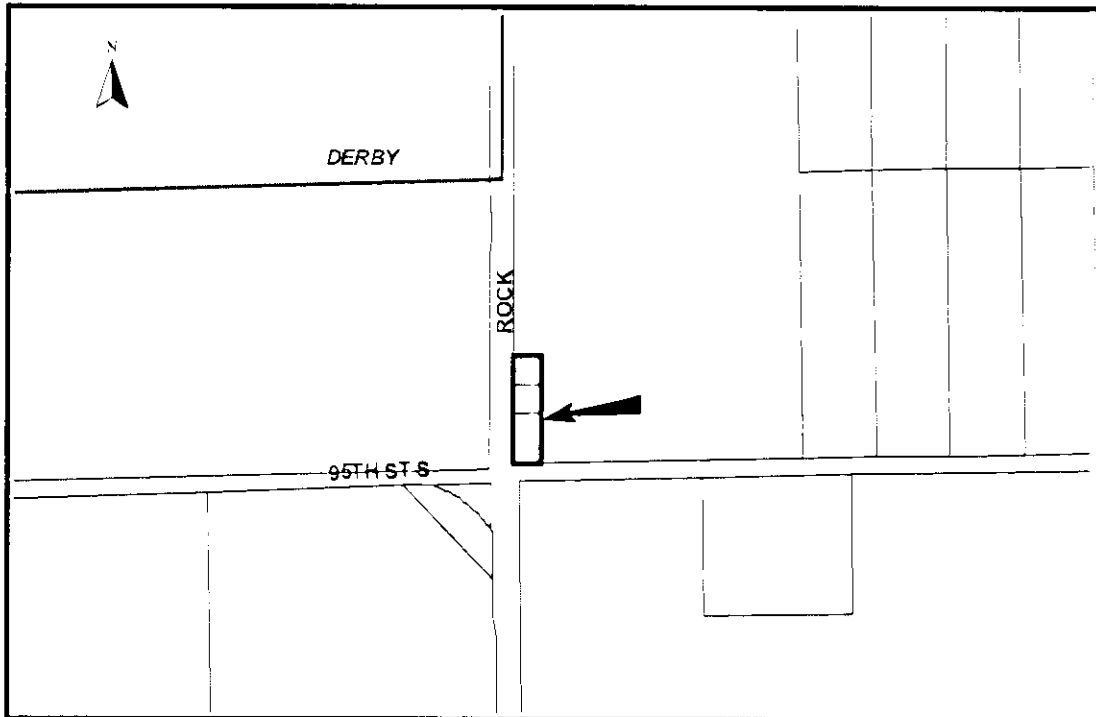
REQUEST: "LC" Limited Commercial

CURRENT ZONING: "RR" Rural Residential

SITE SIZE: Two acres

LOCATION: Northeast corner of 95th Street South and Rock Road

PROPOSED USE: Retail



BACKGROUND: The applicant requests a zone change from “RR” Rural Residential to “LC” Limited Commercial on a two acre unplatted tract located at the northeast corner of 95th Street South and Rock Road. The applicant owns a total of 80 acres at this location, and the remainder of the applicant’s property will remain zoned “RR” Rural Residential and used for agriculture. The subject property is currently developed with a single family residential and a barn. The barn has been used to house retail business in violation of the Unified Zoning Code (UZC), thus necessitating the application for “LC” Limited Commercial zoning.

The character of the surrounding area is rural, with the urbanizing area of Derby approaching from the north and the current Derby city limit located 800 feet north of the subject property. All of the properties surrounding the subject property are zoned “RR” Rural Residential and are used for agriculture.

As it is currently developed, the subject property does not conform with several UZC requirements for commercial development. First, Section IV-B. of the UZC requires screening along the north and east property lines; however, no screening is provided. Second, Section IV-C.4. of the UZC requires a compatibility setback of 25 feet from both the north and east property lines; however, the proposed retail building does not meet this setback requirement. Third, Section IV-A.2.b. of the UZC requires the parking area to be paved, but the existing parking area is unpaved. Section VII-E. of the UZC requires that the non-conformities on the subject property be brought into conformance when the following occurs: 1) any increase on the premises of more than 30 percent floor area or 50 percent value; or 2) any change in use to a more intensive use when a new certificate of occupancy is required.

CASE HISTORY: The subject property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	“RR”	Agriculture
SOUTH:	“RR”	Agriculture
EAST:	“RR”	Agriculture
WEST:	“RR”	Agriculture

PUBLIC SERVICES: The subject property has frontage along Rock Road, a four-lane arterial street, and 95th Street South, a two-lane arterial street. The capacity of the existing arterial streets is sufficient to handle current and future projected traffic volumes, including additional traffic generated by the proposed two acres of commercial development.

The subject property has three existing access drives along Rock Road, which are located approximately 275 feet, 375 feet, and 475 feet north of the centerline of 95th

Street South. The subject property has one existing access drive along 95th Street South, which is located approximately 150 feet east of the centerline of Rock Road. None of the existing access drives meet the requirements of the Access Management Policy, which indicates that on rural arterial streets that the first right-in/out drive should be located 330 feet from the centerline of the intersecting street and the first full movement drive should be located 660 feet from the centerline of the intersecting street. The location of access drives should be addressed at the time of platting.

The subject property also does not meet the right-of-way width requirements of the Access Management Policy. Currently 30 feet of half street right-of-way is provided for Rock Road and 50 feet of half street right-of-way is provided for 95th Street South. The Access Management Policy indicates that 60 feet of half street right-of-way should be provided for both streets with additional right-of-way (75 feet of half street right-of-way and a 25-foot by 25-foot corner clip) provided near the intersection. The provision of sufficient right-of-way should be addressed at the time of platting.

Public water and sewer service are not available to serve the subject property. At the time of platting, a guarantee for the extension of water and sewer service and a restrictive covenant limiting the subject property to domestic uses until sanitary sewer service is extended should be required.

CONFORMANCE TO PLANS/POLICIES: The Development Guide in the Sedgwick County comprehensive plan identifies this area as appropriate for "Rural" development and indicates that the subject property is located immediately outside the 2030 future growth area for Derby. The Future Land Use Map in the Derby comprehensive plan identifies this area as an "Agricultural Area" and shows the "Year 2010 Urbanizing Area" as being located approximately five-eighths of a mile north of the subject property and the "Urban Reserve Area" as being located approximately three-eighths of a mile north of the subject property.

Development and platting activity in the area have occurred faster than anticipated by the comprehensive plans, however. The current Derby city limit is located only 800 feet north of the subject property. Platted urban-scale lots within Derby are located only three-eighths of a mile north of the subject property and beyond the "Year 2010 Urbanizing Area" for Derby. A new public school has been constructed one-half mile north of the subject property.

The Sedgwick County comprehensive plan indicates that future commercial development is generally encouraged at arterial intersections. The Derby comprehensive plan indicates that commercial sites should be located adjacent to arterial streets. The location of the subject property meets these criteria.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting the property within one year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is rural. All of the properties surrounding the subject property are zoned "RR" Rural Residential and are used for agriculture. While commercial zoning and uses typically are not appropriate for rural areas, the subject property is located at the intersection of two arterial streets along a heavily-traveled corridor between Derby and Mulvane. This arterial intersection likely will be located in the future urban area for Derby given the more rapid pace of urban development than anticipated in this area. Therefore, commercial zoning and uses at this specific location is compatible with the zoning, uses, and character of the neighborhood given the subject property's location at the intersection of two arterial streets.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "RR" Rural Residential, is currently developed with a single-family residence and a barn, and is apparently suitable for the rural-based uses to which it is restricted. As the area urbanizes and the subject property becomes part of Derby, future urban-scale residential development of the subject property will be less desirable than other available property in the vicinity given the subject property's proximity to an arterial intersection.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Although the subject property does not conform to all development standards of the UZC, no residential development presently exists on nearby property. The existing non-conformities on the subject property will be required to be brought into conformance with UZC development standards when additional commercial development occurs on the subject property. Such improvements likely will occur prior to residential development occurring on nearby property. Therefore, detrimental affects on remaining residentially-zoned properties in the area should be minimized by the screening, lighting, and compatibility standards of the Unified Zoning Code, which should limit noise, lighting, and other activity from adversely impacting these properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: While the Sedgwick County and Derby comprehensive plans indicate that this area is appropriate for rural development and is outside the future growth area for Derby, development and platting

activity in the area have occurred faster than anticipated by the comprehensive plans. Both the Sedgwick County and Derby comprehensive plans indicate that subject property's location at an arterial intersection make it appropriate for future commercial development.

5. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated since access, right-of-way, and utility issues will be addressed according to adopted policies through the platting process.