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RESOLUTION NO.

125-09

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. ZON2009-16**

Zone change request from RR Rural Residential ("RR") to LC Limited Commercial ("LC"), subject to the provisions of Protective Overlay ("PO") district #233, on property described as:

A Tract in the West 40 Acres of the south 120 acres of the Southwest Quarter of Section Thirty-three (33), Township Twenty-eight (28), Range Two (2) West of the 6th P.M., Sedgwick County, Kansas, Described as beginning at a point on the west line of the Southwest Quarter at the intersection of the west line of State Highway K-42 with said section line; thence north 296 feet; thence east 296 feet more or less, to the west line of said K-42; thence southwesterly along said highway to the point of beginning; EXCEPT the west 40 feet thereof for road, generally located on the northeast corner of 183<sup>rd</sup> Street west and K-42.

SUBJECT TO THE FOLLOWING PROVISIONS OF PO #233:

- A. The building shall be used as a flea market/second hand store, operating Friday, Saturday and Sunday. Outside display will be per the LC zoning district. When the sewer system is rebuilt to meet current County Standards for commercial development, those uses permitted in the LC zoning district shall be allowed on the site full time, with the exception of the uses listed below as prohibited.
- B. The following uses shall be prohibited: sexual oriented business; correctional placement residence; recycling collection station; reverse vending machine; night club in the county; recreation and entertainment, indoor and outdoor; tavern and drinking establishment and pawn shop.
- C. No off-site or portable signs shall be permitted on the subject property. No building signs shall be permitted along the north or east face of any building that is adjacent to any property that is zoned residential.
- D. Signs shall be as permitted by the LC zoning district, with the exception of no LED signs.
- E. Light poles shall be of the same color and design and shall have cut-off fixtures which

direct light away from any abutting or adjacent properties that are in a residential zoning district. Light poles shall be limited to a maximum height, including the base of the light pole, of 15 feet. Light poles shall not be located within any setbacks.

- F. Outdoor speakers and sound amplification systems shall not be permitted.
- G. At the time of redevelopment no buildings shall exceed one story in height with a maximum building height of 35 feet.
- H. At the time the site is redeveloped the owner shall install and/or maintain a 6-8-foot high cedar fence located parallel to the north property line of the subject site, where it abuts existing residential zoning.
- I. Surface for parking and for entrances shall be per County Standards. Entrances shall remain in their current locations.
- J. Contingent dedication of 10-foot of right-of-way along the site's 183rd Street frontage.
- K. Adjustments or variances to the parking standards can be considered as needed.
- L. All State, County and any other applicable permits, inspections and standards shall be met.

**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 and publication in the official county newspaper.

Commissioners present and voting were:

DAVID M. UNRUH  
TIM R. NORTON  
KELLY PARKS  
GWEN WELSHIMER  
KARL PETERJOHN

Aye  
Aye  
Aye  
Aye  
Aye

DATED this 22 day of July, 2009.

BOARD OF COUNTY COMMISSIONERS  
OF SEDGWICK COUNTY, KANSAS

Kelly Parks  
CLERK

ATTEST:

[Signature]  
County Clerk



# AGENDA ITEM REQUEST

**Proposed Agenda Item:** ZON2009-16 – County zone change from RR Rural Residential (“RR”) to LC Limited Commercial (“LC”) with a Protective Overlay (“PO”), generally located on the northeast corner of 183<sup>rd</sup> Street West and K-42. (District #3)

**Presented by:** John L. Schlegel, Planning Director *JLS*

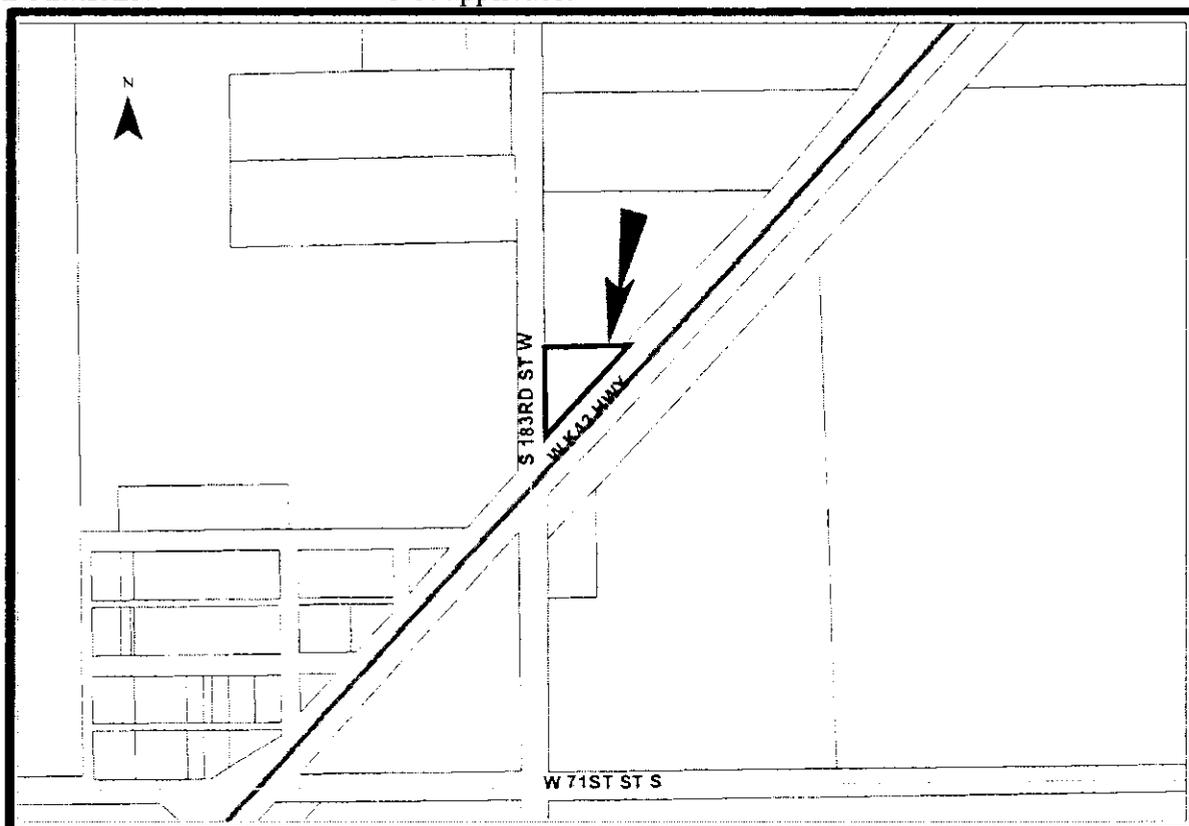
**Recommended Action:** Adopt the findings of the Metropolitan Area Planning Commission; approve the zone change, subject to the provisions of the protective overlay, and authorize the Chairman to sign the resolution.

**Proposed Agenda Date:** July 22, 2009

**Outside Attendees:** Stephanie Myers (Applicant)

**Multimedia Presentation:** PowerPoint

**Donations:** Not applicable



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**Background:** The applicant requests a zone change from RR Rural Residential (“RR”) to LC Limited Commercial (“LC”), with a Protective Overlay (“PO”). The approximately 0.73-acre, triangular shaped tract is located on the northeast corner of 183rd Street West and State Highway K-42. The site has an old gas station–store building on it (built 1942), with an attached two-story residence. The gas station–store building was built prior to the enactment, in 1985, of county-wide zoning. According to the current owner, the gas station–convenience store stopped operating in the late 1990s. The applicant proposes to use the site for a flea market, which will be opened Friday to Sunday. The applicant lives on the site.

The surrounding area is zoned RR and is rural in character. Surrounding property is mostly used for wheat and agricultural fields. Located within ¼ mile of the subject site are a few farmhouses or large tract single-family residences (1930 - 1960s), a small manufactured home park, the Clonmell Coop-grain elevator (next to rail road tracks located southwest of the site) and Diocese property developed with a church (1991), rectory, parish hall and small cemetery. One of the houses in the area has a Conditional Use, CU-398, for the sale of agricultural trailers.

**Analysis:** On June 18, 2009, the MAPC considered the above captioned request. No one spoke against the request at the MAPC meeting, and staff has received no phone calls protesting the request or written protests. The action of the MAPC was to approve the request subject to the following provisions of PO # 233:

- A. The building shall be used as a flea market/second hand store, operating Friday, Saturday and Sunday. Outside display will be per the LC zoning district. When the sewer system is rebuilt to meet current County Standards for commercial development, those uses permitted in the LC zoning district shall be allowed on the site full time, with the exception of the uses listed below as prohibited.
- B. The following uses shall be prohibited: sexual orientated business; correctional placement residence; recycling collection station; reverse vending machine; night club in the county; recreation and entertainment, indoor and outdoor; tavern and drinking establishment and pawn shop.
- C. No off-site or portable signs shall be permitted on the subject property. No building signs shall be permitted along the north or east face of any building that is adjacent to any property that is zoned residential.
- D. Signs shall be as permitted by the LC zoning district, with the exception of no LED signs.
- E. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from any abutting or adjacent properties that are in a residential zoning district. Light poles shall be limited to a maximum height, including the base of the light pole, of 15 feet. Light poles shall not be located within any setbacks.
- F. Outdoor speakers and sound amplification systems shall not be permitted.
- G. At the time of redevelopment no buildings shall exceed one story in height with a maximum building height of 35 feet.
- H. At the time the site is redeveloped the owner shall install and/or maintain a 6-8-foot high cedar fence located parallel to the north property line of the subject site, where it abuts existing residential zoning.
- I. Surface for parking and for entrances shall be per County Standards. Entrances shall remain in their current locations.

- J. Contingent dedication of 10-foot of right-of-way along the site's 183<sup>rd</sup> Street frontage.
- K. Adjustments or variances to the parking standards can be considered as needed.
- L. All State, County and any other applicable permits, inspections and standards shall be met.

**Alternatives:**

1. Adopt the findings of the Metropolitan Area Planning Commission; approve the zone change subject to the additional provisions of a Protective Overlay district, including accepting the dedication and instructing the County Clerk to forward the document to the Register of Deeds for recording; adopt the resolution and authorize the Chairman to sign the zone change resolution (requires a simple majority vote).
2. Return the recommendation to the MAPC with a statement specifying the basis for the BOCC's failure to approve or disapprove (requires a simple majority vote).
3. Deny the zone change and override the MAPC recommendation with a 2/3 vote.

**Financial Considerations:** Not applicable

**Policy Considerations:** The MAPC recommendations are based upon the findings of fact stated in the MAPC minutes.

**Legal Considerations:**   *Approved as to form and signed by County Counselor's Office*