

ORDINANCE NO.

48-555

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. ZON2009-00026**

Zone change from SF-5 Single-family Residential ("SF-5") to Limited Commercial ("LC") subject to the provisions of Protective Overlay #236 on property described as:

Lot 14, First Addition to Urbandale, Wichita, Sedgwick County, Kansas; generally located east of Seneca Street, on the south side of 53<sup>rd</sup> Street North.

**SUBJECT TO APPROVAL BY THE GOVERNING BODY AND THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #236:**

- A. No off-site or portable signs shall be permitted on the subject property. No building signs shall be permitted along the south or face of any building that is adjacent to any property that is zoned residential.
- B. Signs shall be in accordance with the City of Wichita sign code, with the exception that signs shall be monument-style and limited to 15 feet in height.
- C. 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.
- D. Outdoor speakers and sound amplification systems shall not be permitted.
- E. No buildings shall exceed one story in height with a maximum building height of 35 feet.
- F. At the time the site is redeveloped the owner shall install and maintain a 6-8-foot high fence located parallel to the south property line of the subject site, where it abuts existing residential zoning. The metal fence currently up, will come down.
- G. At the time the site is redeveloped landscaping shall be installed that meets the Landscape Ordinance.
- H. All driveways, parking, loading and vehicle circulation shall be paved with concrete, asphalt or asphaltic concrete.
- I. More extensive development or redevelopment of the site, beyond its current buildings, is contingent on the extension of public sewer service to the site.
- J. Contingent dedication of 20 feet of right-of-way prior to the publication of the ordinance implementing the zone change.
- K. The following uses shall not be permitted: adult entertainment establishment;

correctional placement residence; recycling collection station; reverse vending machine; car wash; convenience store; night club in the city; recreation and entertainment, outdoor; tavern and drinking establishment; hotel – motel; pawnshop; an asphalt – concrete plant.

**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 AT WICHITA, KANSAS, NOVEMBER 17, 2009



Carl Brewer - Mayor

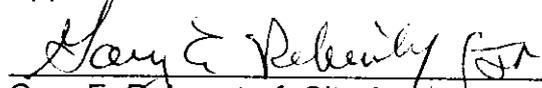
ATTEST.



Karen Sublett, City Clerk



Approved as to form:



Gary E. Rebenstorff, City Attorney

City of Wichita  
City Council Meeting  
November 3, 2009

To: Mayor and City Council

Subject: ZON2009-00026 - City zone change from SF-5 Single-family Residential ("SF-5") to LC Limited Commercial ("LC") with a Protective Overlay ("PO"); generally located east of Seneca Street on the south side of 53rd Street North. (District VI)

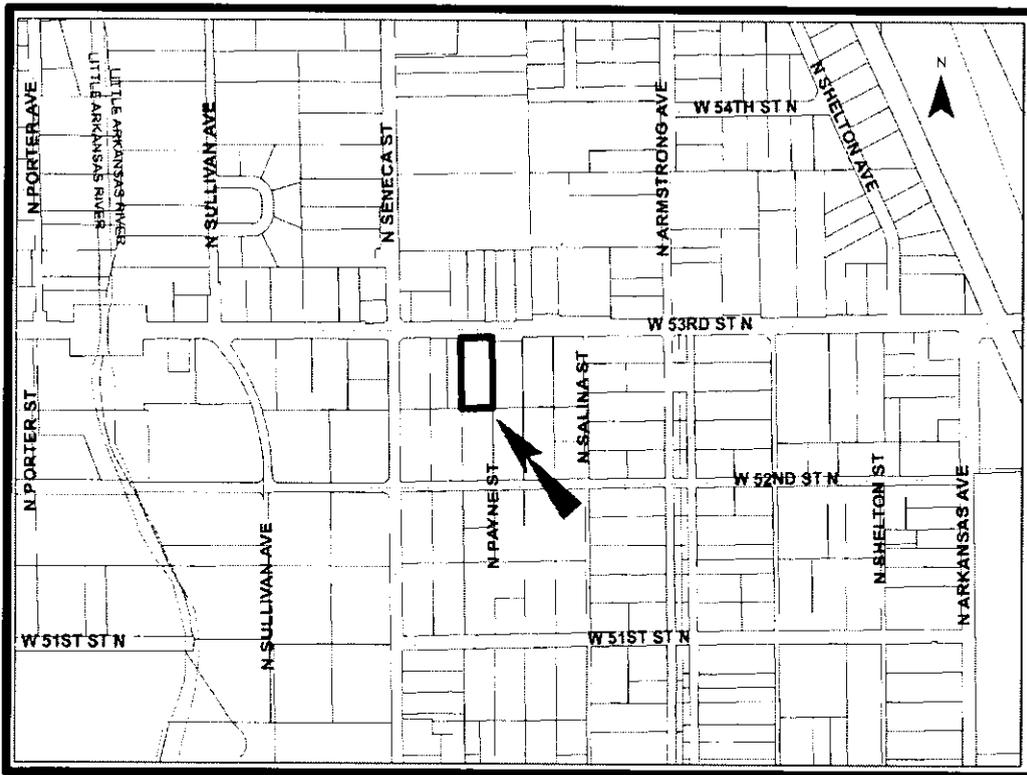
Initiated By: Metropolitan Area Planning Department *TLS*

Agenda: Planning (Non-Consent)

**MAPC Recommendation:** Approve unanimously (13-0), subject to the provisions of Protective Overlay #236.

**MAPD Staff Recommendation:** Approve, subject to the provisions of Protective Overlay #236.

**DAB V Recommendation:** Approve unanimously (5-0), subject to the amended provision of Protective Overlay #236.



**Background:** The applicant requests a zone change from SF-5 Single-family Residential (“SF-5”) to LC Limited Commercial (“LC”), on Lot 14, First Addition to Urbandale. The approximately 1-acre site (142.1 feet by 306.5 feet) is located approximately 280 feet east of Seneca Street, on the south side of 53rd Street North. The site currently has a vacant, single-family residence (built 1925) and several out buildings including a large building located in front of the single-family residence. This large building in front appears to be out of compliance with current setback standards. According to the current owner, past uses include a scrap metal dealer/yard (from at least 1997 to 2008, as shown on an aerial map of the area), an exotic fish supplier for retailers, until 1992 a welding business and before that a grocery store. The site has also been used as single-family residential (including at one point by the current owner) throughout its life. The site has a mostly metal fence around it, which does meet the current Unified Zoning Code’s (UZC) screening standards. Access to the site is off of 53<sup>rd</sup> Street North, a paved, two lane arterial. The proposed LC zoning would allow some uses that have been on the site in the past.

The surrounding area is characterized by a mix of uses including: mostly single-family residences, auto repair, strip retail, vacant school, church, steel fabrication and office/warehouse. The properties to the south of the subject site are zoned SF-5 and are developed as large lot single-family residential. Properties abutting and adjacent to the west side of the site are zoned LC and are developed as auto repair and a retail strip. Properties abutting and adjacent to the east side of the site are zoned GC General Commercial (“GC”) and SF-5. The GC site is a single-family residence. Staff could not find a zoning case on the GC site, but it is one of several GC zoned lots in the area that have 50 to 60 feet of half-street right-of-way (ROW) on their 53rd Street North frontage, which indicates past zoning cases. The other properties east of the site are zoned SF and developed as large lot single-family residences. All of these abutting and adjacent eastern, western and southern properties are part of the same subdivision as the site, the First Addition to Urbandale, recorded in 1911. North of the site, across 53<sup>rd</sup> Street North, are LC zoned auto repair and office/warehouse, GC zoned steel fabrication and manufacturing and SF-5 zoned single-family residences and a church.

To buffer the abutting and adjacent existing single-family residences from the commercial redevelopment on the site, Staff has proposed a Protective Overlay (PO). The proposed PO limits: signage, lighting, noise, building height and notes current development standards for the LC zoning district. The proposed PO also prohibits certain uses that are less compatible with the predominant single-family residential development.

**Analysis:** At the MAPC meeting held on September 10, 2009, the MAPC voted (13-0) to approve the requested zoning, subject to the provisions of the PO. There were no protests to the request at the MAPC meeting. At the DAB VI meeting held on September 16, 2009, the DAB unanimously (5-0) recommended approval of the requested zoning, with one change to the PO. The DAB recommended that the “cedar fence,” as listed in provision (F) be change to a solid screening fence, noting that cedar was a type of wood, and that wood was an approved Unified Zoning Code solid screening material. The DAB recommendation is different than what was recommended by the MAPC, thus it will require a 2/3 majority of the Council to approve the request per DAB’s recommendation. There were no protests at the DAB meeting. The recommended LC zoning with its approved PO 236’s provisions:

- A. No off-site or portable signs shall be permitted on the subject property. No building signs shall be permitted along the south or face of any building that is adjacent to any property that is zoned residential.
- B. Signs shall be in accordance with the City of Wichita sign code, with the exception that signs shall be monument-style and limited to 15 feet in height.
- C. 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.
- D. Outdoor speakers and sound amplification systems shall not be permitted.
- E. No buildings shall exceed one story in height with a maximum building height of 35 feet.
- F. At the time the site is redeveloped the owner shall install and maintain a 6-8-foot high solid cedar screening fence located parallel to the south property line of the subject site, where it abuts

- existing residential zoning. The metal fence currently up will come down.
- G. At the time the site is redeveloped landscaping shall be installed that meets the Landscape Ordinance.
  - H. All driveways, parking, loading and vehicle circulation shall be paved with concrete, asphalt or asphaltic concrete.
  - I. More extensive development or redevelopment of the site, beyond its current buildings, is contingent on the extension of public sewer service to the site.
  - J. Contingent dedication of 20 feet of right-of-way prior to the publication of the ordinance implementing the zone change.
  - K. The following uses shall not be permitted: adult entertainment establishment; correctional placement residence; recycling collection station; reverse vending machine; car wash; convenience store; night club in the city; recreation and entertainment, outdoor; tavern and drinking establishment; hotel – motel; pawnshop; an asphalt – concrete plant.

**Financial Considerations:** None.

**Goal Impact:** Promote Economic Vitality

**Legal Considerations:** The ordinance has been reviewed and approved as to form by the Law Department. A contingent dedication of right-of-way by separate instrument will be forwarded to the Register of Deeds for recording.

**Recommendation/Actions:**

1. Adopt the findings of the MAPC, approve the zone change subject to the provisions of Protective Overlay #236; place the ordinance establishing the zone change on first reading; or
2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

**Attachment:** Contingent dedication of right-of-way by separate instrument.