

OCA 150004

ORDINANCE NO. _____

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. ZON2011-00020

Zone change from OW Office-Warehouse ("OW") to General Commercial ("GC"), on an approximately 7.07-acre property described as:

Lots 1 and 2, Block 1, The Plaza at Cherry Creek Hills, Wichita, Sedgwick County, Kansas,
EXCEPT that part described as beginning at the S.W. Corner of said Lot 2; thence N 00°00'00" E, along the westerly lines of said Lots 1 and 2, 285.16 feet to a lot corner of said Lot 1, said corner being 85.16 feet north of the S.W. Corner of said Lot 1; thence N 89°43'00" W, along the westerly most south line of said Lot 1, 50.00 feet to the Westerly most south corner of said Lot 1; thence N 00°00'00" E, along the westerly most west line of said Lot 1, 148.00 feet to the westerly most N.W. Corner of said Lot 1; thence S 89°43'00" E, along the westerly most north line extended, 435.17 feet; thence S 00°00'00" W, parallel with the west lines of said Lots 1 and 2, 433.16 feet to the south line of said Lot 2; thence N 89°43'00" W, along said south line, 385.17 feet to the place of beginning;
AND EXCEPT beginning at the Northwest corner of said Lot 1; thence S 00°00'00" W along the easterly most west line of said Lot 1, 168.91 feet; thence S 89°43'00" E parallel with the North line of said Lot 1, 269.02 feet; thence S 52°18'36" E, 89.42 feet; thence S 89°43'00" E parallel with the north line of said Lot 1, 146.29 feet to a point on the east line of said Lot 1; thence N 27°04'54" W along the east line of said Lot 1, 251.36 feet to the northeast corner of said Lot 1; thence N 89°43'00" W along the north line of said Lot 1, 371.54 feet to the place of beginning;
AND EXCEPT beginning at the Northwest corner of said Lot 1; thence S 00°00'00" W along the Easterly most West line of said Lot 1, 168.91 feet; thence S 89°43'00" E parallel with the North line of said Lot 1, 269.02 feet; thence S 52°18'36" E, 89.42 feet; thence S 89°43'00" E parallel with the North line of said Lot 1, 146.29 feet to a point on the East line of said Lot 1; thence N 27°04'54" W along the East line of said Lot 1, 251.36 feet to the Northeast corner of said Lot 1; thence N 89°43'00" W along the North line of said Lot 1, 371.65 feet to the place of beginning; generally located east of Rock Road, on the northwest side of Pawnee Avenue and Oak Knoll Street, Wichita, Sedgwick County, Kansas.

SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #255:

General Provisions of the Protective Overlay

Total land area = approximately 7.07-acres.

1. The transfer of title on all or any portion of the land included in the development does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for development and be binding upon present land owners, their successors and assigns and their lessees unless amended.
2. If multiple ownership is anticipated an owners association agreement providing for the maintenance of reserves, open spaces, internal drives, parking areas, drainage improvements, etc, shall be filed with the plat of the area.
3. The uses allowed within this Protective Overlay shall be confined to those listed within the parcel descriptions. Any additional uses will require an adjustment or an amendment to this Protective Overlay.
4. A 35 foot setback shall be required along the perimeter of the subject site, except along the Oak Knoll frontage and that portion of the west side of the site where it abuts non-residential zoning, that zoning will be per the UZC's GC General Commercial zoning district's minimum standard. No trash receptacles, parking, lighting, or any structure will be allowed in the setbacks. The setbacks will be shown on the Protective Overlay drawing.
5. A six to eight foot tall solid wooden fence shall be installed inside the 35-foot setback of the subject site, where it abuts residential zoning.
6. All existing landscaping located within the 35-foot setbacks shall remain. A landscape buffer shall be planted and maintained within the 35-foot setbacks and around the perimeter of the subject site, as shown on an approved landscape plan, prepared by a licensed Kansas Landscape Architect. All landscaping will be located between the site's property lines and required screening/solid wooden fence. A financial guarantee shall be provided for the necessary landscaping materials and watering equipment. A landscape plan shall include how the landscaping shall be maintained. All planting must be done within a year of approval by the governing body.
7. 20-foot tall (including the base) pole lights are allowed. 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. All lights on buildings will be directed down and away from residential development.
8. All trash dumpsters and loading dock areas will have solid screening around them.
9. Roof top mechanical equipment shall be screened from ground level view, per Wichita – Sedgwick County Unified Zoning Code
10. No bay doors opening up to the east or north sides, where visible from Pawnee Avenue.
11. No outside speakers/amplification
12. All off street parking and parking areas shall have a surface in accordance with the Wichita – Sedgwick County Unified Zoning Code.
13. A vehicular circulation plan shall be prepared for review and approval and include cross lot access.
14. No occupancy permits will be issued until they are serviced by municipal water and sewer.
15. All proposed new utilities will be installed underground.
16. All drives and access thorough the site will be surfaced per the standards of the City of Wichita.
17. A lot grading plan shall be prepared to conform to the drainage plan, prior to the issuance of Building Permits.
18. All buildings/structures must meet City Codes and permitting requirements.
19. Signs: All signs must be a monument type as permitted in the General Commercial ("GC") zoning district. No portable or flashing signs (unless telling the time, temperature or other public messages) shall be permitted on the subject property. No building signs shall be permitted along the face of any building that abuts a residential zoning district.

20. If the Zoning Administrator finds that there is a violation of any of the provisions of the Protective Overlay, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the zoning is null and void.

Parcel 1 (north parcel, with frontage on Pawnee Avenue, that portion of Lot 1, Block 1, The Plaza at Cherry Creek Hills, as described in the legal)

Maximum Building Height = 50 feet

Maximum Coverage = 30%

Maximum Gross Floor Area = 35%

The following uses are permitted: Limited and general convalescent care, limited and general day care, hospital, limited animal care, automated teller machine, bank/financial institution, medical service, microbrewery, general office, personal care service, personal improvement, general retail, and whole sale business services.

Parcel 2 (south parcel with Oak Knoll and Pawnee Avenue frontage, that portion of Lot 2, Block 1, The Plaza at Cherry Creek Hills, as described in the legal)

Maximum Building Height = 50 feet

Maximum Coverage = 30%

Maximum Gross Floor Area = 35%

The following uses are permitted: Limited and general convalescent care, limited and general day care, hospital, limited animal care, automated teller machine, bank/financial institution, medical service, microbrewery, nurseries and garden centers, general office, personal care service, personal improvement, limited and general printing and copying, general retail, self service storage warehouse, limited and general manufacturing, warehousing, welding or machine shop and whole sale business services.

No building shall used for any Manufacturing, Limited or General, or Welding or Machine Shop Use unless the entire frontage of the ground floor along the principal street frontage, Pawnee Avenue, is used for office space, display, or wholesale or retail sales.”

Outdoor storage shall be only as an accessory use. Items stored outside shall located within an area with solid screening 6-8 foot tall around and will not be visible from any adjacent non- elevated street nor from ground level view of any adjacent lot.

Parking of trucks and motorized equipment on that portion of the site that will be used for limited and general manufacturing, warehousing, and welding or machine shop will be in the interior of the site, with the intent to maximize the distance between them and the residences located north and east of the site, thus reducing the impact of noise. All parking and areas will be per City Code.

Entrance to the south Parcel will be off of Oak Knoll, as approved by the Traffic Engineer and established by the vacation process to allow a drive onto Oak Knoll. No access off of Pawnee Avenue

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.

Carl Brewer - Mayor

ATTEST:

Karen Sublett, City Clerk

(SEAL)

Approved as to form: _____
Gary E. Rebenstorf, City Attorney

Background: The applicants are requesting consideration for General Commercial (“GC”) zoning with a Protective Overlay (“P-O”) on the OW Office-Warehouse (“OW”) zoned, 7.07-acre, undeveloped portion of Lots 1, and 2, Block 1, Plaza at Cherry Creek Hills Addition. The proposed rezoning would allow the applicant to establish a machine shop with lathes and mills (general manufacturing) and medical services. A machine shop/general manufacturing is not permitted in the current OW zoning district, but is permitted by right in the GC zoning district, with building design considerations. Medical services are not permitted in the current OW zoning, but are permitted by right in the GC zoning district.

Properties abutting and adjacent to the site on its west and north sides are B Multi-Family Residential (“B”) zoned vacant land and two – three storey apartments and OW zone vacant land and a self storage warehouse. Adjacent to the west is an LC Limited Commercial (“LC”) zoned electrical substation. Further west of the site, across Rock Road, are the extensive LI Limited Industrial (“LI”) zoned Cessna Aircraft properties and facilities. Cessna is one of the four principle aircraft manufacturing complexes in the Wichita – Sedgwick County community.

South and southeast of the site, across Oak Knoll Street, there is an LI and OW zoned concrete products contractor’s yard, LI zoned vacant land (in the past the Durham school bus staging yard) and gas storage tanks (probably the oldest development in the area). A MF-29 Multi-family Residential (“MF-29”) zoned condo development is located to the southeast of the site, across Oak Knoll Street. A SF-5 Single-family Residential (“SF-5”) zoned single-family residential neighborhood is located south of the condos, the contractor’s yard, the gas storage tanks, and the vacant land. There are MF-29, B, TF-3 Duplex (“TF-3”), MF-18 Multi-family Residential (“MF-18”), and SF-5 zoned apartments, duplexes and single-family residences located east and northeast of the site, across Pawnee Avenue.

Analysis: At the District Advisory Board (“DAB”) II meeting held July 11, 2011, the DAB voted (10-0) to approve the request for GC zoning, subject to the provisions of Protective Overlay #255. There were no protests at the DAB meeting. At the MAPC meeting held July 21, 2011, the MAPC voted (10-0) to approve the request for GC zoning, subject to the provisions of Protective Overlay #255. There were no protests at the MAPC’s hearing and Staff has received no written protest or phone calls protesting the request.

Financial Considerations: Approval of the request will not create any atypical financial obligations for the City.

Goal Impact: The application supports the City’s goal to promote Economic Vitality.

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendation/Actions:

1. Adopt the findings of the MAPC and approve the zone change, subject to the provisions of Protective Overlay #255, authorize the Mayor to sign the ordinance and place the ordinance on first reading (simple majority required).

Attachments:

- Ordinance
- MAPC Minutes
- DAB memo

