

ORDINANCE NO. 467-167

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. ZON2011-00040

Zone change request from SF-5 Single-family Residential ("SF-5") to GC General Commercial ("GC"), subject to Protective Overlay ("P-O") 262 on properties described as:

Lots 49, 51, 53, 55, 57 and 59, Garfield Park Addition to Wichita, Sedgwick County, Kansas

SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #262:

- A. Although the site is zoned GC, the only GC uses permitted are "parking area, commercial," "vehicle storage yard" and the outside storage of dumpsters or similar equipment associated with the operation of a trash hauling service or similar use, plus all uses permitted by right in the LC district. In no circumstance is the placement, deposition or storing of solid waste, trash, salvage, scrap, wrecked or recyclable materials or vehicles permitted on the site. Vehicles, dumpsters or other containers loaded with municipal solid waste or any putrescible waste are not permitted to be parked, located or stored on the site. The maximum number of trucks permitted to be parked on the property shall be five.
- B. The site and permitted uses shall be developed and operated in conformance with all applicable city, county, state and/or federal regulations, and including, but not limited to the screening, paving and landscaping requirements.
- C. Access to Merton is prohibited and the applicant shall provide complete access control from Merton to the second existing driveway (75 feet from the northeast corner of the application area or approximately 100 feet from the centerline of Merton). The northern most drive way will be closed by the City as part of the City's improvements to Meridian.
- D. The applicant shall submit a site plan depicting the site, and how it is anticipated the site will be used; e.g. employee parking, truck parking, screening, non-vehicle storage, if any, access points, etc.
- E. All requirements shall be completed prior to commencing any non-SF-5 permitted uses on the site.

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 7th day of Feb, 2012.

ATTEST:

Karen Sublett
Karen Sublett, City Clerk

Carl Brewer
Carl Brewer, Mayor

(SEAL)

Approved as to form:

Gary E. Rebenstorf
for Gary E. Rebenstorf, Director of Law

City of Wichita
City Council Meeting
January 24, 2012

TO: Mayor and City Council

SUBJECT: ZON2011-00040 - Zone change from SF-5 Single-family Residential ("SF-5) to GC General Commercial ("GC") subject to Protective Overlay ("P-O") #262 on property generally located on the southwest corner of the intersection of South Meridian Avenue and West Merton Avenue (1701 South Meridian). (District IV)

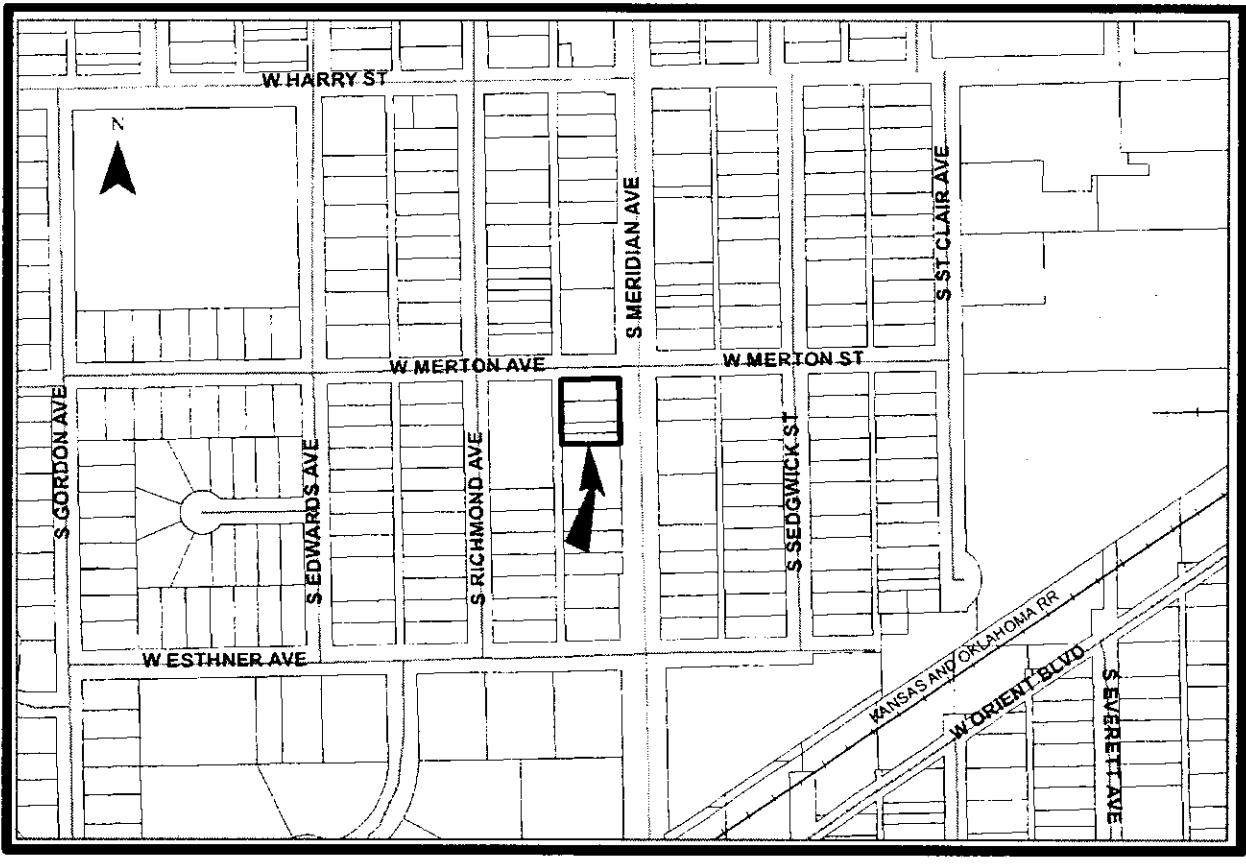
INITIATED BY: Metropolitan Area Planning Department *JLS*

AGENDA: Planning (Consent)

MAPC Recommendation: Approve (10-0) subject to P-O #262.

MAPD Staff Recommendation: Approve subject to P-O #262.

DAB Recommendation: Approve (10-0) subject to P-O #262.



Background: The applicants are seeking GC General Commercial (“GC”) zoning on property currently zoned SF-5 Single-family Residential (“SF-5”) located on the southwest corner of the intersection of South Meridian and West Merton (1701 South Meridian). The property is .42- acre in size, and has been platted as Lots 49, 51, 53, 55, 57 and 59 except the east ten feet for a street, Garfield Park Addition. Planning staff has been advised by the Office of Central Inspection that the applicant has been using the site to park and/or store vehicles, commercial trucks used in a trash hauling service and probably employee vehicles, which are not uses permitted by right in the SF-5 district. The subject site has a residence located on the southern half of the site. A fence has been installed on the northern portion of the site that encloses three sides – the north, east and south – of the northern one-third of the site. The unfenced west property line abuts an unpaved alley, and currently provides the only access to the fenced-in portion of the property. The application area has three paved drive approaches located off of Meridian. The City traffic engineer has requested that the applicant agree to allow the City to close the northernmost access drive to Meridian when this segment of Meridian is improved, and provide complete access control from Merton south to the existing second driveway (75 feet from the northeast corner of the application area or approximately 100 feet from the center line of Merton). Most of the area currently used for parking or storage is not paved but is rocked.

Per the *Wichita-Sedgwick County Unified Zoning Code* (“UZC”) “parking area, commercial” is defined as “an area or structure used or intended to be used for the off-street parking of operable motor vehicles on a temporary basis [not more than 72 hours], other than as accessory parking to a principal nonresidential use.” “Parking area, commercial” is permitted by-right in the GO General Office (“GO”), NR Neighborhood Retail (“NR”), LC Limited Commercial (“LC”), GC, CBD General Commercial (“CBD”), LI Limited Commercial (“LI”), GI General Industrial (“GI”) and AFB Air Force Base (“AFB”) districts, subject to Supplementary Use Regulation cc, which, in the GO, NR and LC districts, prohibits the overnight parking of commercial vehicles exceeding 26,000 pounds gross vehicle weight. “Vehicle storage yard” is defined by the UZC as the keeping outside of an enclosed building for more than 72 consecutive hours of one or more motor vehicles (except inoperable vehicles), boats, trailers, or unoccupied recreational vehicles.” “Vehicle storage yard” is permitted by right in the GC, CBD, LI, GI and AFB districts, subject to Supplementary Use Regulation mm, which does not apply in this circumstance. The requested GC zoning is the appropriate zoning district to make the applicant’s activity on this site legal. UZC Section IV-A.2.b states all parking areas, loading areas and driveways on all developments other than low-density residential developments shall be surfaced with concrete, asphaltic concrete, asphalt, or other comparable surfacing and shall be maintained in good condition and free of weeds, dust, trash and other debris.

The GC zoning district appears to be the most appropriate district to address the applicant’s intended uses as it allows commercial parking, vehicle storage and outside storage. In the event that some of the vehicles parked on the site do not move every 72 hours or if dumpsters are to be stored on the site, the GC zoning would permit vehicle storage and outside storage.

Properties located north and northwest, across Merton, are zoned LC and TF-3 Two-family Residential (“TF-3”), and are developed with a retail strip center and duplex. Land located to the northeast, across the intersection of Merton and Meridian is also zoned LC, and is developed with a strip center. The property located east across Meridian is zoned LC and MF-29 Multi-family Residential (“MF-29”), and is developed with a warehouse, distributing facility and residences. Land abutting the subject property to the south is zoned SF-5, and is vacant. The property located to the west, across the alley is zoned SF-5 but is developed with a registered nonconforming “wrecking and salvage yard.” The larger area surrounding the application is zoned SF-5, TF-3, MF-29, and there is LC, GC and LI zoning located one block to the south at the West Esthner Avenue and South Meridian intersection.

The UZC Screening and Lighting standards (IV-B.3.d) states in part: screening of all nonresidential uses shall be provided along all side or rear lot lines abutting or across an alley from a residential zoning district. Screening can be provided in the form of fencing, berms, solid landscaping or a combination of the three. The existing fencing does not enclose the entire site. If the entire site is rezoned to GC additional code required screening will be required; however, since the property to the west currently has

a fence the applicant would not be required to install a fence along his western property line as long as the neighboring property has its fence.

The Landscape Ordinance also requires landscape buffers along the rear and side boundaries of nonresidential developments when adjacent to residential districts. Where there is a screening fence separating residential zoning from nonresidential zoning, the Landscape Ordinance requires one shade tree or two ornamental trees per forty lineal feet of property line abutting the residential area. The trees must be located within 15 feet of the common property line. Where there is not any zoning screening, as described above, a landscape buffer of 15 feet in width with one shade tree or two ornamentals and five shrubs are required for each thirty feet in length of the buffer. Existing landscaping may count towards the code required minimums. The applicant may submit, for consideration, an alternate landscape plan that does not meet code minimums along with an explanation why code minimums cannot be provided.

Analysis: At the District Advisory Board (DAB) IV meeting held December 5, 2011, the DAB voted (10-0) to recommend approval subject to the recommended protective overlay plus the condition that no more than five trucks can be stored or parked on the property. The applicant agreed to this provision. At the DAB meeting two people expressed concern over zoning that would allow a trash business to operate from the site. It was their opinion that packer trucks parked within view of Meridian made for a negative image of the area; the existing six-foot screening fence was not tall enough to hide the trucks from street level view; a trash hauling service at this location was not appropriate; the use presents a hazard to health and the requirement that trucks could not be parked at this location if they contained trash would not be enforced.

At the MAPC meeting held December 22, 2011, the MAPC voted (10-0) to approve subject to the staff recommendations. No citizens were present to speak on the case. No protests have been received.

The recommendations of MAPC are to approve GC zoning subject to the provisions of P-O #262:

- A. Although the site is zoned GC, the only GC uses permitted are “parking area, commercial,” “vehicle storage yard” and the outside storage of dumpsters or similar equipment associated with the operation of a trash hauling service or similar use, plus all uses permitted by right in the LC district. In no circumstance is the placement, deposition or storing of solid waste, trash, salvage, scrap, wrecked or recyclable materials or vehicles permitted on the site. Vehicles, dumpsters or other containers loaded with municipal solid waste or any putrescible waste are not permitted to be parked, located or stored on the site. The maximum number of trucks permitted to be parked on the property shall be five.
- B. The site and permitted uses shall be developed and operated in conformance with all applicable city, county, state and/or federal regulations, and including, but not limited to the screening, paving and landscaping requirements.
- C. Access to Merton is prohibited and the applicant shall provide complete access control from Merton to the second existing driveway (75 feet from the northeast corner of the application area or approximately 100 from the centerline of Merton). The northern most drive way will be closed by the City as part of the City’s improvements to Meridian.
- D. The applicant shall submit a site plan depicting the site, and how it is anticipated the site will be used; e.g. employee parking, truck parking, screening, non-vehicle storage, if any, access points, etc.
- E. All requirements shall be completed prior to commencing any non-SF-5 permitted uses on the site.

Financial Considerations: There are not any financial considerations in regards to the zoning request.

Goal Impact: The application will 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 and authorize the Mayor to sign the ordinance and place the ordinance on first reading (simple majority required).

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

Attachments:

- Ordinance
- DAB Memo
- MAPC Minutes