

OCA 150004

ORDINANCE NO. 49-261

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. ZON2012-00005

Zone change from SF-5 Single-Family Residential ("SF-5") and LC Limited Commercial ("LC") to GC General Commercial ("GC") on an approximately 10.34-acre property described as:

The East half of the Northwest quarter of the Northeast quarter EXCEPT beginning at the Northeast corner of the Northwest quarter of the Northeast quarter, thence South 40 rods, thence West 16 rods, thence North 40 rods, thence East to beginning and EXCEPT .75 acres deeded for state highway, and EXCEPT that part lying Southeast of the Kansas Turnpike Authority right of way, Section 27, Township 27, Range 2 East of the 6th Principle Meridian, Wichita, Sedgwick County, Kansas; generally located between Kellogg Street/US 54 and I-35 and west of 127th Street East.

SUBJECT PLATTING WITHIN A YEAR OF APPROVAL BY THE GOVERNING BODY AND THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #267:

1. The transfer of title on all or any portion of the land included in the development does not constitute a termination of the PO or any portion thereof, but said PO 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. Certain development requirements including, but not limited to, drainage, access, easements, and road improvements (including guarantees and dedication of right-of-way) shall be determined at the time platting.
4. Prior to publishing the ordinance making the zone change official, the applicant shall provide a revised PO site plan drawing for review and consideration of approval by the Planning Director. The revised PO site plan drawing shall include all provisions to the approved PO. The site shall be developed and operated in conformance with the approved PO site plan and other applicable regulations unless specifically modified by this PO.
5. The uses allowed within this PO shall be confined to those listed within the parcel descriptions. Any additional uses will require an adjustment or an amendment to this PO. Any cutting of stone shall be done indoors.
6. A 35 foot building setback shall be required along the perimeter of the subject site. No trash

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 additional recommended provisions of Protective Overlay PO #267 and subject to the condition of platting; instruct the Planning Department to forward the ordinance for first reading when the plat is forwarded to City Council (simple majority required).

Attachments:

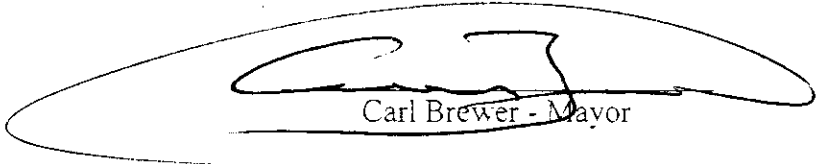
- Ordinance
- MAPC Minutes

receptacles, parking, lighting, outdoor storage or any structure will be allowed in the setbacks. The setbacks will be shown on the PO site plan drawing.

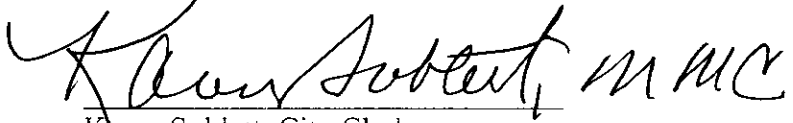
7. Screening per UZC CUP requirements and landscaping per the Landscape Ordinance shall be installed. All existing landscaping located within the 35-foot setbacks shall remain. A landscape prepared by a licensed Kansas Landscape Architect will be submitted for approval prior to issuance of certificate of occupancy and shall comply with the Landscape Ordinance. If all required screening or landscaping is not installed prior to occupancy, a financial guarantee shall be provided for the necessary screening, landscaping 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.
8. Up to 20-foot tall (including the base) pole lighting standards 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.
9. All trash dumpsters and loading dock areas will have solid screening around them.
10. Roof top mechanical equipment shall be screened from ground level view, per Wichita – Sedgwick County Unified Zoning Code
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 and pedestrian circulation plan shall be prepared for review and approval and will include cross lot access.
14. No occupancy permits will be issued until the site is 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. Fire must approve circulation and all fire lanes must remain clear.
17. All buildings/structures must meet City Codes and permitting requirements. All buildings will be of similar materials and design.
18. 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. Wall display signs are limited to 25% of the wall area. Each parcel is allowed at least one free standing 170-square foot sign per arterial frontage. No offsite signs, unless approved by the MAPC or the governing body after a review of the proposed sign.
19. All outside storage of sand and dirt shall have three sided walls or fences to prevent the wind from blowing these materials around and from the site.
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.
21. All uses permitted by right in the GC district are permitted.
22. The following development standards shall apply:
 - Maximum Building Height = 35 feet
 - Maximum Coverage = 30%
 - Maximum Gross Floor Area = 35%

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: 
for Gary E. Rebenstorf, City Attorney

Published in The Wichita Eagle on 5-24-13

ORDINANCE NO. 49-499

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. ZON2012-00005

Zone change request from SF-5 Single-family Residential and LC Limited Commercial to GC General Commercial on property described as:

Absolute Natural Stone Addition, Wichita, Sedgwick County, Kansas.

Generally located on the south side of Kellogg, west of 127th Street East.

**SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY
DISTRICT #267:**

1. The transfer of title on all or any portion of the land included in the development does not constitute a termination of the PO or any portion thereof, but said PO 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. Certain development requirements including, but not limited to, drainage, access, easements, and road improvements (including guarantees and dedication of right-of-way) shall be determined at the time platting.
4. Prior to publishing the ordinance making the zone change official, the applicant shall provide a revised PO site plan drawing for review and consideration of approval by the Planning Director. The revised PO site plan drawing shall include all provisions to the approved PO. The site shall be developed and operated in conformance with the approved PO site plan and other applicable regulations unless specifically modified by this PO.
5. The uses allowed within this PO shall be confined to those listed within the parcel descriptions. Any additional uses will require an adjustment or an amendment to this PO. Any cutting of stone shall be done indoors.
6. A 35 foot building setback shall be required along the perimeter of the subject site. No trash receptacles, parking, lighting, outdoor storage or any structure will be allowed in the setbacks. The setbacks will be shown on the PO site plan drawing.
7. Screening per UZC CUP requirements and landscaping per the Landscape Ordinance shall be installed. All existing landscaping located within the 35-foot setbacks shall remain. A landscape prepared by a licensed Kansas Landscape Architect will be submitted for approval prior to issuance of certificate of occupancy and shall comply with the Landscape Ordinance. If all required screening or landscaping is not installed prior to occupancy, a financial guarantee shall be provided

for the necessary screening, landscaping 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.

8. Up to 20-foot tall (including the base) pole lighting standards 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.
9. All trash dumpsters and loading dock areas will have solid screening around them.
10. Roof top mechanical equipment shall be screened from ground level view, per Wichita – Sedgwick County Unified Zoning Code
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 and pedestrian circulation plan shall be prepared for review and approval and will include cross lot access.
14. No occupancy permits will be issued until the site is 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. Fire must approve circulation and all fire lanes must remain clear.
17. All buildings/structures must meet City Codes and permitting requirements. All buildings will be of similar materials and design.
18. 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. Wall display signs are limited to 25% of the wall area. Each parcel is allowed at least one free standing 170-square foot sign per arterial frontage. No offsite signs, unless approved by the MAPC or the governing body after a review of the proposed sign.
19. All outside storage of sand and dirt shall have three sided walls or fences to prevent the wind from blowing these materials around and from the site.
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.
21. All uses permitted by right in the GC district are permitted.
22. The following development standards shall apply:
 - Maximum Building Height = 35 feet
 - Maximum Coverage = 30%
 - Maximum Gross Floor Area = 35%



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 21 day of May, 2013

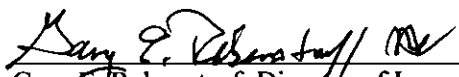
ATTEST:


Karen Sublett, City Clerk



Carl Brewer, Mayor

(SEAL)

APPROVED AS TO FORM:



Gary E. Rebenstorf, Director of Law

City of Wichita
City Council Meeting
April 10, 2012

TO: Mayor and City Council

SUBJECT: ZON2012-00005 – City zone change from SF-5 Single-Family Residential (“SF-5”) and Limited Commercial (“LC”) to GC General Commercial (“GC”) with Protective Overlay (“PO”) #267, generally located between Kellogg Street/US 54 and I-35 and west of 127th Street East (District II)

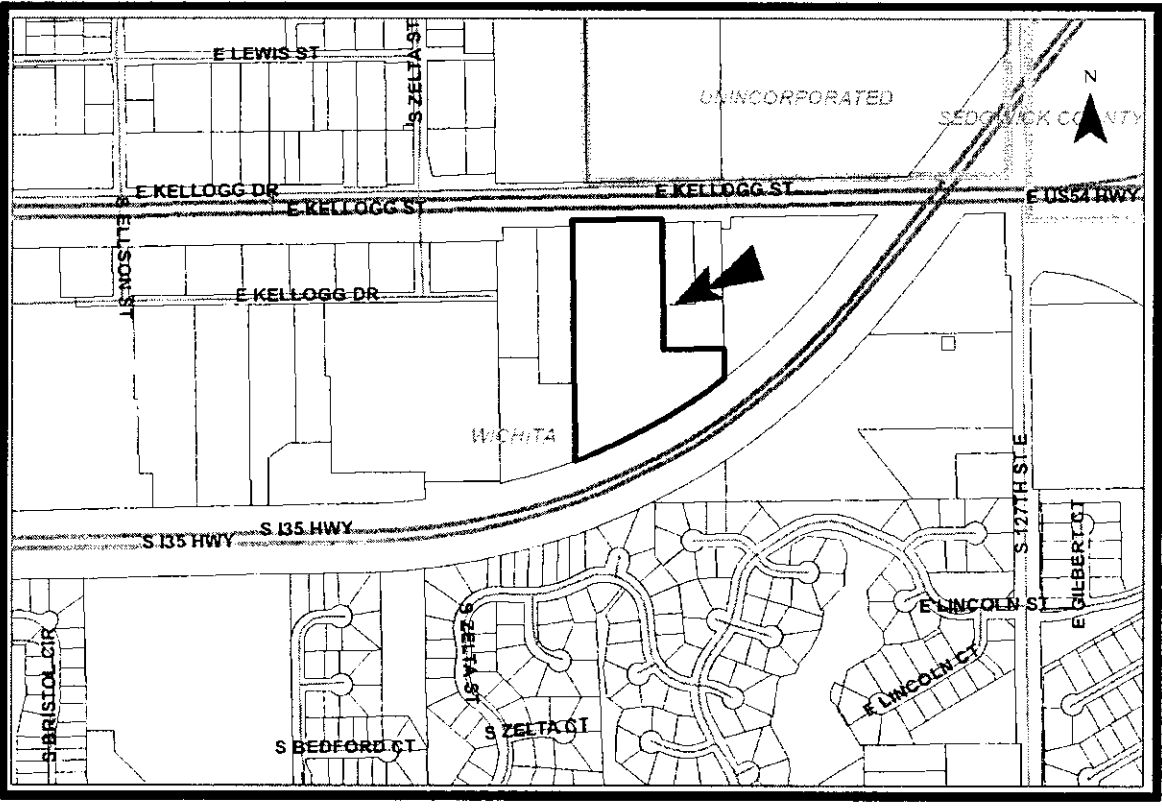
INITIATED BY: Metropolitan Area Planning Department *JUS*

AGENDA: Planning (Consent)

MAPC Recommendation: The Metropolitan Area Planning Commission voted (7-0-1) to approve the request.

DAB V Recommendation: District Advisory Board II voted unanimously to approve the request.

MAPD Staff Recommendation: Planning staff recommends the request be approved.



Background: The applicant is requesting GC General Commercial (“GC”) zoning for the LC Limited Commercial (“LC”) and SF-5 Single-Family Residential (“SF-5”) zoned, undeveloped 10-acre tract. The applicant sells natural rock, used primarily in landscaping. The rocks are stored outside and may be cut per job order at the site. As described to staff, the applicant’s business fits into the Unified Zoning Code’s (“UZC”) definition of “Construction Sales and Service”; UZC, Sec. II-B, 3.n. Construction Sales and Service is permitted by right in the GC zoning district. In lieu of a Community Unit Plan (“CUP”) the applicant has proposed a Protective Overlay (“PO”). Sec. III-C, 2.b of the UZC permits the substitution of a PO for a CUP. The property must be platted.

The provisions of the PO are:

1. The transfer of title on all or any portion of the land included in the development does not constitute a termination of the PO or any portion thereof, but said PO 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. Certain development requirements including, but not limited to, drainage, access, easements, and road improvements (including guarantees and dedication of right-of-way) shall be determined at the time platting.
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22. The following development standards shall apply:
 - Maximum Building Height = 35 feet
 - Maximum Coverage = 30%
 - Maximum Gross Floor Area = 35%

Properties abutting the east and west sides of the site are zoned GC. The abutting 3.4-acre GC zoned eastern property is currently vacant, with an unoccupied building and scattered remnants of piles of rock, gravel, stone, dirt and brick. Haphazard piles of pallets, some outdoor shelving, some light trucks and other materials are also located on the site; the Suburban Equipment Sales Addition, platted 11-14-1978. A monopole is also located on the Suburban Equipment Sales Addition property; CON2000-54. Next to this developed but vacant property, is a 6.15-acre GC zoned tree farm, whose south and east sides abut I-35; the Mattingly Addition, platted 07-15-1979. The abutting 7.5-acre GC zoned western property has the CUP DP-117 overlay, and is currently developed with a self storage warehouse. The next western property is the (+) 80-acre GC and LI Limited Industrial ("LI") zoned CUP DP- 196, anchored with large box retailers Wal Mart and Lowes, smaller retail, both sit down and fast food restaurants and a bank. A LI zoned car dealership is also in this western property, but sits outside CUP DP- 196. North of the site, across Kellogg are large, undeveloped LC, SF-5 and SF-20 Single-Family Residential ("SF-20") zoned properties. There are also small GC and LC zoned car repair shops, retail, car dealerships and undeveloped or vacant sites. South of the site across I-35 is a SF-5 zoned single-family neighborhood, an elementary school and undeveloped GC zoned land.

Analysis: District Advisory Board II (DAB II) considered this request at their March 5, 2012, meeting and unanimously recommended approval of the GC zoning with the provisions of PO #267 and platting within a year of approval by the Governing body. No one spoke against the requested rezoning at the DAB meeting. At the Metropolitan Area Planning Commission (MAPC) meeting held March 15, 2012, the MAPC voted (7-0-1) to recommend approval, as a consent item, of the requested GC zoning with the provisions of PO #267 and platting within a year of approval by the Governing body. At the MAPC meeting no one spoke against the requested rezoning. No valid protests were received during the two week protest period.

Financial Considerations: There are no financial considerations in regards to the zoning request.

Goal Impact: The application promotes Economic Vitality.