

OCA150004 BID 37529-009 CID #76383
Published in The Wichita Eagle on 11-24-06
ORDINANCE NO. 47-274

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. ZON2006-00031

Request for zone change from "GO" General Office to "NR" Neighborhood Retail on property described as:

That part of Lot 3, Block 1, The Ritz, an Addition to Wichita, Sedgwick County, Kansas described as follows: Beginning at the most Southerly Southeast Corner of said Lot 3; thence South 89 degrees 18'12" West along the South line of said Lot 3, 519.95 feet; thence North 00 degrees 48'50" West, 230.21 feet; thence North 50 degrees 22'10" East, 58.31 feet; thence North 88 degrees 57'40" East, 284.62 feet to a point on the Northeast line of said Lot 3, said Northeast line being a curve to the left; thence Southeasterly and Easterly along said curve, having a central angle of 30 degrees 56'17" and a radius of 504.62 feet, an arc distance of 272.48 feet, (having a chord length of 269.18 feet bearing South 67 degrees 02'36" East), to a corner in said Lot 3; thence South 00 degrees 41'48" along the East line of said Lot 3, 104.44 feet to a deflection corner in said East line; thence South 44 degrees 18'12" West along the Southeast line of said Lot 3, 79.36 feet to the point of beginning.

Generally located on the northwest corner of 37th Street North and Sweet Bay Street.

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, 10-24-06

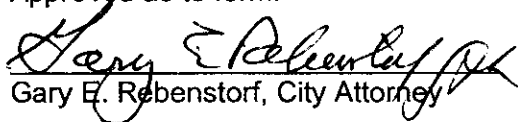
Carlos Mayans - Mayor

ATTEST:

Karen Sublett, City Clerk

(SEAL)

Approved as to form:



Gary E. Rebenstorf, City Attorney

STAFF REPORT
MAPC September 7, 2006
DAB II September 11, 2006

CASE NUMBER: ZON2006-00031

APPLICANT/AGENT: D. Lemk, LP (Lucille M. Schauf) (owner), Leewood Homes c/o Joe Lee (contract purchaser), Baughman Company, PA c/o Terry Smythe (agent), Insite Real Estate Group c/o Kurt Robertson (agent)

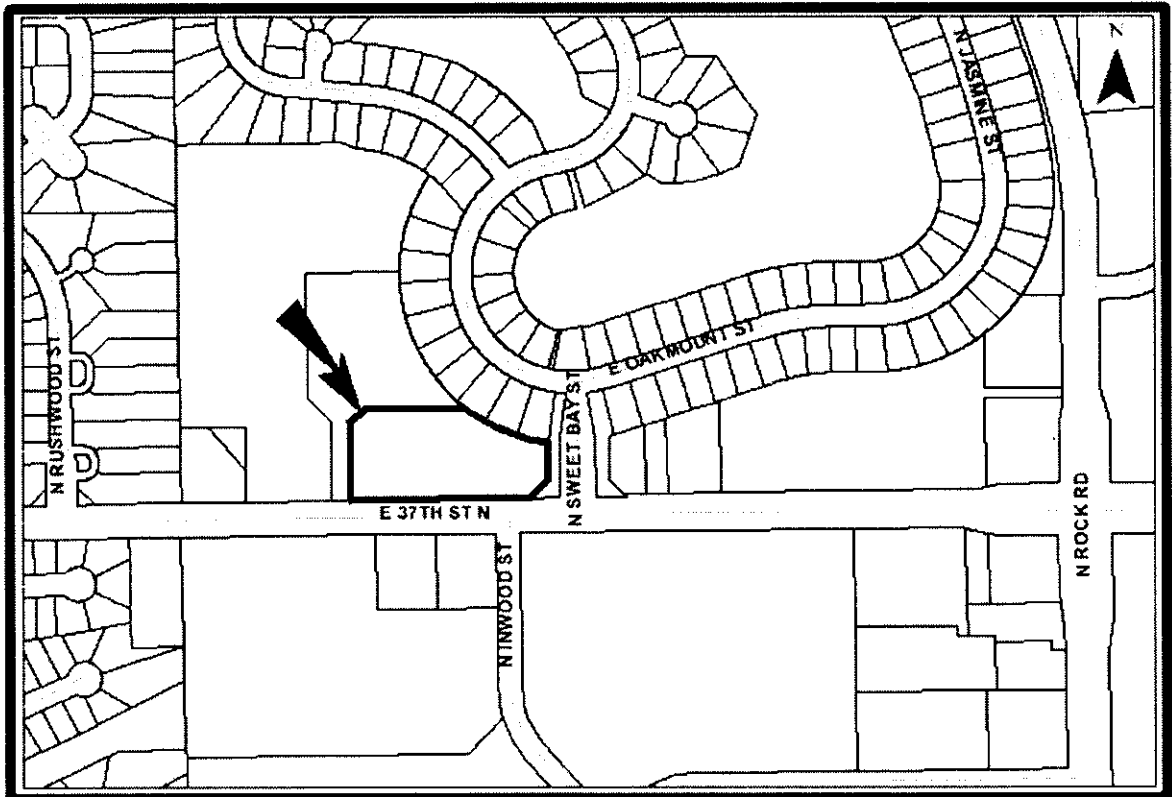
REQUEST: Zone change to "LC" General Commercial

CURRENT ZONING: "GO" General Office

SITE SIZE: 3.11 acres

LOCATION: Northwest corner of 37th Street North and Sweet Bay Street

PROPOSED USE: Commercial development



BACKGROUND: The applicant requests a zone change from "GO" General Office to "LC" Limited Commercial on 3.11 acres generally located on the northwest corner of 37th Street North and Sweet Bay Street, approximately one-third mile west of Rock Road.

The property is part of Lot 1, Ritz Addition, which is zoned GO and developed with a large day care facility that is closed. The day care center is being marketed for a different reuse allowed by the GO zoning district. An apartment complex on property zoned "MF-29" Multi-family Residential is located west of the day care facility. Willowbend, a residential/golf course community zoned "SF-5" Single-family Residential, is located north of the Ritz Addition. A community unit plan, DP-155 W.D.C. Parcel 5A, is located east of the request and is developed with freestanding office building closest to the application and a new retail strip center along 37th Street North. The property to the southeast is zoned MF-29 and developed with a large garden apartment complex. DP-122 W. D. C. #6 Parcel No. 104 is approved for LC but is a vacant 12-acre tract.

CASE HISTORY: The Ritz Addition was recorded December 26, 1989. The property was rezoned from "R-6" General Residence District to "BB" Office District for the express purpose of allowing the child care facility because this was the first available zoning district that allowed child care centers by right under the old zoning code for City of Wichita. The BB district converted to GO when the Unified Zoning Code was adopted in 1996.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Willowbend single-family residential and golf course
SOUTH:	MF-29, LC	Apartment development, vacant
EAST:	LC	Office, retail strip center
WEST:	GO, MF-18, SF-5	Day care center (closed), apartment complex

PUBLIC SERVICES: 37th Street North provides access to the property. Current traffic counts on 37th Street North are 11,000 vehicles per day. This is projected to increase to 18,000 vehicles per day in 2030.

An SF-5 reserve strip separates the tract from direct access to Sweet Bay Street. The plat limited Lot 3 to two points of access and one already has been established on the portion of Lot 3 not included in this rezoning request. The distance between the drive opening on Lot 3 and Sweet Bay Street is approximately 700 feet, which is below the amount required for two full movement openings. This would restrict the rezoning tract to a right-in/right-out opening.

All other public services are available.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide, as amended May 2005" of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "institutional" use. The proposed CUP does not conform to the Land Use Guide. The zone change did not include any protective overlay or community unit plan provisions in support of planned commercial use as recommended by objectives/strategies and land use guidelines of the Comprehensive Plan.

RECOMMENDATION: Rezoning this property to LC would move the boundary for LC uses on the north side of 37th Street North to within 500 feet of the mid-mile point. Traditionally, commercial development has not been encouraged at mid-mile points or to strip out the frontage along the arterials. As zoned today, the GO district matches the office use of the properties to the east and west, and poses less conflict with the Willowbend development abutting the property on the north. The zone change would allow more intensive uses including large restaurants, convenience stores, auto repair, pawn shops, etc. Further, 1) considering the 12 acres to the southwest has been zoned LC but remained vacant since 1982 and 2) the property to the southeast closer to Rock Road was developed with multi-family residential, LC is not been shown to be in high demand in other sites in close proximity. Based upon information available prior to the public hearings, planning staff recommends the zone change from GO to LC be **DENIED**. However, should MAPC choose to grant a rezoning of this tract, it is recommended that the zone change should be limited to "NR" Neighborhood Retail in order to minimize the detrimental impact on surrounding properties.

This recommendation is based on the following findings.

1. The zoning, uses and character of the neighborhood: The property is part of Lot 1, Ritz Addition, which is zoned GO and developed with a large day care facility that is closed. The day care center is being marketed for a different reuse allowed by the GO zoning district. An apartment complex on property zoned "MF-29" Multi-family Residential is located west of the day care facility. Willowbend, a residential/golf course community zoned "SF-5" Single-family Residential, is located north of the Ritz Addition. A community unit plan, DP-155 W.D.C. Parcel 5A, is located east of the request and is developed with freestanding office building closest to the application and a new retail strip center along 37th Street North. The property to the southeast is zoned MF-29 and developed with a large garden apartment complex. DP-122 W. D. C. #6 Parcel No. 104 is approved for LC but is a vacant 12-acre tract.
2. The suitability of the subject property for the uses to which it has been restricted: The property to the east and west is developed with uses allowed in the current zoning of GO, which indicates the appropriateness of the current zoning classification.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Full-scale unrestricted LC development allows uses, signage and design that could be incompatible with the residential uses to the north and southeast.
4. The length of time the subject property has remained vacant as zoned. The property was part of the large day care center site, so was not considered vacant until this use was closed.
5. The relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant. If the property remains zoned GO, the applicant retains the value of general office use, but the effects of the zone change would be to impact the value of the residential properties to the north in particular. It is difficult to understand the hardship in developing the parcel in the same manner as the properties

to the east and west of the site.

6. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "Wichita Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "institutional" use. The proposed CUP does not conform to the Land Use Guide. The zone change did not include any protective overlay or community unit plan provisions in support of planned commercial use as recommended by objectives/strategies and land use guidelines of the Comprehensive Plan.
7. Impact of the proposed development on community facilities: Only a right-in/right-out opening on 37th Street North conforms to the access management policy guidelines since the full movement opening is already established by the property to the west.