

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. ZON2006-00056

Request for Zone change from "TF-3" Two-family Residential to "LC" Limited Commercial, on property described as:

Lots 3 and 4, West Park Gardens Addition, Wichita, Sedgwick County, Kansas. Generally located midway between Harry Street & Pawnee Avenue southeast of the Seneca Street – Esthner Avenue intersection.

SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #185:

1. Prohibited uses on the site include: limited and general correctional placement residences, limited and general day care, limited, private and public recycling collection stations, reverse vending machine, bed and breakfast inn, car washes, convenience stores, hotels/motels, recreational marine facility, night club, commercial parking area, indoor recreation and indoor entertainment, second hand store, service station, tavern and drinking establishment, vehicle repair limited, asphalt or concrete plant, outdoor storage and pawn shops.
2. On-site pole lights shall be no higher than 14-foot. They shall be hooded and directed onto the site and away from abutting and adjacent residential development and zoning. No pole lights shall be located within the required compatibility setbacks.
3. A restrictive covenant binding and tying the Lots 3 & 4 and Lots 5,6, and 7, all in the West Park Gardens Addition together as one site/use will be recorded with the Register of Deeds. The restrictive covenant will include signage, cross lot access (including cross lot access to the abutting north and south properties), drainage, landscaping and parking for the site.
4. Dedication of access control onto Seneca Avenue, per approval of the Traffic Engineer. Lots 3, 4, 5, 6, and 7, all in the West Park Gardens Addition, will be treated as one site and conform to the current access management regulations.
5. Signage on the site will be as allowed in the "LC" zoning district, but be only monument type of signage. No building signage is permitted on the north or south sides of the building.
6. Dedication of 20-feet of right-of-way along Lots 3 and 4's (West Park Gardens Addition) Seneca Avenue's frontage.

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, _____

Carl Brewer - Mayor

ATTEST:

Karen Sublett, City Clerk

(SEAL)

Approved as to form:

Gary E. Rebenstorf, City Attorney

City of Wichita
City Council Meeting
April 24, 2007

FILE COPY

Agenda Report No. _____

TO: Mayor and City Council

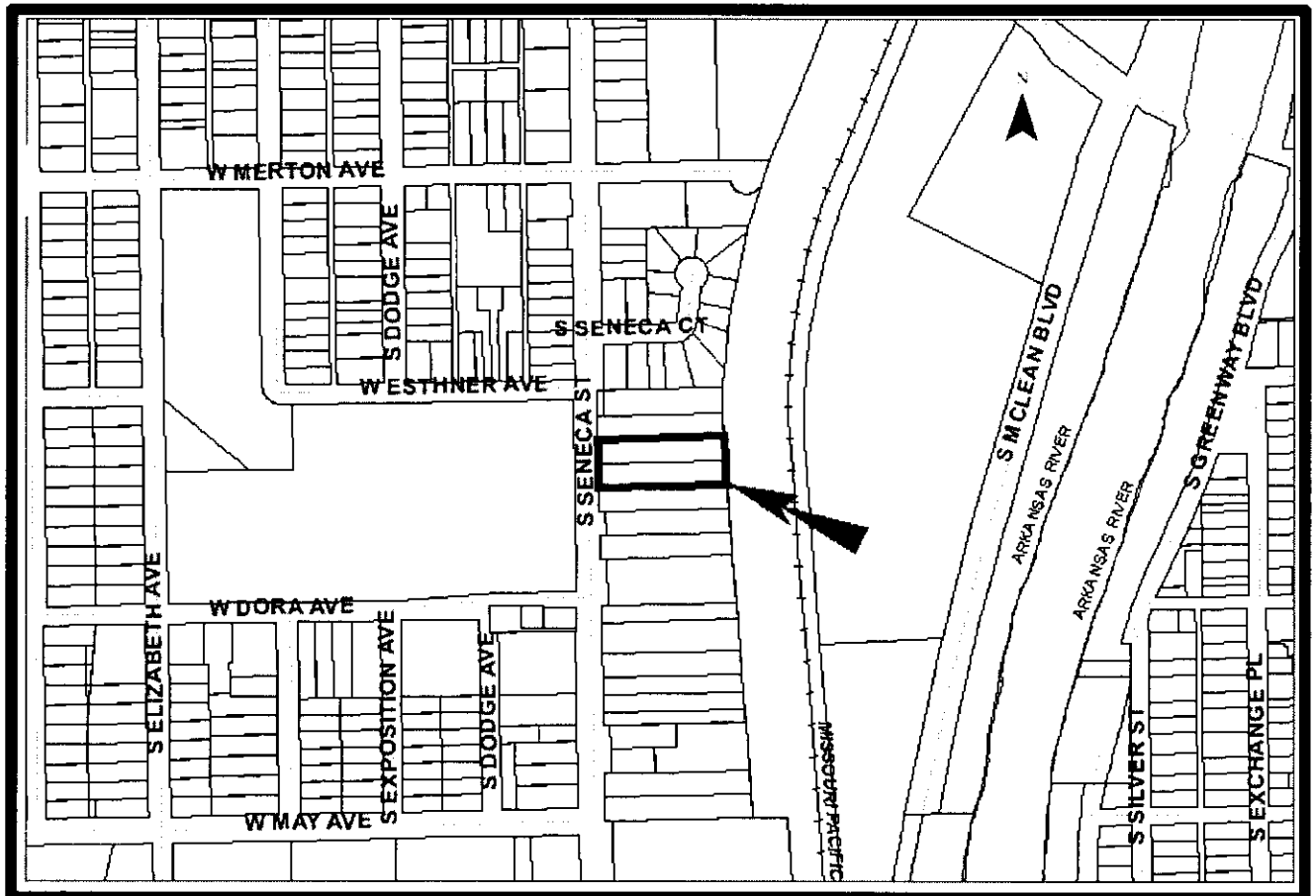
SUBJECT: ZON2006-00056 – Zone change from “TF-3” Two-family Residential to “LC” Limited Commercial with a Protective Overlay located southeast of the Seneca Street and Esthner Avenue intersection. (District IV)

INITIATED BY: Metropolitan Area Planning Department *JLS*

AGENDA: Planning (Consent)

MAPC Recommendations: Approve, subject to staff recommendations (12-0).

MAPD Staff Recommendations: Approve, subject to the provisions of the Protective Overlay.



Background: The applicant requests a zone change from “TF-3” Duplex Residential to “LC” Limited Commercial with a Protective Overlay (“PO”) on the site, Lots 3 and 4 in West Park Gardens Addition. The lots are vacant. The site is located between a salvage yard on its east side and Seneca Avenue on its west side, almost mid-mile between Harry Street and Pawnee Avenue. This zoning request is associated with the applicant’s three southern, abutting properties, which were approved for a zone change to “LC” with a “PO”, ZON2006-15, “PO” # 175, by the MAPC at their July 20, 2006 meeting. ZON2006-15, PO #175 was also approved by DAB IV at their July 5, 2006 meeting. There were no protests registered at either meeting and both the MAPC and DAB IV gave unanimous approval, thus the current request was not scheduled for review by DAB IV. The applicant proposes to develop these properties and the abutting southern properties as one site.

As noted, development abutting the east side of the site include what was railroad right-of-way (ROW), which has been leased out (by the City) to Wichita Iron and Metal, a salvage yard, on a month to month lease; the lease is projected to be long term, as the salvage yard has been at this location since the 1980s. The salvage yard is zoned “LI” Limited Industrial, except for a “TF-3” zoned 50-foot buffer between it and the site. The City’s Public Works’ Central Maintenance facility (“LI”) finishes off development east of the site to McLean Boulevard. Abutting the south side of the site are the previously mentioned properties owned by the applicant. North of the subject site there is a “TF-3” zoned lot developed with a single-family residence, built in 1922. This is the last residential zoned property on the east side of Seneca (which has been almost entirely striped out and zoned “GO” General Office, “NR” Neighborhood Residential and one “GC” General Commercial site) north to Harry Street.

Directly west of the site, across Seneca, is Aley Park (a city park), which is zoned “MF-29” Multi-family Residential. Aley has a municipal swimming pool, community facilities, ball fields and play ground. Stanley Elementary School (“MF-29”) abuts the northwest corner of the 15.33-acre park. North of the park, across Esthner Avenue, northwest of the site, is a neighborhood of mostly single-family residences zoned “MF-29”. Further southwest of the site, across Seneca, is the “LC” zoned Seneca Bowl, free standing retail and strip retail.

Any development on the subject property will be required to meet access management regulations, all compatibility setback, height, noise and design standards, the Unified Zoning Code’s (UZC) landscaping, screening and any other applicable codes and development standards.

Analysis: There were no speakers in opposition to the request at the MAPC meeting on January 18, 2007. The MAPC voted unanimously (12-0) to recommend approval of the zone change from “TF-3” Duplex Residential, subject to the provisions of “PO” #185. No protest petitions have been submitted and staff has received no telephone calls protesting the proposed zone change. The provisions of “PO” #185 are:

1. Prohibited uses on the site include: limited and general correctional placement residences, limited and general day care, limited, private and public recycling collection stations, reverse vending machine, bed and breakfast inn, car washes, convenience stores, hotels/motels, recreational marine facility, night club, commercial parking area, indoor recreation and indoor entertainment, second hand store, service station, tavern and drinking establishment, vehicle repair limited, asphalt or concrete plant, outdoor storage and pawn shops.
2. On-site pole lights shall be no higher than 14-foot. They shall be hooded and directed onto the site and away from abutting and adjacent residential development and zoning. No pole lights shall be located within the required compatibility setbacks.
3. A restrictive covenant binding and tying Lots 3 & 4, West Park Gardens Addition together as one site/use will be recorded with the Register of Deeds. The restrictive covenant will include signage, cross lot access (including cross lot access to the abutting north and south properties), drainage, landscaping and parking for the site.

4. Dedication of access control onto Seneca Avenue, per approval of the Traffic Engineer. Lots 3, 4, 5, 6, and 7, all in the West Park Gardens Addition, will be treated as one site and conform to the current access management regulations.

5. Signage on the site will be as allowed in the “LC” zoning district, but be only a monument type of signage. No building signage on its north or south sides of the building.

6. Dedication of 20-feet of right-of-way along Lots 3 and 4’s (West Park Gardens Addition) Seneca Avenue’s frontage.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality and Affordable Living.

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department. Per the provisions of the Protective Overlay a restrictive covenant, a dedication of complete access control by separate instrument and a dedication of right-of-way by separate instrument will be recorded with the Register of Deeds.

Recommendation/Actions:

1. Concur with the findings of the MAPC and approve the zone change, subject to the additional recommended provisions of the Protective Overlay; 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.)