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ORDINANCE NO. 47-522

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. ZON2007-00016

Request for a zone change from "SF-5" Single-family Residential to "NO" Neighborhood Office, on property described as:

Lots 70, 72 & 74, Lucy Avenue, River Bend Addition, Wichita, Sedgwick County, Kansas. Generally located west of Arkansas Avenue, on the northwest corner of 21st Street North & Salina Street.

SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #188:

- (1) Dedicate complete access control along the site's 21st frontage.
- (2) Install approved parking barriers along the site's 21st frontage and the undeveloped alley.
- (3) Provide a landscape/site plan for approval that would insure that landscaping be installed per the standards of the Landscape Ordinance's street yard landscaping and a landscape buffer between it and the abutting and adjacent "SF-5" zoned properties; the exception to the Landscape Ordinance does not apply to this site.
- (4) All outside lighting be no taller than 14-feet tall and located outside all setbacks.
- (5) The applicant/owner provide a restrictive covenant to ensure that a wooden fence always be up and in good repair along its north property line.
- (6) All dumpsters have a wooden fence with a gate around them and not are visible from 21st Street North.
- (7) Signage is limited to what is permitted in the "NO" zoning district.
- (8) All compatibility setbacks would be in effect as well as all parking requirements.
- (9) The planting and all other conditions will be implemented within 90 days of approval by the Governing Body or the zoning will be considered null and void.

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,

July 17, 2007


Carl Brewer - Mayor

ATTEST:



Karen Sublett, City Clerk



(SEAL)

Approved as to form:


Gary E. Rebenstorf, City Attorney

Background: The applicant is requesting “NO” Neighborhood Office zoning with a Protective Overlay (PO #188) on Lots 70, 72, 74, Lucy Avenue, River Bend Addition. The site is currently zoned “SF-5” Single-family Residential. The applicant was in the process of converting the existing single-family residence (built 2001) to office space for tax preparation and translation services.

The site, a corner lot, has recently had the south, street side yard (up to the sidewalk) and both the rear (west) and front (east) yards paved for a parking lot. There are no barriers between the parking lot and the sidewalk to prevent parked vehicles from encroaching into the sidewalk. There has been no code required landscaping improvements on the parking/site. A recently constructed wooden fence has also been erected along portions of the property’s west and east sides. Along the site’s north side, an older fence, in need of some repair, is located in the neighbor’s “SF-5” zoned single-family residence/lot. The subject site has a drive on its east side onto Salina Avenue, a paved residential street. The site has access onto an unpaved alley on its west side. Both the alley (including an unimproved portion of 22nd Street North) and Salina Avenue intersect with 21st Street North. A small drainage ditch runs along the site’s 21st Street frontage and has prevented a drive from the site directly onto 21st Street.

The Little Arkansas River is located south of the site, across 21st Street. This particular section of the river peaks in an arch (as does the parallel 21st Street) in front of the subject site. The “21st Street North Corridor Revitalization Plan” recommends this portion of the Little Arkansas greenway be part of a parkway that runs from Hood Street (two blocks west of the site) eastward to Woodland Park. The Plan recommends that the parkway be embellished through some roadway improvements, including curb and gutter, maintenance, a distinct pathway and additional informal planting of trees. There is a well-kept asphalt path and some recent tree plantings plus landscaping in the parkway south of the site, across 21st Street. Properties abutting and adjacent to the site’s north and east sides are zoned “SF-5” and are part of a single-family residential neighborhood. There is a “GO” General Office zoned property located a block east of the site. This property (Z-2523, 8-9-83) has a single-family residence (built 1998) on the back portion of it, while its front portion (different owner) is vacant. The property adjacent (across the unpaved alley) to the west side of the site is zoned “LC” Limited Commercial (Z-2623, 8-21-84) and is developed as an upholstery shop (built 1940).

The site is located two blocks east of the Thai Bin Asian Market (“LC”, CUP DP-18) and four blocks east of the bridge over the Little Arkansas. The “21st Street Plan” recommends the Market as the Asian Ethnic Anchor for its west sub-region. The Market is currently having improvements done to its exterior. There is a small cluster of “LC” zoned small businesses and a “GO” medical office and church around the Market. The Plan recommends that any new development or redevelopment consider utilizing Asian design influences to ‘help support this theme.’ The Plan also recommends that the Little Arkansas Bridge be one of three gateways into the Plan’s whole area and that development along 21st Street have landscaping.

Analysis: Prior to DAB VI’s June 4, 2007 meeting, the applicant agreed to withdraw his original request for “LC” zoning, upon the advice that Planning had recommended denying the “LC” request. However, the applicant felt his investment for improvements on the property to convert it to an office site discouraged him from using the site as a home occupation for office use, therefore the applicant agreed to “NO” zoning with the following provisions of Protective Overlay (PO) #188 as an alternative:

- (1) Dedicate complete access control along the site’s 21st Street frontage.
- (2) Install approved parking barriers along the site’s 21st Street frontage and the undeveloped alley.
- (3) Provide a landscape/site plan for approval that would insure that landscaping be installed per the standards of the Landscape Ordinance’s street yard landscaping and a landscape buffer between it and the abutting and adjacent “SF-5” zoned properties; the exception to the Landscape Ordinance does not apply to this site.
- (4) All outside lighting be no taller than 14-feet tall and located outside all setbacks.
- (5) The applicant/owner provide a restrictive covenant to ensure that a wooden fence always be up and in good repair along its north property line.
- (6) All dumpsters have a wooden fence with a gate around them and are not visible from 21st Street North.

- (7) Signage is limited to what is permitted in the “NO” zoning district.
- (8) All compatibility setbacks would be in effect as well as all parking requirements.
- (9) The planting and all other conditions will be implemented within 90 days of approval by the Governing Body or the zoning will be considered null and void.

DAB VI at its June 4, 2007 meeting unanimously (7-0) recommended denial of both the “LC “ and “NO” zoning with PO #188. The DAB’s comments included, that the proposed zoning did not match the “21st Street North Corridor Revitalization Plan,” that they preferred that the site be used as a home occupation, if the owner was aware if the contractor had pulled a permit to pour the concrete parking lot and the impact of the concrete parking lot on the property’s current “SF-5” zoning. **NOTE:** There is no record of a permit being pulled with the City for the concrete parking lot. If the applicant’s zoning request is denied, portions of the concrete parking lot, located in the front (Salina Avenue side), street side and rear yards will have to be removed. If the applicant’s zoning request is approved, a parking lot plan will have to be approved by OCI, which would include compliance with the Landscape Ordinance and setbacks, thus requiring portions of the concrete parking lot being removed from the front, street side and possibly rear yards. There were no speakers for or against this request at the DAB meeting.

There were no speakers in opposition to the request at the MAPC meeting on June 7, 2007. The MAPC voted (8-3) to recommend approval of the zone change subject to the provisions of PO #188, after a motion to deny (4-7) the request failed. No protest petitions have been submitted and staff has received no telephone calls protesting the proposed zone change.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality.

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

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; and place the ordinance establishing the zone change on first reading; instruct the Clerk to withhold publication the until the provisions of the Protective Overlay are completed; 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.)