

ORDINANCE NO. 47-7.25

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. ZON2007-00046

Zone change from "NR," Neighborhood Retail to "LC" Limited Commercial subject to Protective Overlay #200, described as:

Lot 1, Block 1, Chadsworth Plaza, an Addition to Wichita, Sedgwick County, Kansas.

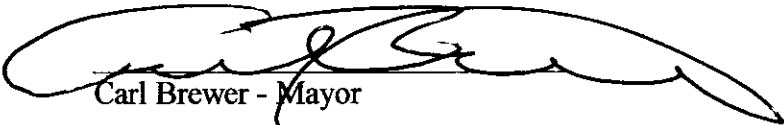
SUBJECT to the following provisions of Protective Overlay #200:

1. The following LC uses are prohibited: recycling collection station, public and private; construction sales and service; pawn shop; secondhand store; service station; vehicle repair, limited; wireless communication facility; asphalt or concrete plant, limited and outside storage. Off-site signage, billboards, flashing or moving signage, LED or video signage that can be seen from residentially zoned property is also prohibited. Building or identification signage that faces south is restricted to the sign depicted on the attached exhibit, is limited to internal lighting, and south facing building signage shall be lit only during business hours.
2. Building heights are limited to 35 feet.
3. There shall not be any lighting or light fixtures directed to the south, and light fixtures shall be absolutely screened to the south to prevent light from spilling over on the residence to the south.

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, 1-8-2028



Carl Brewer - Mayor

ATTEST:



Karen Sublett, City Clerk

(SEAL)

Approved as to form:



Gary E. Rebenstorf, City Attorney





AGENDA ITEM NO. 5

STAFF REPORT

DAB V 11-5-2007

MAPC 10-18-2007

MAPC 11-15-2007

opening hrs. 11:00 p.m.

CASE NUMBER: ZON2007-00046

APPLICANT/AGENT: M&J Corporation (Bob Suellentrop) / Poe & Associates, Inc. (Tim Austin)

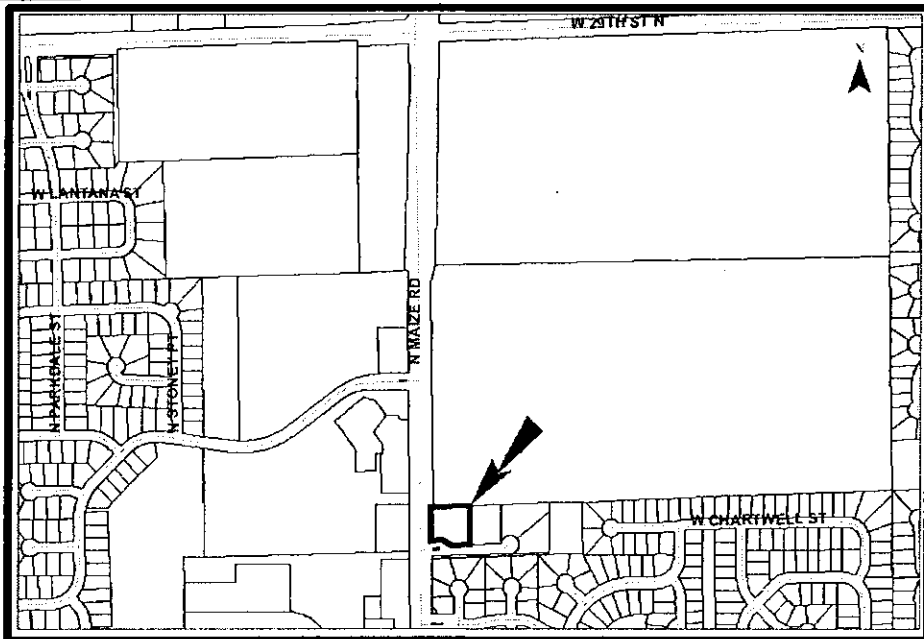
REQUEST: LC Limited Commercial

CURRENT ZONING: NR Neighborhood

SITE SIZE: 1.01 acres

LOCATION: ½ mile south of 29th Street North, east of Maize Road

PROPOSED USE: Unknown



*P.O. limit it to the sign shown w/ a
dimmer switch to turn it off when the
store is not open*

BACKGROUND: The applicant is seeking “LC,” Limited Commercial zoning. The application area is located north of Maize Road Court, east of Maize Road, is platted as Lot 1, Block 1, Chadsworth Plaza Addition, and contains 1.01 acres. In 2001, the application area was rezoned from “SF-5,” Single-family Residential to “NR,” Neighborhood Retail, subject to Protective Overlay 111 (ZON2001-47). Protective Overlay 111 required construction of a masonry-screening wall along the south line of the application area, was subject to platting within one year, the property was to be developed according to the submitted site plan, and the “SF-5” zoned residential property to the east of the application area was to be a part of the same plat as the application area.

The property has been developed with a strip commercial building divided into six store-fronts that face west. The building’s parking is located just west of the structure, adjacent to Maize Road. The application area has platted complete access control across its 182.44 feet of Maize Road frontage. Access to the site is by way of Maize Road Court.

A median in Maize Road Court contains a 20-foot, 5-inch tall, 96 square-foot ground sign. BZA2005-33 permits a second 96 square-foot ground sign, located in the northwest corner of the site, for a total of 192 square feet of ground signage.

The “NR” zoning district permits one multi-tenant ground sign up to 96 square feet in size. Additional ground signs are permitted provided there is 150 feet of spacing between ground signs, and the total amount of signage does not exceed .5 square feet of area times the frontage. Ground signs must also be located at least 15 feet from adjacent property. Ground signs are limited to a maximum height of 22 feet. “NR” district signage is limited to indirect or internal illumination of white light only. Flashing or moving images are prohibited; portable signs are prohibited, except for institutional uses. Building signs cannot exceed 32 feet in area; 30 feet in height, and are limited to one per building elevation for each major use provided the building elevation on which the building sign is to be attached has at least one of the following circumstances: street frontage, adjacent to a non-residential zoning district or if adjacent to a residential zoning district there must be parking or open space with a depth of 150 feet or more measured from the face of the sign to the property line which adjoins the residential district. Building signs facing residential zoning are limited to direct or internal illumination of white light only. Flashing or moving images are prohibited. Off-site signs are prohibited.

In general, the “LC” district permits one ground or pole sign per zoning lot except that two signs are permitted on an interior lot with at least 180 feet of frontage. Properties with less than 330 feet of arterial street frontage are permitted 1 square-foot of ground signage per lineal-foot of street frontage up to a maximum area of 300 square feet. The height of a ground sign is not to exceed 20 feet except when the number of permitted signs exceeds one, then five feet of additional height can be added for every sign that is not installed, up to 25 feet. Building signs are permitted on any building elevation that has street frontage, or is adjacent to non-residential zoning, or if adjacent to residential use or zoning there must be 150 feet of parking or open space between the sign and the non-residential use or zoning. Building signs are limited to 20 percent of each tenant space up to 400 square feet in area with no more than a total of three signs per elevation. Off-site and portable signs are permitted subject to conditions. (The “LC” district does not prohibit flashing or moving images or off-site signs.)

Adjoining property is zoned "GO," General Office / offices (east), "SF-5," Single-family Residential / single-family residences (south), "LC," Limited Commercial / retail strip center (west) and "SF-5," Single-family Residential approved for "LC," Limited Commercial, subject to a community unit plan / single-family residence (north). There is a landscaped buffer running along the south side of Maize Court, adjacent to the residences located south of the application area.

The "NR" district permits "retail, general" but limits individual commercial uses to 8,000 square feet or less and does not permit outdoor storage or display for commercial uses. Restaurants in the "NR" district are limited to a maximum of 2,000 square feet, and are not permitted to provide drive-up window or in-vehicle food service. The "LC" district does not have these development standards. The "NR" district limits building height to 35 feet while the "LC" district permits 80 or higher with greater setbacks.

CASE HISTORY: The site was platted in 2002 (SUB2002-15). The site also received a variance to increase the area of a ground sign to 196 square feet ground sign (BZA2005-33).

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5," Single-family Residential, but approved for "LC," Limited Commercial; single-family residence
SOUTH: "SF-5," Single-family Residential; single-family residences
EAST: "GO," General Office; office
WEST: "LC," Limited Commercial; retail sales

PUBLIC SERVICES: Maize Road is an arterial with four through lanes, a left-turn lane and a continuous right-turn lane carrying in excess of 20,000 average daily trips. The site is currently served by sewer, water and other normal publicly supplied services.

CONFORMANCE TO PLANS/POLICIES: The *2030 Wichita Functional Land Use Guide* conforms to the application area's current zoning by depicting the site as appropriate for "local commercial." This land use category includes areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw.

RECOMMENDATION: Staff did not support the 2001 request for "NR" zoning. It was staff's opinion then that the site's location was not consistent adopted location guidelines for neighborhood retail uses given the fact that the property was not a transition from the lower intensity established Chadsworth single-family neighborhood to a more intense use since, at that time, Cadillac Lake was not zoned the way it is now, and there was adequate commercial zoning already in place west of Maize Road in New Market Square. Staff still has concerns about granting more intense zoning adjacent to Chadsworth given the issues that have arisen on the south side of Chadsworth. However, based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following Protective Overlay: 200

1. The following LC uses are prohibited: recycling collection station, public and private;

construction sales and service; pawn shop; secondhand store; service station; vehicle repair, limited; wireless communication facility; asphalt or concrete plant, limited and outside storage. Off-site signage, billboards, flashing or moving signage, LED or video signage that can be seen from residentially zoned property is also prohibited. ~~Also prohibited is~~

- Building or identification signage that faces south.** *is restricted to the sign depicted on the attached exhibit, is limited to internal lighting and of south facing sign. Sign lighting shall be turned off when the business is not open.*
2. Building heights are limited to 35 feet.
 3. There shall not be any lighting or light fixtures directed to the south, and light fixtures shall be absolutely screened to the south to prevent light from spilling over on the residence to the south.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: North Maize Road has been and is developing as a significant commercial corridor, especially between 21st Street and the City of Maize. Most nearby property is zoned or approved for commercial or office uses (LC or GO), but there is an established single-family subdivision, Chadsworth, zoned SF-5, located immediately south of the application area.
2. The suitability of the subject property for the uses to which it has been restricted: The site is already zoned "NR," Neighborhood Retail, which permits general retail uses subject to a limited set of restrictions discussed above. The site is developed with a strip commercial building that appears to be consistent with "NR" standards, therefore the site could continue to be operated as currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval would introduce uses not currently permitted, and a reduction in development standards that are not currently permitted by the "NR" district. Some of the uses not permitted in the "NR" district but allowed in the "LC" district are: college or university, hospital, public recycling collection station, nurseries or garden center, farmers market in the city, convenience store, construction sales and service and drive-through restaurants. The "LC" district does not restrict the size of individual businesses to 8,000 square feet or less, and restaurants to 2,000 square feet or less, as the "NR" district does.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Presumably denial would be cause some form of economic loss to the applicant, otherwise the applicant would not spend the money to apply for this request. Denial would maintain the current development standards that the adjacent neighbors have experienced since this site was rezoned to "NR."
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide depicts the application area's current zoning by depicting the site as appropriate for "local commercial." This land use category includes areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw.

6. Impact of the proposed development on community facilities: Community facilities are in place to serve the site, and approval of the request should not negatively impact public services.