

ORDINANCE NO. 48-115

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. ZON2008-00049

Zone change request from SF-5 Single-family Residential ("SF-5") to LC Limited Commercial ("LC") subject to Protective Overlay #225 on property described as:

Lot 15, except the east 7.5 feet thereof, Hatcher-Gomez Addition, Wichita, Sedgwick County, Kansas; generally located north and east of south Meridian Avenue and I-235.

SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #225:

1. One and one half time the landscape requirement.
2. No order boards or queuing lanes within 150 feet of the east property line.

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.

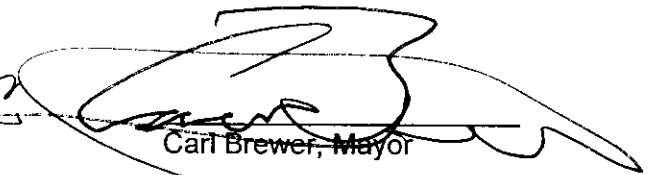
SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED this 25 day of November, 2008.



ATTEST:


Karen Sublett, City Clerk


Carl Brewer, Mayor



Approved as to form:


Gary E. Rebenstorf, Director of Law

Background: The applicant is requesting LC Limited Commercial (“LC”) zoning for the 1.9-acre platted SF-5 Single-family Residential (“SF-5”) zoned site. The site is currently developed with a church located on the north-central part of the property. The site is located approximately 400-feet north of I-235, on the west side of South Meridian Avenue. The requested LC zoning would allow the applicant to market the site for commercial development.

The site is located across Meridian Avenue from the Meridian Outlet Mall Community Unit Plan (“CUP”) DP-138. That entire CUP is zoned LC and is developed with both sit-down and drive-thru restaurants, a YMCA, a library and a fire station. The CUP also contains a couple undeveloped parcels. Property to the south of the subject site is zoned LC and is currently undeveloped. Property north of the subject site is zoned B Multi-family Residential (“B”) and is developed with a church. The property abutting the east property line is zoned SF-5 and is developed with a single-family residence.

Analysis: At the DAB IV meeting held on October 1, 2008, the DAB voted (7-1) to recommend approval per planning staff recommendations and with a protective overlay for the site to accommodate neighbors as much as possible. The DAB members and three citizens at the meeting had concerns including: what would be developed on the property; is there other property nearby that could be developed; increased traffic and what effect would the proposed zone change have on the property values and property taxes.

At the MAPC meeting held October 9, 2008, the MAPC voted (10-0) to recommend approval of the request for LC zoning subject to staff recommendations and with the addition of Protective Overlay #225 with the recommended provisions stated below:

1. One and one half time the landscape requirement.
2. No order boards or queuing lanes within 150 feet of the east property line.

At the MAPC meeting, one citizen spoke in opposition to the case. Five protest petitions have been filed on this case; however, two are outside the notification area and the remaining three protests equal 13.24% of the notified land area. Therefore, a simple majority vote will be needed to approve the request since the 20% threshold for a $\frac{3}{4}$ majority vote was not achieved.

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:

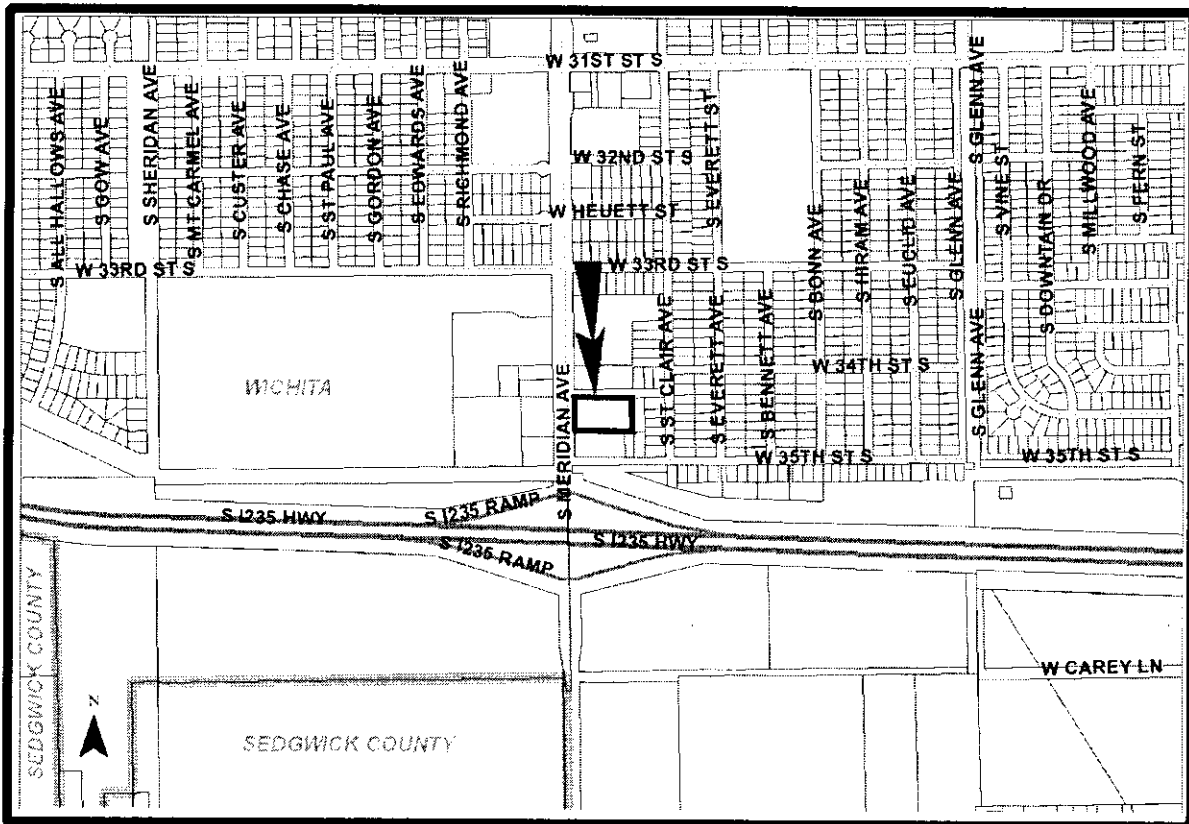
1. Adopt the findings of the MAPC, approve the zone change and place the ordinance on first reading; or
2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission’s recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

STAFF REPORT

MAPC October 9, 2008
 DAB IV October 1, 2008

- CASE NUMBER:** ZON2008-00049
- APPLICANT/AGENT:** West Side Church of Christ, Attn: Darrell Phipps (Owner/Applicant)
 Baughman Company, P.A., Attn: Phil Meyer (Agent)
- REQUEST:** Rezone to LC Limited Commercial ("LC")
- CURRENT ZONING:** SF-5 Single-family Residential ("SF-5")
- SITE SIZE:** Total Area = 1.90
- LOCATION:** Generally located north and east of south Meridian Avenue and I-235 (3500 South Meridian Avenue)
- PROPOSED USE:** Undetermined



BACKGROUND: The applicant is requesting LC Limited Commercial (“LC”) zoning for the 1.9-acre platted SF-5 Single-family Residential (“SF-5”) zoned site. The site is currently developed with a church located on the north-central part of the property. The site is located approximately 400-feet north of I-235, on the west side of South Meridian Avenue. The requested LC zoning would allow the applicant to market the site for commercial development.

The site is located across Meridian Avenue from the Meridian Outlet Mall Community Unit Plan (“CUP”) DP-138. That entire CUP is zoned LC and is developed with both sit-down and drive-thru restaurants, a YMCA, a library and a fire station. The CUP also contains a couple undeveloped parcels. Property to the south of the subject site is zoned LC and is currently undeveloped. Property north of the subject site is zoned B Multi-family Residential (“B”) and is developed with a church. The property abutting the east property line is zoned SF-5 and is developed with a single-family residence.

CASE HISTORY: The site is located in the Hatcher-Gomez Addition, recorded on June 7, 1955.

ADJACENT ZONING AND LAND USE:

NORTH:	B	Church
SOUTH:	LC	Vacant Land
EAST:	SF-5	Residence
WEST:	LC	Fast Food Restaurant(s)

PUBLIC SERVICES: The site has access to South Meridian Avenue, a four-lane minor arterial, with 50-foot of half-street right-of-way. Average daily trips (ADT) along this section of Meridian Avenue are approximately 12,500 ADT. The site is also located approximately 400 feet north of I-235, a four-lane interstate highway with approximately 37,400 ADT. Municipal sewer and water services and all other utilities are available.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this site as appropriate for “major institutional” type uses. The “major institutional” category includes institutional facilities of a significant size and scale of operation and could include a range of such uses as: government facilities, military bases, libraries, schools, cemeteries, churches, hospital and medical treatment facilities. The requested “LC” zoning and the uses permitted in it would be classified as “local commercial” by the Guide. The “local commercial” category’s uses are local in their customer base and include: commercial, office, personal services, medical, auto repair, grocery stores, florist shops, service stations, restaurants and on a limited presence basis mini-storage warehousing and small scale light manufacturing. However, the subject site is bordered to the south and west by properties categorized as “local commercial” on the land use guide and many uses that are classified in the “major institutional” category can be developed on property zoned LC.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request for the LC Local Commercial zoning be APPROVED.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The site is located across Meridian Avenue from the Meridian Outlet Mall Community Unit Plan (“CUP”) DP-138. That entire CUP is zoned LC and is developed with both sit-down and drive-thru restaurants, a YMCA, a library and a fire station. The CUP also contains a couple undeveloped parcels which may be occupied with future commercial development. Property to the south of the subject site is zoned LC and is currently undeveloped. Property north of the subject site is zoned B Multi-family Residential (“B”) and is developed with a church. The property abutting the east property line is zoned SF-5 and is developed with a single-family residence.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site could be developed under the current zoning with single-family residences. However, this may not be a desirable single-family residential location due to proximity of high traffic volumes from Meridian Avenue and I-235 and the commercial uses located directly across Meridian from the subject site.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Rezoning and commercial development could have negative effects on the single-family residence east of the application area. Existing codes would require compatibility setbacks, screening, landscaping, limit noise, and prohibit certain uses within 200 feet of residences.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this site as appropriate for “major institutional” type uses. The “major institutional” category includes institutional facilities of a significant size and scale of operation and could include a range of such uses as: government facilities, military bases, libraries, schools, cemeteries, churches, hospital and medical treatment facilities. The requested “LC” zoning and the uses permitted in it would be classified as “local commercial” by the Guide. The “local commercial” category’s uses are local in their customer base and include: commercial, office, personal services, medical, auto repair, grocery stores, florist shops, service stations, restaurants and on a limited presence basis mini-storage warehousing and small scale light manufacturing. However, the subject site is bordered to the south and west by properties categorized as “local commercial” on the land use guide and many uses that are classified in the “major institutional” category can be developed on property zoned LC.
5. **Impact of the proposed development on community facilities:** Provided that drainage and traffic access policies are met, community facilities should not be impacted by the proposed development. Other usually provided municipal services are available or can be extended.