

ORDINANCE NO. 48-108

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. ZON2008-00048

Zone change from LC Limited Commercial ("LC") to GC General Commercial ("GC") subject to Protective Overlay #221 on property described as:

Lot 1, Edminster Gardens, Wichita, Sedgwick County, Kansas. Generally located on the northeast corner of K-15 and 31st Street South.


SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #221:

- (1) Uses permitted on the site are limited to those permitted in the GC General Commercial zoning district except; pawn shops, night club in the city, sexually oriented business, tattooing and body piercing facility and tavern or drinking establishment.
- (2) Signs are to be allowed by sign code except for no off-site or portable signs.
- (3) On site pole lighting will be no taller than 15-feet including the base/pedestal. Pole lighting will be directed down onto the site away from adjacent residential development. No pole lighting will be placed within setbacks.
- (4) The site shall be developed in conformance with all applicable regulations.


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, November 4, 2008


Carl Brewer - Mayor

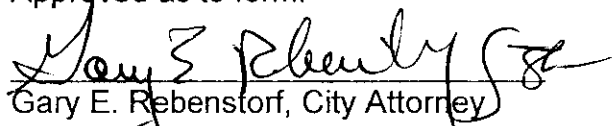
ATTEST


Karen Sublett, City Clerk

(SEAL)



Approved as to form:


Gary E. Rebenstorff, City Attorney

City of Wichita
City Council Meeting
October 28, 2008

TO: Mayor and City Council

SUBJECT: ZON2008-00048 – City zone change from SF-5 Single-family Residential (“SF-5”) to GC General Commercial (“GC”) with a Protective Overlay; generally located at the northeast corner of the intersection of K-15 and 31st Street South (District III)

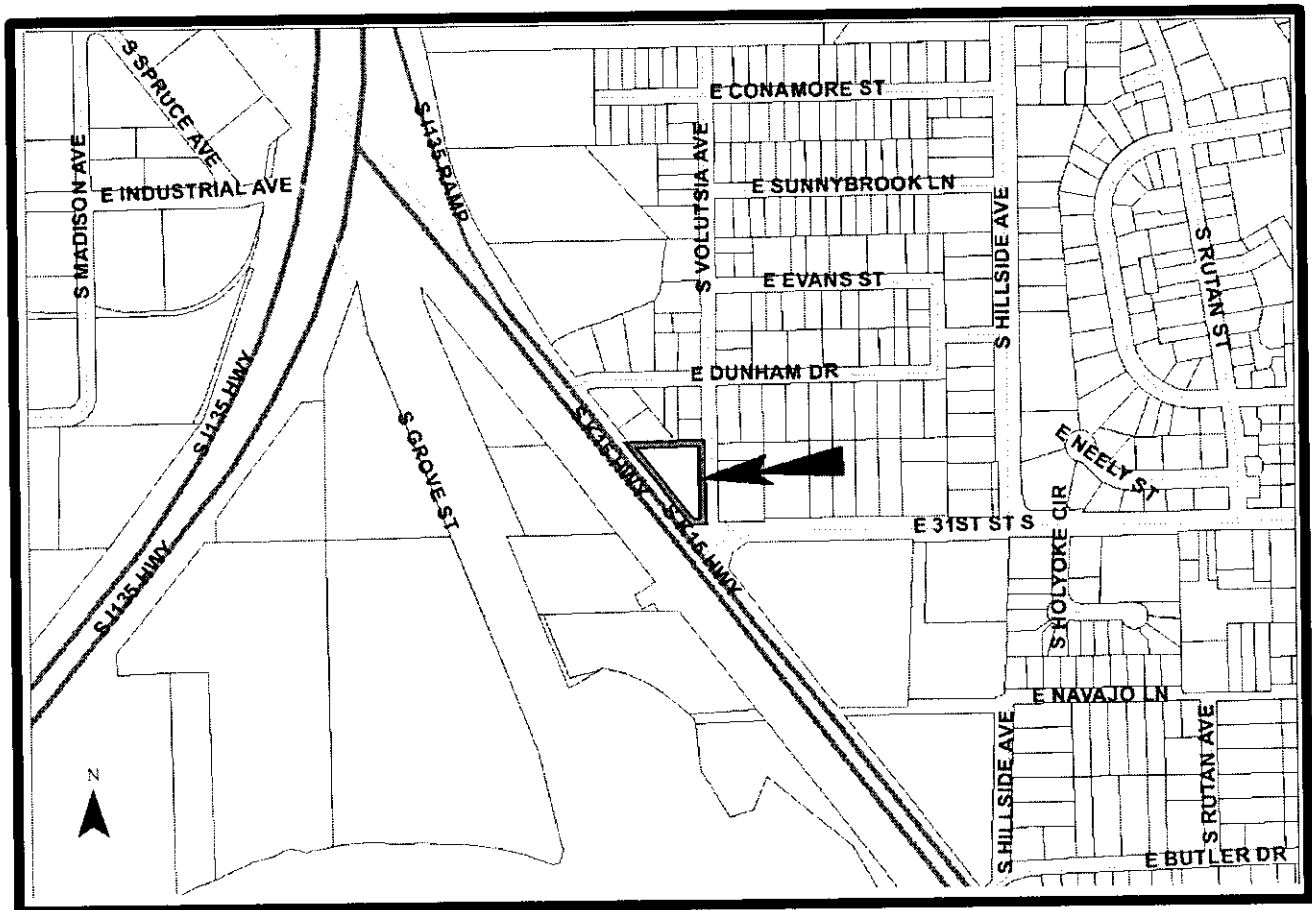
INITIATED BY: Metropolitan Area Planning Department *JLS*

AGENDA: Planning (Consent)

DAB III Recommendation: Approve, vote (8-0)

MAPC Recommendation: Approve, subject to staff recommendation, vote (9-0)

MAPD Staff Recommendation: Approve



Background: The application area is located on the northeast corner of 31st Street South and K-15 and is currently zoned LC Limited Commercial ("LC"). The site is currently classified as being developed with an automobile service garage. The use of the site as an automobile service garage is a legal activity in the LC district, per the Unified Zoning Code ("UZC"). This site has been used for automobile related uses over the years. The applicant has applied for the rezone to create more opportunities in terms of uses that can utilize the site. A Protective Overlay is being included with this zone change to exclude any nuisance type uses that are allowed in the GC zone district. The applicant has expressed that a manufacturing use (Section II-B.8.e of the UZC) could be a possible option for the subject site, and the GC zone district would allow that particular type of use.

The zoning of the surrounding property is predominately LC. Property to the north is zoned LC and SF-5 Single-family Residential ("SF-5") and is currently developed with a warehouse, motorcycle dealership and a single-family residence. Property to the west of the subject site (across K-15) is zoned LI Limited Industrial ("LI") and is currently being used as a landfill with construction services located on the site. Property to the south of the subject site is zoned LC and is developed with a mobile home park. Property to the east of the subject site is zoned both LC and is developed with a vehicle repair shop.

The subject site is in Flood Zone X, which identifies the area being in a flood insurance rate zone that corresponds to areas outside the 100-year floodplain, and by areas protected from the 100-year flood by levees.

Analysis: At the MAPC meeting held September 25, 2008, the MAPC voted (9-0) to recommend approval of the request for GC zoning subject to the provisions of Protective Overlay #221 stated below. There was no opposition.

- (1) Uses permitted on the site are limited to those permitted in the GC General Commercial zoning district except; pawn shops, night club in the city, sexually oriented business, tattooing and body piercing facility and tavern or drinking establishment.
- (2) Signs are to be allowed per the sign code except for no off-site or portable signs.
- (3) On-site pole lighting will be no taller than 15-feet including the base/pedestal. Pole lighting will be directed down onto the site away from adjacent residential development. No pole lighting will be placed within setbacks.
- (4) The site shall be developed in conformance with all applicable regulations.

At the DAB III meeting held on October 1, 2008, the DAB voted (8-0) to recommend approval per planning staff recommendations. The DAB felt this would be a good change because they would rather see the buildings occupied and productive rather than sitting vacant as they have been. Staff has not received any comments for or against this proposal, and there were not any citizens that spoke in favor or in opposition of the case.

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.)

ORDINANCE NO.

49-269

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. ZON2012-00007

Amending provision #2 of Protective Overlay #221 of ZON2008-00048 to allow off-site signs on GC General Commercial ("GC") zoned property described as:

Lot 1, Edminster Gardens, Wichita, Sedgwick County, Kansas. Generally located on the northeast corner of K-15 and 31st Street South.

SUBJECT TO THE FOLLOWING AMENDED PROVISION #2 AND FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #221:

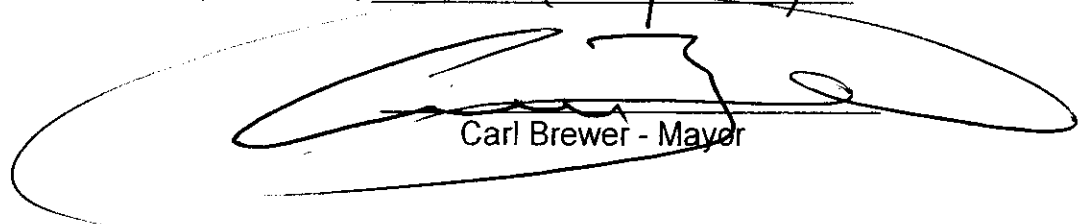
- (1) Uses permitted on the site are limited to those permitted in the GC General Commercial zoning district except; pawn shops, night club in the city, sexually oriented business, tattooing and body piercing facility and tavern or drinking establishment.
- (2) Signs are to be allowed by sign code except for no portable signs.
- (3) On site pole lighting will be no taller than 15-feet including the base/pedestal. Pole lighting will be directed down onto the site away from adjacent residential development. No pole lighting will be placed within setbacks.
- (4) The site shall be developed in conformance with all applicable regulations.

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.

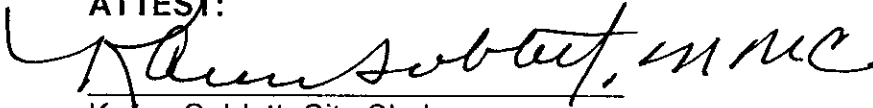
ADOPTED AT WICHITA, KANSAS,

May 15, 2012



Carl Brewer - Mayor

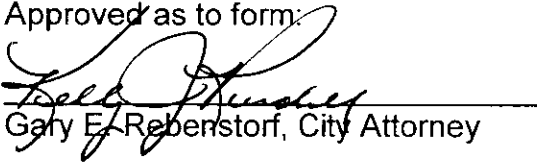
ATTEST:



Karen Sublett, City Clerk

(SEAL)

Approved as to form:



Gary E. Rebenstorf, City Attorney

Background: The applicant is seeking approval of an Amendment to Protective Overlay (“PO”) #221 on property located on the northeast corner of 31st Street South and K-15. Provision No. 2 of PO #221 states that “Signs are to be allowed by sign code except for no off-site or portable signs.” The applicant wishes to remove “off-site” from the provision, thus allowing for the possible future placement of an off-site sign on the subject site.

The Sign Code (Section 24.04.185.q) defines a “Sign, Off-site” as a sign delivering a message or advertising other than the name, occupation or nature of the activities conducted on the premises or the products sold or manufactured thereon. The code recognizes two types of off-site billboards: Off-site Junior Billboard (Section 24.04.185.s) is an off-site sign with any sign face equal to or less than three hundred square feet in area, and not exceeding thirty feet in total height above adjoining grade. An Off-site Standard Billboard (Section 24.04.185.t) is an off-site sign with any sign face greater than three hundred square feet in area, but not exceeding fourteen feet in height and forty-eight feet in length, plus any allowed extensions. Off-site billboard signs may also contain an electronic message center that utilize computer generated messages or some other electronic means of changing copy. The Sign Code also contains development standards, one of which requires a separate review process for the approval of an off-site billboard. Sections 24.04.222 and 24.04.225 of the Sign Code contain the relevant development standards for off-site signs located in the GC district. The regulations are too detailed to be included in this report; however, some of the pertinent requirements and standards are:

1. Section 24.04.222.1 requires new off-site billboards that are closer in distance to residentially-zoned and platted lots on which residential structures may be legally erected or to residential structures than set forth in Section 24.04.222.4.d, must obtain Special Review Approval as outlined in Section 24.04.225.
2. Section 24.04.222.4.d states that except as permitted by Section 24.04.225, Special Review Approval for Off-Site Billboard Sign Permits, no off-site billboard sign shall be erected closer than 300 feet from a platted and residentially-zoned lot on which a primary residential structure can be legally erected or to a residential structure. The distance is to be measured from the nearest lot line of such platted and residentially-zoned lot or residential structure to the closest part of the off-site billboard sign. The 300-foot distance may be reduced to 150 feet when the platted and residentially-zoned lots or residential structure is fully screened from view of the proposed off-site billboard sign by a non-residential building. Section 24.04.222.4.5 states off-site billboards shall comply with all building setbacks.
3. Section 24.04.225 of the Sign Code specifies the special review approval procedure required for approval to locate an off-site billboard in a location that does not comply with the Sign Code’s off-site billboard placement standards. Section 24.04.225.1(a) requires a public hearing and approval by the MAPC, or, if forwarded to the City Council, shall also require their approval and (b) the MAPC is granted the authority to hear and make a recommendation regarding off-site billboards.

In short, the previously mentioned sections of the Sign Code state that new off-site billboards that are proposed to be located closer than 300 feet to a residentially-zoned and platted lot on which a residential structure may be built or to a residential structure require a public hearing and Special Review Approval before and from the MAPC. In this instance, depending on the location of the off-site billboard on the subject site, the off-site billboard would be located within 300 feet from single-family residences located north, northeast and southeast of the subject site.

4. Section 24.04.225.3 requires the applicant to submit the following information regarding the proposed signage: a. A detailed graphic presentation of the subject property site, including property parcel dimensions; b. The location of any other buildings or structures on the site; c. The location, size and type of any other ground signs on the site; d. The distance of the proposed sign from any buildings, structures

or other signs on the site; and e. A detailed representation of the proposed sign, including sign structure and sign face dimensions, total height of the sign, and any related appurtenances such as catwalks.

5. Section 24.04.225.5 specifies the Planning Director shall prepare a report that addresses the general requirements of the Wichita Sign Code and the following elements as they may be appropriate for the review: a. The zoning, uses and character of the neighborhood; b. The suitability of the subject property for the proposed off-site sign; c. The conformance of the requested off-site sign to the adopted or recognized comprehensive plan or other plans or policies being utilized by the City; d. Opposition or support of neighborhood residents, and e; A consideration of the recommendations of professional staff. It is the applicant's responsibility to demonstrate the proposal meets applicable review criteria.

The zoning of the surrounding property is predominately LC. Property to the north is zoned LC and SF-5 Single-family Residential ("SF-5") and is currently developed with a warehouse, motorcycle dealership and a single-family residence. Property to the west of the subject site (across K-15) is zoned LI Limited Industrial ("LI"), and is currently being used as a landfill with construction services located on the site. Property to the south of the subject site is zoned LC, and is developed with a mobile home park. Property to the east of the subject site is zoned LC and is developed with a vehicle repair shop.

Analysis: At the DAB III meeting held April 4, 2012, the DAB voted, 6-2, to recommend approval of the requested amendment to provision No.2 of PO #221 to allow off site signs on the subject site. Two members of the DAB expressed concern about the impact on the general area. No one spoke against the request from the audience attending the meeting. At the MAPC meeting held April 5, 2012, the MAPC voted, 13-0, to approve the requested amendment to amendment to provision No.2 of PO #221 to allow off-site signs on the subject site. The case was approved through a consent vote since no one was present to voice concerns on the requested zoning. No valid protests were received during the two week protest period. The amended PO #221 will now be:

- (1) Uses permitted on the site are limited to those permitted in the GC General Commercial zoning district except; pawn shops, night club in the city, sexually oriented business, tattooing and body piercing facility and tavern or drinking establishment.
- (2) Signs are to be allowed by sign code except for no portable signs.
- (3) On site pole lighting will be no taller than 15-feet including the base/pedestal. Pole lighting will be directed down onto the site away from adjacent residential development. No pole lighting will be placed within setbacks.
- (4) The site shall be developed in conformance with all applicable regulations.

Financial Considerations: There are no financial considerations in regards to the zoning request.

Goal Impact: The application promotes Economic Vitality.

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

Recommendation/Actions: Adopt the findings of the MAPC, approve the amended Protective Overlay # 221, as recommended; and place the ordinance with the amended Protective Overlay on first reading.

Attachments:

- Ordinance
- MAPC Minutes