

Agenda Item # \_\_\_\_\_

City of Wichita  
City Council Meeting  
September 10, 2002

Agenda Report # \_\_\_\_\_

**TO:** Mayor and City Council Members

**SUBJECT:** ZON2002-00046 – Amend Protective Overlay #36. Generally located on the north side of 21<sup>st</sup> Street North approximately 1,100 feet west of Maize Road. (District V)

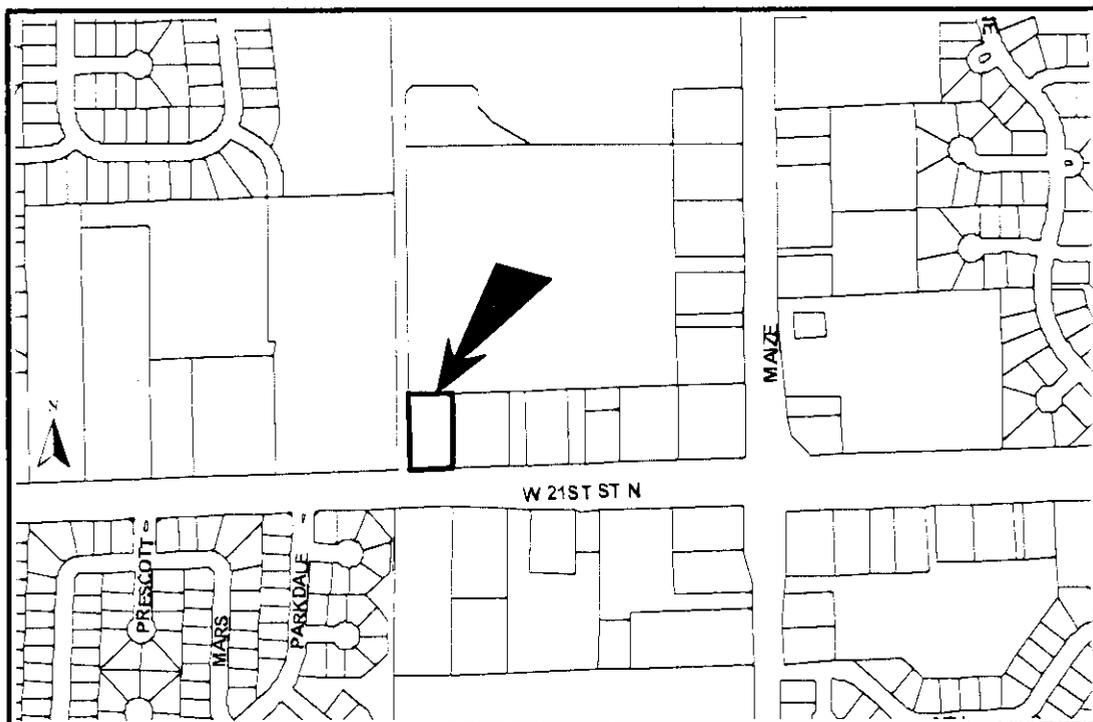
**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA ACTION:** Planning

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**MAPC Recommendation:** Approve, subject to staff recommendations. (13-0)

**Staff Recommendation:** Approve, subject to Protective Overlay provisions.



**BACKGROUND:** The applicant is proposing to amend the protective overlay provisions for Parcel 9 of the NewMarket Square development. The proposed amendment to P-O #36 would allow "LC" uses on Parcel 9 except for the following exclusions: taverns, adult entertainment, car washes and drive-in/drive through restaurants, with the additional restriction that no overhead doors would be permitted on the west or south facades of any building on Parcel 9. The number of buildings allowed on Parcel 9 would increase from one to two buildings. Other provisions of the protective overlay (building coverage, gross area, and height) would be unchanged.

Currently, Parcel 9 is zoned "LC" Limited Commercial, but is restricted to "GO" General Office uses except residential uses. This would not allow the parcel to be developed with retail uses, restaurants, and other similar commercial uses.

The area to the north, east and south is developed with commercial uses. Wal-Mart is located directly to the north, a bank is located directly to the east and a large furniture store is located directly to the south on Maize. The adjacent property to the west is a church. All other property to the west is low density (single-family) residential.

At the MAPC meeting held August 8, 2002, the MAPC voted (13-0) to recommend approval of the proposed amendment to Parcel 9 to permit all uses in the "LC" Limited Commercial district except taverns, night clubs in the City, and adult entertainment as defined by City Code, car washes and drive-in/drive-through restaurants and except residential uses. No overhead doors would be permitted on the west or south faces of any building on the parcel.

No protest petitions have been received.

**Recommended action:**

1. Concur with the findings of the MAPC and approve the amendment to Protective Overlay #36, approve first reading of the ordinance; or
2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a 2/3 majority vote of the membership of the governing body on the first hearing.)

First  
Read 9-10-02

(150004) Published in The Wichita Eagle on SEP 21 2002

ORDINANCE NO. 45-388

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. ZON2002-00046**

Request amendment to "P-O" **Protective Overlay District #36**, on property described as:

Lot 9, Block 1, Newmarket Square, an Addition to Wichita, Sedgwick County, Kansas. Generally located on the north side of 21<sup>st</sup> Street North approximately 1,100 feet west of Maize Road.

**SUBJECT TO THE FOLLOWING AMENDED PROTECTIVE OVERLAY RESTRICTIONS:**

Parcel 9

Proposed Uses - All uses permitted in the "LC" Zoning District except taverns, night clubs in the City, and adult entertainment as defined by City Code, car washes and drive-in/drive-through restaurants and except residential uses. No overhead doors shall be permitted on the west or south faces of any building on the parcel.

Net Area – 0.94 acres + or -; or 41,080 sq. ft.  
Maximum Building Coverage – 30 % or 12, 324 square feet  
Maximum Gross Area – 30 % or 12, 324 square feet  
Maximum Building Height – 35 feet  
Maximum Number of Buildings – 2

**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.

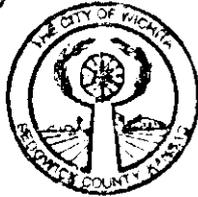
ADOPTED AT WICHITA, KANSAS, SEP 17 2002

ATTEST:

*for* Patsy Ellis, Deputy  
Pat Burnett, City Clerk

Bob Knight  
Bob Knight, Mayor

(SEAL)



Approved as to form:

Gary E. Rebenstorf  
Gary E. Rebenstorf, City Attorney

**STAFF REPORT**  
MAPC August 8, 2002

CASE NUMBER: ZON2002-00046 Amendment to P-O #36

APPLICANT/AGENT: New Market Square, LTD (owner)

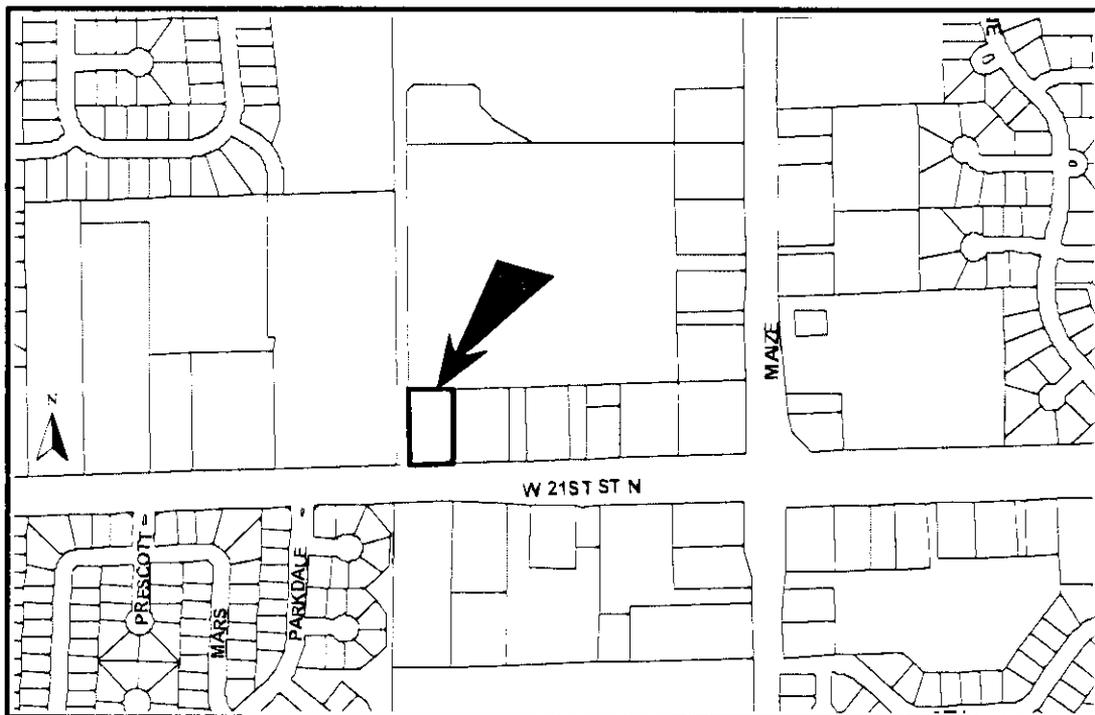
REQUEST: Amend Protective-Overlay #36

CURRENT ZONING: "LC" Limited Commercial

SITE SIZE: 0.94 acre

LOCATION: North side of 21<sup>st</sup> Street North approximately 1,100 feet west of Maize Road

PROPOSED USE: Commercial development



**BACKGROUND:** The applicant is proposing to amend the protective overlay provisions for Parcel 9 of the NewMarket Square development. The proposed amendment to P-O #36 would allow "LC" uses on Parcel 9 except for the following exclusions: taverns, adult entertainment, car washes and drive-in/drive through restaurants, with the additional restriction that no overhead doors would be permitted on the west or south facades of any building on Parcel 9. The number of buildings allowed on Parcel 9 would increase from one to two buildings. Other provisions of the protective overlay (building coverage, gross area, and height) would be unchanged.

Currently, Parcel 9 is zoned "LC" Limited Commercial, but is restricted to "GO" General Office uses except residential uses. This would not allow the parcel to be developed with retail uses, restaurants, and other similar commercial uses.

The area to the north, east and south is developed with commercial uses. Wal-Mart is located directly to the north, a bank is located directly to the east and a large furniture store is located directly to the south on Maize. The adjacent property to the west is a church. All other property to the west is low density (single-family) residential.

**CASE HISTORY:** P-O #36 was approved as part of SCZ-0703 (January 24, 1996) and the property is platted as New Market Square, recorded April 27, 1998.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"LC" Limited Commercial	Wal-Mart, NewMarket Square
EAST:	"LC" Limited Commercial	Bank, vacant, Walgreens
SOUTH:	"LC" Limited Commercial	Furniture store, greenhouse, office, bank
WEST:	"SF-5" Single-Family	Single-family residences

**PUBLIC SERVICES:** Transportation access is from the private access drive abutting the parcel on the west that has access to 21<sup>st</sup> Street North, a six-lane arterial street. Existing traffic counts for eastbound traffic on 21<sup>st</sup> Street North is 11,744; projected to increase to 15,000 ADTs by 2030.

Other normal municipal services are available.

**CONFORMANCE TO PLANS/POLICIES:** The Wichita Land Use Guide in the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* shows the subject parcel for "commercial" use, which is in conformance with the requested protective overlay amendment.

**RECOMMENDATION:** The proposed amendment would allow retail, banking and restaurant uses on Parcel 9, the western-most parcel of the NewMarket development, but still restricts the intensity of use by eliminating taverns and adult entertainment,

drive-in/drive-through restaurants and car washes. It would prohibit overhead doors facing residential and church uses on the south and west. Based on these factors and information available prior to the public hearing, Staff recommends the application be APPROVED subject to the following protective overlay provisions:

Parcel 9

Proposed Uses - All uses permitted in the "LC" Zoning District except taverns, night clubs in the City, and adult entertainment as defined by City Code, car washes and drive-in/drive-through restaurants and except residential uses. No overhead doors shall be permitted on the west or south faces of any building on the parcel.

- Net Area - 0.94 acres + or -; or 41,080 sq. ft.
- Maximum Building Coverage - 30 % or 12, 324 square feet
- Maximum Gross Area - 30 % or 12, 324 square feet
- Maximum Building Height - 35 feet
- Maximum Number of Buildings - 2

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The zoning to the north, east and south of Parcel 9 is "LC" Limited Commercial and developed with a variety of commercial uses (Wal-Mart, NewMarket Square shopping center, banks, greenhouse, medical offices, furniture store), most of which are of equal or greater intensity than the proposed request. The property to the west is residential ("SF-5") and is developed with a church on the adjacent property and with residential subdivisions to the northwest, west and southwest.
2. The suitability of the subject property for the uses to which it has been restricted: The property is suitable for use in conformance with the protective overlay restrictions currently in effect.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Allowing "LC" type uses would increase the likelihood that the parcel is developed with a bank, retail or restaurant or other "LC" use rather than being restricted to offices. This would be an increase in intensity and the property most affected would be the adjacent church.
4. Length of time the property has remained vacant as zoned: The property has been vacant and available for development for four years since the platting was completed.
5. Conformance of the requested change to the adopted or recognized

Comprehensive Plan and Policies: The requested change is in conformance with the *Comprehensive Plan*.

6. Impact of the proposed development on community facilities: The proposed changes should not impact traffic, particularly since direct access is via the private drive already in existence or by cross-lot access to the abutting commercial tract to the east.