

OCA 150004

ORDINANCE NO. 48-735

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. ZON2010-00010

Zone change from Limited Commercial ("LC") to General Commercial ("GC") subject to the provisions of Protective Overlay #241 on property described as:

The north 50 feet of Lot 1, Ledford Addition & the south 50 feet of the north 100 feet of Lot 1, Ledford Addition, Wichita, Sedgwick County, Kansas; generally located on the east side of Market Street and north of Harry Street.

SUBJECT TO APPROVAL BY THE GOVERNING BODY AND THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #241:

- A. No off-site or portable signs shall be permitted on the subject property. Signs shall be in accordance with the City of Wichita sign code for LC Limited Commercial ("LC") zoning, with the exception that signs shall be monument-style and limited to 20 feet in height. No LED shall be permitted signs.
- B. Any new light poles or lighting fixtures on the buildings shall be of the same color and design and shall have cut-off fixtures which direct light away from the adjacent, eastern residential zoned residences and the northern residential zoned properties. Light poles shall be limited to a maximum height, including the base of the light pole of 15 feet. Light poles shall not be located within the western platted 35-foot setback.
- C. Outdoor speakers and sound amplification systems shall not be permitted.
- D. No buildings shall exceed one story in height with a maximum building height of 35 feet.
- E. Landscaping shall be installed that meets the Landscape Ordinance. A landscape plan shall be prepared by a licensed landscape architect, to be reviewed and approved by the Planning Department.
- F. The following uses shall not be permitted: hotel or motel; pawn shop; rodeo; riding academy or stable; tattooing or body piercing facility; vehicle and equipment sales; asphalt or concrete plant; outdoor storage; vehicle storage yard; adult entertainment establishment; correctional placement residence; recycling collection station; reverse vending machine; car wash; convenience store; kennel; night club; indoor and outdoor

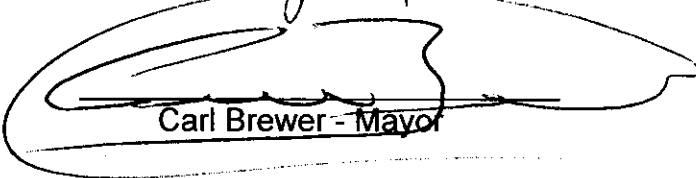
recreation and entertainment; restaurant with drive-in or drive-thru facilities; service station; tavern and drinking establishment; offices that accept paychecks or car titles as security for loans..

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.

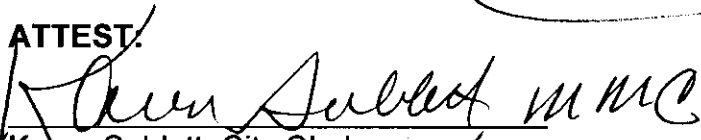
SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED AT WICHITA, KANSAS,

May 11, 2010


Carl Brewer - Mayor

ATTEST:


Karen Sublett, City Clerk

(SEAL)

Approved as to form:


Gary E. Rebenstorf, City Attorney

City of Wichita
City Council Meeting
May 4, 2010

To: Mayor and City Council

Subject: ZON2010-00010 - City zone change from LC Limited Commercial ("LC") to GC General Commercial ("GC") with Protective Overlay; generally located on the east side of Market Street and north of Harry Street. (District I)

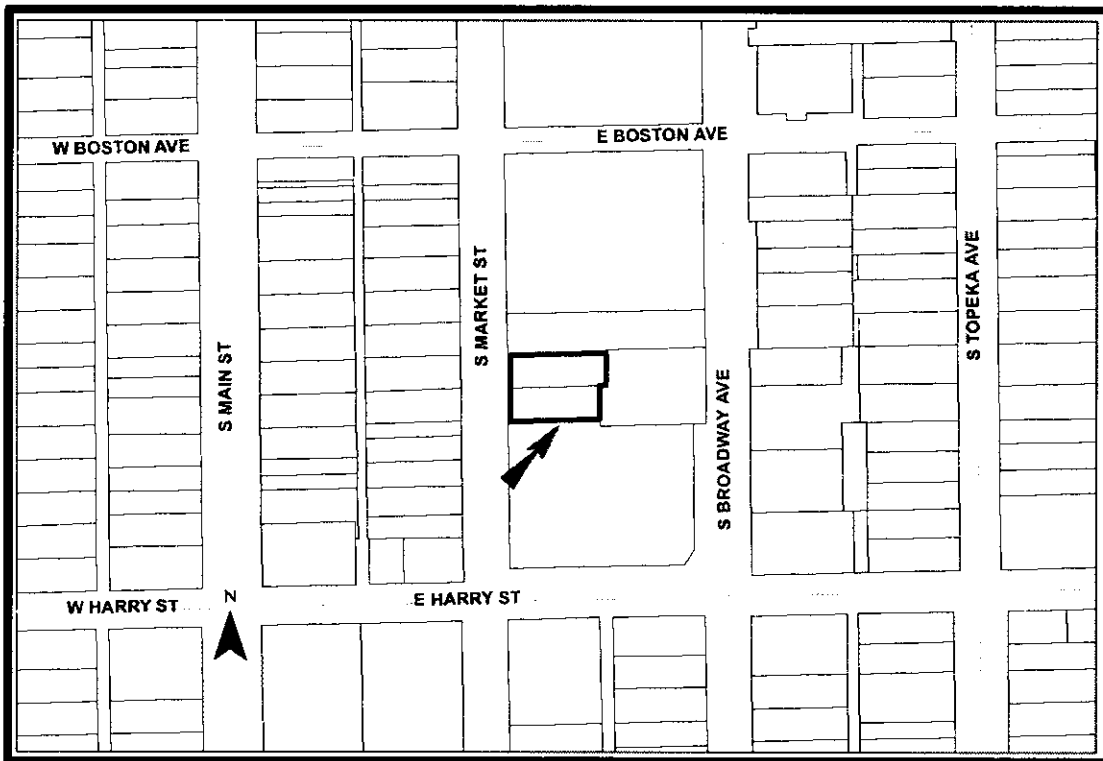
Initiated By: Metropolitan Area Planning Department *JLS*

Agenda: Planning (Non-consent)

MAPC Recommendations: Approve unanimously (14-0), subject to the provisions of Protective Overlay #241.

MAPD Staff Recommendations: Approve, subject to the provisions of Protective Overlay #241.

DAB I Recommendations: Approve unanimously, subject to the amended provisions of Protective Overlay #241.



Background: The applicant is requesting GC General Commercial ("GC") zoning on the platted approximately 0.33 acre LC Limited Commercial ("LC") zoned site. The applicant is a manufacturing representative for a heating and air company which provides wholesale and business services to other companies/contractors. The proposed GC zoning would allow the applicant to build additional office and storage to expand their current business on this site. The Unified Zoning Code (UZC), Art II, Sec II.B., 3.n. and 14.o. and Art III, Sec III.D.bb., defines the proposed use as "Construction Sales and Service," wholesales and business services which is a permitted use in GC zoning.

The site is located in an area that has a mix of LC and GC zoning located on all four sides of the Harry and Market Street intersection. Property abutting the south side of the site is zoned LC (ZON2001-84) and is developed as a Walgreen's pharmacy (built 2003). Property abutting the north side of the site is zoned LC and GC and is developed as a pawn shop (1955), with a small, screened GC zoned outdoor storage area and B Multi-family Residential ("B") paved parking facing Market Street. This parking extends north to Boston Avenue and, past the pawn shop, from Market Street east to Broadway Avenue. Property abutting the east side of the site is a pest control business/office/warehouse (2002) zoned GC (ZON2001-84). West of the site, across Market Street, are single-family residences (1882 to 1920) zoned SF-5 Single-Family Residential ("SF-5") and TF-3 Two-Family/Duplex Residential ("TF-5"). The subject site has access onto Market Street, a one-way (north), two-lane urban collector. It has no direct access onto either Broadway Avenue, a minor arterial, or Harry, a principal arterial.

Analysis: At the Metropolitan Area Planning Commission ("MAPC") meeting held on April 1, 2010, the MAPC voted to APPROVE unanimously (14-0) the requested GC zoning and the following provisions of the proposed PO #241:

- A. No off-site or portable signs shall be permitted on the subject property. Signs shall be in accordance with the City of Wichita sign code for LC Limited Commercial ("LC") zoning, with the exception that signs shall be monument-style and limited to 20 feet in height. No LED shall be permitted signs.
- B. Any new light poles or lighting fixtures on the buildings shall be of the same color and design and shall have cut-off fixtures which direct light away from the adjacent, eastern residential zoned residences and the northern residential zoned properties. Light poles shall be limited to a maximum height, including the base of the light pole of 15 feet. Light poles shall not be located within the western platted 35-foot setback.
- C. Outdoor speakers and sound amplification systems shall not be permitted.
- D. No buildings shall exceed one story in height with a maximum building height of 35 feet.
- E. Landscaping shall be installed that meets the Landscape Ordinance. A landscape plan shall be prepared by a licensed landscape architect, to be reviewed and approved by the Planning Department.
- F. The following uses shall not be permitted: hotel or motel; pawn shop; rodeo; riding academy or stable; tattooing or body piercing facility; vehicle and equipment sales; asphalt or concrete plant; outdoor storage; vehicle storage yard; adult entertainment establishment; correctional placement residence; recycling collection station; reverse vending machine; car wash; convenience store; kennel; night club; indoor and outdoor recreation and entertainment; restaurant with drive-in or drive-thru facilities; service station; tavern and drinking establishment.

There were no members of the public that spoke in opposition to the request at the MAPC meeting.

At the District Advisory Board ("DAB") I meeting held on April 5, 2010, the DAB considered the requested GC zoning and the proposed PO #241. The DAB recommended APPROVAL unanimously, but amended provision "F" by adding 'payday/paycheck loans companies' as a use that is not to be permitted. This change to provision 'F' is not what the MAPC recommended, thus it will require a two-thirds majority vote of the Council to modify the MAPC's recommendation. There was not any opposition expressed at the DAB meeting and the applicant agreed to the DAB's recommended change. At the end of the two-week protest period no valid protests against the requested zoning were submitted.

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 requested zone change, subject to the additional recommended provisions of a Protective Overlay District; place the ordinance establishing the zone change on first reading (simple majority); or
2. Approve the requested zone change and modify provision 'F' of the Protective Overlay District, to prohibit 'payday/paycheck loans companies' (requires 2/3 majority vote to override or modify the MAPC's recommendation).
3. Return the application to the MAPC for reconsideration.

Attachment: Ordinance and the MAPC and DAB I minutes.