

ADOPTED AT WICHITA, KANSAS, 3-1-05

Carlos Mayans 2/10/05
Carlos Mayans - Mayor

ATTEST:

Karen Sublett
Karen Sublett, City Clerk
(SEAL)

Approved as to form:

Gary E. Rebenstorf
Gary E. Rebenstorf, City Attorney

(150004) Published in The Wichita Eagle on March 4, 2005

ORDINANCE NO. 46-542

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. ZON2004-00063

Zone change from "NR" Neighborhood Retail to "LC" Limited Commercial and an amendment to Protective Overlay District #3, on property described as:

NR to LC: Lot 1, Harrison Park 3rd Addition.

P-O #3 Amendment: Lots 1 & 2, Harrison Park 3rd Addition.

Generally located south of Lincoln and east of Webb.

SUBJECT TO THE FOLLOWING AMENDED PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #3:

1. **Landscaping:** Landscaping shall comply with the Landscape Ordinance of the City of Wichita, except as follows:
 - A. Street yard landscaping shall be calculated at 1.5 times the minimum ordinance requirements.
 - B. There shall be a 20-foot landscape buffer along the south and east property line of Lot 1, Harrison Park 3rd Addition. Buffer strip trees shall consist of pine trees spaced at a maximum of 20 feet and a minimum height of 8 feet.
 - C. The applicant shall submit a Landscape Plan and install the required plantings prior to the issuance of building permits.
 - D. Maintenance of the buffer strip shall be by the owner(s) of the land in which the buffer strip is required. Failure of the owner(s) to properly

maintain any part of the buffer strip shall be considered a violation of the "P-O", and the City of Wichita may serve notice on the owner(s) of their failure to so maintain, setting out the manner in which they have failed to perform, and granting them twenty (20) days within which to all of the items designated in said notice. After said twenty (20) days, the City may enter upon the property to perform the work deemed in said notice of deficiency, and the cost of such work performed by the City assessed against the property in the same manner as provided by law for like assessments, and said assessment may be established as a lien upon the property.

2. Signs: Freestanding signage is limited to one monument type sign no taller than 12 feet with a maximum of 60 square feet of signage for Lot 2, Harrison Park 3rd Addition, and the monument type signs no taller than 8 feet with a maximum of 48 square feet of signage per sign for the Lot 1, Harrison Park 3rd Addition. No off-site signs or portable signs shall be permitted. All signs shall be turn off at 11 :00 p.m. No building advertising signs shall be permitted along the south or east face of the buildings located within Lot 1, Harrison Park 3rd Addition.
3. Architectural Control: All buildings on the site shall be constructed of brick, brick and E.F.S. Stucco System, or decorative split-faced block. Building walls and roofs must have predominately earth-tone colors, with vivid colors limited to incidental accent, and must employ materials similar to surrounding residential areas. All building elevations shall share the same architectural finish.
4. Lighting: Light poles shall be of the same color and design, and shall have cut-off fixtures, which direct light away from the nearby residential area. Light poles must be limited to a maximum height of 14 feet. Extensive use of backlit canopies and neon or fluorescent tube lighting on buildings, as determined by the Director of Planning, is not permitted.
5. Access Control: Access to the site shall be limited to two (2) opening, one (1) opening each to Lot 1 and 2, Harrison Park 3rd Addition. The opening to Lot 2 will be required to line up with Lincoln Street to take advantage of the signals and existing curb cut, and provide two (2) lanes out/one (1) lane in configuration as determined by the City's Traffic Engineer.
6. Drainage: At the time of platting, a drainage plan will be submitted to the City for review and approval. The drainage plan will require the site to be graded to drain to Webb Road.
7. Screening: Screening of all dumpsters, outside storage, and utilities, such as AC units, will be constructed of material to match and preferably be connected to the buildings they support. No dumpsters, outside storage and utilities, such as AC units, will be visible by the residents adjoining the property and this screening will not rely solely on trees within the buffer strip to block the view.

8. Lot 1, Harrison Park 3rd Addition shall be limited to a maximum building coverage of 20% or 40,000 square feet.
9. No buildings shall exceed one (1) story in height with a maximum height of 25 feet.
10. Fencing: If the existing wood fence on the adjoining residential properties to the south and east of the application area is not properly maintained, the owner(s) of the commercial area shall be responsible for the replacement of the fence on their own property.
11. On-Site Traffic Circulation: No traffic shall be permitted to circulate around the rear of the buildings adjacent to the residential properties to the south and east of the application area.
12. Permitted uses: The following uses shall not be permitted on Lot 2, Harrison Park 3rd Addition: duplex, multi-family, manufactured/mobile home, group residence (limited or general), cemetery, college or university, day care (limited or general), golf course, group home (limited, general or commercial), correctional placement residence (limited or-general), hospital, parks and recreation, recycling collection station (private or commercial), reverse vending machine, school (elementary, middle and high); utility (minor), car wash, construction sales and service, hotel or motel, marine facility (recreation), night club, parking area (commercial), recreation, entertainment (indoor), service station, tavern and drinking establishment, asphalt and concrete plant (limited), agricultural research, and agricultural sales and service.

The following uses shall be permitted on Lot 1, Harrison Park 3rd Addition: all uses as permitted in the "NR" Neighborhood Retail zoning district with the addition of vocational school and excluding duplex, multi-family, group residence limited, day care (limited or general), group home (limited or general), correctional placement residence (limited or general), parks and recreation, school (elementary, middle and high); utility (minor), parking area (commercial), and asphalt and concrete plant (limited).

13. The Administrative Adjustment provision of the Wichita-Sedgwick County Unified Zoning Code, Section V-E 14 shall apply to the Protective Overlay.

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.

Background: The applicant requests a zone change for 4.5 acres located south of Lincoln and east of Webb from “NR” Neighborhood Retail to “LC” Limited Commercial. The applicant has a contract to sell a portion of the subject property to a cosmetology school. The Unified Zoning Code defines a cosmetology school as a “Vocational School”, which is first permitted by right in the “LC” district. The subject property is restricted by the provisions of Protective Overlay District #3, which includes zoning restrictions pertaining to landscaping, signs, architectural control, lighting, traffic, screening, and permitted uses. The applicant proposes to amend Protective Overlay District #3 to continue the same zoning restrictions on the subject property, except that a “Vocational School” would be permitted in addition to the uses currently permitted on the subject property (see attached “Proposed Amendment to Protective Overlay District #3”).

The character of the surrounding area is predominately residential with a mixture of low-density and high-density housing as well as institutional uses in the vicinity. The subject property was approved for commercial development in 1996 but has remained vacant. The property to the north is zoned “SF-5” Single Family and is developed with a church. The properties to the south and east are zoned “SF-5” Single Family and are developed with single family residences. The properties to the south are zoned “B” Multi-Family and are developed with residential uses. The properties to the west across Webb are zoned “TF-3” Two Family and are developed with single family residences.

Analysis: There were no speakers in opposition to the request at the DAB hearing on January 3, 2005, or at the MAPC hearing on January 13, 2005. The DAB lacked a quorum, so no formal recommendation was made. The MAPC voted unanimously to recommend approval of the requested zone change and amendment to Protective Overlay District #3.

Financial Considerations: None.

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 and approve the zone change and amendment to Protective Overlay District #3; place the ordinance establishing the zone change and Protective Overlay District #3 amendment on first reading; or
2. Return the application to the MAPC for reconsideration

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

City of Wichita
City Council Meeting
February 15, 2005

Agenda Report No. _____

TO: Mayor and City Council

SUBJECT: ZON2004-00063 - Zone change from "NR" Neighborhood Retail to "LC" Limited Commercial and an amendment to Protective Overlay District #3. Generally located south of Lincoln and east of Webb Road. (District II)

INITIATED BY: Metropolitan Area Planning Department *JLS*

AGENDA: Planning (Consent)

MAPC Recommendations: Approve, vote (10-0).

MAPD Staff Recommendations: Approve.

DAB Recommendations: Due to lack of a quorum, no formal recommendation by the board was made.

