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ORDINANCE NO. 48-883

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. ZON 2009-00027

Zone change request from SF-5 Single-family Residential to LC General Commercial, on property described as:

Lots 1 and 2, Block A, and Reserves "A", "B", "C", and "D", Harry and Webb Commercial Addition, Wichita, Sedgwick County, Kansas.

Generally located on the south side of Harry and on the east side of Webb Road.

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 2 day of November, 2010.

ATTEST:

[Handwritten signature of Karen Sublett]
Karen Sublett, City Clerk

[Handwritten signature of Carl Brewer]
Carl Brewer, Mayor



(SEAL)

APPROVED AS TO FORM:

[Handwritten signature of Gary E. Reberstorf]
Gary E. Reberstorf, Director of Law

City of Wichita
City Council Meeting
October 13, 2009

TO: Mayor and City Council

SUBJECT: ZON2009-00027 Associated with CUP2009-00026 – Request City zone change from SF-5 Single-Family Residential to LC Limited Commercial, and creation of DP-321 Harry and Webb Commercial Community Unit Plan; generally located south of Harry Street and east of Webb Road. (District II)

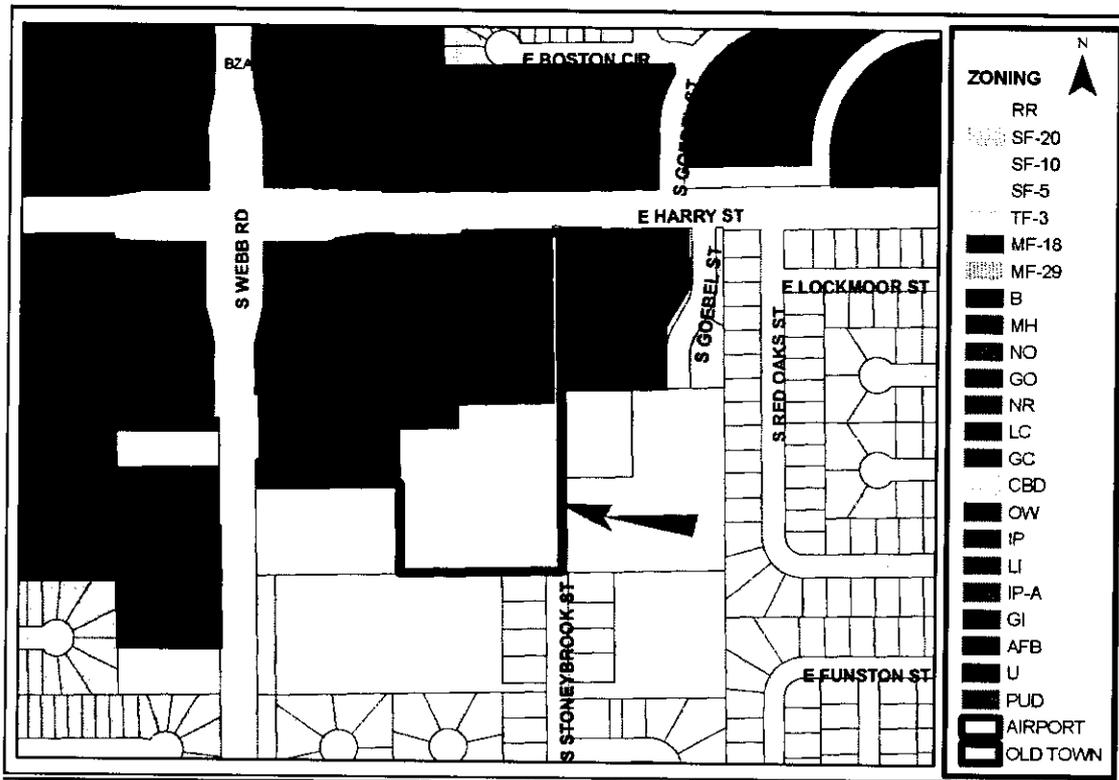
INITIATED BY: Metropolitan Area Planning Department *JLS*

AGENDA: Planning (Non-Consent)

MAPC Recommendations: Approve subject to platting within one year and conditions (12-0-1).

MAPD Staff Recommendations: Approve subject to platting within one year and conditions.

DAB Recommendations: Approve subject to platting within one year and MAPC conditions, with one additional condition (11-0).



BACKGROUND: The applicant proposes to create DP-321 Harry and Webb Commercial Community Unit Plan (“CUP”) south of Harry Street and east of Webb Road. The CUP would be zoned LC Limited Commercial (“LC”) and would consist of a single lot with a skinny strip of access to Webb Road and a limited amount of frontage on Harry Street, but ballooning out to a 10.00-acre single parcel located south and east of the strip of commercial uses already in place directly fronting these arterial streets. Total size of the CUP is 10.33 acres. CUP2009-00026 is accompanied by ZON2009-00027, which is a rezoning of approximately four acres on the southeast portion of the proposed CUP. Currently, this property is zoned SF-5 Single-Family Residential (“SF-5”).

The LC zoning on the CUP consists of a portion of the LC commercial corner zoned in 1958. Additional commercial zoning was added along Webb Road in 2002 (ZON2002-00005) and 2.4 acres along Harry Street in 2005 (ZON2005-00017).

Uses permitted would be those allowed by right in the LC district except: adult entertainment, sexually oriented business, correctional placement residences, night club, and tavern and drinking establishment. Activities prohibited within 200 feet of residential uses include: drive-through windows, convenience stores, service stations and vehicle repair, limited. Additional restrictions are to prevent headlights associated with queuing lanes from shining into residential zoning, overhead doors associated with vehicle repair would be prohibited within 200 feet of residential uses and not be allowed to face residential zoning districts and noise is restricted.

CUP provisions include maximum building coverage of 30 percent, maximum floor area of 35 percent of lot area and maximum height of 35 feet. Number of buildings specified is two. Setbacks are 100 feet on the south property line and 35 feet along the north, west and east property lines.

Consistency is called for in architecture, lighting standards of 25 feet for most of the parcel, but reduced to 15 feet within 200 feet of the south property line. It also calls for consistency in signage and landscaping. It provides for pedestrian connectivity between buildings and the main roads and internal circulation and smooth vehicular flow within the parcel. A screening wall of six to eight feet in height is required abutting residential zoning.

The signage provisions for freestanding signage stipulate one monument-style sign 24 feet in height for each frontage, with a size of 160 square feet each. The frontage on Webb Road is only 60 feet, which by the Wichita Sign Code would be entitled to a sign limited to 48 square feet in size. Harry Street would be entitled to a sign limited to 208 square feet. Combined, the amount allotted to both streets would be 256 square feet, which is below the 320 square feet requested. The Wichita Sign Code does not provide for increasing the total amount of signage or redistributing the allotment among the two CUP frontages. Signage is not specifically named as a requirement eligible for waiver by the Unified Zoning Code in Article III, Section III-C.2.d although sign control is listed as one of the purposes of the CUP in Article III, Section III-C.2.a. If the governing body approves the sign amount as requested, it constitutes an override of Wichita Sign Code by the Unified Zoning Code under the authority for waivers, and the grounds for this waiver is when the governing body determines the waiver constitutes good planning practice and furthers the objectives of the Comprehensive Plan. In terms of current conditions, Webb Road already has three signs along the stretch between the CUP and the intersection (Subway approximately 100 feet to the north, then Taco Shop, then QuikTrip all within 350 feet). The vacant parcel, which lies outside the CUP although the strip of access in the CUP is carved from this parcel) would add another sign, allowing three signs within 100 feet which is beyond the desired spacing.

Other sign provisions include prohibiting portable, billboard and off-site signs, limiting window signage to 25 percent of window area, prohibiting building signs on the south façade and limiting flashing signs to those for public service type messages.

A convenience store is located at the southeast corner of the intersection of Webb Road and Harry Street. Other commercial uses along the south side of Harry Street, east of Webb Road, include a car wash and a tire, battery and accessory store. Other commercial uses along the east side of Webb Road, south of Harry

Street, include two fast food restaurants and a vacant retail tract. All of these uses are located on property zoned LC and all adjoin the proposed CUP on its interior northern and western boundary line. The tract of land east of the proposed CUP is zoned GC General Commercial ("GC"), GO General Office ("GO") and TF-3 Two-Family Residential ("TF-3") and SF-5. A church owns this site and has a building along Harry Street; much of the site is vacant. It used to be a nursery business. The residential subdivision located east of the church is zoned SF-5. The property south of the proposed CUP is developed with the Brentwood residential development and is zoned SF-5. The CUP shares a common property line with the northern edge of this development. A large-lot single-family home and a church are located to the southwest of the CUP. A mini-storage warehouse, an office complex and a condominium zoned MF-18 Multi-Family Residential ("MF-18") are developed to the north of the CUP. In the vicinity of the intersection of Harry Street and Webb Road, all four corners are developed commercially, with a bank, and two strip commercial buildings to the northeast, a Dillons to the northwest, and a Walgreens and fast food restaurant, a residence and a vacant tract to the southwest. A large lot residence and a vacant tract remain farther south on the west side of Webb Road across from the CUP entrance. North of the CUP frontage on Harry Street are located a freestanding restaurant, a mini-storage warehouse, a cluster of office buildings and a condominium development with about 16 dwelling units zoned MF-18 Multi-Family Residential ("MF-18").

Analysis: At the MAPC meeting held September 10, 2009, the MAPC voted (12-0-1) to approve subject to the staff recommendations, modified by removing the restriction on signage from 160 square feet to 96 square feet along Webb Road, removing the requirement for traffic improvements, which will be addressed by a traffic study reviewed in conjunction with the plat, and adding a requirement to allow pedestrian and bicycle access through the wall to the east and south from the residential area. No citizens were present to speak on the case. No protests have been received.

The recommendations of MAPC are: **APPROVE** the request subject to platting within one year and subject the following conditions:

- A. **APPROVE** the zone change (ZON2009-00027) to LC.
- B. **APPROVE** the Community Unit Plan (DP-321), subject to the following conditions:
 1. Access location on Harry Street shall be located midpoint between entrances on adjoining properties.
 2. An opening to the south and to the east in the screening wall for pedestrian and bicycle connectivity with the nearby residential neighborhood shall be permitted.
 3. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
 4. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
 5. The ordinance/resolution establishing the zone change shall not be published until the platting has been recorded with the Register of Deeds.
 6. Prior to publishing the ordinance/resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-321) includes special conditions for development on this property.
 7. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

At the DAB II meeting held September 14, 2009, the District Advisory Board voted (11-0) to follow the recommendation of the MAPC, with one additional condition that no LED/Digital signage be allowed. Several citizens were present and spoke with concerns about screening and buffering, what type of use will be on the site, if there will be a pond on the development and whether the residents will have pedestrian access.

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 CUP subject to the condition of platting within one year and the recommended conditions; instruct the Planning Department to forward the ordinance for first reading when the plat is forwarded to the City Council; 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.)