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ORDINANCE NO. 49-020

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. ZON2009-00020

Zone change request from SF-20 Single-Family Residential to LC Limited Commercial on property described as:

Lots 1 through 6 and Reserve A, Block A, Dugan West Kellogg Commercial Addition, Wichita, Sedgwick County, Kansas.

Generally located on the south side of Kellogg, east of 135<sup>th</sup> Street West.

**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 14<sup>th</sup> day of June, 2011.

ATTEST:

*[Handwritten signature]*  
Karen Sublett, City Clerk  
*[Handwritten signature]*  
Deputy



*[Handwritten signature]*  
Carl Brewer, Mayor

APPROVED AS TO FORM:

*[Handwritten signature]*  
Gary E. Rebenstorff, Director of Law  
*[Handwritten initials]*

# AGENDA ITEM REQUEST

**Proposed Agenda Item:** ZON2009-00020 and CUP2009-00018 Zone change from SF-20 Single-Family Residential ("SF-20") to LC Limited Commercial ("LC") and creation of DP-320 Dugan West Kellogg Community Unit Plan. (District III)

**Presented By:** John L. Schlegel, Planning Director *JLS*

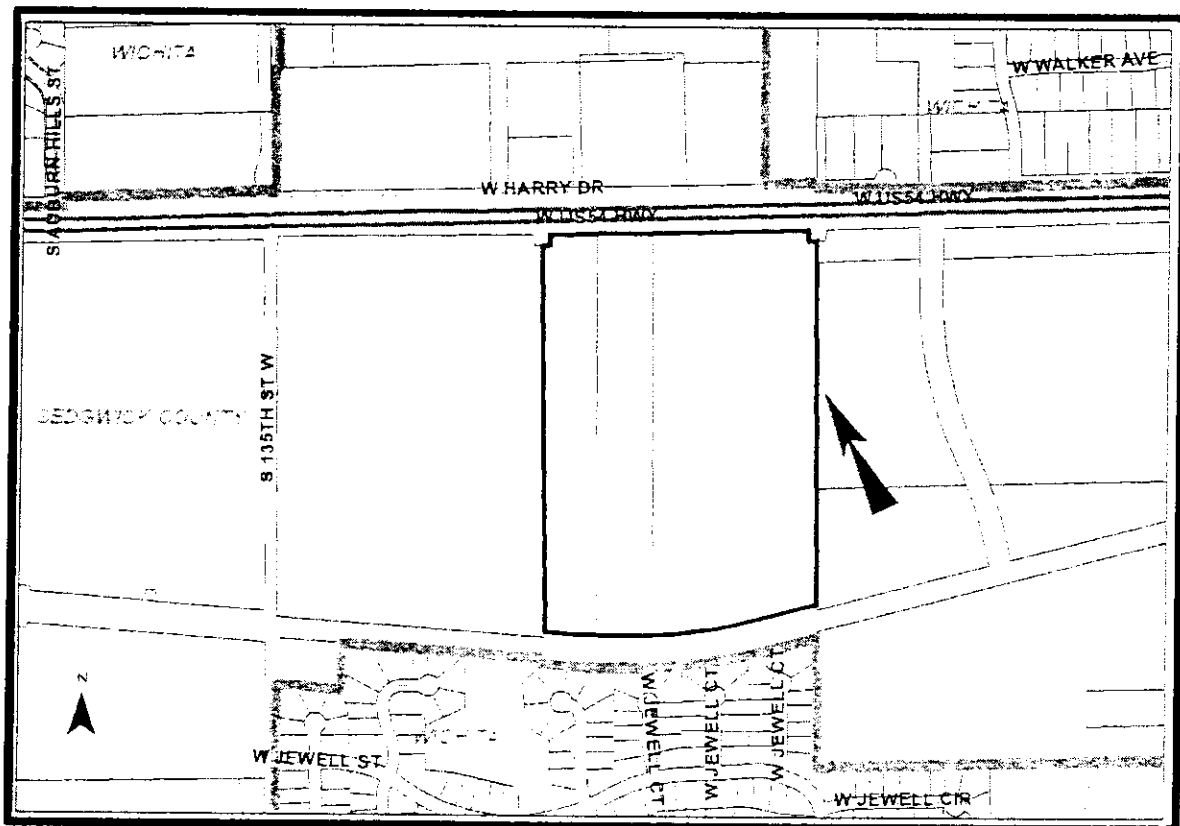
**Recommended Action:** Adopt the findings of the Metropolitan Area Planning Commission, approve the zone change to LC Limited Commercial, and DP-320 Dugan West Kellogg Community Unit Plan; subject to platting within one year; direct staff to prepare an appropriate resolution after the plat has been approved and authorize the Chairman to sign the resolution.

**Proposed Agenda Date:** August 19, 2009

**Outside Attendees:** Baughman Company, PA c/o Russ Ewy (agent)

**Multimedia Presentation:** Powerpoint

**Donations:** Not applicable



**Background:** The applicant proposes to rezone a 52-acre parcel to LC Limited Commercial ("LC") and establish DP-320 Dugan West Community Unit Plan ("CUP") for future commercial development along Kellogg Drive/US Highway 54/400. Currently, the area is in agricultural use and zoned SF-20 Single-Family Residential ("SF-20").

The CUP proposes one very large parcel (32 acres) for LC uses. Five outparcels, ranging in size from 1 to 2 acres are located along Kellogg Drive. The CUP would permit all uses allowed by-right in the LC district except adult entertainment, sexually oriented businesses, taverns and drinking establishments and correctional placement residences. The CUP has site design features to mitigate impacts on nearby residential development. Auto-oriented uses, drive through windows and overhead doors would be prohibited within 200 feet of residential uses. Queuing lanes and overhead doors would not face residential uses and exterior audio systems would not be allowed to project sound beyond the CUP boundaries.

Other CUP provisions include maximum building coverage of 30 percent, maximum floor area of 35 percent of lot area, maximum height of 35 feet. Setbacks are 50 feet on the south property line, and 35 feet along the north, west and east property line except for the northern 300 feet of the east line. The applicant has requested 15 feet for this segment due to the small size of the parcel and its location abutting the Calfskin Creek where no future development will be permitted.

Consistency is called for in architecture, lighting standards, landscaping and signage. It provides for pedestrian connectivity between buildings and the main roads and internal circulation and smooth vehicular flow between and within parcels.

The signage provisions for freestanding signage stipulate monument-style signs of 20 feet in height for Parcels 1-5 and 30 feet for Parcel 6. Parcel 1-5 would be allowed at least one sign, up to 150 square feet each. Parcel 6 (the large parcel) would be allowed two signs along Kellogg, up to 250 square feet each. This would yield a maximum of 1,000 square feet in signage, which is slightly below the amount allowed (0.8 times the linear frontage) for freestanding signage by the Wichita Sign Code. Spacing would be 150 feet apart. The total number of sign locations for the frontage would be nine. Considering that the two signs for Parcel 6 are allowed to be 30 feet in height, which counts as occupying two sign locations each, one sign location would be left for five remaining parcels. Other sign provisions include prohibiting portable, billboard and off-site signs, limiting window signage to 25 percent of window area, prohibiting rear facing building signs and limiting flashing signs to those for public service type messages.

The screening provisions are tailored to the specific characteristics of the surrounding land use. On the east side bordering the Calfskin Creek, the CUP calls for a six to eight-foot screening wall where adjacent to residential use. It is probable that the land to the east will be developed with nonresidential use; additionally the creek forms a wide (approximately 800 feet) natural barrier. This screening wall may never be needed. On the west side, if the property is developed with residential use in the future, a masonry wall six to eight feet in height should be provided by this CUP. On the south side, the CUP is separated from the platted residential development by a rail-banked right-of-way. The elevation of the land is highest on the residential ground (Turkey Creek 3<sup>rd</sup> Addition), lowest for the right-of-way then higher on the CUP tract although about 5-10 feet lower than Turkey Creek. This creates screening difficulties to adequately address sight lines for the

residential lots. Evergreen trees planted densely along the edge of commercial development, coupled with masonry type screening around loading docks, trash receptacles, mechanical, outdoor work and storage areas and other similar uses would provide better screening than a six-foot wall at the property line that is at least 3-5 feet below grade of the residences from which the wall is intended to block the view.

Drainage Plan considerations will be significant during the platting of this property due to the presence of Calfskin Creek to the east. Minor modifications of the parcel layout may be necessary to accommodate the Drainage Plan, which is reflected in the general provisions of the CUP.

The land north of US 54/400 is zoned GC General Commercial ("GC"). It is developed, with a self-service warehouse storage complex located immediately to the north and an antique mall to the northwest. The land to the northeast has been used for commercial purposes in the past, but currently is vacant. The land west of the site is zoned SF-20 and currently is vacant. It had a Conditional Use for soil extraction and a rock crusher through 2006, to supply the US Highway 54/400/Kellogg freeway construction project. An asphalt/concrete plant is located on the west side of 135<sup>th</sup> Street West on property zoned LI Limited Industrial ("LI"). The land to the east is vacant and separated from this site by the Calfskin Creek. The Calfskin Creek has a significant breadth of floodway in this location, and the floodplain spills over to approximately 3-5 acres of this tract on the northeast corner of the CUP. The land south of the site includes the rail-banked right-of-way corridor, with this mile segment held by Sedgwick County. The City of Wichita holds the right-of-way to the east and for two miles to the west; Prairie Travelers holds the next segment, which is being developed as the Prairie Sunset Trail. South of rail-banked right-of-way is Turkey Creek, a single-family residential subdivision zoned SF-5 Single-Family Residential ("SF-5").

**Analysis:** At the MAPC meeting held July 9, 2009, the MAPC voted (12-2) to recommend approval subject to staff recommendation. An agent for the abutting property owner to the southeast raised a concern that the CUP would "landlock" a triangular tract of land bounded by the Calfskin Creek, the rail-banked right-of-way and the CUP. He asked that access to this tract be considered in this request. A substitute motion to defer the case until access was worked out with this property owner was denied (2-12). The recommendation of the MAPC was for the case to be APPROVED subject to platting within one year and subject to the following conditions:

A. APPROVE the zone change (ZON2009-00020) to LC.

B. APPROVE the Community Unit Plan (DP-320), subject to the following conditions:

1. Allow the reduced setback to 15 feet along the northern 300 feet of the east property line.
2. No development shall occur until water and sewer service is available.
3. Access shall be in accordance to the access acquired for the frontage road and access management guidelines, as shown on the CUP.
4. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
5. 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.


6. The ordinance/resolution establishing the zone change shall not be published until the platting has been recorded with the Register of Deeds.
7. 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-320) includes special conditions for development on this property.
8. 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.

**Alternatives:**

1. Adopt the findings of the Metropolitan Area Planning Commission, approve the zone change to LC Limited Commercial, and approve DP-320 Dugan West Kellogg Community Unit Plan, subject to platting within one year; direct staff to prepare an appropriate resolution after the plat has been approved and authorize the Chairman to sign the resolution.
2. Return such recommendation to the MAPC with a statement specifying the basis for the BOCC's failure to approve or disapprove (requires a simple majority vote).
3. Deny the zone change and override the MAPC recommendation with a 2/3 vote.

**Financial Considerations:**   *Approved by Division of Finance*

**Policy Considerations:** The MAPC recommendations are based upon the findings of fact stated in the MAPC minutes.

**Legal Considerations:**   *Approved as to form and signed by County Counselor's Office*