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ORDINANCE NO.

49-518

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. ZON2013-00002

Zone change request from LC Limited Commercial to GC General Commercial, subject to Protective Overlay #273, on property described as:

West 47th Addition, Wichita, Sedgwick County, Kansas.

Generally located on the southeast corner of 47th Street South and West Street.

SUBJECT TO THE FOLLOWING PROVISIONS OF PO #273:

- A. The development parcel contains 6.91 acres, more or less.
- B. Prohibited uses: group residence, general and limited; correctional placement residences, limited and general; kennel, boarding, breeding or training and hobby; riding academy or stable, tattooing and body piercing facility.
- C. The transfer of title on all or any portion of the land included in the development does not constitute the termination of the overlay or any portion thereof; but said overlay shall run with the land for development and be binding upon the present land owners, their successors and assigns and their lessees unless amended. However, the Planning Director, with the concurrence of the Director of the Metropolitan Area Building and Construction Department, may approve minor adjustments to the conditions of this overlay, consistent with the approved development plan.
- D. Landscape and Parking Lot screening shall be in accordance with the City of Wichita Landscape Ordinance. A landscape plan, prepared by a landscape architect licensed in the State of Kansas, indicating the location, type and specification of plant material shall be submitted to the planning department for their review and approval prior to the issuance of any building permit(s).
- E. Minimum Setback Requirements:
 - Front Setback 20 feet
 - Side Setback 0 feet
 - Rear Setback 0 feet
- F. All signs shall be per City Code for property zoned GC except that the CUP standards for signage shall control if in conflict with the Sign Code.
- G. Parking shall be in accordance with the Wichita-Sedgwick County Unified Zoning Code.
- H. An owners' association agreement providing for the maintenance of reserves, open spaces, internal devices, parking areas, drainage areas, etc., shall be filed by the time the plat is filed of record.
- I. All drainage ways and easements shall be determined at the time of platting.
- J. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the

Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.

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 11th day of June, 2013.

ATTEST:


Karen Sublett, City Clerk


Carl Brewer, Mayor

(SEAL)

APPROVED AS TO FORM:


Gary E. Rebenstorf, Director of Law

City of Wichita
City Council Meeting
May 7, 2013

TO: Mayor and City Council

SUBJECT: ZON2013-00002 – City zone change request from LC Limited Commercial (“LC”) to GC General Commercial (“GC”), subject to Protective Overlay (“PO”) PO#273 on property located at the southeast corner of South West Street and 47th Street South (District IV)

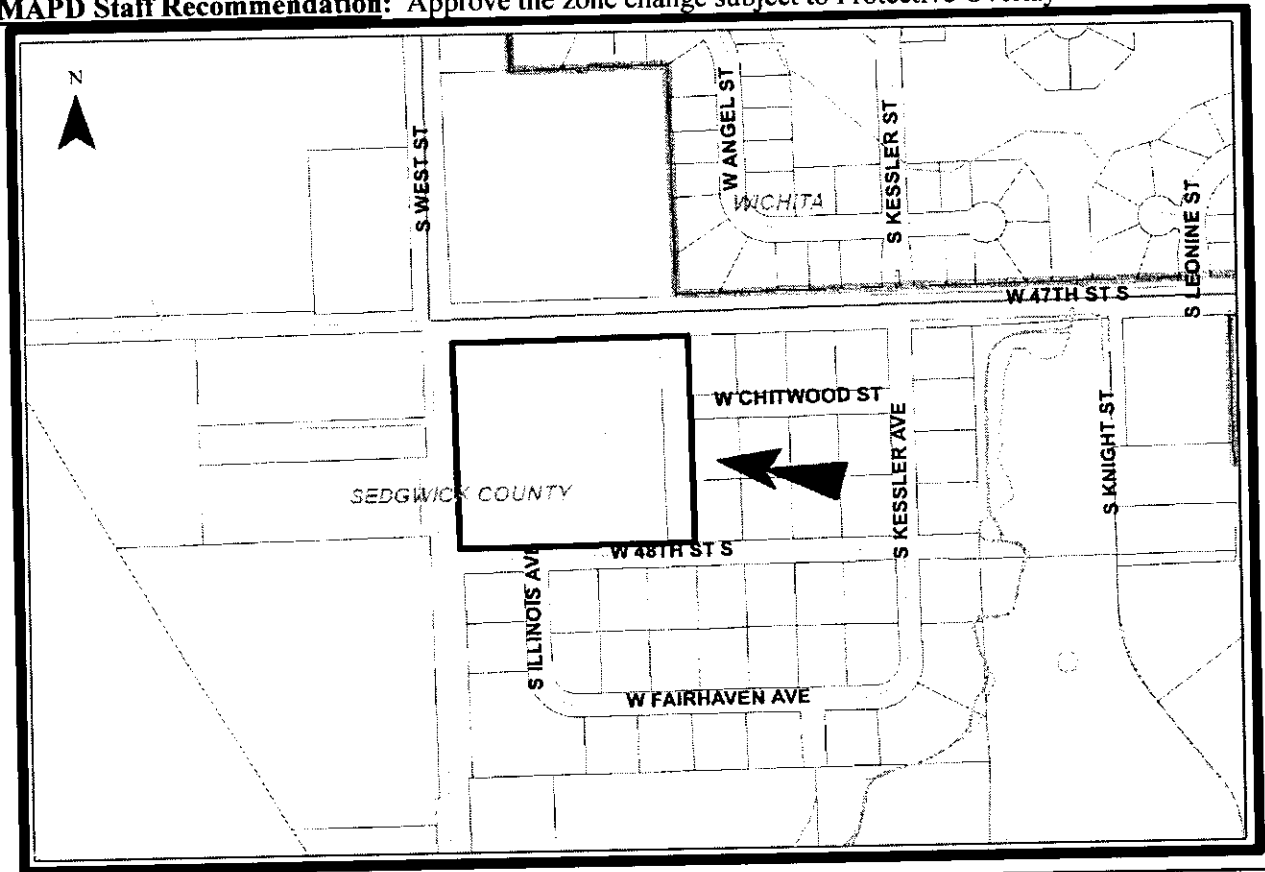
INITIATED BY: Metropolitan Area Planning Department *JLS*

AGENDA: Planning (Non-Consent)

MAPC Recommendation: The MAPC recommended approval of the zone change subject to Protective Overlay #273 (10-0-1).

DAB Recommendation: None, the application began as a Sedgwick County case and was annexed after the MAPC hearing.

MAPD Staff Recommendation: Approve the zone change subject to Protective Overlay #273.



Background: The application area is 6.91 vacant, unplatted LC Limited Commercial (“LC”) zoned acres located at the southeast corner of West 47th Street South and South West Street. The site’s LC zoning was established in 1958 as part of a City of Wichita three-mile ring extra-territorial zoning action, and has remained undeveloped. It is Planning staff’s understanding the property was recently sold at auction and the new owner believes rezoning the property to GC General Commercial (“GC”) subject to Protective Overlay (“PO”) #273 would attract new interest in the site.

The application area is located on the southern end of the South West Street corridor located south of Kellogg to 47th Street South that has significant amounts of LI zoning. The South West Street corridor south of I-235 has a mix of: LI Limited Industrial (“LI”), LC, MH Manufactured Home (“MH”), TF-3 Two-family Residential (“TF-3”) and SF-20 Single-family Residential (“SF-20”) zoning. Limited Industrial zoning is the predominate zoning north of the subject site, south of I-235. As a result of the mix of zoning there is a mix of uses ranging from vacant land, County maintenance yard, single-family residential and duplex residences. South of the application area the land is zoned for residential uses and there are large tracts developed with single-family residences.

This application began as a Sedgwick County case; however, the property was annexed by the City of Wichita at the owner’s request on April 9, 2013.

Analysis: At the Metropolitan Area Planning Commission (MAPC) meeting held March 7, 2013, the MAPC voted (10-0-1) to recommend approval of GC zoning subject to platting within one year and the following amended Protective Overlay #273:

- A. The development parcel contains 6.91 acres, more or less.
- B. Prohibited uses: group residence, general and limited; correctional placement residences, limited and general; kennel, boarding, breeding or training and hobby; riding academy or stable, tattooing and body piercing facility.
- C. The transfer of title on all or any portion of the land included in the development does not constitute the termination of the overlay or any portion thereof; but said overlay shall run with the land for development and be binding upon the present land owners, their successors and assigns and their lessees unless amended. However, the Planning Director, with the concurrence of the Director of the Metropolitan Area Building and Construction Department, may approve minor adjustments to the conditions of this overlay, consistent with the approved development plan.
- D. Landscape and Parking Lot screening shall be in accordance with the City of Wichita Landscape Ordinance. A landscape plan, prepared by a landscape architect licensed in the State of Kansas, indicating the location, type and specification of plant material shall be submitted to the Planning Department for its review and approval prior to the issuance of any building permit(s).
- E. Minimum Setback Requirements:

Front Setback	20 feet
Side Setback	0 feet
Rear Setback	0 feet

Irrespective of the setbacks listed above, there shall be a minimum building setback of 35 feet along the east property line.
- F. All signs shall be per City Code for property zoned GC except that the CUP standards for signage shall control if in conflict with the Sign Code.
- G. Parking shall be in accordance with the Wichita-Sedgwick County Unified Zoning Code.
- H. An owners association agreement providing for the maintenance of reserves, open spaces, internal devices, parking areas, drainage areas, etc., shall be filed by the time the plat is filed of record.
- I. All drainage ways and easements shall be determined at the time of platting.
- J. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.

- K. A six to eight foot masonry screening wall is required along the east property line. A six to eight foot screening fence shall be required along the rear or side lot line that has frontage along a public street that has residential zoning on the opposite side of the street.
- L. Access control shall be established at the time of platting; however, West 48th Street South shall not be used as access to the site for any nonresidential uses unless the street is paved.
- M. Drainage requirements shall be established at the time of platting.
- N. All buildings with the subject site shall share similar architectural character, colors and construction materials and utilize similar light standards and fixtures.
- O. Unless modified by the Protective Overlay, all the applicable development standards of Article III, Section III-C.2 CUP Community Unit Plan Overlay District of the UZC shall apply as well as other applicable code required development standards.

Staff received one protest letter that equals .66 percent of the protest area. The author of the protest letter was concerned that the zone change would increase traffic on neighborhood streets, increase property taxes and encourage the annexation of the residential lots located east and south of the application area. Since the protest percentage is less than 20 percent, the request can be approved by simple majority.

Financial Considerations: Approval of this request will not create any financial obligations for the City.

Legal Considerations: The Law Department has reviewed and approved the ordinance as to form.

Recommendation/Actions: 1) Adopt the findings of the MAPC and approve the zone change request to GC subject to the MAPC recommended Protective Overlay #273, authorize the Mayor to sign the ordinance and withhold publication of the ordinance until the plat has been recorded (simple majority required); 2) deny the requested zone change (two-thirds majority required) or 3) return the application to the MAPC for further consideration (simple majority required).

Attachments: MAPC minutes, ordinance, protest map and Betty Gore letter.