

**PLANNING COMMISSION REPORT**  
**Regular Agenda – Public Hearing Item**

PC Staff Report  
1/26/15

**ITEM NO. 4A: CO TO CC600; 2.982 ACRES; 525 WAKARUSA DR (MKM)**

**Z-14-00515:** Consider a request to rezone approximately 2.982 acres from CO (Office Commercial) District to CC600-PD (Community Commercial with Planned Development Overlay) District, located at 525 Wakarusa Drive. Submitted by Schwerdt Design Group, Inc. for CPC Ventures, Inc., property owner of record.

**STAFF RECOMMENDATION:** Staff recommends approval of the rezoning request from CO (Commercial Office) to CC600-PD (Community Commercial with Planned Development Overlay) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report subject to the following conditions:

- 1) Approval of the Comprehensive Plan Amendment, CPA-14-00459, revising the land use recommendations in the *Area Plan for the Intersection Area of West 6<sup>th</sup> Street & Wakarusa Drive* to increase the amount of Commercial/retail square footage permitted in the northwest quadrant of the intersection.
- 2) The maximum area of commercial/retail uses (as defined in the Comprehensive Plan) that may be located within this CC600 District boundary is 16,150 sq ft.

**REASON FOR REQUEST**

Applicant's Response:

*"The current zoning classification of CO does not support the developer's proposed project of constructing a structure consisting of two up-scale casual sit down dining restaurants and bar along with boutique shop retail space."*

**KEY POINTS**

- The property is located within the boundaries of the *Area Plan for the Intersection Area of West 6<sup>th</sup> Street & Wakarusa Drive*. A Comprehensive Plan Amendment to revise the area plan was submitted in conjunction with the rezoning request.
- PD zoning requires submittal of a Preliminary Development Plan with the rezoning application. A PDP was submitted with the rezoning.
- The term 'commercial' is used in this staff report as defined in *Horizon 2020*: "... retail businesses as defined as one whose primary coding under the North American Industrial Classification System (NAICS) falls into at least one of the following sectors: 1. Sector 44-45: Retail Trade; 2 Subsector 722: Food Services and Drinking Places; 3. Subsector 811: Repair and Maintenance; and Subsector 812: Personal and Laundry Services." (Page 6-3, *Horizon 2020*)
- Per Section 20-701(f)(1), the uses permitted in a property with a PD Overlay are those uses which are listed on the Preliminary Development Plan. The Preliminary Development Plan for this project lists the following uses: *Quality Restaurant, Accessory Bar, General Retail Sales*. Addition of other uses would require a revision to the Preliminary Development Plan.

## ASSOCIATED CASES

### REZONING:

Z-08-29-01 A (Agricultural) to POD-1 (Planned Office Development) District; The rezoning approval was conditioned on the submittal and approval of a Preliminary Development Plan. A Preliminary Development Plan for the subject properties, which include 525 Wakarusa, was not submitted and the rezoning ordinance was never published.

- The County-A Zoning Designation was rezoned to UR (Urban Reserve) District with the adoption of the 2006 Development Code.

Z-11-20-09 UR to CO (Commercial Office) District was approved by the City Commission with adoption of Ordinance No. 8490 on February 23, 2010.

### PLATTING:

PF-11-39-01 Property was platted as Lot 1 Block 2 (2.982 acres) Wakarusa Place Addition; plat recorded in 2002.

PF-09-25-06 Property was replatted as Lot 2 Block 1 (2.982 acres) 6 Wak Addition; plat recorded in 2008.

### ACTIVE ITEMS:

PDP-14-00517 Preliminary Development Plan for commercial development consisting of *General Retail Sales* and *Quality Restaurant* uses. Application was submitted concurrently with the rezoning request and is also being considered by the Planning Commission at their January meeting.

CPA-14-00516 Comprehensive Plan Amendment to amend the *Area Plan for the Intersection Area of West 6<sup>th</sup> Street & Wakarusa Drive* to increase the amount of Commercial area that is available in the Northwest corner of the 6<sup>th</sup> and Wakarusa intersection. Application was submitted concurrently with the rezoning request and is also being considered by the Planning Commission at their January meeting.

## OTHER ACTION REQUIRED

- City Commission approval of the Comprehensive Plan Amendment and publication of ordinance.
- City Commission approval of rezoning request and adoption/publication of ordinance.
- Submittal and administrative approval of Final Development Plan.
- Recording of Final Development Plan at the Douglas County Register of Deeds Office.
- Application and release of building permits prior to development.

## PUBLIC COMMENT

Casey Merideth, Newsome Development and Investments, Inc: email inquiry from previous property owner on the rezoning request and the increased commercial area which is requested for this corner of the node.



and was recently developed with a medical office. Properties in the SW and SE corners of the intersection are zoned PCD (Planned Commercial Development) and are developed with commercial uses. A zoning map in Figure 1 illustrates the zoning and land uses of the area.

Per Code, a Preliminary Development Plan must be submitted with any rezoning request to the Planned Development Overlay. A Preliminary Development Plan for 2 restaurants and boutique retail stores was submitted and is before the Planning Commission for consideration with this rezoning. (Figure 2)

## REVIEW & DECISION-MAKING CRITERIA

### 1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's response:

*"This request is compatible with Goal 3 of the Criteria for Commercial Development on page 6-30 of Horizon 2020. Under Section F; Compatibility with Adjacent Land Uses: it states "Encourage the location of commercial nodes where they can efficiently utilize local resources, where their adverse impacts on adjacent uses are minimized, and where they will effectively provide the community with desired products, services and employment opportunities. The change from CO to CC-600 with a PCD overlay is consistent with surrounding retail uses in the area. The proposed two restaurants with accessory bar and retail space fit within the goals and criteria of Horizon 2020."*

A review of the Comprehensive Plan recommendations follows with staff's comments in red.

The term 'commercial' as used in the Commercial chapter of Horizon 2020 refers to *"retail businesses as defined as one whose primary coding under the North American Industrial Classification System (NAICS) falls into at least one of the following sectors: 1. Sector 44-45: Retail Trade; 2 Subsector 722: Food Services and Drinking Places; 3. Subsector 811: Repair and Maintenance; and Subsector 812: Personal and Laundry Services."* (Pg 6-3) When determining the area that is available for commercial uses in the plan, these classifications will be used rather than the use classifications in the Development Code.

- *The intersection of W 6<sup>th</sup> Street and Wakarusa Drive is an existing Community Commercial Center limited to 600,000 square feet of commercial gross square footage (CC600 Center) with a nodal development pattern..* (Page 6-17)

*This node is an existing Community Commercial Center, CC600. The Comprehensive Plan identifies that the amount of commercial uses in this node may not exceed the 600,000 sq ft limit.*

- *The northern half of the intersection is undeveloped. Commercial development of this portion of the intersection shall not extend beyond Overland Drive (extended) to the north, Congressional Drive (extended) to the west; and Champion Lane (extended) to the east.* (Page 6-17)

*The plan recognizes that additional commercial growth will occur north of W 6<sup>th</sup> Street and limits this development to south of Overland Drive. The proposed location is south of Overland Drive and is within the area recommended for additional commercial development. The amount of commercial area that is permitted at this node is established in the nodal plan for the area and will be discussed in Section 4 of this report.*

- Goal 1: *Encourage the retention, redevelopment and expansion of established commercial areas of the community.* (Page 6-24)  
Development of this property with commercial uses would expand the established commercial area. Infill development of this type reduces the need to expand the City limit and locate new development on the edges of the City.
- Goal 2: *Ensure compatible transition from commercial development to residential neighborhoods and other less intensive land uses.* (Page 6-27)  
The property is surrounded by other commercially zoned properties with adjacent properties zoned PCD (Planned Commercial Development) or (CO) Commercial Office. The commercial use of the subject property would not affect the transition between the commercial and residential uses in the area.

**Staff Finding** – The Comprehensive Plan identifies this intersection as a CC600 (Community Commercial Center). The subject property is north of W 6<sup>th</sup> Street and south of Overland Drive and lies in the area that the Comprehensive Plan recommends for additional Commercial development. The rezoning request is in conformance with the commercial land use recommendations in the Comprehensive Plan.

The Commercial area limitations for this node are provided in the *Area Plan for the Intersection Area of West 6<sup>th</sup> Street & Wakarusa Drive*, which is a part of the Comprehensive Plan. Compliance with this section of the plan will be discussed in Section 4 of this report.

## 2. ZONING AND USE OF NEARBY PROPERTY, INCLUDING ANY OVERLAY ZONING

Current Zoning and Land Use: CO (Commercial Office) District; *Undeveloped*.

Surrounding Zoning and Land Use: To the north: CO (Commercial Office) District; *Health Care Office*.

To the east: PCD-[Bauer Farm] (Planned Commercial Development) District; Property is in the process of development. There are two undeveloped lots adjacent to Wakarusa Drive. Developed properties include the following: *Cleaning (car wash)*, *General Retail Sales* and *Fast Order Food*. A grocery store, *Food and Beverage* use, is being constructed at this time.

To the west: PCD-[6Wak] (Planned Commercial Development) District; *General Retail Sales*.

To the south: PCD-[6Wak] (Planned Commercial Development) District; *Undeveloped* pad sites.  
(Figure 1)

**Staff Finding** – The subject property is surrounded by properties zoned for Commercial and Commercial-Office land uses. The adjacent properties north of W 6<sup>th</sup> Street are partially developed with Commercial uses. The approved Final Development Plans for 6Wak and Bauer Farm show commercial development on the undeveloped lots. The proposed rezoning is compatible with the zonings and land uses, existing and approved, in the area.

### 3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response:

*"The neighborhood is a mix of retail and public uses as well as a blend of several multi-family apartment projects. Further north of this site is a single family subdivision. This property is central to this mix with the immediately surrounding uses being largely retail and public."*

W 6<sup>th</sup> Street/Hwy 40 is a principal arterial and staff views this as the southern boundary of the neighborhood. The subject property is located within the commercial node at the 6<sup>th</sup> Street and Wakarusa Drive intersection. The node, north of W 6<sup>th</sup> Street, is defined on the west by Congressional Drive, the north by Overland Drive, and on the east by Champion Lane. All the property within this node is zoned for commercial uses, and is in varying stages of development, with the exception of a stormwater detention pond in the northwest corner which is zoned OS (Open Space). Properties surrounding the north portion of the node contain a medical office, City parkland, a public high-school, and a City indoor aquatic center and multi-dwelling residences. This is a high intensity commercial area, with general public uses, parkland, and multi-dwelling residences located around the commercial uses to serve as a transition from the high intensity commercial uses to single dwelling residential uses.

**Staff Finding** – This is a high intensity commercial area with general public uses, parkland, and multi-dwelling residences located around the perimeter to serve as a transition from the high intensity commercial uses to single dwelling residential uses. The proposed rezoning should result in a development that is compatible with the character of the area.

### 4. PLANS FOR THE AREA OR NEIGHBORHOOD, AS REFLECTED IN ADOPTED AREA AND/OR SECTOR PLANS INCLUDING THE PROPERTY OR ADJOINING PROPERTY

The property is within the boundary of the *Area Plan for the Intersection Area of West 6<sup>th</sup> Street & Wakarusa Drive*.

The plan notes that *"The West 6<sup>th</sup> Street/Wakarusa Drive study area is anticipated to evolve into one of the more prominent commercial centers of the community. The Lawrence City Commission has directed City staff to ensure new development at this intersection area is appropriate for the surrounding neighborhoods and also within the context of the entire community."* The plan notes that its recommendations were based on the existing conditions and envisioned future of the intersection area.

The plan provides the following recommendation for land west of Wakarusa Drive:

*The area located west of Wakarusa Drive (the northwest corner of the West 6<sup>th</sup> Street/Wakarusa Drive intersection) is recommended as most appropriate for commercial development of a retail focus.* The plan recommends the zoning designation of PCD-2 (which converted to PCD-[6Wak] with the adoption of the Development Code in 2006) be retained for this area and provides commercial area limitations. (Page 18) These area limitations were revised with a 2012 Plan Update and a 2014 Plan Update.

- The 2012 Update expanded the western boundary of the commercial center to Congressional Drive in the southwest quadrant of the 6<sup>th</sup> and Wakarusa Intersection and updated the retail square footage limitations based on approved development plans. (Page 19)

- The 2014 Update expanded the commercial area available for the northeast corner of the intersection. (Page 19)

The rezoning request is compliant with the recommendation for commercial uses in this corner of the intersection but is not compliant with the current Commercial limits established by the area plan. The area plan limits the total Commercial area for the Northwest corner to 127,487 sq ft. A Comprehensive Plan Amendment has been requested to increase the commercial limit for this corner. As the rezoning being requested includes a Planned Development Overlay and the Preliminary Development Plan proposes commercial development which exceeds that permitted in the area plan, approval of the rezoning request would need to be contingent upon the approval and adoption of the Comprehensive Plan Amendment.

**Staff Finding** – The proposed rezoning is compliant with the general recommendations in the *Area Plan for the Intersection Area of West 6<sup>th</sup> Street & Wakarusa Drive* but does not comply with the commercial area restrictions. A Comprehensive Plan Amendment has been requested to increase the commercial area restriction to accommodate the proposed retail uses. The rezoning is contingent upon the approval of the Comprehensive Plan Amendment.

## 5. SUITABILITY OF SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED UNDER THE EXISTING ZONING REGULATIONS

Applicant's response:

*"The existing CO zoning district classification has been unsuccessful in attracting Owners to develop an Office building function within the given retail setting. The request for office space at this site has been minimal and remains minimal to this day. In section 20-209 of the Development Code, the CO classification states in article (a) the CO, Office Commercial Zoning District, is generally intended to function as a medium intensity office Zoning District. The District is intended to prevent strip commercial development by allowing office uses but not allowing other commercial uses and to serve as a land use buffer between Arterial or Collector Streets and residential neighborhoods. The site is not adjacent to any residential development suggesting a restaurant/retail use is appropriate for this location."*

The property would be well suited for office or commercial uses. While the close proximity of the Wal-Mart retail store may discourage some offices from locating there, it shouldn't preclude all office uses. If the Commercial area restrictions in the area plan are revised to permit the proposed Commercial development, the CC600 Zoning requested would be appropriate. This district would permit either office or retail development.

**Staff Finding** – The property is well suited to the uses to which it is restricted under the existing zoning regulations although the close proximity of high intensity retail uses may discourage the location of some office uses. In staff's opinion, the property is well suited for either office or commercial development.

## 6. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED

Applicant's Response:

*"The subject property has remained vacant as zoned for approximately 4 years."*

In 2001, a rezoning request to the POD-1 (Planned Office Development) which included the subject property was approved subject to the condition that a Preliminary Development Plan be submitted and approved. The plan was not provided and the rezoning ordinance was never

published. In 2009, the property was rezoned to the CO (Commercial Office) District in preparation for a bank development. The property has never been developed.

**Staff Finding** – The property has been vacant since the CO Zoning Ordinance was published in 2010 and also since the earlier rezoning to the POD-1 District was approved in 2001.

**7. EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES**

Applicants Response:

*“The rezoning will not have any detrimental effect on nearby properties. The surrounding area has compatible uses with surrounding zoning districts and land uses. The surrounding uses are a Wal-Mart, car wash, a variety of fast food and sit down food vendors, and community facilities including Free State High School and Theater. By adding the PCD overlay to the rezoning application, the City will have control over any further uses to make certain they are consistent with the Comprehensive Plan.”*

As noted earlier, the property is surrounded on the east, south, and west with commercially zoned property which is either developed or future commercial development has been approved with a Final Development Plan. The commercial development of this property would be similar to, and compatible with the adjacent land uses. Overland Drive would provide separation between the commercial uses and land uses to the north. The Planned Development Overlay Zoning insures compatible development through a public hearing process of the site design and the listing of permitted uses on the Preliminary Development Plan.

**Staff Finding** – The Planned Development Overlay Zoning provides additional protection in the uses which are permitted and in the review of the site design. The proposed use would be compatible with the nearby uses and should have no detrimental effect.

**8. THE GAIN, IF ANY, TO THE PUBLIC HEALTH, SAFETY AND WELFARE DUE TO THE DENIAL OF THE APPLICATION, AS COMPARED TO THE HARDSHIP IMPOSED UPON THE LANDOWNER, IF ANY, AS A RESULT OF DENIAL OF THE APPLICATION**

Applicant's Response:

*“There is a definite gain to the public health, safety and welfare if this lot were to be rezoned to CC600 with a PCD overlay. This project as proposed would increase property values, and thus increase collection of property taxes. The proposed restaurant/retail development would increase employment opportunities for local residents and increase revenue in sales taxes. If the rezoning case were to fail, the existing property would continue to be vacant due to the lack of office space needs in this area. The market value of this property will continue to stagnate given the office zoning component. By overlaying the rezoning request with a PCD plan the City can further control the uses on this property thereby making certain any further uses are within the Comprehensive plan. If the rezoning is denied, the current developer having an option on the property will defer investing in Lawrence.”*

Evaluation of these criteria includes weighing the benefits to the public versus the benefits of the owner of the subject property. Benefits are measured based on the anticipated impacts of the rezoning request on the public health, safety and welfare.

The rezoning request will expand the commercial limits north to Overland Drive and allow the property on the block with Wal-Mart and the undeveloped commercial pad sites to also be

developed with commercial uses. The property has been vacant, with Office zoning approved, since 2001 and could remain vacant for some time due to the low demand for new office space in the City. The approval of the rezoning request would provide benefit to the public health, safety, and welfare, by allowing commercial development in an established commercial area within the interior of the City rather than locating in a new area on the edge of the city limits. This infill development will allow the use of the public infrastructure that is in place. If the rezoning request is denied, the property would remain undeveloped which would not have a significant impact on the public health, safety, and welfare but would require the developer to look at other locations.

**Staff Finding** –Approval of the rezoning request will allow commercial development to occur in an established commercial area as infill. There would be no gain to the public health, safety, and welfare through the denial of the rezoning request. If the rezoning request were denied the developer would need to find another location for the commercial project.

### **PROFESSIONAL STAFF RECOMMENDATION**

This staff report reviews the proposed rezoning request for its compliance with the Comprehensive Plan, the Area Plan, and the Golden Factors, and for compatibility with surrounding development. The rezoning request is compliant with the Comprehensive Plan, the Golden Factors and would be compatible with surrounding development. The rezoning request is compliant with the proposed amended area plan. Staff recommends approval of the rezoning request subject to the approval and adoption of the Comprehensive Plan Amendment increasing the commercial area restriction in the Northwest Corner to match that proposed with this development.