Planning Agenda Item #_____

City of Wichita
City Council Meeting

May 17, 1994

Agenda Report #_____

TO: Mayor and City Council Members

SUBJECT: Z-3128 - Zone change to "LC" Light Commercial District from "RB" Four Family Dwelling District located south of Kellogg between Pinecrest and Beverly. (District 2)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning

MAPC Recommendation: Approve, subject to replatting within two years and subject to filing a voluntary restrictive covenant for a six foot masonry wall to be constructed along the south line of the request area, extending from Beverly Drive to the western edge of the property line, at the time of platting.

The MAPC approved this request with the understanding that the applicant volunteered to install a temporary barricade on Sylvan Lane to prohibit thru-traffic within 1-week of receiving notice from the City of the City Council approving the request. This temporary barricade would be maintained and would remain on Sylvan Lane until the masonry wall is constructed.

Staff Recommendation: Approve, subject to replatting within one year. This site should be replatted, in conjunction with the property to the north, into one lot. Staff also recommends that the applicant volunteer to file a restrictive covenant requiring that a solid masonry wall be constructed along the south line of the request area and extending to Beverly Drive, consistent with previous promises made to the residents in this area.

CPO Recommendation: Denial (4-3-1)

Background: The applicant applied for a zone change from the "RB" Four Family Dwelling District to the "LC" Light Commercial District for 0.58 acres, generally located south of Kellogg between Pinecrest and Beverly. The applicant has since revised the zone change request for only the northern portion of the application area. The zone change is requested for future development in conjunction with property located to the north and west. Property

to the north along Kellogg is currently developed with a commercial building occupied by Acapulco Joe's (formerly the Cowboy Club) and a parking lot.

While occupied by the Cowboy Club, the commercial property generated a number of complaints by the residential property owners to the south, including parking problems and neighborhood-related problems associated with the Club's patrons. In 1988, a portion of the property to the north of the application area was rezoned to "LC" Light Commercial and the entire area to the north was replatted as the New Western 3rd Addition. As part of the replat, Marvin Place was vacated from Beverly west to Sylvan and Sylvan was vacated adjacent to 522 and 526 Sylvan. Right-of-way for a hammerhead turnaround was dedicated across from 532 Sylvan as a permanent "end" to Sylvan north of Orme. A screening wall was also promised as a buffer between the development and the neighborhood.

Since this rezoning and replatting were complete in 1988, no obvious physical changes have occurred with regard to development of the site to the north. Marvin Place still looks and functions like a public street and the four residential structures remain, most of the still occupied. The site plan presented to the Planning Commission in 1988 in support of the request for "LC" Light Commercial zoning further south into the neighborhood showed a new retail center to be constructed south of existing commercial building, where Marvin Place is now located, and additional parking for existing, as well as new uses. To date, none of this has been developed.

In 1993, a Use Exception permit was granted by the Board of Zoning Appeals (BZA) to establish a parking lot at 532 Sylvan Lane to serve the proposed development to the north. The Use Exception permit was approved subject to conditions, including a landscape plan and specifics for the construction of a masonry screening wall between the proposed development to the north and the residential areas to the south. In January 1994, this Use Exception was declared null and void due to failure to complete the conditions of approval.

When the MAPC heard this matter at their April 21, 1994, meeting, the Commission focused considerable attention on the closure of Sylvan Lane and the applicant's past promises to construct a solid masonry wall to buffer the residential neighborhood to the south. At the MAPC meeting, the applicant volunteered to install a temporary barricade on Sylvan Lane to prohibit thru-traffic within 1-week of receiving notice from the City approving the request. This temporary barricade would be maintained and would remain on Sylvan Lane until the masonry wall is constructed. The MAPC approved the zone change request, subject to replatting within two years, the filing of a voluntary restrictive covenant for a six foot masonry wall to be constructed along the south line of the request area extending from Beverly Drive to the western edge of the property line at the time of platting, and the

understanding that a temporary barricade would be installed on Sylvan Lane until the masonry wall is constructed.

After the MAPC meeting, Planning Staff met with the Traffic Engineer, who recommended that the applicant dedicate and pave a turnaround immediately, along the temporary barricade, since it may be two years until the property is platted and permanent improvements are installed. As of the time that this staff report was prepared, the applicant had not yet responded on his willingness to install a turnaround.

Recommendations/Actions:

1. Concur with the findings of the MAPC and approve the zone change, subject to filing a voluntary restrictive covenant and the condition of platting; instruct the Planning Department to forward the ordinance for first reading when the plat is forwarded to the City Council.

2. Return the item to MAPC for reconsideration, stating reasons.

( ) Published in The Daily Reporter on _____

ORDINANCE NO. _____

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY SECTION 28.04.210, THE CODE OF THE CITY OF WICHITA, KANSAS.

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 Section 28.04.210, The Code of the City of Wichita, Kansas, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. Z-3128
Zone Change from the "RB" Four-family Zoning District to the "LC" Light-commercial District

A portion of Sylvan Lane, part of Block 3, Beverley Manor, Sedgwick County, Kansas, part of Reserve A, Cain and Smith's Replat of a part of Block 3 in Beverley Manor, Sedgwick County, Kansas, and a part of Lot 10, Replat of a portion of Block Three of Beverley Manor to Wichita, Sedgwick County, Kansas, further described as commencing at the S.E. Corner of Lot 10 in said Replat of a portion of Block Three of Beverley Manor to Wichita, Sedgwick County, Kansas; thence north along the east line of said Lot 10, 10 feet for a point of beginning; thence west parallel with the south line of Said Lot 10 and extended west to a point on the centerline of a 40 foot drainage easement as recorded in Misc. Book 167, Page 134; thence northeasterly along the centerline of said drainage easement to the S.W. Corner of Lot 1, New Western 3rd Addition, Wichita, Kansas; thence east along the south line of said Lot 1, 240.51 feet to a deflection corner in the south line of said Lot 1; thence south 50 feet to the point of beginning. (Now being platted as part of the new Western 4th Addition).

Generally located south of Kellogg and east of Oliver.

SECTION 2. That upon the taking effect of the Ordinance, the above zoning change 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 Zoning Ordinance 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.