Planning Agenda Item #_____

City of Wichita
City Council Meeting
February 13, 1996

Agenda Report #_____

TO: Mayor and City Council Members

SUBJECT: **Z-3183 JEFF M. LANGE & JBL, INC. REQUESTS ZONE CHANGE FROM 'G' MOBILE HOME DISTRICT TO 'BB' OFFICE DISTRICT, LOCATED APPROXIMATELY 750 FEET SOUTH OF 47TH STREET SOUTH ON THE WEST SIDE OF MERIDIAN AVENUE.**
(DISTRICT #4)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning

MAPC Recommendation:	11-30-95	Approve (9-4)
	01-25-96	Moot vote (5-5)
Staff Recommendation:	Approve	
CPO Recommendation:	11-09-95	Deny (5-2)

Background: Jeff Lange and JBL, Inc. request a zone change from 'G' Mobile Home District to 'BB' Office District to allow existing real estate offices, as well as other offices, to operate from an existing manufactured home. In September 1995, the applicant was cited by the Office of Central Inspection for zoning code violations and for an advertising sign that was illegally located without a permit and which advertises an illegal use at the location. At that time, the manufactured home served as the mobile home park office, Lange Real Estate office, and offices for other businesses.

At the MAPC hearing on November 30, 1995, one area property owner, who owns considerable undeveloped land in the vicinity, spoke in opposition to the request. The protestor expressed concerns that the businesses have been operating in violation of the Zoning Code for over two years, the site only has access from a private residential street, the area is residential in character, and that the approval of the request constitutes "spot zoning". The president of the Southborough Estates Homeowners' Association spoke in favor of the request, indicating that the presence of the office results in better maintenance of the entire area, and he presented a petition in favor of the zoning request, signed by a number of homeowners.

Council is required to approve this request (6 votes).

At the City Council meeting on January 9, 1996, both Council Members Cather and Rogers said they felt uncomfortable with the request and considered the application a case of "spot zoning". A motion to approve the request failed 4 to 3 (Cather, Cole, Rogers - No) because six (6) votes are required to override the protest petitions. Since the City Council also did not have enough votes to deny the request, the Council voted to return the application to the MAPC for reconsideration.

At the MAPC meeting on January 25, 1996, the applicant's attorney indicated that the request should not be considered "spot zoning" because it is a "reasonable" request and it will not be detrimental to any nearby property owners. The applicant's attorney also submitted opinions of two licensed real estate appraisers stating that the application would not detrimentally impact nearby properties.

The protestor also addressed the Commission and submitted information about the real estate business and its operation from this location. He also stated that the request should be considered "spot zoning" because the existing structure does not front onto Meridian, has access only from private residential streets, and the area is characterized by residential uses in all directions.

After discussion by MAPC, a motion to approve the request failed due to a (5-5) moot vote.

Recommendation:

1. Concur with the findings prepared by staff and approve the zone change; place the ordinance establishing the zone change on first reading; or

2. Deny the application; citing findings.

(Due to a valid protest against this request, a 3/4 majority vote of the membership of the governing body is required to approve the zone change. A vote to deny the request requires a majority vote. If the Council considers a motion to deny, or if a motion to approve fails due to a lack of votes in favor of the request, it should be accompanied by findings in support of that action.)

Attachments:

Location Map
CPO minutes from 11-9-95
MAPC minutes from 11-16-95
City Council minutes from 1-9-96
MAPC minutes from 1-25-96
Information submitted by Jeff Bannon at the 1-25-96 MAPC meeting.
Information submitted by the applicant at the 1-25-96 MAPC meeting.

CITY OF WICHITA
OFFICE OF THE LAW DEPARTMENT

DATE: October 3, 1996

TO: Marvin S. Krout, Director of Planning

FROM: Joe Allen Lang, First Assistant City Attorney

SUBJECT: *Jeff M. Lange, et al., vs. City of Wichita* - Case No. 96 C 65[illegible]
(Zoning Case No. Z-3183)

RECEIVED
OCT 07 1996
METROPOLITAN PLANNING
ROUTE ☐ ~~Dale/Reg~~
☒ ~~Art to Z~~ file and have Graphics post change to zoning map.

Attached, for your records, is a copy of the Journal Entry in this matter involving 4911 South Meridian (Z-3183). Effective October 3, 1996, consistent with the Settlement Agreement approved by the City Council, the District Court approved the change to "BB" Office District (which is now "GO" General Office) zoning on the above property.

A copy of this memo and journal entry are being provided to Kurt Schroeder for continued code enforcement on this property in accordance with the new zoning.

Please let me know if you have any questions.

Joe Allen Lang
First Assistant City Attorney

JAL:kj

cc: Gary E. Rebenstorf
Kurt Schroeder

Attachments

law/wp/kj/Planning

WICHITA — SEDGWICK COUNTY

METROPOLITAN AREA PLANNING DEPARTMENT
CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4421
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October 28, 1998

Southborough Partners
4911 S. Meridian
Wichita, KS 67217

Re: Southborough Estates

Dear Mr. Lange:

After a lengthy evaluation of the status of the Southborough Estates development in relation to the Wichita-Sedgwick County Subdivision Regulations, we have determined that the conversion of the northern portion of the Southborough Estates Manufactured Home Park into a "land condominium" does not comply with the Subdivision Regulations. The creation of the lots through the condominium laws still results in the division of land for the purposes of creating lots for sale, and that action is required to be platted in accordance with K.S.A. 12-752 and with the Wichita-Sedgwick County Subdivision Regulations. There is no exemption in the "condo" laws (K.S.A. 58-3101, et seq) from the platting requirements of the City of Wichita.

A review of all the files and documents submitted to this office and to other offices in City Hall indicates there has never been a clear statement as to the intent of Southborough Partners in the operation of the Southborough Manufactured Home Park. The original zoning, which occurred while the property was still in the County, went to court and the owners were eventually successful in obtaining approval of the zoning to permit the manufactured home park. The property was annexed into Wichita on October 23, 1987. In 1989, a plan was submitted that I approved which established the private streets within the Southborough Estates Manufactured Home Park. That plan showed two phases of development with the first phase to include 142 units and the second phase to contain 114 units, or a total in the two phases of 256 units. (It is interesting to note that the area that is developed as the "condominium" today is shown on the 1989 plan as Phase II.) However, no plan was ever submitted for a Manufactured Home Park. This is in violation of both the Unified Zoning Code and Chapter 26 of the City Code.

According to the Sedgwick County Register of Deeds office, the "condominium" documents were first recorded in October of 1990, including "Exhibit A" which created the first series of "condo units" available for sale. Subsequent recordings added more lots shown as "Exhibit B" and "Exhibit C". All told, these recordings have created a total of 75 lots, or "units". In addition, the recordings have converted the private streets, most of the easements, and the open space along the northwest side of the property as the "Common Elements" to be owned jointly by the owners within the condominium, with all the attendant rights and responsibilities of ownership. Further, the balance of the Southborough Estates plat, which includes all the undeveloped land zoned "MH" to the south, is recorded as "Expandable Property" in "Amended Exhibit D" of the Declaration of Condominium. This has effectively made all of the property of Southborough Estates as originally platted and intended for a Manufactured Home Park into what the Wichita-Sedgwick County Subdivision Regulations considers a subdivision requiring replatting.

However, the City has unknowingly participated in the occupancy of the "Manufactured Home Park/Subdivision Condominium" by issuing permits for the placement of manufactured homes on the lots within the developed area. This includes single-wide and double-wide units that are not on permanent foundations, as well as residential-designed manufactured homes. Further, the ownership records indicate that some of each of these classes of manufactured homes are on lots owned by the occupants, while most of the single-wide and double-wide manufactured homes not on permanent foundations are on lots still owned by Southborough Partners. We do not know if these are "rented" spaces or if the residents are purchasing the lots on contract.

Regardless, a "mixed" ownership pattern is established, which makes the correction of the problems difficult. This is why we do not know whether we should treat this as a Manufactured Home Park and require a license and conformance of the "Park" with all the development requirements of Chapter 26; or treat this as a Manufactured Home Subdivision and require a replatting in conformance with the Subdivision Regulations and the conversion of all the manufactured homes to permanent foundations as required by City Code. Either way means a significant disruption to the lives of the residents of this development.

This is further complicated in that there appears to be an expansion of the next phase of the development along the west side of Meridian. The ownership records indicate this is now owned by Welcome Home, LLC; which has Tad Patton as the local agent. We have been advised the intent is to develop this exclusively as a Manufactured Home Park, but we have not seen a site plan for that purpose yet. But since the land involved is included in the land area devoted to the condominium we need to know how you intend to resolve the differences between the condo area and the non-condo area. Obviously you and/or Mr. Patton needs to be working on this now.

Given that the City has been an unwitting participant in the current dilemma, and in an effort to find a way to clear all of this up, we are willing to "grandfather" the 75 lots created in the condominium and permit the continued effort to sell those lots subject to the following: