Agenda Item #_____

City of Wichita
City Council Meeting
January 12, 1999

Agenda Report #_____

TO: Mayor and City Council Members

SUBJECT: **Z-3295 - ZONE CHANGE FROM "SF-6" SINGLE-FAMILY RESIDENTIAL TO "NR" NEIGHBORHOOD RETAIL, LOCATED NORTH OF MAPLE AND WEST OF TYLER.** (District V)

INITIATED BY: Metropolitan Area Planning Department MKrout

AGENDA ACTION: Planning

MAPC Recommendation: Approve, subject to protective overlay (PO # 47) (9-4)

Staff Recommendation: Deny.

CPO Recommendation: Approve, subject to conditions (5-3).

Background: The applicant is requesting a zone change from "SF-6" Single-family Residential to "NR" Neighborhood Retail on a platted tract of land (1.03 acre) located north of Maple and west of Tyler. The applicant is proposing this rezoning to allow for a floral shop to be located at this site. Mr. Brown currently operates a floral shop on West Maple, just north of Lowe's, which has four full-time employees and 8 part-time employees.

The applicant has submitted a site plan which shows a 3,100 square foot existing home and a 1,700 square foot proposed addition. The existing home will be used as the floral shop and the addition will be used as a workshop for floral arrangements and shipping for deliveries. There is a 300 square foot existing garage located in the north half of the lot which will be used as storage. There is one point of access from Maple and 10 parking spaces would be provided. The Unified Zoning Code requires 1 space per 250 square feet of retail use and 1 per 1,000 square feet of warehouse space. If the development is limited to this plan, the applicant would be required to provide an additional 5 parking spaces. There is room to the north of the proposed addition to provide the additional required parking spaces. The applicant has stated that he plans on building a single family home on the vacant lot just west of this site.

The existing house and the proposed addition are only 9 feet east of the west property line, which

will trigger a compatibility setback of 25 feet. The applicant will have three possible solutions to alleviate this problem: obtain a variance to reduce the compatibility setback from 25 feet to 9 feet on the west property line; the setback line on the west property line could be established through a replat; or the applicant could obtain a boundary shift on the west property line to move the lot line 16 feet to the west to meet the 25 foot compatibility setback requirement.

The applicant will be required to meet the screening requirement on the north, east and west property lines. If the addition is constructed as per the site plan, then the landscape ordinance requirements would be triggered. The applicant agreed to a "Protective Overlay" that would limit the uses (to a floral shop and single family), conformance to a specific site plan, minimum setbacks, sign restrictions, and landscape requirements. A landscape plan would be submitted by the applicant which shows the required landscaped street yard along Maple Street, the required buffer trees along the north, east and west property lines (one shade tree or two ornamental trees per forty lineal feet) and parking lot screening and landscaping. To use the existing house as a commercial building, the applicant will be required to remodel the house to meet minimum building code requirements for a commercial building and enlarge the driveway return to 24 feet wide.

The site is surrounded by two vacant lots on the east and west. South and north of this property are single-family homes.

At the October 14th CPO 5 hearing, the Council voted 5 to 3 to recommend approval of the request subject to the conditions outlined in the staff report, plus filing a private "restrictive covenant," limiting parking to 15 spaces, and requiring that the applicants' residence be constructed within three (3) years (staff has pointed out that this covenant will not be enforceable by the City or any other private parties).

At the October 15th MAPC hearing, the applicant spoke about the request for rezoning at this location. Two neighbors voiced their oppositions to this request. These individuals felt this request was inappropriate due to the lots being surrounded by single-family zoned lots and single-family homes. These individuals also believed if this request is approved it would set the precedent of stripping out of Maple Street. The Commission voted on two motions during this hearing. The motion to approve the request subject to the conditions found in the staff report failed 7 to 5. Finally, the motion to deny the request was approved 7 to 5. A protest petition was filed by the neighbors which covers 63 percent of the notification area. On November 10, the City Council voted to return this item to the MAPC for reconsideration.

At the December 3rd MAPC hearing, the applicant reviewed his request. Several persons spoke as "character witnesses" on behalf of the applicant. Only one of these people lived in the vicinity of the application request. The same gentleman who spoke at the October 15th MAPC hearing once again voiced his opposition to this request. After discussion, the MAPC voted 9-4 to approve the request, subject to the conditions of a Protective Overlay and replatting the property. Since that meeting, staff received a number of additional letters protesting the rezoning (attached).

The Ordinance establishing the zone change shall not be published until such time as the plat is recorded with the Register of Deeds.

Recommendation:

1. Concur with the findings of the MAPC and approve the zone change, subject to the recommended Protective Overlay (PO #47) 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; or

2. Deny the application, citing the findings of the Planning staff.

   (An override of the protest petitions requires a 3/4 vote of the membership of the governing body).

WICHITA – SEDGWICK COUNTY
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FILE COPY

January 13, 1999

Kent Brown
451 Fairway
Wichita KS 67212

RE: Z-3295 Zone Change from "SF-6" Single-Family Residential to "NR" Neighborhood retail, located north of Maple and west of Tyler.

Dear Mr. Brown:

On January 12, 1999, the City Council considered the above-referenced request. The action of the Council was to DENY the request.

If you have any further questions concerning this matter, please contact the Planning Department office at 268-4421.

Sincerely,

Keith Gooch

Keith Gooch
Senior Planner

KG/rs

cc: Austin, Miller, P.A., %Tim Austin, 254 S. Laura, Suite 210, Wichita KS 67211
Kurt Schroeder, Office of Central Inspection
Randy Sparkman, Office of Central Inspection
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