Agenda Item #_____

City of Wichita
City Council Meeting
July 13, 1999

Agenda Report #_____

TO: Mayor and City Council Members

SUBJECT: **Z-3321 – ZONE CHANGE FROM "LC" LIMITED COMMERCIAL TO "GC" GENERAL COMMERCIAL; AND**

DP-126 - REQUEST FOR AN AMENDMENT TO PARCEL 3 OF THE CENTRAL AVENUE PLAZA CUP, LOCATED NORTH OF CENTRAL AND EAST OF EDGEMOOR. (District #II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning

MAPC Recommendation: Approve the rezoning from "LC" to "GC", and approve the CUP amendment subject to conditions (11-0).

Staff Recommendation: Approve the rezoning from "LC" to "GC", and approve the CUP amendment subject to conditions.

CPO Recommendation: Approve, subject to MAPD staff recommendations (6-0).

Background: The applicant, Cellular One, proposes to amend Parcel 3 of the Central Avenue Plaza CUP (DP-126) to allow, as a permitted use, a 120 foot communication tower and to rezone 1,700 square feet from "LC" Limited Commercial to "GC" General Commercial. The application area is located north of Central and east of Carriage Parkway. Central Avenue Plaza has developed along a north-south axis, with two major sets of buildings facing each other, across Carriage Parkway. The tower would be located on the south end of the east row of buildings. This façade has one opening, a door, and 18 parking spaces.

The applicant has submitted a site plan, which shows two 12 by 20-foot buildings, each of which could be used by two separate carriers, and another eight foot by 12 foot pad site for a third potential carrier. The 120-foot "monopole type" tower would be located in the middle of the site. The applicant's agent has stated there will be an eight-foot tall chain link fence constructed, which would enclose the area between the buildings. The

communication tower will be constructed over eight existing parking spaces. Based on the original construction plans there will be sufficient parking still provided on Parcel 3 (26 extra spaces), even with the loss of these eight spaces. Since parking standards are not specifically listed for communication towers, the Superintendent of Central Inspection will need to interpret which parking standard shall apply.

The Unified Zoning Code permits communication towers in the "GC" General Commercial and more intensive districts "by-right." However, the Zoning Code requires the applicant to provide the following information:

(1) There is no available space on existing or approved towers or other structures which can be utilized to meet the applicant's communication needs;

There is no other physically and/or fiscally feasible opportunity to rebuild an existing tower or other such structure on which the communication equipment may be located, or to modify an approved tower or other structure. A rebuilding opportunity will be considered fiscally feasible if the cost of rebuilding an existing tower is no more than the cost of building a new tower on a new site;

(2) The owner of the tower shall agree in writing at the time of the issuance of a building permit the following;

(a) That the tower is designed to accommodate at least three communication companies and that reasonable accommodations will be made to lease space on the tower to other communication companies so as to avoid having a proliferation of towers which are not fully utilized, and

(b) The owner of the land and the tower will make available in the future the opportunity for another party to pay the cost to rebuild the tower to support additional communication equipment where physically and fiscally feasible.

Parcel 3 of this CUP is currently limited to general office and retail uses. The maximum gross floor area permitted on Parcel 3 is 78,800 square feet for commercial uses. If this amendment is approved, an administrative adjustment will be required to increase the permitted maximum gross floor area for commercial development from 78,800 square feet to 79,376 square feet.

The applicant also filed a variance request with the Board of Zoning Appeals, to reduce the compatibility setback requirement for this 120 foot tower. Normally, a 120 foot tall structure would be required to provide a setback distance of 305 feet from the adjacent "SF-6" zoning district located to the east. They are providing 120 feet. The BZA approved this request on June 22nd.

There are commercial and office developments located to the south, north and west on property zoned "LC." East of the application area is a drainage dedication, Ashbriar

Residential Development and the Plaza Office Park. The nearest residential property in Ashbriar is 350 feet from the proposed tower, and partially screened by the adjacent commercial building and tree cover.

This request was deferred from the May 24th MAPC hearing to allow staff's engineering consultant to review this request and verify that no existing towers or other structures in the general area were feasible to meet the applicant's service needs. In between the two MAPC hearings, staff's consultant submitted a report which explained that the applicant had demonstrated a need for this communication tower.

At the June 10th MAPC hearing, the applicant's agent reviewed this request. Another agent requested that this item be deferred because they had a potential client in this area, which who would be requesting to construct a 190 foot radio relay tower. The MAPC voted 9-2 to deny a motion to defer this request. After deliberation, the Planning Commission voted unanimously to approve the request, subject to the conditions in the staff report, and requiring the tower to be designed to allow for the potential expansion of the tower to 200 feet. Any proposal to increase the 120 foot limit substantially would require the applicant to amend the CUP again.

Recommendation:

1. Concur with the findings of the MAPC and approve the zone change and amendment to the CUP; place the ordinance establishing the zone change on first reading; or

2. Return the application to the MAPC for reconsideration

   (An override of the Planning Commission's recommendation requires a 2/3rd majority vote of the membership of the governing body on the first hearing.)

(_____) 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 THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

FILE COPY

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. Z-3321

Request for zone change from "LC" Limited Commercial to "GC" General Commercial, described as:

That part of Lot 3, Block 2, Central Avenue Plaza Addition, Wichita, Sedgwick County, described as commencing at the SW conrner of said Lot 3' thence east along the south line of said Lot 3, 125.00 feet on a bearing of S89° 53'34"E; thence north at a right angle to said south line, 68.37 feet, said point being the southeast corner of existing building; thence northwesterly along said building, 3.47 feet on a bearing of N85° 32'33"W for a point of beginning; thence continuing northwesterly along said building, 68.00 feet on a bearing of N85 ° 32'33"W; thence southwesterly at a right angle to said building, 25.00 feet; thence southeasterly parallel to said building, 68.00 feet' thence northeasterly, 25.00 feet to beginning. Generally located north of Central and east of Edgemoor.

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.