Agenda Item #_____

City of Wichita
City Council Meeting
January 11, 2000

Agenda Report #_____

TO: Mayor and City Council Members

SUBJECT: **Z-3348 – ZONE CHANGE FROM "LC" LIMITED COMMERCIAL AND "TF-3", TWO-FAMILY RESIDENTIAL ; AND**

CU-550 – CONDITIONAL USE TO ALLOW OUTSIDE DISPLAY, LOCATED NORTH OF KELLOGG DRIVE AND WEST OF WOODCHUCK 200 FEET (8100 WEST KELLOGG) (District #5)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning

MAPC Recommendation: Approve, subject to conditions (12-0-1).

Staff Recommendation: Approve Conditional Use, subject to conditions; and approve the request to expand 'LC' subject to the Conditions of a Protective Overlay.

CPO Recommendation: Approve, subject to MAPD staff comments (5-0).

Background: The applicant, Ultra Modern Pool and Patio, is requesting a Conditional Use and a zone change ("TF-3", Two-family Residential to "LC", Limited Commercial) to allow outside display and future expansion area on property zoned □LC□ Limited Commercial. The application area is located north of Kellogg and 200 feet west of Woodchuck in a building previously used for furniture sales. Parking is located to the east of the building, with access to Kellogg.

The site is currently developed with a 16,900 square foot commercial building. The intention is to establish a wrought iron fenced area west of the existing building (an area 30 feet wide and 150 long) to be used as an outdoor retail display area for the business. The display area, along with the enclosed building on the site, would be used for the sales of above ground pools, pool accessories, furnishings, chemicals, spas, fireplaces, etc. The display area would also house two above-ground pools that are too large to be kept within the ten-foot distance required by the code.

After the application was filed and advertised, staff learned that the applicant is also seeking approval for 5,000 square feet of outside storage to the rear of the existing building. This area is to be sandwiched between the back of the existing building and a proposed new 3,000 square foot storage building. The east and west side of the storage area would be fenced with a solid fence 8 feet high to completely enclose the storage area. A gate would be located on the east side of the storage area, facing the parking lot and the "LC" zoned land located next door. The Zoning Code permits up to 10 percent of the amount of enclosed building area to be used for outside storage in the Limited Commercial district "by right", up to 20 by Conditional Use. The amount of area sought in this case would exceed 20 percent and requires rezoning or a variance.

The Limited Commercial District permits "outdoor display" of merchandise that is offered for sale within a building if it is displayed within 10 feet of the building, subject to the following standards: merchandise can not be on public property; no required off street-parking spaces may be utilized for display; no food or drink may be displayed except with the approval of the Health Department and the outdoor display of motor vehicles, used appliances, used house wares, used building materials, rental vehicles and equipment are not permitted. The Office of Central Inspection has interpreted that this use is not similar to prohibited uses listed above, but is similar to a nursery or garden center.

The proposed Conditional Use must meet the appropriate Conditional Use provisions of Section III-D.6.z of the Uniform Zoning Code pertaining to nurseries and garden centers. Some of these provision are the location of the site being contiguous to an arterial or expressway, screening of mechanical equipment, lighting to be shielded away from adjoining properties (no string-type lighting permitted), no sound projecting devices or loudspeakers that can be heard beyond property lines, any repair or service of vehicles or equipment must occur within an enclosed building, and all vehicles used in conjunction with the business must be stored inside the main building, a garage, or other location as deemed appropriate by the Planning Commission within an adequately screened and enclosed compound on the property.

The rezoning request is for two lots located on the north end of the property. The zone change is being requested to provide for possible future expansion of the pool business. The applicant has agreed to build a masonry wall along Hendryx Street, at the 25-foot building setback line. A screening fence also will be required along the east line of the "TF-3" zoned lots if this request is approved, since there is Two-family zoning there today. The applicant has also agreed to plant trees at the rate of 1 tree per 30 feet along the north and east line where adjacent to or across the street from residential zoning.

The properties surrounding the application area are a mix of zoning districts and land uses. The lots to the north are zoned SF-6, Single-family and used for residential uses. To the east of the subject property are lots zoned "LC", Limited Commercial and "TF-3", Two-family residential that are vacant. The area to the south is Kellogg Highway. South

of Highway 54 is "LI", Limited Industrial zoned land used for car sales. To the west is land that is approved for car sales on land zoned "LC" with a Community Unit Plan.
CPO 5 heard this case on December 15, 1999 and voted to recommend approval 5-0, subject to recommended conditions. None of the adjoining property owners spoke. MAPC heard the case on December 16, 1999 and recommended approval 12-0-1, subject to recommended conditions.

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Recommended Action:

1. Concur with the findings of the MAPC and approve the zone change, subject to the additional recommended provisions of a (P-O) Protective Overlay District and Conditional Use, subject to the conditions of the conditional use; 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 2/3 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.

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-3348

Zone change from "TF-3" Two-family residential to "LC" Limited Commercial and to "P-O" Protective Overlay District # 61 on property described as:

Lots 6 & 7, Block 1, Carriage House Plaza Addition, Sedgwick County, Kansas. Generally located north of Kellogg and west of Woodchuck 200 feet (8100 W. Kellogg).

SUBJECT TO THE FOLLOWING PROTECTIVE OVERLAY RESTRICTIONS:

A masonry wall shall be installed along the 25 foot building setback line of Hendryx Street. A screening fence shall be installed along the east line where adjacent to "TF-3" zoning. Landscaping at the rate of at least the equivalent of 1 shade tree or 2 ornamentals or 10 shrubs per 30 feet shall be installed along the north and east property line where across the street or adjacent to "TF-3" or more restrictive zoning.

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.