

ORDINANCE NO. 46-442

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. ZON 2003-74**

Request for zone change from "SF-5" Single-family Residential District to "LC" Limited Commercial District on property described as:

Lots 1-4 and Reserve A, Block A; and Lots 1-2, Block B, Prairie Pond Plaza Addition, Wichita, Sedgwick County, Kansas.

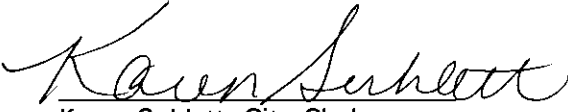
Generally located on the northeast corner of Kellogg and 143<sup>rd</sup> Street East.

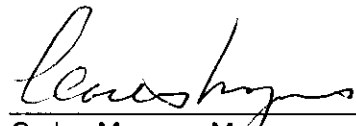
**SECTION 2.** That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita-Sedgwick County Unified Zoning Code as amended.

**SECTION 3.** That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED this JAN 11 2005

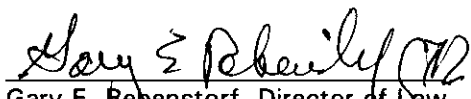
ATTEST:

  
Karen Sublett, City Clerk

  
Carlos Mayans, Mayor

(SEAL)

Approved as to form:

  
Gary E. Rebenstorf, Director of Law

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The proposed development is in conformance to the *Comprehensive Plan*.
5. Impact of the proposed development on community facilities: According to the traffic study, the traffic impacts would be handled by the proposed traffic improvements.

## STAFF REPORT

MAPC May 6, 2004

DAB II May 3, 2004

**CASE NUMBER:** CUP2003-00065; ZON2003-00074 DP-273 Prairie Pond Plaza Community Unit Plan

**APPLICANT/AGENT:** Property Management Corporation, c/o Rhonda J Butler (owner); Baughman Company, PA, c/o Terry Smythe (agent)

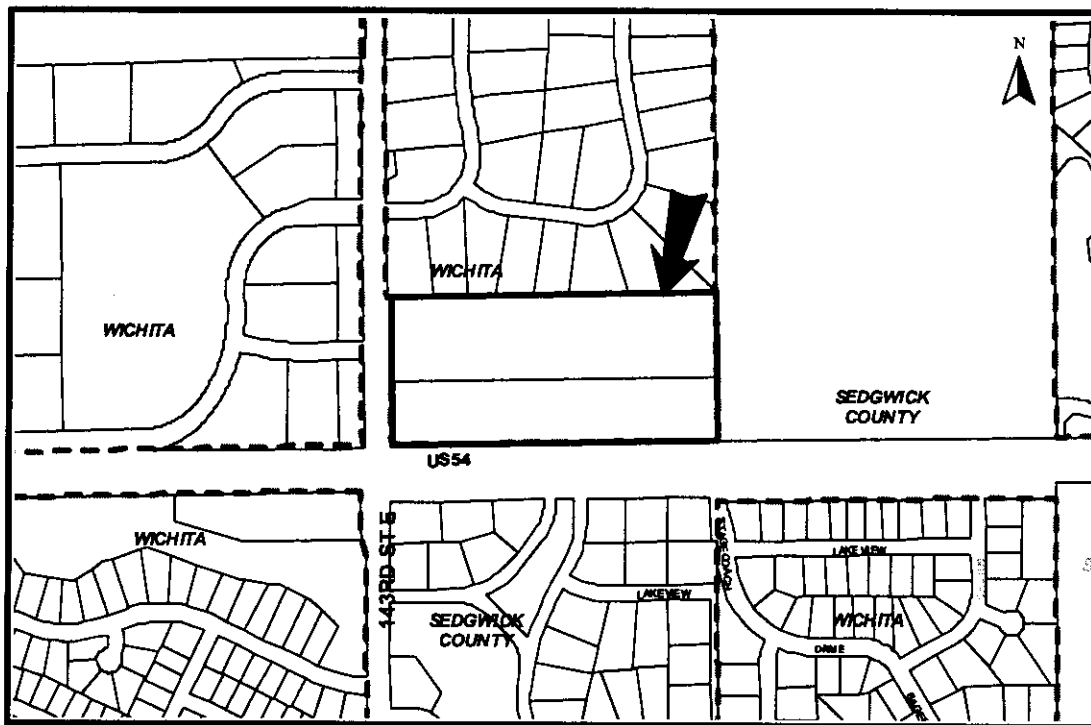
**REQUEST:** Creation of DP-273 Prairie Pond Plaza C.U.P. and zone change to "LC" Limited Commercial

**CURRENT ZONING:** "SF-5" Single-family Residential

**SITE SIZE:** 17.11 acres (15.47 net acres)

**LOCATION:** Northeast corner of Kellogg and 143<sup>rd</sup> Street East

**PROPOSED USE:** Commercial development



**BACKGROUND:** The applicant proposes a 17-acre C.U.P located on the northeast corner of Kellogg and 143<sup>rd</sup> Street East with six development parcels. The two larger parcels are approximately 6 acres and 4.5 acres, and four smaller parcels are approximately 1 acre.

Proposed zoning for Parcels 1, 2, 4, 5 and 6 is "LC" Limited Commercial. Proposed uses include: banks or financial institutions; assisted living; retail, general and restaurants, including drive-through restaurants. Vehicle sales, outdoor, would require a separate amendment to be allowed.<sup>1</sup> Additionally, the applicant has agreed to prohibit overhead doors and drive through windows within the northern 100 feet of the parcels.

Many uses are prohibited, including the following uses: group residence; correctional facility; correctional placement residence; group home; halfway house; recycling collection; animal care; bed and breakfast inn; funeral home; heliport; kennel; marine facility; monument sales; night club; pawn shop; recreational vehicle campground; secondhand store; tavern and drinking establishment; asphalt or concrete plant; mining or quarrying; oil or gas drilling; rock crushing; solid waste incinerator; agricultural research; and adult entertainment establishments and sexually oriented business.

Proposed zoning for Parcel 3 (0.98 acre) would be "NR" Neighborhood Retail. This is the parcel nearest the Park East Addition residential area along 143<sup>rd</sup> Street East. The "NR" zoning restricts the intensity of use to smaller scale retail, prohibits drive-through windows with restaurants, and eliminates auto-related uses such as service stations, convenience stores and vehicle repair.

The C.U.P. proposes signage per the Sign Code, with no flashing, moving or rotating lights allowed and typical C.U.P. signage requirements.

Architectural design, color (with earth tone as predominate color) and texture are to be consistent, except that this can be waived if the landscaped street yard and buffer is increased to 1.5 times the minimum ordinance requirements. All parcels are to share similar or consistent lighting limited to 14 feet in height within 200 of residential zoning and 20 feet on remainder of the tract. A masonry screening wall six to eight feet in height is proposed for north and east property lines. Exterior audio systems that project sound beyond the boundaries of the C.U.P. are prohibited.

Maximum building coverage is 30 percent; maximum gross floor area is 35 percent. Building height is 45 feet, which is ten feet taller than the adjoining zoning. Building setbacks are 35 feet for northern property line, the streets and between Parcels 1 and 2. Setbacks are 15 feet between interior parcels but can be eliminated if contiguous parcels

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1 Other permitted uses would be: single-family residential; duplex; multi-family residential; cemetery; church, college or university, community assembly, convalescent care facility, day care, golf course; government service; hospital; library; parks and recreation; safety service; school; utility, minor; ATM; broadcast/recording studio; car wash (this would be a Conditional Use for Parcel 3 and northern 200 feet of Parcels 1 and 2); construction sales and service when primarily a retail business; convenience store; hotel; medical service; nurseries and garden centers subject to the "LC" requirements; office; parking area, commercial; personal care service; personal improvement service; post office substation; printing and copying, limited; recreation and entertainment, indoor; vehicle repair, limited; vocation school; wireless communication facility subject to the "LC" requirements; agricultural sales and service.

are developed in same ownership. Cross-lot circulation is required.

The site has a large existing pond, approximately an acre in size, located roughly on the south of the site along the boundary of the two large parcels. Actual location of the drainage easements and reserves will need to be identified as part of platting.

The property to the north and south is zoned for single-family use and in single-family development with large lots ranging from two-third acre to over an acre. Park East Addition borders the proposed C.U.P. on the north and Springdale Lakes Addition is located south of Kellogg. The land to the east is zoned "SF-20" and vacant. The land to the west of 143<sup>rd</sup> Street East is platted and zoned for commercial use, with a 100-foot buffer reserve of "SF-5" along the street that is also a pipeline easement. The three parcels closest to Prairie Pond Plaza are approved for "LC" use except for group homes, group residential, correctional placement residences, private clubs, taverns and drinking establishments.

**CASE HISTORY:** The property is unplatted.

**ADJACENT ZONING AND LAND USE:**

|        |                       |                                   |
|--------|-----------------------|-----------------------------------|
| NORTH: | "SF-5"                | Single-family residential         |
| SOUTH: | "SF-20"; "SF-5"; "GO" | Single-family residential, vacant |
| EAST:  | "SF-20"               | Vacant                            |
| WEST:  | "LC"; "NR"; "SF-5"    | Vacant                            |

**PUBLIC SERVICES:** Two openings are shown on 143<sup>rd</sup> Street East, and one joint access point onto US 54 (Kellogg) on the eastern edge of the C.U.P. shared with the adjoining property. This opening is subject to KDOT closure at time of construction of Kellogg Drive and the median is subject to KDOT closure at this opening at any time.

A traffic study and addendum, Traffic Impact Study-Prairie Pond Plaza, (Traffic Engineering Consultants, Inc.: March 2004) and Traffic Impact Study Addendum No. 1-Prairie Pond Plaza and Lusk Properties Dev. (Traffic Engineering Consultants, Inc.: April 2004) analyzed the impacts of the proposed development on surrounding roads. The study projected traffic volumes of 43,707 cars per day at full build-out for both developments. The study modified projected volumes by estimated share of pass-by trips and internal capture trips. From this data, the study analyzed the p.m. peak volumes to define the level of transportation improvements to accommodate level of service "C". These improvements are: dual southbound left turn lanes from 143<sup>rd</sup> to Kellogg, dual left turn lanes from Kellogg to 143<sup>rd</sup>, exclusive southbound right turn lane from 143<sup>rd</sup> to Kellogg, exclusive westbound right turn lane from Kellogg to 143<sup>rd</sup> and traffic signal modification as 143<sup>rd</sup> Street East and Kellogg.

Other normal public services are available.

**CONFORMANCE TO PLANS/POLICIES:** The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "commercial" use.

2. Add a general provision to state: Prior to issuing building permits, a plan for a pedestrian walk system shall be submitted and approved by the Planning Director. This walk system shall link sidewalks along 143rd and between the proposed buildings as determined necessary by the Planning Director.
3. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
4. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
5. All property included within this C.U.P. and zone case shall be platted within one year after approval of this C.U.P. by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
6. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-273) includes special conditions for development on this property.
7. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property to the north and south is zoned for single-family use and in single-family development with large lots ranging from two-third acre to over an acre. Park East Addition borders the proposed C.U.P. on the north and Springdale Lakes Addition is located south of Kellogg. The land to the east is zoned "SF-20" and vacant. The land to the west of 143<sup>rd</sup> Street East is platted and zoned for commercial use, with a 100-foot buffer reserve of "SF-5" along the street that is also a pipeline easement. The three parcels closest to Prairie Pond Plaza are approved for "LC" use except for group homes, group residential, correctional placement residences, private clubs, taverns and drinking establishments.
2. The suitability of the subject property for the uses to which it has been restricted: The area is located along Kellogg, which is one of the main commercial corridors in the metropolitan area and is shown on the Comprehensive Plan for commercial use. The property is less suited for its current restriction to residential use, given these conditions.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed use is in conformance with the *Comprehensive Plan* and with the **Commercial Locational Guidelines** and **Residential Objectives** of the *Comprehensive Plan*. The limitation of Parcel 3 to "NR" use, the other use limitations on the "LC" parcels and extra protections for the northern 100 feet, and other site requirements reduce the potential intensity of development and mitigate impacts on nearby residential areas.