OCA150004 BID 37529-009 CID #76383
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ORDINANCE NO. 47-064

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. ZON2006-00016

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

Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas. Generally located on the southwest corner of Central and Garnett.

SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY #173 for the following described tract:

The north 205 feet of the east 160 feet of the following described tract: Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas.

1. The following uses shall be prohibited: correctional placement residence, group residence, car wash, night club in the city, sexually oriented business in the city, tavern or drinking establishment, vehicle repair, and restaurants with drive-through or in-car service.
2. Access control shall be dedicated by separate instrument or lot split to limit access to one approach on the frontage on Central.
3. Cross lot access shall be required for development on the property described as Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas.

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 AT WICHITA, KANSAS, June 27, 2006

Carlos Mayans - Mayor

ATTEST:

Karen Sublett, City Clerk

(SEAL)

Approved as to form:

Gary E. Rebenstorf, City Attorney

Agenda Item No. _____

City of Wichita
City Council Meeting
June 20, 2006

Agenda Report No. _____

TO: Mayor and City Council

SUBJECT: ZON2006-16 Associated with CON2006-12 Zone change to "LC" Limited Commercial with Protective Overlay #173; conditional use for warehouse, self-service storage. Generally located at the southwest corner of Central and Garnett. (District II)

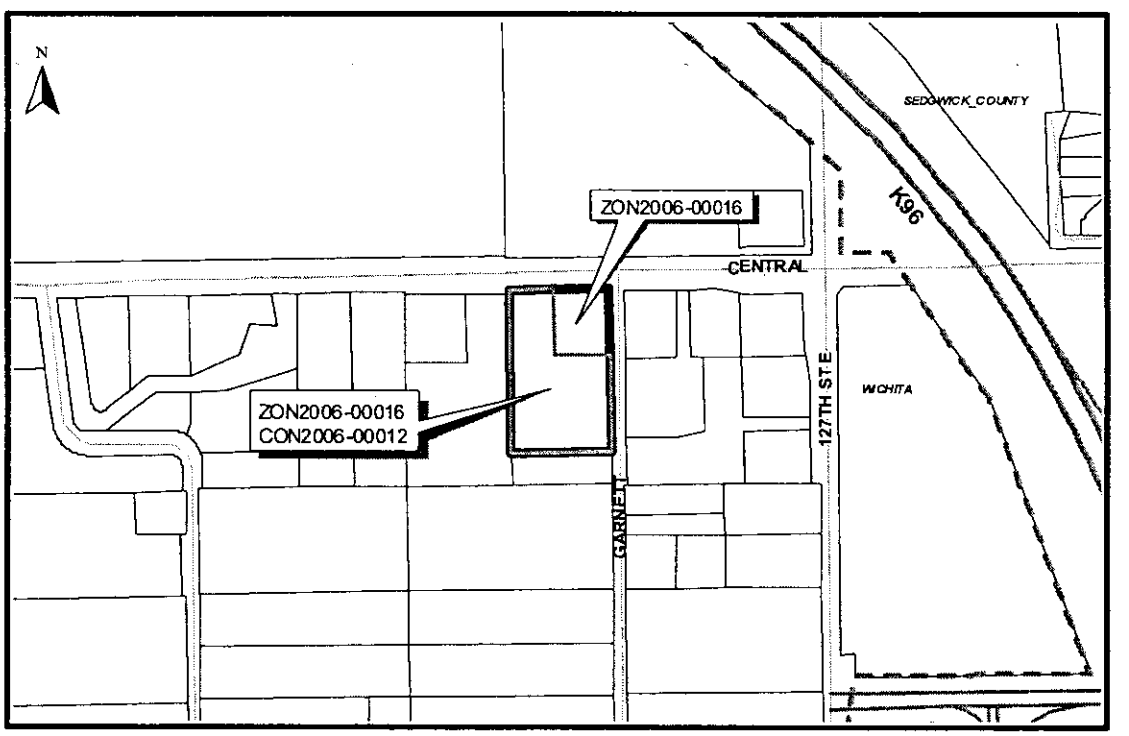
INITIATED BY: Metropolitan Area Planning Department JLS

AGENDA: Planning (Non-Consent)

MAPC Recommendation: Approve, subject to conditions, vote (7-4).

MAPD Staff Recommendations: (1) Defer due to insufficient information submitted by applicant (staff report to MAPC 04-20-06); (2) approve subject to MAPC recommendation and subject to conditions recommended (memo to DAB dated 06-05-06)

DAB Recommendations: Approve, subject to conditions in DAB memo dated 06-05-06 (6-1)



BACKGROUND: The applicant is requesting a zone change from "SF-5" Single-family Residential to "LC" Limited Commercial for a 3.63-acre tract on the southwest corner of Central and Garnett Avenue. Additionally, the applicant is requesting conditional use approval for 2.88 acres for warehouse, self-service storage on an L-shaped tract that excludes the northeast corner (0.75 acre) of the rezoning request.

The site plan shows a lot area coverage of 45 percent, which is the maximum permitted by the Unified Zoning Code for warehouse, self-service storage in the "GO" General Office or LC district. The site plan does not meet minimum landscape buffers or contain the information on the site plan for easements, lighting fixtures, signage, building setbacks, etc.

Pictorial representations taken from other sites and intended to be prototypical of this site were submitted to show the character of the warehouse, self-service storage project. Exterior building walls show brick and composite siding, which is typical of residential construction. The pitch and type of shingle of the roof is similar to those commonly in use in residential areas. The metal fencing (often referred to generically as "wrought iron") also conforms to fencing typically found in residential development.

The property to the south and west of the site is zoned SF-5 and in residential use. Farther west on Central (one-eighth mile), a node of "GO" General Office zoning flanks Jackson Heights Street, developed with a real estate office and a hotel. A small lake connects to the properties along the west side of Garnett and south of Central. The property to the north and northwest were approved subject to platting for commercial and office use in 2001, but the property was never platted. Subsequently, the northwest tract was platted for SF-5 residential use (Crestlake Addition). A convenience store on property zoned LC is located to the northeast. The property to the east is zoned LC and partially developed as Crestview Plaza (DP-247 127th Retail Center) with a bank at the corner of 127th Street East and Central and with a small strip center with local retail types of uses. Approximately one-half of the CUP currently is vacant.

Analysis: At the MAPC meeting held April 20, 2006, MAPC received a recommendation from staff to defer the case. Staff recommended deferral due to issues with the site plan, particularly due to it not meeting landscape buffer and building setback minimum distances of 15 feet for the west and south property line per Article III, Section III-D.6.y(4) of the Unified Zoning Code, and the difficulty apparent in meeting this criterion without substantially revising the site plan. Other concerns were lack of architectural elevations to review per Sec. III-D.6.y(5), type of lighting to be used and type of signage. MAPC heard testimony from the applicant and his agent as well as several neighbors in opposition. The agent offered a voluntary protective overlay for the area not included within the conditional use tract for the warehouse, self-service storage and asked for approval of the conditional use based on the site plan with the reduced width but offered to double the landscape plant materials provided within the ten-foot buffer. During staff presentation at the MAPC hearing, staff indicated that since the staff report recommended deferral, it did not include the standard conditions of approval for a conditional use. MAPC voted (7-4) to recommend approval of the request as submitted by the agent, including the addition of the protective overlay for the area outside the conditional use boundaries. This recommendation was as follows:

A. APPROVE the zone change (ZON2006-00016) to LC Limited Commercial for the entire tract, subject to a protective overlay with the following conditions for the property described as:

> The north 205 feet of the east 160 feet of the following described tract: Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas.

1. The following uses shall be prohibited: correctional placement residence, group residence, car wash, night club in the city, sexually oriented business in the city, tavern or drinking establishment, and vehicle repair.
2. Access control shall be dedicated by separate instrument or lot split to limit access to one approach on the frontage on Central.

3. Cross lot access shall be required for development on the property described as Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas.

B. APPROVE the conditional use for warehouse, self-service storage, subject to the following conditions on property more particularly described as:

> Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas,
> EXCEPT the north 205 feet of the east 160 feet of the following described tract: Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas.

1. The minimum required landscape buffer may be reduced from 15 feet to 10 feet on the west and south property line with a doubling of the landscape buffer plant materials requirement on these property lines.

At the District II Advisory Board meeting held May 1, 2006, the DAB received a memo dated April 25, 2006, that contained the recommendation of MAPC as well as some additional information from staff about standard conditions of approval for a conditional use and some conditions for this site that could be considered by the DAB. One of the issues raised at the DAB meeting by citizens was whether the proposed building setback buffer widths are typical of other warehouse, self-storage uses in close proximity to residential uses. The board voted (11-0) to recommend deferral to the next DAB meeting, pending the possible revisions of the site plan and discussion of the buffer size typically found in close proximity.

At the District II Advisory Board meeting held June 5, 2006, DAB II heard additional testimony from the applicant and from citizens, reviewed an additional memo from staff dated June 5, 2006, and reviewed a revised site plan, architectural elevations and landscape plan from the applicant. DAB II voted (6-1) to recommend approval of the request based on the MAPC recommendation and the recommended additional conditions from the memo dated June 5, 2006. These combined conditions would be:

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B. APPROVE the conditional use for warehouse, self-service storage, subject to the following conditions on property more particularly described as:

> Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas,
> EXCEPT the north 205 feet of the east 160 feet of the following described tract: Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas.

1. The subject property shall comply with the requirements of Article III, Section III-D.6.y of the Unified Zoning Code except the minimum required landscape buffer may be reduced from 15 feet to 10 feet on the west and south property line with a doubling of the landscape buffer plant materials requirement on these property lines.
2. Prior to consideration of the request by the City Council, a revised site plan demonstrating compliance with all requirements of Condition #1 and the site plan guidelines for a conditional use shall be submitted for review and approved by the Planning Director.
3. Prior to consideration of the request by the City Council, the architectural design of all buildings shall be approved by the Planning Director. The architectural design shall be consistent and shall be compatible with surrounding residential development and shall be of equal or better materials and design of those presented in the pictorial representations at the public hearing. Architectural elevations and renderings shall be submitted for purposes of this review, and upon approval, sufficient copies shall be retained in the files to ensure compliance with the approved architectural design.
4. A lot split application shall be submitted within one year of approval of the conditional use by the City Council, and approval of a lot split creating separate parcels for the warehouse, self-service storage, and remainder of Lot 2, except the south 100 feet and except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas shall be received prior to the issuance of any building permits. The lot split shall establish a cross-lot access agreement between the parcels and access control along Central except for one shared opening.
5. The site shall be developed in general conformance with a landscape plan approved prior to the issuance of any building permits. The landscape plan shall comply with the requirements of the Landscape Ordinance and Section III-D.6.y(4) of the Unified Zoning Code except as otherwise required by this condition. A buffer with a minimum width of 10 feet on the south and west property line shall be landscaped with a minimum of double the required planting materials (shade, ornamental and evergreen plants) per the Landscape Ordinance. Existing plants shall be encouraged to be retained and used to meet buffer requirements; but gaps between existing plants or areas where existing plants are removed shall be provided with new plant materials; for purposes of calculations, the linear feet of abutting property line without existing plant materials providing screening shall be used to calculate the amount of new plant materials to be provided, calculated at double the rate of the Landscape Ordinance.
6. Ground-mounted signage for the parcel shall be limited to monument style signage 50 square feet in area and 20 feet in height.
7. Uses shall be restricted to warehouse, self-service storage, or other uses permitted in the SF-5 Single-family Residential District.
8. The subject property shall be developed in general conformance with the approved site plan, and no building permits shall be issued prior to the approval of the site plan.
9. Construction of improvements shall be commenced within one year of approval by the appropriate governing body.
10. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

Protests have been received in opposition to the request representing 50.25 percent of the property within 200 feet of the tract. This will require ¾ majority vote by the governing body to approve. Additional letters and email correspondence and protests from property owners in the vicinity have been received.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality and Affordable Living.

Legal Considerations: The ordinance and resolution have been reviewed and approved as to form by the Law Department.

Recommendation/Actions:

1. Adopt the findings of the MAPC and approve the zone change subject to the protective overlay and approve the conditional use; withhold the publication of ordinance and implementation of resolution until the conditions of the protective overlay and conditional use are met (requires a three-fourth majority vote of the governing body); or

2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a two-third majority vote of the City Council on the first hearing.)