

ACTION

DATE

COMMITTEE \_\_\_\_\_

M.A.P.C. \_\_\_\_\_

B.C.C./B. CO. C. \_\_\_\_\_

3-28-74

DP-64 - Thurman Smith requests  
Residential C.D.P. - North side  
of 13th St. North between 200  
Blvd. and I-235, by Jess M. Shade

WICHITA-SEDGWICK COUNTY

DATE

October 27, 1976

**METROPOLITAN AREA PLANNING DEPARTMENT**

TO "The File"  
FROM Mike Meek, Senior Planner  
SUBJECT DP-64 - Zoo Boulevard Community Unit Plan

Because of our inability to locate the original file and application regarding this Community Unit Plan, a substitute file has been set up. Attached are copies of the Planning Commission Minutes of February 14, 1974 and March 28, 1974, as well as the Board of City Commission Minutes of April 16, 1974.

Two copies of the original C.U.P. have been secured from Craig Mann and Roger Bender, the Architects who produced the Plan.

Refer Zone Case Z-1602 for further information regarding this case. Thurman Smith was the applicant and Kenneth Taylor the Engineer, and Paul Dugan, the attorney representing the applicant.

*Mike Meek*  
Mike Meek  
Senior Planner

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Attachments

RECOMMENDATION FROM METROPOLITAN AREA PLANNING COMMISSION TO  
BOARD OF CITY COMMISSIONERSREQUEST FOR ZONING  
AND APPROVAL OF RESIDENTIAL COMMUNITY UNIT PLAN

CASE NO. Z-1602 &amp; DP-64 CONSIDERED BY MAPC: 2-14-74 Deferred

RECONSIDERED BY MAPC: 3-28-74

REQUEST FOR: "AA" to "R-5" (as amended)

REASON FOR REQUEST (AS PROVIDED BY APPLICANT):

None given.

GENERAL LOCATION: North side of 13th Street between  
Zoo Boulevard and I-235 bypass

LEGAL DESCRIPTION:

See attached excerpt from Planning  
Commission minutes of February 14, 1974  
and March 28, 1974

APPLICANT: Thurman Smith, 1247 North Gordon 67203

COUNSEL FOR APPLICANT: Paul Dugan, Attorney

PROTESTORS (LIST COUNSEL) IF ANY: None

SURROUNDING ZONING:- To the north, south and west is "AA";  
east is "B" zoningLAND USE: Subject property and that to the west is undeveloped;  
north is Interstate I-235 right-of-way; east is nursing  
home; south is single-family

PLANNING COMMISSION RECOMMENDATION:

That Z-1602 be approved as amended to request "R-5" zoning; and  
that the Development Plan meets the four conditions in the regula-  
tions and that DP-64 be approved, subject to the following con-  
ditions: (See attached excerpt of minutes of March 28, 1974 for  
conditions.) Kamen moved, Gragert seconded and it carried unani-  
mously. (Blakey and Hill absent.)

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ACTION 1. Approve the zone change and CUP as recommended by the Metro-  
politan Area Planning Commission, subject to the recommended conditions,  
and instruct the Planning Department to forward the ordinance for first  
reading when the plat is forwarded to the City Commission; or2. Return the applications to the Metropolitan Area Planning  
Commission for its reconsideration. The City Commission states the fol-  
lowing reasons for its action:

EXCERPT FROM PLANNING COMMISSION MINUTES OF FEBRUARY 14, 1974:

22. Case No. Z-1602 - Thurman Smith requests change from "AA" to "R-5" for

A tract in the SW 1/4 of Section 11, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning at the SE corner of said SW 1/4; thence west 900 feet; thence north 360 feet; thence west 87 feet; thence northwesterly with an angle to the right of 42°50', 228 feet, more or less, to the southerly right-of-way of Interstate 235; thence north-easterly along said right-of-way line to the east line of said SW 1/4; thence south 1162.5 feet to the point of beginning, EXCEPT the following: A tract in the SW 1/4 of Section 11, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning at the SE corner of said SW 1/4; thence west 64 feet; thence north 470 feet; thence west 26 feet; thence northwesterly to a point 610 feet north and 240 feet west of said SE corner of said SW 1/4; thence northwesterly to a point 680 feet north and 545 feet west of said SE corner; thence northwesterly to a point on the south line of I-235 Highway, 605 feet west of the east line of said SW 1/4; thence northeasterly along said south line of said Highway to the east line of said SW 1/4; thence south 1162.5 feet to the point of beginning,

and change from "AA" to "R-6" for

A tract in the SW 1/4 of Section 11, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning at the SE corner of said SW 1/4; thence west 64 feet; thence north 470 feet; thence west 26 feet; thence northwesterly to a point 610 feet north and 240 feet west of said SE corner of said SW 1/4; thence northwesterly to a point 680 feet north and 545 feet west of said SE corner; thence northwesterly to a point on the south line of I-235 Highway, 605 feet west of the east line of said SW 1/4; thence northeasterly along said south line of said Highway to the east line of said SW 1/4; thence south 1162.5 feet to the point of beginning, containing 5.75 acres, more or less.

All generally located on the north side of 13th Street North between Zoo Boulevard and I-235.

GALBRAITH pointed out the area on the map and reviewed the following staff report:

Comments

1. Subject property backs into the interchange of I-235 and Zoo Boulevard and has direct access to 13th which is an unpaved collector street. The property is presently in the process of being platted as Westwood Manor Addition. On July 5, 1973, the Subdivision Committee of the Planning Commission deferred consideration of the plat, at the request of the applicant's surveyor, to allow additional time for redesign and to resolve problems with utilities. This site is subject to severe drainage problems which must be solved at the time of platting.
2. If the request is recommended for approval, the platting of the property should be required within one year from the date of approval by the Board of City Commissioners, to provide appropriate street rights-of-way, setbacks and access control; or the application be considered denied and closed.

GALBRAITH said the staff would recommend approval subject to the platting of the property.

GRAGERT asked why a CUP had not been submitted. GALBRAITH said that if a tract is over 20 acres in size a CUP could be submitted, but that it is not mandatory under the ordinance. He said the size of this property was just over 20 acres.

PAUL DUGAN, attorney for the applicant, said he agreed with the staff recommendation, that the request is logical, inasmuch as the tract is buffered by I-235 bypass, there is "B" zoning to the east and the nonconforming use (mobile home park) on the south side of 13th Street, which is a collector street. He said drainage problems would be resolved during the platting process.

DUGAN said that a previous plat had been filed several years ago on the basis of single-family development and that apparently the drainage problem was not resolved at that time; however, he said they are utilizing the services of the same engineer, and that he feels the drainage can be resolved under the plan for multiple family development. He stated that the plat is for condominiums in the "R-5" zoning and apartments in the "R-6".

GRAGERT said he would like to see a CUP submitted with the application and suggested that to save time this case be considered at a later date along with a Residential CUP.

MOTION: That this application be deferred for submission of a CUP. Gragert moved.

RISING questioned the need for a CUP.

ROGER BENDER, architect and planner, said the reason for the "R-5" request is that if they submit a CUP under "AA" zoning they would be allowed 14.4 units per acre, but an "R-5" CUP would permit 12.5 units per acre, and that on a CUP it doesn't make any difference where the units are located as long as there are no more than the allowed number, which means on a CUP all units could be clustered right up against 13th Street. He said they don't want anything more than 12.4 units per acre.

GALBRAITH pointed out that as presently zoned ("AA") would permit 7 units per acre, and that the "R-5" would permit 12.4 and the "R-6" would permit 29. He thought the Commission probably would like to see a plan locating the proposed dwelling units, and that perhaps "R-5" on all of the property would accommodate the total number of units desired by the applicant. He said a zoning change would be necessary to develop any density greater than 7 units per acre.

In comment to Bender's statement about the location of buildings, Galbraith said the reason for a CUP is so that the Planning Commission and City Commission can see where building are proposed in relation to the site as well as how they relate to surrounding property.

LAKIN pointed out that a CUP requires much greater notification area, and that on a CUP plan there is an indication of the arrangement of buildings, type of building, location of open space, other community facilities, drives and parking as well as landscaping and open space.

REPEAT OF ABOVE MOTION: That the Planning Commission defer this application to the meeting of March 28, 1974, so that the applicant would have an opportunity to submit an associated application for a residential CUP. Gragert moved, Kamen seconded and it carried unanimously. (Arnholz and Hennessy absent.)

DUGAN said they would try to obtain an extension of their option to purchase the property, and supply the CUP application and new certificate of ownership in time for the March 28 meeting.

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EXCERPT FROM PLANNING COMMISSION MINUTES OF MARCH 28, 1974:

- 14a. Case No. Z-1602 - Thurman Smith requests change from "AA" to "R-5" for: (See excerpt of minutes of February 14, 1974 for legal description), and change from "AA" to "R-6" (orally amended to request "R-5") for: (See excerpt of minutes of February 14, 1974 for legal description). Generally located on the north side of 13th Street North between Zoo Boulevard and I-235.
- 14b. Case DP-64 - Thurman W. Smith requests approval of a Residential Community Unit Plan for the following described property: All that part of the southwest quarter of Section 11-27-1W, lying south and east of Interstate 235 right of way, except an area beginning at a point 900 feet west of the southeast corner of the southwest quarter of Section 11-27-1W; thence north parallel with the east line of said southwest quarter, 360 feet; thence west parallel with the south line of said southwest quarter, 87 feet; thence with an angle to the right of 42°50' a distance of 228 feet more or less to the southeasterly right of way line of Interstate 235; thence southwesterly along said right of way, 702 feet more or less to the south line of said southwest quarter; thence east 730.2 feet more or less to beginning, Sedgwick County, Kansas. Generally located on the north side of 13th Street North between Zoo Blvd. and I-235.

GALBRATH pointed out the area on the map and reviewed the following staff report:

Comments

1. On February 14, 1974, a request for a change of zoning from "AA" Single-family to "R-5" and "R-6" General Residence for the area contained in these applications was considered by the Planning Commission. Action of the Commission was to defer the zone change request so that the applicant could have an opportunity to submit an associated residential CUP.
2. As permitted under the Residential CUP provisions of the zoning ordinance, the applicant has submitted a preliminary residential development plan for review and recommendation by the Planning Commission. In order for the Planning Commission to recommend approval of a residential CUP, it must find specific evidence and facts showing that the proposed development plan meets the following conditions:
  - a. That the value of the buildings and the character of the property adjoining the area included in such plan will not be adversely affected.
  - b. That such plan is consistent with the intent and purpose of this Chapter (28.04.190.A) to promote public health, safety, morals and general welfare.
  - c. That the buildings shall be used only for residential purposes and the usual accessory uses, such as automobile parking areas, garages and community activities, including churches; and provided that an "LC" district can be established through the regular channels.
  - d. That the average lot area per family contained in this site, exclusive of the area occupied by streets, shall be not less than the lot area per family required by the district in which the development is located.
3. The plan proposes a "cluster" type development of multiple-family dwellings having from 4 to 8 condominiums and town-house units per structure, with the only points of ingress and egress being on 13th Street from a private street system. The proposed density of the development, a maximum of 150

dwelling units on approximately 20 net acres, exceeds that permitted in the "AA" Single-family zoning district and, therefore, the applicant is requesting a change of zoning in order to increase the density from 7.2 to 7.5 dwelling units per acre. Inasmuch as the proposed density is within that allowable in the "R-5" General Residence District (12.4 dwelling units per acre), the Commission may wish to consider approval of the entire application area for the "R-5" classification.

4. Should the Planning Commission determine that a change of zoning is appropriate and find that the four conditions listed in comment #2 have been satisfied, the following are recommended conditions of approval:
  - a. Platting of subject property within one year from the date of approval by the City Commission; or the applications be considered denied and closed.
  - b. 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 residential development and be binding upon the present owners, their successors and assigns, unless amended.
  - c. The development of this property proceeding in accordance with the development plan as approved by the Planning Commission, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
  - d. Any major changes in this development plan being resubmitted to the Planning Commission and City Commission for their consideration.

PAUL DUGAN, attorney for the applicant, orally amended the zone change request to "R-5" instead of "R-6", and said that there were several people from the area who might care to speak on the matter, although he had discussed the plans with them earlier, and he would respond or answer questions.

LUTHER SCHIERKOLK, 4815 West 13th Street, said he was not exactly opposed to the plan and had learned more of what is planned from Mr. Dugan earlier, but that there is a feeling in the neighborhood concerning the possibility of a change in the plans occurring later, and he asked if there could be some assurance that what is proposed now will be developed.

DUGAN said that the plan has been thoroughly considered over the last 8 months and that an architect and engineer have been employed. He assured Mr. Schierkolk that the regulations of a CUP must be followed unless a change is approved by the Planning Commission and City Commission.

LAKIN said a CUP establishes the general location of buildings, but that some of the other activities, such as recreational facilities, are not required particularly. DUGAN said the plan does provide for a planting screen along 13th Street which is not a requirement, but will be installed.

GALBRAITH brought up the fact that there appeared to be one curb cut from 13th street not particularly related to the housing units and suggested that when a plat is considered, the Subdivision Committee may want to eliminate one of the curb cuts.

CRAIG MANN, architect, said the purpose of the parking area referred to is to provide parking for visitors without their having to drive into the interior of the development. He pointed out that a pathway is to be provided leading from this parking area.

RISING suggested that some guidelines be developed for the number of curb cuts so that an architect or developer would have such information and not have to change the plans.

DUGAN said in this case it isn't of that much importance, and commented that the curb cut being considered might provide a haven for unauthorized persons to park within the development.

No one spoke in opposition to these applications.

**MOTION:** That the Planning Commission recommend to the City Commission that Z-1602 as amended to request "R-5" zoning be approved; and that the development plan meets the four conditions in the regulations and that DP-64 be approved, subject to the following conditions:

- A. Platting of subject property within one year from the date of approval by the City Commission; or the applications be considered denied and closed.
- B. 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 residential development and be binding upon the present owners, their successors and assigns, unless amended.
- C. The development of this property proceeding in accordance with the development plan as approved by the Planning Commission, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
- D. Any major changes in this development plan being resubmitted to the Planning Commission and City Commission for their consideration.

Kanen moved, Gragert seconded and it carried unanimously. (Blakey and Hill absent.)

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This DP File  
Has a Large Drawing  
On 35mm Microfilm.

Roll # 1

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