

Agenda Item # _____

City of Wichita
City Council Meeting
June 18, 2002

Agenda Report # _____

TO: Mayor and City Council Members

SUBJECT: **ZON2002-00023 - Zone change from "SF-5" Single-Family Residential to "LC" Limited Commercial. Generally located at the northeast corner of University and Ridge. (District V)**

INITIATED BY: Metropolitan Area Planning Department

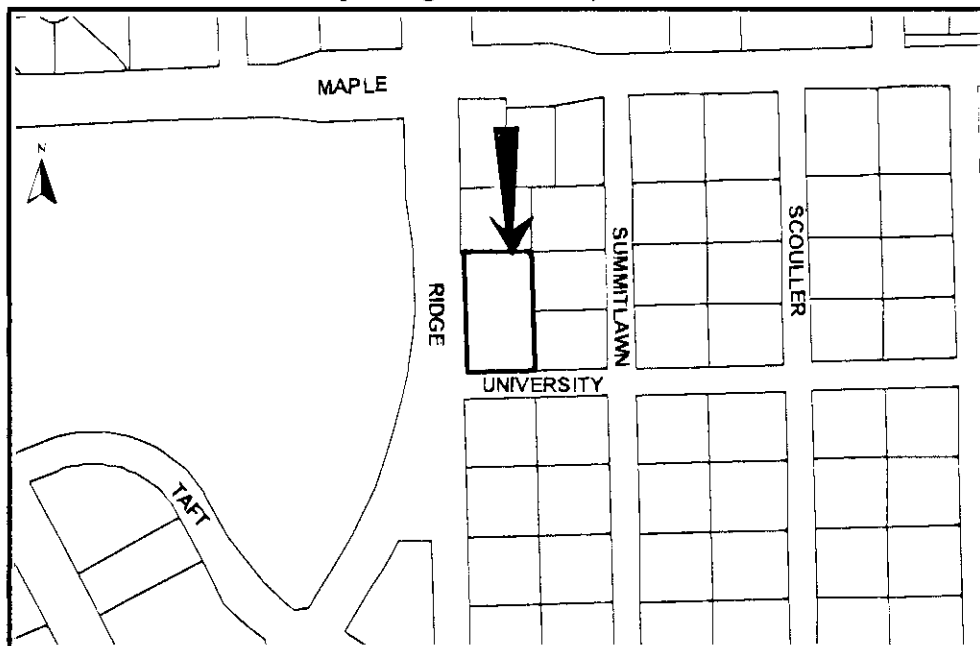
AGENDA ACTION: Planning



MAPC Recommendation: Approve, subject to staff recommendation, except that drive-through restaurants be permitted with outdoor sound amplification systems and replatting within two years. (11-3)

DAB Recommendation: Approve, subject to staff recommendation. (5-1)

Staff Recommendation: Approve, subject to the provisions of a Protective Overlay District and replatting within one year.



BACKGROUND: The applicant requests a zone change from "SF-5" Single Family Residential to "LC" Limited Commercial on a 0.85 acre platted tract located on the northeast corner of University and Ridge. The applicant proposes to redevelop the subject property with a restaurant with a drive-through lane. The applicant also has indicated a desire for commercial development on the subject property to have access to University. The subject property is currently developed with a single family residence and an accessory structure.

The surrounding area is characterized by a mixture of residential uses, commercial uses, and undeveloped property zoned for or in the process of being zoned for commercial uses. The properties to the south and east are zoned "SF-5" Single Family Residential and are developed with single family residences. The property to the west is zoned "LC" Limited Commercial and is developed with a Lowe's. The properties to the north are vacant and are currently zoned "LC" Limited Commercial and "SF-5" Single Family Residential. The properties to the north that are zoned "SF-5" Single Family Residential have been approved for rezoning to "LC" Limited Commercial subject to a pending plat of the property.

Although planning staff finds that "LC" Limited Commercial zoning is appropriate for the subject property, planning staff does not find that a restaurant with a drive-through lane or commercial traffic accessing University are appropriate. In this case, the character of the street, the intensity of traffic, and the potential for "cut-through" traffic using University and Summitlawn all argue against such access. Instead, to buffer commercial development on the subject property from existing residences to the south and east, planning staff recommends that a Protective Overlay be approved that continues the development controls established during the approval of the zoning changes on the adjacent properties to the north. The recommended Protective Overlay limits signage, lighting, noise, and building height; requires a six foot high masonry wall along the south and east property lines; and prohibits certain uses, such as drive-through restaurants, that are less compatible with residential development. If in the future the zoning of the residential properties to the south and east is changed to allow commercial uses, then the provisions of the Protective Overlay could be amended, but planning staff finds that high-intensity, auto-oriented commercial use of the subject property is not appropriate at this time.

Additionally, planning staff recommends that the subject property be replatted to ensure that sufficient street right-of-way, access controls, drainage plans, street improvements, and/or utility easements are in place to support commercial development of the property. More specifically, planning staff will recommend at the time of platting that access to the subject property be limited to a single access drive to Ridge to be shared with the adjoining property to the north, for which a replat was recently approved that required cross-lot access with the subject property. Additionally, although planning staff does not recommend permitting commercial traffic to access University, if access is to be granted to University at the time platting, planning staff will recommend that a guarantee be required to improve the street to commercial standards.

At the MAPC hearing on May 23, 2002, one speaker in opposition to the request cited concerns with commercial traffic generated by the subject property negatively impacting the residential neighborhood to the east. At the hearing, the applicant requested the following changes to the staff recommendation: 1) drive-through and drive-in restaurants be permitted, 2) off-site signs

be permitted, 3) outdoor sound amplification systems be permitted, 4) right-turn, out-only access to the property be permitted, and 5) two years be allowed to complete replatting. The MAPC voted (11-3) to approve the request subject to platting within two years (at which time they indicated they likely would be in favor of right-turn, out-only access to the property) and subject to the following provisions of a Protective Overlay District:

- A. No off-site or portable signs shall be permitted on the subject property. No building signs shall be permitted along the face of any building that faces any adjoining property or property across the street from the subject property that is in a residential zoning district.
- B. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from any adjoining property or property across the street from the subject property that is in a residential zoning district. Light poles shall be limited to a maximum height of 14 feet.
- C. Outdoor speakers and sound amplification systems shall not be permitted except for businesses with a drive-thru aisle.
- D. No buildings shall exceed one story in height with a maximum building height of 25 feet.
- E. A 6 foot high masonry wall shall be constructed parallel to the south and east property lines where property in a residential zoning district adjoins or is across the street the subject property. The masonry wall along the south property line shall be setback from the property line a sufficient distance to provide the required landscaped street yard on the south side of the wall.
- F. The following uses shall not be permitted: adult entertainment establishment; group residence; correctional placement residence; group home; recycling collection station; reverse vending machine; car wash; convenience store; night club; recreation and entertainment; service station; tavern and drinking establishment; and vehicle repair.

At the DAB V hearing on June 3, 2002, there were no speakers, other than the applicant, in favor off or in opposition to the request. DAB V voted (5-1) to approve the request subject to the staff recommendation, meaning DAB V did not support the applicant's request and the MAPC's recommendation to permit drive-through restaurants with outdoor sound amplification systems.

Recommended action:

1. Concur with the findings of the MAPC and approve the zone change, subject to the additional recommended provisions of a Protective Overlay District and subject to the condition of platting within two years; instruct the Planning Department to forward the ordinance for first reading when the plat is forwarded to the City Council; 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.)

(150004) Published in The Derby Reporter on MAR 9 - 2004

ORDINANCE NO. 45-979

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 2002-23

Request for zone change from "SF-5" Single-Family Residential to "LC" Limited Commercial and to P-O #113 -- Protective Overlay District, on property described as:

Lot 1, Block 1, University and Ridge Addition, except the east 157.75 feet, Wichita, Sedgwick County, Kansas.

Generally located at the northeast corner of University and Ridge.

SUBJECT TO THE FOLLOWING PROTECTIVE OVERLAY RESTRICTIONS:

- A. No off-site or portable signs shall be permitted on the subject property. No building signs shall be permitted along the face of any building that faces any adjoining property or property across the street from the subject property that is in a residential zoning district.
- B. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from any adjoining property or property across the street from the subject property that is in a residential zoning district. Light poles shall be limited to a maximum height of 14 feet.
- C. Outdoor speakers and sound amplification systems shall not be permitted except for businesses with a drive-thru aisle.
- D. No buildings shall exceed one story in height with a maximum building height of 25 feet.
- E. A six-foot high masonry wall shall be constructed parallel to the south and east property lines where property in a residential zoning district adjoins or is across the street the subject property. The masonry wall along the south property line shall be setback from the property line a sufficient distance to provide the required landscaped street yard on the south side of the wall.
- F. The following uses shall not be permitted: adult entertainment establishment, group residence, correctional placement residence, group home, recycling collection station, reverse vending machine, car wash, convenience store, night club, recreation and entertainment, service station, tavern and drinking establishment and vehicle repair.

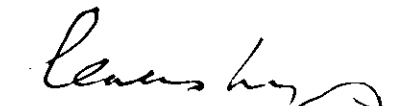
SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

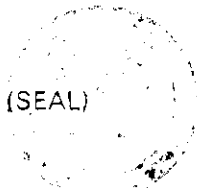
SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED this FEB 3 2004

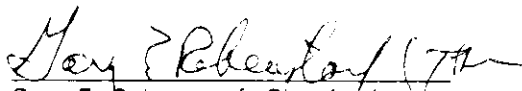
ATTEST:


Karen Schofield, City Clerk


Carlos Mayans, Mayor



Approved as to form:


Gary E. Rebenstorf, City Attorney