

April 25, 2008

ORDINANCE NO.

47-874

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 2006-25

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

Lots 1-9, Block A, and Reserve A, Northgate Commercial Addition, Wichita, Sedgwick County, Kansas.

Generally located on the north side of 53rd Street North and west of Meridian.

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 22 day of April, 2008.

ATTEST:


Karen Sublett, City Clerk




Carl Brewer, Mayor

(SEAL)

Approved as to form:


Gary E. Rebenstorf, City Attorney

RECEIVED

APR 28 2008

METROPOLITAN PLANNING
ROUTE 8

Agenda Item No. _____

**City of Wichita
City Council Meeting
August 1, 2006**

Agenda Report No. _____

TO: Mayor and City Council

SUBJECT: CUP2006-24 Associated with ZON2006-25 – Create DP-299 Northgate Commercial Park Community Unit Plan; zone change to “LC” Limited Commercial. Generally located northeast of the intersection of Meridian and 53rd Street North. (District VI)

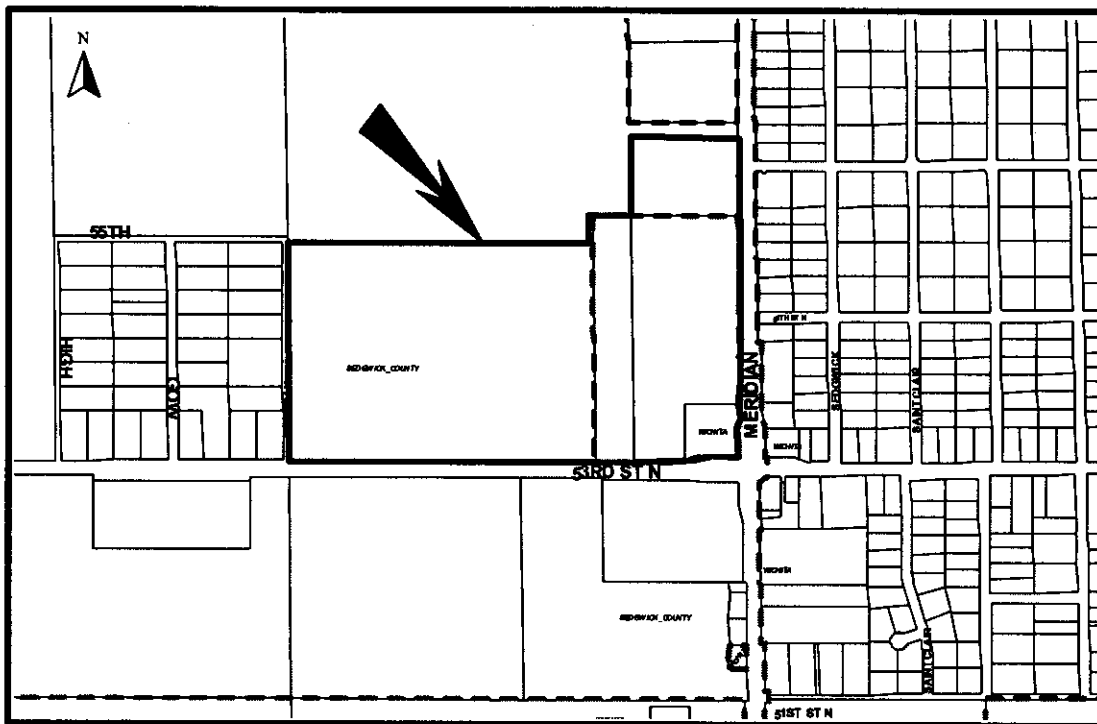
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Unfinished Business *JS*

MAPC Recommendations: Approve, subject to conditions (10-1).

MAPD Staff Recommendations: Approve, subject to conditions.

DAB Recommendations: Deny (5-3-1).



Background: The applicant proposes to create a commercial Community Unit Plan (CUP) containing approximately 79.60 net acres located north and west of the intersection of Meridian and 53rd Street North. As part of the application, a zone change from "SF-20" Single-family Residential to "LC" Limited Commercial on approximately 77.4 acres is also requested. A 2.2-acre tract located nearest the intersection is already zoned "LC" and was platted in 1983 as the Maize State Bank Addition.

The site includes 27 acres that was previously denied a similar application by the City Council in 2005. The "Unified Zoning Code" prohibits the re-filing of a similar application within one year unless there has been some change in the code, change in the application area or if the application is significantly different from the original request. The Metropolitan Area Planning Commission (MAPC) reviewed the current application, and determined that this request is significantly different from the previous request.

The proposed CUP would allow most uses permitted by-right in the "LC" district. Parcels 1, 2 and 3 contain 25.88 acres. Proposed prohibited uses for Parcels 1, 2 and 3 are: night club in the city, sexually oriented business, correctional placement residences, safety service, pawn shop, agricultural sales and service, commercial wireless communication facility, theatre and tavern and drinking establishment. Parcel 1 is 23.04 acres in size while Parcels 2 and 3 are 1.42 acres apiece. These three parcels would allow a total of 338,151 square feet of maximum gross floor area. Specific signage is proposed for these three parcels: Parcel 1 - Three ground signs are permitted, two of which are monument style, up to 30 feet in height and up to 148.33 square feet each. A TLE sign is also permitted, not exceeding 20 feet in height and 32 square feet in size. Building signage of up to 666.24 square feet is proposed. Parcel 2 and 3 signage is not to exceed 20 feet in height and 150 square feet in area, subject to the City's sign code. All ground signage is to be spaced 150 feet apart. Three access points from Meridian and one from 53rd Street are proposed to Parcel 1. Parcels 2 and 3 would each have one access point from 53rd Street.

Proposed prohibited uses for Parcels 4-15 include: adult entertainment establishments. The applicant proposes to create a commercial Community Unit Plan (CUP) containing approximately 79.60 net acres located north and west of the intersection of Meridian and 53rd Street North. As part of the application, a zone change from "SF-20" Single-family Residential to "LC" Limited Commercial on approximately 77.4 acres is also requested. A 2.2-acre tract located nearest the intersection is already zoned "LC" and was platted in 1983 as the Maize State Bank Addition.

Analysis: A neighborhood meeting was held at the Law Enforcement Training Center. Over 300 people attended. The applicants provided an overview of their proposal, and citizens were given an opportunity to ask questions and make comments. Comments supporting and opposing the request were made. In general, those in opposition questioned the scale of the project as being too large; the impact traffic would have on existing residential areas; big box uses would drive out locally owned businesses and concern regarding drainage and groundwater pollution. Comments in favor of the project noted that the area did not have any nearby shopping areas that offered a variety of uses like the one proposed, and it would provide jobs.

At the District VI Advisory Board meeting held June 5, 2006, the board voted (5-3-1) to deny the request based upon traffic and environmental concerns. Five citizens spoke in opposition. See the attached memorandum detailing comments made at the DAB VI meeting. One of the issues affecting how one DAB member voted dealt with traffic improvements, particularly the number of access points. The applicants agreed to meet with the DAB member and discuss his traffic concerns.

At the MAPC meeting held June 15, 2006, they voted (10-1) to approve the request subject to staff's findings and recommendations. Three citizens were present to speak on the proposal. Two citizens spoke in opposition citing drainage, scale of the project, traffic and lighting concerns. During the meeting the applicant offered to install raised medial(s) in the middle of 53rd Street instead of having the ones that can be driven over, and when traffic is warranted, R & R Reality will pay for a traffic signal at Keywest and Meridian. These proposals were aimed at addressing the DAB member's traffic concerns. The MAPC recommendation did not include these requirements. If it is the Council's desire to approve this request, and to include these two requirements as one of the conditions of approval, the Council will need to add them to the conditions of approval.

The department has not received any formal protest letters.

On July 18, 2006, the Wichita City Council considered this request, and voted 4-3 to defer action on the application for two weeks (to the August 1, 2006 meeting).

The MAPC recommendation is that the application be APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2006-25) to LC Limited Commercial subject to platting of the entire property within one year;
- B. APPROVE the Community Unit Plan (DP-299), subject to the following conditions:
 - a. Guarantee signalization at the 54th Street and Meridian intersection.
 - b. Guarantee a southbound right-turn lane and a fifth lane on Meridian from 54th to 53rd to allow left-turns.
 - c. Guarantee the relocation of the existing signal to accommodate street improvements at the 53rd and Meridian intersection.
 - d. Dedicate additional right-of-way along 53rd Street sufficient to meet the 60-foot half-street standard.
 - e. Guarantee future signalization at major openings on 53rd Street when warrants are met.
 - f. Guarantee a fifth lane along 53rd Street from driveway opening number three east to Meridian.
 - g. Guarantee dual left-turn lanes on the west and south legs of the intersection of 53rd and Meridian, and provide separate right-turn lanes on all approaches.
 - h. Provide cross lot circulation between all abutting parcels except Parcels 1, 13 and 14, and connect individual parcels to internal circulation drives.
 - i. The site shall be developed in substantial conformance to the approved community unit plan's site plan, general provisions and individual parcel standards.
 - j. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
 - k. 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.
 - l. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds. Failure to complete the plat within one year after approval by the governing body will result in the case being denied and closed, unless a platting extension has been granted.
 - m. 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-299) includes special conditions for development on this property.
 - n. The applicant shall submit four revised copies of the CUP 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.
 - o. Delete reference to "group homes" in general provisions for lots 4-15, item 18, and add the word "plant" after "asphalt/concrete". On item 13 A. the reference to "south" should be "north."

Financial Considerations: None.

Goal Impact: Promote Economic Vitality and Affordable Living.

Legal Considerations: The ordinance has 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 platting within one year and approve the CUP; instruct the Planning Department to forward the ordinance for first reading when the plat is forwarded to City Council; or
2. Return the application to the MAPC for reconsideration.

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