

A RESOLUTION CHANGING THE ZONING CLASSIFICATION FOR CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C AS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY KANSAS, DECEMBER 12, 1984, AND SUBSEQUENTLY AMENDED.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS

**SECTION I.** That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section V-C of the Wichita Sedgwick County Unified Zoning Code, the zoning classification or district of the lands legally described hereby are changed as follows:

Case No. ZON2006-00039

Zone change request from SF-20 Single-family Residential to LC Limited Commercial.

Legally described as:

The E ½ of the SW ¼ of the NW ¼, and the E ½ of Government Lot 4, and the E ½ of the W ½ of Government Lot 6 in the NW ¼ of Section 27, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, EXCEPT a tract of land described as beginning at a point in the North line of said Section and 867.8 feet East of the Northwest corner of said Section 27; thence south parallel with the East line of the SW ¼ of the NW ¼ of said Section 27, a distance of 452.0 feet; thence East parallel with the North line of said Section 27, a distance of 458.0 feet to a point in the East line of the NW ¼, NW ¼ of said Section 27; thence North along the East line of the NW ¼ of the NW ¼ of said Section 27, to the Northeast Corner of said NW ¼ of the NW ¼ of said Section 27; thence West to the point of beginning; and EXCEPT a tract of land in the E ½ of the SW ¼ of the NW ¼ of said Section 27, described as follows: Beginning at the Southeast corner of said SW ¼ of the NW ¼; thence North along the East line of said E ½ of the SW ¼ of the NW ¼, 237.7 feet; said East line having a bearing of North 0 degrees 24 minutes West; thence South 89 degrees 46 minutes West, 19.4 feet; thence North 85 degrees 28 minutes West, 301.0 feet; thence North 78 degrees 55 minutes West to a point on the West line 293.1 feet North of the Southwest corner of said E ½ of the SW ¼ of the NW ¼ Section; thence South 0 degrees 27 minutes East, 293.1 feet to the South line of said Quarter section; thence North 89 degrees 58 minutes East along said South line to the place of beginning, TOGETHER with the W ½ of the SW ¼ of the NW ¼; the W ½ of Government Lot 4 in the NW ¼; and the W ½ of the W ½ of Government Lot 6, all lying in said Section 27; EXCEPTING THEREFROM, as it may affect the last described three tracts, the following described properties: A tract of land in the S ½ of the NW ¼ of said Section 27, described as follows: Beginning at a point on the West line 417.42 feet North of the SW corner of said Quarter Section, said West line having a bearing of N00°31'W; FIRST COURSE, thence N89°46'E, 111.3 feet; SECOND COURSE, thence N07°23'W, 595.5 feet; THIRD COURSE, thence S89°31'W, 40.0 feet to the West line of said Quarter Section; FOURTH COURSE, thence S00°31'E, 590.7 feet along said West line to the place of beginning; and EXCEPT a

Commissioners present and voting were:

DAVID M. UNRUH	<u>AYE</u>
MICHAEL B. O'DONNELL, II	<u>AYE</u>
DAVID T. DENNIS	<u>AYE</u>
RICHARD RANZAU	<u>AYE</u>
JAMES M. HOWELL	<u>AYE</u>

DATED this 7<sup>th</sup> day of June, 2017.

BOARD OF COUNTY COMMISSIONERS OF  
SEDGWICK COUNTY, KANSAS

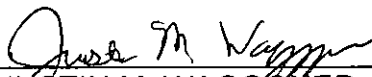


DAVID M. UNRUH, Chairman  
Commissioner, First District

ATTEST:

  
KELLY B. ARNOLD  
County Clerk

APPROVED AS TO FORM ONLY:

  
JUSTIN M. WAGGONER  
Assistant County Counselor

## STAFF REPORT

MAPC October 5, 2006

**CASE NUMBER:** CUP2006-38 AND ZON2006-39 DP-301 North Forty-Fifth Place Community Unit Plan

**APPLICANT/AGENT:** R & R Realty, LLC (owner); Donald R and Ramona Hayes (owner); Baughman Company, PA, c/o Russ Ewy (agent)

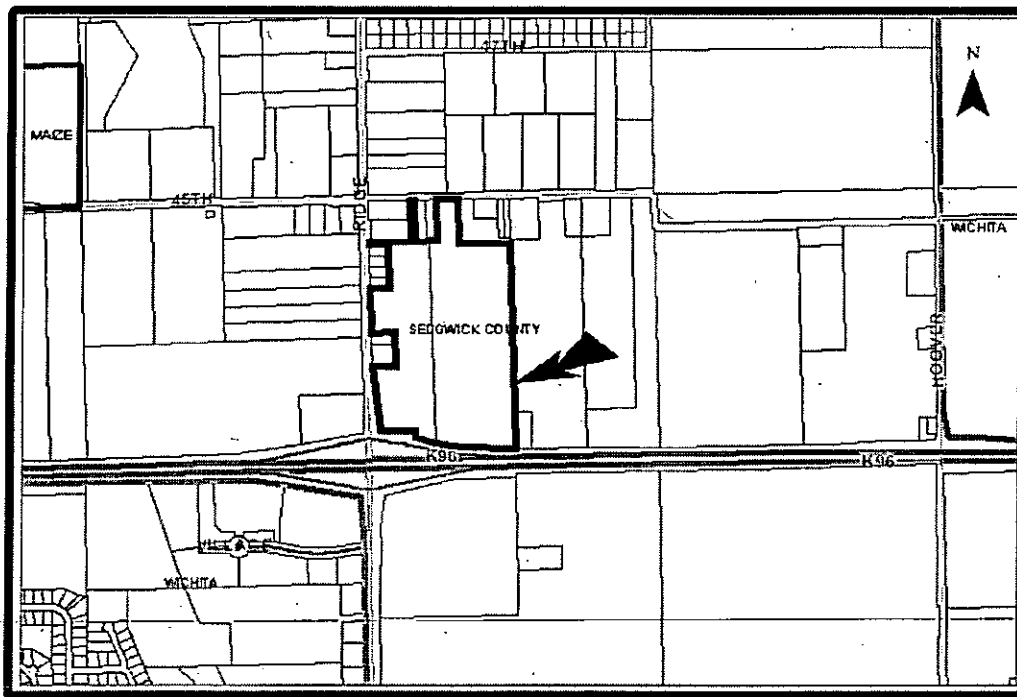
**REQUEST:** Create DP-301 North Forty-Fifth Place Community Unit Plan; zone change to "LC" Limited Commercial

**CURRENT ZONING:** "SF-20" Single-family Residential

**SITE SIZE:** 55.32 ± acres

**LOCATION:** East of Ridge Road between K-96 and 45<sup>th</sup> Street North

**PROPOSED USE:** Commercial development



**BACKGROUND:** The applicant proposes to create a commercial community unit plan containing approximately 55 acres for commercial use on the east side of Ridge Road between K-96 and 45<sup>th</sup> Street North. Only one parcel is shown, which is atypical for proposed CUPs. Also, it is extremely rare for any commercial use to occupy greater than 20-25 acres in a single use and a site would only be this size when developed with a big box use, a large shopping center or a large office complex.

All uses allowed by right in LC would be permitted except adult entertainment establishments, sexually oriented businesses, correctional placement residences, asphalt/concrete plants, safety service, pawn shop, agricultural sales and service, wireless communication services or theater.

The CUP requests a maximum building coverage of 30 percent, a maximum gross floor area of 35 percent, and a maximum building height of 45 feet. The proposed number of buildings is 14. Building setbacks are shown as 35 feet. A six-foot masonry wall would be required along the north, east and west property lines of the CUP where adjacent to residential zoning.

Buildings would have uniform architectural compatibility and parking lots would have similar or consistent lighting elements, limited to 24 feet in height. Window display signs are limited to 25 percent of the window area. Monument signage would be spaced a minimum of 150 feet apart. Flashing signs (except time, temperature, public service messages) or signs that create the illusion of movement, portable and off-site signs are prohibited.

The site currently is in agricultural use with a nonconforming commercial activity along Ridge Road. The site does not have a uniform property line along Ridge Road or 45<sup>th</sup> Street North. The proposed CUP engulfs nine single-family residences. The surrounding property is zoned SF-20 and mostly consists of small acreages in single-family use or agricultural use with the associated farmsteads. A plat for a church was approved for the abutting property on the east but the church has not been developed.

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

**ADJACENT ZONING AND LAND USE:**

NORTH:	SF-20	Single-family, farmsteads
SOUTH:	SF-20	Agricultural, farmstead
EAST:	SF-20	Single-family, vacant
WEST:	SF-20	Single-family, farmsteads

**PUBLIC SERVICES:** Three proposed points of access are shown on Ridge Road and two on 45<sup>th</sup> Street North. Ridge Road is an urban minor arterial developed as a two-lane road with shoulders. It is scheduled for reconstruction as a four-lane arterial in 2009. 45<sup>th</sup> Street North is an urban collector and is a sand road.

Traffic counts on Ridge Road between K-96 and 45<sup>th</sup> Street North was 7,500 vehicles per day in 2004 (county count). The 2030 projection for Ridge is 18,000 to 18,500 vehicles per day.

The nearest public water is a 20" line on the southwest corner of the K-96/Ridge interchange. The nearest sewer line is ¼ mile to the south on Ridge, but this 18" line may have capacity constraints that prevent service to this site. The site sewer master plan identifies this area as being served by sewer from a new treatment facility to the northeast, but construction of this facility is at least 10 years away and any interim development would require force main lift stations subject to capacity constraints. The CUP contains a provision that states that no development shall occur until municipal water and sewer services are provided to the site.

**CONFORMANCE TO PLANS/POLICIES:** The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as within the 2030 Wichita urban growth area and as appropriate for "employment/industry center" land use category. This category includes industrial, manufacturing, service and non-institutional uses but not specifically retail or commercial uses.

**Commercial Objective III.B** encourages future commercial areas to: "Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses." The tract has convenient access due to its location on the K-96 and Ridge Road interchange. No significant clusters of retail commercial activities are located north of K-96 to complement; therefore the site does not comply with **Strategy III.B.1** to regulate new strip commercial to areas identified by the Land Use Guide or neighborhood plans for commercial. **Strategy III.B.2** seeks to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress location. The proposed CUP incorporates architectural and lighting compatibility, cross-lot circulation, a site circulation plan for each phase but not coordinated for the whole development, and combined ingress-egress. Requirements for similar landscaping, shared or similar signage, and an overall site circulation plan would enhance compatibility with the objective/strategies of the Comprehensive Plan. **Strategy III.B.3** seeks to work with property owners to reduce access points along arterial streets; conforming to this strategy is hampered by lack of control of a number of properties along Ridge Road and 45<sup>th</sup> Street North, but the number of access points requested on the CUP is within the range allowed by urban standards.

**Commercial Locational Guideline #1** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use, and **#4** recommends compact clusters versus extended strip development. The proposed CUP restricts the height of parking lot lighting to 24 feet. Wider setbacks or

use restrictions within 200 feet of residential zoning would mitigate conflicts with the residential properties engulfed by the CUP.

**RECOMMENDATION:** The 2030 Wichita Functional Land Use Guide envisioned a swath of land for industrial and employment center type of development. This swath was shown as being one-half mile deep along the north side of K-96 and extending from Hoover Road to one-half mile west of Ridge Road. As shown on the Comprehensive Plan, this could have developed as a major employment center.

The requested by this CUP and other residential subdivision under consideration in the vicinity, the area would not become an employment center. Instead, it might be a typical suburban area with single-family housing and a shopping center, perhaps with a big box and pad site types of use.

Two additional problems plague the proposed CUP. First, the CUP wraps around existing residential uses. Approval of intensive uses on the abutting property places undue externalities upon the continued enjoyment of their residential properties. These burdens include increased traffic, lighting, noise, trash, and all the associated attributes of commercial and retail use. Second, the timing for development of this tract is probably several years away due to the lack of sewer and road improvements. The proposed recommendations of staff address these concerns by focusing development upon the southern edge of the tract, providing large buffer zones around the residential uses, and reducing the intensity of use allowed nearer to 45<sup>th</sup> Street North. Further, the conditions recommend a phasing of development to keep it from overburdening public services and to allow a more detailed design of the CUP to provide parcels that are reflective of the types of uses that are allowed.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2006-38) to LC Limited Commercial subject to platting of the entire property within one year;
- B. APPROVE the Community Unit Plan (DP-301), subject to the following conditions:
  1. Transportation improvements:
    - a. Guarantee construction of northbound accel/decel lanes on Ridge Road and center turn lane to major entrances.
    - b. Guarantee construction of two-lane paved road on 45<sup>th</sup> Street North to county rural standards from intersection east to edge of CUP boundary.
    - c. Provide petition for future signalization of major entrance on Ridge Road, to be installed when warranted by the Traffic Engineer.
    - d. Access shall be limited to three openings on Ridge Road and two openings on 45<sup>th</sup> Street North, as shown on the CUP drawing; these openings shall conform

to access management policy by separating full movement openings by 400 feet measured from centerline of openings.

2. No development shall be permitted until municipal water and sewer are provided to the site.
3. No development shall occur within 200 feet of residential zoning except on the east property line.
4. The CUP shall be revised prior to issuance of the first building permit to reflect parcel boundaries for individual proposed uses.
5. Maximum building height shall be reduced to 35 feet within 200 feet of Ridge Road and 45<sup>th</sup> Street North and within 200 feet of residential zoning except the east property line of the CUP.
6. Add to General Provision #7A: "and share similar elements in design."
7. Add to General Provision #7C: "billboards".
8. Add General Provision #7E.
  - a. On Ridge Road, monument signs shall have a maximum height of 20 feet and maximum sign face area to 100 square feet each, except one sign that may be 30 feet in height and 250 square feet. The maximum number of signs on Ridge Road would be five.
  - b. On 45<sup>th</sup> Street North, two monument signs shall be permitted with a maximum height of 12 feet and a maximum sign face area of 75 square feet each.
  - c. Along K-96, monument signs shall have with a maximum height of 25 feet and spacing of 150 feet apart; these signs may be increased up to 35 feet by trading one sign location in exchange for five additional feet in height above 25 feet. Maximum sign face area shall not exceed 0.8 times the linear frontage along K-96.
9. Add to General Provision #12A: "with a shared palette of landscape materials."
10. Add to General Provision #14 and 15: "with similar materials to the main buildings".
11. Add to General Provision #18: "Uses within 600 feet of 45<sup>th</sup> Street North shall be restricted to those uses permitted in the "NR" Neighborhood Retail zoning district. No overhead doors shall be permitted within 200 feet of residential zoning and shall not be facing any residential zoning district. Only one use shall be permitted that occupies more than 80,000 square feet in a single use and this use shall be located at least 1,500 feet south of 45<sup>th</sup> Street North."
12. Add to General Provision #25: "An overall site plan for shall be required for review and approval by the Planning Director prior to the issuance of any building permits; the site plan shall ensure internal circulation within the parcels and joint use of ingress/egress openings and that private drive openings are not impacted/ blocked by the layout of parking stalls or landscaping."
13. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
14. 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.

15. All property included within this CUP and zone case shall be platted within one year after approval of this CUP 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.
16. 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-301) includes special conditions for development on this property.
17. 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.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site currently is in agricultural use with a nonconforming commercial activity along Ridge Road. The site does not have a uniform property line along Ridge Road or 45<sup>th</sup> Street North. The proposed CUP engulfs nine single-family residences. The surrounding property is zoned SF-20 and mostly consists of small acreages in single-family use or agricultural use with the associated farmsteads. A plat for a church was approved for the abutting property on the east but the church has not been developed.
2. The suitability of the subject property for the uses to which it has been restricted: The area is suitable for the use as currently zoned (suburban residential) until public water and sewer services are extended to the site. Once municipal services are available, the site is better utilized with more intensive uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: As proposed with the CUP wrapping around residential sites, commercial use would be detrimental to continued enjoyment of the residential sites. The proposed buffer zone is to mitigate some of these impacts.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as within the 2030 Wichita urban growth area and as appropriate for "employment/industry center" land use category. This category includes industrial, manufacturing, service and non-institutional uses but not specifically retail or commercial uses. **Commercial Objective III.B** encourages future commercial areas to: "Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses." The tract has convenient access due to its location on the K-96 and Ridge Road interchange. No significant clusters of retail commercial activities are located north of K-96 to complement; therefore the site does not comply with **Strategy III.B.1** to regulate new strip commercial to areas identified by the Land Use Guide or neighborhood plans for commercial. **Strategy III.B.2** seeks to integrate out parcels to planned

centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress location. The proposed CUP incorporates architectural and lighting compatibility, cross-lot circulation, a site circulation plan for each phase but not coordinated for the whole development, and combined ingress-egress. Requirements for similar landscaping, shared or similar signage, and an overall site circulation plan would enhance compatibility with the objective/strategies of the Comprehensive Plan. **Strategy III.B.3** seeks to work with property owners to reduce access points along arterial streets; conforming to this strategy is hampered by lack of control of a number of properties along Ridge Road and 45<sup>th</sup> Street North, but the number of access points requested on the CUP is within the range allowed by urban standards. **Commercial Locational Guideline #1** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use, and **#4** recommends compact clusters versus extended strip development. The proposed CUP restricts the height of parking lot lighting to 24 feet. Wider setbacks or use restrictions within 200 feet of residential zoning would mitigate conflicts with the residential properties engulfed by the CUP.

5. Impact of the proposed development on community facilities: As proposed, traffic could be expected to increase significantly on Ridge Road and also on 45<sup>th</sup> Street North. Water and sewer lines will need to be extended to serve the site, and the CUP contains a provision that states that no development shall occur until municipal water and sewer services are provided to the site.