(150004) Published in The Derby Reporter on Oct 26, 2007

ORDINANCE NO. _____

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. ZON2007-00039

Request for Zone change from "NR" Neighborhood Retail to "LC" Limited Commercial, on property described as:

Auburn Hills Commercial 4th Addition, Sedgwick County, Kansas. Generally located approximately 1/4 mile east of the Maple Street 135th Street West intersection, on the south side of Maple Street.

SUBJECT TO PLATTING WITHIN A YEAR AND THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #130:

(1) 35-foot setbacks along the site's south, north and east sides.

(2) Monument sign with a maximum sign face of 48 square-feet and a height of 8-feet. No flashing, rotating, moving signs or portable signs. Window display is limited to 25% of the window area. No signs allowed on the rear or any side facing the residential zoning to the east or the south of the site.

(3) A plan for a pedestrian walk system linking proposed buildings to the sidewalk along Maple and the sidewalks on the abutting eastern DP-219 AUBURN HILLS C.U.P. shall be submitted for review and approval by the Planning Director.

(4) Shared internal access and shared access onto Maple Street with DP-219 AUBURN HILLS C.U.P.

(5) All exterior lighting shall be shielded to prevent light disbursement in a southerly or eastern direction. Lighting shall be similar to DP-219 AUBURN HILLS C.U.P. lighting elements, shall be no higher than 14-foot when within 100-feet of abutting residential zoned properties, behind the 35-foot setback along the south and east sides of the property and 20-feet high on the remainder of the site. Extensive use of backlit canopies and neon or fluorescent tube lighting on buildings is not permitted.

(6) All utilities installed underground.

(7) Landscaping plan shall show location, type and specifications of all plant material, to be reviewed and approved by the Planning Department. Landscaping shall be calculated at 1.5 times the minimum ordinance requirements along the sides of the site abutting residential zoning and the street side. Parking lot landscaping shall be per the ordinance. Landscaping shall be required prior to the issuance of any occupancy permit.

(8) A 6-foot masonry wall, constructed of similar materials to the masonry wall on DP-219 AUBURN HILLS C.U.P. shall be constructed along the site's east and south sides.
(9) Trash receptacles shall be appropriately screened to hide them from ground view.
(10) Rooftop mechanical equipment shall be screened from ground level view per the Code of Wichita.
(11) All buildings shall share uniform architectural character, color, texture and the same predominate exterior building materials.
(12) 20-foot landscape and wall easement along the south and east sides of the tract
(13) Prohibited uses include group residences, correctional placement residences, group homes, multifamily, asphalt and concrete plant, limited.
(14) Animal care, limited" is the only allowable "LC" Limited Commercial use permitted. All other uses shall conform to the "NR" Neighborhood Retail zoning district, subject to the conditions listed above. This property will require an "amendment" to this Protective Overlay should the present or future owner(s) and or their agent(s) request any additional "LC" Limited Commercial zoning district use(s) not permitted in the "NR" Neighborhood Retail zoning district. The amendment shall require a public process requiring notification of surrounding property owners and approval of the Wichita City Council.

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, _____

_____
Carl Brewer - Mayor

ATTEST:

_____
Karen Schofield, City Clerk

(SEAL)

Approved as to form:

_____
Gary E. Rebenstorf, City Attorney

Agenda Item No. _____

City of Wichita
City Council Meeting
October 16, 2007

TO: Mayor and City Council

SUBJECT: ZON2007-39 – Zone change from "NR" Neighborhood Retail to "LC" Limited Commercial subject to amended Protective Overlay 130 to permit "animal care, limited"; generally located one-quarter mile east of 135th Street West, south of Maple Street. (District V)

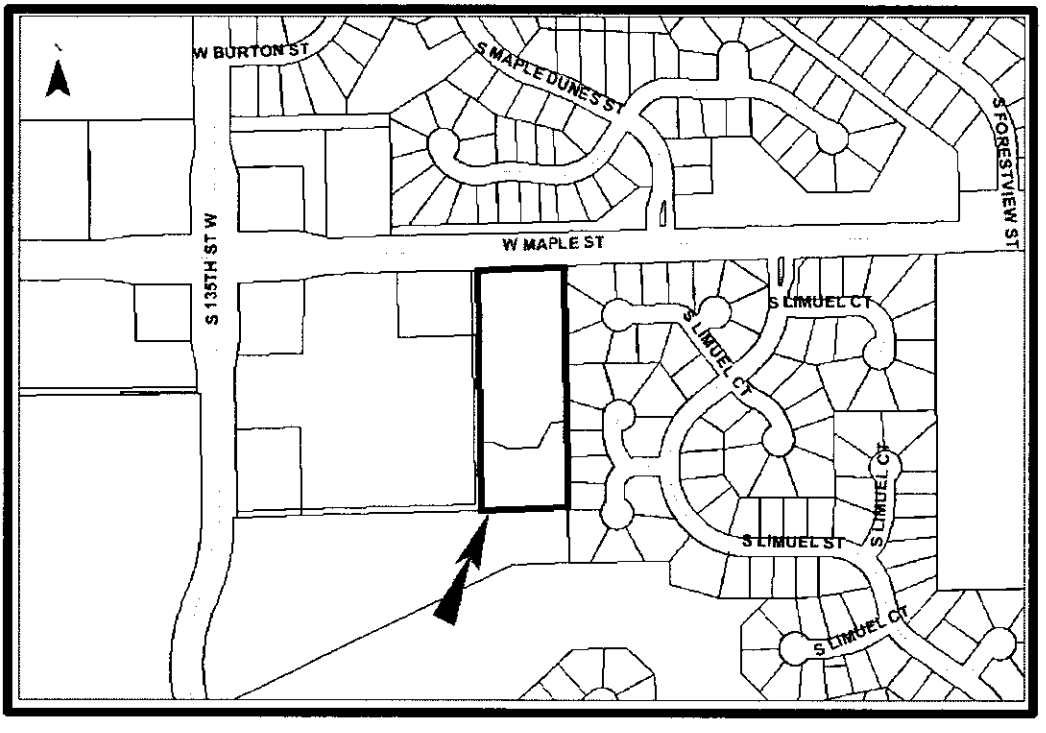
INITIATED BY: Metropolitan Area Planning Department JVS

AGENDA: Planning (Consent)

MAPC Recommendations: Approve, subject to the amended Protective Overlay No. 130 (11-0).

DAB V Recommendation: Approve (8-0).

MAPD Staff Recommendations: Approve, subject to the amended Protective Overlay No. 130.



Background: The applicant requests a zone change from "NR" Neighborhood Retail, subject to Protective Overlay 130 (PO-130), to "LC" Limited Commercial, subject to an amended PO-130. The application area contains 4.6 acres of platted land and is located on the south side of Maple Street, approximately one-fourth mile east of the 135th Street West and Maple Street intersection. In addition to the development standards contained in the NR zoning district, the property is also subject to the development standards contained in PO-130, which are:

(1) 35-foot setbacks along the site's south, north and east sides.
(2) Monument sign with a maximum sign face of 48 square-feet and a height of 8-feet. No flashing, rotating, moving signs or portable signs. Window display is limited to 25% of the window area. No signs allowed on the rear or any side facing the residential zoning to the east or the south of the site.
(3) A plan for a pedestrian walk system linking proposed buildings to the sidewalk along Maple and the sidewalks on the abutting eastern DP-219 AUBURN HILLS C.U.P. shall be submitted for review and approval by the Planning Director.
(4) Shared internal access and shared access onto Maple Street with Parcel #4 of DP-219 AUBURN HILLS C.U.P.
(5) All exterior lighting shall be shielded to prevent light disbursement in a southerly or eastern direction. Lighting shall be similar to DP-219 AUBURN HILLS C.U.P. lighting elements, shall be no higher than 14-footwhen within 100-feet of abutting residential zoned properties, behind the 35-foot setback along the south and east sides of the property and 20-feet high on the remainder of the site. Extensive use of backlit canopies and neon or fluorescent tube lighting on buildings is not permitted.
(6) All utilities are to be installed underground.
(7) Landscaping plan shall show location, type and specifications of all plant material, to be reviewed and approved by the Planning Department. Landscaping shall be calculated at 1.5 times the minimum ordinance requirements along the sides of the site abutting residential zoning and the street side. Parking lot landscaping shall be per the ordinance. Landscaping shall be required prior to the issuance of any occupancy permit.
(8) A 6-foot masonry wall, constructed of similar materials to the masonry wall on DP-219 AUBURN HILLS C.U.P. shall be constructed along the site's east and south sides.
(9) Trash receptacles shall be appropriately screened to hide them from ground view.
(10) Rooftop mechanical equipment shall be screened from ground level view per the Code of Wichita.
(11) All buildings shall share uniform architectural character, color, texture and the same predominate exterior building materials.
(12) 20-foot landscape and wall easement along the south and east sides of the tract
(13) Prohibited uses include group residences, correctional placement residences, group homes, multifamily, asphalt and concrete plant, limited.

The site's current NR zoning does not permit "animal care, limited." The applicant is seeking LC zoning, subject to a modified protective overlay in order to add "animal care, limited" as a permitted use on the site. As proposed by the applicant, the only LC use that would be added to the NR uses already permitted would be "animal care, limited."

"Animal care, limited" is defined by the "Unified Zoning Code" as "a use providing veterinary services for large animals, and that may include small animals (household pets), and for which boarding facilities may also be provided." Supplemental use regulation III-D.6.c also stipulates that "animal care, limited" uses are subject to the following development standards: shall not generate noise or odors that are discernable beyond the property line; treatment is limited to dogs, cats and other small animals and all animals shall be harbored indoors.

The applicant proposes to modify PO-130 by adding a 14th clause that states: ""Animal care, limited" is the only allowable "LC" Limited Commercial use permitted. All other uses shall conform to the "NR" Neighborhood Retail zoning district, subject to the conditions listed above. This property will require an

"amendment" to this Protective Overlay should the present or future owner(s) and or their agent(s) request any additional "LC" Limited Commercial zoning district use(s) not permitted in the "NR" Neighborhood Retail zoning district. The amendment shall require a public process requiring notification of surrounding property owners and approval of the Wichita City Council."

The applicant has met with the property owners located to the east of the subject site and appears to have received mostly consent or at least little opposition to the proposal. Some of the comments at the neighborhood meeting dealt with a need for the protective overlay to stay in place, and that the only LC use to be added would be the small animal clinic. The applicant also met with District Advisory Board V on August 6, 2007. The DAB asked questions of the applicant and provided comments. The applicant indicated that the proposed clinic would be located on the south end of the center. He also indicated there would not be any "doggie day care," grooming, non-medical required boarding or outside pens or runs. The applicant indicated the only boarding would be that required due to medical considerations; there would be 12 enclosures with five indoor runs and seven cages. The office space would be constructed to incorporate additional noise attenuation features, including sand filled cinder blocks. Typical business hours will be 7:30 a.m. to 6:00 p.m. Monday through Friday, with Saturday morning service. The applicant also indicated that dogs will be walked outside, and that he has a service that will collect waste.

The application area is located between an established single-family residential subdivision located to the east, and a commercial center, DP-219 Auburn Hills C.U.P., located to the west. Property to the north, across Maple, is zoned "SF-5" Single-family Residential and developed with single-family residences. Property to the northwest is zoned "LC" Limited Commercial and subject to development restrictions, Protective Overlay #17, that limits uses, building signage and access points. The property to the south is undeveloped and zoned "GO" General Office, and is covered by Protective Overlay #140 that addresses architectural compatibility and density.

Analysis: District Advisory Board V reviewed this request on September 10, 2007, and recommended approval 8-0. The Metropolitan Area Planning Commission reviewed this request on September 6, 2007, and recommeded approval 11-0. No protest petitions have been filed.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality.

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

Recommendation/Actions:

1. Concur with the findings of the MAPC and approve the zone change to "LC" Limited Commerical and the amendment to the provisions of Protective Overlay No. 130; place the ordinance establishing the zone change and amendment to Protective Overlay No. 130 on First Reading; 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.)