Agenda Item # 48

Denied

City of Wichita
City Council Meeting
November 6, 2001

Agenda Report # 01-1261

TO: Mayor and City Council Members

SUBJECT: **ZON2001-00001 – Zone change from "LI" Limited Industrial to "SF-5" Single-Family Residential and "NO" Neighborhood Office. Generally located south of 29th Street North and east of Ridge Road (6501 W. 29th Street North).** (District #V)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning

MAPC Recommendation: Approve subject to platting within one year and subject to the provisions of a Protective Overlay District (9-5).

DAB Recommendation: Deny (6-0).

Staff Recommendation: Approve, subject to platting within one year.

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BACKGROUND: The applicant requests a zone change from "LI" Limited Industrial to "SF-5" Single-Family Residential and "NO" Neighborhood Office on a 5.53 acre unplatted tract located south of 29th Street North and east of Ridge Road. The applicant indicates that the "SF-5" Single-Family Residential zoning is requested to permit the development of seven single-family residences and the "NO" Neighborhood Office zoning is requested to provide a location for a home-based office.

The applicant is proposing to plat the subject property as the Barefoot Bay Estates Addition. The Barefoot Bay Estates Addition (SUB2000-00107) was approved by the Subdivision Committee on January 11, 2001 and deferred by the MAPC at the applicant's request on February 22, 2001. The applicant is requesting "NO" Neighborhood Office for Lot 8 and Reserve D (both located in the northeast corner of the subject property) of the Barefoot Bay Estates Addition. The remainder of the Barefoot Bay Estates Addition (Lots 1-7 and Reserves A-C) is requested for "SF-5" Single-Family Residential zoning.

The surrounding area is characterized by a mixture of uses with industrial uses to the west and south and residential uses to the east and north. The properties located south and west of the site are zoned "LI" Limited Industrial. Most of the properties located north and east of the site are zoned "SF-5" Single Family Residential. A portion of the lake located east of the site is zoned "LI" Limited Industrial.

At the DAB hearing on September 10, 2001, DAB V heard from concerned neighborhood property owners and voted (3-0) to defer the request for one month in order to collect more applicable information. The MAPC held a public hearing on the request at their meeting on September 20, 2001, and after hearing from concerned neighborhood property owners, voted (10-0) to defer the request for one month to allow the DAB to rehear the case and to allow the attorney for the Barefoot Bay Homeowner's Association, who could not attend the meeting, to speak to the MAPC.

At the DAB hearing on October 1, 2001, DAB V heard concerns from neighboring property owners who primarily expressed concern with the safety of the lake adjacent to the subject property if additional residences with lake access are approved. Other concerns neighboring property owners expressed to DAB V are described in detail in attached summaries dated September 17, 2001 and October 1, 2001. Numerous letters from neighboring property owners expressing their concerns also are attached.

At the MAPC hearing on October 11, 2001, the MAPC heard from the attorney for the Barefoot Bay Homeowner's Association who spoke regarding the concerns of neighborhood property owners as outlined in an attached letter from Bonwell, Foster, Borniger & Ellis dated October 10, 2001. The applicant's attorney responded to the concerns of neighborhood property owners as outlined in an attached letter from Klenda, Mitchell, Austerman, & Zuercher dated October 5, 2001.

The MAPC voted (9-5) to approve the zone change request from "LI" Limited Industrial to "SF-5" Single-Family Residential and "NO" Neighborhood Office subject to platting

the property within one year and subject to the following provisions of a Protective Overlay District:

1. The density of the subject property shall be limited to 8 dwelling units on no more than 8 lots.
2. Office use on the portion of the subject property zoned "NO" Neighborhood Office shall be limited to a home occupation as permitted by Sec. IV-E of the Unified Zoning Code, except that up to four persons not occupying the dwelling unit may be employed in the home occupation.
3. If consented to by the Barefoot Bay Owners' Association, the subject property shall be subject to "Covenants, Conditions, and Restrictions of Barefoot Bay" as recorded on Film 1479, Pages 0204-0230 or as otherwise agreed to from time to time between the owner of the subject property and the Barefoot Bay Owners' Association.

Protest petitions representing 80.7% of the property within 200 feet of the subject property have been received, as illustrated on an attached map. Numerous protest petitions representing properties more than 200 feet from the subject property also have been received. The amount of property within 200 feet of the subject property owned by the protestors exceeds 20%; therefore, a three-fourths majority vote (6 of 7) of the City Council is required to approve the request.

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; instruct the Planning Department to forward the ordinance establishing the zone change for first reading when the plat is forward to the City Council: or

2. Return the application to the MAPC for reconsideration

   (An override of the Planning Commission's recommendation requires a 2/3 majority vote of the membership of the governing body on the first hearing.)

CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

November 8, 2001

FILE COPY

Mike Shell
Applicant
2814 Northshore Circle
Wichita, KS 67205

RE: ZON2001-00001 – Zone change from "LI" Limited Industrial to "SF-5" Single Family Residential and "NO" Neighborhood Office. Generally located south of 29th Street North and east of Ridge Road (6501 W. 29th Street North).

Dear Mr. Shell:

At its regular meeting on November 6, 2001, the Wichita City Council considered the above-captioned request. The action of the City Council was to DENY the request.

If you have any questions concerning this application, please contact our office at 268-4421.

State of Kansas)
Sedgwick County) ss
City of Wichita)
I, KATHY PEWEWARDY DOP City Clerk of the City of Wichita, Kansas, hereby certify that the document to which this is affixed is a true and correct copy of the original on file in the office the the City Clerk.
Given under my hand and seal of the City of Wichita, this 10th Day of January 2003
SEAL Kathy Pewewardy DOP City Clerk

Sincerely,

Scott Knebel
Senior Planner

Cc: Baughman Company, %Phil Meyer, 315 Ellis, Wichita, KS 67211
Bonwell, Foster, Borniger and Ellis, %Susan Ellis, 604 One Main Place, 100 N. Main Ste 604, Wichita, KS 67202
Klenda, Mitchell, Austerman & Zuercher, L.L.C., %Christopher A. McElgunn, 1600 Epic Center, 301 N. Main, Wichita, KS 67202-4888
Terry A. & Renee M. Richards, 9216 Thurman, Wichita, KS 67212
Rich Mix Products, Inc., %David L. Buchholtz, P O Box 7717, Wichita, KS 67277
Ritchie Corporation., %David L. Buchholtz, P O Box 7717, Wichita, KS 67277
Hugh F. Gullic, Heather H. Gullic, 3005 N. Ridgeport, Wichita, KS 67205
Derek L. Shriver, Candy J. Shriver, 1509 S. Topeka, Wichita, KS 67211
Ann M. Ross, Property Owner, 747 Linden Ct., Wichita, KS 67206