

AGENDA ITEM REQUEST

FILE COPY

Proposed Agenda Item: ZON2002-00051- (CUP2002-00030 DP231#1) -
Amendment to DP-231 The CopperGate Community Unit Plan;
and Sedgwick County zone change from "LC" Limited
Commercial to "SF-5" Single-family Residential. Generally
located at the southwest corner of 13th Street North and 135th
Street West.

Presented By: Dale Miller, Chief Planner, MAPD

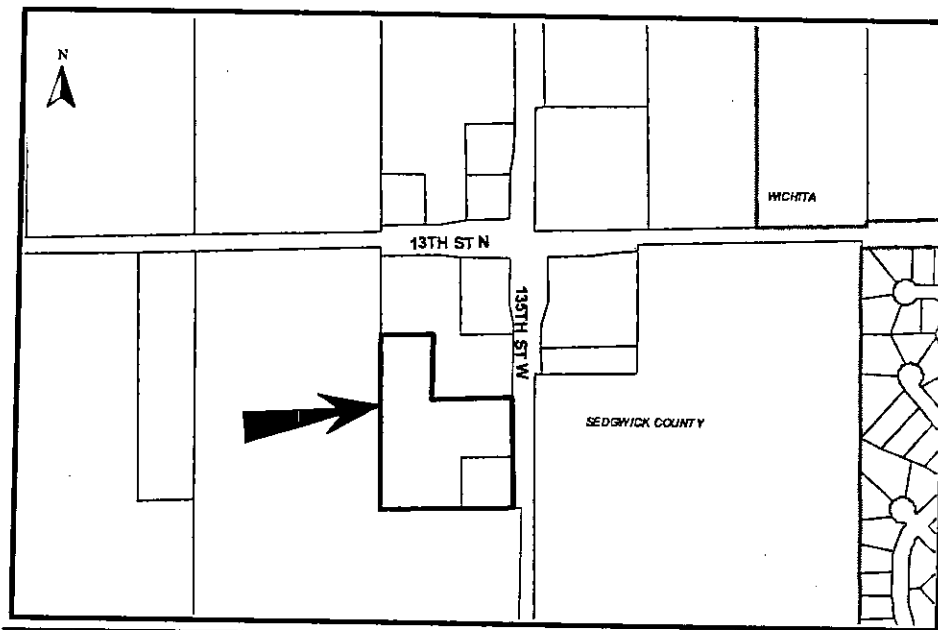
Recommended Action: Approve zone change and amendment to C.U.P., subject to replatting within one year, direct staff to prepare the appropriate resolution after the plat is approved, and authorize the Chairman to sign the resolution

Proposed Agenda Date: September 18, 2002

Outside Attendees: Baughman Company, P.A., %Terry Smythe, 315 Ellis,
Wichita, KS 67211

Multimedia Presentation: PowerPoint

Donations: Not Applicable



BACKGROUND: The applicant is requesting that 6.32 acres of property zoned "LC" Limited Commercial be removed from DP-231 Copper Gate C.U.P. and be downzoned to "SF-5" Single-Family Residential. The property would be included in the Copper Gate Estates single-family subdivision being platted to the south of the application area. The parcels removed would be a portion of Parcel 1 and all of Parcel 2.

No changes are proposed for the remainder of the C.U.P.

Copper Gate C.U.P. originally included 24 ± acres, with 12 acres located on the north side of 13th Street North and 12 acres located on the south side. None of the property is developed, although there is a significant power line connecting the KGE substation on the southeast corner of 13th Street North and 135th Street West with the generating facility in Colwich that traverses the western and central part of the Copper Gate C.U.P. A few large residential tracts are developed on the east side of 135th, and a church is planning to build on the northeast corner of the intersection. Most of the surrounding area is still in agricultural use, but single-family plats are in the approval process for the area to south/southwest and to the east.

The Metropolitan Area Planning Commission heard this case on August 22, 2002. The action of the Commission was to recommend approval 12-0. No one spoke in opposition. No written protests have been received.

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Analysis: Not applicable.

Alternatives: Return to the Planning Commission for reconsideration.
(An override of the Planning Commission's recommendation requires a 2/3rd majority vote of the membership of the governing body on first hearing.)

Financial Considerations: Not applicable.

Policy Considerations: Not applicable.

Legal Considerations:   *MSD* Approved as to form and signed by County Counselor's Office

First
Read 12-10-02

(150004) Published in The Derby Reporter on May 7, 2003

RECEIVED

MAY 14 2003

METROPOLITAN PLANNING
ROUTE _____

ORDINANCE NO.45-525

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 2002-51

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

All of Lot 2, Block A, Copper Gate Addition, Sedgwick County, Kansas, together with that part of Lot 1, Block A, described as follows: Beginning at the most easterly corner common to said Lots 1 and 2; thence south 89° 35' 25" west along the north line of said Lot 2, 200.00' to the northwest corner of said Lot 2; thence south 00° 00' 00" west along the west line of said Lot 2, 200.00' to the southwest corner of said Lot 2; thence south 89° 35' 25" west along the south line of said Lot 1, 325.01' to the southwest corner of said Lot 1; thence north 00° 00' 00" east along the west line of said Lot 1, 686.69'; thence north 89° 35' 25" east, 205.01' to a point 205.00' normally distant east of the west line of said Lot 1; thence south 00° 00' 00" east 250.01'; thence north 89° 35' 25" east, 320.01' to a point on the east line of said Lot 1; thence S 00° 00' 00" east along the east line of said Lot 1, 236.69' to the point of beginning (containing 6.3 acres +/-).

Generally located at the southwest corner of 13th Street North and 135th Street West.

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 DEC 17 2002 .

ATTEST:

Pat Graves, Deputy
for Pat Graves, City Clerk



Bob Knight
Bob Knight, Mayor

(SEAL)

Approved as to form:

Gary E. Rebenstorf
Gary E. Rebenstorf, City Attorney



STAFF REPORT
MAPC August 22, 2002

CASE NUMBER: CUP2002-00030 DP-231 Copper Gate C.U.P. Amendment #1 AND ZON2002-00051

APPLICANT/AGENT: John Dugan Family Partnership, LP (owner); Baughman Company, P.A. c/o Terry Smythe (agent)

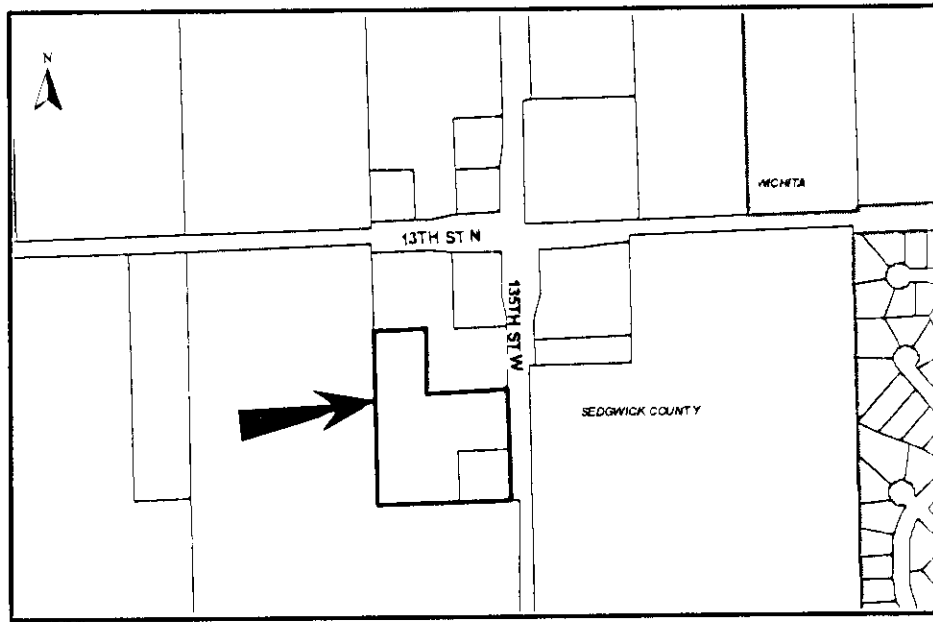
REQUEST: Remove 6.32 acres of property from DP-231 Copper Gate C.U.P. and downzone the same area to "SF-5" Single-Family Residential

CURRENT ZONING: "LC" Limited Commercial

SITE SIZE: 23.78 acres (6.32 for rezoning tract)

LOCATION: Southwest corner of 13th Street North & 135th Street West

PROPOSED USE: Single-family residential for the tract to be downzoned; commercial development for remainder of C.U.P.



BACKGROUND: The applicant is requesting that 6.32 acres of property zoned "LC" Limited Commercial be removed from DP-231 Copper Gate C.U.P. and be downzoned to "SF-5" Single-Family Residential. The property would be included in the Copper Gate Estates single-family subdivision being platted to the south of the application area. The parcels removed would be a portion of Parcel 1 and all of Parcel 2.

No changes are proposed for the remainder of the C.U.P.

Copper Gate C.U.P. originally included 24 ± acres, with 12 acres located on the north side of 13th Street North and 12 acres located on the south side. None of the property is developed, although there is a significant power line connecting the KGE substation on the southeast corner of 13th Street North and 135th Street West with the generating facility in Colwich that traverses the western and central part of the Copper Gate C.U.P. A few large residential tracts are developed on the east side of 135th, and a church is planning to build on the northeast corner of the intersection. Most of the surrounding area is still in agricultural use, but single-family plats are in the approval process for the area to south/southwest and to the east.

CASE HISTORY: The original C.U.P. and zone change to "LC" was approved by the Sedgwick County Commission on February 28, 1998. The property was platted as Copper Gate Addition on April 21, 2000. Now it is proposed for inclusion in Copper Gate Estates, a single-family plat approved by MAPC Subdivision Committee on August 1, 2002, and to be considered by MAPC on August 22, 2002.

ADJACENT ZONING AND LAND USE:

NORTH:	"LC" Limited Commercial	Vacant, agriculture
EAST:	SF-20" Single-Family	KGE Substation, Sedgwick Co. Electric Coop, agriculture
SOUTH:	"SF-20" Single-Family	Vacant, agriculture
WEST:	"SF-20" Single-Family	Vacant, agriculture

PUBLIC SERVICES: The site has access from 135th Street West and 13th Street North. Both are two-lane arterial roads on the 2030 Transportation Plan. Traffic counts were unavailable for 2000, but are projected in 2030 to be 1,212 ADTs on 135th between 9th and 13th and to be 2,355 ADTs on 13th between 135th and 143rd. Access points and transportation improvements were determined during the original approval of the C.U.P. The only significant change from this amendment would be to reduce the number of access points on 135th Street West by one driveway and replace another driveway with a public street (Ponderosa).

Municipal services are planned for extension to the site prior to development.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the *1999 Update to the Comprehensive Plan* identifies the general location as appropriate for “commercial” development, in conformance with the approved Copper Gate C.U.P. The property to the south is shown as appropriate for “low density residential”.

The Far West Side Commercial Development Policy guides commercial growth at the nine intersections of 119th Street West, 135th Street West, 151st Street West with Maple, Central (4th Street North) and 13th Street North. The Far West study recommends limiting the scale of commercial development to neighborhood serving uses, and stricter guidelines appearance. Intersections within two miles driving distance of another intersection with more than 24 acres of commercial zoning are to be limited to 24 total acres on all corners, with a maximum of 12 acres on any one corner. Intersections within one mile driving distance are to be even more restricted. This intersection falls within the two-mile distance from the intersection at 135th and Maple, making it appropriate for up to 24 acres of commercial zoning, the amount already designated. If approved, this amendment would reduce the total amount at 135th Street West and 13th Street North to 17 acres.

RECOMMENDATION: Based upon the information available prior to the public hearing, staff recommends the request be APPROVED subject to replatting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2002-000051) to “SF-5” Single-Family, subject to replatting of the property within one year.
- B. APPROVE Amendment #1 to the Community Unit Plan (DP-231), subject to the following conditions:
 1. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
 2. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
 3. 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.
 4. The applicant shall submit 4 revised copies of the C.U.P. 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 land to the south, southwest, east, northeast and northwest is zoned "SF-20" Single-Family Residential. Currently, the majority of this area is in agricultural use, but single-family plats are in process of approval for the south/southwest area (Copper Gate Estates-including the application area) and east (Liberty Park Addition). An electric substation operated by KGE and another smaller one for Sedgwick County Electric Coop Association are located on the southeast corner of 13th Street North and 135th Street West. The northeast corner is owned for future development by a church (Heritage Baptist). There are several large residential sites surrounding the church site. The property on both the northwest and southwest corner of 13th Street North and 135th Street West is zoned "LC" Limited Commercial (DP-231 Copper Gate C.U.P.) but is undeveloped.
2. The suitability of the subject property for the uses to which it has been restricted: The site is approved for "LC" use and could be developed accordingly.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The removal of the six acres will reduce the available acreage for commercial development at this intersection and might increase pressure for approval of alternate commercial sites at locations not in conformance with the Comprehensive Plan or Far West Policy.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The downzoning requests a less intense use than shown on Land Use Guide of the adopted Comprehensive Plan designation as "commercial". It conforms to the recommended usage for the property to the south as "low density residential".
5. Length of time the land has been vacant as currently zoned: The land has been ready for development since 2000 when the platting of Copper Gate Addition was completed.
6. Impact of the proposed development on community facilities: The proposed downzoning and reduced size of the C.U.P. should reduce the impact of the application area on community facilities.