

OCA 150004

ORDINANCE NO. 49-505

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, AND TO REPEAL ORDINANCE NO. 49-505.

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. ZON2012-00024

Zone change from SF-20 Single-Family Residential ("SF-20") to LC Limited Commercial ("LC") and SF-5 Single-Family Residential ("SF-5") subject to the provisions of Community Unit Plan DP-327 on an approximately 38.09-acres property described as:

LC Limited Commercial ("LC") zoned portion:

Lots 1, 2, 3, 4, 5, 6, & 7, Block A, and Reserves B, C, D, & E, Maize & 29th Commercial Addition Wichita, Sedgwick County, Kansas; generally located north of 29th Street North, on the east side of Maize Road.

AND

SF-5 Single-Family Residential ("SF-5") zoned portion:

Reserves A & F, Maize & 29th Commercial Addition, Wichita, Sedgwick County, Kansas; generally located north of 29th Street North, on the east side of Maize Road.

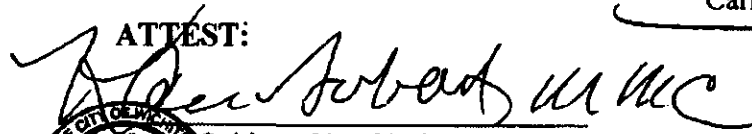
SECTION 2. That is Ordinance is to replace Ordinance No. 49-505 due to an inadvertent error in the general location description of the real property subject to this Ordinance.

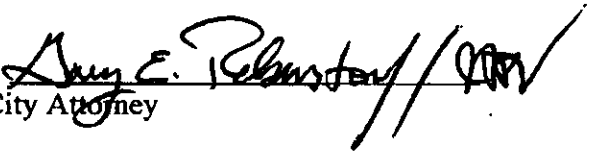
SECTION 3. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

SECTION 4. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.


Carl Brewer Mayor

ATTEST:


Sublett, City Clerk

Approved as to form: 
Gary E. Rebenstorff, City Attorney



City of Wichita
City Council Meeting
December 4, 2012

TO: Mayor and City Council

SUBJECT: ZON2012-00024 and CUP2012-00021 – City zone change from SF-5 Single-Family Residential (“SF-5”) to LC Limited Commercial (“LC”) and creation of the Maize and 29th Commercial Community Unit Plan, CUP DP-327; generally located on the northeast corner of 29th Street North and Maize Road. (District V)

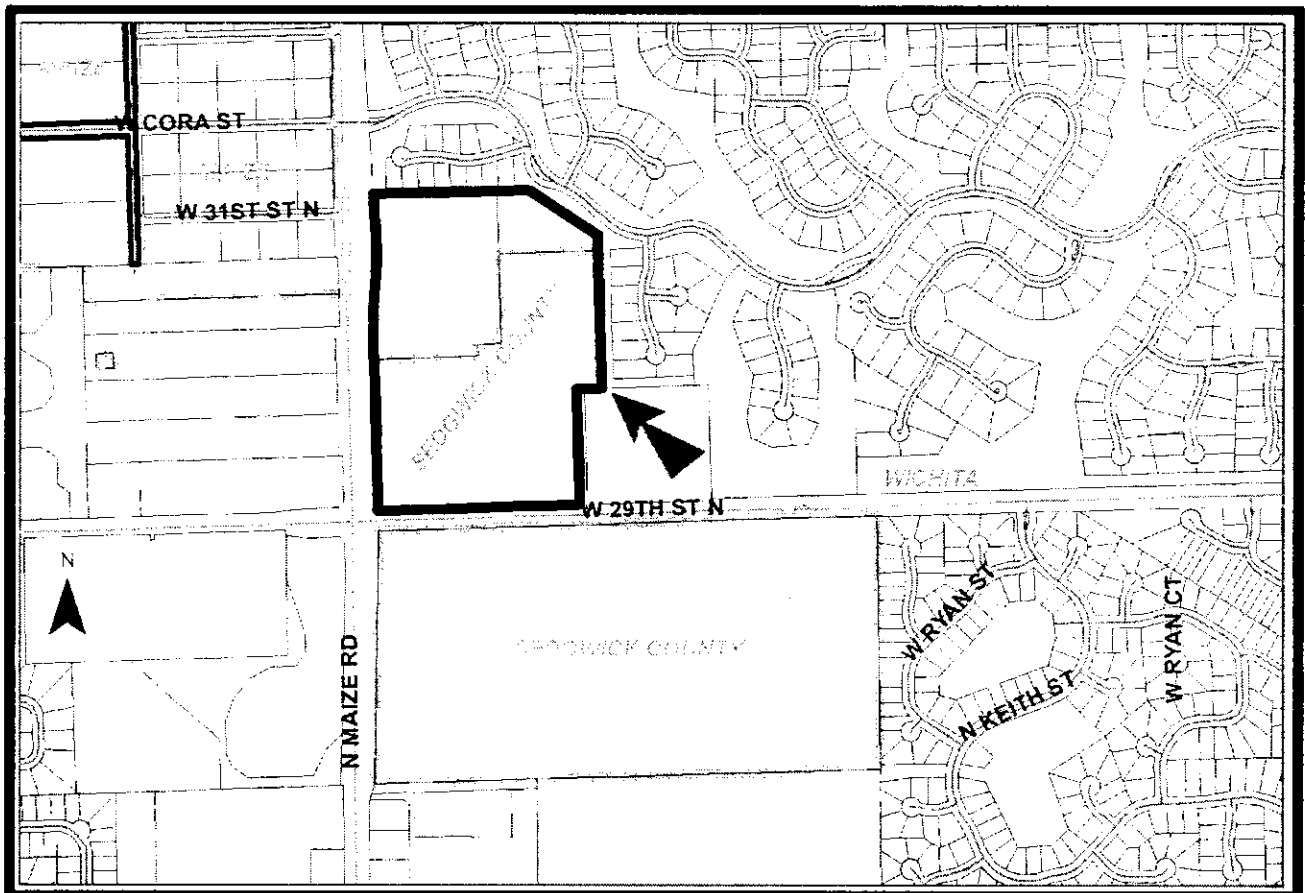
INITIATED BY: Metropolitan Area Planning Department *DM for JHS*

AGENDA: Planning (Non-Consent)

MAPC Recommendation: Approve (7-3), with the provisions of the CUP.

DAB V Recommendation: Approve (5-3), with the provisions of the CUP.

MAPD Staff Recommendation: Approve with the provisions of the CUP.



Background: The applicants are seeking LC Limited Commercial (“LC”) zoning subject to the development standards contained in the proposed Maize and 29th Commercial Community Unit Plan (“CUP”) DP-327; see the attached CUP. At the time of the application, the 38.09-acre site was zoned SF-5 Single-Family Residential (“SF-5”, Wichita zoning) and SF-20 Single-Family Residential (“SF-20” Sedgwick County zoning). On September 11, 2012, the Wichita City Council approved the owner’s application for the SF-20 zoned portion of the site to be annexed into the City of Wichita, thus changing its zoning to SF-5. The Unified Zoning Code (UZC) requires a CUP or a PO Protective Overlay (“PO”) for LC and GC General Commercial (“GC”) zoned sites of 6-acres or more that are held under unified control at the time of initial approval. A CUP is intended to provide well planned and well organized residential, commercial and mixed development.

The site is located on the northeast corner of the 29th Street North and Maize Road intersection. The site is currently developed with two farmhouses (built 1948 and 1950) and numerous accessory agricultural buildings. There are extensive mature, mixed tree hedges planted around the farm buildings. There is also another 70 to 90-foot wide mature mixed tree hedge located along most of the north end of the site, where it abuts SF-5 zoned single-family residences.

The 29th Street North and Maize Road intersection is located in an area where the City limits of Wichita and Maize abut each other and there are SF-20 zoned lands located in Sedgwick County. West of the site, across Maize Road (in Wichita), there are five large-tract SF-5 zoned single-family residences, which were built 1979-1991. Most of these lands are located within a Federal Emergency Management Agency (“FEMA”) Flood Zone. Also located west of Maize Road, there is a large-tract single-family residence (1999) and, there are other urban-scale single-family residences (platted November 16, 1956) located in Maize. Further west there are 38.2-acres of undeveloped GO General Office (“GO”) zoned land, more SF-5 zoned single-family residences and agricultural land located in Maize. The SF-5 zoned Fox Ridge single-family residential subdivision (platted July 8, 2003) abuts all of the north side of the site, and most of the east side of the site. The Fox Ridge subdivision has two ways in and out, one on Maize Road and another on its east end at Tyler Road; via Westlake Parkway, a residential collector street. A large tract SF-5 zoned single-family residence (1995) abuts the southernmost portion of the east side of the site.

North of the Fox Ridge subdivision is the approximately 187-acre SF-5 zoned USD 266 Maize School District’s educational complex and 35.63-acres of undeveloped SF-5 zoned land that was approved for LC zoning, but has not been replatted to secure the approved commercial zoning; ZON2011-38/CUP2011-42. A partially developed approximately 36-acre LC and GC zoned site, anchored by a big box retailer, home improvement Menards store (ZON2006-0007/CUP DP-295) finishes out development located north to 37th Street North with another approximately 24-acres of undeveloped LC zoned (ZON2002-29/DP-262) land located northwest across Maize Road and 37th Street North.

South of the site, across 29th Street North, is a farmstead located on a SF-20 zoned remnant of Cadillac Lake, and undeveloped LC zoned land. Most of these two lands are located within a FEMA Flood Zone that has impacted development south of 29th Street. Between 29th and 21st Streets North, Maize Road is pretty much striped out with LC and GC zoned lands, most of them subject to CUP or PO overlays. Almost all of these LC and GC zoned lands are developed or are developing with big box retail such as Wal-Mart, Target, Lowes, Academy Sports and a super Dillon’s, or free standing retail and retail strip centers, many with national and local commercial chains as tenants. The exception to this concentration of LC and GC zoned commercial activity on the section of Maize Road located between 21st and 29th Streets is the mid-mile located, SF-5 zoned Chadsworth 1st and 2nd Additions (1990 & 1992), which has single-family residences’ abutting Maize Road. The Chadsworth Additions have access to 21st Street North and Maize Road.

Analysis: At the September 10, 2012, District V Advisory Board (DAB) meeting, the DAB considered ZON2012-00024 with the associated CUP2012-00021, DP-327. There was standing room only at the

DAB meeting and almost all of the people present were opposed to the requested zoning and the CUP. Objections and concerns expressed by those present included (but not limited to): the proposed zoning and development does not match the 2030 Comprehensive Land Plan; the height of the proposed buildings; the proximity of the buildings to the abutting Fox Ridge development; lack of traffic signals at various street intersections with Maize Road; the lack of a center-turn lane in Maize Road north of the intersection; the impact on public safety on the neighborhood and the schools due to the increase in traffic on Maize Road; drainage concerns; lack of restrictions on the times of product delivery by trucks; protection of the existing tree line on the north side; the quantity, height and composition of proposed landscaping; the height and width of the proposed landscape berms; width of the proposed building setbacks; height and composition of dumpster and loading dock screening; the potential for the neighborhood to experience increase crime; the impact of noise and trash generated from the development; a request to apply strict development standards to Sam's to match the abutting Fox Ridge development, and the devaluation of the abutting single-family residences. The DAB voted to approve (5-3) the request per staff's recommendations.

At the September 20, 2012, Metropolitan Area Planning Commission (MAPC) public hearing meeting, the MAPC considered ZON2012-00024 with the associated CUP2012-00021, DP-327. At the beginning of the MAPC meeting Planning staff requested the MAPC to consider deferring any action on the request due to last minute changes to the proposed CUP. Because of the large number of people present to testify, the MAPC held the public hearing. Most of the people present were opposed to the requested zoning and the CUP. The objections and concerns to the proposed zoning and development were similar to those expressed at the DAB V meeting. The MAPC voted (9-3) to defer any final action until the November 1, 2012, MAPC meeting, and to allow the public hearing to continue at that time. The MAPC instructed the applicant, the neighbors and staff to meet, and to attempt to find solutions to the issues identified at the hearing before coming back to the November 1, 2012, MAPC meeting. The MAPC specifically directed the applicant to provide a concept traffic study for review by the Traffic Engineer, a concept drainage study for review by the Stormwater Engineer, to push the Sam's building further away from the abutting Fox Ridge development and to have someone from corporate headquarters that could make a decision present at the meeting.

On November 1, 2012, the MAPC heard an update on the request from the staff, the applicant and the neighbors. Again, a large number of people were present for this case and almost all of them were still opposed to the request. The MAPC approved (7-3) the request per staff's recommendation, with the provisions of the CUP and subject to platting within a year. The MAPC acknowledged progress in finding resolution, but also noted that the applicant had no one present from corporate headquarters that could make a decision present at the final neighborhood meeting. They also noted that the neighborhood seemed to have multiple speakers for various design concerns. The copy of the CUP that the City Council has with this packet is subject to the following edits:

- Provision 8; Revise as "The owner of Parcel 1 shall provide a petition for a traffic signal, to be installed when traffic warrants are met."
- Provision 12.B; Add, as verbally presented at the November 1, 2012 MAPC meeting, "Landscape materials, with the exception of the conifer planting on as noted on 12.D, will compliment the plantings on Reserve G, Fox Ridge Addition, with the use of similar plants."
- Provision 12.D; Add, as presented with the Power Point presentation at the November 1, 2012, MAPC meeting, "A row of deciduous trees, with a minimum 3-inch caliper will be planted behind the conifers."
- In reference to 13.A; Show the pad elevation of the proposed building on Parcel 1 & 7 and the corresponding pad elevation of the abutting single-family homes & Reserve G, Fox Ridge Addition to illustrate the finished height of all berms, as shown at the November 1, 2012, MAPC meeting.
- In reference to Provision 15; The motion was to upgrade the front façade, which means the front wall, not just the entry way, similar to the Sam's in Fayetteville, Arkansas or Franklin, Tennessee, as shown at the November 1, 2012, MAPC meeting.

- Provision 25, needs to have reference to review by the City Traffic Engineer & Fire Department.
- All Parcels; “I. Permitted Uses,” need to be changed and simply refer to the permitted uses listed in General Provision #17.
- The Site Plan presented at the November 1, 2012 MAPC meeting will be sent as a draft to City Council as part of the approval packet.
- Provide more legible detail on the materials and design of all four walls and the roof.

There have been valid protest petitions filed with the City Clerk that equal a 55.8 percent protest, which triggers a three-fourths majority vote of the City Council to approve the request.

Financial Considerations: There are no financial considerations in regards to the zoning request.

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 request subject to the recommended conditions of approval (three-fourths majority vote required because of protests) and instruct the Planning Department to forward the ordinance for first reading when the plat is completed; 2) deny the request (two-thirds majority vote required), or; 3) return the application to the MAPC for reconsideration (simple majority vote required).

Attachments:

- Ordinance
- MAPC minutes
- DAB memo
- Protest map
- CUP
- Site Plan
- September 20, 2012, HOA letter
- Sam’s reply to September 20, 2012, HOA letter