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ORDINANCE NO. 46-669

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 2005-21

Zone change request from SF-5, Single-Family Residential District and LC, Limited Commercial District to LC, Limited Commercial District and NR, Neighborhood Retail District, described as:

Lot 39, Block 1 (NR) and Lot 1, Block 1 (LC), Harbor Isle South Addition, to Wichita Sedgwick County, Kansas.

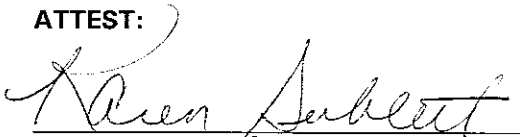
Generally located north of 41st Street North and on the east side of Meridian.

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.

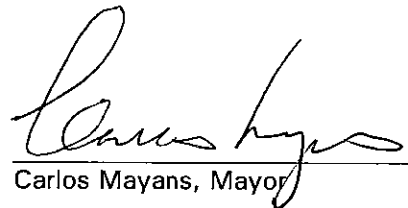
SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED this 24th day of October 2005.

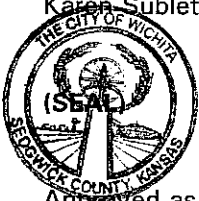
ATTEST:



Karen Sublett, City Clerk



Carlos Mayans, Mayor



Approved as to form:



Gary E. Rebenstorf, City Attorney

City of Wichita
City Council Meeting
July 12, 2005

Agenda Report No. _____

TO: Mayor and City Council

SUBJECT: CUP2005-22 Associated with (ZON2005-21) – Creation of DP285 Harbor Isle South Commercial Community Unit Plan; and Zone change to “SF-5” Single-family Residential, “NR” Neighborhood Retail and “LC” Limited Commercial. Generally located east of Meridian from 42nd Street North to 45th Street North. (District VI)

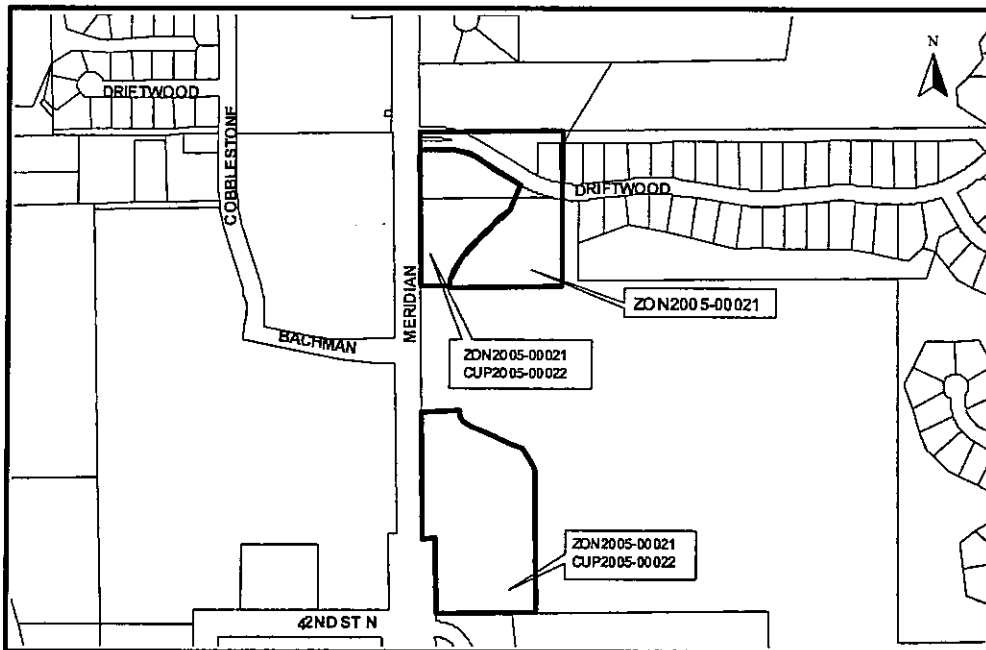
INITIATED BY: Metropolitan Area Planning Department *JLS*

AGENDA: Planning (Consent)

MAPC Recommendations: Approve, subject to staff recommendations, vote (11-0).

MAPD Staff Recommendations: Approve, subject to platting within one year and conditions.

DAB Recommendations: Approve zone change request and the community unit plan based on the staff recommendations including a guarantee of a deceleration lane on Meridian, vote (7-1).



Background: The applicant proposes to create a commercial Community Unit Plan containing approximately 11 acres along the east side of Meridian from 42nd Street North to 45th Street North. The CUP would consist of two distinct parcels separated by a reserve area for residential development to the east. An area currently zoned "LC" would be rezoned "NR" Neighborhood Retail (Parcel 1) and "SF-5" Single-family Residential (area not included within the CUP). Parcel 2 would be rezoned from "SF-5" to "LC".

Parcel 1 (3.71 acres) would allow all uses allowed in the "NR" zoning district, including a community activity center, but excepting day care center, recycling collection station, asphalt or concrete plant, golf course or any conditional use. Parcel 2 (7.65 acres), would allow "LC" uses except cemetery, correctional placement residence, golf course, recycling collection station, car wash, construction sales and service, any industrial use, any agricultural use, theaters, bowling alleys, taverns and drinking establishments and conditional uses unless allowed by separate CUP amendment. No single use could be greater than 12,000 square feet except a grocery store or drug store. Restaurants can serve liquor only if food is the primary service and drive-through windows within 200 feet of residential lots are prohibited. No auto-serving uses (including vehicle repair, service, car washes permitted, and no overhead doors) would be permitted within 150 feet of residential zoning.

Requested ground signage is monument signage 150 sq. ft. in size, 20 feet height and spaced 150 feet apart, oriented to Meridian. Wall signs would be oriented to Meridian and limited to 50 sq. ft. in size per individual sign. No off-site or portable signs allowed.

Setbacks are 20 feet on the perimeter of the property. This requires affirmative approval by the governing body since it is below the standard CUP minimum setback of 35 feet. Similarly, screening walls are not shown on the perimeters of the commercial tracts. Maximum building coverage is 30%, floor area ratio is 0.35 and maximum building height is 35 feet. Three buildings would be permitted on Parcel 1 and five on Parcel 2. Buildings would share uniform architectural character; light poles would be similar or consistent and limited to 24 feet in height. The CUP requires a pedestrian plan connecting the buildings with 45th Street North and Meridian, internal cross-lot circulation and site plan approval of internal circulation.

The surrounding area is primarily single-family residential development on lots oriented to lakes. The proposed CUP would adjoin a residential development with potential for zero-lot setbacks on one side of the dwellings. A church is located west of Meridian on "LC" property and the property to the south of the church is zoned "SF-5" but approved for a CUP with "LC" zoning, pending plat completion. A fire station and a church are located to the west and southwest. The property due south is zoned "MF-18" Multi-family Residential and is undeveloped. The property to the north is zoned "SF-5" and developed as Harbor Isle.

Analysis: At the District VI Advisory Board meeting held June 6, 2005, DAB VI voted (7-1) to approve subject to staff recommendations, with the clarification that the traffic improvement to be required was a deceleration lane rather than a center turn lane. One DAB member expressed concerns about the reduced setbacks of 20 feet shown on the CUP. Staff discussed that the 35-foot CUP setback can be waived if it furthers the objectives of the comprehensive plan and good planning principles and the governing body includes findings to support this decision. Staff discussed that the 20-foot setback would be appropriate along Meridian and interior property lines when building elevation façades are not treated as the rear of the buildings or do not include outdoor work or storage areas, and that narrower setbacks encourage the buildings to be nearer to the street, which enhances the visual appearance, encourages the setback to be used for landscaping purposes, reduces the amount of parking lot area located between the street and buildings, and encourages pedestrian activity.

1. At the MAPC meeting held June 9, 2005, a memo supplementing the original staff report was provided. The memo included the accel/decel lane per plat requirements in place of a center turn lane, eliminated the request for narrower setbacks on the east property line adjacent to residential zoning, and clarified requirements for landscaping and screening to accommodate flexible screening rather than mandatory solid masonry wall as normally required by a CUP. Reasons to allow waivers setback and screening requirements were included in the findings. Adopt the

findings of the MAPC and approve the zone change and CUP subject to the condition of platting within two years and the recommended conditions; instruct the Planning Department to forward the ordinance for first reading when the plat has been recorded with the Register of Deeds; or

2. Return the application to the MAPC for reconsideration

MAPC voted (11-0) that the CUP be APPROVED subject to platting within one year and subject to the following conditions:

A. APPROVE the zone change (ZON2005-00021) subject to platting of the entire property within one year;

B. APPROVE the Community Unit Plan (DP-285), subject to the following conditions:

1. Add General Provision 14: Landscaping and screening for the site shall be required as follows:
 - A. Landscaped street yards, buffers, and parking lot landscaping and parking lot screening – shall be in accordance with the City of Wichita Landscape Ordinance.
 - B. A landscape plan shall be prepared by a Kansas Landscape Architect for the above referenced landscaping, indicating the type, location, and specifications of all plant material. This plan shall be submitted to the Metropolitan Area Planning Department for review and approval prior to issuance of any building permit(s).
 - C. A financial guarantee for the plant material approved on the landscape plan for that portion of the CUP being developed shall be required prior to issuance of any occupancy permit if the required landscaping has not be planted.
 - D. Screening shall be provided by (1) a solid masonry screening wall per UZC Art. III, Sec. III-C.2.b(2)(d), or (2) a berm six feet in height, or (3) landscaping provided at a rate of 1.5 times Landscape Ordinance requirements with at least 1/3 of the plant materials being evergreen, or (4) a combination of (1), (2) or (3); provided that said screening complies with the requirements of General Provision #13; or unless if the elevation facing the residential zoning district is designed as a front building façade, then a landscaped street yard requirement shall be substituted for the screening requirements of General Provision 14.D.
2. Setbacks shall be 35 feet along the east property lines.
3. Add to General Provision 8: “and pedestrian connections between buildings within the parcels and to the arterial sidewalk and, if desired, the adjoining reserves.”
4. A guarantee for a accel/decel lane shall be provided at time of platting.
5. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
6. 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.
7. 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.
8. 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 -285) includes special conditions for development on this property.
9. The applicant shall submit 4 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.

Financial Considerations: None.

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

Recommendation/Actions:

2. Adopt the findings of the MAPC and approve the zone change and CUP subject to the condition of platting within one year and the recommended conditions; instruct the Planning Department to forward the ordinance for first reading when the plat has been recorded with the Register of Deeds; or
2. Return the application to the MAPC for reconsideration

SE Corner SW1/4
Sec. 19-26-1E

Street R/W
0.73 Acres
31701 Sq. Ft.

N00°26'30"W
528.58'

S00°26'30"E
70.00'

S89°33'30"W
149.77'

N89°59'18"E
137.20'

Delta=30°33'03"
Radius=321.0'
Length=171.16'

Delta=32°06'42"
Radius=250.0'
Length=140.11'

Lot 2
3.71 Acres
161,710 Sq. Ft.

Street R/W
0.19 Acres
8401 Sq. Ft.

Delta=23°06'26"
Radius=116.0'
Length=46.78'

N57°54'00"W
211.48'

S25°41'15"W
89.29'

600.00'

23

24

25

26

27

28

29

30

31

32

33

34

BLOCK 3

20' DE

36"

POND

