

Published in the Wichita Eagle on October 26, 2007

ORDINANCE NO. 47-6664

AN ORDINANCE ESTABLISHING SECTION III-C.10 of the WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE (April 19, 2001 EDITION), AS ADOPTED BY REFERENCE IN CITY OF WICHITA CODE SECTION 28.04.010, ESTABLISHING THE CORRIDOR PRESERVATION PLAN OVERLAY DISTRICT; AND, AMENDING THE OFFICIAL ZONING MAP AFFECTING CERTAIN LANDS LOCATED IN THE CITY OF WICHITA AND IN SEDGWICK COUNTY, KANSAS, AS SHOWN IN THE ATTACHED EXHIBIT, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

WHEREAS, under the authority of K.S.A. 12-741, *et seq.*, the City of Wichita desired to adopt amendments to the Wichita-Sedgwick County Unified Zoning Code pertaining to the recommendations from the Metropolitan Area Planning Commission; and

WHEREAS, the Wichita-Sedgwick County Metropolitan Area Planning Commission recommended adoption of the amendments on September 6, 2007, after notice and hearing as provided under the authority granted by K.S.A. 12-741, *et seq.*;

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA:

SECTION I. Section III-C.10 of the Wichita-Sedgwick County Unified Zoning Code (April 19, 2001 Edition) is hereby amended to include the following new section as follows:

10. Corridor Preservation Plan Overlay (CP-O) District

- a. Purpose. The Corridor Preservation Plan Overlay (CP-O) District recognizes the impact transportation corridor improvement projects can have on private and public land use expectations. New transportation improvements can lead to requests for more intense zoning and development applications before public services required to support the more intense development can be effectively planned and efficiently installed. The development review provisions applicable within the CP-O District are intended to assure a comprehensive review of the impact of proposed land uses on the anticipated character of neighborhoods immediately surrounding proposed transportation corridor improvement projects. This district is established to ensure that land use or development decisions that could result in the need for further public improvements or public investments consider the viability and prudence of such investments in light of changes expected to occur as a result of anticipated corridor improvements. Properties located within the CP-O District shall comply with the regulations contained within the overlay district and the standards contained in the underlying or base zoning district. In case of a

conflict between the regulations in this section and those of the underlying zoning district, the regulations in this section shall prevail.

- b. Use regulations. No property within the CP-O District shall be devoted to any use, including any agricultural use, requiring a building permit, other than those uses existing at the time the CP-O District was established. Any new use, whether allowed by right by the underlying zoning, by Conditional Use, or as an accessory use in the underlying zoning district, shall be allowed only after the proposed new use has been approved as provided for in this section.
- c. Review procedures. Requests requiring CP-O District zoning approval shall follow the same review procedures as required by Conditional Use applications contained in Article V-D of the Wichita-Sedgwick County Unified Zoning Code, except that in all cases final approval shall rest with the appropriate Governing Body. The action of the Metropolitan Area Planning Commission shall be advisory to the Governing Body.
- d. Review criteria. In addition to the review criteria contained in Article V-C.8, the following criteria shall be used to evaluate CP-O District requests:
 - (1) The duration of the proposed use.
 - (2) The anticipated start and completion dates of the planned transportation corridor improvement project.
 - (3) The compatibility of the proposed use with the expected character of the neighborhood following the completion of the planned transportation corridor improvement project.
 - (4) The extent to which the proposed use will detrimentally affect the public benefits otherwise arising from the transportation corridor improvement project.
 - (5) The extent to which the proposed use will require public improvements or investments that may be altered or eliminated by the planned transportation corridor improvement project.
- e. Property development standards. Each site in the CP-O District shall be subject to the property development standards of the underlying zoning except the following:
 - (1) Setbacks. In areas where the right-of-way of a proposed transportation corridor has been identified on an adopted map, whether or not that right-of-way has been acquired, minimum setbacks shall be measured from the proposed right-of-way line. In no event shall any building be erected, enlarged, moved in or reconstructed so as to be closer to the centerline of a proposed transportation corridor than 150 feet.
- f. Administrative approvals. The Zoning Administrator shall have the authority to waive application of the requirements of this section for building permits that do not increase the floor area by 1,000 square feet, or ten percent, whichever is less; or the appraised value of the property by more than \$10,000, or ten percent, whichever is less.

The Zoning Administrator may also terminate any conditions imposed under this section if the property involved is no longer contained within the designated district.

- g. Corridor Preservation Plan Overlay District designation. The Governing Body may adopt, and amend from time to time, maps designating a Corridor Preservation Plan Overlay District. Any such adoption or amendment shall be shown on the Official Zoning District Map.

SECTION II. 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:

The Northwest Bypass Corridor Preservation Plan Overlay (CP-O) District, generally connecting K-96 to US-54 west of the City of Wichita, is hereby created for the lands designated for right-of-way acquisition on the Kansas Department of Transportation Right-of-Way Maps for Projects 254-87 K-8234-01, 254-87 K-8234-02, and 54-87 K8235-01, as generally illustrated on the attached exhibit.

SECTION III. That upon this ordinance taking effect, the notation of such zone change shall be entered in the official zoning atlas on file in the Office of the County Zoning Administrator and in the Office of the Wichita-Sedgwick County Metropolitan Area Planning Department.

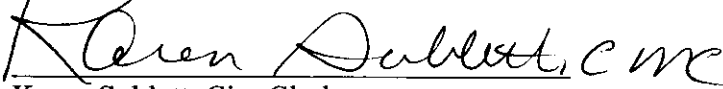
SECTION IV. That this ordinance shall be included in the Code of the City of Wichita, and take effect and be in force from and after its adoption and publication once in the official City newspaper.

PASSED AND ADOPTED by the governing body at Wichita, Kansas this 23 day of October 2007.



Carl Brewer, Mayor

ATTEST




Karen Sublett, City Clerk



(SEAL)

Approved as to form:



Gary E. Rebenstorf, City Attorney

AGENDA ITEM REQUEST

Proposed Agenda Item: DER2007-9 – Resolution amending the Unified Zoning Code to add the proposed Corridor Preservation Plan Overlay District (CP-O) for the proposed Northwest Bypass in Wichita and Sedgwick County. The general location of the proposed CP-O connects K-96 to US-54/400 west of the City of Wichita. (Districts III and IV)

Presented by: John L. Schlegel, Planning Director *JS*

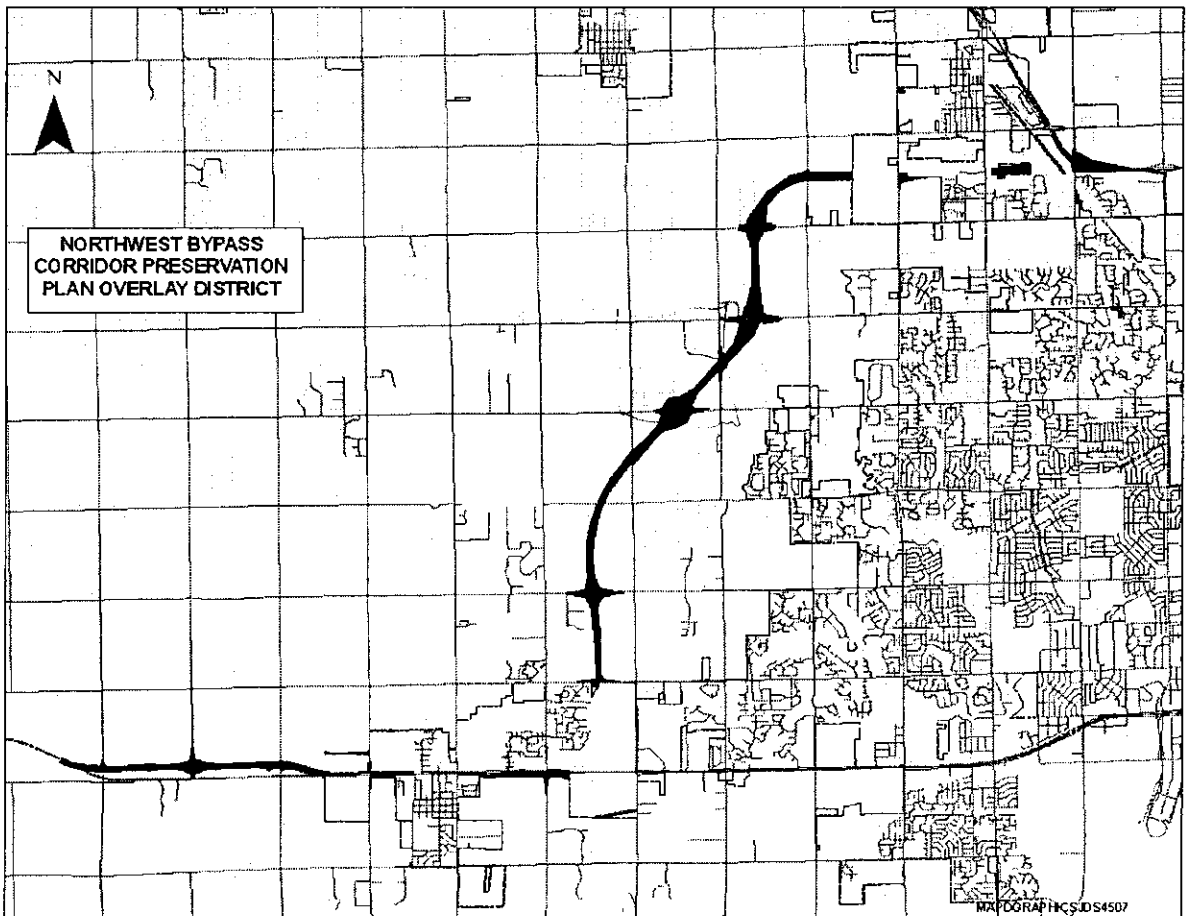
Recommended Action: Adopt the proposed amendment to the Wichita-Sedgwick County Unified Zoning Code, approve the resolution and authorize the Chairman to sign the resolution.

Proposed Agenda Date: October 17, 2007

Outside Attendees: None

Multimedia Presentation: PowerPoint

Donations: Not applicable



Background: The Kansas Department of Transportation (KDOT) has been planning this extension of the K-254 bypass around Wichita to US-54/400 for many years. KDOT has advanced the design of the project to the point that it has started the process of acquiring right-of-way. Since limited funding is available at this time for right-of-way acquisition, KDOT is asking that local jurisdictions assist in preserving the corridor so that property development does not unnecessarily hinder future acquisition efforts when additional funds are available.

The proposed Corridor Preservation Plan Overlay (CP-O) District is intended to assist KDOT in the land assembly process. Its key provision is that it would require any new use of property within the District requiring a building permit to be reviewed for consistency with the CP-O standards. These standards are intended to encourage property owners to build on their property in ways that would not interfere with the eventual construction of the bypass. Where it is not possible to do so without unduly interfering with property rights, the review process will allow the local jurisdiction to alert KDOT of the need to consider acquiring all or portions of the property.


Analysis: The MAPC heard this item at the scheduled public hearing on December 8, 2005. No members of the public spoke on this item. The MAPC voted 10-0 to approve the item subject to staff recommendations. This item was scheduled for the February 8, 2006 BOCC hearing agenda, but was deferred from that agenda. On May 30, 2007, the BOCC referred the item back to the MAPC. The MAPC heard this item again on September 6, 2007. No one was present to speak in opposition. The MAPC recommended approval (10-0).

Alternatives:

1. Adopt the proposed amendments to the Wichita-Sedgwick County Unified Zoning Code, approve the resolution and authorize the Chairman to sign the resolution, or
2. Deny the proposed amendments and override the MAPC recommendation with a 2/3 vote; or
3. Other actions as the BOCC finds appropriate.

Financial Considerations:  *Approved by Division of Finance*

Policy Considerations: None.

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