

W.P.

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**ORDINANCE NO. 46-822**

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 2005-10**

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

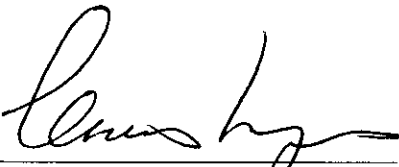
Lots 1 and 2, Block A, Falcon Falls Commercial Addition, Wichita, Sedgwick County, Kansas.

Generally located at the northwest corner of Hillside and 45th Street North.

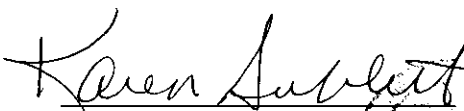

**SECTION 2.** That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

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

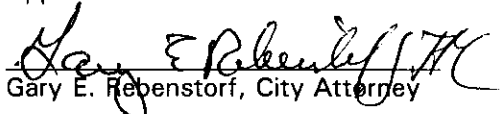
ADOPTED this 15<sup>th</sup> day of Nov, 2005.

  
Carlos Mayans, Mayor

ATTEST:

  
Karen Sublett, City Clerk  
(SEAL) 

Approved as to form:

  
Gary E. Rebenstorf, City Attorney

05-1033

City of Wichita  
City Council Meeting  
May 17, 2005

FILE COPY

Agenda Report No. \_\_\_\_\_

**TO:** Mayor and City Council

**SUBJECT:** CUP2005-00014 – (Associated with ZON2005-00010) – Create DP-283 Falcon Falls Commercial Community Unit Plan; zone change to “LC” Limited Commercial. Generally located at the northwest corner of Hillside Avenue and 45<sup>th</sup> Street North. (District I)

**INITIATED BY:** Metropolitan Area Planning Department *JLS*

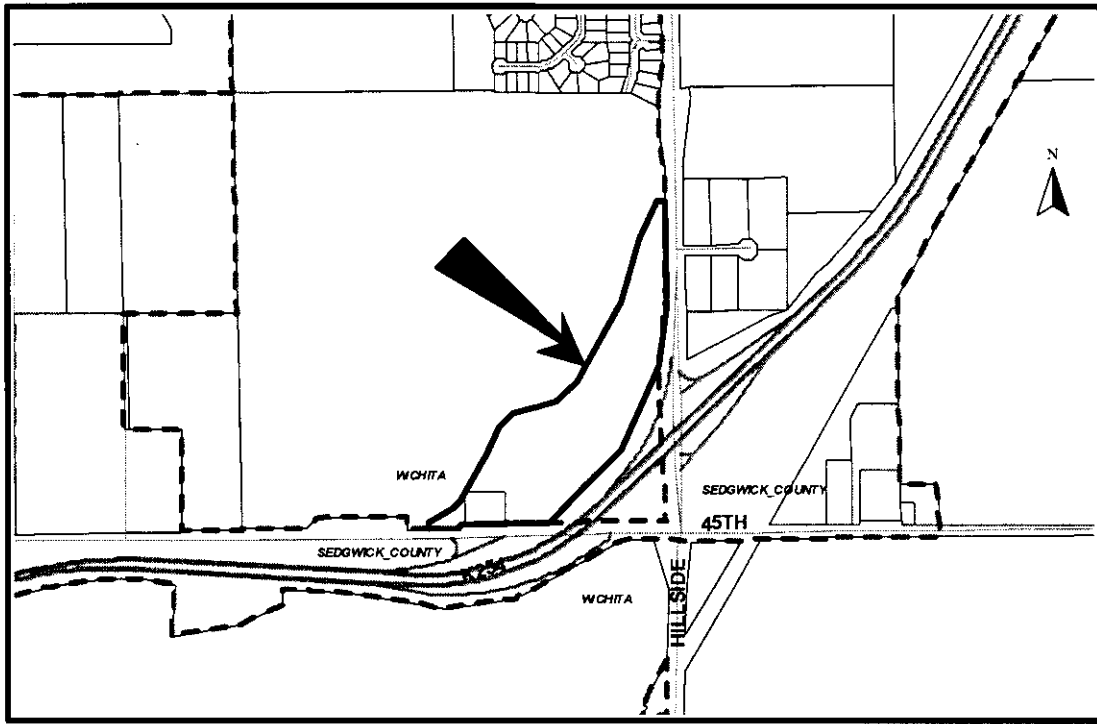
**AGENDA:** Planning (Consent)

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**MAPC Recommendations:** Approved subject to platting within one year, and staff recommended conditions. (9-0)

**MAPD Staff Recommendations:** Approved subject to platting within one year and conditions.

**DAB Recommendations:** Not applicable.



**BACKGROUND:** The applicant proposes to create a commercial Community Unit Plan containing approximately 20 acres with two parcels zoned "LC" Limited Commercial. The property is located on the northwest corner of Hillside Avenue and 45<sup>th</sup> Street North, where these roads are intersected with K-254. The on-ramp from Hillside to K-254 forms the southeastern boundary of the site.

The CUP would allow all uses permitted by right in "LC" except the following uses to be prohibited: adult entertainment, sexually oriented businesses, group homes, group residences, correctional placement residences, asphalt/concrete plants, private clubs, taverns and drinking establishments. Parcel 1 is 2.87 acres and is located north of a drainage way running between Hillside and Chisholm Creek. Parcel 2 is 17.34 acres and lies along the K-254 on-ramp. Chisholm Creek borders the site from southwest to northeast. The creek is a natural feature separating the proposed commercial tract from the residential use being platted on the other side of the creek.

Setbacks are 35 feet on perimeter of property. Maximum building coverage is 30 %, floor area ratio is 0.35, and maximum building height is 45 feet. Three buildings would be permitted on Parcel 1 and six buildings on Parcel 2. The 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 45<sup>th</sup> Street North and Hillside, internal cross-lot circulation, and site plan approval of internal circulation.

Ground signage would be per code except for stipulating 30 feet as the maximum height. A 30-foot height is allowed in the "LC" district by trading off one of the permitted sign locations for an additional five feet of height above 25 feet, based on a spacing of 150 feet apart for ground signs. The CUP prohibits off-site or portable signs, signs on rear of buildings and flashing/rotating/moving signs except time and temperature or public message signs, and limiting window display signs to 25 % of window area.

The surrounding area is undergoing a wave of development. The area to the north and west is being platted or is under development as Falcon Falls, a single-family subdivision zoned "SF-5" Single-family Residential. Wichita Heights High School is one-third mile to the north. Suburban ranches on property zoned "SF-20" Single-family Residential are located east of Hillside. The land south of K-254 is a highway maintenance facility, vacant land zoned "SF-5" and "LC", and a fuel storage tank farm, zoned "GI" General Industrial.

**Analysis:** At the MAPC hearing on April 14, 2005, no citizens were present to speak. MAPC voted (9-0) to recommend approval community unit plan and the zone change subject to the following conditions:

- A. APPROVE the zone change (ZON2005-00010) subject to platting of the entire property within one year;
- B. APPROVE the Community Unit Plan (DP-283), subject to the following conditions:
  1. The western 30' opening on 45<sup>th</sup> Street North shall be right-in/right-out only.
  2. The location and length of accel/decel lanes and center left-turn lanes shall be determined at time of platting.
  3. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
  4. 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.
  5. 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.

6. 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-283) includes special conditions for development on this property.
7. 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:**

1. 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

(An override of the Planning Commission's recommendation requires a two-third majority vote of the City Council on the first hearing.)