

City of Wichita  
City Council Meeting  
November 4, 2003

Agenda Report No.

TO: Mayor and City Council

SUBJECT: ZON2003-00046 – Zone change from “SF-5” Single-Family Residential to “LC” Limited Commercial and “TF-3” Two-family Residential. Generally located at the northeast corner of 37<sup>th</sup> Street North and Tyler Road. (District V)

INITIATED BY: Metropolitan Area Planning Department *TLS*

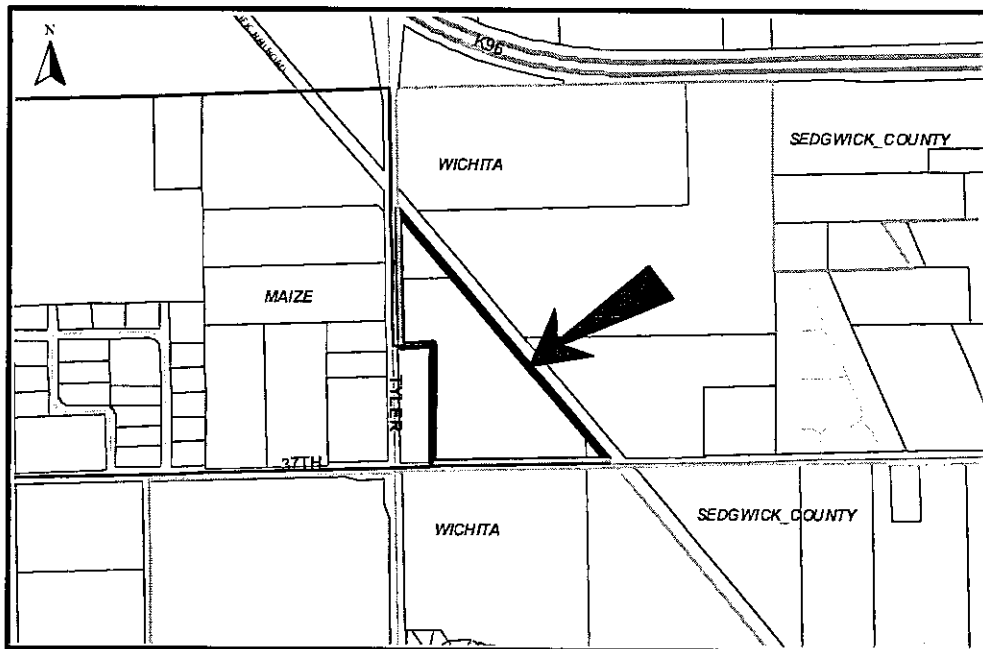
AGENDA: Planning (Consent)

---

**MAPC Recommendation:** Approve, subject to platting within one-year and subject to Protective Overlay #129. (12-0)

**Staff Recommendation:** Approve, subject to platting within one-year and subject to Protective Overlay #129.

**DAB Recommendation:** Approve, subject to platting within one-year and subject to Protective Overlay #129. (8-0)



**BACKGROUND:** The applicant is requesting to rezone 26.7 acres north of 37<sup>th</sup> Street North and east of Tyler Road from "SF-5" Single-family Residential to "TF-3" Two-family Residential for 23 acres and "LC" Limited Commercial for 3.6 acres. The requested "LC" is for three commercial parcels that are approximately one acre in size. The "TF-3" is for 34 duplex lots. The density would be three dwelling units per acre, which is within the density range for low-density residential development although duplexes are categorized as medium density residential by definition in the *Comprehensive Plan*.

Restrictions on use and specific site development requirements are proposed for the "LC" lots per the conditions of Protective Overlay #129.

Most of the surrounding property is vacant or in suburban use. A request is being heard by MAPC for the property to the south. It is a request for a new 10+ acre community unit plan with requested "LC" zoning, DP-267 Tylers Landing Commercial C.U.P. The area to the north is platted for "SF-5" single-family use, Avalon Park. A railroad right-of-way separates the application area from the "SF-5" subdivision. The area to the south/southeast is being platted for single-family use as Tyler's Landing Second Addition. The land to the west is shown as being in the city of Maize and includes suburban lots and a commercial tree farm/entertainment type of use. Maize South Middle School is located approximately one-fourth mile from the site.

At the District V Advisory Board meeting held October 6, 2003, the agent for the applicant requested to be granted the "LC" zoning rather than "NR" Neighborhood Retail as recommended in the original staff report. In addition, the agent stated that the applicant would agree to the protective overlay conditions as recommended in the staff report except: allowing the size of restaurant use to be up to 8,000 square feet, allowing drive-through windows to be permitted so long as they were more than 100 feet from residential zoning, and adding a condition for consistent signage. The DAB voted (8-0) to support the requested "LC" with modified protective overlay conditions that generally were consistent with "NR" standards. No members of the public were present.

At the MAPC meeting held October 9, 2003, staff presented a memo outlining the DAB recommendations and indicated that staff was in support of the DAB recommendation. No members of the public spoke. MAPC voted (12-0) to recommend approval subject to platting within one year and subject to the following protective overlay conditions:

1. Transportation requirements:
  - a. A site circulation plan for shall be required for review and approval by the Planning Director prior to the issuance of any building permits; the site plan shall ensure internal circulation within the parcels and joint use of ingress/egress openings and that private drive openings are not impacted/ blocked by the layout of parking stalls or landscaping.
  - b. The applicant shall provide a guarantee for right-turn accel/deceleration lanes along the perimeter of the property and the fair share of a center turn lane during platting.
  - c. Access points shall be in conformance with the Access Management Policy.
  - d. The developer shall guarantee 6 1/4 percent share of cost for the intersection signalization at Tyler Road and 37<sup>th</sup> Street North.
2. No development shall be allowed along 37<sup>th</sup> Street North until the street is paved to a two-lane county standard.
3. Setbacks shall be 35 feet for front and rear property lines; maximum building coverage shall be 30 percent; maximum gross floor area shall be 35 percent; maximum building height shall be 35 feet.
4. Signage shall be per Sign Code for the "NR" district with the following additions:
  - a. Window display signs are limited to 25 percent of the window, including interior, area.
  - b. No signs shall be allowed on the rear of any buildings.

- c. All freestanding signs shall be monument type signs and shall share consistent architectural design and character.
5. All parcels shall share similar or consistent parking lot lighting elements (i.e. fixtures, poles, and lamps, and etc.), with light poles, including base, limited to 24 feet in height, and reduced to 14 feet within 150 feet of residential zoning. Extensive use of back lit canopies and neon or fluorescent tube lighting on buildings is not permitted.
6. Landscaping shall be per Landscape Ordinance; and all parcels shall share a similar landscape palette. The buffer shall be at provided at a rate of one (1) tree per 30 feet for the north property line.
7. A screening wall that is between six (6) feet and eight (8) feet high of concrete/masonry shall be constructed along the northern property line. This solid wall shall be constructed of a pattern and a color that is consistent with the building walls, is of uniform construction for the three parcels, and placed within a five (5) foot wall easement.
8. All parcels shall share similar or consistent architectural character, color, and texture, as determined by the Planning Director. Building walls and roofs must have predominately earth-tone colors, with vivid materials limited to incidental accent, and must employ materials similar to surrounding residential areas. No predominately metal facades shall be allowed.
9. Uses shall be limited to those allowed in the "NR" Neighborhood Retail district and restaurants over 2,000 square feet in size (not to exceed 8,000 square feet); restaurants may allow drive-through windows but the drive-through windows shall be no closer than 100 feet from a residential property line and any order boards shall not be audible from the residential property lines.

**RECOMMENDATION:**

1. Concur with the findings of the MAPC and approve the zone change, subject to the condition of platting within one year and subject to Protective-Overlay #129; instruct the Planning Department to forward the ordinance establishing the zone change for first reading when the plat is forwarded to the City Council; or
2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a 2/3 majority vote of the membership of the governing body on the first hearing.)

(150004) Published in The Derby Reporter on 2-11-2004

ORDINANCE NO. 45-961

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 2003-46**

Request for zone change from "SF-5" Single-Family Residential District to "TF-3" Two-Family Residential District and "LC" Limited Commercial District and to Protective Overlay P-O #129, on property described as:

"LC" Limited Commercial District: Lots 14, 15, 16, Block 2 and Reserve A, Avalon Park Second Addition and

"TF-3" Two-Family Residential District: Lots 1-13, Block 2; Lots 1-24, Block 1; and Reserve B, Avalon Park Second Addition, Wichita, Sedgwick County, Kansas.

**THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #129 FOR THE PROPERTY ZONED "LC" LIMITED COMMERCIAL:**

1. Transportation requirements:
  - a. A site circulation plan for shall be required for review and approval by the Planning Director prior to the issuance of any building permits; the site plan shall ensure internal circulation within the parcels and joint use of ingress/egress openings and that private drive openings are not impacted/ blocked by the layout of parking stalls or landscaping.
  - b. The applicant shall provide a guarantee for right-turn accel/deceleration lanes along the perimeter of the property and the fair share of a center turn lane during platting.
  - c. Access points shall be in conformance with the Access Management Policy.
  - d. The developer shall guarantee 6 1/4 percent share of cost for the intersection signalization at Tyler Road and 37<sup>th</sup> Street North.
2. No development shall be allowed along 37<sup>th</sup> Street North until the street is paved to a two-lane county standard.
3. Setbacks shall be 35 feet for front and rear property lines; maximum building coverage shall be 30 percent; maximum gross floor area shall be 35 percent; maximum building height shall be 35 feet.

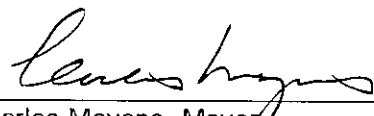
4. Signage shall be per Sign Code for the "NR" district with the following additions:
  - a. Window display signs are limited to 25 percent of the window, including interior, area.
  - b. No signs shall be allowed on the rear of any buildings.
  - c. All freestanding signs shall be monument type signs and shall share consistent architectural design and character.
5. All parcels shall share similar or consistent parking lot lighting elements (i.e. fixtures, poles, and lamps, and etc.), with light poles, including base, limited to 24 feet in height, and reduced to 14 feet within 150 feet of residential zoning. Extensive use of back lit canopies and neon or fluorescent tube lighting on buildings is not permitted.
6. Landscaping shall be per Landscape Ordinance; and all parcels shall share a similar landscape palette. The buffer shall be at provided at a rate of one (1) tree per 30 feet for the north property line.
7. A screening wall that is between six (6) feet and eight (8) feet high of concrete/masonry shall be constructed along the northern property line. This solid wall shall be constructed of a pattern and a color that is consistent with the building walls, is of uniform construction for the three parcels, and placed within a five (5) foot wall easement.
8. All parcels shall share similar or consistent architectural character, color, and texture, as determined by the Planning Director. Building walls and roofs must have predominately earth-tone colors, with vivid materials limited to incidental accent, and must employ materials similar to surrounding residential areas. No predominately metal facades shall be allowed.
9. Uses shall be limited to those allowed in the "NR" Neighborhood Retail district and restaurants over 2,000 square feet in size (not to exceed 8,000 square feet); restaurants may allow drive-through windows but the drive-through windows shall be no closer than 100 feet from a residential property line and any order boards shall not be audible from the residential property lines.

**SUBJECT TO PLATTING WITHIN ONE-YEAR ON BOTH PARCELS.**

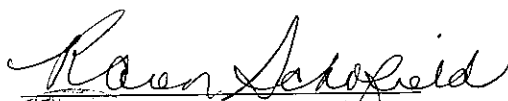
**SECTION 2.** That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

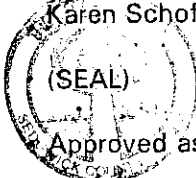
**SECTION 3.** That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED this 12-30-03

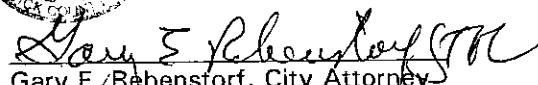
  
Carlos Mayans, Mayor

ATTEST:

  
Karen Schofield, City Clerk



Approved as to form:

  
Gary E. Rebenstorf, City Attorney

RECEIVED

FEB 18 2004

METROPOLITAN PLANNING  
ROUTE  \_\_\_\_\_