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ORDINANCE NO.

49-430

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. ZON2012-00028

Zone change request from SF-5 Single-family Residential to LC Limited Commercial on property described as:

Lot 1-6, Block A, Tyler Pointe Addition, Wichita, Sedgwick County, Kansas.

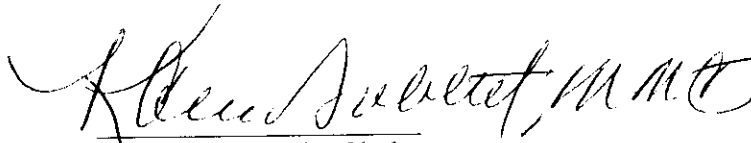
Generally located on the southeast corner of 13th Street North and Tyler.

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 day of January 2013

ATTEST:


Karen Sublett, City Clerk


Carl Brewer, Mayor

(SEAL)

APPROVED AS TO FORM:


Gary E. Rebenstorf, Director of Law

**City of Wichita
City Council Meeting
December 4, 2012**

TO: Mayor and City Council

SUBJECT: ZON2012-28 and CUP2012-31 - City zone change from SF-5 Single-family Residential to LC Limited Commercial associated with a Commercial CUP, Tyler Pointe DP-329, generally located south of 13th Street North and east of Tyler (1220 N. Tyler). (District V)

INITIATED BY: Metropolitan Area Planning Department

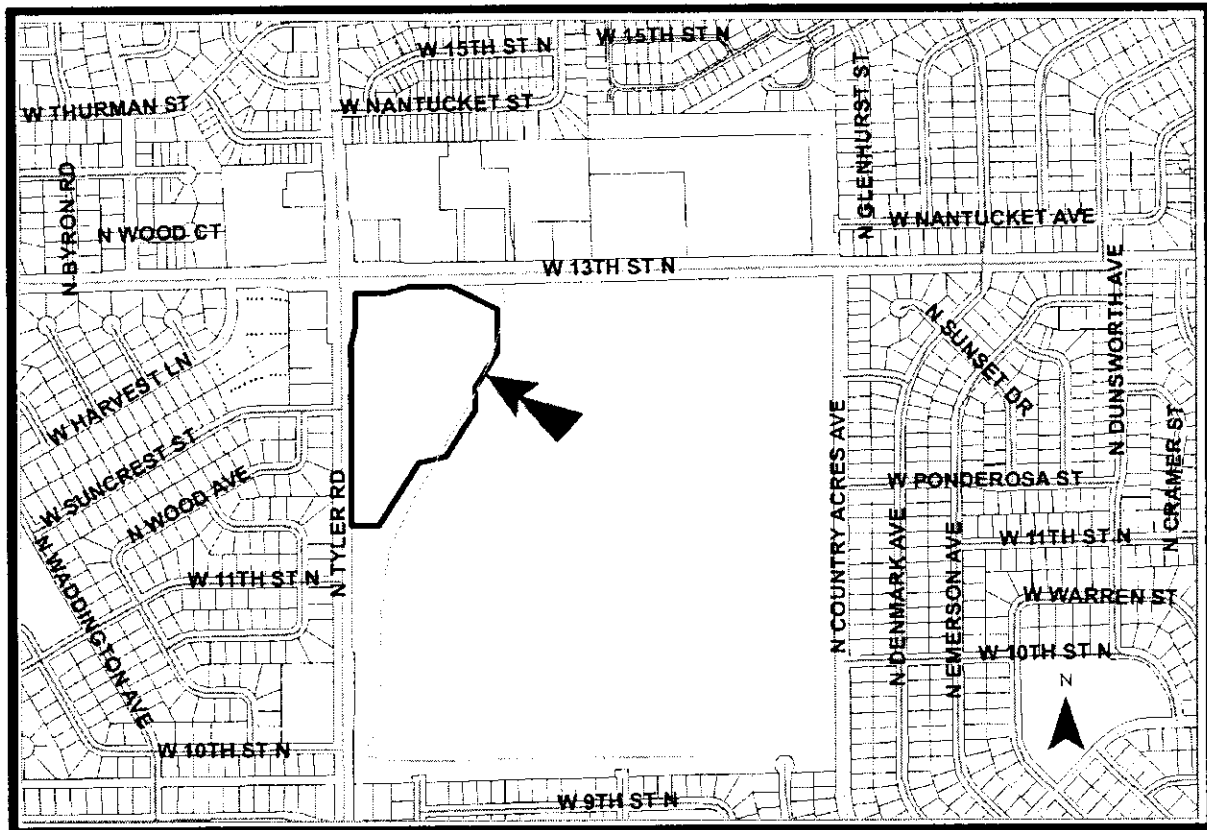
*DM for
JLS*

AGENDA: Planning (Consent)

MAPC Recommendation: The MAPC recommended approval, subject to staff recommendations (12-0).

DAB V Recommendation: The DAB recommended approval, subject to staff recommendations.

MAPD Staff Recommendation: Staff recommends approval, subject to re-plat and conditions.



Background: The applicant requests LC Limited Commercial (“LC”) zoning subject to the development standards contained in the proposed Tyler Pointe Commercial Community Unit Plan (“CUP”) DP-329. The 15.5 acre site is zoned SF-5 Single-family Residential (“SF-5”), and is currently open space contiguous with Northwest High School. The Wichita-Sedgwick County Unified Zoning Code (“UZC”) requires a CUP for LC 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 organized commercial development to certain standards prescribed by the UZC.

The site is located at the southwest corner of 13th Street North and Tyler. The other three corners of this intersection are zoned LC, and the northwest and northeast corners are under CUPs DP 63 and DP 106. All three corners include typical retail/commercial and restaurant uses. The northwest corner includes a grocery store, the southwest corner includes multi-family development, and the northeast corner includes a medical office facility. Other surrounding zoning and land uses include multi-family zoned apartments, TF-3 Two-family Residential (“TF-3”) zoned duplexes, a GO General Office (“GO”) zoned hospital, an SF-5 zoned school, and SF-5 zoned single-family neighborhoods.

The CUP is broken into five Parcels. The applicant proposes the following LC uses on all parcels: Assisted Living; Church or Place of Worship; Convalescent Care Facility; Day Care; Library; Governmental Services; Hospital; Printing and Copying, Limited; College or University; Parks and Recreation; Animal Care, Limited; Automated Teller Machine (ATM); Bank or Financial Institution; Bed and Breakfast Inn; Broadcasting or Recording Studio; Convenience Store; Funeral Home; Medical Service; Nurseries and Garden Centers; Office, General; Personal Care Service; Post Office; Recreation and Entertainment, Indoor; Restaurant with drive through; Retail, General and Monument Sales.

The site will require reconfiguration of an existing drainage feature to the southeast; the drainage easement will remain a part of the USD 259 property, but will function as a buffer between the commercial development and the remainder of the school site. The applicant proposes locating required screening and landscaping within this drainage easement, on the adjacent property owner’s property, to be maintained by the applicant under a covenant agreement. Screening is proposed to be met with landscaping, berms and a wrought iron fence in lieu of the UZC required masonry wall. The MAPC has the discretion to waive the wall requirement provided that screening is achieved. The applicant indicates a 10-foot street dedication on both 13th and Tyler. The applicant indicates one full movement opening onto 13th Street North, one full movement opening and one right-in right-out opening onto Tyler. The City Traffic Engineer is in agreement with the applicant’s proposed street dedications and access plan. The CUP calls for 24 foot fire lanes to be provided around all buildings.

Analysis: At the MAPC hearing on November 1, 2012, the MAPC voted to approve the request subject to a re-plat within one year and the following staff recommended conditions:

- A. The north and west boundary building setbacks shall be set at 20 feet.
- B. The southeast boundary building setback shall be increased to 24 feet on Parcel 1, and shall be 15 feet on Parcel 2.
- C. General Provision 7 shall include: The applicant shall obtain a document in writing from the adjacent property owner agreeing to allow landscaping and screening to be placed on the adjacent property, and accepting the covenant to require the applicant’s maintenance of said landscaping and screening.
- D. The applicant shall submit four 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.

No members of the public spoke at the MAPC hearing.

At the DAB V meeting held November 5, 2012, the DAB also voted unanimously to approve the request subject to staff recommended conditions. No members of the public spoke at the DAB meeting. No protests were received during the two-week protest period following the MAPC hearing.

Financial Considerations: There are no financial considerations in regards to the zoning and CUP requests.

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

Recommendation/Actions: Adopt the findings of the MAPC and approve the zone change and the CUP, subject to the recommended conditions; instruct the Planning Department to forward the ordinance for first reading when the re-plat is completed (simple majority required).

Attachments:

- Ordinance
- MAPC Minutes
- CUP drawing