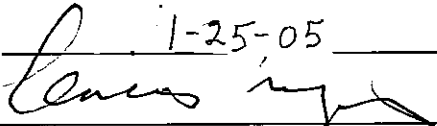


SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

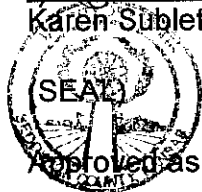
SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED AT WICHITA, KANSAS,

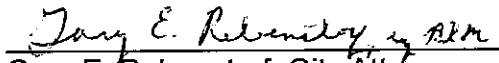
1-25-05

Carlos Mayans - Mayor

ATTEST:


Karen Sublett, City Clerk



Approved as to form:


Gary E. Rebenstorf, City Attorney

(150004) Published in The Wichita Eagle on March 29, 2005
ORDINANCE NO. 46-447

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. ZON2004-00058

Request for Zone change from "SF-5" Single-family Residential to "NO" Neighborhood Office, on property described as:

Lots 1, 2, 3, & 4, R. Beard Addition, Wichita, Sedgwick County, Kansas. Generally located at the northwest corner of Douglas and Tyler.

SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #149:

1. Any building(s) constructed on the site should be residential in character (e.g. rooflines should be hip or gable roof; exterior facade materials typical of residential construction should be wood, brick or stucco or similar materials). If multiple buildings are constructed on the site, they should share similar exterior materials and colors. Predominate exterior building colors should be muted.
2. Signage shall be per the sign code, except that all ground or pole signs shall be monument type, and no building signs shall face south, west or north.
3. Parking lot lighting standards shall not exceed 14 feet in height.
4. Access from Douglas shall be limited to one driveway located in the western one-third of the Douglas street frontage.
5. One right-in/right out opening on Tyler Road.
6. Dedication of 10 foot right-of-way on Tyler.
7. Elimination of wireless communication facility.
8. Updated Drainage Plan.
9. Limiting building height to 35 feet.
10. Cross-lot access.

1. Any building(s) constructed on the site should be residential in character (e.g. rooflines should be hip or gable roof; exterior facade materials typical of residential construction should be wood, brick or stucco or similar materials). If multiple buildings are constructed on the site, they should share similar exterior materials and colors. Predominate exterior building colors should be muted.
2. Signage shall be per the sign code, except that all ground or pole signs shall be monument type, and no building signs shall face south, west or north.
3. Parking lot lighting standards shall not exceed 14 feet in height.
4. Access from Douglas shall be limited to one driveway located in the western one-third of the Douglas street frontage.
5. One right-in/right out opening on Tyler Road.
6. Dedication of 10 foot right-of-way on Tyler.
7. Elimination of a wireless communication facility as a permitted use.
8. An updated drainage plan is required prior to construction.
9. Building heights are limited to a maximum of 35 feet.
10. Cross-lot circulations is required.

Protestors were present at both the DAB and MAPC meetings. They expressed opposition to the request as it would: introduce nonresidential uses into a totally residential area, loss of value in homes, increased traffic from the project will worsen access to Tyler and Douglas from residents' driveways and lack of sidewalks causes people to walk in Douglas further impacting safety. Nearby property owners have submitted protest petitions exceeding 20 percent of the land area within 200 feet of the perimeter of the property triggering the $\frac{3}{4}$ majority vote requirement for the City Council to override their protest and approve the request.

Financial Considerations: None

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

Recommendation/Actions: It is recommended that the City Council:

1. Concur with the findings of the MAPC and approve the zone change to NO Neighborhood Office, subject to the conditions contained in Protective Overlay Number 149; place the ordinance on first reading; authorize staff to withhold publication of the ordinance authorizing this zone change until all conditions are met; or
2. Return the application to MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of all the members of the governing body on the first hearing.)

**City of Wichita
City Council Meeting
January 11, 2005**

Agenda Report No. _____

TO: Mayor and City Council

SUBJECT: ZON2004-00058 – Zone change from “SF-5” Single-family Residential to “NO” Neighborhood Office. Generally located at the northwest corner of Douglas and Tyler. (District V)

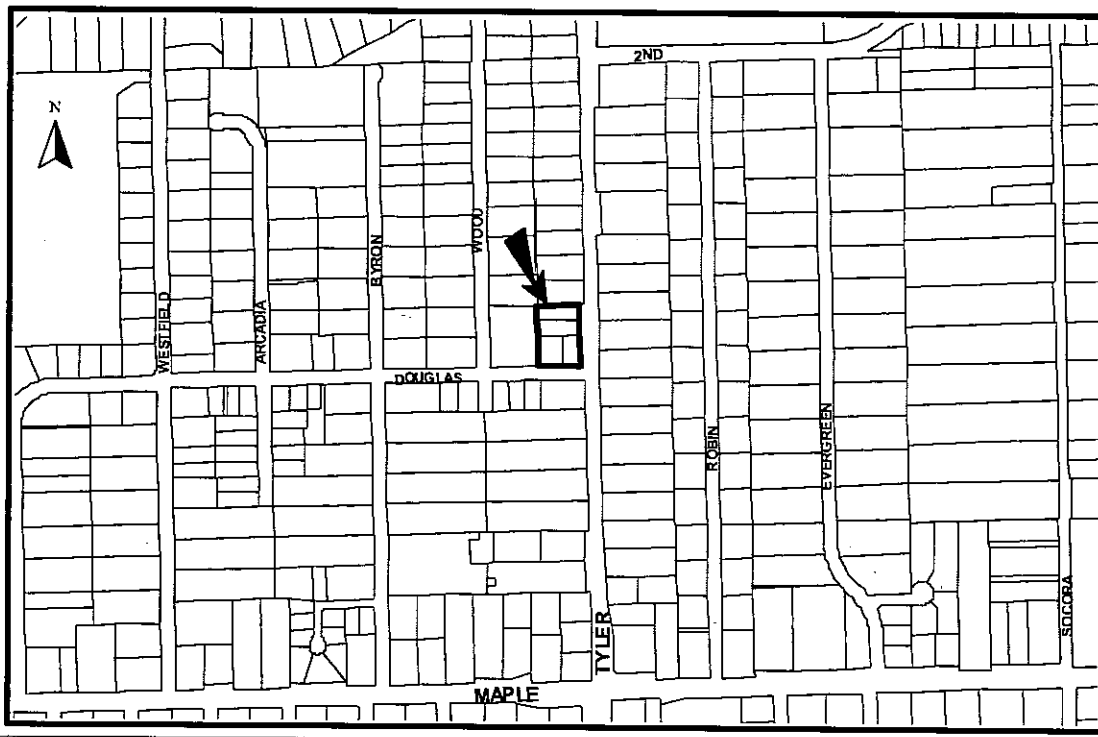
INITIATED BY: Metropolitan Area Planning Department *JLS*

AGENDA: Planning (Non-Consent)

MAPC Recommendations: Approve, subject to the provisions of amended Protective Overlay #149 (Vote 9-3)

MAPD Staff Recommendations: Deny.

DAB Recommendations: Approve, subject to provisions of staff recommended Protective Overlay #149, plus: the elimination of a wireless communication facility as a permitted use; an updated drainage plan is to be submitted prior to construction; all access to the site is to be via Douglas Avenue, cross lot access and building heights are limited to a maximum of 35 feet. (Vote 3-2)



BACKGROUND: The application area is 1.04 acres located at the northwest corner of Douglas and Tyler, and is zoned SF-5, Single-family Residential. The applicants are seeking NO, Neighborhood Office zoning to allow the site to be developed for office uses. The acreage is platted as the R. Beard Addition and involves four lots that remain undeveloped today. The ownership of the application area is divided between the two applicants. One co-applicant owns the northern two lots while the other co-applicant owns the southern two lots. The northern most two lots are oriented east-west towards Tyler. The southern most lots are oriented north-south towards Douglas.

There is platted access control along Tyler that permits one 30-foot wide break in access control that is located 192 feet north of the Tyler and Douglas intersection. There are not any platted access controls located along Douglas. Douglas, at this location, is a two-lane residential street. Tyler is a four-lane arterial.

The plat also contains platted setbacks. Twenty-five foot setbacks have been established along the Tyler and Douglas frontages. A 15-foot utility easement is also located along the west property line.

No site or development plan has been submitted (and is not required) that would indicate the development scheme.

All surrounding property is zoned SF-5, Single-family Residential and developed with single-family homes. The nearest non-residential zoning relative to the application area is located over 600 feet to the south.

The SF-5 district has the following setback requirements: front-25 feet, rear-20 feet and interior side-six feet. Maximum building height is 35 feet. The NO district has the following setback requirements: front-20 feet, rear-10 feet and interior side-zero or five feet. Maximum building height is 35 feet. The NO district permits four commercial "by-right" uses: automated teller machine, medical service, general office and wireless communication facility. These four use types are individually restricted by code to a maximum gross floor area of 8,000 square feet.

Compatibility side and rear building setbacks will be required. Compatibility height standards restrict building heights located within 50 feet of lot lines to 35 feet or less. For each three feet of setback beyond 50 from the lot line, the building height can be increased one foot in height. Dumpsters and refuse containers must be located 20 feet from any property zoned TF-3 or more restrictive.

Analysis: District Advisory Board V (DAB) heard this request on December 6, 2004. Their recommendation was to approve (3-2) the request, subject to the conditions contained in the staff report: buildings should be residential in character, share exterior building materials and colors, muted exterior colors; signage per the sign code, except all ground signage shall be monument signs, no signage can face south, west or north; parking lot lighting standards are restricted to 14 feet or less in height; access from Douglas is limited to the western one-third of the Douglas Avenue frontage. DAB members added the following conditions of approval: the elimination of a wireless communication facility as a permitted use; an updated drainage plan prior to construction; limit building heights to a maximum of 35 feet; cross lot circulation and access to the site is to be via Douglas only (elimination of the Tyler Road access point allowed by the plat).

On December 9, 2004, the Metropolitan Area Planning Commission reviewed this application, and recommended approval (9-3) subject to the conditions contained in the staff report and some of the DAB recommendations. MAPC modified the DAB recommendations as follows: a requirement to dedicate ten-feet of right of way along Tyler (added); one right-in/right-out opening on Tyler is permitted (no access to Tyler was recommended by the DAB); all other DAB and staff recommendations were retained. The MAPC recommendations for approval includes the following conditions of Protective Overlay Number 149: