

City of Wichita  
City Council Meeting  
August 5, 2003

Agenda Report No.

**TO:** Mayor and City Council

**SUBJECT:** CUP2003-33 (Associated with ZON2003-33) – Amendment to DP-9 Westlink C.U.P. and a Zone Change to “GC” General Commercial. Generally located at the southwest corner of Central and Tyler. (District V)

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

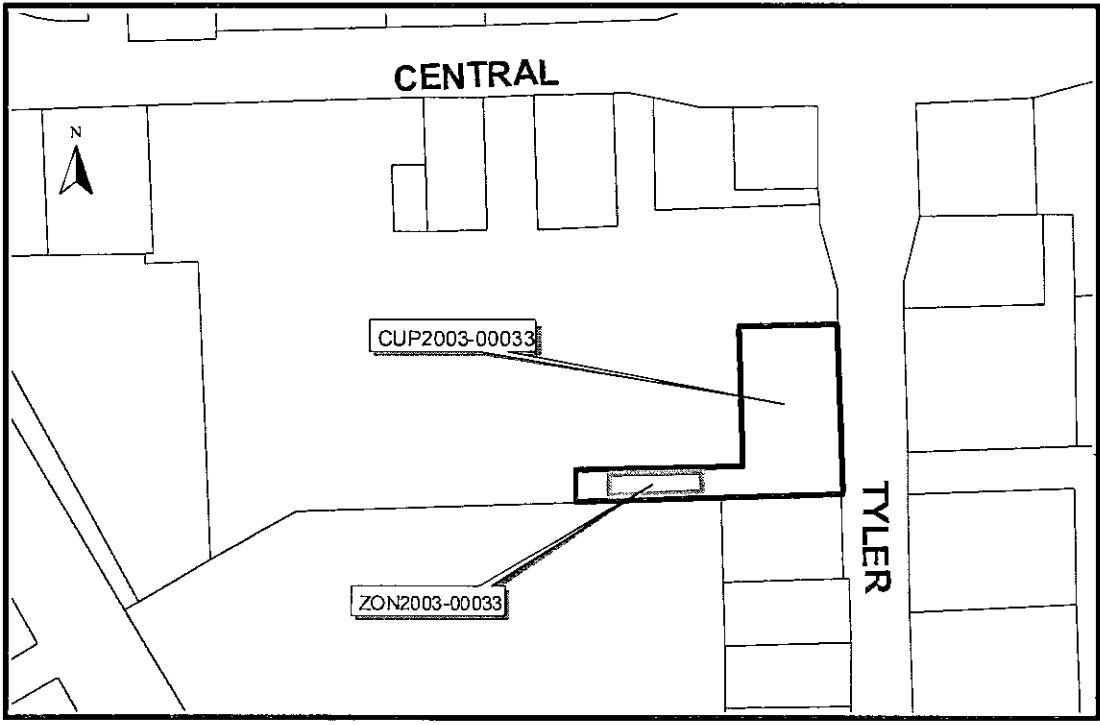
**AGENDA:** Planning

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**MAPC Recommendation:** Approve. (12-0-1)

**D.A.B. Recommendation:** Approve. (4-1)

**Staff Recommendation:** Approve.



**BACKGROUND:** The applicant requests an Amendment to Parcel 1 of DP-9 Westlink Center CUP and a zone change to "GC" General Commercial for a portion of the subject property. The subject property is located at the southwest corner of Central and Tyler and is developed with a shopping center that includes Westlake Ace Hardware.

The surrounding area is characterized by commercial uses at the intersection of Central and Tyler. All surrounding properties are zoned "LC" Limited Commercial or "GC" General Commercial. Surrounding properties primarily are developed with various commercial uses, with multi-family residential located south of the subject property.

The applicant proposes a 14,650 square-foot outdoor nursery and garden center and a 4,500 square-foot outdoor storage area for Ace Hardware. The outdoor nursery and garden center is proposed to be seasonal and used for a maximum of 150 days per year. Landscaping is proposed along Tyler Road adjacent to the seasonal nursery and garden center. An 8-foot high screening fence is proposed around the outdoor storage area, with no stored materials exceeding the height of the screening fence. The applicant submitted the attached site plan illustrating the proposed uses and the attached CUP drawing describing the proposed uses.

Outdoor display of merchandise is permitted within 10 feet of a building on property zoned "LC" Limited Commercial; however, if the outdoor display area is not located within 10 feet of the building, approval of a CUP amendment is required. The Unified Zoning Code contains 11 Supplementary Use Regulations (see attached) for outdoor nurseries and garden centers located on property zoned "LC" Limited Commercial. The applicant proposes a modification to one of the Supplementary Use Regulations. Section III-D.6.z.(3) requires a 25-foot setback from public right-of-way for the outdoor display area; however, the applicant proposes no setback for the outdoor display area. A Supplementary Use Regulation can be modified by the City Council upon receiving a favorable recommendation from the MAPC. Planning staff recommends the proposed modification, because meeting the setback requirement would create a site circulation problem for large vehicles, including emergency vehicles.

Outdoor storage is only permitted in the "LC" Limited Commercial zoning district if the storage area is attached to the building, is screened, and does not exceed 20% of the floor area of the building (if approved by CUP amendment). Since the back of the Ace Hardware building contains loading docks, the outdoor storage area cannot be attached to the building. The applicant proposes a 4,500 square-foot outdoor storage area to be located south of the service drive at the rear of the Ace Hardware. The proposed outdoor storage area meets the screening and size requirements; however, since the outdoor storage area is not attached to the building, it can only be permitted with approval of the requested "GC" General Commercial zoning.

District Advisory Board V (DAB V) considered the zone change and CUP amendment requests on July 7, 2003, and voted (4-1) to recommend that the requests be approved subject to the conditions recommended by staff, except that the outdoor display area be permitted for 150 days per year as requested by the applicant. The Metropolitan Area Planning Commission (MAPC) considered the zone change and CUP amendment requests on July 10, 2003, and voted (12-0-1) to recommend that the requests be approved subject to the following conditions:

1. Condition #3 for outdoor display and storage shall be changed as follows: "The seasonal nursery and garden center shall conform to all requirements of Section III-D.6.z. of the Unified Zoning Code, except that no setback for the outdoor display area shall be required along Tyler."

2. A condition for outdoor display and storage shall be added as follows: “Non-living material shall only be displayed in the 3,900 square-foot seasonal display area located immediately east of and abutting the building.”
3. The development of this property shall proceed in accordance with the approved development plan, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
4. Any major changes in the development plan shall be submitted to the Planning Commission for consideration.
5. The applicant shall submit four 24” x 36” folded copies and one 11” x 17” copy of the CUP to the Metropolitan Area Planning Department within 60 days after approval, or the request shall be considered denied and closed.

**RECOMMENDED ACTION:**

1. Concur with the findings of the MAPC and approve the zone change and CUP amendment, subject to the recommended conditions; approve first reading of the zone change ordinance; or
2. Return the application to the MAPC for reconsideration

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

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:

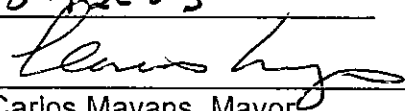
**Case No. ZON2003-00033**


Zone change from "LC" Limited Commercial to "GC" General Commercial on property described as:

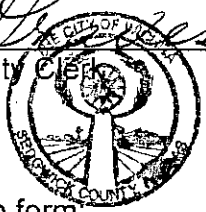
A tract of land described as commencing at the SE corner of Lot 1, Westlink Center 4th Addition, Wichita, Kansas; thence west along the south line of said Lot 1, 210 feet; thence north parallel with the east line of said Lot 1, 10 feet for a point of beginning; thence continuing north parallel with the east line of said Lot 1, 32 feet; thence west parallel with the south line of said Lot 1, 140.5 feet; thence south parallel with the east line of said Lot 1, 32 feet; thence east parallel with the south line of said Lot 1, 140.5 feet to beginning. Generally located at the southwest corner of Central and Tyler.

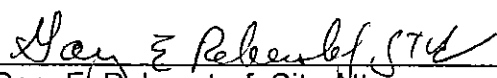
**SECTION 2.** That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

**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 AT WICHITA, KANSAS, 8-12-03  
  
Carlos Mayans, Mayor

ATTEST:  
  
Pat Graves, City Clerk

(SEAL)  
  
Approved as to form:

  
Gary E. Rebenstorf, City Attorney