

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. ZON2003-00050

Request for zone change from "SF-5" Single-family Residential and "LC" Limited Commercial to "GC" General Commercial on property described as:

Lots 1, and 3, Block 1, Schniepp Addition, Wichita, Kansas, Sedgwick County, Kansas
AND

Lot 1, Payday Addition, Block 1, Wichita, Sedgwick County, Kansas
AND

Lots 1, 2, 3, 4, 5, 6, and 7, Block D, Westport Addition, Sedgwick County, Kansas
AND

Beginning 1273 feet North of the Railroad Right-of-Way in the Southeast Quarter of Section 29, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence North 184 feet; thence West 330 feet; thence South 184 feet; thence East to the point of beginning, except that part taken for road.

AND

The South Half of a tract in the Southeast Quarter of Section 29, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning at a point 50 rods and 264 feet North of the Right-of-Way of the Wichita and Western Railroad on the East line of Section 29; thence North 368 feet; thence West 330 feet; thence South 368 feet; thence East 330 feet to the point of beginning. Generally located at the northwest corner of Kellogg 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, _____

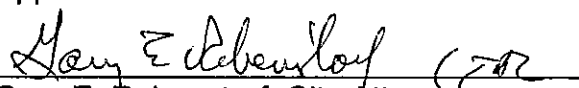
Carlos Mayans, Mayor

ATTEST:

Karen Schofield, City Clerk

(SEAL)

Approved as to form:



Gary E. Rebenstorf, City Attorney

STAFF REPORT

MAPC November 6, 2003
DAB V, November 3, 2003

CASE NUMBER: CUP2003-00052 DP-268 Holland Commercial Community Unit Plan; associated with ZON2003-50

APPLICANT: Holland Ventures, c/o George Holland; Robert H. & Joyce M. Jones; George Dimitropoulos

AGENT: AM Consulting Inc., c/o Kim Edgington

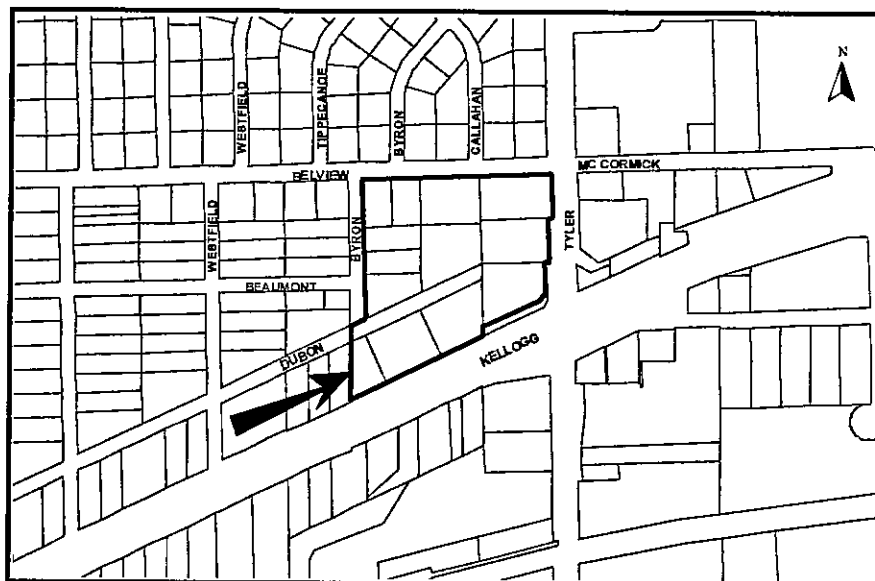
REQUEST: Create DP-268 Holland Commercial Community Unit Plan with associated zoning change to "GC" General Commercial

CURRENT ZONING: "SF-5" Single-family Residential & "LC" Limited Commercial

SITE SIZE: Approximately 12 acres

LOCATION: The northwest corner of the Kellogg Drive – Tyler Road intersection, south of West Belview Avenue and east of Byron Avenue.

PROPOSED USE: Commercial development



BACKGROUND: The applicant is requesting to create DP-268 Holland Commercial Community Unit Plan, which would be an approximately 12-acre development with eight parcels for commercial use. The applicant is also requesting a zoning change from "SF-5" Single-family Residential and "LC" Limited Commercial zoning to "GC" General Commercial for the CUP site; ZON2003-50.

The application area is bounded by road frontage on all its sides: Kellogg Drive on its south, Tyler Road on its east, Belview Avenue on its north, and Byron Avenue on its west. The south portion of the site, running parallel with Kellogg Drive, is zoned "LC" and "GC". This portion is platted as Lot 1, Block 1, the Payday Addition and Lots 1 & 2, Block 1, the Schniepp Addition. It has an active retail strip (restaurant and retail space) with frontage on both Tyler and Kellogg Drive. The rest of this south portion of the site is undeveloped. The west, northwestern and middle portion of the site has been platted as Lots 1-7; Block D, Westport Addition and is zoned "SF-5". Lots 1, 2, 6 & 7, along Byron & Belview Avenues, have single-family residences on them. Lot 5, on Byron, is not developed. Lots 3 & 4 (the middle portion along Belview) are not developed. The remainder of the site, south of the Tyler – Belview intersection, consists of two unplatted tracts. The corner tract is developed with a single-family residence, while the tract south of it is not developed. There is an undeveloped portion of Dubon Avenue, running parallel to Kellogg Drive, which separates the site's south portion along the Kellogg Drive frontage from most of the rest of the site. This portion of platted, undeveloped Dubon ends approximately 300-feet short of Tyler, up against the previously mentioned active retail strip. There is a 50-foot wide drainage easement running north – south running through the middle of the site.

Properties south of the site and across Kellogg Street/US 54 are zoned "GC" or "LI" Limited Industrial and are developed with fast food, retail strips, auto repair, motels-restaurants, self-storage and manufacturing (including Lear Jet, approximately 1/3 mile south) mixed with some vacant land. Lots to the west and north, across Bryon & Belview, are zoned "SF-5" Single-family Residential and developed as single-family residential and a church. Land to the east, across Tyler, is zoned "LC & "GC" and developed with a convenience store, a bank, shopping center and a Home Depot.

The CUP shows a maximum building coverage of 30%; the floor area ratio is 32%. Maximum height is 35 feet. The CUP also includes provisions for landscaping per the Landscape Ordinance of the City of Wichita. Lighting is per the UZC, shielded & directed downward onto the site and limited to 25 feet in height. Architectural, material, texture and color compatibility is proposed among the tracts. Requested signage exceeds standard City of Wichita signage requirements. The applicant proposes 4 points of access onto Kellogg Drive, 2 onto Tyler Road and 1 onto Belview Avenue. A Traffic Impact Study is required for this CUP. Issues addressed in the traffic study will include access control, dedications, turn lanes, accel/decel lanes and

any improvements or redesign applied to Belview, Tyler or Kellogg Drive will have to be approved by the Traffic Engineer. Contingent dedication of ROW along Tyler needs to be retained.

Uses proposed to be excluded are: adult entertainment; nightclub; tavern and drinking establishment; correctional placement residences, limited and general; and warehouse, self-storage.

CASE HISTORY: Plats associated with the site as recorded with the Register of Deeds include the Westport Addition, 05-28-1953, the Schniepp Addition, 05-29-1986 and the Payday Addition, 06-28-1996. A smaller portion of this site had been approved for a zone change, Z-3301, to "NR": Neighborhood Retail, subject to platting. The plat, SD99-42 had been filed but never finalized, thus the "NR" zoning has never been in place. Another application for a zone change, ZON2000-26, from "SF-6" Single-family Residential to "LC" was more recently filed, again for a portion of the site. This case was recommended for denial by Staff and deferred by MAPC on 07-13-2000. Issues with the case were the irregular shape of the site, abrupt intrusion into abutting single-family residential development, lack of a user or concept plan and the unknown impact the improvements on Kellogg/US-54 would have on the site. Since that time, the applicant has bought or has contract to purchase agreements with the abutting residential properties, which has given the site an additional 7 ½ acres and a square shaped site contained within four roads, which provide transition/space between the proposed "GC" site and the single-family residential north and west of the site. The improvements to Kellogg/US-54 are currently under way, thus the impact of those improvements are known and have been applied to abutting and adjacent properties. The applicant has still not identified any specific users, but, with the CUP, provided a plan for consideration.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-5"	Single-family residential & church
SOUTH:	"GC" & "LI"	Retail strip, motel with restaurant, fast food, self-storage, manufacturing, auto repair & vacant
EAST:	"LC" & "GC"	Shopping center, restaurant, bank, Convenience store, building supply
WEST:	"SF-5"	Single-family residential

PUBLIC SERVICES: Public sewer and water services can be extended to serve this site. Dubon Avenue is platted undeveloped ROW on the site and a sand and gravel residential road adjacent to it. Byron Avenue is a sand and gravel local residential street. Belview is an asphalt mat, two-lane collector without curb and guttering. Tyler is a five-lane curb and guttered arterial with nearly 18,000 vehicles per day. The Belview – Tyler intersection has

a traffic light. The current Capital Improvement Project of Kellogg Street/US-54 will include improvements to the Kellogg - Tyler intersection. Improvements to the intersection will put Kellogg at-grade at Tyler and the adjacent frontage roads and include additional lanes, left turn lanes and cross access to the frontage roads from under Kellogg. Other normal public services are available.

CONFORMANCE TO PLANS/POLICIES: The plan depicts this area as appropriate for "low density residential" and "commercial. The "low density residential" land use category provides for the lowest density of urban residential land use and consists of traditional, single-family detached homes, zero lot line units and cluster subdivisions, as well as schools, churches, and similar uses found in such areas. Commercial locational guidelines indicate that commercial uses should be located: adjacent to arterials or major thoroughfares; in coordination with mass transit services, high-density residential, employment or other intensive uses; utilize site design features which limit noise, lighting and other activity so as to not adversely impact surrounding residential areas; and in compact clusters. Commercial uses should not feed traffic directly onto local residential streets. New "planned retail" zoning districts to replace current commercial areas should be developed as planned centers of various sizes as indicated in the locational guidelines. This area is identified on the *Area Treatment Classification Map* as a "conservation" area. Conservation areas which have sound structures and are able to maintain economic viability and which should be protected from decline by actions, which would insure continued stability.

The proposed C.U.P. is in conformance with the general recommendations of the Comprehensive Plan. The proposed C.U.P. provisions generally follow these objectives and guidelines. Recommendations for conformance with these policies are included in the next section.

RECOMMENDATION: The current proposed CUP, with its size and shape, and the finalization of the land and design for the Kellogg – US-54 proposed improvements have allowed the applicant to more fully address the issues of the previous zoning cases. A proposed 6-foot masonry wall along the north and west sides of the property coupled with the landscaping and screening requirements of the UZC should ensure adequate screening of outdoor work and storage areas, trash dumpsters, and loading docks. A traffic impact study would be warranted to determine the scope of required transportation improvements since the site could generate more than 780 trips during the peak afternoon hour. Drainage concerns expressed by the residential neighborhood will be addressed by a required drainage study to be reviewed and approved by the Public Works Engineer.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2003-00050) to "GC" General Commercial subject to platting of the entire property within one year;

B. APPROVE the Community Unit Plan (DP-268), subject to the following conditions:

1. General Provisions #5 & #21 shall be amended and combined as follows: A Traffic Study is required for this CUP. Issues addressed in the traffic study will include access control, dedications, turn lanes, accel/decel lanes and any improvements or redesign applied to Belview, Tyler or Kellogg Drive will have to be approved by the Traffic Engineer. Contingent dedication of ROW along Tyler needs to be retained. Consideration will include the raised median strip scheduled to go on Tyler. If permitted, any access onto Belview must be designed so traffic from the site is not directed onto the adjacent residences but is lined up with another street, and no private drive openings are impacted or blocked.
2. General Provision #10 shall be amended as follows: "Trash receptacles shall have solid screening to hide them....."
3. General Provision #11 should be amended to indicate that rooftop equipment should also be screened from view from residential areas and adjoining rights-of-way.
4. General Provision #12 shall be amended to as follows: "Architectural Control – All buildings within the CUP shall share consistent exterior architectural character, form, color and texture as the existing buildings on the site, with vivid colors limited to accent.
5. General Provision #13 shall be amended to prohibit: search lights, banners, portable signs, moving signs and off-site signs. Signs shall be no taller than 25-feet"
6. General Provision #14 shall be amended as follows: " Total square footage allowed for signage per parcel, shall not exceed 80% of the frontage per parcel. No individual sign shall exceed 300 square feet."
7. Correct General Provision #18 as follows: take out reference to "Woodlawn" and insert "Tyler."
8. Thirty-five foot setbacks shall be established along the north and west sides of Parcel 1.
8. All property included within this C.U.P. 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.

9. 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-268) includes special conditions for development on this property.

10. The applicant shall submit 4 revised copies of the C.U.P. 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.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Zoning to the south and the east of the site is "LC" Limited Commercial or "GC" General Commercial while zoning on the remaining two sides are "SF-5" Single-family Residential. Uses mirror the zoning pattern in that retail and service commercial uses and residential uses exist adjacent to the site. Currently all non-residential zoning is confined to those parcels which have frontage along either an arterial or expressway, with the exception of the 2-unplatted "SF-5" tracts on the northeast corner of the site.

2. The suitability of the subject property for the uses to which it has been restricted: Without the unification of the site into a CUP, the "SF-5" zoned properties, not having frontage on an arterial, could continue as single-family residential development. The "SF-5" property with frontage on Tyler is not an appropriate site for residential and would be better suited for commercial development.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed development "GC" zoning of the west and northern portions of the site of will have a potential negative effect on the residences to the north and west. Landscaping, screening and the traffic impact study will lessen the effects of the development.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Land Use Guide, as amended 1/02" of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "low density residential" and "commercial" development. The Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential. The continuing improvements to Kellogg – US-54 make this site, with the CUP overlay, suitable for commercial development. The CUP's intent is to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. The CUP general provisions and staff recommendations are intended to achieve site design features to lessen the negative impact on the residential properties.

5. Impact of the proposed development on community facilities: The traffic increases from the development should be mitigated by the recommendation of the traffic impact study. A drainage plan approved by the Public Works Engineer should improve drainage in the area, including the residential areas to the north.