

6. Any map changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
7. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
8. All property included within this C.U.P. and zone case shall be platted within one year after approval of this C.U.P. by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be.
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-267) 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 50 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

No protests have been received.

Financial Considerations: None

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

Recommendation/Actions:

1. Concur with the findings of the MAPC and approve the zone change and creation of DP-267 C.U.P. subject to platting within one year and the recommended conditions; instruct the Planning Department to forward the ordinance 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 2/3rd majority vote of the membership of the governing body on the first hearing.)

**City of Wichita
City Council Meeting
June 8, 2004**

Agenda Report No.

TO: Mayor and City Council

SUBJECT: CUP2003-00048; ZON2003-00044 - Create DP-267 Tylers Landing Commercial Community Unit Plan; zone change to "LC" Limited Commercial. Generally located southeast corner of 37th Street North and Tyler Road. (District V)

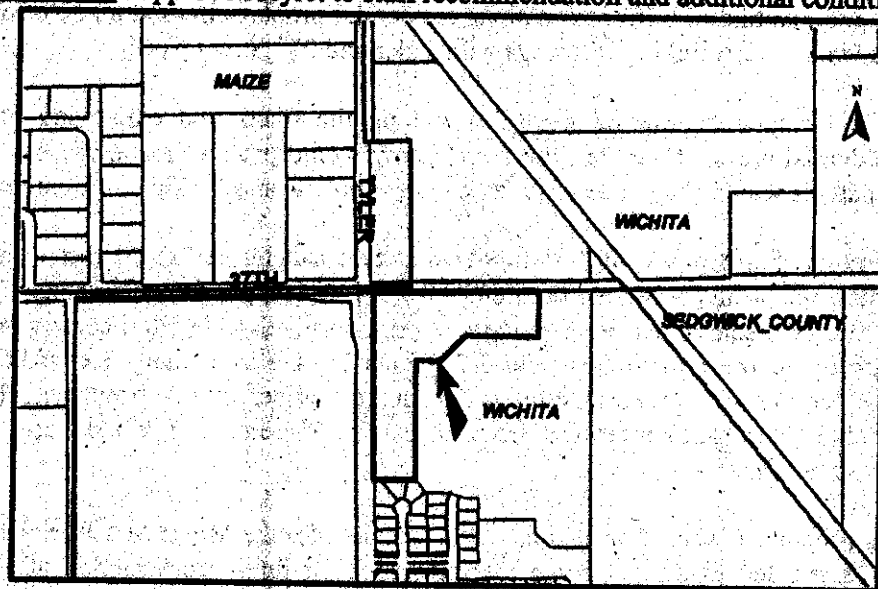
INITIATED BY: Metropolitan Area Planning Department *DMG*
SL

AGENDA: Planning (Consent)

MAPC Recommendations: Approve subject to platting within one year and conditions. (10-0)

MAPD Staff Recommendations: Approve subject to platting within one year and conditions.

DAB Recommendations: Approve subject to staff recommendation and additional conditions. (6-0)



BACKGROUND: The applicant is requesting to create DP-267 Tylers Landing Commercial Community Unit Plan, which would be a 10+ acre development with seven parcels for commercial use. The property is located on the southeast corner of 37th Street North and Tyler Road. All the parcels are relatively small, with two parcels on 37th closest to the intersection being approximately two acres and the remaining parcels being a little more than one acre in size.

Proposed uses are all "LC" Limited Commercial uses except adult entertainment uses, group homes, group residential, correctional placement residences, asphalt/concrete plant, private clubs, taverns, and drinking establishments.

Some restrictions are offered to reduce the conflicts between the commercial development and the nearby residential lots. Drive-through windows associated with restaurants would have to be a minimum of 100 feet from residential zoning. Service stations, vehicle repair, limited and full-service car washes would be prohibited on Parcels 1 and Parcel 7, which are the parcels on the southernmost and easternmost edge of the C.U.P. Car washes associated with convenience stores on Parcels 1 and 7 would be prohibited between the principal building and the residential lots to the south (for Parcel 1) and east (for Parcel 7). Overhead doors could not face any residential zoning district.

Maximum building coverage is 30 percent; floor area ratio is 35 percent. Maximum height is 35 feet. Setbacks are 35 feet for exterior property lines and 15 feet for interior parcels, unless parcels are held in uniform ownership whereby no setback is needed.

Lighting is limited to 24 feet in height. A screening wall is required along the interior property line bordering residential use. The C.U.P. includes provisions for landscaping per Landscape Ordinance of the City of Wichita and planting of buffer trees along residential property lines at a rate of one tree per 30 feet, and a pedestrian walk system linking buildings with Tyler and 37th Street North.

The C.U.P. calls for architectural compatibility among the tracts and employing materials similar to surrounding residential areas. However, the C.U.P. only would prohibit metal facades on the front of the buildings. The parcels would share a consistent landscape palette and parking lot lighting elements.

As requested, freestanding signs would be monument-style and limited to 20 feet in height. The amount requested is at the upper limits permitted in "LC" of 0.8 square feet per foot of frontage. The maximum size ranging from 170 to 250 square feet exceeds typical neighborhood-scale retail centers on the west side and the property directly to the north of Parcels 5-7, which have a maximum size of 96 square feet (with multiple tenants) per sign and a total amount at 0.5 square feet per foot of frontage. The C.U.P. prohibits off-site and portable signs, limits interior window display to 25 percent of window area, and prohibits wall signs on the rear of buildings.

The surrounding property is vacant or in suburban use except for the Maize Middle School South located to the west. The Maize School district has a 100-acre tract for future construction of a high school. The property to the north is zoned SF-5 but approved for "LC" with a protective overlay. The property to the south and southeast is platted for "SF-5" Single-family use. The land to the northwest is shown as being in the city of Maize. Current use is suburban lots.

Analysis: The original request had greater intensity of uses and less site development restrictions than the revised request now under consideration. The District V Advisory Board heard the original request on October 6, 2003, and voted (8-0) to refer it back to Planning staff to work with the agent and property owners to address issues of use restrictions, setbacks, facades for metal buildings, and traffic impact/access points. Next the case was deferred from the October 9, 2003 MAPC meeting to address these issues.

The revised request being considered lowered the intensity of uses on the two parcels on the eastern edge and southern edge of the C.U.P., adjusted the access point on Tyler Road to align with the school

entrance, and added some setback, use restrictions and screening along the property lines. Signage was reduced, but staff recommended additional reductions in signage size. Staff also recommended prohibiting facades with primarily metal exteriors.

At the District V Advisory Board meeting held May 3, 2004, the DAB discussion continued to emphasize the need to restrict uses and site development. The DAB members voted (6-0) to recommend the C.U.P. adhere to the same requirements approved for commercial property on the northern side of 37th Street North (ZON2003-00046) for Parcels 1-3 and 5-7. DAB V recommended only Parcel 4 (the corner parcel) should be approved per staff recommendations. An additional requirement for Parcels 1-3 and 5-7 would be to restrict light poles, including base and fixtures, etc, to no more than 14 feet within 150 feet of the residential zoning. Uses would be as permitted in the "NR" district except that a restaurant would be allowed to be up to 8,000 square feet in size and a drive-through window be allowed as long as it was more than 100 feet from the property line (which is the same drive-through window restriction as shown on the revised C.U.P.). The DAB recommendation would eliminate uses such as a convenience store, car wash, and vehicle repair, limited. Signage would be per "NR" signage regulations, which would further reduce the maximum size of freestanding signage to 96 square feet per sign. Height would increase from 20 feet to 22 feet.

At the MAPC meeting held May 6, 2004, the agent agreed to accept all staff recommendations, but not the DAB recommendations. MAPC voted (10-0) to approve subject to staff recommendations, which are it be APPROVED subject to platting within one year and subject to the following conditions:

A. APPROVE the zone change (ZON2003-00044) to "LC" Limited Commercial;

B. APPROVE the Community Unit Plan (DP-267), subject to the following conditions:

1. Transportation requirements:

- a. A site 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.
- c. The applicant shall provide a guarantee for center left-turn lane along 37th Street North and Tyler Road.
- d. Location of the major entrance on Tyler Road shall be located across from the major entrance to Maize South Middle School.
- e. Access points shall be in conformance with the Access Management Policy.
- f. The developer shall guarantee 12-1/2 percent share of cost for the intersection signalization at Tyler Road and 37th Street North.
- g. Provision of a traffic impact study is not required if the applicant accepts the above recommendations.

2. No development shall be allowed along 37th Street North until the street is paved to a two-lane county standard.

3. General Provision #7 shall be amended as follows:

Parcel 1: 170 sq. ft. of signage, located at least 75 feet from southern property line

Parcel 4: 150 sq. ft. of signage on each frontage (maximum of 2 signs)

Parcel 5: 150 sq. ft. of signage

Parcel 6: 150 sq. ft. of signage

Parcel 7: 150 sq. ft. of signage, located at least 75 feet from eastern property line.

4. Amend to General Provision #16 as follows: "No predominately metal facades shall be allowed."

5. Add to General Provision # 18: Exterior audio systems that project sound beyond the boundaries of the C.U.P. are prohibited.

(150004) P shed in The Wichita Eagle on 02-17-05

ORDINANCE NO. 46-141

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 2003-44

Zone change from SF-5, Single-Family Residential District to LC, Limited Commercial District on property described as:

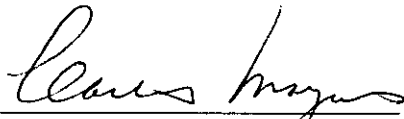
Lots 1-7, Block A, Tyler's Landing Commercial Addition, Wichita, Sedgwick County, Kansas.

Generally located on the southeast corner of 37th Street North and Tyler Road..

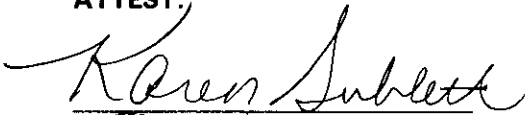
SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

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 JAN 17 2005

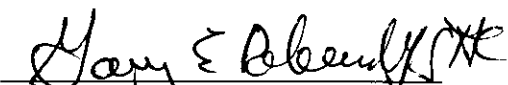

Carlos Mayans, Mayor

ATTEST:


Karen Sublett, City Clerk



Approved as to form:


Gary E. Rebenstorf, City Attorney