

**Financial Considerations:** None.

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

**Recommendation/Actions:**

1. Adopt the findings of the MAPC and approve the CUP amendment and zone change; place the ordinance establishing the zone change on first reading; and instruct the City Clerk to withhold publication of the ordinance until the necessary documents are recorded with the Register of Deeds; or
2. Return the application to the MAPC for reconsideration

(An override of the Planning Commission's recommendation requires a two-third majority vote of the City Council on the first hearing.)

City of Wichita  
City Council Meeting  
July 13, 2004

Agenda Report No. \_\_\_\_\_

TO: Mayor and City Council

SUBJECT: CUP2004-18 DP-156 Amendment #3 (associated with ZON2004-12) – Amendment of DP-156 Killarney West Commercial Community Unit Plan and a zone change to “LC” Limited Commercial. Located approximately one-quarter mile south of 37<sup>th</sup> St. N. and east of Woodlawn. (District I)

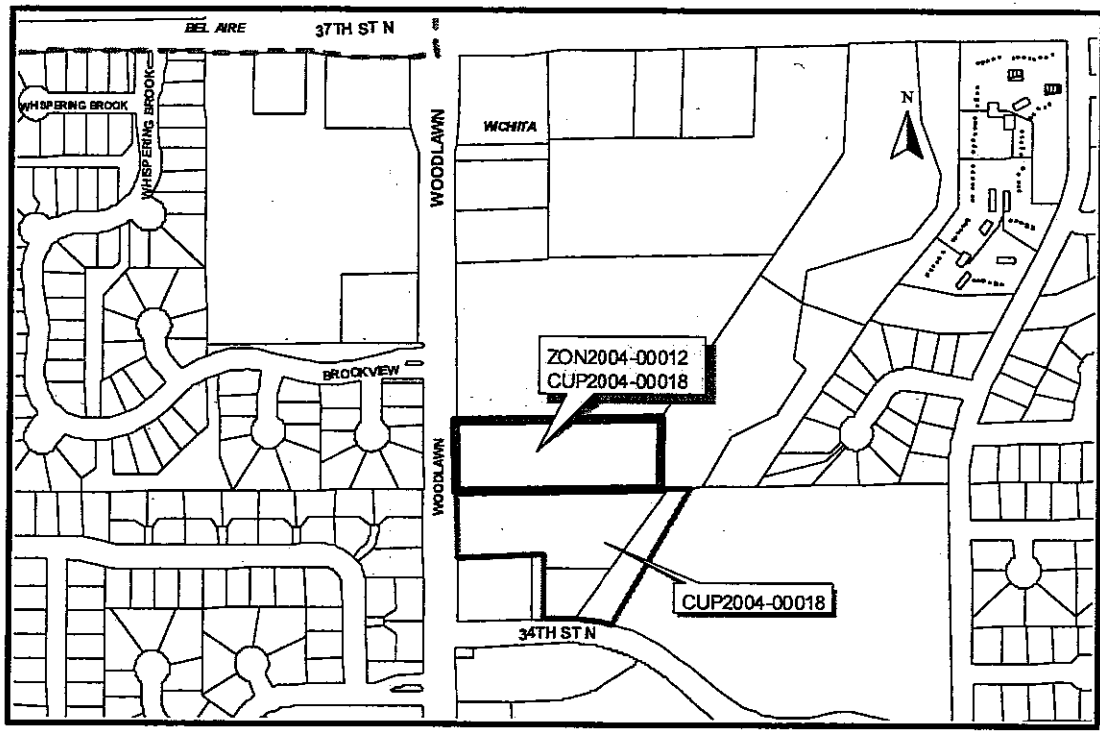
INITIATED BY: Metropolitan Area Planning Department *JCS*

AGENDA: Planning (Consent)

MAPC Recommendations: Approve, subject to conditions. (11-0)

DAB I Recommendations: Deferred on June 7, 2004. Will consider on July 12, 2004.

MAPD Staff Recommendations: Approve, subject to conditions.



**Background:** The contract purchaser owns four acres of property that is zoned "LC" Limited Commercial and located immediately south of the area proposed for rezoning from "NR" Neighborhood Retail and "MF-29" Multi-Family to "LC" Limited Commercial. Since the area proposed for rezoning is 2.7 acres in size, the contract purchaser will have 6.7 acres of contiguous property zoned "LC" Limited Commercial and held under unified control; therefore, Section III-C.2.b. of the Unified Zoning Code requires that the area proposed for rezoning be included in a Community Unit Plan (CUP). Since the contract purchaser's four acres to the south of the area proposed for rezoning are Parcels 1, 3, and 4 of DP-156 Killarney West CUP, the application is to rezone 2.7 acres to "LC" Limited Commercial as well as to amend DP-156 to include the area for proposed for rezoning in DP-156 as Parcel 5 (see attached CUP).

Parcel 1 of the contract purchaser's property is developed with a car wash. Parcel 4 of the contract purchaser's property is developed with a retail center. Parcel 3 is proposed to be developed with a retail center, and Parcel 5 is proposed to be developed with a restaurant and two office buildings (see attached Site Plan).

**Analysis:** At its hearing on June 7, 2004, DAB I deferred making a recommendation on the request until the July 12, 2004, hearing in order to allow time for the applicant and staff to resolve differences regarding conditions of approval pertaining to street access and signage. Prior to the MAPC hearing, the applicant and staff agreed to conditions of approval pertaining to street access and signage, and at the MAPC hearing on June 10, 2004, the MAPC voted (11-0) to recommend approval of the request subject to the following conditions:

1. The following shall be added to General Provision #10: The permitted location of and movements permitted for access openings to Parcel No. 3 and Parcel No. 5 shall be determined by the City Traffic Engineer.
2. General Provision #5 shall be revised to remove the Parcel 3 and Parcel 5 descriptions and the following shall be added: Parcels 3 and 5: A total of three monument signs each no greater than 100 sq. ft. in size and 20 feet in height on Woodlawn. The three signs shall be spaced a minimum of 100 feet apart and shall share uniform design, materials, and colors.
3. Per the requirements of an administrative adjustment approved June 11, 2001, the following shall be added to the end of the first paragraph of General Provision #5: "All signs shall be spaced 150 feet apart regardless of ownership, except as noted for Parcels 3 and 5. Ground signs for each parcel shall be permitted as follows:"
4. The CUP shall be revised to reflect the dedication of additional right-of-way for Woodlawn from the Linder Addition per General Provision #18 as well as to reflect the correct right-of-way for Woodlawn from the Valentine Addition.
5. Prior to publishing the ordinance establishing the zone change and no later than 180 days after approval of the zone change and CUP amendment by the Governing Body, a document shall be recorded with the Register of Deeds indicating that the area to be rezoned includes special conditions for development on this property (referenced as DP-156 Killarney West Commercial CUP).
6. Four 24" x 36" and one 11" x 17" revised copies of the C.U.P. shall be submitted to the Metropolitan Area Planning Department prior to publishing the ordinance establishing the zone change and no later than 180 days after approval of the zone change and CUP amendment by the Governing Body.
7. The Metropolitan Area Planning Department may declare the zone change and CUP amendment null and void for failure to meet any of the foregoing conditions of approval.

(150004) Published in The Wichita Eagle on April 18, 2005

ORDINANCE NO. 46-214

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. ZON2004-00012**

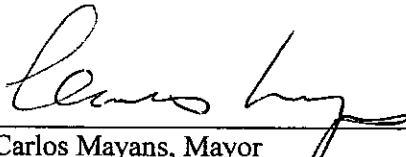
Zone change from "NR" Neighborhood Retail and "MF-18" Multi-family Residential to "LC" Limited Commercial on property described as:

Lot 1, Linder Addition, Wichita, Sedgwick County, Kansas. Generally located approximately one-quarter mile south of 37<sup>th</sup> Street North and east of Woodlawn.

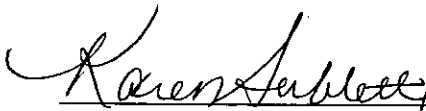
**SECTION 2.** That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

**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, 7-20-04

  
Carlos Mayans, Mayor

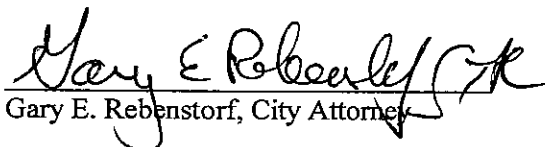
ATTEST:

  
Karen Sublett, City Clerk



(SEAL)

Approved as to form:

  
Gary E. Rebenstorf, City Attorney