

Agenda Item # _____

City of Wichita
City Council Meeting
May 25, 1999

Agenda Report # _____

TO: Mayor and City Council Members

SUBJECT: Z-3318 - ZONE CHANGE REQUEST FROM "B" MULTI-FAMILY
RESIDENTIAL TO "NR" NEIGHBORHOOD RETAIL,
LOCATED SOUTH OF KELLOGG AND EAST OF BLUFF.
(District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning

MAPC Recommendation: Approve, subject to conditions of a Protective Overlay #53 (9-4).

Staff Recommendation: Deny.

CPO Recommendation: Approve, subject to revised conditions of a Protective Overlay #53 (6-1).

Background: The applicant is requesting to rezone a 7-8,000 square foot platted tract of land from "B" Multi-family to "NR" Neighborhood Retail. This site is located south of Kellogg and east of Bluff.

The applicant has stated that this building was used as a dentist office prior to him purchasing the property. Medical service uses are permitted in the "B" Multi-family district. The applicant has stated that he was told by the seller's agent that a personal care service (beauty salon) is permitted at this location. However, the Unified Zoning Code only permits a beauty salon by Conditional Use in the "GO" General Office district, and "by-right" in the "NR" Neighborhood Retail district and more intensive districts. Personal care service means an establishment primarily engaged in the provision of frequently or recurrently needed services involving the care of a person or his personal goods or apparel. Typical uses include beauty and barber shops, electrolysis studios, shoe shining and/or repair operations, tailors, and neighborhood laundry and dry cleaning operations.

There is an approximately 1,100 square foot building on-site. The applicant has stated that his wife

and daughter currently work out of this building and would like to add more stylists in the future. South of the building is a paved driveway approximately 8 -10 feet in width which leads to an unpaved parking lot. Due to the driveway not permitting two-way traffic and the parking lot also having access to the alley, the applicant will be required to pave the alley from the nearest public street to this parking lot.

The Unified Zoning Code does not provide a parking requirement for a personal care service. Typically, these uses are required to meet the office parking requirement which is one parking space per 250 square feet. Therefore, the applicant would be required to provide five parking spaces.

This building was originally constructed in the 1950's as a dental office and would not require any reconstruction to meet current building code standards.

According to the Office of Central Inspection there was never a complaint from someone in the neighborhood when this was used as a dental office. However, once it was converted to a beauty salon a complaint was received by Central Inspection about the smell from the salon. Central Inspection then provided a notice to the applicant that they were in violation of the Zoning Code and needed to file a Conditional Use request. The City does have an Odor Ordinance and if a complaint is received by the Health Department then an enforcement officer would visit the site to measure the odor. This test is highly subjective and the ordinance is difficult to enforce.

There is a combination of tri-plexes and four-plexes on property zoned "B" Multi-family which is located to the north, south and west of this property. East of the application area across the alley is located single family homes.

At the April 27th CPO 2 hearing, the applicant's agent presented this request. One neighbor spoke about this request and asked that the beauty salon be limited in its operating hours. The CPO voted to approve this request subject to revised conditions of a Protective Overlay. These conditions included: increasing the number of permitted employees to seven, limiting the hours of operation from 8 a.m. to 6 p.m. Monday through Saturday, and the use and signage restrictions recommended in the staff report.

At the April 29th MAPC hearing, the applicant's agent presented the request. One neighbor spoke in opposition to the request, who did not speak at the CPO hearing. This neighbor felt that this development would increase traffic, noise, and also had a certain smell to the operation that affected him. After discussion, the MAPC voted on a substitute motion to approve the request subject to a maximum number of five employees, limiting the hours of operation from 8 to 6 Monday through Saturday, and the use and signage restrictions recommended in the staff report.

Recommendation:

1. Concur with the findings of the MAPC and approve the zone change request subject to the additional recommended provisions of a Protective Overlay; place the

Ordinance establishing the zone change on first reading; or

2. Deny the application;
3. 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.)

() Published in The Daily Reporter on _____

ORDINANCE NO. _____

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. Z- 3318

Zone change request from "B" Multi-family residential to "NR" Neighborhood Retail (PO # 53), described as:

Lots 684, 685, and the south 20 feet of Lot 686, Fairfax Addition to Wichita, Sedgwick County, Kansas. Generally located south of Kellogg and east of Bluff.

SUBJECT TO THE FOLLOWING RESTRICTIONS OF A PROTECTIVE OVERLAY #53:

1. The property shall be limited to a personal care service and other uses permitted in the "NO" Neighborhood Office district.
2. The maximum number of employees shall be five at any one time.
3. Advertising, decorations or window display signs may only be used for grand openings for new businesses. No pole, ground or monument signs shall be permitted. The applicant may have one building sign as permitted by the "NR" Neighborhood Retail District.
4. Beauty salons shall be limited to the hours of 8 a.m. to 6 p.m. Monday through Saturday.

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

FILE COPY

-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, _____

ATTEST:

Pat Burnett, City Clerk

Bob Knight, Mayor

(SEAL)

Approved as to form:

Gary E. Rebenstorf, City Attorney