

Published in The Wichita Eagle on August 17, 2012
ORDINANCE NO. 49-327

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. ZON2011-00045

Zone change request from SF-5 Single-family Residential to TF-3 Two-family Residential on property described as:

BATC Estates Addition, Wichita, Sedgwick County, Kansas.

Generally located south of Central, east of West Street.

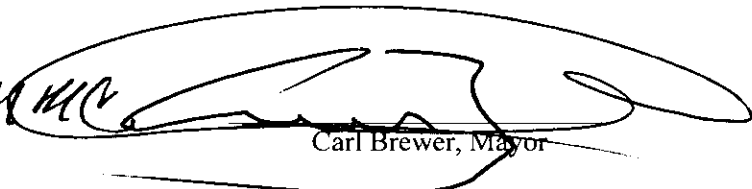
SECTION 2. That upon the taking effect of this Ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita-Sedgwick County Unified Zoning Code as amended.

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 14 day of Aug, 2012.

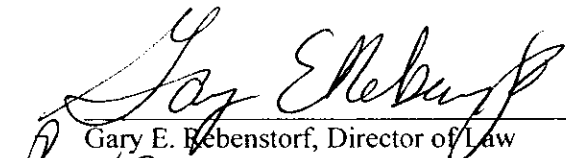

ATTEST:


Karen Sublett, City Clerk


Carl Brewer, Mayor

(SEAL)

APPROVED AS TO FORM:


Gary E. Ebenstorf, Director of Law


Background: The applicant is seeking TF-3 Two-family Residential (“TF-3”) zoning for a 0.92-acre platted property, a portion of which is currently developed with an unoccupied single-family residence. The site is currently zoned SF-5 Single-family Residential (“SF-5”), and is located on the southwest corner of St. Louis Avenue and Joann Street. The applicant proposes to develop the site with duplex development. The *Unified Zoning Code* (UZC) defines a duplex as...“the use of a lot for two principal dwelling units within a single building.” The code permits building heights up to 35 feet in the TF-3 district, which is the same maximum height allowed in the SF-5 district. If the request were to be approved, the existing property would allow only one duplex structure with two living units or one single-family structure (permitted by right as TF-3 residential uses); however it is possible to replat or lot split the existing 0.92-acre (or 40,075 sq. ft.) lot into six 6,679 sq. ft. lots that could allow six duplex structures (3,000 sq. ft. minimum lot area per dwelling unit for duplex or 6,000 sq. ft. per duplex).

One factor that will reduce the number of units discussed above is the need for the City to obtain a dedication of right-of-way from the applicant or property owner. Currently, a standard width residential street, Joann, exists adjacent to the east side of the application area; however, staff cannot find a record of a dedication for the west-half of the Joann abutting the application area. Staff recommends that the applicant dedicate the 30-foot for the right-of-way to equal the 60-foot right-of-way for Joann Street. The 30-foot reduction would eliminate 6,870 sq. ft. from the subject site, thus reducing the total area from 40,075 sq. ft. to 33,205 sq. ft. The dedication would reduce the number of lots and duplexes by one, thus allowing the applicant to possibly create five 6,641 sq. ft. lots that could allow five duplex structures. The applicant proposes to split the existing property into three lots to develop three duplex structures. Even as currently zoned, the property could be lot split into more than one single-family lot (5,000 sq. ft. minimum lot area for single-family in SF-5).

Property immediately surrounding the site to the north, south, east and west is zoned SF-5. The development to the west and east of the subject site is single-family residences, while south of the subject site are more residences and a church facility. Property north of the subject site, across St. Louis Avenue, currently serves as a public utility developed with communication towers.

Analysis: At the MAPC meeting held February 2, 2012, the MAPC voted (7-3) to recommend approval of the request for TF-3 zoning subject to replatting and the dedication of 30-feet for Right-of-Way for Joann Street. There were four citizens who spoke in opposition of the request citing their opposition to rental properties near single-family residences, drainage and reduction of property values. Commission members were concerned about the drainage and the density of the proposed development.

On February 6, 2012, the District Advisory Board (DAB) VI heard the rezone request. The DAB voted (5-0) to approve the request subject to replatting and the dedication of 30-feet for Right-of-Way for Joann Street. One citizen spoke in opposition to the case and cited the same issues (rental properties near single-family residences, drainage and property values) of opposition as what was discussed at the MAPC meeting. The board questioned how many single-family residences could be put on the site (eight) and expressed the opinion that the new proposed development would be an improvement to the dilapidated house and property that currently exists on the subject site.

During the subsequent two-week protest period following the MAPC meeting, staff received seven protests, although only three protests were within the 200-foot protest area. The three protests equal 8.83% of the total land area, which does not trigger the ¼ majority vote by the City Council.

Financial Considerations: There are no financial considerations in regards to the zoning request.

Goal Impact: The application will promote Economic Vitality.

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 zone change subject to replatting and the dedication of 30-feet of Right-of-Way for Joann Street and authorize the Mayor to sign the ordinance and place the ordinance on first reading (simple majority required); 2. Deny the application; or 3. Return the application to the MAPC for reconsideration.

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

Attachments:

- Ordinance
- DAB Memo
- MAPC Minutes
- Protest Map