

(150004) Published in The Wichita Eagle on 11-22-05
ORDINANCE NO. 46-819

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:

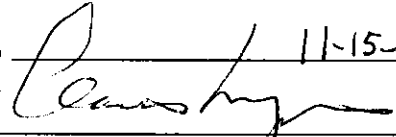
Case No. ZON2005-00036

Request for Zone change from "GO" General Office to "NR" Neighborhood Retail, on property described as:

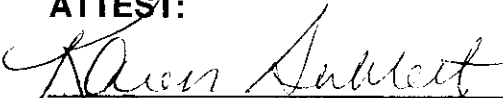
Lot 1 except the West 68 feet, Dan Morgen Addition, Wichita, Kansas, Sedgwick County, Kansas. Generally located 200 feet west of Battin, north of east Central.

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.

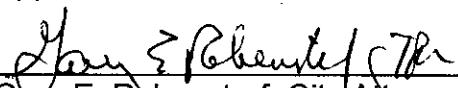
ADOPTED AT WICHITA, KANSAS, 11-15-05

Carlos Mayans - Mayor

ATTEST:


Karen Sublett, City Clerk

(SEAL)

Approved as to form:


Gary E. Rebenstorf, City Attorney

City of Wichita
City Council Meeting
November 8, 2005

Agenda Report No. _____

TO: Mayor and City Council

SUBJECT: ZON2005-00036 – Zone change from “GO” General Office to
“NR” Neighborhood Retail. Generally located 200 feet west of Battin, north of
east Central. (District I)

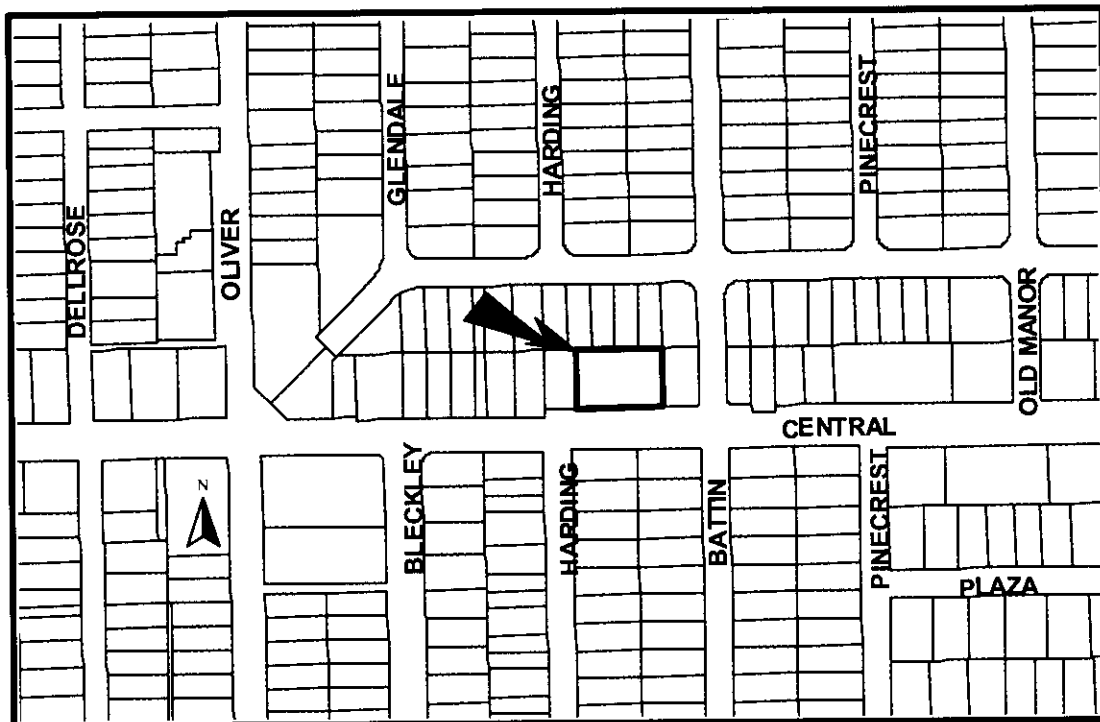
INITIATED BY: Metropolitan Area Planning Department *JLS*

AGENDA: Planning (Non-Consent)

MAPC Recommendations: Approve, vote (9-1).

MAPD Staff Recommendations: Approve.

DAB Recommendations: Not applicable.



Background: The applicant is seeking NR Neighborhood Retail zoning to make the property located 200 feet west of Battin and north of Central attractive to a broader range of tenants than allowed by the current GO General Office zoning. The application area is .52 of an acre in size. The subject site is platted as the Dan Morgen Addition, and is developed with two office buildings and onsite parking. The applicant's ownership has one access point, and shares a second access point with the ownership located to the west.

Surrounding land is zoned SF-5 Single-family Residential (north), B Multi-family Residential (south) and GO General Office (east and west), and developed with offices and residences. The closest commercial zoning to the application area is Limited Commercial zoning located approximately 219 feet to the west. Central Avenue is a major four-lane east-west traffic way through east central Wichita, from Main to Rock Road, carrying about 22,000 average daily trips.

The GO and NR zoning districts share the same signage controls. The primary land use difference between the two districts lies in the fact that the NR district allows retail sales and restaurant uses as a use "by right" while the GO district does not permit these uses. Special NR district regulations restrict individual commercial uses to a maximum size of 8,000 square feet. Supplemental use regulations limit restaurants to a maximum size of 2,000 square feet, and they cannot provide drive-up window service or in-vehicle food service. Outdoor commercial storage or display is not permitted in the NR district. Compatibility setback standards are required. The existing buildings are setback approximately 34 feet from the north property line. Twenty-five feet is the maximum compatibility setback required.

Analysis: The Metropolitan Area Planning Commission reviewed this request on October 6, 2005, and they recommended approval. No one from the general public appeared to speak against the request, however one person representing Clifton Square, LLC and Barrington Elms, LP submitted a letter of protest. The letter includes allegations that the Planning Department somehow approved and encouraged the applicant to leave Clifton Square in favor of the application area. The applicant had departed from Clifton Square before planning staff was ever contacted. The letter objects to the request on the basis the proposed rezoning will provide more competition for existing retail centers and the current zoning is appropriate for the application area. The protest received represents 5.69% of the protest area. Because the protest represents less than 20% of the protest area, a vote totaling a simple majority of the members of the governing body can approve the requested zoning change.

Financial Considerations: None to the City.

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

Recommendation/Actions:

1. Adopt the findings of the MAPC, approve the zone change and place the ordinance on first reading; or
2. 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.)