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(150004) Published in The Wichita Eagle on November 25, 2005  
ORDINANCE NO. 46-820

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. ZON2005-00039**

Request for Zone change from "B" Multi-family Residential to "OW" Office Warehouse, on property described as:

Lot 2, Block A, the Peacock 2nd Addition, Wichita, Sedgwick County, Kansas.

**SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #163:**

- (1) Permitted uses are wholesale or business services, a church or place of worship, day care limited and general, group home limited and general, library, parks and recreation, automated telling machine, bank or financial institution, bed and breakfast inn, medical service, general office, commercial parking, personal care service, personal improvement services, printing & copying limited, and restaurants no more than 2,000-square feet in size and having no drive through or in-vehicle food service.
- (2) No outside storage or display.
- (3) Dedication by separate instrument of complete access control along the south side of the site, where it abuts the north side of Donna Avenue. Access onto the site will be from Central Avenue.
- (4) Solid screening, a minimum of 6-feet in height, will be provided along the east, south and west sides of the property where abutting or adjacent to residential zoning.
- (5) Landscaping will be per the Landscape Ordinance, along the east, west and south sides of the site, where abutting or adjacent to residential zoning.
- (6) 35-foot maximum height for all structures.
- (7) Compatibility setback standards will apply to the site's west side. The platted 20-foot setback will remain in place on the site's south side. A minimum of a 5-foot setback will be in effect along the site's east side.
- (8) Lighting will be per the Unified Zoning Code, including a maximum height of 14-feet for any pole lighting. Pole lights will be located behind the setbacks, as noted along the site's east, south and west sides.
- (9) Signage will be per the "NR" Neighborhood Retail zoning district, with no portable signs.

(10)The subject property owner will sign a no protest petition and register it with the City Engineer's Office in reference to paving Donna Avenue where Donna abuts the subject property's south side; the south side of Lot 2, Block A, the Peacock 2<sup>nd</sup> Addition.

**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,** NOV 15 2005

\_\_\_\_\_  
Carlos Mayans - Mayor

**ATTEST:**

\_\_\_\_\_  
Karen Sublett, City Clerk

(SEAL)

Approved as to form:

Gary E. Rebenstorf  
Gary E. Rebenstorf, City Attorney

NOV 15 2005  
CITY OF WICHITA  
KANSAS



# STAFF REPORT

MAPC October 6, 2005  
DAB VI October 3, 2005

AGENDA ITEM NO. 12

10 present 11 present  
AYE  
NO

CASE NUMBER: ZON2005-00039

APPLICANT/AGENT: D & M Enterprises of Wichita (owner)  
Baughman Company, PA c/o Terry Smythe (agent)

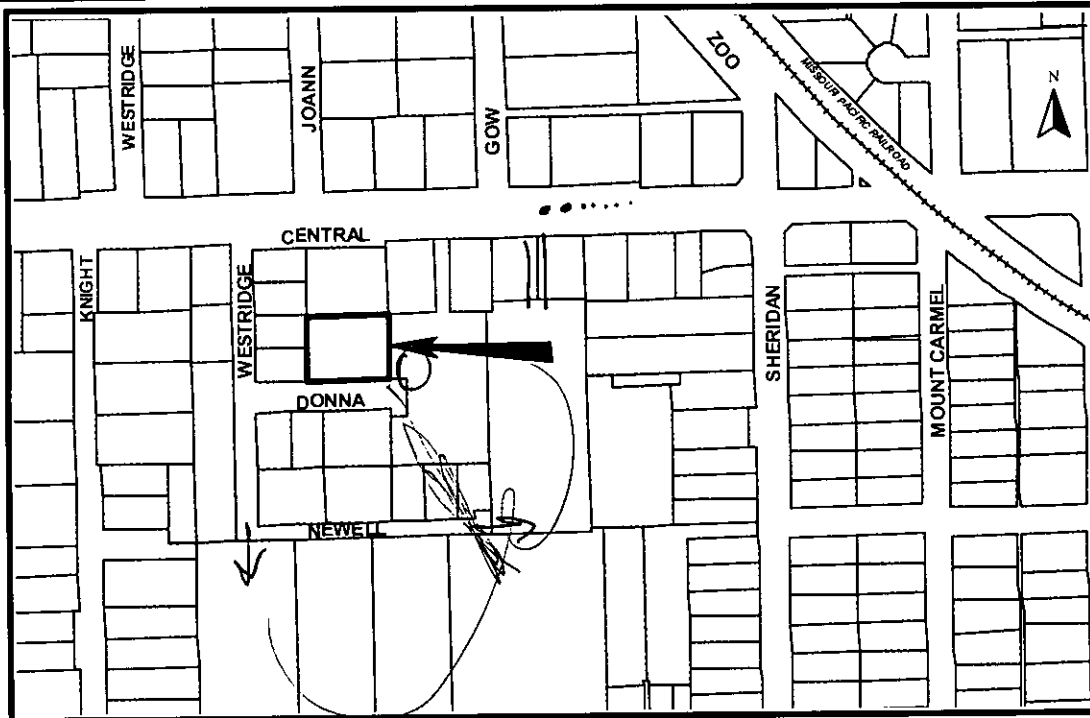
REQUEST: Zone change to "OW" Office Warehouse with a Protective Overlay

CURRENT ZONING: "B" Multi-family Residential

SITE SIZE: 0.47-acres

LOCATION: Midway between Meridian Avenue & West Street, 150-feet south of Central Avenue, and northeast of the Westridge Drive - Donna Avenue intersection

PROPOSED USE: Wholesale or Business Services



2,000 → size = total

**BACKGROUND:** The applicant requests "OW" Office Warehouse zoning, with a Protective Overlay ("PO") on Lot 2, Block A, the Peacock 2<sup>nd</sup> Addition. The undeveloped lot is currently zoned "B" Multi-family Residential. The applicant proposes to develop the lot with a 2,000-square foot office and a 400-square foot storage building. These facilities will be used by a wholesale business that receives, stores, sales and delivers ball bearings as ordered by other firms. As described the proposed use is considered a Wholesale or Business Service (Art.II, Sec.II-B.o). The "OW" district permits Wholesale or Business Services as a use by right. The "OW" district is intended to provide office and warehousing space for the building trades and similar businesses with operating characteristics that do not require highly visible locations or vehicular access required by retail or high intensity office uses. The "PO" proposed by the applicant would restrict the other uses on the site to a church or place of worship, day care limited and general, group home limited and general, library, parks and recreation, automated-telling machine, bank or financial institution, bed and breakfast inn, medical service, general office, commercial parking, personal care service, personal improvement services, printing & coping limited, restaurant (subject to Art.III, Sec.III-D.6.cc) and wholesale or business services.

There is one way in and out of the neighborhood via Westridge Drive, south off of Central Avenue. Westridge is a short (540-foot long) dirt and gravel residential street that dead ends at its intersection with Newell Avenue. Newell and Donna Avenues are the only streets that intersect with Westridge in this small neighborhood, both are dirt and gravel streets, short (300 – 400-foot long) and both dead-end against undeveloped residentially zoned properties. The zoning in this small, contained neighborhood is a mix of "SF-5", "TF-3" Duplex residential, and one undeveloped "MF-29" Multi-family Residential zoned lot, plus the undeveloped "B" subject site. The "SF-5" and "TF-3" zoned properties are developed as single-family residences and duplexes, with two lots currently being developed as duplexes.

**CASE HISTORY:** The subject property is platted as part of the Peacock 2<sup>n</sup> Addition, which was recorded with the Register of Deeds May 21, 2003.

**ADJACENT ZONING AND LAND USE:**

|        |                 |                                            |
|--------|-----------------|--------------------------------------------|
| NORTH: | "NR", "LC"      | offices, <u>holistic medicine</u> , retail |
| SOUTH: | "TF-3", "MF-29" | duplexes, single-family residences,        |
|        |                 | not developed                              |
| EAST:  | "MF-29"         | not developed                              |
| WEST:  | "SF-5"          | single-family residences                   |

**PUBLIC SERVICES:** The property is located along Donna Avenue, a short block south of Central Avenue. As previously mentioned, Donna is a dirt and gravel residential street that dead ends into undeveloped "MF-29" zoned property. No traffic counts or projections have been done for Donna. Donna has a full 60-foot right-of-way in this neighborhood. No street projects are included in the C.I.P. for the immediate area. The site has access onto Central Avenue, a five lane arterial. The nearest traffic counts are at the Sheridan/Zoo Boulevard – Central Avenue intersection: 12,540 ATD going west, 19,235 ATD going east, 1,842 ATD going south, and 5,787 ATD going north. All utilities are available to the site



**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan indicates that the site is appropriate for "Urban Residential" development. This category reflects the full diversity of residential development densities and types typically found in a large urban municipality. The site's north side abuts property with frontage along Central Avenue that is identified by the Land Use Guide as appropriate for "Local Serving Commercial" development. This category's uses are local in their customer base and include commercial, office, personal services, medical, auto repair, grocery stores, florist shops, service stations, restaurants and on a limited presence basis mini-storage warehousing and small scale light manufacturing. The Unified Zoning Code defines the "OW" zoning district as generally compatible with the "Commercial" and "Industrial" designations of the Comprehensive Plan. The applicant's proposed "PO" reflects uses that are generally permitted by right in the "NR" zoning district. The proposed zone change and the "PO" essentially extends the abutting northern "NR" zoning south onto the site and allows for development that is generally less intensive than an apartment complex. The applicant's proposed "PO" buffers the neighboring residential properties from traffic onto Donna Avenue that would be allowed in the "B" zoning district as well as limiting the height of buildings on the site to the same 35-foot standard that the neighboring "SF-5" and "TF-3" zoned properties are held to.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request for "OW" zoning for Lot 2, Block A, the Peacock 2<sup>nd</sup> Addition be APPROVED, with the following provisions of PO #163.

- (1) Permitted uses are wholesale or business services, a church or place of worship, day care limited and general, group home limited and general, library, parks and recreation, automated telling machine, bank or financial institution, bed and breakfast inn, medical service, general office, commercial parking, personal care service, personal improvement services, printing & coping limited, and restaurants (subject to Art.III, Sec.III-D.6.cc).
- (2) No outside storage or display.
- (3) Dedication by separate instrument of complete access control along the south side of the site, where it abuts the north side of Donna Avenue. Access onto the site will be from Central Avenue.
- (4) Solid screening, a minimum of 6-feet in height, will be provided along the east, south and west sides of the property where abutting or adjacent to residential zoning.
- (5) Landscaping will be per the Landscape Ordinance, along the east, west and south sides of the site, where abutting or adjacent to residential zoning.
- (6) 35-foot maximum height for all structures.
- (7) Compatibility setback standards will apply to the site's west side. The plated 20-foot setback will remain in place on the site's south side. A minimum of a 5-foot setback will be in effect along the site's east side. → *MF 29*
- (8) Lighting will be per the Unified Zoning Code, including a maximum height of 14-feet for any pole lighting. Pole lights will be located a behind the setbacks, as noted along the site's east, south and west sides.
- (9) Signage will be per the "NR" Neighborhood Retail zoning district, with no portable signs.

This recommendation is based on the following findings:

|                                       |              |      |      |        |
|---------------------------------------|--------------|------|------|--------|
| 18-Ft                                 | 14-Ft / 5-Ft | 1200 | 15.6 | 16     |
|                                       |              | 50   | 570  |        |
|                                       |              | 78   | 520  |        |
| Metropolitan Area Planning Commission |              |      |      |        |
|                                       |              |      |      | Page 3 |

1. The zoning, uses and character of the neighborhood: This small contained neighborhood, as had several recent developments. The properties abutting the site's north side are zoned "NR" and "LC" and are developed as a holistic medical office and another office/retail building. The holistic medical office was built in 2003. The properties south and west of the site are zoned "SF-5" and TF-3", with the most recent development being the current construction of two duplexes across Donna Street from the site. The property east of the site is zoned "MF-29" and is not developed.
2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed as apartments with access onto Donna Avenue or as duplexes or single-family residences. It must be noted that the two largest properties in the neighborhood that are not developed are both zoned Multi-family Residential.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: A zone change from "B" to "OW" at the site, with the provisions of the "PO" should have a minimal effect on the character of the neighborhood and in fact will decrease the potential for vehicular traffic on Donna Avenue, a dirt and gravel residential street. The "PO's" maximum height of 35-feet is 20-feet less than what is permitted in the current "B" zoning and as such will provide more privacy for abutting and adjacent residences. The application of the compatibility setback standards to the site's west side will also provide more buffer than the what would be applied in the "B" zoning district.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested zoning change is not totally in conformance with the *Comprehensive Plan* "Wichita Land Use Guide," but as proposed with the "PO" allows for development of the property in a less intrusive manner than the an apartment complex.
5. Impact of the proposed development on community facilities: A zone change at the application area to "OW" with the provisions of the "PO" will permit less intensive uses, and generate potentially less traffic, than an apartment complex as permitted under the "B" district. This zone change should not increase demands on community facilities.