

ORDINANCE NO. 47-469

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. ZON 2004-61**

Request for zone change from "SF-5" Single-family Residential District to "MF-18" Multi-family Residential District, and to PO #159 Protective Overlay District on property described as:

Lot 1, Block A, Walsh Addition, Wichita, Sedgwick County, Kansas.

Generally located east of West Street and north of Maple.

**SUBJECT TO PLATTING WITHIN ONE YEAR AND THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY #159:**

1. The property shall be platted within one year of approval.
2. A site plan approved by the Planning Director and incorporating the Protective Overlay conditions shall be completed prior to recording of the plat.
3. Maximum height (as defined by the UZC) of the buildings shall be 35 feet for all structures.
4. An additional 5 parking spaces shall be provided.
5. Solid screening, 6 to 8 feet tall, shall be required along the north and east sides of the site where it adjoins properties zoned "SF-5".
6. Solid screening shall be provided around all dumpsters; all dumpsters must be located a minimum of 20 feet from the "SF-5" zoning districts.
7. Outside pole lighting shall be no taller than 14 feet in height including the poles, light fixtures and base, and be placed within the interior circulation landscape island. No exterior lighting on the rear of the multi-family units shall be placed higher than the 1<sup>st</sup> story.
8. Landscaping shall consist of a 20-foot buffer with a minimum of one shade tree or two ornamental trees every 40 lineal feet planted within the buffer but outside all utility easements along the north and east sides of the site, a landscaped street yard and parking lot landscaping and screening per the Landscape Ordinance. The landscape plan shall be approved prior to the issuance of a building permit.

**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.

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METROPOLITAN PLANNING

ADOPTED this 24<sup>th</sup> day of April, 2007.

ATTEST:

Karen Sublett, CMC  
Karen Sublett, City Clerk

[Signature]  
, Mayor

(SEAL)

Approved as to form:

Gary E. Rebenstorf  
Gary E. Rebenstorf, City Attorney



**STAFF REPORT**

DAB VI – December 15, 2004  
MAPC – December 23, 2004  
WCC – February 1, 2005  
DAB VI – July 20, 2005  
MAPC – July 28, 2005

**CASE NUMBER:** ZON2004-00061

**APPLICANTS:** Steve & Susan Walsh  
Brandon & Julie Walsh  
Tamara Walsh

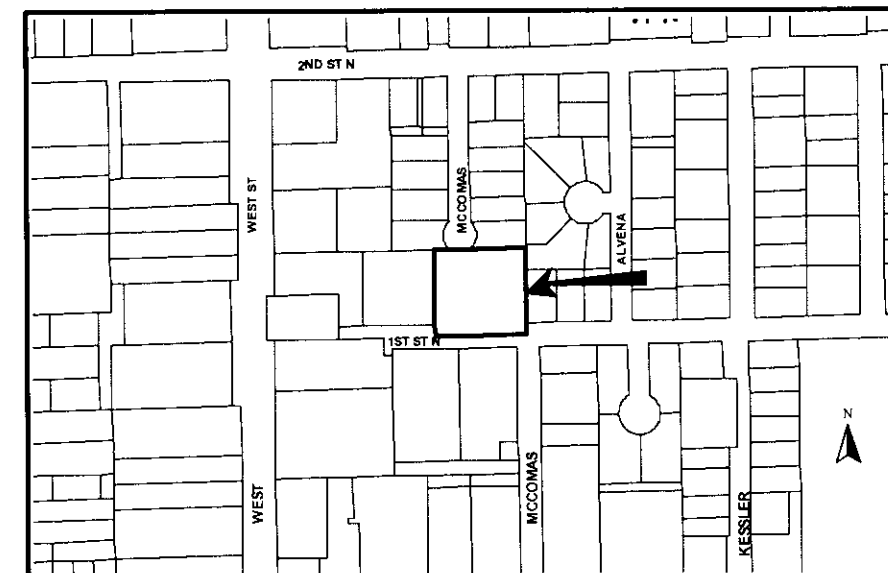
**REQUEST:** “MF-18” Multi-family Residential

**CURRENT ZONING:** “SF-5” Single-family Residential

**SITE SIZE:** Approximately 1.06 acres

**LOCATION:** Located on the northwest corner of the 1<sup>st</sup> Street – McComas Avenue intersection, one block east of West Street and one block north of Douglas Avenue

**PROPOSED USES:** Apartments



**BACKGROUND:** The applicants' 1.06-acre unplatted tract is zoned "SF-5" Single-family Residential. There is currently a single story, brick, single-family residence built in 1950 on the subject site. The applicants are requesting a zone change to "MF-18" Multi-family Residential to allow the subject site to be redeveloped with apartments.

The abutting and adjacent properties to the east and north of the subject site are zoned "SF-5" and are developed as single-family residences, built primarily from the late 1950s to the mid 1960s. Properties southeast of the subject site are zoned "TF-3" Two-family Residential and are developed primarily as single-family residences, built in the 1920s and 1930s, and duplexes built in the late 1960s to the mid 1970s. The abutting property west of the subject site is zoned "LC" Limited Commercial and was developed in the late 1990s as a contractors warehouse, office and yard. This "LC" site has access and frontage onto West Street, a commercial corridor. Properties south and southwest of the site are zoned "B" Multi-family Residential and "LC" and are developed as story and a half apartments, built in the early 1970s. The applicants own these apartments.

**CASE HISTORY:** The 1.06-acre unplatted site has an existing single story, brick, single-family residence on it, built in 1950. DAB VI considered the request at its December 15, 2004 meeting and recommended denial of the originally requested "MF-29" zoning. The DAB found the density of the "MF-29" out of character with the surrounding area. The DAB recommended "MF-18" Multi-family Residential zoning with a Protective Overlay that would limit the development to no more than 9 units on the site, a maximum building height of 35 feet and subject to platting within a year. No member of the public in attendance at the DAB meeting spoke against the requested zoning change. Staff had received a recorded protest.

The MAPC considered this request at its December 23, 2004 meeting. During the meeting the applicant told the MAPC that he agreed with the DAB's recommendation that the zoning be "MF-18", but requested that the number of units allowed on the site be what was allowed in the "MF-18" zoning district. The applicant also requested that the height of the buildings be the "MF-18" zoning district's maximum of 45 feet rather than the 35 feet that DAB recommended, which matched the Unified Zoning Code's (UZO) Compatibility Standard for height of a multi-family building, Art. IV, Sec. IV, 2a. MAPC approved (11-0) the zone change to "MF-18", with a maximum height of 45 feet and subject to the property being platted within a year. Staff received two written protest against the zoning change that represents less than 20 percent of the protest land area.

At its regular meeting on Tuesday, February 1, 2005, the Wichita City Council considered the request. The action of the City Council was to return the application to the MAPC for reconsideration. The City Council directed the applicant to provide a site plan that accurately depicts the proposed multi-family development.

The site plan the applicant has provided shows 18 three-story units (identified as two stories on top of a garage and a 'basement') on the site, each with a single car attached garage and each with a parking spot/driveway. The proposed parking meets the UZC's parking standards for multi-family residential with two (2) or more bedrooms. The site plan shows a 6-foot solid screening fence along the north property line and along the north 20 feet of the east and west property lines. The east side of the site's proposed screening does not meet the UZC's minimum standards, per Art. IV, Sec. IV-3a, which requires screening along interior side and rear yard areas where the proposed multi-family zoning/development adjoins the property zoned "SF-5". The adjoining northern and eastern properties are mistakenly identified as being zoned "TF-3", when they are zoned "SF-5". As scaled, the site plan shows a 20-foot landscaped buffer between the site's northern 10 units and the adjoining "SF-5" northern, eastern and "LC" western properties. The site plan shows proposed outside lighting, those being two spots on a landscaped area located in the middle of the interior circulation of the site. The site plan does not show the location of dumpsters. The site plan also shows the proposed vacated portion of 1<sup>st</sup> Street (platting process) as a 30-foot wide drainage and utility easement. The applicant has provided an elevation drawing of the proposed units, the floor plans and a brief narrative describing the units. The elevation drawings do not give a height for the proposed units.

At the DAB VI meeting on July 20, 2005, the applicant agreed to a 35-foot maximum height and agreed to provide extra parking within the south portion of the site. DAB VI recommended approval of the requested "MF-18" zoning, with a maximum height of 35-feet, additional parking and an approved site plan.

#### **ADJACENT ZONING AND LAND USE:**

|        |                                  |                                   |
|--------|----------------------------------|-----------------------------------|
| NORTH: | "SF-5" Single-family Residential | Single-family residential         |
| EAST:  | "SF-5" Single-family Residential | Single-family residential         |
| SOUTH: | "LC" Limited Commercial          | Apartments                        |
|        | "B" Multi-family Residential     | Apartments                        |
|        | "TF-3" Two-family Residential    | Single-family residential, duplex |
| WEST:  | "LC" Limited Commercial          | Contractors warehouses, offices & |
|        | "TF-3" Two-family Residential    | yards, dental office              |

**PUBLIC SERVICES:** McComas Avenue is a paved residential street that ends at its intersection with 1<sup>st</sup> Street at this location. North of the subject site, McComas Avenue re-emerges as a one-block cul-de-sac, abutting the north side of subject site and ending at its intersection with 2<sup>nd</sup> Street. First Street is a partially paved (paved sections are broken up by unpaved sections) residential street that ends at its intersection with Gow Street, six short blocks east. A recent zoning case (ZON2004-45) with an associated platting case (SUB2004-126) will vacate the unimproved section of 1<sup>st</sup> Street from West Street to the west side of the subject site. An

unimproved half section of 1<sup>st</sup> Street, abutting the subject site's south side, is all that remains of 1<sup>st</sup> Street, west of McComas Avenue. The subject site does have access to Douglas Avenue, an arterial, from McComas Avenue. Average Daily Trips (ADT) at the Douglas – West intersection, one block west and south of the site, are 22,971 ADTs north, 24,279 ADTs south, 7,452 ADTs east and 3,509 ADTs west. There is a current Capital Improvement Project underway, that could affect the subject site. Drainage improvements, with a underground storm water line, will run from West Street east along or under 1<sup>st</sup> Street to Athenian Boulevard then to the Arkansas River. There is gas, water, sewer and electricity for the site.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan, as amended January 2002, identified this area as appropriate for "Low Density Residential" development. The "Low Density Residential" category provided for the lowest density (1 to 6 units per acre) of urban residential land use and consisted of single-family detached homes, zero lot line units, cluster subdivisions, and planned developments with a mix of housing types that may include townhouse and multi-family units. Since the earlier hearings on this case, the Comprehensive Plan has been amended (May 2005). The three density categories were merged into a single category of "Urban Residential", encompassing "the full diversity of residential development densities and types typically found in a large urban municipality". The residential locational guidelines of the Comprehensive Plan for medium density or high density residential use states that these developments should have direct access onto arterials or collector streets. The subject site does not have direct access to either an arterial street or a collector street, but can access onto Douglas Avenue (an arterial, a block south) off of McComas Avenue (a residential street) or onto 2<sup>nd</sup> Street (an arterial, a block northeast) off of 1<sup>st</sup> Street and then Alvena Street, which are both residential streets. The applicants' tract is also located in a revitalization area, which is an area that has experienced some decline but still has good market and development opportunities. Physical improvements and flexibility of regulations are recommended by the Comprehensive Plan to create innovative and economically feasible projects in the area.

**RECOMMENDATION:** Based on the information available prior to the public hearing, staff recommends the application be APPROVED for "MF-18" Multi-family Residential zoning subject to platting within a year and subject to a Protective Overlay that incorporates DAB VI's recommendations of a maximum height of 35 feet for all structures, additional parking and a revised site plan. The Protective Overlay shall be subject to the following conditions:

1. The property shall be platted within one year of approval.
2. A site plan approved by the Planning Director and incorporating the Protective Overlay conditions shall be completed prior to recording of the plat.
3. Maximum height (as defined by the UZC) of the buildings shall be 35 feet for

all structures.

4. An additional 5 parking spaces shall be provided.
5. Solid screening, 6 to 8 feet tall, shall be required along the north and east sides of the site where it adjoins properties zoned "SF-5".
6. Solid screening shall be provided around all dumpsters; all dumpsters must be located a minimum of 20 feet from the "SF-5" zoning districts.
7. Outside pole lighting shall be no taller than 14 feet in height including the poles, light fixtures and base, and be placed within the interior circulation landscape island. No exterior lighting on the rear of the multi-family units shall be placed higher than the 1<sup>st</sup> story.
8. Landscaping shall consist of a 20-foot buffer with a minimum of one shade tree or two ornamental trees every 40 lineal feet planted within the buffer but outside all utility easements along the north and east sides of the site, a landscaped street yard and parking lot landscaping and screening per the Landscape Ordinance. The landscape plan shall be approved prior to the issuance of a building permit.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. The surrounding area around the subject site is zoned "SF-5" "TF-3", "LC" and "B". Use of the surrounding area north, south and east of the subject site is predominately single-family residential, some two-family residential, and the applicants' existing apartment complex. There are contractors' warehouses, offices and yards and a dental office west of the subject site. There is also small stand-alone commercial development and parking located along both sides of McComas Avenue south and east of the applicants' existing apartments and south of the existing single-family residences.
2. The suitability of the subject property for the uses to which it has been restricted. The site is developed with a single-family residence and could continue to be used for single-family residential, although the commercial and nonresidential uses abutting its west side have probably have made this type of development less desirable.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The "MF-18" zoning district would provide a transitional zoning between the abutting single-family and duplex residential development and the existing commercial development. The "MF-18" zoning would provide the applicants' an extension of their properties south of the subject site currently zoned "B" Multi-family Residential, but at a lesser density.
4. Conformance of the requested change to the adopted or recognized comprehensive plan and policies: The Comprehensive Plan shows this site as

appropriate for low density residential. The Comprehensive Plan allows a mix of housing types that may include townhouse and multi-family units in the low-density residential areas. The applicants' tract is also located in a revitalization area, which is an area that has experienced some decline but still has good market and development opportunities. Physical improvements and flexibility of regulations are recommended by the Comprehensive Plan to create innovative and economically feasible projects in the area. The zoning change would allow the applicants to expand their existing apartment complex. The Planning Commission has a policy of generally supporting the expansion of existing businesses.

5. Impact of the proposed development on community facilities: The impact of this development on the community facilities will be minimal, with the exception of an expected increase in local traffic generated by the proposed multi-family residential development.