

ORDINANCE NO. 48.105

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. ZON2008-00044

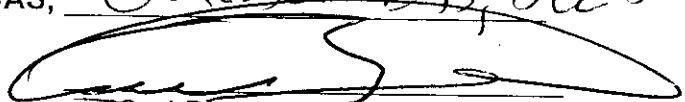
Zone change from TF-3 Two-family Residential ("TF-3") to Neighborhood Retail ("NR") on property described as:

Lots 45, 46 and 47, Block 1, Academy Park Addition to the City of Wichita, Sedgwick County, Kansas; generally located north and west of the intersection of West Douglas Avenue and North Meridian Avenue (2514 W. Douglas Avenue)

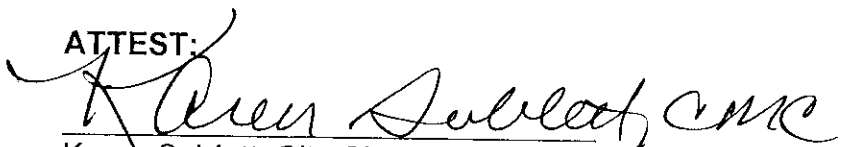
SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

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, October 28, 2028

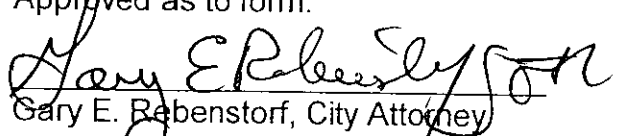

Carl Brewer - Mayor

ATTEST:


Karen Sublett, City Clerk



Approved as to form:


Gary E. Rebenstorf, City Attorney



STAFF REPORT

MAPC September 11, 2008

DAB VI September 8, 2008

CASE NUMBER: ZON2008-00044

APPLICANT/AGENT: Wayne & Vev Kessler (Owner & Applicant)

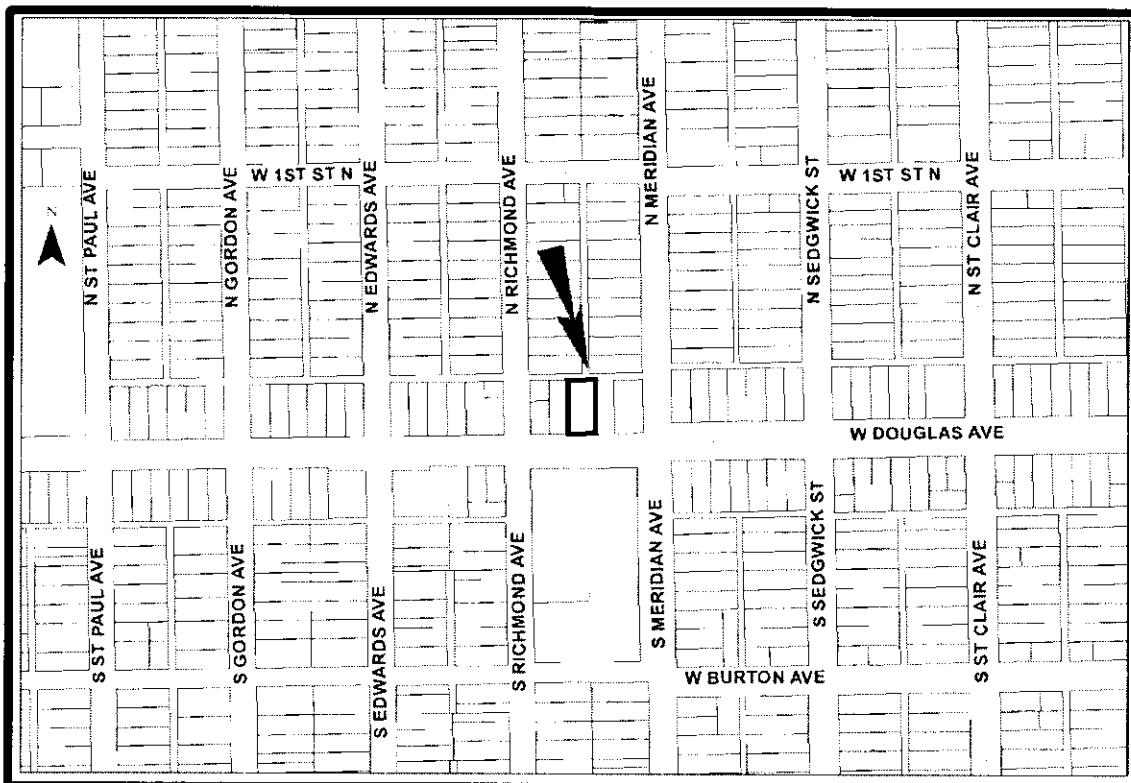
REQUEST: NR Neighborhood Retail ("NR")

CURRENT ZONING: TF-3 Two-family Residential ("TF-3")

SITE SIZE: Total Area = .25 Acres

LOCATION: Generally located north of Douglas Avenue and 150 feet west of Meridian Avenue (2514 W. Douglas Avenue).

PROPOSED USE: Retail Use



BACKGROUND: The applicant requests a zone change from TF-3 Two-family Residential (“TF-3”) to NR Neighborhood Retail (“NR”) on a 0.25-acre piece of property generally located north of Douglas and west of Meridian Avenue. The property requesting the rezone is currently developed as a retail use in a structure that was built in 1945.

The surrounding property to the north and west is zoned TF-3 and mostly occupied by single-family homes, with some vacant lots scattered through the neighborhood. The property to the south of Douglas is zoned LC Limited Commercial (“LC”) and currently has a vacant Dillons store on the site. Property directly to the east of the subject site is zoned LC and is developed with retail uses. Other uses along Douglas to the east include retail and office uses and residential uses to the west.

CASE HISTORY: The property is platted as Lots 45, 46 and 47, Block 1, Academy Park Addition, recorded February 9, 1909.

ADJACENT ZONING AND LAND USE:

NORTH:	TF-3	Residence
SOUTH:	LC	Vacant Commercial Property
EAST:	LC	Retail
WEST:	TF-3	Residence

PUBLIC SERVICES: Douglas is a two-lane minor arterial with recorded 2007 annual average daily traffic was 7,500 vehicles per day on Douglas west of Meridian. All normal public services are available.

CONFORMANCE TO PLANS/POLICIES: The “Wichita Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies the requested rezoning tract as appropriate for “local commercial.” The requested rezoning to NR is in conformance with the local commercial designation for the property along Douglas. This category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of recommended uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities.

In terms of conformance with commercial goals/objectives/strategies and locational guidelines, the application conforms with the **Commercial/Office Objective** to “Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses.” **Strategy III.B.6** recommends that traffic generated by commercial activities be channeled to the closest major thorough-fare with minimum impact upon local residential streets.

Commercial Locational Guidelines #3 recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use; **#5** commercially-generated traffic should not feed directly onto local residential streets; and **#6** commercial uses that are not located in planned centers or nodes (including large free-standing buildings,

auto-related and non-retail uses) should be guided to other appropriate areas, including established areas of similar development.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends the zone change be APPROVED.

This recommendation is based on the following findings.

1. **The zoning, uses and character of the neighborhood:** The surrounding property to the north and west is zoned TF-3 and mostly occupied by single-family homes, with some vacant lots scattered through the neighborhood. The property to the south of Douglas is zoned LC Limited Commercial ("LC") and currently has a vacant Dillons store on the site. Property directly to the east of the subject site is zoned LC and is developed with retail uses. Other uses along Douglas to the east include retail and office uses and residential uses to the west.
2. **The suitability of the subject property for the uses to which it has been restricted:** The property to the east and south is zoned LC. The rezoning tract has been occupied by the same retail use for some time, and at this time, it is unlikely that any single-family or duplex development would occur on the site if it were retained in TF-3 zoning.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Approval of NR zoning on this property, and the existing use should not have a detrimental effect on the surrounding property. The existing use has been in operation for many years and fits well as a buffer between a residential area and the intersection of Douglas and Meridian.
4. **The relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** If the property remains zoned TF-3, the applicant would remain a non-conforming use which could create a financial hardship on the applicant if any damage were to occur to the structure or property. There should no change to public health, safety of welfare since the use will not change from what is currently being operated on the property.
5. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The "Wichita Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies the requested rezoning tract as appropriate for "local commercial." The requested rezoning to NR is in conformance with the local commercial designation for the property along Douglas. This category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of recommended uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities.

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6. **Impact of the proposed development on community facilities:** The should not be a significant impact on public service or traffic since the use is existing and no changes are planned for the site.