

ORDINANCE NO. 48-628

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. ZON2009-00038**

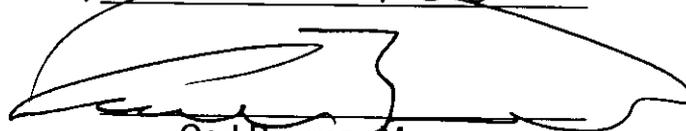
Zone change from SF-5 Single-family Residential ("SF-5") to TF-3 Two-family Residential ("TF-3") on property described as:

Lot 37, Davis Gardens Addition, Wichita, Sedgwick County, Kansas; generally located north of Central Avenue, west of, west of Sheridan Avenue, on the south side of Elm 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 AT WICHITA, KANSAS,

*March 2, 2010*  
  
Carl Brewer - Mayor

ATTEST:

  
Karen Sublett, City Clerk



Approved as to form:

  
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Gary E. Rebenstorf, City Attorney

City of Wichita  
City Council Meeting  
February 23, 2010

To: Mayor and City Council

Subject: ZON2009-00038 & CON2009-44 - City zone change from SF-5 Single-family Residential ("SF-5") to TF-3 Two-family Residential ("TF-3") with a Conditional Use request for multiple duplexes on a single lot; generally located north of Central Avenue, west of Sheridan Avenue. (District VI)

Initiated By: Metropolitan Area Planning Department *JLS*

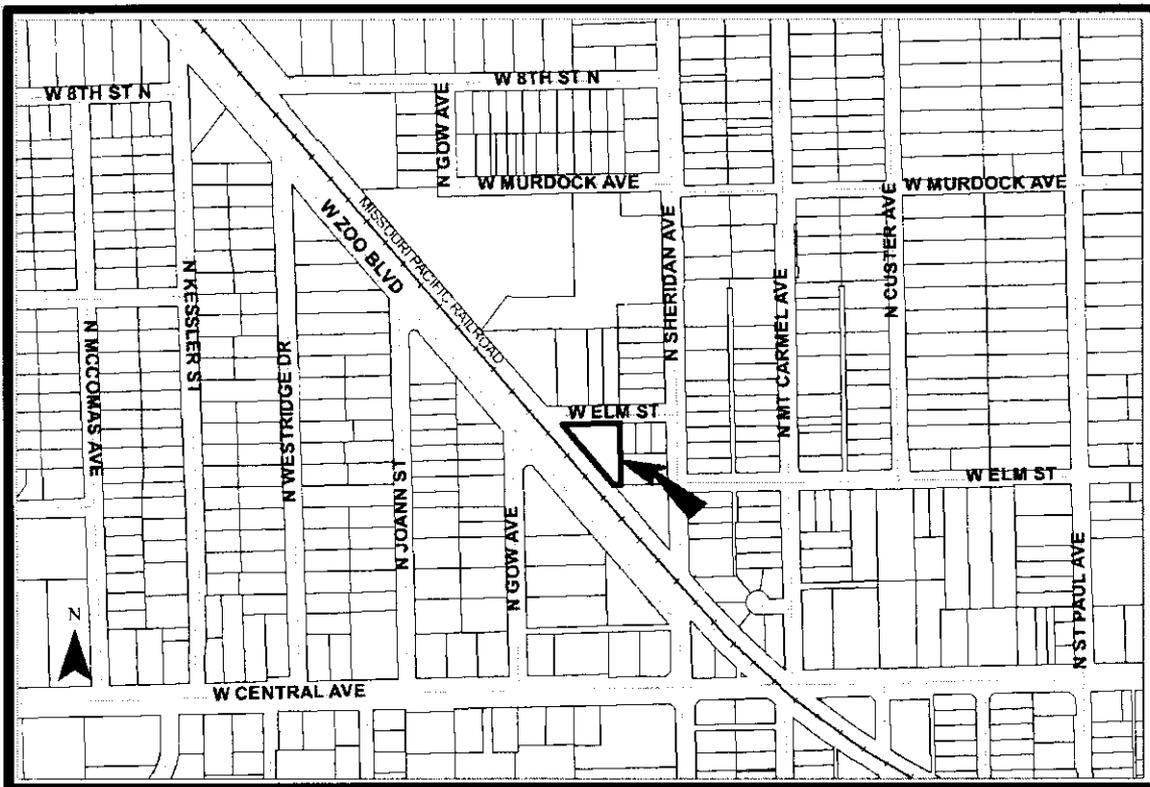
Agenda: Planning (Consent)

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**MAPC Recommendations:** Approve (9-0), subject to staff recommendations.

**MAPD Staff Recommendations:** Approve, subject to conditions and DAB VI's amended condition.

**DAB VI Recommendations:** Approve unanimously (7-0), subject to staff recommendation and an amended condition.



**Background:** The applicant is requesting TF-3 Two-family Residential (“TF-3”) zoning on the undeveloped, 0.47+/- acre zoned SF-5 Single-family Residential (“SF-5”) subject site; Lot 37, Davis Gardens Addition. The applicant also proposes a Conditional Use for multi-family residential, three duplexes (six dwelling units) on the one lot. A single duplex is meant to be developed on one lot. The minimum lot size for a duplex is 6,000-square feet. The Unified Zoning Code (UZC, Art III, Sec. III-B.6.c) permits a Conditional Use for Multi-family Residential development on a TF-3 zoned lot up to a density of 14.5 dwelling units per acre. The proposed three duplexes on the 0.47-acre site qualify as multi-family residential development that is within the UZC’s maximum density of 14.5 dwelling units per acre. As proposed, the density will be approximately 13.6 dwelling units per acre if this lot was one-acre in size.

The site plan shows the proposed layout of the three duplexes on the triangular shaped lot. It shows each duplex having an attached two car garage serving both dwelling units. The UZC requires one off-street parking space per dwelling unit for a duplex, and the garage qualifies for the required off street parking; Art IV, Sec IV-A.4 and A.7. The site plan shows additional off-street parking along the site’s Elm Street (right-of-way, ROW) frontage and within the front setback. The UZC permits additional off-street parking for duplexes in residential zoning districts when the setback area of the lot is abutting a street having on-street parking limitations and there is no reasonable access to the interior side or rear setbacks, provided that the total surfaced area within the setback shall not exceed 750-sqaure feet or 50% of the required setback, whichever is greater; Art IV, Sec IV-A.6-a (4). As presented on the site plan, the proposed additional off-street parking does not meet this standard. The proposed duplexes will be approximately 800-square feet, have two bedrooms, one bath, 12-inch lap, Hardie-board type of siding, with gable roofs and the before mentioned attached two car garage; the proposed duplexes will look very similar to the duplexes abutting the east side of the site.

Development in the area is a mix of mostly single-family residences, some two-story apartments and scattered duplexes. Zoning in the area is mostly SF-5, with some B Multi-family Residential (“B”) and MF-29 Multi-family Residential (“MF-29”) zoning located along an active railroad track (RR tracks) and scattered TF-3 zoning. Properties north of the site, across Elm Street, are zoned SF-5 and are developed as single-family residences (built 1940s) or are not developed. B zoned apartments abut the north side of the vacant SF-5 zoned lot. Properties abutting the east side of the site are developed as three duplexes zoned TF-3 (ZON2005-09/CON2005-09) and as a group of two-story apartments zoned MF-29 (Z-2431). A portion of the MF-29 zoning abuts the south side of the site with an active RR track and Zoo Boulevard abutting the rest of the south and west sides of the site. There is no access across the RR tracks and Zoo Boulevard from the site and the immediate area, with both Elm Streets and Sheridan Avenue dead ending as cul-de-sacs at the RR tracks. The site has frontage on Elm Street, a sand and gravel local residential street.

**Analysis:** At the DAB VI meeting held on January 20, 2010, the DAB considered the requested TF-3 zoning and a Conditional Use to permit three duplexes on the rezoned, platted 0.47-acre site, subject to the following conditions of CON2009-44:

1. The site shall be limited to three duplexes and six total dwelling units.
2. The site shall be developed in general conformance with an approved site plan.
3. Development on the site shall conform to all applicable codes to include zoning, building, landscape, housing and health codes.
4. Provide a no protest petition for the paving of Elm Street, to be recorded with Public Works.
5. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The DAB recommended approval (7-0) of the requested TF-3 zoning. The DAB approved CON2009-44, but amended condition #1 as underlined:

1. The site shall be limited to a maximum of three duplexes for a total of six total dwelling units.  
The site shall provide one additional parking space per duplex, beyond the Unified Zoning

Code's (UZC) required one parking space per duplex. Location of all parking shall conform to the UZC's standards and be shown on a revised and approved site plan.

There were no members of the public that spoke in opposition at the DAB meeting.

At the MAPC meeting held on January 21, 2010, the MAPC voted to approve (9-0) the requested TF-3 zoning and CON2009-44, to permit three duplexes on the rezoned, platted 0.47-acre site, subject to the conditions as recommended by staff and the amendment to condition #1 by DAB VI. There were no members of the public that spoke in opposition at the MAPC meeting.

Because there have not been any protests recorded for the requested TF-3 zoning change and CON2009-44, the recommendation for approval for CON2009-44 by the MAPC is final; the Council's action is limited to the requested TF-3 zoning.

**Financial Considerations:** The applicant will provide a no protest petition for the paving of Elm Street, to be recorded with Public Works.

**Goal Impact:** Promote Economic Vitality

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

**Recommendation/Actions:**

1. Concur with the findings of the MAPC, and approve the zone change; place the ordinance establishing the zone change on first reading.

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

**Attachment:** Ordinance.