

Agenda Item # _____

**City of Wichita
City Council Meeting
February 5, 2002**

Agenda Report # _____

TO: Mayor and City Council Members

SUBJECT: **ZON2001-00075** – Request for zone change to “GC”
General Commercial, and
CUP2001-00045 – An amendment to DP-221 to allow auto
vehicle repair, general, and vehicle sales on Parcels 1 and 2.
Generally located north of Hendryx and east of Julia.
(District V)

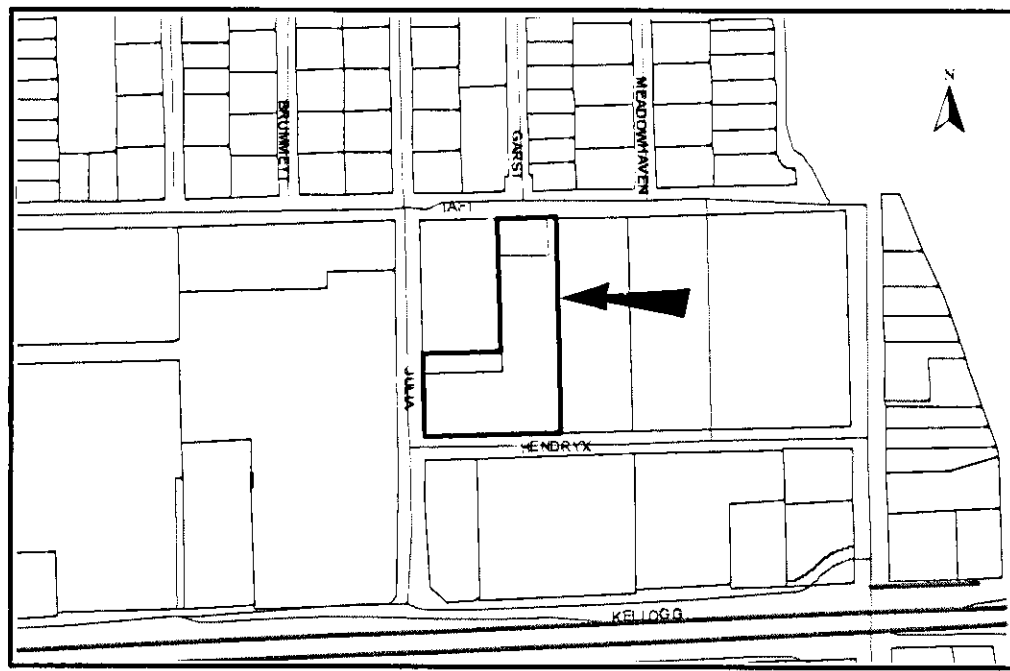
INITIATED BY: Metropolitan Area Planning Department 

AGENDA ACTION: Planning

MAPC Recommendation: Approve, subject to conditions. (10-0).

Staff Recommendation: Approve, subject to conditions.

DAB Recommendation: Approve, subject to MAPD staff recommendation. (9-0).



BACKGROUND: The applicant is requesting to rezone a 3.75 acre tract from "LC" Limited Commercial to "GC" General Commercial and to amend DP-221 West Kellogg Power Center Community Unit Plan. The amendment would permit vehicle and equipment sales and vehicle repair, general, on Parcels 1 and 2 located on the northwest corner of Julia and Hendryx. It would be for the expansion of the Donovan Pontiac Cadillac Volkswagon car dealership, which is currently located across Hendryx, immediately south of the application area.

No other "GC" uses have been requested by the amendment, and no other changes to the general provisions of the C.U.P. were requested.

Parcels 1 and 2 are the last two parcels of DP-221 West Kellogg Power Center to be developed. A new retail building for Ebersole Lapidary Supply currently is under construction on the adjoining parcel to the east. Furniture Row occupies the next parcel to the east, which is the largest parcel in the C.U.P. Candlewood Suites is located on the parcel to the northwest of the application area.

The surrounding area to the south and west includes several major retail/commercial uses on properties zoned "GC". These include Wal-Mart, Sam's Club, Scotsman Inn, Motel 6, Denny's and Holiday Inn Airport. Kellogg is located south of the uses. The Wichita-Valley Center Floodway (the "Big Ditch") and I-235 is located to the east of the C.U.P.

The property to the north of Taft (the northern boundary of the C.U.P.) is zoned "SF-5" Single-Family and developed with single-family houses on ¼ to ½ acre lots, except for a two acre tract immediately north of the application area with a single residence and the next tract to the north which is vacant.

The application area is located under a flight approach path to the Mid-Continent Airport and is located in Area (A) of the Wichita Airport Hazard Zoning Map, which has a maximum height limit of 25 feet for any structure without requiring a permit. During the initial approval of this case, the Wichita Airport Authority indicated that the height of 35 feet was acceptable and would not create a hazard for aircraft approaching the airport, but would require a permit. This amendment does not alter the existing height requirements, but a clarification of this requirement should be added to the C.U.P. document.

The C.U.P. already requires additional landscaping and an eight-foot screening wall for service areas facing the residential district along Taft. It should be noted, however, that none of these buffering requirements protect the adjoining property to the west, Candlewood Suites, from the more intensive "GC" uses requested by this application.

At the District V Advisory Board meeting held January 7, 2002, the Board voted (9-0) to recommend approval subject to Staff recommendations. Concerns were whether there was a need for screening requirements between lots within the C.U.P. and screening of vehicles awaiting repair. The applicant stated that he intended to provide more amenities than required.

At the MAPC meeting held January 10, 2002, MAPC voted (10-0) to recommend approval subject to Staff recommendations. A neighbor in the residential area to the north of the application area expressed concerns that no direct access be allowed onto Taft and that the property be adequately screened, landscaped, and operated to avoid excess light and noise in their neighborhood.

Recommended Action:

1. Concur with the findings of the MAPC and approve the zone change and C.U.P. Amendment #1, subject to the recommended conditions; approve first reading of the ordinance; or
2. Return the application to the MAPC for reconsideration

(An override of the Planning Commission's recommendation requires a 2/3 majority vote of the membership of the governing body on the first hearing.)

*First
Read
2-5-02
Duplicate*
(150004) Published in The Wichita Eagle on FEB 16 2002

ORDINANCE NO. 45-213

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. ZON2001-00075

Request for zone change from "LC" Limited Commercial to "GC" General Commercial property described as:

Lot 1, West Kellogg Power Center Addition, Sedgwick County, Kansas together with Lot 2, West Kellogg Power Center Addition, Sedgwick County, Kansas, except the North 380 feet of the West 227 feet thereof and except the East 200 feet thereof. Generally located north of Hendryx and east of Julia.

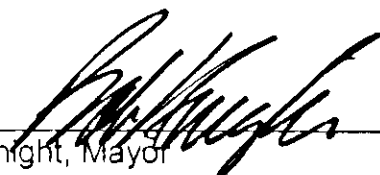
SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

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, FEB 12 2002

ATTEST:

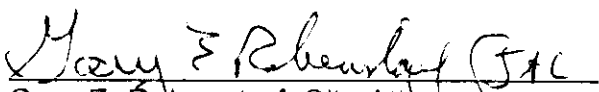

Pat Burnett, City Clerk


Bob Knight, Mayor

(SEAL)



Approved as to form:


Gary E. Rebenstorf, City Attorney

STAFF REPORT

MAPC January 10, 2002

DAB V January 7, 2002

CASE NUMBER: ZON2001-00075 & CUP2001-00045 DP-221 West Kellogg Power Center Amendment #1

APPLICANT/AGENT: BA, LLC, (owner); Les Donovan (contract purchaser); Baughman Company, P.A. c/o Russ Ewy (agent)

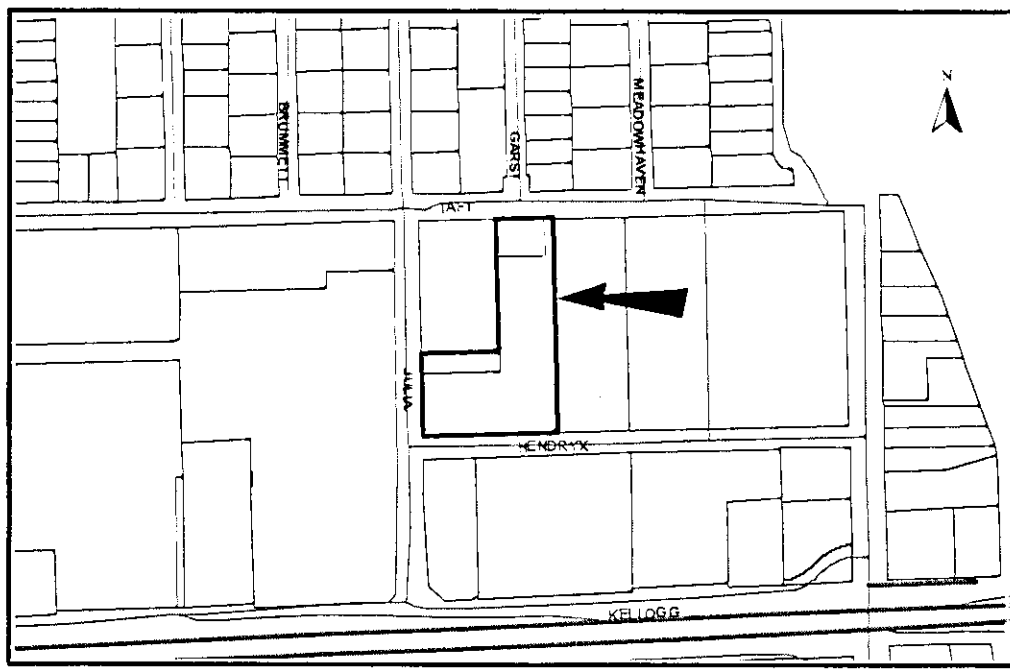
REQUEST: Zone change to "GC" General Commercial and amendment to DP-221 West Kellogg Power Center C.U.P. to allow auto vehicle repair, general, and vehicle sales on Parcels 1 and 2

CURRENT ZONING: "LC" Limited Commercial

SITE SIZE: 3.75 acres

LOCATION: North of Hendryx and east of Julia

PROPOSED USE: Auto sales and auto body shop



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CASE HISTORY: DP-221 West Kellogg Power Center Community Unit Plan was

originally approved March 28, 1996. The property was platted as West Kellogg Power Center Addition in September 1996. The 210-foot setback from Hendryx was vacated (VAC2001-00029) on September 11, 2001.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-5" Single Family	Residences
EAST:	"LC" Limited Commercial	Retail (Ebersole Lapidary, Furniture Row), Big Ditch, I-235
SOUTH:	"GC" General Commercial	Car dealership, hotels, restaurant, Kellogg
WEST:	"GC" General Commercial	Wal-Mart, Sam's Club

PUBLIC SERVICES: Transportation access is via Julia (Parcel 2) and Hendryx (both parcels). Hendryx is a local street. Julia from Kellogg to Taft is also a local street, but is a collector north of Taft to Maple. There is complete access control from Parcel 2 to Taft, which is a local street from the Big Ditch to Julia. Taft becomes a collector west of Julia.

Other normal municipal services are available.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide in the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* shows the subject parcel for "commercial" use. The development of these parcels for the new uses requested would conform to the III.B Land Use-Commercial/Office Strategy 5 of "Confine highway-oriented uses, outdoor sales and non-retail commercial uses to highway corridors and established urban areas containing similar concentrations of uses (e.g. portions of Kellogg, Broadway, the CBD fringe."

The general provisions of the C.U.P. already requires landscaping, a deep setback along Taft (100 feet), and the shielding of lights away from residential areas. These provisions help separate the proposed commercial uses on the tract from the residential area to the north of Taft, in conformance with the Commercial Locational Guidelines #3, stating: "Commercial development should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses."

RECOMMENDATION:

Based on this information, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to the following conditions:

- A. APPROVE the zone change (ZON2001-00075) to "GC" General Commercial for Parcels 1 and 2.
- B. APPROVE the Amendment #1 to DP-221 West Kellogg Power Center Community Unit Plan (CUP2001-00045) subject to the following conditions:
1. Permitted uses for Parcels 1 and 2 are those permitted by right in the "LC" Limited Commercial district plus "vehicle repair, general" and "vehicle and equipment sales".
 2. Vehicle and equipment sales shall conform to the requirements of Section III-D.6.hh of the Unified Zoning Code.
 3. General Provision #6 shall be revised to state that Parcels 1 and 2 shall conform to signage restrictions of the "LC" Limited Commercial zoning district, and that no temporary display signs are permitted on any parcel developed with auto sales, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons.
 4. No elevated platforms for the display of vehicles or equipment shall be permitted on Parcels 1 and 2.
 5. A general provision shall be added to state: "All repair activities shall take place indoors, and any overhead doors on the north elevation shall remain closed except to permit vehicles to enter or leave the building.
 6. A general provision shall be added to state: "No outside storage of salvaged vehicles or parts shall be permitted in conjunction with vehicle and equipment sales or vehicle repair, general".
 7. A general provision shall be added to state: "Any structure exceeding 25 feet in height shall receive appropriate permits and approvals, per the Wichita Airport Hazard Zoning Code.
 8. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the Plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
 9. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.

10. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
11. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The zoning is "GC" General Commercial to the south and west and is developed with intensive retail/commercial uses including a car dealership, Wal-Mart, Sam's Club, several hotels and a restaurant. The property to the east also is retail but is less intensive; including a specialty retail shop and a furniture complex, on property zoned "LC" Limited Commercial. Also, the adjoining property to the northwest, Parcel 4, is a hotel on property zoned "LC", which is much less intensive than the requested "GC" uses for Parcels 1 and 2. The property to the north is low density residential zoned "SF-5" Single-Family Residential.
2. The suitability of the subject property for the uses to which it has been restricted: The property is suitable for "LC" uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request will introduce additional open storage and more intense uses than are currently permitted on the other parcels in the C.U.P. Auto body shops tend to generate more noise and odors than less intense auto repair uses and vehicle and equipment sales include outdoor display. The proposed amendment keeps a 100-foot setback along Taft, landscaping, screening, and lighting provisions that help buffer the use from the residential area to the north. No provisions are in place to screen the uses from the adjoining parcel (Parcel 4).
4. Length of time the property has remained vacant as zoned: The property has vacant for five years since its original approval as a C.U.P.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The requested change is in conformance with the "commercial" designation on *Comprehensive Plan*, and generally supports the Commercial Locational Guidelines with respect to buffering from residential

areas with landscaping, screening, and setbacks.

6. Impact of the proposed development on community facilities: The proposed changes should not impact traffic any more than currently permitted uses.