(OCA150004 BID 37529-009 CID #76383)

Published in The Wichita Eagle on 3-6-15

ORDINANCE NO. 49-943

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. ZON2011-00018

Zone change request from Single-Family Residential (SF-5) to Limited Commercial (LC) on property described as:

That part of Lot 1, Block A, Mike Steven Motors 2nd Addition, Wichita, Sedgwick County, Kansas described as follows: Beginning at the most easterly southeast corner of said Lot 1; thence S89°50'34"W along the most easterly segment of the south line of said Lot 1, 133.10 feet for a point of beginning; thence continuing S89°50'34"W along the most easterly segment of the south line of said Lot 1, 134.92 feet to a deflection corner in said south line; thence N00°02'43"W along a segment of the south line of said Lot 1, 5.14 feet to a deflection corner in said south line; thence continuing N00°02'43"W along the extension of the last described course, 103.78 feet; thence N89°50'43"E, 134.96 feet; thence S00°00'30"E, 54.37 feet; thence S00°02'02"E, 54.54 feet to the point of beginning.

Generally located West of Rock Road, on the South Side of Kellogg.

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 this 3 **day of** March **20**15.

ATTEST:

Karen Sublett, MMC

Karen Sublett, City Clerk

Carl Brewer, Mayor

THE CITY OF WICHITA SEAL SEDGWICK COUNTY KANSAS

APPROVED AS TO FORM:

Sharon L. Dickgrafe, Interim City Attorney
& Director of Law

WICHITA–SEDGWICK COUNTY
W-SC
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 6

STAFF REPORT

MAPC June 23, 2011

CASE NUMBER: CUP2011-00017 and ZON2011-00018 DP-308 Mike Steven Motors Community Unit Plan Amendment #1

APPLICANT/AGENT: NEVETS, Inc (Attn: Harold Johnson) and Eugene F. Roberts (owners); Baughman Company, PA c/o Russ Ewy (agent)

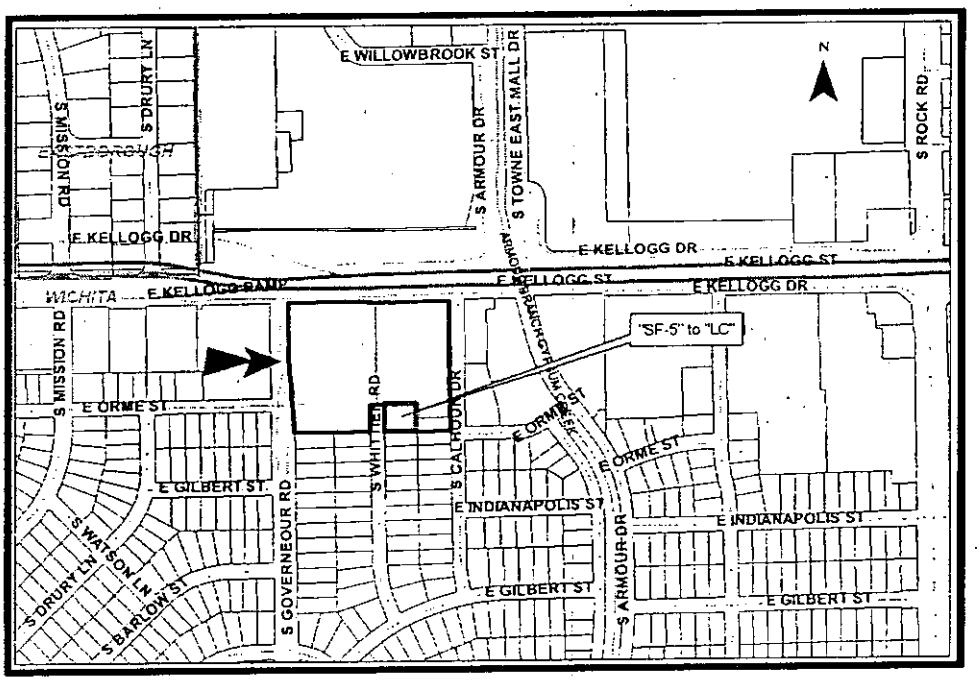
REQUEST: Zone change to LC Limited Commercial ("LC") and Amendment #1 to DP-308 to add property to the CUP

CURRENT ZONING: LC and SF-5 Single-Family Residential ("SF-5")

SITE SIZE: 8.03 acres (CUP amendment); 0.34 acre (zone change)

LOCATION: South of Kellogg Drive between Governeour Road and Calhoun Drive, on the northern terminus of Whittier Road (542 S. Whittier Road).

PROPOSED USE: Vehicle sales



BACKGROUND: The applicant requests a City zone change (ZON2011-00018) from SF-5 Single-Family Residential ("SF-5") to LC Limited Commercial ("LC") for Lot 1 and the west 37 feet of Lots 2 and 3, Keys 2nd Addition (542 South Whittier Road). The second part of the request is City DP-308 Mike Steven Motors Community Unit Plan ("CUP") Amendment #1 to add the proposed rezoning tract to the CUP, and to combine all property within the CUP into a single parcel, approximately eight acres in size. The site is located south of Kellogg Drive between Governeour Road and Calhoun Drive. The property owner is redeveloping the site with a new facility for an auto dealership.

When the existing CUP was platted, Mike Steven Motors Addition, a contingent dedication of 47 feet of right-of-way, flanked by a 15-foot street, drainage and utility easement was recorded for future construction of Orme Street between Governeour Road and Calhoun Drive. The contingent dedication solves a critical missing link in connecting Orme Street to points further east and west, and in providing effective circulation in the application area. Orme Street provides a second means of circulation benefiting the customers of the commercial properties located along the southern edge of Kellogg between Woodlawn and Armour, as well as completes the grid for the residential neighborhood to the south. The property now proposed for incorporation into the CUP has been the missing connection between Woodlawn and Armour Drive.

Retaining the contingent dedication is a net change of less than 0.12 acre, once a compensatory vacation of the remainder of Whittier north of the Orme Street link is made, taking into account the trading of the street for a hammer-head turnaround with the closure of Whittier Road. For approximately 0.10-acre of land, the city's street network could be improved in this segment benefitting the residents on Governeour Road, Whittier Road and Calhoun Drive. Two concerns related to the planned construction can be handled in the following manner. First, the applicant already built a masonry wall upon the contingent dedication. According to Public Works, the city would allow the south masonry wall to remain, providing a good buffer for the residents to the south. Second, the building plans for the new building encroach into the 35-foot setback shown on the contingent dedication of the CUP. The recommendation would be to allow the setback to be reduced from 35 feet to 12 feet for the western 100 feet of the south property line to accommodate the proposed construction plans.

The surrounding property is mostly zoned LC along Kellogg except for the tract immediately to the north that is a Planned Unit Development #16 ("PUD") for an auto dealership. The LC uses to the northeast consist of a major shopping mall and associated outparcels, Towne East (DP-12). A hotel on property zoned LC and GO General Office ("GO") is located directly to the east. Other car dealerships on property zoned LC are located directly to the west. All property to the south, southeast and southwest is developed with single-family housing zoned SF-5.

CASE HISTORY: The property is platted as Mike Steven Motors Addition, recorded December 1, 2008, and Keys Second Addition, platted April 12, 1954. DP-308 was approved March 4, 2008. Previously the property was platted as E.M. Stevens 3rd Addition and Chrysler Addition. Previous BZA approvals (BZA24-81, BZA4-84 and BZA59-85) permitted to the use

of the property for new and used car sales and associated uses, but these variances were replaced by the CUP approval in 2008. VAC2010-00034 vacated some platted easements on the subdivision plat.

ADJACENT ZONING AND LAND USE:

NORTH:	PUD, LC	Kellogg expressway, car dealership, Towne East
SOUTH:	SF-5	Single-family residential
EAST:	LC, GO, SF-5	Hotel, car dealership, single-family residential
WEST:	LC, SF-5	Car dealership, single-family residential

PUBLIC SERVICES: Kellogg is the main cross-town expressway and direct access for DP-308 is to the Kellogg Drive frontage road that is a one-way pattern down to Armour Drive, where one can cross under the elevated highway to turn around to travel west. Governeour Road is a divided street with landscaping in the middle. Whittier Road and Calhoun Drive are local streets. All customary public services are available to serve the property.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "regional commercial." The development is in conformance with this recommendation. The proposed CUP complies with **Commercial Goal/Objective B** of "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." The CUP has requirements designed to minimize the impact of the development on the residential areas to the south. The proposed use conforms to **Commercial Locational Guideline #1** of the *Comprehensive Plan* that recommends that commercial sites should be located adjacent to principal streets.

RECOMMENDATION: Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to dedication of the right-of-way along the southern 47 feet of the tract to be rezoned and street, drainage and utility easement along the 15 feet abutting the right-of-way, and to the following conditions:

A. APPROVE the zone change (ZON2011-00018) to LC.

B. APPROVE DP-308 (CUP2011-00017), subject to the following conditions:

1. The CUP shall be revised to provide the missing segment of 47-foot right-of-way and 15-foot for street, drainage and utility easement for Orme Street.
2. General Provision # 1 and Parcel 1 description shall be revised to accommodate the changed boundaries, reflecting a maximum building coverage of 30 percent and gross floor area of 35 percent.
3. The setback may be reduced from 35 feet to 12 feet for the western 100 feet of the south property line.
4. General Provision #10 shall be changed to delete references to Parcel 2.
5. Any major changes in this development plan shall be submitted to the Planning

Commission and to the Governing Body for their consideration.

6. 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.
7. The ordinance/resolution establishing the zone change shall not be published until the platting has been recorded with the Register of Deeds.
8. The applicant shall submit four revised copies of the CUP 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 surrounding property is mostly LC along Kellogg except for the tract immediately to the north that is a Planned Unit Development #16 ("PUD") for an auto dealership. The LC uses to the northeast consist of a major shopping mall and associated outparcels, Towne East (DP-12). A hotel on property zoned LC and GO General Office ("GP") is located directly to the east. Other car dealerships on property zoned LC are located directly to the west. All property to the south, southeast and southwest is developed with single-family housing zoned SF-5.

2. The suitability of the subject property for the uses to which it has been restricted: The property is suited for the uses to which it has been restricted; however incorporation of the SF-5 tract into the CUP for commercial use and the resulting street connection would be a more suited development pattern.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The conditions of the CUP and the presence of the masonry wall will mitigate any additional impacts from the use beyond those already present by the existing development that occurs on all but 0.10 acre of land.

4. Length of time the subject property has remained vacant as zoned: The rezoning tract has been in residential use until the sale of the property to the applicant.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "regional commercial." The development is in conformance with this recommendation. The proposed CUP complies with **Commercial Goal/Objective B** of "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." The CUP has requirements designed to minimize the impact of the development on the residential areas to the south. The proposed use conforms to **Commercial Locational Guideline #1** of the *Comprehensive Plan* that recommends that commercial sites should be located adjacent to principal streets.

7. Impact of the proposed development on community facilities: The effect on acreage of the CUP is a net change is less than 0.12 acre, once a compensatory vacation of the remainder of Whittier north of the Orme Street link is made, taking into account the trading of street for a hammer-head turnaround for the closure of Whittier Road. For approximately 0.10 acre of land, the city's street network is improved in this segment and the residents on Governeour Road, Whittier Road, and Calhoun Drive.