

Published in The Wichita Eagle on _____

ORDINANCE NO. 47-899

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 2007-54

Request for a zone change from SF-5, Single-Family Residential District to LC, Limited Commercial District, for property described as: That part of Lot 1, Block A, Mike Steven Motors Addition, Wichita, Sedgwick County, Kansas described as follows: Beginning at the SE corner of said Lot 1, said SE corner being on the west right-of-way line of Calhoun Dr. as dedicated in Keys Second Addition to Wichita, Kansas; thence westerly along the south line of said Lot 1, 133.05 feet to a deflection corner in said south line; thence northerly along a line of said Lot 1, 54.46 feet to a deflection corner in said line; thence easterly, 133.12 feet to a deflection corner on the east line of said Lot 1, said east line also being the west right-of-way line of said Calhoun Dr.; thence southerly along the east line of said Lot 1, 54.43 feet to the point of beginning, Wichita, Sedgwick County, Kansas.

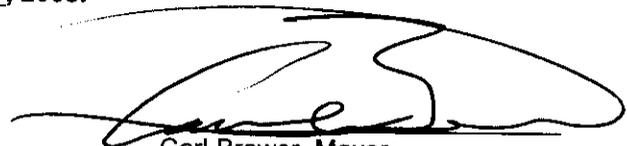
Generally located west of Rock Road and on the south side of Kellogg.

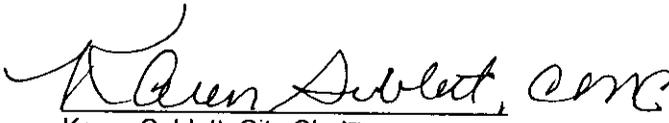
SECTION 2. That upon the taking effect of this Ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

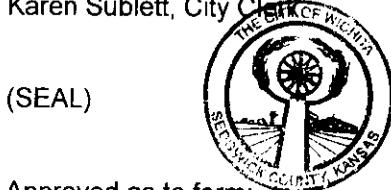
SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED this 20th day of May, 2008.

ATTEST:


Carl Brewer, Mayor


Karen Sublett, City Clerk



Approved as to form:


Gary E. Rebenstorf, City Attorney

BACKGROUND: The applicant proposes to create DP-308 Mike Steven Motors Community Unit Plan, containing approximately 7.5 acres on the block of property bounded by Kellogg Drive on the north, Gouverneur Road on the west, Calhoun Drive on the east with SF-5, residentially developed property to the south. Concurrently, 0.15 acre of the property zoned SF-5 would need to be rezoned to LC so that the majority of the CUP would be designated as LC, 0.5-acre of the subject property is zoned GC. One lot along Whittier Road, zoned SF-5, is excluded from this request and is owned by another private property owner.

The majority of this tract already is zoned LC and used for an automobile dealership. The proposed vacation of Whittier Road would consolidate the Mike Steven Motors holdings and triggers the need for a CUP since the overall tract would exceed six acres of LC zoning. The proposed use for the CUP is auto sales and leasing and associated uses. The east half of the site, platted as E.M Stevens 3rd Addition with one lot in the Keys 2nd Addition, consists of a showroom, service building and vehicle storage facilities. The existing structure, on the east half of the site, is proposed to be expanded and used as the main showroom, service building and vehicle storage facility. The west half of the site, platted as Chrysler Addition, currently has an existing service and showroom building which is proposed to be removed for additional vehicle display. The approval of the CUP is contingent on the vacation of S. Whittier Road, which currently divides the proposed CUP in half. With the vacation of the stretch of road, the CUP will become one whole parcel for the automobile dealership.

Maximum building coverage would be 30 percent and maximum gross floor area would be 35 percent. An exception to the setbacks could be made since the existing structure on the east part of the property is currently setback 10 feet from the east side property line and the planned addition to the existing structure would be setback 15 feet from the rear property line. Other than those two locations, the remainder of the setbacks within the CUP should be 35 feet. Maximum building height would be 35 feet. Signs shall be spaced a minimum of 150 feet apart except that the spacing between two signs on Kellogg that may be reduced to 120 feet. Building wall signs are prohibited on facades facing Gouverneur Road, Calhoun Drive, and the south towards the residential development. Freestanding signs shall be prohibited within the south 145 feet of Gouverneur Road, within the south 100 feet of Calhoun Road, except for directional signs denoting parking spaces within the property. Outdoor speaker systems and elevated platforms for vehicle display would be prohibited in accordance to Unified Zoning Code Article III, Section III-D.6.x.

Access control shall be as shown on the plan. Dedication of access control shall be granted by separate instrument or by replatting the property. Access drives spaced less than 50 feet apart along Kellogg Drive shall be consolidated into a single access point. Requested screening on the south property line and southwest corner of the property, adjacent to residential zoning, would be with a six to eight foot high concrete wall with a planting screen of evergreen trees at a rate of one tree per 20 linear feet in between the property line and the concrete wall.

The Kellogg freeway borders the property on the north. The land north of the freeway is developed as an automobile dealership with "PUD," Planned Unit Development, zoning, Town East Square, zoned LC, is located northeast of the site and the residential enclave, Eastborough, is located northwest of the subject site. To the east of the site is a hotel and restaurant, zoned LC and "GO," General Office. Another automobile dealership on property zoned LC is located west of Gouverneur Road. All property to the south is zoned "SF-5" Single-family Residential and is developed with single-family residences.

CASE HISTORY: Two plats are in effect on the property: E.M. Stevens 3rd Addition, recorded October 15, 1985; and Chrysler Addition, recorded March 10, 1970. Property rezoned since 1960 include Z-2329 from BB to LC (E.M. Stevens Third Addition), Z-2612 from AA to LC (E.M. Stevens Third Addition), Z-3008 from C to LC and LC to C (Chrysler Addition,) and Z-3024 from LC to C (Chrysler Addition.) BZA24-81 and BZA 4-84 were approved requests to permit the expansion of a new and used car sales lot, and BZA 59-85 was a request to amend a previously approved exception for a new or used car sales lot.

ADJACENT ZONING AND LAND USE:

NORTH:	LC, PUD, Eastborough	Kellogg freeway, Single-family, shopping center, automobile dealership
EAST:	LC	Hotel with restaurant
SOUTH:	SF-5	Single-family residential
WEST:	LC	Automobile dealership

PUBLIC SERVICES: Kellogg Drive is a one-way arterial frontage road for the Kellogg freeway (US-54) that is serviced from the Woodlawn on and off ramps. Traffic counts were not available for the frontage road. Other municipal services are available to the site.

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," which is the type of development proposed. The property south of the subject site is shown as "urban residential." **Commercial Objective III.B** encourages future commercial areas 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." The tract has good access due to its location on Kellogg. Access control would be requested on Gouverneur Road and the northern 425 feet of Calhoun Drive. **Strategy III.B.3** seeks to reduce access points along arterial streets; the number of access points requested on the CUP is to be in alignment with the arterial separation standards of the Access Management Policy. **Commercial Locational Guideline #1** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect

residential use. The proposed CUP restricts signage, the height of parking lot lighting to 15 feet and the prohibition of outdoor speakers in the CUP.

RECOMMENDATION: Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to replatting within one year, and subject to the following conditions:

- A. APPROVE the zone change (ZON2007-54) to LC Limited Commercial subject to replatting or dedication of access controls within one year;
- B. APPROVE the Community Unit Plan (DP-308), subject to the conditions of the CUP attached hereto and the following conditions:
 1. Parcel 1 shall be subject to the Unified Zoning Code Article III, Section III-D.6.x.
 2. Upon approval of the CUP, BZA59-85 and BZA39-65 shall be deemed superseded by the CUP requirements.
 3. A replat or dedication of access control to eliminate one access point on Kellogg as shown on the CUP shall be completed and the owner shall guarantee closure of the one drive. There will be one major access point along Kellogg Drive.
 4. A replat or dedication of access control to provide access control on Gouverneur Road, allowing one access opening, and access control along Calhoun Drive, allowing three access openings.
 5. Add to General Provision #2 that signs shall be spaced a minimum of 150 feet apart except that the spacing between two signs on Kellogg that may be reduced to 120 feet. Add that building wall signs are prohibited on facades facing towards the residential development south of the subject site. Freestanding signs shall be prohibited within the south 145 feet of Gouverneur Road, and within the south 100 feet of Calhoun Drive, except for directional signs denoting parking spaces within the property.
 6. 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.
 7. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
 8. 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.
 9. The applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-308) includes special conditions for development on this property.

10. 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 Kellogg freeway borders the property on the north. The land north of the freeway is developed with an automobile dealership with "PUD," Planned Unit Development, zoning, Town East Square, zoned "LC," Limited Commercial, is located northeast of the site and the residential enclave, Eastborough, is located northwest of the subject site. To the east of the site is a hotel and restaurant, zoned LC and "GO," General Office. Another automobile dealership on property zoned LC is west of Gouverneur Road. All property to the south is zoned "SF-5" Single-family Residential and in single-family residential use.
2. The suitability of the subject property for the uses to which it has been restricted: The area is most suitable for the LC zoning and uses so long as sufficient buffering and screening is provided along the south property line to protect the single-family residential neighborhood to the south.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The remaining property owner on property zoned SF-5 will be most affected by the rezoning as this property will be surrounded by intensive commercial use. The buffering and screening will provide some visual separation to the single-family homes on Gouverneur Road and to the south on Whittier Road and Calhoun Drive.
4. 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," which is the type of development proposed. The property south of the subject site is shown as "urban residential". **Commercial Objective III.B** encourages future commercial areas 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." The tract has good access due to its location on Kellogg. Access would be prohibited on Gouverneur Road and the northern 425 feet of Calhoun Drive. **Strategy III.B.3** seeks to reduce access points along arterial streets; the number of access points requested on the CUP is to be in alignment with the arterial separation standards of the Access Management Policy. **Commercial Locational Guideline #1** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that

may adversely affect residential use. The proposed CUP restricts signage, the height of parking lot lighting to 15 feet and the prohibition of outdoor speakers in the CUP.

5. Impact of the proposed development on community facilities: As proposed, no significant impacts.