

ORDINANCE NO. 48-379

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. ZON2009-00009

Zone change request from B Multi-family Residential ("B") to GC General Commercial ("GC") on properties described as:

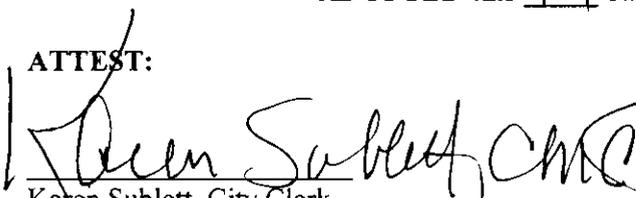
Lots 32, 34, 36 and 38, Martinson's 6th Addition to Wichita, Sedgwick County, Kansas; generally located on the southeast corner of Dodge Avenue and 1st Street.

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 this 19 day of May, 2009.

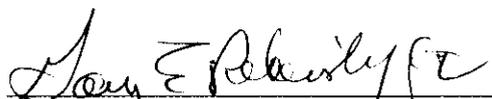
ATTEST:


Karen Sublett, City Clerk


Carl Brewer, Mayor



Approved as to form:


Gary E. Rebenstorf, Director of Law

ZON2009-00009

Wichita City Council – May 12, 2009

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AFFIDAVIT

STATE OF KANSAS \
- SS.
County of Sedgwick /

Mark Fletchall, of lawful age, being first duly sworn, deposeth and saith: That he is Record Clerk of The Wichita Eagle, a daily newspaper published in the City of Wichita, County of Sedgwick, State of Kansas, and having a general paid circulation on a daily basis in said County, which said newspaper has been continuously and uninterruptedly published in said County for more than one year prior to the first publication of the notice hereinafter mentioned, and which said newspaper has been entered as second class mail matter at the United States Post Office in Wichita, Kansas, and which said newspaper is not a trade, religious or fraternal publication and that a notice of a true copy is hereto attached was published in the regular and entire Morning issue of said The Wichita Eagle for 1 issues - weeks, that the first publication of said notice was

made as aforesaid on the 22nd of

May A.D. 2009 , with

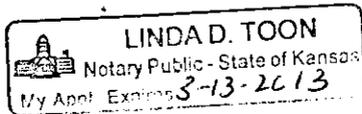
subsequent publications being made on the following dates:

And affiant further says that he has personal knowledge of the statements above set forth and that they are true.

Mark Fletchall

Subscribed and sworn to before me this

22nd day of May, 2009



Linda D. Toon
Notary Public Sedgwick County, Kansas

Printer's Fee : **\$29.40**

LEGAL PUBLICATION

Published In the Wichita Eagle
May 22, 2009 (2951710)
ORDINANCE NO. 48-329

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. ZON2009-00009

Zone change request from B Multi-family Residential ("B") to GC General Commercial ("GC") on properties described as: Lots 32, 34, 36 and 38, Martinson's 6th Addition to Wichita, Sedgwick County, Kansas; generally located on the southeast corner of Dodge Avenue and 1st 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 this 19th day of May, 2009.

ATTEST:

Karen Sublett, City Clerk

Carl Brewer, Mayor

RECEIVED

MAY 28 2009

METROPOLITAN PLANNING
DISTRICT

STAFF REPORT
MAPC April 9, 2009
Tentative City Council Date: May 13, 2009

CASE NUMBER: ZON2009-00009

APPLICANT/AGENT: Eaglenest Management, LLC, c/o Jeremy Rodrock
(Owner/Applicant)
Savoy Company, P.A., c/o Mark Savoy (Agent)

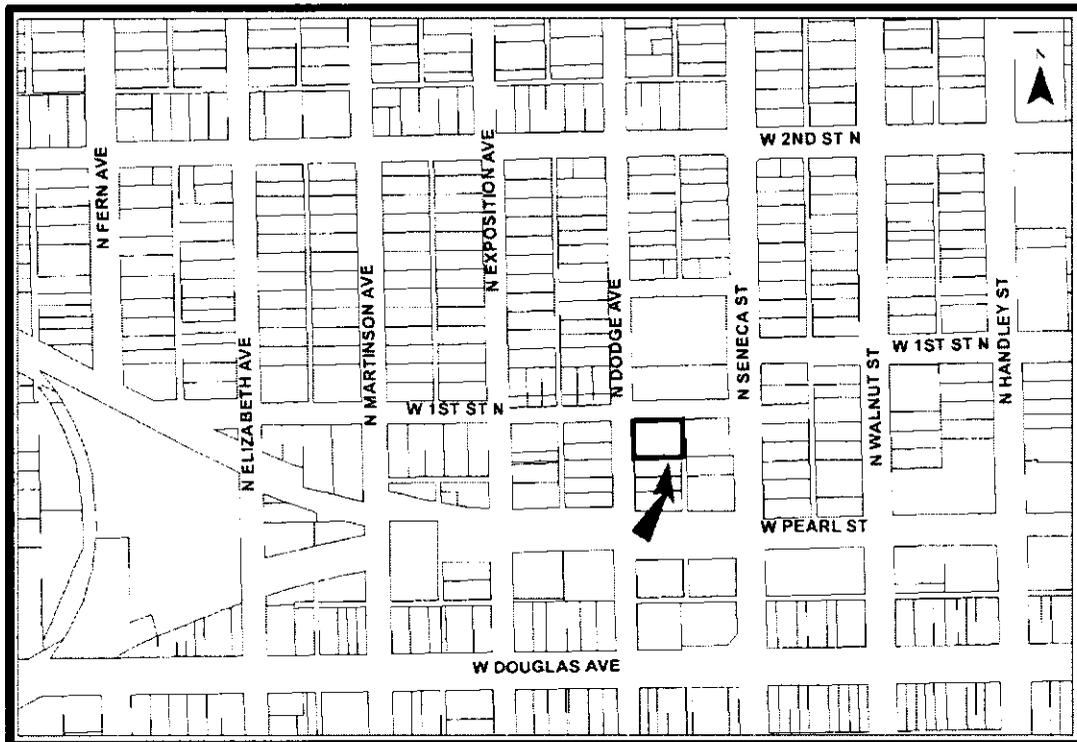
REQUEST: GC General Commercial ("GC")

CURRENT ZONING: B Multi-family Residential ("B")

SITE SIZE: 0.30 acre

LOCATION: Generally located on the southeast corner of Dodge Avenue and 1st Street.

PROPOSED USE: To match zoning on the remainder of the applicant's ownership



BACKGROUND: The applicant is requesting GC General Commercial (“GC”) zoning on Lots 32, 34, 36, 38 and half of the vacated alley on the east side of the site, Martinson’s 6th Addition, located at the southeast corner of Dodge Avenue and 1st Street. The site is currently zoned B Multi-family Residential (“B”), and is vacant. The site has access to Dodge Avenue and 1st Street, with Dodge being classified as a residential street and 1st being classified as an urban collector.

The site is part of a block-wide area with a majority of the area being zoned GC. The southeast corner is zoned LI Limited Industrial (“LI”) and the northwest corner (location of the subject site) is zoned B. Currently the only development on the block (warehouse/distribution center) is located directly to the south of the subject site, with the rest of the block remaining undeveloped. The applicant owns all the property on the block that fronts Dodge Avenue, and is requesting this zone change to match the zoning of the remainder of the applicant’s ownership on the adjacent property to the south to allow for the full development of the property.

Property to the east of the site is zoned GC, and is currently undeveloped. Property located north of 1st Street is zoned LC Limited Commercial (“LC”), and is developed with a general office use. Property south of the subject site, owned by the applicant, is zoned GC and is developed with a warehouse/distribution center. Property west of the subject site, across Dodge Avenue, is zoned SF-5 Single-family Residential (“SF-5”), and is developed with single-family residences.

CASE HISTORY: The site is currently located within the Delano Overlay District which was approved on April 11, 2003. The site is part of the Martinson’s 6th Addition, which was recorded with the Register of Deeds September 24, 1907.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	General Office
SOUTH:	GC	Warehouse
EAST:	GC	Vacant
WEST:	SF-5	Single-family Residence

PUBLIC SERVICES: All municipal services and utilities are available. Dodge Avenue is a paved residential street. 1st Street is a paved two-lane urban collector, while North Seneca Street is a paved four-lane principal arterial. Currently, there are approximately 30,000 average daily trips on the North Seneca Street near the 1st Street intersection. There appears to be 50-feet of right-of-way at this location along 1st Street and 60-feet of right-of-way for Dodge Avenue.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as “Local Commercial.” 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. On a limited presence basis,

these areas may also include mini-storage warehousing and small scale, light manufacturing. 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,” as well as **Strategy III.B.6** which recommends that “traffic generated by commercial activities be channeled to the closest major thorough-fare with minimum impact upon local residential streets.”

Commercial Locational Guideline #1 of the *Comprehensive Plan* recommends that commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion. The proposed development complies with this guideline. **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 such as the CBD fringe; segments of Kellogg; established areas of similar development; and, areas where traffic patterns, surrounding land uses and utilities can support such development.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request for the GC General Commercial (“GC”) zoning be **APPROVED**.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** Property to the east of the site is zoned GC, and is currently undeveloped. Property located north of 1st Street is zoned LC Limited Commercial, and is developed with a general office use. Property south of the subject site, owned by the applicant, is zoned GC, and is developed with a warehouse/distribution center. Property west of the subject site, across Dodge Avenue, is zoned SF-5, and is developed with single-family residences.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned “B” Multi-family Residential. The “B” district primarily restricts the site to residential uses. Given the existence of a commercial building immediately south of the application area, the ownership pattern, and the land being used for commercial and industrial uses to the north, south and east, similar to the subject site, this site is becoming less desirable for infill residential development.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The requested zone change of B to GC is in character with the area

and would not detrimentally affect nearby property, of which most of it is zoned LC, GC or LI and is developed with warehousing or office uses.

4. **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Approval of the request would allow for the possible legal expansion of an existing business onto a lot that is owned by the applicant. Failure to approve the request would make any expansion by this business at this location an illegal use on the current zoning.

5. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The Land Use Guide of the Comprehensive Plan identifies this area as “Local Commercial.” 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. On a limited presence basis, these areas may also include mini-storage warehousing and small scale, light manufacturing. 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,” as well as **Strategy III.B.6** which recommends that “traffic generated by commercial activities be channeled to the closest major thorough-fare with minimum impact upon local residential streets.”

6. **Impact of the proposed development on community facilities:** GC uses are capable of generating some of the highest traffic rates. Therefore, the possible dedication of additional street right-of-way and/or complete access control by separate instrument along Dodge Avenue would address potential increased demand on community facilities.

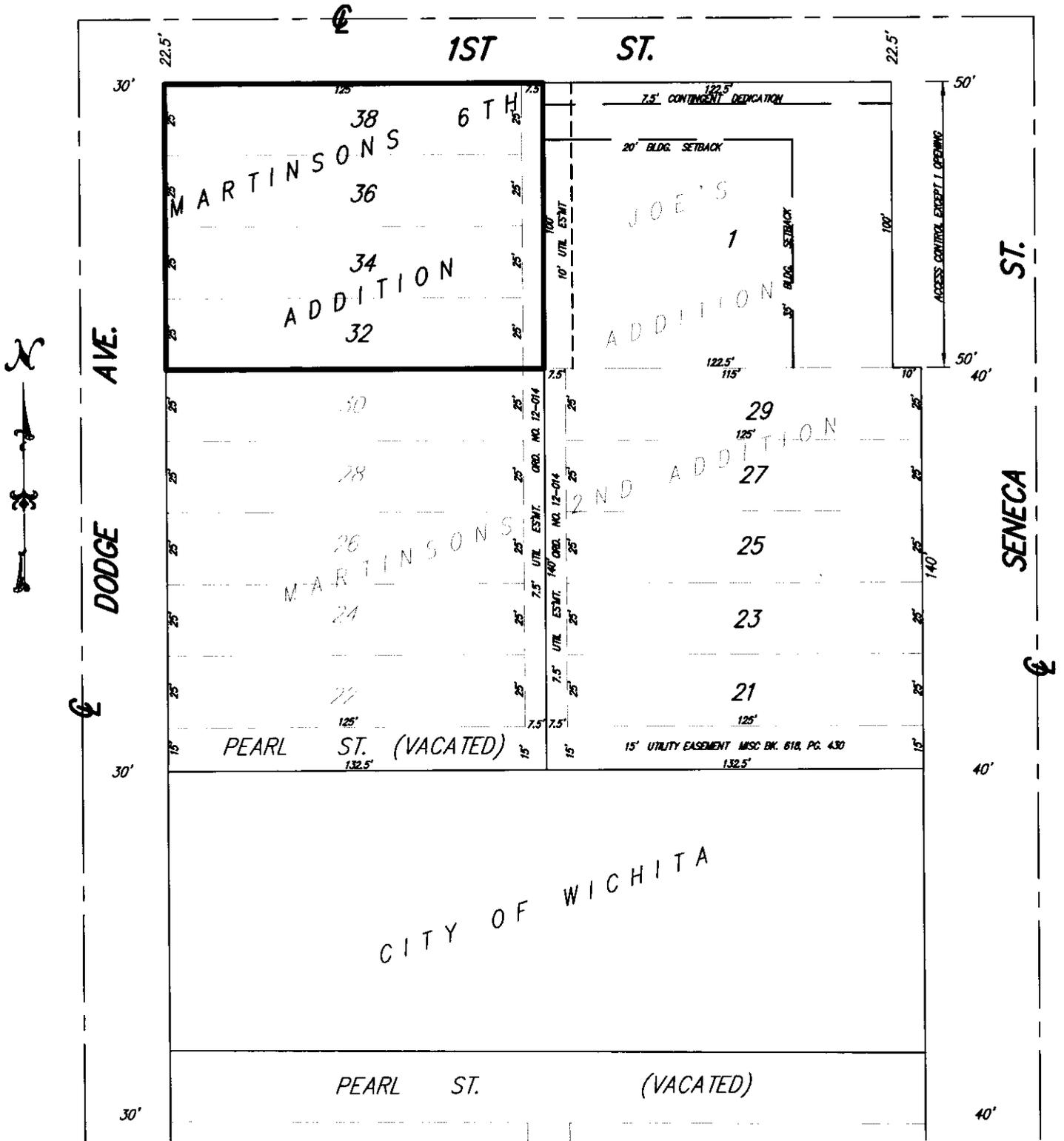


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EXHIBIT



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Land Surveyors

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