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,C I T Y C O U N C I L

C I T Y O F W I C H I T A
K A N S A S

City Council Meeting
09:00 a.m. November 8, 2016

City Council Chambers
455 North Main

OPENING OF REGULAR MEETING

-- Call to Order

-- Invocation

-- Pledge of Allegiance

-- Approve the minutes of regular meeting on November 1, 2016

AWARDS AND PROCLAMATIONS

-- Proclamations:
National Public Health Thank You Day
American Education Week
Interfaith Ministries

I. PUBLIC AGENDA

NOTICE: No action will be taken relative to items on this agenda other than referral for information. Requests to appear will be placed on a "first-come, first-served" basis. This portion of the meeting is limited to thirty minutes and shall be subject to a limitation of five minutes for each presentation with no extension of time permitted. No speaker shall be allowed to appear more frequently than once every fourth meeting. Members of the public desiring to present matters to the Council on the public agenda must submit a request in writing to the office of the city clerk prior to twelve noon on the Tuesday preceding the council meeting. Matter pertaining to personnel, litigation and violations of laws and ordinances are excluded from the agenda. Rules of decorum as provided in this code will be observed.

None

II. CONSENT AGENDA ITEMS 1 THROUGH 20

NOTICE: Items listed under the "Consent Agendas" will be enacted by one motion with no separate discussion. If discussion on an item is desired, the item will be removed from the "Consent Agendas" and considered separately

*(The Council will be considering the City Council Consent Agenda as well as the Planning, Housing, and Airport Consent Agendas. Please see **"ATTACHMENT 1 – CONSENT AGENDA ITEMS"** for a listing of all Consent Agenda Items.)*

COUNCIL BUSINESS

III. UNFINISHED COUNCIL BUSINESS

None

IV. NEW COUNCIL BUSINESS

1. Public Hearing and Issuance of Industrial Revenue Bonds, BANDDL1, LLC. (District III)

   RECOMMENDED ACTION: Close the public hearing and place on first reading the Bond Ordinance authorizing the execution and delivery of documents for the issuance of Taxable Industrial Revenue Bonds for BANDDL1, LLC in an amount not-to-exceed $5,000,000 and authorize the necessary signatures.

2. Public Hearing and Issuance of Industrial Revenue Bonds, BEH 8219 Irving, LLC. (District IV)

   RECOMMENDED ACTION: Close the public hearing and place on first reading the Bond Ordinance authorizing the execution and delivery of documents for the issuance of Taxable Industrial Revenue Bonds for BEH 8219, LLC in an amount not-to-exceed $6,000,000 and authorize the necessary signatures.

3. Public Hearing and Tax Exemption Request, Kyodo Yushi Manufacturing Americas, LLC. (District VI)

   RECOMMENDED ACTION: Close the public hearing and approve first reading of the ordinance granting Kyodo Yushi Manufacturing Americas, LLC a 76.5% tax exemption on the identified real property improvements for a five-year term, plus a 76.5% tax exemption for a second five-year term, subject to City Council review.

4. Request to Amend the Letter of Intent for Industrial Revenue Bonds, Cessna Aircraft Company. (Districts III and IV)

   RECOMMENDED ACTION: Close the public hearing and adopt the Resolution amending the Letter of Intent to issue Industrial Revenue Bonds.

5. Foreign Direct Investment Strategy Funding Agreement.

   RECOMMENDED ACTION: Approve the Agreement with the Greater Wichita Partnership for the FDI plan and authorize the necessary signatures.

6. An Ordinance Creating Chapters 8.02 of the Code of the City of Wichita Pertaining to Excess Calls for Service for Nuisance Properties.

   RECOMMENDED ACTION: Place the Ordinance on first reading and authorize the necessary signatures.

7. Agreement for Improvements to Tyler Pointe Addition. (District V)

   RECOMMENDED ACTION: Approve the agreement and authorize the necessary signatures.

8. Quarterly Financial Report for the Period Ended September 30, 2016.

   RECOMMENDED ACTION: Receive and file the Quarterly Financial Report for the period ended September 30, 2016.

COUNCIL BUSINESS SUBMITTED BY CITY AUTHORITIES

PLANNING AGENDA

NOTICE: Public hearing on planning items is conducted by the MAPC under provisions of State law. Adopted policy is that additional hearing on zoning applications will not be conducted by the City Council unless a statement alleging (1) unfair hearing before the MAPC, or (2) alleging new facts or evidence has been filed with the City Clerk by 5p.m. on the Wednesday preceding this meeting. The Council will determine from the written statement whether to return the matter to the MAPC for rehearing.

V. NON-CONSENT PLANNING AGENDA

1. DER2016-00002 - Updates to the Wireless Communication Master Plan and the Unified Zoning Code Regulations of Wireless Communication Facilities.

   RECOMMENDED ACTION: Adopt the findings of the MAPC; approve the Wireless Communication Master Plan, September 2016, and adopt the associated amendments to the Wichita-Sedgwick County Unified Zoning Code; place the ordinances on first reading; authorize the necessary signatures; and instruct the City Clerk to publish the ordinances after approval on second reading.

2. CON2015-00030 – City Conditional Use Request for a Nightclub in the City on LC Limited Commercial Zoned Property Located on the Northeast Corner West 48th Street North and North Arkansas Avenue. (District VI)

   RECOMMENDED ACTION: 1) Concur with the findings of the MAPC and deny the requested conditional use (requires four votes), 2) Overturn the recommendation of the MAPC, establish alternate findings to support the approval, and approve the requested conditional use subject to the conditions listed (requires six votes to overturn protests), or 3) return request to MAPC for further consideration (requires four votes to return to MAPC).

3. ZON2016-00037 and CUP2016-00028 – City Zone Change from SF-5 Single-Family Residential (SF-5) and GO General Office (GO) to LC Limited Commercial (LC) and an Amendment to Community Unit Plan DP-233 to Allow Limited Commercial Development of Parcels 2, 3 and 4 on Property Generally Located at the Southwest Corner of West Central Avenue and North 135th Street West. (District V)

   RECOMMENDED ACTION: 1) Concur with the findings of the MAPC and approve the zoning change and Community Unit Plan amendment subject to the conditions enumerated, and adopt the findings of the MAPC and publish the ordinance for first reading (requires three-quarter majority vote) or 2) Deny the zoning and Community Unit Plan amendment request by making alternative findings, and override the MAPC's recommendation (requires two-thirds majority vote); or 3) return to MAPC for further consideration.

4. ZON2016-00038 – Zone Change from SF-5 Single-Family Residential to LC Limited Commercial, Generally Located North of Central Avenue on the East Side of Edgemoor. (District I)

   RECOMMENDED ACTION: 1)Adopt the findings of the MAPC and approve the requested zone change place the ordinance on first reading, authorize the necessary signatures, and instruct the City Clerk to publish the ordinance after approval on second reading (requires 4-7 votes); 2) Adopt the findings of DAB I and MAPC and approve the requested zone change place the ordinance on first reading, authorize the necessary signatures, and instruct the City Clerk to publish the ordinance after approval on second reading(requires 5-7 votes); 3) deny the zone change (requires 5-7 votes); or 4) return the case to MAPC (requires 4-7 votes).

HOUSING AGENDA

NOTICE: The City Council is meeting as the governing body of the Housing Authority for consideration and action on the items on this Agenda, pursuant to State law, HUD, and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion. Andra Martin Housing Member is also seated with the City Council.

Andra Martin Housing Member is also seated with the City Council.

VI. NON-CONSENT HOUSING AGENDA

None

AIRPORT AGENDA

NOTICE: The City Council is meeting as the governing body of the Airport Authority for consideration and action on items on this Agenda, pursuant to State law and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

VII. NON-CONSENT AIRPORT AGENDA

1. Agreement Relating to the ACT 3 Construction Contract, Wichita Dwight D. Eisenhower National Airport.

   RECOMMENDED ACTION: Consider the proposed agreement, accept or reject the same, provide direction to staff and authorize the necessary signatures as necessary to effect the WAA's decision.

COUNCIL AGENDA

VIII. COUNCIL MEMBER AGENDA

1. City Council Policy for Proceeds from the Sale of City-Owned Property.

   RECOMMENDED ACTION: Approve City Council Policy 37: Proceeds from the Sale of City-Owned Property.

2. Approval of Travel for Mayor Jeff Longwell to participate in the New York Stock Exchange Bell Ringing, New York City, New York, November 19-20, 2016.

   RECOMMENDED ACTION: Approve the travel expenditure.

IX. COUNCIL MEMBER APPOINTMENTS AND COMMENTS

1. Board Appointments.

   RECOMMENDED ACTION: Approve the appointments.

Adjournment

(ATTACHMENT 1 – CONSENT AGENDA ITEMS 1 THROUGH 20)

II. CITY COUNCIL CONSENT AGENDA ITEMS

1. Report of Board of Bids and Contracts dated November 7, 2016.

   RECOMMENDED ACTION: Receive and file report; approve the contracts; and authorize the necessary signatures.

2. Applications for Licenses to Retail Cereal Malt Beverages:

Renew	2016	(Consumption off Premises)
Kroger Corp	Kwik Shop***	514 S. Oliver
New	2016	(Consumption on Premises)
Jorge Saavedra	El Mexicano Grill**	1050 W. 47th St S.

   ** General/Restaurant (need 50% or more gross revenue from sale of food)
   ***Retailer (Grocery stores, convenience stores, etc.)

   RECOMMENDED ACTION: Approve licenses subject to staff review and approval.

3. Petitions for Public Improvements:
   a. Revised Petitions for Improvements to Harry's Landing Addition. (District II)
   b. Sycamore Village Third Addition Sidewalk. (District II)

   RECOMMENDED ACTION: Approve the petitions and adopt the resolutions.

4. Consideration of Street Closures/Uses:
   a. Community Event - Say Grace 5K. (District VI)
   b. Community Event - Wichita Turkey Trot 2 Mile and 10 Mile. (Districts I, IV and VI)
   c. Community Event- Yingling Memorial. (District I)
   d. Community Event - Red Dress Dash. (District VI)

   RECOMMENDED ACTION: Approve the request subject to; (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department; and (3) Securing a Certificate of Liability Insurance on file with the Community Events Coordinator.

5. Property Acquisitions:
   a. Acquisition of an Easement at 400 W. Central for the Riverside Siphon Project. (District VI)

   RECOMMENDED ACTION: Approve budgets and contracts and authorize necessary signatures.

6. Amendments to Resolutions 12-185 and 13-052 for Century II.

   RECOMMENDED ACTION: Approve the amendments to the Resolutions.

7. Request to Extend and Amend the Letter of Intent for Industrial Revenue Bonds, Co-Co Properties, LLC. (District III)

   RECOMMENDED ACTION: Extend the letter of intent for the issuance of Industrial Revenue Bonds to Co-Co Properties, LLC through December 31, 2017 and amend the Payment-In-Lieu-Of -Taxes.

8. Nuisance Abatement Assessments, Lot Clean Up. (Districts I, III, IV and VI)

   RECOMMENDED ACTION: Approve the proposed assessments and place the ordinance on first reading.

9. Amending Resolution for Sanitary Sewer Improvements to Northgate Addition. (District VI)

   RECOMMENDED ACTION: Adopt the amending resolution and authorize the necessary signatures.

10. Change Order Limit Adjustment for Improvements to Water Tower Rehabilitation. (District I)

    RECOMMENDED ACTION: Approve the change order limit adjustment, adopt the resolution, and authorize the necessary signatures.

11. Contracts and Agreements for October 2016.

    RECOMMENDED ACTION: Receive and file.

12. Senior Management Travel Report for the Quarter Ended September 30, 2016.

    RECOMMENDED ACTION: Receive and file.

13. AFG Grant Program (AFG).

    RECOMMENDED ACTION: Authorize submission for the 2016 Assistance to Firefighters Grant

14. 2017 Water and Sewer Mains for Future Development.

    RECOMMENDED ACTION: Approve the budgeted projects, adopt the resolutions, and authorize the necessary signatures.

15. Second Reading Ordinances: (First Read November 1, 2016)

    RECOMMENDED ACTION: Adopt the Ordinances.

II. CONSENT PLANNING AGENDA ITEMS

NOTICE: Public hearing on planning items is conducted by the MAPC under provisions of State law. Adopted policy is that additional hearing on zoning applications will not be conducted by the City Council unless a statement alleging (1) unfair hearing before the MAPC, or (2) alleging new facts or evidence has been filed with the City Clerk by 5p.m. on the Wednesday preceding this meeting. The Council will determine from the written statement whether to return the matter to the MAPC for rehearing.

16. *SUB2015-00029 -- Plat of Southborough Estates 2nd Subdivision Addition Located South of West 47th Street South, on the West Side of South Meridian Avenue. (District IV)

    RECOMMENDED ACTION: Approve the documents and plat, authorize the necessary signatures, adopt the Resolutions and place the Ordinance on first reading. Publication of the Ordinance should be withheld until the plat is recorded with the Register of Deeds.

17. *CUP2016-00025 – Request to Create the Village at Greenwich Commercial Community Unit Plan (DP-342) on Property Generally Located at the Northeast Corner of 21st Street North and Greenwich Road. (District II)

    RECOMMENDED ACTION: Approve the Declaration and authorize the necessary signatures and notarization (simple majority required).

18. *ZON2016-00032 – Zone Change from SF-5 Single-Family Residential to TF-3 Two-Family Residential, Generally Located Northwest of the Intersection of East 55th Street South and South Hydraulic Avenue. (District III)

    RECOMMENDED ACTION: Adopt the findings of the MAPC, approve the requested zone change subject to MAPC recommended conditions, place the ordinance on first reading, authorize the necessary signatures, and instruct the City Clerk to publish the ordinance after approval on second reading.

19. *ZON2016-00039 – Zone Change from SF-5 Single-Family Residential and NR Neighborhood Retail to LC Limited Commercial, Generally Located at the Northeast Corner of West Maple and South Tyler Road. (District V)

    RECOMMENDED ACTION: Adopt the findings of the MAPC, approve the requested zone change subject to MAPC recommended conditions, place the ordinance on first reading, authorize the necessary signatures, and instruct the City Clerk to publish the ordinance after approval on second reading.

II. CONSENT HOUSING AGENDA ITEMS

NOTICE: The City Council is meeting as the governing body of the Housing Authority for consideration and action on the items on this Agenda, pursuant to State law, HUD, and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

Andra Martin, Housing Member is also seated with the City Council.

None

II. CONSENT AIRPORT AGENDA ITEMS

NOTICE: The City Council is meeting as the governing body of the Airport Authority for consideration and action on items on this Agenda, pursuant to State law and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

20. *Timothy Chappell - Farming Permit First Amendment - Colonel James Jabara Airport.

RECOMMENDED ACTION: Approve the permit amendment and authorize the necessary signatures.

Agenda Item No. IV-1

City of Wichita
City Council Meeting
November 8, 2016

TO: Mayor and City Council

SUBJECT: Public Hearing and Issuance of Industrial Revenue Bonds (BANDDL1, LLC) (District III)

INITIATED BY: Office of Urban Development

AGENDA: New Business

Recommendation: Close the public hearing and place the ordinance on first reading.

Background: On August 19, 2014, the City Council approved a Letter of Intent to issue Industrial Revenue Bonds ("IRBs") for BANDDL1, LLC ("BANDDL1") in an amount not-to-exceed $5,000,000, for the benefit of Lee Air, to finance the acquisition and rehabilitation of an 85,000 square foot manufacturing and office facility located at 3000 S. Hydraulic in south Wichita.

BANDDL1, LLC is now requesting the issuance of IRBs in an amount not-to-exceed $5,000,000.

Lee Air is in the Advanced Manufacturing sector of the Blueprint for Regional Economic Growth (BREG) and is a main supplier to another BREG sector, Aerospace.

Analysis: BANDDL1, LLC is a real estate holding entity owned by Bennie and Donna Lee. That entity will sublease the facility to Lee Air, Inc., which is owned by Bennie Lee. Lee Air is an aircraft electronics manufacturer specializing in electronic controllers, printed circuit board assemblies and other electronic accessories for both civilian and military aircraft. The company was founded in 1981 by Bennie Lee's parents. Bennie obtained sole ownership in the 1990s. Lee Air focuses on electronic design, testing, contract manufacturing and repair of its manufactured products. Its customers include Textron Aviation, Bombardier Learjet, United States Department of Defense in addition to other original equipment manufacturers and systems integrators.

Lee Air currently leases approximately 11,000 square feet at 4603 S. Seneca in south Wichita. The 85,000 square foot facility at 3000 S. Hydraulic would provide expansion room. Lee currently employs 18 and plans to add 46 new employees over the next five years. The company wide average wages will be at least $55,358.

Financial Considerations: BANDDL1 agrees to pay all costs of issuing the bonds and agrees to the City's $2,500 annual IRB administrative fee for the term of the bonds. Under the City's Economic Development Incentive Policy, the Company qualifies for a 100 % five-plus-five-year tax exemption on property purchased with bond proceeds, subject to City Council approval. The policy generally requires existing buildings to be vacant for at least two years prior to receiving a tax exemption. The building was formerly occupied by Boeing whose lease expired in September of 2012, although Boeing had ceased operations in the facility prior to that time according to the listing real estate broker.

USE OF FUNDS

Total cost of building and land acquisition:	$1,000,000
Building renovations & equipment:	$3,700,000
Estimated costs of issuance and legal fees:	$150,000
Contingency:	$150,000

Total requested bonds:	$5,000,000

Based on the fiscal and economic impact model of the Wichita State University's Center for Economic Development and Business Research, the ratio of benefits to costs is as follows:

City General Fund	1.30 to 1
City Debt Service Fund	1.52 to 1
Sedgwick County	1.16 to 1
USD #259	1.00 to 1
State of Kansas	8.33 to 1

Legal Considerations: The law firm of Gilmore & Bell, P.C. will serve as bond counsel in the transaction. The bonds will be placed with BANDDL1, LLC. Bond Counsel will prepare bond documents needed for the issuance of each series of the bonds. Execution of the documents and issuance of the Bonds will be subject to the Law Department's review and approval of the bond documents as to form.

Recommendations/Actions: It is recommended that the City Council close the public hearing and place on first reading the Bond Ordinance authorizing the execution and delivery of documents for the issuance of Taxable Industrial Revenue Bonds for BANDDL1, LLC in an amount not-to-exceed $5,000,000 and authorize the necessary signatures.

Attachments: Bond Ordinance

GILMORE & BELL, P.C.
11/02/2016

ORDINANCE NO. 50-364

OF THE
CITY OF WICHITA, KANSAS

AUTHORIZING THE ISSUANCE OF
NOT TO EXCEED $5,000,000
TAXABLE INDUSTRIAL REVENUE BONDS
SERIES V, 2016
(LEE AIR PROJECT)

(Published in *The Wichita Eagle*, November 28, 2016)

ORDINANCE NO. 50-364

AN ORDINANCE AUTHORIZING THE CITY OF WICHITA, KANSAS TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS, SERIES V, 2016 (LEE AIR PROJECT) FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION, RENOVATION AND EQUIPPING OF A MANUFACTURING AND WAREHOUSE FACILITY; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS HAS FOUND AND DETERMINED:

A. The City of Wichita, Kansas (the "Issuer") is authorized by K.S.A. 12-1740 *et seq.*, as amended (the "Act"), to acquire, construct, improve and equip certain facilities (as defined in the Act) for commercial, industrial and manufacturing purposes, to enter into leases and lease-purchase agreements with any person, firm or corporation for such facilities, and to issue revenue bonds for the purpose of paying the costs of such facilities.

B. The Issuer's governing body has determined that it is desirable in order to promote, stimulate and develop the general economic welfare and prosperity of the Issuer and the State of Kansas that the Issuer issue its Taxable Industrial Revenue Bonds, Series V, 2016 (Lee Air Project) in the aggregate principal amount of not to exceed $5,000,000 (the "Series V, 2016 Bonds"), for the purpose of paying the costs of the acquisition, construction, renovation and equipping of a certain manufacturing and warehouse facility (the "Project") as more fully described in the Indenture and in the Lease authorized in this Ordinance, for lease to BANDDL1, L.L.C., a Kansas limited liability company (the "Tenant").

C. The Issuer's governing body finds that it is necessary and desirable in connection with the issuance of the Series V, 2016 Bonds to execute and deliver the following documents (collectively, the "Bond Documents"):

(i) a Trust Indenture dated as of December 1, 2016 (the "Indenture"), with Commerce Bank, Kansas City, Missouri, as Trustee (the "Trustee"), prescribing the terms and conditions of issuing and securing the Series V, 2016 Bonds;

(ii) a Lease dated as of December 1, 2016 (the "Lease"), with the Tenant, under which the Issuer will acquire, construct, renovate and equip the Project and lease it to the Tenant in consideration of Basic Rent and other payments; and

(iii) a Bond Purchase Agreement (the "Bond Purchase Agreement") providing for the sale of the Series V, 2016 Bonds by the Issuer to BANDDL1, L.L.C., Wichita, Kansas (the “Purchaser”).

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. **Definition of Terms**. All terms and phrases not otherwise defined in this Ordinance will have the meanings set forth in the Indenture and the Lease.

Section 2. **Authority to Cause the Project to Be Purchased and Constructed**. The Issuer is authorized to cause the Project to be acquired, constructed, renovated and equipped in the manner described in the Indenture and the Lease.

Section 3. **Authorization of and Security for the Bonds**. The Issuer is authorized and directed to issue the Series V, 2016 Bonds, to be designated "City of Wichita Kansas Taxable Industrial Revenue Bonds, Series V, 2016 (Lee Air Project)" in the aggregate principal amount of not to exceed $5,000,000, for the purpose of providing funds to pay the costs of the acquisition, construction, renovation and equipping of the Project. The Series V, 2016 Bonds will be in such principal amount, will be dated and bear interest, will mature and be payable at such times, will be in such forms, will be subject to redemption and payment prior to maturity, and will be issued according to the provisions, covenants and agreements in the Indenture. The Series V, 2016 Bonds will be special limited obligations of the Issuer payable solely from the Trust Estate under the Indenture, including revenues derived from the Lease of the Project. The Series V, 2016 Bonds will not be general obligations of the Issuer, nor constitute a pledge of the faith and credit of the Issuer, and will not be payable in any manner by taxation.

Section 4. **Authorization of Indenture**. The Issuer is authorized to enter into the Indenture with the Trustee in the form approved in this Ordinance. The Issuer will pledge the Trust Estate described in the Indenture to the Trustee for the benefit of the owners of the Series V, 2016 Bonds on the terms and conditions in the Indenture.

Section 5. **Lease of the Project**. The Issuer will acquire, construct and equip the Project and lease it to the Tenant according to the provisions of the Lease in the form approved in this Ordinance. The proposed sublease of the Project to Lee Air, Inc., a Kansas corporation (the "Subtenant") is approved by the Issuer.

Section 6. **Authorization of Bond Purchase Agreement**. The Issuer is authorized to sell the Series V, 2016 Bonds to the Purchaser, according to the terms and provisions of the Bond Purchase Agreement, in the form approved in this Ordinance.

Section 7. **Execution of Bonds and Bond Documents**. The Mayor of the Issuer is authorized and directed to execute the Series V, 2016 Bonds and deliver them to the Trustee for authentication on behalf of the Issuer in the manner provided by the Act and in the Indenture. The Mayor or member of the Issuer's governing body authorized by law to exercise the powers and duties of the Mayor in the Mayor's absence is further authorized and directed to execute and deliver the Bond Documents on behalf of the Issuer in substantially the forms presented for review prior to final passage of this Ordinance, with such corrections or amendments as the Mayor or other person lawfully acting in the absence of the Mayor may approve, which approval shall be evidenced by his or her signature. The authorized signatory may sign and deliver all other documents, certificates or instruments as may be necessary or desirable to carry out the purposes and intent of this Ordinance and the Bond Documents. The City Clerk or the Deputy City Clerk of the Issuer is hereby authorized and directed to attest the execution of the Series V, 2016 Bonds, the Bond Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out the intent of this Ordinance under the Issuer's corporate seal.

Section 8. **Pledge of the Project and Net Lease Earnings**. The Issuer hereby pledges the Project and the net earnings generated under the Lease to the payment of the Series V, 2016 Bonds in accordance with K.S.A. 12-1744 and pursuant to the terms of the Indenture. The lien created by the pledge will be discharged when all of the Series V, 2016 Bonds are paid or deemed to have been paid under the Indenture.

Section 9. **Authority To Correct Errors, Etc**. The Mayor or member of the Issuer's governing body authorized to exercise the powers and duties of the Mayor in the Mayor's absence, the City Clerk and any Deputy City Clerk are hereby authorized and directed to make any alterations, changes or

additions in the instruments herein approved, authorized and confirmed which may be necessary to correct errors or omissions therein or to conform the same to the other provisions of said instruments or to the provisions of this Ordinance.

Section 10. **Further Authority**. The officials, officers, agents and employees of the Issuer are authorized and directed to take whatever action and execute whatever other documents or certificates as may be necessary or desirable to carry out the provisions of this Ordinance and to carry out and perform the duties of the Issuer with respect to the Series V, 2016 Bonds and the Bond Documents.

Section 11. **Effective Date**. This Ordinance shall take effect after its final passage by the governing body of the Issuer and publication once in the Issuer's official newspaper.

[BALANCE OF THIS PAGE LEFT BLANK INTENTIONALLY]

PASSED by the governing body of the Issuer on November 22, 2016 and **SIGNED** by the Mayor.

(SEAL)

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
Jennifer Magaña, Director of Law and
City Attorney

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JLN\600809.70371\ORDINANCE

CERTIFICATE

I hereby certify that the attached copy is a true and correct copy of Ordinance No. 50-364 of the City of Wichita, Kansas duly passed by the governing body, signed by the Mayor and published in the official City newspaper on the respective dates stated in this ordinance, and that the signed original of such Ordinance is on file in my office.

[SEAL]

_____

City Clerk

JLN\600809.70371\ORDINANCE

EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF WICHITA, KANSAS
HELD ON NOVEMBER 8, 2016

The governing body of the City of Wichita, Kansas met in regular session at the usual meeting place in the City, at 9:00 a.m., the following members being present and participating, to-wit:

Absent:

The Mayor declared that a quorum was present and called the meeting to order.

* * * * * * * * * * * * * *

(Other Proceedings)

Among other business, in accordance with notice published on October 31, 2016, in Wichita Eagle, a public hearing was held by the governing body relating to the proposed issuance of not to exceed $5,000,000 principal amount of Taxable Industrial Revenue Bonds, Series V, 2016 (Lee Air Project). All interested persons were afforded an opportunity to present their views on the issuance of the Bonds and the location and nature of the Project to be financed with the proceeds of the Bonds. Thereupon, the public hearing was closed.

Thereupon, there was presented for first reading an Ordinance entitled:

AN ORDINANCE AUTHORIZING THE CITY OF WICHITA, KANSAS TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS, SERIES V, 2016 (LEE AIR PROJECT) FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION, RENOVATION AND EQUIPPING OF A MANUFACTURING AND WAREHOUSE FACILITY; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

Thereupon, Councilmember _____ moved that said Ordinance be passed. The motion was seconded by Councilmember _____. Said Ordinance was duly read and considered, and upon being put, the motion for the passage upon first reading of said Ordinance was carried by the vote of the governing body, the vote being as follows:

Aye:

Nay:

* * * * * * * * * * * * * *

(Other Proceedings)

* * * * * * * * * * * * * *

JLN\600809.70371\ORDINANCE (11-02-16)

CERTIFICATE

I certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the governing body of the City of Wichita, Kansas held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

[SEAL]

_____

Karen Sublett, City Clerk

EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF WICHITA, KANSAS
HELD ON NOVEMBER 22, 2016

The governing body of the City of Wichita, Kansas met in regular session at the usual meeting place in the City, at 9:30 a.m., the following members being present and participating, to-wit:

Absent:

The Mayor declared that a quorum was present and called the meeting to order.

* * * * * * * * * * * * * *

(Other Proceedings)

Thereupon, there was presented for second reading on the governing body's consent agenda an Ordinance entitled:

AN ORDINANCE AUTHORIZING THE CITY OF WICHITA, KANSAS TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS, SERIES V, 2016 (LEE AIR PROJECT) FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION, RENOVATION AND EQUIPPING OF A MANUFACTURING AND WAREHOUSE FACILITY; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

Thereupon, Councilmember _____ moved that the consent agenda be passed. The motion was seconded by Councilmember _____. The motion that the consent agenda be passed, including final passage of said Ordinance, was carried by the vote of the governing body, the vote being as follows:

Aye:

Nay:

Thereupon, the Ordinance was then duly numbered Ordinance No. 50-364, was signed by the Mayor and attested by the Clerk, and the Ordinance was directed to be published one time in the official newspaper of the City.

(Other Proceedings)

* * * * * * * * * * * * * *

JLN\600809.70371\ORDINANCE (11-02-16)

CERTIFICATE

I certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the governing body of the City of Wichita, Kansas held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

[SEAL]

_____

Karen Sublett, City Clerk

City of Wichita
City Council Meeting
November 8, 2016

TO: Mayor and City Council

SUBJECT: Public Hearing and Issuance of Industrial Revenue Bonds (BANDDL1, LLC) (District III)

INITIATED BY: Office of Urban Development

AGENDA: New Business

Recommendation: Close the public hearing and place the ordinance on first reading.

Background: On August 19, 2014, the City Council approved a Letter of Intent to issue Industrial Revenue Bonds ("IRBs") for BANDDL1, LLC ("BANDDL1") in an amount not-to-exceed $5,000,000, for the benefit of Lee Air, to finance the acquisition and rehabilitation of an 85,000 square foot manufacturing and office facility located at 3000 S. Hydraulic in south Wichita.

BANDDL1, LLC is now requesting the issuance of IRBs in an amount not-to-exceed $5,000,000.

Lee Air is in the Advanced Manufacturing sector of the Blueprint for Regional Economic Growth (BREG) and is a main supplier to another BREG sector, Aerospace.

Analysis: BANDDL1, LLC is a real estate holding entity owned by Bennie and Donna Lee. That entity will sublease the facility to Lee Air, Inc., which is owned by Bennie Lee. Lee Air is an aircraft electronics manufacturer specializing in electronic controllers, printed circuit board assemblies and other electronic accessories for both civilian and military aircraft. The company was founded in 1981 by Bennie Lee's parents. Bennie obtained sole ownership in the 1990s. Lee Air focuses on electronic design, testing, contract manufacturing and repair of its manufactured products. Its customers include Textron Aviation, Bombardier Learjet, United States Department of Defense in addition to other original equipment manufacturers and systems integrators.

Lee Air currently leases approximately 11,000 square feet at 4603 S. Seneca in south Wichita. The 85,000 square foot facility at 3000 S. Hydraulic would provide expansion room. Lee currently employs 18 and plans to add 46 new employees over the next five years. The company wide average wages will be at least $55,358.

Financial Considerations: BANDDL1 agrees to pay all costs of issuing the bonds and agrees to the City's $2,500 annual IRB administrative fee for the term of the bonds. Under the City's Economic Development Incentive Policy, the Company qualifies for a 100 % five-plus-five-year tax exemption on property purchased with bond proceeds, subject to City Council approval. The policy generally requires existing buildings to be vacant for at least two years prior to receiving a tax exemption. The building was formerly occupied by Boeing whose lease expired in September of 2012, although Boeing had ceased operations in the facility prior to that time according to the listing real estate broker.

USE OF FUNDS

Total cost of building and land acquisition:	$1,000,000
Building renovations & equipment:	$3,700,000
Estimated costs of issuance and legal fees:	$150,000
Contingency:	$150,000

Total requested bonds:	$5,000,000

Based on the fiscal and economic impact model of the Wichita State University's Center for Economic Development and Business Research, the ratio of benefits to costs is as follows:

City General Fund	1.30 to 1
City Debt Service Fund	1.52 to 1
Sedgwick County	1.16 to 1
USD #259	1.00 to 1
State of Kansas	8.33 to 1

Legal Considerations: The law firm of Gilmore & Bell, P.C. will serve as bond counsel in the transaction. The bonds will be placed with BANDDL1, LLC. Bond Counsel will prepare bond documents needed for the issuance of each series of the bonds. Execution of the documents and issuance of the Bonds will be subject to the Law Department's review and approval of the bond documents as to form.

Recommendations/Actions: It is recommended that the City Council close the public hearing and place on first reading the Bond Ordinance authorizing the execution and delivery of documents for the issuance of Taxable Industrial Revenue Bonds for BANDDL1, LLC in an amount not-to-exceed $5,000,000 and authorize the necessary signatures.

Attachments: Bond Ordinance

GILMORE & BELL, P.C.
11/02/2016

ORDINANCE NO. 50-362

OF THE
CITY OF WICHITA, KANSAS

AUTHORIZING THE ISSUANCE OF
NOT TO EXCEED $6,000,000
TAXABLE INDUSTRIAL REVENUE BONDS
SERIES VI, 2016
(MAX AEROSTRUCTURES PROJECT)

JLN\600809.70428\ORDINANCE (11-02-16)

(Published in *The Wichita Eagle*, November 28, 2016)

ORDINANCE NO. 362

AN ORDINANCE AUTHORIZING THE CITY OF WICHITA, KANSAS TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS, SERIES VI, 2016 (MAX AEROSTRUCTURES PROJECT) FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION, RENOVATION AND EQUIPPING OF AN EXISTING MANUFACTURING FACILITY; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS HAS FOUND AND DETERMINED:

A. The City of Wichita, Kansas (the "Issuer") is authorized by K.S.A. 12-1740 *et seq*., as amended (the "Act"), to acquire, construct, improve and equip certain facilities (as defined in the Act) for commercial, industrial and manufacturing purposes, to enter into leases and lease-purchase agreements with any person, firm or corporation for such facilities, and to issue revenue bonds for the purpose of paying the costs of such facilities.

B. The Issuer's governing body has determined that it is desirable in order to promote, stimulate and develop the general economic welfare and prosperity of the Issuer and the State of Kansas that the Issuer issue its Taxable Industrial Revenue Bonds, Series VI, 2016 (MAX Aerostructures Project) in the aggregate principal amount of not to exceed $6,000,000 (the "Series VI, 2016 Bonds"), for the purpose of paying the costs of the acquisition, construction, renovation and equipping of an existing manufacturing facility (the "Project") as more fully described in the Indenture and in the Lease authorized in this Ordinance, for lease to BEH 8219 Irving, LLC, a Kansas limited liability company (the "Tenant").

C. The Issuer's governing body finds that it is necessary and desirable in connection with the issuance of the Series VI, 2016 Bonds to execute and deliver the following documents (collectively, the "Bond Documents"):

(i) a Trust Indenture dated as of December 1, 2016 (the "Indenture"), with Commerce Bank, Kansas City, Missouri, as Trustee (the "Trustee"), prescribing the terms and conditions of issuing and securing the Series VI, 2016 Bonds;

(ii) a Lease dated as of December 1, 2016 (the "Lease"), with the Tenant, under which the Issuer will acquire, construct and equip the Project and lease it to the Tenant in consideration of Basic Rent and other payments; and

(iii) a Bond Purchase Agreement (the "Bond Purchase Agreement") providing for the sale of the Series VI, 2016 Bonds by the Issuer to BEH 8219 Irving, LLC, Wichita, Kansas (the “Purchaser”).

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. **Definition of Terms**. All terms and phrases not otherwise defined in this Ordinance will have the meanings set forth in the Indenture and the Lease.

Section 2. **Authority to Cause the Project to Be Purchased and Constructed**. The Issuer is authorized to cause the Project to be acquired, constructed and equipped in the manner described in the Indenture and the Lease.

Section 3. **Authorization of and Security for the Bonds**. The Issuer is authorized and directed to issue the Series VI, 2016 Bonds, to be designated "City of Wichita Kansas Taxable Industrial Revenue Bonds, Series VI, 2016 (MAX Aerostructures Project)" in the aggregate principal amount of not to exceed $6,000,000, for the purpose of providing funds to pay the costs of the acquisition, construction, renovation and equipping of the Project. The Series VI, 2016 Bonds will be dated and bear interest, will mature and be payable at such times, will be in such forms, will be subject to redemption and payment prior to maturity, and will be issued according to the provisions, covenants and agreements in the Indenture. The Series VI, 2016 Bonds will be special limited obligations of the Issuer payable solely from the revenues derived from the Lease of the Project. The Series VI, 2016 Bonds will not be general obligations of the Issuer, nor constitute a pledge of the faith and credit of the Issuer, and will not be payable in any manner by taxation.

Section 4. **Authorization of Indenture**. The Issuer is authorized to enter into the Indenture with the Trustee in the form approved in this Ordinance. The Issuer will pledge the Trust Estate described in the Indenture to the Trustee for the benefit of the owners of the Series VI, 2016 Bonds on the terms and conditions in the Indenture.

Section 5. **Lease of the Project**. The Issuer will acquire, construct and equip the Project and lease it to the Tenant according to the provisions of the Lease in the form approved in this Ordinance. The proposed sublease of the Project to MAX Aerostructures, LLC, a Kansas limited liability company (the "Subtenant") is approved by the Issuer.

Section 6. **Authorization of Bond Purchase Agreement**. The Issuer is authorized to sell the Series VI, 2016 Bonds to the Purchaser, according to the terms and provisions of the Bond Purchase Agreement, in the form approved in this Ordinance.

Section 7. **Execution of Bonds and Bond Documents**. The Mayor of the Issuer is authorized and directed to execute the Series VI, 2016 Bonds and deliver them to the Trustee for authentication on behalf of the Issuer in the manner provided by the Act and in the Indenture. The Mayor or member of the Issuer's governing body authorized by law to exercise the powers and duties of the Mayor in the Mayor's absence is further authorized and directed to execute and deliver the Bond Documents on behalf of the Issuer in substantially the forms presented for review prior to final passage of this Ordinance, with such corrections or amendments as the Mayor or other person lawfully acting in the absence of the Mayor may approve, which approval shall be evidenced by his or her signature. The authorized signatory may sign and deliver all other documents, certificates or instruments as may be necessary or desirable to carry out the purposes and intent of this Ordinance and the Bond Documents. The City Clerk or the Deputy City Clerk of the Issuer is hereby authorized and directed to attest the execution of the Series VI, 2016 Bonds, the Bond Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out the intent of this Ordinance under the Issuer's corporate seal.

Section 8. **Pledge of the Project and Net Lease Earnings**. The Issuer hereby pledges the Project and the net earnings generated under the Lease to the payment of the Series VI, 2016 Bonds in accordance with K.S.A. 12-1744 and pursuant to the terms of the Indenture. The lien created by the pledge will be discharged when all of the Series VI, 2016 Bonds are paid or deemed to have been paid under the Indenture.

Section 9. **Authority To Correct Errors, Etc**. The Mayor or member of the Issuer's governing body authorized to exercise the powers and duties of the Mayor in the Mayor's absence, the City Clerk and any Deputy City Clerk are hereby authorized and directed to make any alterations, changes or

additions in the instruments herein approved, authorized and confirmed which may be necessary to correct errors or omissions therein or to conform the same to the other provisions of said instruments or to the provisions of this Ordinance.

Section 10. **Further Authority**. The officials, officers, agents and employees of the Issuer are authorized and directed to take whatever action and execute whatever other documents or certificates as may be necessary or desirable to carry out the provisions of this Ordinance and to carry out and perform the duties of the Issuer with respect to the Series VI, 2016 Bonds and the Bond Documents.

Section 11. **Effective Date**. This Ordinance shall take effect after its final passage by the governing body of the Issuer and publication once in the Issuer's official newspaper.

[BALANCE OF THIS PAGE LEFT BLANK INTENTIONALLY]

PASSED by the City Council of the City of Wichita, Kansas on November 22, 2016 and **SIGNED** by the Mayor.

(SEAL)

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM ONLY.

_____
Jennifer Magaña, Director of Law and
City Attorney

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JLN\600809.70428\ORDINANCE

CERTIFICATE

I hereby certify that the attached copy is a true and correct copy of Ordinance No. 50-362 of the City of Wichita, Kansas duly passed by the governing body, signed by the Mayor and published in the official City newspaper on the respective dates stated in this ordinance, and that the signed original of such Ordinance is on file in my office.

[SEAL]

_____

Karen Sublett, City Clerk

JLN\600809.70428\ORDINANCE

EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF WICHITA, KANSAS
HELD ON NOVEMBER 8, 2016

The governing body of the City of Wichita, Kansas met in regular session at the usual meeting place in the City, at 9:00 a.m., the following members being present and participating, to-wit:

Absent:

The Mayor declared that a quorum was present and called the meeting to order.

* * * * * * * * * * * * * *

(Other Proceedings)

Among other business, in accordance with notice published on October 31, 2016, in Wichita Eagle, a public hearing was held by the governing body relating to the proposed issuance of not to exceed $6,000,000 principal amount of Taxable Industrial Revenue Bonds, Series VI, 2016 (MAX Aerostructures Project). All interested persons were afforded an opportunity to present their views on the issuance of the Bonds and the location and nature of the Project to be financed with the proceeds of the Bonds. Thereupon, the public hearing was closed.

Thereupon, there was presented for first reading an Ordinance entitled:

AN ORDINANCE AUTHORIZING THE CITY OF WICHITA, KANSAS TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS, SERIES VI, 2016 (MAX AEROSTRUCTURES PROJECT) FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION, RENOVATION AND EQUIPPING OF AN EXISTING MANUFACTURING FACILITY; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

Thereupon, Councilmember _____ moved that said Ordinance be passed. The motion was seconded by Councilmember _____. Said Ordinance was duly read and considered, and upon being put, the motion for the passage upon first reading of said Ordinance was carried by the vote of the governing body, the vote being as follows:

Aye:

Nay:

* * * * * * * * * * * * * *

(Other Proceedings)

* * * * * * * * * * * * * *

JLN\600809.70428\ORDINANCE (11-02-16)

CERTIFICATE

I certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the governing body of the City of Wichita, Kansas held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

[SEAL]

_____

Karen Sublett, City Clerk

EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF WICHITA, KANSAS
HELD ON NOVEMBER 22, 2016

The governing body of the City of Wichita, Kansas met in regular session at the usual meeting place in the City, at 9:30 a.m., the following members being present and participating, to-wit:

Absent:

The Mayor declared that a quorum was present and called the meeting to order.

* * * * * * * * * * * * * *

(Other Proceedings)

Thereupon, there was presented for second reading on the governing body's consent agenda an Ordinance entitled:

AN ORDINANCE AUTHORIZING THE CITY OF WICHITA, KANSAS TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS, SERIES VI, 2016 (MAX AEROSTRUCTURES PROJECT) FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION, RENOVATION AND EQUIPPING OF AN EXISTING MANUFACTURING FACILITY; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

Thereupon, Councilmember _____ moved that the consent agenda be passed. The motion was seconded by Councilmember _____. The motion that the consent agenda be passed, including final passage of said Ordinance, was carried by the vote of the governing body, the vote being as follows:

Aye:

Nay:

Thereupon, the Ordinance was then duly numbered Ordinance No. 50-362, was signed by the Mayor and attested by the Clerk, and the Ordinance was directed to be published one time in the official newspaper of the City.

(Other Proceedings)

* * * * * * * * * * * * * *

CERTIFICATE

I certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the governing body of the City of Wichita, Kansas held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

[SEAL]

_____

Karen Sublett, City Clerk

City of Wichita
City Council Meeting
November 8, 2016

TO: Mayor and City Council

SUBJECT: Public Hearing and Tax Exemption Request (Kyodo Yushi Manufacturing Americas, LLC) (District VI)

INITIATED BY: Office of Urban Development

AGENDA: New Business

Recommendation: Close the public hearing and place the ordinance on first reading.

Background: Kyodo Yushi is a Japanese manufacturer of a line of lubricants, predominantly grease, founded in 1936. Since that time it has expanded and now has offices and manufacturing facilities worldwide. Kyodo Yushi has an office presence in the Unites States but does not have a manufacturing facility in North America.

Kyodo Yushi has identified Wichita-based Lubrication Engineers as a partner for a new North American manufacturing facility. The joint company, Kyodo Yushi Manufacturing Americas, LLC (Kyodo) has considered Oklahoma City, Dallas, Chicago and Wichita for a potential location.

The company has identified a location at 2901 N. Mead in Wichita and is now requesting approval of an Economic Development Tax Exemption (EDX) for the construction of a new building and acquisition of new manufacturing equipment.

Kyodo is in the Oil and Gas sector of the Blueprint for Regional Economic Growth (BREG).

Analysis: Kyodo Yushi Manufacturing Americas will produce lubrication products largely for the automotive industry. The company is planning to acquire 37 acres of land near 29th and Ohio, in north Wichita to construct a 115,000 square-foot manufacturing facility at an approximate cost of $22,000,000. The company also would invest an additional $13,000,000 for machinery and equipment for a total project investment of $35,000,000. Kyodo projects it will add five employees over the next five years with an average annual salary of $95,000, which exceeds the North America Industrial Classification Code System (NAICS) average of $40,763.

While Kyodo qualifies for a 100% tax exemption based upon capital investment and job creation, to achieve the ratio of benefits to costs of at least 1.3 to 1.0 as required in the Economic Development Policy, the percentage abatement will be reduced to a 76.5% tax exemption on a five-plus-five year basis.

Financial Considerations: Based on the latest available mill levy, the estimated value of the tax exemption in the first full year is approximately $403,405. This estimate assumes that 80% of the $22,000,000 cost of improvements to real property will be reflected as an increase in property value. The 76.5% abatement is applied to that value. The actual increase in valuation, if any, will be determined by the Sedgwick County Appraiser's Office in the future as part of its ongoing reappraisal process. The value of the real property tax exemption as applicable to taxing jurisdictions is:

City	$ 110,021	State	$ 5,049

County	$ 98,903	USD 259	$ 189,432

Wichita State University's Center for Economic Development and Business Research performed a cost-benefit analysis indicating benefit-to-cost ratios, which are as follows:

City of Wichita	1.37 to 1
City of Wichita General Fund	1.30 to 1
City of Wichita Debt Serv Fund	1.52 to 1
Sedgwick County	1.34 to 1
USD 259	1.31 to 1
State of Kansas	2.66 to 1

The annual value of the estimated taxes to be generated by the unabated portion is $123,922.

Legal Considerations: The Law Department has reviewed and approved the attached ordinance and Economic Development Incentive Agreement as to form.

Recommendations/Actions: It is recommended that the City Council close the public hearing and approve first reading of the ordinance granting Kyodo Yushi Manufacturing Americas, LLC a 76.5% tax exemption on the identified real property improvements for a five-year term, plus a 76.5% tax exemption for a second five-year term, subject to City Council review.

Attachments: Ordinance, Economic Development Incentive Agreement

OCA 028001

FIRST PUBLISHED IN THE WICHITA EAGLE ON November 25, 2016

ORDINANCE NO. 363

AN ORDINANCE EXEMPTING PROPERTY FROM AD VALOREM TAXATION FOR ECONOMIC DEVELOPMENT PURPOSES PURSUANT TO ARTICLE 11, SECTION 13, OF THE KANSAS CONSTITUTION; PROVIDING THE TERMS AND CONDITIONS FOR AD VALOREM TAX EXEMPTION; AND DESCRIBING THE PROPERTY OF KYODO YUSHI MANUFACTURING AMERICAS, LLC SO EXEMPTED.

WHEREAS, Article 11, Section 13, of the Kansas Constitution provides that the governing body of the City may, by Ordinance, exempt from all ad valorem taxation all or any portion of the appraised value of certain property meeting the requirements of the constitutional provision; and

WHEREAS, the City of Wichita has adopted an Economic Development Incentive Policy by which the City will consider granting tax exemptions upon a clear and factual showing of direct economic benefit including the creation of additional jobs or the upgrading of existing jobs and the stimulation of additional private investment; and

WHEREAS, Kyodo Yushi Manufacturing Americas, LLC, requests an ad valorem tax exemption on a proposed building project of 76.5% for a five-plus-five year term on the acquisition of an existing building and the construction and equipping of a new facility; and

WHEREAS, Kyodo Yushi Manufacturing Americas, LLC is a new company; and

WHEREAS, Kyodo Yushi Manufacturing Americas, LLC, proposes the acquisition of a building and the construction and equipping of a new building at a total project cost of $35,000,000 located at 2901 N. Mead; and

WHEREAS, the City Council of the City of Wichita has reviewed the application and supporting documentation supplied by Kyodo Yushi Manufacturing Americas, LLC, has reviewed the impact statements provided by Staff, and the Cost-Benefit Analysis by the Wichita State University and has conducted a public hearing on such application on November 8, 2016; and

WHEREAS, the City Council of the City of Wichita has found and determined:

1. Kyodo Yushi Manufacturing Americas, LLC is a new business to Wichita, Kansas, and intends to locate its business in Wichita through constructing and equipping a new building.

2. The acquisition and construction and equipping of the new building for which the exemption is given occurred after November 1, 2016. No exemption will be given for construction and equipping which occurred before that date.

3. Such acquisition and construction and equipping is to be used exclusively for manufacturing and distribution of articles of commerce.

4. By such acquiring, constructing and equipping a new facility, Kyodo Yushi Manufacturing Americas, LLC will create new employment for 5 employees within five years after the completion of the project.

5. Tax exemption will be given only for the acquisition of an existing facility and the constructing and equipping of the building.

6. The property on which the exemption is given will meet the requirements of the Kansas Constitution and the City of Wichita's Economic Development Incentive Policy.

7. Such ad valorem tax exemption is in the public interest providing for economic growth and benefit including the creation of jobs and stimulating additional private investment.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS,

1. The City Council of the City of Wichita, Kansas hereby makes a factual determination that an ad valorem tax exemption of the type requested by Kyodo Yushi Manufacturing Americas, LLC is required to create jobs in the State of Kansas, and that the property to be exempted is to be used exclusively for manufacturing and distribution of articles of commerce.

2. Kyodo Yushi Manufacturing Americas, LLC is hereby granted an ad valorem tax exemption of 76.5% for a five-year term on the constructing and equipping of a building and 76.5% for a second five years, subject to approval by the then current governing body, located within the Wichita City limits at 2901 N. Mead in north Wichita, at an estimated cost of $35,000,000. Such exemption is to begin in the calendar year after the calendar year in which the constructing and equipping of the building is completed, and may be terminated early (and Kyodo Yushi Manufacturing Americas, LLC may be required to repay amounts previously abated), in the event of any failure by Kyodo Yushi Manufacturing Americas, LLC, to perform its obligations under the Economic Development Incentive Agreement it has executed with the City.

3. The Economic Development Incentive Agreement between the City of Wichita and Kyodo Yushi Manufacturing Americas, LLC is hereby approved.

4. The Office of Urban Development shall be responsible for monitoring the performance of Kyodo Yushi Manufacturing Americas, LLC and shall provide reports on such performance.

5. Such exemption is subject to verification that the level of employment at the time of the completion of the project is at least equal to the level of employment as stated in Kyodo

Yushi Manufacturing Americas, LLC's written request for ad valorem tax exemptions as presented to the City Council and to administrative staff and dated June 16, 2016 and as stated in Kyodo Yushi Manufacturing Americas, LLC's annually approved EEO/AA Plan.

6. Such exemption may hereafter be withdrawn by the City Council upon a finding that Kyodo Yushi Manufacturing Americas, LLC no longer is entitled to such exemption in accordance with the Economic Development Incentive Agreement, which Kyodo Yushi Manufacturing Americas, LLC has executed with the City.

7. The City Council may, at its discretion, require Kyodo Yushi Manufacturing Americas, LLC to return all funds exempted if there is a failure to meet the terms and conditions of the Economic Development Incentive Agreement which Kyodo Yushi Manufacturing Americas, LLC has executed with the City.

8. Upon finding that Kyodo Yushi Manufacturing Americas, LLC has failed to meet its obligations under the Economic Development Incentive Agreement, the City Council shall require the repayment of all prior amounts of taxes that have been exempted and shall withhold any future exemption of taxes on Kyodo Yushi Manufacturing Americas, LLC's expansion project. All repayments shall be redistributed to the local taxing authorities at the proper taxing rates.

9. This Ordinance shall be in full force and effect from and after its passage and publication in the official City paper.

Passed by the governing body of the City of Wichita, Kansas this 22nd day of November, 2016.

_____

Jeff Longwell, Mayor

ATTEST:

_____

Karen Sublett, City Clerk

Approved as to Form:

_____

Jennifer Magaña, Director of Law and City Attorney

Economic Development Incentive Agreement

THIS ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT (the "Agreement") is made and entered into on this ____ day of November, 2016, by and between the City of Wichita, Kansas, hereinafter referred to as the "City," and Kyodo Yushi Manufacturing Americas, LLC hereinafter referred to as the "Company."

WHEREAS, the Company currently operates a manufacturing and warehousing and distribution facility in Wichita, Kansas, and will complete a building expansion, including equipping of said expansion, to its current facility; and

WHEREAS, both the City and the Company desire for the Company to continue operating its business in Wichita, Kansas; and

WHEREAS, the City desires to increase employment opportunities for the citizens of Wichita, Kansas, and to further the other goals advanced by its economic development incentive policy; and

WHEREAS, the Company warrants that it is capable of, and desires to, increase the number of employment positions at its Wichita, Kansas facility; and

WHEREAS, the City has designed an economic development incentive program to accomplish its goal of increasing employment opportunities in Wichita, Kansas; and

WHEREAS, the purpose of this Agreement is to state the terms and conditions under which the City will cooperate in furnishing said economic development incentives.

NOW, THEREFORE, in consideration of the mutual conditions, covenants and promises contained herein, the parties hereto agree as follows:

1. **THE COMPANY.** The Company agrees (to the extent not already hitherto performed) that it shall do the following:

   A. Between November 1, 2016 and December 31, 2017, the Company will have built and equipped a facility, located at 2901 N. Mead, Wichita, Kansas, at a cost of $35,000,000, to be used exclusively for the purposes of manufacturing and warehousing and distributing articles of commerce;

   B. NA;

   C. On or prior to December 31, 2022, the Company will add an additional five (5) new jobs at the new facility, and thereafter, maintain employment of not less than five (5) employees through December 31, 2027;

D. During the entire term of this Agreement, the Company will continuously maintain the average wage paid to its employees at a level (1) equal to or greater than the average wage paid by businesses in the Wichita Metropolitan Statistical Area with the Company's NAICS classification, or alternatively, (2) greater than the average wage for all jobs in the Wichita Metropolitan Statistical Area excluding wages paid by businesses classified in NAICS Sector 326;

E. During the entire term of this Agreement, the Company will meet any Equal Employment Opportunity/Affirmative Action goals set forth in its periodic filings with the City, and will annually file its Equal Employment Opportunity/Affirmative Action Plan with the City;

F. During the entire term of this Agreement, the Company will timely pay all *ad valorem* property taxes levied on its real or personal property within Sedgwick County, Kansas;

G. During the entire term of this Agreement, the Company will ensure that it does not discriminate or permit discrimination against any person on the basis of race, color, national origin or ancestry, religion, sex, age, disability or marital status in its operations or services, and the Company will comply with all applicable provisions of the Civil Rights Act of 1964, as amended; the Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375 and 11141; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Kansas Act Against Discrimination, K.S.A. 44-1000, *et seq.*; the Code of the City of Wichita Section 2.12.950; and, any laws, amendments or regulations promulgated thereunder, including any Ordinance of the City of Wichita, Kansas, presently existing or hereafter enacted, which pertains to civil rights and equal employment opportunity;

H. During the entire term of this Agreement, the Company will comply with all applicable governmental laws, rules and regulations; and,

I. During the entire term of this Agreement, the Company will cooperate with any annual compliance audit procedure(s) the City may adopt to monitor compliance with conditions, including any annual reports required of the Company and any inspection of the Company's premises or interviews with the Company's staff.

J. During the entire term of this Agreement and for at least five years thereafter, the Company will not relocate its business operations from the facility to any location outside the limits of the City of Wichita, Kansas.

2. **EFFECT OF COMPANY'S BREACH; REMEDIES**. The Company acknowledges that in the event of its noncompliance with any of its obligations or agreements under the foregoing Section 1, the City will not have received the social and economic development benefits expected in connection with its entry into this Agreement and its furnishing of the economic development incentives provided for hereunder, and the resulting loss to the City will be difficult to measure. In such event, Company shall be required to pay to the City, as liquidated damages, or as a payment in lieu of tax, an amount equal to the *ad valorem* taxes that would theretofore have been payable but for the tax exemption referred to in Section 3 of this Agreement, and the City shall be entitled to take action to cancel and revoke such exemption for any subsequent period. No delay or omission by the City to enforce any of its rights as provided for herein shall impair such right, nor shall any such delay or omission be construed to be a waiver of such right. Provided, however, that in the case of a breach of the obligation in Section 1.J., above, which occurs during the five years following the term of this Agreement, the required payment to the City shall be reduced twenty percent (20%) for each full year the Company maintained its business operations at the facility following the term of this Agreement.

3. **THE CITY.** So long as the Company meets and performs its obligations under this Agreement, it is the City's intention that the expansion and equipping of a building by the Company pursuant to Section 1.A., above, shall be entitled to an 76.5% exemption from *ad valorem* taxation for a period of five (5) calendar years, commencing January 1, 2018, such commencement date is contingent on the project actually being completed by December 31, 2017, and provided proper application is made therefor. It is the City's further intention that the building expansion shall be entitled to a 76.5% exemption from *ad valorem* taxation for an additional period of five years from January 1, 2023 to December 31, 2027, subject to the approval, in 2022, of the then current governing body. The City agrees that, during the term of this Agreement, and so long as the Company continues to meet and perform all of its obligations under this Agreement, the City will reasonably cooperate with the Company's efforts to perfect the intended exemption before the Kansas Court of Tax Appeals, and to make all necessary annual filings required to maintain such *ad valorem* tax exemption in full force and effect during the term of this Agreement, in accordance with K.S.A. 79-210 *et seq*.

4. **TERM.** This Agreement shall commence on the date first written above, and shall end on December 31, 2027, except that the provisions of section 1.J and section 2 "Remedies for breach thereof" shall continue in effect until December 31, 2031.

5. **INCORPORATION OF APPENDIX**. Appendix A (Revised Non-Discrimination and Equal Employment Opportunity/Affirmative Action Program Requirements Statement for Contracts or Agreements) is attached hereto and made a part hereof as if fully set out herein.

6. **ENTIRE AGREEMENT.** This Agreement and any Appendices attached hereto contain all the terms and conditions agreed upon by both parties. No other understandings, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or to bind any of the parties hereto. Any agreement not contained herein shall not be binding on either party, nor of any force or effect. In the event of a conflict between the terms of this Agreement and the terms contained in an Appendix, Statement of Work or other attachment, the terms of this Agreement will control.

7. **NOTIFICATION.** Notifications required pursuant to this Agreement shall be made in writing and mailed to the addresses shown below. Such notification shall be deemed complete upon mailing.

City: Office of Urban Development
Attn: Economic Development Administrator
455 North Main, 13th Floor
Wichita, Kansas 67202

and

Department of Law
Attn: City Attorney
455 North Main, 13th Floor
Wichita, Kansas 67202

Company: Kyodo Yushi Manufacturing Americas, LLC
Attn: Scott Schwindaman
1919 E. Tulsa
Wichita, KS 67216

8. **AUTHORITY.** Each person executing this Agreement represents and warrants that they are duly authorized to do so on behalf of the entity that is a party hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

CITY OF WICHITA, KANSAS

ATTEST:

_____
Jeff Longwell, Mayor

_____
Karen Sublett, City Clerk

KYODO YUSHI MANUFACTURING AMERICAS, LLC

APPROVED AS TO FORM:

_____

Jennifer Magaña, Director of Law
And City Attorney

_____

Name: _____

Title: _____

APPENDIX A

REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.

B. Requirements of the State of Kansas:

1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;

2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";

3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.

C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;

2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;

3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;

4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.

5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars ($5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.

2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

City of Wichita
City Council Meeting
November 8, 2016

TO: Mayor and City Council

SUBJECT: Request to Amend the Letter of Intent for Industrial Revenue Bonds (Cessna Aircraft Company) (Districts III and IV)

INITIATED BY: Office of Urban Development

AGENDA: New Business

Recommendation: Close the public hearing and adopt the Resolution amending the Letter of Intent to issue Industrial Revenue Bonds.

Background: Since 1990, the City of Wichita has issued $1,352,682,000 in principal amount of Industrial Revenue Bonds ("IRBs") to finance the expansion and modernization of Cessna Aircraft Company ("Cessna") facilities in Wichita. Along with the IRBs, the City Council approved a five-plus-five-year 100% ad valorem tax exemption for all Cessna property financed with bond proceeds.

On August 13, 2013, the City of Wichita approved a Letter of Intent ("LOI") to issue annual IRBs in a total not-to-exceed amount of $513,600 for a period of five years.

Cessna is now requesting an amendment to the LOI to allow it to transfer the LOI to Textron Aviation, including all rights and obligations, and to refund all outstanding Cessna bonds and refinance the outstanding Beechcraft bonds and acquire all bond-financed assets.

Cessna/Textron Aviation is in the Advanced Manufacturing sector of the Blueprint for Regional Economic Growth (BREG) and is a main supplier to another BREG sector, Aerospace.

Analysis: In 2014, Textron, Inc. acquired Beechcraft Corporation for $1.4 billion. At the same time, it created Textron Aviation, Inc. to integrate the Beechcraft, Hawker and Cessna (which Textron already owned) lines into one company.

Since that time, Textron Aviation has reallocated the resources of multiple campuses and thousands of employees into a new more efficient company. As part of its effort to streamline processes, the company is integrating its financial resources, including Industrial Revenue Bond issuances. The City of Wichita has acted as the issuer of IRBs for Cessna and Sedgwick County has been the issuer of IRBs for Beechcraft.

Cessna would like to transfer the LOI, which has a remaining capacity of $383,400,000, to Textron Aviation. Textron Aviation would then refund all outstanding Cessna bonds, which the City has already issued. Textron Aviation also would refinance the outstanding Beechcraft bonds, in an approximate amount of $68,803,736.59, with the City acting as the issuer. This would consolidate all outstanding IRBs from Cessna and Beechcraft under Textron Aviation. Any outstanding tax abatements afforded by the previously issued bonds, would remain for the balance of the original term.

Transferring the LOI would allow Textron Aviation to issue bonds for improvements made at any of the three Textron campuses (former Cessna facility at the airport, former Cessna facility near Pawnee and

Woodlawn and the former Beechcraft facility at Central and Webb). The LOI expires December 31, 2017.

Financial Considerations: Textron Aviation agrees to pay all costs of issuing the bonds and agrees to pay the City's $2,500 annual IRB administrative fee for the term of the bonds. Under the City's Economic Development Incentive policy, the Company qualifies for a 100% five-year tax exemption on property financed with bond proceeds, plus a second five-year exemption subject to City Council review and approval based upon the total dollar amount of capital investment.

A cost/benefit analysis was performed by Wichita State University's Center for Economic Development and Business Research based upon the proposed Letter of Intent, with the following ratio of benefits to costs:

City of Wichita	4.00 to 1
City General Fund	1.81 to 1
City Debt Service Fund	N/A
Sedgwick County	3.73 to 1
USD 259	1.83 to 1
USD 261	1.84 to 1
State of Kansas	4.19 to 1

A cost benefit analysis was conducted regarding the refinancing of the Beechcraft bonds and due to the fact there is no cost to the City since all of the property is in an industrial district, it is not possible to calculate a ratio of benefits to costs. The impact to the other jurisdictions is below.

City of Wichita	NA
City General Fund	NA
City Debt Service Fund	N/A
Sedgwick County	4.05 to 1
USD 259	1.93 to 1
State of Kansas	4.36 to 1

Legal Considerations: The law firm of Gilmore & Bell, PC will serve as bond counsel in the transaction. The form of bond documents shall be subject to review and approval by the Law Department prior to the issuance of any bonds. Textron Aviation agrees to comply with the City's Standard Letter of Intent conditions.

Recommendations/Actions: It is recommended that the City Council close the public hearing and adopt the Resolution amending the Letter of Intent to issue Industrial Revenue Bonds and authorize the necessary signatures.

Attachments: Resolution

Gilmore & Bell, P.C.
10/20/2016

RESOLUTION NO. 16-443

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS DETERMINING THE ADVISABILITY OF AMENDING AN EXISTING LETTER OF INTENT FOR THE PURPOSE OF ISSUING INDUSTRIAL REVENUE BONDS TO FINANCE OR REFINANCE THE INSTALLATION OF IMPROVEMENTS TO CERTAIN EXISTING AVIATION MANUFACTURING AND FLIGHT TESTING FACILITIES LOCATED IN THE ENVIRONS OF THE CITY OF WICHITA, KANSAS AND THE ACQUISITION OF CERTAIN MACHINERY AND EQUIPMENT FOR SUCH FACILITIES; AND AUTHORIZING THE EXECUTION OF RELATED DOCUMENTS (TEXTRON AVIATION, INC.).

WHEREAS, the City of Wichita, Kansas (the "City") is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State of Kansas (the "State"); and

WHEREAS, the City Council (the "Governing Body") of the City desires to promote, stimulate and develop the general economic welfare and prosperity of the City and its environs, and thereby to further promote, stimulate and develop the general economic welfare and prosperity of the State; and

WHEREAS, pursuant to the provisions of the Kansas Economic Development Revenue Bond Act, as amended and codified in K.S.A. 12-1740 *et seq.* and K.S.A. 10-116a (collectively, the "Act"), the City is authorized to issue revenue bonds for such purposes and to refund such revenue bonds previously issued; and

WHEREAS, the City has heretofore issued twenty-five series of its taxable industrial revenue bonds in the original aggregate principal amount of $1,352,682,000, outstanding as of December 15, 2016 in the aggregate principal amount of $317,089,501.40 (the "Outstanding Cessna Bonds"), the proceeds of which were used to provide funds to pay the costs of the installation of improvements to certain existing aviation manufacturing and flight testing facilities and the acquisition of certain machinery and equipment for such facilities (the "Cessna Project") located in the environs of the City, which are currently leased by the City to the Cessna Aircraft Company ("Cessna"); and

WHEREAS, the City currently has in place a Letter of Intent from the City to Cessna dated September 13, 2013 (the "Letter of Intent") indicating the intent of the City to issue taxable industrial revenue bonds for the benefit of Cessna in an amount not to exceed $513,600,000, of which $383,400,000 remains unused; and

WHEREAS, in connection with the acquisition of Cessna by Textron Aviation, Inc., a Kansas corporation ("Textron Aviation") as its wholly owned subsidiary, the Governing Body hereby determines that it is necessary and advisable to amend the Letter of Intent to permit the remaining taxable industrial revenue bonds authorized by the Letter of Intent to be issued for the benefit of Textron Aviation; and

WHEREAS, the Governing Body hereby further determines that it is necessary and advisable to amend the Letter of Intent to permit the Outstanding Cessna Bonds to be refunded for the benefit of Textron Aviation; and

WHEREAS, Sedgwick County, Kansas (the "County") has heretofore issued twenty-four series of its taxable industrial development revenue bonds in the original aggregate principal amount of $1,452,882,324.05, outstanding as of December 15, 2016 in the principal amount of $68,803,736.59 (the "Outstanding Beechcraft Bonds"), the proceeds of which were used to provide funds to pay the costs of the installation of improvements to certain existing aviation manufacturing and flight testing facilities and the acquisition of certain machinery and equipment for such facilities (the "Beechcraft Project") located in the environs of the City, which are currently leased by the County to the Beechcraft Corporation ("Beechcraft"); and

WHEREAS, in connection with the acquisition of Beechcraft by Textron Aviation as its wholly owned subsidiary, the Governing Body hereby determines that it is necessary and advisable to amend the Letter of Intent to permit the issuance by the City of its taxable industrial revenue bonds in an aggregate principal amount of approximately $68,803,737, plus financing costs, to refund the Outstanding Beechcraft Bonds for the benefit of Textron Aviation and to acquire such bond financed assets.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Ratification of Letter of Intent for Textron Aviation. The Letter of Intent is hereby amended, ratified and confirmed for the benefit of Textron Aviation, and the remaining $383,400,000 aggregate principal amount of taxable industrial revenue bonds authorized by the Letter of Intent may be issued to finance the installation of improvements to existing aviation manufacturing and flight testing facilities and the acquisition of certain machinery and equipment for such facilities at Textron Aviation's facilities in the City and its environs (the "Improvement Bonds"). All such Improvement Bonds shall be issued subject to the conditions set forth in the Letter of Intent.

Section 2. Refinancing of Outstanding Cessna Bonds. The Governing Body hereby finds and determines that the refinancing of the debt represented by the Outstanding Cessna Bonds will promote, stimulate and develop the general economic welfare and prosperity of the City and its environs, and thereby further promote, stimulate and develop the general economic welfare and prosperity of the State. An amendment to the Letter of Intent is hereby authorized for the purpose of permitting the issuance of refunding revenue bonds to refund the Outstanding Cessna Bonds for the benefit of Textron Aviation (the "Refunding Bonds"). All such Refunding Bonds shall be issued subject to the conditions set forth in the Letter of Intent.

Section 3. Refinancing of Outstanding Beechcraft Bonds. The Governing Body hereby finds and determines that the acquisition, construction and equipping of the Beechcraft Project will promote, stimulate and develop the general economic welfare and prosperity of the City and its environs, and thereby further promote, stimulate and develop the general economic welfare and prosperity of the State. The City is hereby authorized to issue its revenue bonds pursuant to the Act, in one or more series, in an aggregate principal amount of approximately $68,803,736.59, plus financing costs (the "Acquisition Bonds"), to refinance the Outstanding Beechcraft Bonds and acquire the Beechcraft Project. All such Acquisition Bonds shall be issued subject to the conditions set forth in the Letter of Intent.

Section 4. Property Tax Exemption. To the extent that the Cessna Project was granted an exemption from payment of ad valorem property taxes pursuant to K.S.A. 79-201a, such exemption shall remain in place for the remaining duration of the exemption period attributable to each portion of the Cessna Project. To the extent that the Beechcraft Project was granted an exemption from payment of ad valorem

property taxes pursuant to K.S.A. 79-201a, an exemption shall be granted for the remaining duration of the exemption period attributable to each portion of the Beechcraft Project. Notwithstanding the foregoing, to the extent any portion of the Cessna Project or the Beechcraft Project is subject to an existing Fire Protection Agreement, each such Fire Protection Agreement shall remain in effect and be assigned to Textron Aviation or an appropriate amendment thereto shall be executed by and between Fire District No. 1 of Sedgwick County, Kansas and Textron Aviation.

Section 5. **Limited Liability of City.** The Improvement Bonds, the Refunding Bonds and the Acquisition Bonds (collectively, the "Bonds") and all interest thereon shall be paid solely from the revenues to be received by the City from the bond-financed improvements and not from any other fund or source. The City shall not be obligated on such Bonds in any way, except as herein set out. In the event that any of the Bonds are not issued, the City shall have no liability to Textron Aviation.

Section 6. Execution and Delivery of Documents. The Mayor is hereby authorized to execute an amendment to the Letter of Intent permitting the issuance of the Bonds for the benefit of Textron Aviation as herein described, and the City Clerk is authorized to deliver executed copies of this Resolution and the amendment to the Letter of Intent to Textron Aviation. The City Clerk is further authorized to provide a copy of this Resolution to the Board of County Commissioners of the County in accordance with the requirements of K.S.A. 12-1741a.

Section 7. Further Action. The Mayor, City Clerk and other officials and employees of the City, including the City Attorney and Bond Counsel, are hereby further authorized and directed to take such other actions as may be appropriate or desirable to accomplish the purposes of this Resolution, including, but not limited to: (a) execution on behalf of the City of the information statement regarding the proposed issuance of each series of the Bonds to be filed with the State Board of Tax Appeals pursuant to the Act; and (b) providing for timely notice of redemption of the Outstanding Cessna Bonds and the Outstanding Beechcraft Bonds.

Section 8. Effective Date. This resolution shall become effective upon adoption by the Governing Body.

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ADOPTED by the City Council of the City of Wichita, Kansas, on November 8, 2016.

(SEAL)

_____
Jeff Longwell, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Jennifer Magaña, Director of Law
and City Attorney

CERTIFICATE

I hereby certify that the above and foregoing is a true and correct copy of the Resolution adopted by the City Council of the City of Wichita, Kansas on November 8, 2016, as the same appears of record in my office.

DATED: November 8, 2016.

_____
Karen Sublett, City Clerk

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EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF WICHITA, KANSAS
HELD ON NOVEMBER 8, 2016

The governing body of the City of Wichita, Kansas met in regular session at the usual meeting place in the City, at 9:00 a.m., the following members being present and participating, to-wit:

Absent:

The Mayor declared that a quorum was present and called the meeting to order.

* * * * * * * * * * * * * *

(Other Proceedings)

Among other business, in accordance with notice published on October 31, 2016, in the *Wichita Eagle*, a public hearing was held by the governing body relating to the amendment of an existing Letter of Intent to issuance taxable industrial revenue bonds and the proposed issuance of taxable industrial revenue bonds in the aggregate principal amount of approximately $68,803,736.59, plus financing costs, to refund industrial revenue bonds previously issued by Sedgwick County, Kansas for the benefit of Beechcraft Corporation and to acquire such bond financed assets. All interested persons were afforded an opportunity to present their views on the issuance of the Bonds and the location and nature of the Project to be financed with the proceeds of the Bonds. Thereupon, the public hearing was closed.

Thereupon, there was presented a Resolution entitled:

> **A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS DETERMINING THE ADVISABILITY OF AMENDING AN EXISTING LETTER OF INTENT FOR THE PURPOSE OF ISSUING INDUSTRIAL REVENUE BONDS TO FINANCE OR REFINANCE THE INSTALLATION OF IMPROVEMENTS TO CERTAIN EXISTING AVIATION MANUFACTURING AND FLIGHT TESTING FACILITIES LOCATED IN THE ENVIRONS OF THE CITY OF WICHITA, KANSAS AND THE ACQUISITION OF CERTAIN MACHINERY AND EQUIPMENT FOR SUCH FACILITIES; AND AUTHORIZING THE EXECUTION OF RELATED DOCUMENTS (TEXTRON AVIATION, INC.).**

Thereupon, Councilmember _____ moved that said Resolution be adopted. The motion was seconded by Councilmember _____. Said Resolution was duly read and considered, and upon being put, the motion for the adoption of said Resolution was carried by the vote of the governing body, the vote being as follows:

Yea:

Nay:

Thereupon, the Resolution was then duly numbered Resolution No. 16-443, and was signed by the Mayor and attested by the Clerk.

(Other Proceedings)

* * * * * * * * * * * * * *

CERTIFICATE

I certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the governing body of the City of Wichita, Kansas held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

[SEAL]

_____

Karen Sublett, City Clerk

City of Wichita
City Council Meeting
November 8, 2016

TO: Mayor and City Council

SUBJECT: Foreign Direct Investment Strategy Funding Agreement

INITIATED BY: Office of Urban Development

AGENDA: New Business

Recommendation: Approve the agreement.

Background: In December 2013, the Wichita region was chosen as one of eight communities in the United States to participate in the second cohort of the Brookings Institution Global Cities Initiative ("GCI"). The Global Cities Initiative is a project launched by the Brookings Institution ("Brookings") in partnership with JPMorgan Chase in 2012 and is aimed at helping American communities strengthen regional economies through the development of export and foreign direct investment plans.

Analysis: The initial work on the GCI Initiative was the development of an export plan, which was completed in 2015 and now is in the implementation phase. The purpose of the export plan is to identify ways to grow the local economy by increasing the use of foreign markets by local producers of goods and services. An assessment of needs was conducted through the completion of almost 300 online surveys as well as interviews with over 20 chief executive officers. Almost 100 individuals from the region participated in a year long process of developing the Export Plan.

The GCI Initiative has been influential in creating new international investment in Wichita, including the selection of Wichita for the Figeac North American headquarters. The Foreign Direct Investment (FDI) agreement will build on these efforts to increase international investment in the region. The next phase of the GCI Initiative entails the preparation and implementation of a strategy to expand foreign direct investment in the regional economy. The Greater Wichita Partnership is the financial partner responsible for securing funding for this phase, and Kansas Global Trade Services is the program manager.

Services to be provided by Kansas Global include a pre-planning and implementation process, a full FDI market assessment, the development of the FDI plan and associated implementation plan, the preparation of an FDI/Trade policy memo, the provision of periodic status updates to a steering committee and core team, and the coordination, management and payment of any subcontractors used to complete the work.

The Board of Sedgwick County Commissioners recently approved $50,000 for its contribution to the plan. The City's share for this phase of the plan is requested to be $40,000.

Financial Considerations: The City's $40,000 share for this purpose are allocated and will be paid from the Economic Development Fund.

Legal Considerations: The Agreement has been approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council approve the Agreement with the Greater Wichita Partnership for the FDI plan and authorize the necessary signatures.

Attachments: FDI Agreement with the Greater Wichita Partnership

Agreement between City of Wichita and the
Greater Wichita Partnership, Inc.

This agreement is effective as of the ____day of August 2016, by and between City of Wichita (hereinafter referred to as "City") and the Greater Wichita Partnership, Inc. (hereinafter referred to as "GWP").

WITNESSETH:

WHEREAS, the City desires to support GWP through participation in the Brooking Global Cities Initiative program (GCI); and

WHEREAS, GWP is under contract with Kansas Global to perform certain project management objectives as found in Exhibit A; and

WHEREAS, the City desires to document the terms of its participation and that GWP will act a fiscal agent for same;

NOW, THEREFORE, in consideration of the mutual covenants, conditions and promises contained herein, the parties hereto do agree as follows:

1. Purpose: The purpose of this agreement is to document the investments made by the City of $40,000.00 to contribute to the implementation of the GCI project as outlined in Exhibit A, attached hereto and incorporated herein as a part of this agreement.

2. Term: The term of this agreement shall be for a one-year period, effective August 1, 2016, through August 1, 2017.

3. Conditions: This agreement is subject to GWP remaining engaged as fiscal agent for the GCI project. The City's contribution of $40,000.00 shall be payable to GWP within thirty days of the execution of this agreement.

4. Program Summary: The Wichita Region of South Central Kansas was selected to participate in the Brookings program. The ten-county Greater Wichita Metro Area of South Central Kansas includes Butler, Cowley, Harper, Harvey, Kingman, Marion, McPherson, Reno, Sedgwick and Sumner counties. Participation in the program will produce a data-driven Regional Foreign Direct Investment plan with the guidance of the Brookings GCI team, and JPMorgan Chase.

5. Reports: The GWP will provide quarterly reports as required by the City, and will provide an Annual Report to the public.

6. Cash Basis and Budget Laws: The right of the City to enter into this Agreement is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the City shall at all times stay in conformity with such laws, and as a condition of this Agreement the

City reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of the City's legal counsel, the Agreement may be deemed to violate the terms of such laws.

7. Independent Contractor: It is agreed that the legal relationship between GWP and City is of a contractual nature. Both parties assert and believe that GWP is acting as an independent contractor in providing the services and performing the duties required by City hereunder. GWP is at all times acting as an independent contractor and not as an officer, agent, or employee of City. As an independent contractor, GWP, and employees of GWP, will not be within the protection or coverage of City's worker's compensation insurance, nor shall GWP, and employees of GWP, be entitled to any current or future benefits provided to employees of City. Further, City shall not be responsible for withholding of social security, federal, and/or state income tax, or unemployment compensation from payments made by City to GWP.

8. Amendment: This Agreement may be amended only by written consent of all parties.

9. Termination: Either party may terminate this agreement by giving written notice by June 1 of any year, which termination shall be effective the following January 1.

Dated this ____ day of November, 2016

ATTEST:

_____

Karen Sublett, City Clerk

CITY OF WICHITA

_____

Jeff Longwell, Mayor

APPROVED AS TO FORM:

_____

Jennifer Magana, Director of Law

GREATER WICHITA PARTNERSHIP, Inc.

_____

Jeff Fluhr, President

EXHIBIT A

April 11, 2016

Jeff Fluhr
President
Greater Wichita Partnership
501 E. Douglas
Wichita, KS 67202

Proposal No. 9377

Proposal for Greater Wichita Partnership (GWP)

OBJECTIVE:

The objective of this proposal is to provide management, coordination and communication services for the Brookings Global Cities Initiative (GCI) Foreign Direct Investment (FDI) Planning Process on behalf of the 10-county region of South Central Kansas (See Appendix C for county list.) At the end of the Planning Process the region will have developed a foreign direct investment (FDI) strategy, implementation plan and corresponding budget. To help the region participate in the GCI program resulting in a FDI plan, Kansas Global Trade Services, Inc. ("Kansas Global") proposes to act as the program manager, coordinating all sub-contractors and services as deemed necessary. Kansas Global proposes that the Greater Wichita Partnership act as the financial partner. Management of the FDI planning process prompts a set of services and deliverables, listed below.

DELIVERABLES:

1.	**Pre-planning and implementation process**
2.	**Full FDI market assessment**
	a. Data analysis
	b. Market input: foreign-owned enterprise and other actors (developers, services providers) interviews
3.	**The FDI plan and associated implementation or "business" plan with major budget items**
4.	**FDI/Trade Policy memo**
5.	**Monthly reporting & meeting summaries**

SERVICES

The scope of the GCI program management includes coordination and management of all sub-contractors, research and analysis, meeting scheduling, management and attendance, and reporting. *Kansas Global will develop, in concert with the Core Team and Brookings, and with advice from the Steering Committee:*

1. **Pre-planning and implementation process**
    a. Appropriate and realistic scope for the FDI plan
    b. Manage selection and recruitment of Core team and Steering Committee members, and facilitate engagement of leadership in the ten-county area
    c. Meeting scheduling, management and on-site implementation including meeting and material costs; number and frequency of scheduled meetings, with no less than one monthly; and published schedule, for:
        i. Core Team: serves as implementation team and carries the majority of the workload
        ii. Steering Committee: serves as the regional FDI planning team comprised of company executives, economic development executives, young professionals, and civic leaders from the 10 individual counties of the Wichita region of South Central Kansas; purpose is to represent the interests of their constituency or geographic area – providing recommendations, noting challenges and facilitating regional solutions. The Steering Committee is the cornerstone of the regional FDI planning effort.
        iii. Brookings GCI workshops, in-market visits, teleconferences and webinars
            1. In-Market visit: One two-day visit by Brookings advisors to meet with Core and Steering Committee members, talk to the Research Team, brief the media (if appropriate), interview company executives and meet with community leadership groups.
            2. FDI Exchange Working Session: FDI working session will take place at the Brookings Institution in Washington, DC. Exchange participants will be required to present market assessments and initial draft FDI strategies for peer review and feedback from other Exchange participants and Brookings scholars. Federal leaders, private sector leaders, and other global experts will also be invited but Brookings to provide insights that will help strengthen implementation.
            3. GCI Global Summit: Two-day FDI working session will take place at the Brookings Institution in Washington, DC. A Global Summit of GCI Cities to exchange ideas and key learnings and to highlight successes. This will encompass both the Export Plan and the FDI Planning processes, and focus on next steps for GCI cities to further their quest toward global competitiveness and fluency.
            4. Conference Calls, Webinars, and Web Resources:
                a. Monthly or periodic conference calls and webinars to check-in, problem-solve together at key points of the planning or implementation process, and learn about helpful new tools, data, and/or policy changes that will aid their planning process.
                b. Periodically, the full network of FDI planning communities will have the opportunity to come together on a conference call or webinar. Participants will also have access to data and other resources through a dedicated website.

iv. Other meetings as necessary to recruit, coordinate and manage input and communicate with the Core Team, Steering Committee, Brookings and other stakeholders

2. **Full FDI market assessment:**

The analysis will include, but not be limited to, the identification of the region's rationale for FDI, key findings from the market assessment, the FDI plan's goals and objectives, core strategies and tactics that will best drive attainment of stated goals and objectives, programs and initiatives to carry out the strategies, an implementation plan (e.g., roles, responsibilities, budget), and performance goals to measure progress. This analysis should identify areas of strengths and weaknesses, desired forms of FDI (Greenfields and M&A), and other potential opportunities. When applicable, analysis will be provided on a Metropolitan Statistical Area (MSA), 10-county regional, and national level.

a. Produce a Market Assessment to determine FDI performance and potential, including:
   i. Analysis of the region's current FDI strengths and weaknesses by industries <u>or</u> types of desired investment the plan will target for proactive outreach, and determine baseline performance metrics against which to accurately measure progress.
   ii. The role of FDI in the overall regional economy, including such statistics as:
      1. <u>Global performance</u>: total FDI in the region, FDI growth, FDI intensity, FDI jobs, comparisons with peer metros and/or US
      2. <u>Mode of entry and establishment size</u>: greenfield or M&A, Jobs in foreign-owned establishments, by industry
      3. <u>Industries</u>: which industries contribute to exports and FDI inflows
      4. <u>Markets</u>: target foreign markets for planning and budgeting for marketing, overseas trade shows, foreign offices/contracts, etc.
b. Obtain Local Market insight—information and insight secured locally through direct outreach to firms and other FDI actors, and assembly of all relevant local reports and articles related to investment
   i. Conduct ~20 one-on-one interviews with Foreign-Owned Enterprises (FOE's); this constitutes about 50% of total FOEs in the region. See Appendix B for working list of FOEs.
   ii. Include up to 15 one-on-one interviews from other actors including developers and service providers.
   iii. Publicly available information and reports will be reviewed and supplemented through interviews with representatives from industries, associations, existing programs and educational institutions.

3. **A customized, regional FDI plan:**

a. Clear, easy-to-read document (~30 pages) that states the case for FDI as a part of the region's economy and provides an intentional guide to increase FDI.

FDI Plan Chapters
1. Rationale and Response
2. The Interaction between Exports and FDI
3. Key Findings from the Market Assessment (FDI and Export or Combined)
4. Goal and Objectives
5. Strategies & Tactics
6. Performance Measurements
7. Implementation Plan
8. Trade Policy Proposal
9. Communications & Marketing Recommendation

b. The FDI plan will provide a platform that, if implemented and taken advantage of, will:
   i. Produce more effective FDI activities in the region, with as goal of increasing FDI.
   ii. Identify existing FDI opportunities and outline activities that the region and companies can undertake to attract more FDI opportunities.
   iii. Create a more transparent, streamlined and efficient FDI assistance system.
   iv. Facilitate the cultural shift needed to embrace global engagement by making global trade and investment a mainstream part of regional economic development.
   v. Integrate FDI into a broader economic strategy for growth and global competitiveness in the "next economy," Including: aligning exports and foreign direct investment with innovation in manufacturing, transformative investments in freight and logistics, and the grooming of a globally fluent workforce.

4. **FDI Policy memo:** local, state and federal policy recommendations for efficient FDI activities
5. **Reporting**
   a. Meeting summaries (minutes) produced and distributed to the Core Team, Steering Committee, and Brookings GCI workshops, teleconferences and webinars, as appropriate
   b. One-page monthly update on program status, to include timeline, goals, percent completed, and next steps, produced and distributed to Core Team
6. **Coordination, management and payment of all sub-contractors, as applicable**
7. **Support GWP in securing sponsors by providing access to data and other resources**

DELIVERABLES (See Appendix C: In-Progress Deliverables Report):

1. Pre-planning and implementation process
2. Full FDI market assessment
3. The FDI plan (and associated implementation or "business" plan)
4. FDI Policy memo
5. Monthly reporting & meeting summaries
6. Coordination, management and payment of all sub-contractors

PRICING AND PAYMENT TERMS:

Consultation for:	Timeframe for Delivery	Total Not-to-exceed
GWP/Greater Wichita Region-Global Cities Exchange FDI Planning process	By December 31, 2016	$165,000
Pricing Covers:	• Pre-planning and implementation process • Market assessment support • The Wichita/SC Kansas FDI plan • A FDI Policy memo • Monthly reporting & meeting summaries • Coordination and management of sub-contractors • Program management	
Total Program Budget:	**$25,000** – Market assessment, data analysis, research and focus group fees, as applicable **$5,000** – Travel **$5,000** - Direct, meeting, printing and miscellaneous expenses **$300,000** - Kansas Global Management & Consultation Services: project management, market assessment coordination & production, FDI plan/implementation plan & policy production, coordination and convening, marriage with export plan, etc. [50 average Kansas Global (multiple employees) hours per week for 50 weeks] **($170,000)** – Kansas Global In-kind donation **TOTAL: $165,000****	
Payment Terms:	• Kansas Global Management & Consultation Services: o $90,000 invoiced at contract signing to continue (est. August 2016) + $4,750 in direct expenses already incurred o $10,000 invoiced on October 1, 2016 o $10,000 invoiced November 1, 2016 o $20,000 invoiced no more than 30 days after completion of the Plan (no later than January 31, 2017) • Subcontractor and direct expenses will be invoiced to GWP for payment *as needed, separately*. Anticipated schedule and amounts follow: o $10,000 Data analysis and research Fee 1 o $15,000 Data analysis and research Fee 2 o $5,000 Total direct expenses including FDI plan delivery, release event, design and printing (partial shown above) o $4,000 travel in June (already incurred and shown above) o $1,000 travel in September	
** 1) Expenses, e.g. sub-contractor, misc., not incurred will not be billed to this program.		

APPROVAL:

By signing this agreement, GWP (a) agrees to be bound by all the provisions hereof (including all the terms and conditions set forth within this document), and (b) acknowledges the sole responsibility to make payments of all charges relating to the project within 15 days of the payment schedule listed above. Collection of related payments from any third party is a private matter of the Client and shall not affect the Client's responsibility for payment to Kansas Global.

CONFIDENTIALITY STATEMENT:

The data and resources provided by the Kansas Global Trade Services, Inc. (Kansas Global) shall not be duplicated, used or disclosed in whole or in part to any third party by Kansas Global nor shall it be duplicated, used or disclosed by Kansas Global for any purpose other than that specifically authorized by the Client. The information provided by the Client to Kansas Global shall not be disclosed by Kansas Global and shall not be duplicated, used or disclosed in whole or in part for any purpose other than that specifically authorized by the Client.

NATURE OF SERVICES:

Kansas Global assists clients in a variety of export-related activities, including the development and assessment of export compliance programs and other such services as are described herein. The services offered by Kansas Global are not intended to be, and shall not be construed as, legal advice. Should the Client desire legal advice in connection with the subject matter of this proposal, Client should obtain the services of qualified legal counsel.

LIABILITY LIMITATIONS:

Kansas Global shall provide the services described herein using reasonable commercial efforts. **Except as may be otherwise limited or prohibited by law, Kansas Global's liability in connection with this proposal or any resulting agreement, or the services described herein, shall be limited to the amount of those payments actually made to Kansas Global by Client in connection with the services. Kansas Global hereby disclaims and Client hereby waives any further liability, including but not limited to liability for consequential, incidental, multiple or exemplary damages, even where the possibility of such damages is made known to Kansas Global. The foregoing limitation of liability shall extend to Kansas Global and to its directors, officers, employees, consultants and agents. Kansas Global makes no warranty, express or implied, as to the services, including any warranty of merchantability of fitness for purpose.** This proposal and any resulting agreement shall be governed by the laws of the State of Kansas, without regard to its choice of law rules.

Kansas Global Trade Services, Inc. offers this proposal as of April 11, 2016, with most recent modifications as of August 9, 2016. *(Note: Kansas Global has already begun work on this project.)*

NOTE: THIS PROPOSAL EXPIRES August 25, 2016	Accepted by:
By: Kansas Global Trade Services, Inc.	Greater Wichita Partnership
Karyn Page	Name: Jeff Fluhr
President/CEO	President
Date: August 9, 2016	Date:

Appendix A: List of Counties in Region *

Butler	Cowley
Harper	Harvey
Kingman	McPherson
Marion	Reno
Sedgwick	Sumner

*This region is compatible with Wichita State University's Innovative Manufacturing Communities Partners (WSU-IMCP), the Blueprint for Regional Economic Growth (BREG), and the Regional Export Plan.

Agenda Item No. IV-6

City of Wichita
City Council Meeting
November 8, 2016

TO: Mayor and City Council Members

SUBJECT: An Ordinance Creating Chapter 8.02 of the Code of the City of Wichita Pertaining to Excess Calls for Service for Nuisance Properties. (All Districts)

INITIATED BY: Wichita Police Department

AGENDA: New Business

Recommendation: Place the ordinances on first reading.

Background: The Wichita Police Department (WPD) routinely responds to numerous locations throughout the City to address nuisance activities. These activities use a disproportionate amount of police and emergency services. The intent of the ordinance is to allow the Wichita Police Department to engage property owners and develop a plan to reduce nuisance activities occurring on private property. The goal is to reduce the amount of emergency services utilized by any one property.

Year to date, Patrol North has 244 locations that police have responded eleven (11) times or more, Patrol South 359 locations, Patrol East 216 locations and Patrol West 240 locations. However, a considerable number of these locations would not fall into the category of a nuisance property or a "Trigger" event due to the nature of the call.

The ordinance has been discussed by the Chief of Police and Community Police Officers at several neighborhood and community functions and received positive support. These groups include K-15 NHA, Planeview NHA, Hilltop (HAND), Hilltop Manor, Sunnyside NHA, Schweiter East NHA, Fabrique NHA, East Ridge NHA, Grandview NHA, Meadowlark NHA, Mead NHA, and the following apartment complexes: Holly Park, Chalet, The Willows, Meadowlark and Buttonwood Tree.

Analysis: The proposed ordinance establishes a process whereby a property owner is encouraged to work jointly with the Wichita Police Department to develop a plan to abate nuisance activities on their property. Nuisance activity is defined as a "Trigger" event which is a Wichita Police Department documented incident, a criminal conviction or criminal diversion related to a series of defined criminal violations. When two (2) or more Trigger events occur or one (1) shooting or search warrant occur the property owner is notified that one (1) more event will qualify them as a nuisance. Upon a third trigger event the property owner is notified of a hearing with a Police Department representative. A plan is developed to abate the nuisance. If the property owner fails to attend the hearing or comply with the plan, the actual costs of any subsequent police calls may be assessed against the property owner. The owner may appeal the assessment of these costs to the Chief of Police, City Manager and then to the District Court.

Financial Considerations: The cost to respond to nuisance calls would depend on the number of officers required to respond and amount of time on the call. Depending on those variables, the cost of nuisance calls would vary in cost. The assessment of police service cost would be determined by the actual hourly

wages, including overtime of all law enforcement personnel that responded. An event where two officers responded for one hour it is estimated to cost $100.00 not including any overtime cost if applicable. If there were 80 such properties in the City of Wichita in a one year period that did not comply and were assessed a "special security assignment" fee the revenue would be estimated at $8,000. In addition, nuisance calls reduce outcome levels provided by Police, by absorbing officer time that could be used more productively either patrolling or responding to other calls.

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

Recommandation/ Actions: It is recommended that the City Council place the ordinance on first reading and authorize the necessary signatures.

Attachment: Proposed ordinance.

First Published in *The Wichita Eagle* on November 25, 2016

OCA #083303

CLEAN

ORDINANCE NO. 50-357

AN ORDINANCE CREATING CHAPTER 8.02 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO EXCESSIVE CALLS FOR POLICE SERVICES FOR CHRONIC NUISANCE PROPERTIES.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 8.02.010 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"Title"

"**Excessive Calls for Police Service at Chronic Nuisance Properties."**

SECTION 2. Section 8.02.020 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Purpose.** "

The purpose of this Chapter is to promote the health, safety and welfare of the residents of the City of Wichita, Kansas to protect neighborhoods from chronic incidents of violence, criminal conduct and other repetitive behaviors which are offensive to residents and which damage or contribute to the deterioration of property or improvements in the community. The procedures set forth below are intended to hold property owners, tenants and other responsible parties accountable for chronic and repeated criminal violations occurring on such property which result in repeated calls for police service.

SECTION 3. Section 8.02.030 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"Violations not exclusive."

The provisions of this Chapter are in addition to any other violation enumerated within the ordinances of the Code of the City of Wichita. This Chapter in no way limits the penalties, actions or abatement procedures which may be taken by the city for a violation of any ordinance of the city or statute of the State of Kansas.

SECTION 4. Section 8.02.040 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"Definitions."

The following words and phrases, whenever used in this Chapter shall be defined as follows:

A. "**Chief of Police**" means the chief of police of the City of Wichita or his or her designee.

B. "**City Manager**" means the City Manager of the City of Wichita or his or her designee.

C. "**Commercial Property** "means real estate zoned or used for industrial, commercial or business use and which is not used primarily or in part used as residential property. Typical uses include, but are not limited to, entertainment establishments, hotels, motels, and public venues with no licensing but where drinking is allowed on property.

D. **"Chronic Nuisance Property"** means a dwelling, house, duplex, mobile home, building, shed, garage, lot, or any similar residential property, and the area

immediately adjacent to such structures or buildings which is under the ownership or control of the Responsible Party on which two or more Trigger Events or one shooting event or the execution of a search warrant has occurred within the applicable compliance period. Commercial properties and multi- family dwellings will be declared a "Chronic Nuisance" if three (3) or more Trigger Events occur on such premises or on the area immediately adjacent to such structures or building which is under the ownership or control of the Responsible Party within the applicable compliance period. Trigger Events occurring before the adoption of this ordinance may not be considered in designating a property as a "chronic nuisance."

E. **"Compliance Period"** means a six (6) month period of time for residential properties and a thirty (30) day period of time for commercial or multi-family units.

F. **"Crime of Violence"** means an offense, felony or misdemeanor, that has as one of its essential elements the use, attempted use, or threatened use of physical force against the person or property of another, or an offense that by its very nature involves a substantial risk that such physical force may be used in the course of committing the offense.

G. "**Documented Incident"** means an incident where emergency or law enforcement services were called or responded to an incident, other than domestic violence calls, that caused them to gather information and produce written documentation regarding the incident. This includes instances where no criminal charges are

brought by the appropriate prosecuting agency and no criminal convictions were obtained as a result of the incident.

H. "**Multi-Family Unit"** means the use of a site for three (3) or more Dwelling Units within a single building. Typical uses include triplexes, fourplexes, apartments, residential condominiums and townhouses.

I. "**Residential Property**" means a building or structure used as a single-family dwelling unit.

J. **"Responsible Party"** means any person who resides, uses, owns, manages or controls property where a Trigger Event occurs.

K. **"Shooting"** means an incident where there is gunfire by known or unknown assailants.

L. **"Trigger Event"** means a Wichita Police Department documented incident, a criminal conviction or a criminal diversion, relating to:

1. Violation of any law relating to a crime of violence, excluding crimes of domestic violence as defined in Section 5.10.025 of the Code of the City of Wichita and K.S.A. 21-5414 and any amendments thereto;
2. Violation of any law prohibiting or regulating gambling;.
3. Violation of any law prohibiting obscenity or promoting obscenity;
4. Violation of any law prohibiting the sale of sexual relations or promoting the sale of sexual relations;
5. Violation of any law prohibiting or regulating the possession, sale, distribution or use of controlled substances;
6. Violation of any law regulating the sale or exchange of alcoholic liquor or

cereal malt beverages, by any person not licensed pursuant to Chapter 41 of the Kansas Statutes Annotated, and amendments thereto;

7. Violation of any law regulating the sale or exchange of cigarettes or tobacco products, by any person not licensed pursuant to Article 33 of Chapter 79 of the Kansas Statutes Annotated, and amendments thereto;

8. Violation of any law prohibiting or regulating the possession, use or consumption of alcoholic liquor or cereal malt beverage;

9. Any felony committed for the benefit of, at the direction of, or in association with any criminal street gang;

10. Violation of any law prohibiting obstructing pedestrian and vehicular traffic;

11. Violation of any law relating to the possession, discharge, transport or use of a firearm or other weapon;

12. Violation of any law prohibiting or regulating Loud or Offensive noise;

13. Violation of any law regarding dangerous dogs, dog or animal fighting, animal cruetly, barking dogs or dogs running at large;

14. Violation of any law prohibiting illegal dumping, littering, and/or improper storage of bulky waste materials;.

15. Violation of any law regulating housing or building codes standards; and

16. Violation of any state or local licensing laws which relate to the health and safety of residents or consumers.

SECTION 5. Section 8.02.050 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Chronic Nusiance Property Prohibited."**

The maintenance of Chronic Nuisance Property, as defined in this Chapter, is prohibited.

SECTION 6. Section 8.02.060 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"Notice of Chronic Nuisance."

A Responsible Party may be notified in writing upon a second or subsequent Trigger Event or a first shooting or execution of a search warrant occuring within the complaince period by the Chief of Police, or his/her designee, that the property will be declared a chronic nuisance property if another Trigger Event occurs within the compliance period. Such notice shall be served on the Responsible Person by personal service or by restricted mail to his/her last known address, or if none, to the address to which any tax statement is provided to such owner of the dwelling.

SECTION 7. Section 8.02.070 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"Nuisance abatement conference."

Following the service of notice as set forth in Section 8.02.060, upon a subsequent Trigger Event occurring within the compliance period, the Responsible Party may be notified that the property has been deemed a chronic nuisance.

The notice shall include:

1. Statement that a chronic nuisance exists, as defined by this Chapter, at the location specified in the notice and that the Responsible Party must submit a plan to abate such nuisance;
2. A brief description and dates of the commission of the acts which constitute

the basis for the chronic nuisance declaration.

3. The date, time and place where the person is to appear and meet with a designated representative of the Wichita Police Department to participate in the nuisance abatement conference and present an abatement plan for approval;

4. That failure to appear, make satisfactory arrangements for an alternative date and time for such hearing, or failure to comply with an abatement plan may result in the imposition of actual fees for police services on each subsequent call;

At the nuisance abatement conference, the designated representative of the Wichita Police Department and the Responsible Party shall discuss the facts constituting the chronic nuisance and the Responsible Party will identify the actions to be taken in order to abate the nuisance.

SECTION 8. Section 8.02.080 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"Nuisance Abatement Plan."

1. At the nuisance abatement conference, the Responsible Party shall provide a nuisance abatement plan in writing;

2. The nuisance abatement plan shall include a list of specific actions and specific schedule of deadlines for said actions to abate the chronic nuisance as provided by the Responsible Party. Such plan shall be in effect for twelve months, unless extended in writing by the agreement;

3. The plan will be discussed and finalized at the nuisance abatement meeting. The Responsible Party and a designated representative of the Wichita Police

Department will approve the plan; and

4. The final plan will be provided to the Responsible Party. The plan will include notification of the Responsible Party's right to appeal the imposition of the plan and notification that failure to comply with the terms and conditions of the plan could result in the assessment of costs for police services for subsequent police calls.

SECTION 9. Section 8.02.090 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"Assessment of Police Service Costs."

1. The Responsible Party may be assessed, following written notice provided by the Chief of Police, the actual costs of hourly wages, including overtime, of all law enforcment personnel upon any subsequent Trigger Event occuring within twelve (12) months from the date of the scheduled abatement plan conference or the abatement plan's adoption if the Responsible Party:

   (a) Fails to attend the abatement conference as required by Section 8.02.070; or

   (b) Fails to provide an acceptable nuisance abatement plan as set forth in Section 8.02.080, or

   (c) Fails to comply with the terms and conditions of a nuisance abatement plan adopted as set forth in Section 8.02.080.

2. No fees shall be assessed against a Responsible Party while a nuisance abatement plan is in effect and such person is attempting in good faith to

comply with the terms of the plan.

3. The assessed costs of police services shall be determined by the hourly rate of pay, including any required overtime charges, as set forth in the salary ordinance adopted by the City Council in effect at the time of the Trigger Event.

4. The Responsible Party will be notified of his/her right to appeal the assessement of any fees assessed for subsequent calls for police services.

SECTION 10. Section 8.02.100 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"Appeal Rights of Responsible Party."

1. Any Responsible Party who has been issued a notice of the designation of Chronic Nuisance Property, as defined by this Chapter, or who was required to participate in an abatement hearing, or who was assessed law enforcement personnel costs may request and shall be granted a hearing on the matter before the Chief of Police provided that such person shall file a written request for such hearing with the Chief of Police setting forth a brief statement of the grounds therefor, within ten (10) days after the Nuisance Abatement Conference or assessment of police service costs. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the order of abatement or assessment of fees. Upon receipt of such request, the Chief of Police shall set a time and place for such hearing and shall give the Responsible Party written notice of the hearing. At such hearing, the Responsible Party shall be given an opportunity to be heard and to show why abatement proceedings should be modified or withdrawn, or that costs of police services should not be assessed. The hearing shall commence no later than ten (10) days after the notice of appeal is recieved by the Chief of Police unless good cause is shown to

justify a later date. The Responsible Party shall be timely notified, in writing, of the date, time and place of such appeal hearing.

2. Following such appeal hearing as provided for in Subsection (1), the Chief of Police may sustain, modify or withdraw the abatement proceedings or assessment of fees, depending upon findings as to whether the provisions of this Chapter have been complied with. Such findings will be provided, in writing, to the Responsible Party, no less than ten (10) days following the hearing. The findings by the Chief of Police shall be deemed to be an order.

3. Any person affected by the decision of the Chief of Police may appeal such determination to the City Manager. Such appeal shall be filed no later than ten (10) days following the issuance of the order by the Chief of Police. The Responsible Party shall file a written request for such hearing with the City Manager setting forth a brief statement of the grounds therefor. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the Chief's order. Upon receipt of such request, the City Manager shall set a time and place for such hearing and shall give the Responsible Party written notice of the hearing. Absent good cause shown, such hearing shall be scheduled no later than thirty (30) days following receipt of the request for hearing. At such hearing, the Responsible Party shall be given an opportunity to be heard and to show why the Chief's order should be modified or set aside. An appeal of the decision of the City Manager shall be made to the 18th Judicial District Court in accordance with K.S.A. 60-2101 *et seq.* and amendments thereto.

SECTION 11. Section 8.02.110 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"Civil Remedies."

In addition to the provisions set forth in this Chapter, the City Attorney may commence

legal proceedings in Sedgwick County District Court to abate property designated as Chronic Nuisance Property as authorized by state statute.

SECTION 12. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 22nd day of November, 2016.

_____
Jeff Longwell, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Jennifer Magana
City Attorney and Director of Law

City of Wichita
City Council Meeting
November 8, 2016

TO: Mayor and City Council

SUBJECT: Agreement for Improvements to Tyler Pointe Addition (District V)

INITIATED BY: Department of Public Works & Utilities

AGENDA: New Business

Recommendation: Approve the agreement.

Background: On January 8, 2013, the City Council approved the plat and sanitary sewer petition for Tyler Pointe, a commercial development located on the southeast corner of 13th Street North and Tyler. From March to October of 2016, additional petitions were approved.

Analysis: The developer, Occidental Management, is requesting to privately contract for design and construction of the public improvements serving Tyler Pointe, and have the City finance through special assessments. Engineering staff will complete project oversight and inspection.

This process is being implemented on a trial basis. Upon completion of the improvements, all involved parties will evaluate the process and make a recommendation for future use of the alternative project management strategy.

Financial Considerations: The budgets set forth in the petitions being constructed under this agreement are $50,400 for water, $172,200 for sewer, and $615,400 for both drainage projects. Construction costs incurred by the developer for the improvements will be financed on an interim basis with temporary notes by the City, consistent with the typical process for petitioned subdivision projects. These costs will be permanently financed with Special Assessment bonds at the completion of the project.

Legal Considerations: State Statute allows use of special assessment funding to acquire existing improvements. The Law Department has reviewed and approved the agreement as to form.

Recommendation/Actions: It is recommended that the City Council approve the agreement and authorize the necessary signatures.

Attachment: Agreement.

DEVELOPER's AGREEMENT TO CONDITIONS
TYLER POINTE ADDITION,
WICHITA, SDEGWICK COUNTY, KANSAS

This AGREEMENT, entered into this ____ day of _____, 2016, by and between Tyler Pointe, LLC, hereinafter referred to as "DEVELOPER", and the City of Wichita, hereinafter referred to as the "CITY".

WHEREAS, the Wichita, Sedgwick County Planning Commission has approved the plat of Tyler Pointe Addition to Wichita, Sedgwick County, Kansas, and

WHEREAS, the Wichita City Council has accepted the easements, dedications and financial guarantees for the plat of Tyler Pointe Addition to Wichita, Sedgwick County, Kansas, and

WHEREAS, DEVELOPER has submitted improvement petitions to the City for the required financial guarantee of infrastructure improvements within said plat including sanitary sewer, water, and drainage system projects, and

WHEREAS, DEVELOPER wishes and has agreed to contract privately to design and construct the infrastructure improvements, per City of Wichita Standards, and

WHEREAS, CITY has conditionally agreed to incrementally finance and acquire the infrastructure improvements thereof while retaining 5% of payments due until after final acceptance of the completed projects, at which point a two-year maintenance bond shall commence, and

WHEREAS, the estimated project costs reimbursable to DEVELOPER are **$157,490** for the sanitary sewer project (468-84861), **$45,425** for the water project (448-90724), **$247,800** for the drainage project (468-85102) and **$324,430** for the pond project (468-85119). Costs exceeding these amounts may require revised petitions, and

WHEREAS, such acquisition is dependent, in part, upon CITY's ability to sell bonds for said infrastructure improvements through its normal bonding process, and

WHEREAS, as partial security for the repayment of said bonds, CITY intends to place the resulting special assessments on the tax rolls.

NOW, THEREFORE, concurrently with said approval and as a consideration of said approval, the parties hereto do hereby agree as follows:

1. That DEVELOPER will design and install infrastructure systems including sanitary sewer, water and drainage system projects and, prior to design and construction , shall submit a valid petition for the financing of any subsequent CITY acquisition of such infrastructure systems via special assessment bonds pursuant to K.S.A. 12-6a01, et seq. Said improvements shall be designed and constructed to City Specifications and are subject to the following provisions:

    a. Petitioned budgets shall include costs for design, design review and approval, surveying, construction administration, inspection, sewer televising, water quality

testing, materials testing, and construction and related financing costs. Sewer televising, water quality testing, and materials testing will be completed by CITY with all costs paid by the petition. Letters of Credit (or other approved form of financial guarantee) in the amount of 35% of the petitioned budgets shall be submitted prior to approval of engineered plans.

b. That the engineered plans of all sewer, water and drainage projects are to be timely reviewed by CITY within ten (10) days after submittal for each submittal until approved. The title sheet of each set of plans shall include a signature block for approval by CITY. A final plan set of full size pdfs and all approved permits shall be submitted to CITY prior to letting.

c. DEVELOPER shall obtain a minimum of three (3) competitive bids from contractors for each improvement to be installed. DEVELOPER agrees to establish a time and date for opening sealed bids with CITY staff present.

d. DEVELOPER shall have the right to select a responsible contractor of his choosing and provide justification of selection in writing based on the criteria listed below for approval by the City Engineer. The City Engineer shall not unreasonably withhold, delay or condition the approval of DEVELOPER's selected contractor and shall provide said approval within three (3) business days from DEVELOPER providing notice of their selected contractor. Selection shall be based on bids submitted and the following criteria:

    i. Price
    ii. Schedule
    iii. Past performance on similar projects

e. Selected contractor must supply a Performance and Maintenance Bond to CITY in the amount of 100% of the total contract amount, guaranteeing the faithful replacement or repair of any latent defects or failures in the improvement for a period of two years from the date of final acceptance of each full project. Such bond shall also include the provision that the contractor shall save and hold CITY harmless for all claims and suits brought against the contractor or CITY for damages to property or injury to persons occasioned by or growing out of the construction of said improvement, or the failure or neglect of the contractor to carry out said contract, or to complete the work and replace or repair any latent defects or failures in said improvement and the work thereon as provided by the terms and provisions of said contract. The contractor is to supply said bond to CITY prior to beginning construction and shall be responsible for all filing fees with the Sedgwick County Courthouse.

    Selected contractor must also supply a Statutory Payment Bond to the State of Kansas in the amount of 100% of the total contract amount to guarantee payment of all materials, labor, machinery, and damage to property or persons. This bond must be filed with the Clerk of the District Court in the Sedgwick County Courthouse and the original receipt must be submitted to the City Engineer.

f. The City Engineer shall assign a project field engineer for project oversight. Construction shall not begin until the field engineer has issued a written Notice to Proceed document to DEVELOPER. The field engineer shall not unreasonably withhold, delay or condition the issuance of the written Notice to Proceed and shall agree to provide DEVELOPER said document within fifteen (15) calendar days from the date CITY approved DEVELOPER's selected contractor. All inspection, sewer televising, water quality tests, and material testing associated with construction of said improvements projects shall be completed by CITY. CITY reserves the right to contract for inspection services.

   CITY intends to recover all costs incurred for plan review, project engineering, inspection and materials testing, through the project, regardless of any estimates provided to DEVELOPER.

g. DEVELOPER and/or selected contractor shall be responsible for all surveying and construction staking for the improvement projects.

h. DEVELOPER, with the assistance of DEVELOPER's Engineer shall be responsible for acquiring and maintaining the Notice of Intent (NOI) permit from the Kansas Department of Health & Environment (KDHE) and maintain compliance of the National Pollution Discharge Elimination System (NPDES) guidelines and put into place a Stormwater Pollution Prevention Plan as approved by CITY, such costs associated with acquiring such permits stated in this paragraph shall be the sole responsibility of DEVELOPER.

   The DEVELOPER'S Engineer shall prepare any and all necessary permits for this project, such as the preparation of applications for U.S. Army Corps of Engineers (404) permits, Division of Water Resources permit, Kansas Department of Wildlife and Parks permit and Kansas Department of Health and Environment permit. Also if requested by CITY, obtain construction approval from the U.S. Army Corps of Engineers.

   CITY shall be responsible for acquiring all necessary state and federal permits required for the construction and operation of the sanitary sewer and water lines, mains, taps and services, such costs associated with acquiring such permits stated in this paragraph shall be the sole responsibility of CITY.

i. DEVELOPER will maintain sediment/erosion control measures and storm sewer maintenance for a period as required by NPDES Permit until vegetation is 75% established.

j. CITY shall be a party in approval of all changes and will provide final acceptance of all work on the projects.

k. DEVELOPER must submit final certifications for materials used by the contractor on the project. Such certification shall include but not be limited to manhole casting certificates and pipe certification.

2. Subject to DEVELOPER compliance with all of its foregoing obligations and successful issuance and sale by CITY of the general obligation special assessment bonds necessary to finance acquisition of the infrastructure improvements, CITY hereby agrees to incrementally finance and acquire the infrastructure improvements through its normal partial payment, retainage, acceptance and bonding process for petitioned improvements, and to place the resulting special assessments on the tax rolls. Partial payments will be approved by CITY's field engineer and inspector and made to DEVELOPER. Itemized Statements of Costs are available upon request.

3. DEVELOPER does hereby agree to hold CITY Harmless from any liability from damages that may occur during the construction of said infrastructure improvements by DEVELOPER.

4. DEVELOPER and CITY shall strictly observe and comply with all regulations, resolutions, policies, and ordinances of the City and Sedgwick County and all statues and laws of the State of Kansas and of the United States.

5. CITY Is subject to the Kansas Cash Basis Law and Budget Laws, and all of CITY's obligations under this Agreement are dependent upon DEVELOPER's performance of its obligations under this Agreement and CITY's ability to assess the costs of infrastructure acquisition to properties in the assessment district, and to successfully issue and market its general obligations special assessment bonds in an amount sufficient to finance all costs of the acquisition.

6. CITY's obligations in this Agreement are intended solely for the benefit of the City and DEVELOPER. No person or entity not a signatory to this Agreement shall be entitled to rely on CITY's performance of its obligations hereunder, and no right to assert a claim against CITY shall accrue to a third party as a result of this Agreement or the performance of either party's obligations hereunder.

7. The relationship of DEVELOPER to CITY will be that of an independent contractor. No employee or agent of DEVELOPER shall be considered an employee or agent of the CITY.

8. CITY will file this Developer's Agreement, as approved by the Wichita City Council, with the Sedgwick County Register of Deeds. A copy of this Developer's Agreement showing said recording will be furnished to DEVELOPER by CITY.

9. The terms and conditions set forth herein shall be binding upon the heirs, executors, and assigns of the parties hereto.

Signed this 31 day of October, 2016.

Tyler Pointe, LLC

By:_____
Gary L. Oborny, member

STATE OF KANSAS, SEDGWICK COUNTY, ss:

BE IT REMEMBERED, that on this 31 day of October, 2016, before me, a Notary Public, in and for said county and state aforesaid, came Gary L. Oborny, member, to me personally known to be the same person(s) who executed the within and foregoing instrument and duly acknowledged the execution of the same as the authorized act and deed of the Corporation.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, the day and year last written.

Tricia Hayes

Notary Public
My Commission Expires: 08-10-2017

STATE OF KANSAS NOTARY PUBLIC
TRICIA HAYES
My Appointment Expires
August 10, 2017

CITY OF WICHITA

By_____
Jeff Longwell, Mayor

ATTEST:

By_____
Karen Sublett, City Clerk

Approved as to Form

Brian K. Mead

for *Jennifer Magaña, Director of Law & City Attorney*

City of Wichita
City Council Meeting
November 8, 2016

TO: Mayor and City Council

SUBJECT: Quarterly Financial Report for the Period Ended September 30, 2016

INITIATED BY: Department of Finance

AGENDA: New Business

Recommendation: Receive and file the Quarterly Financial Report.

Background: The Finance Department prepares quarterly unaudited financial reports to monitor and review the financial activities of the operating and capital funds. The report is presented to provide the City Council and citizens with information that will assist in making informed decisions. The report is available on the City's website. Citizens may obtain a printed copy by contacting the Department of Finance at 268-4651.

Analysis: Comparisons of budgeted amounts to actual revenue and expenditures are provided for each operating fund. In addition, financial statements prepared on an accrual basis are presented for enterprise, internal service and pension trust funds, consistent with generally accepted accounting principles. The Quarterly Financial Report may not reflect all the transactions that relate to activities through September 30, 2016.

Financial highlights are summarized beginning on page iii, with financial statements beginning on page 1. Supplementary information, including information on the performance of invested funds, capital projects currently underway, and a quarterly summary of disadvantaged and emerging business activity is presented in the final section of this report.

Financial Considerations: The Director of Finance will provide a financial overview at the City Council meeting.

Legal Considerations: There are no legal considerations.

Recommendations/Actions: It is recommended that the City Council receive and file the Quarterly Financial Report for the period ended September 30, 2016.

Attachment: Quarterly Financial Report

Agenda Item No. V-1

City of Wichita
City Council Meeting
November 8, 2016

TO: Mayor and City Council

SUBJECT: DER2016-00002: Updates to the Wireless Communication Master Plan and the Unified Zoning Code Regulations of Wireless Communication Facilities (All Districts)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-Consent)

Recommendation: Approve the Wireless Communication Master Plan and associated Unified Zoning Code amendments.

Background: Senate Substitute for House Bill No. 2131 was recently passed by the Kansas State Legislature creating a new law effective October 1, 2016, concerning the siting of wireless telecommunications infrastructure and the permit application process between wireless service providers and granting authorities, including municipalities. The law states that wireless service providers will have the right to construct, maintain, and operate wireless services along, across, upon, under, or above the public right-of-way. The right to construct, maintain, and operate wireless services within the public right-of way will always be subject and subordinate to the reasonable public health, safety, and welfare requirements and regulations of the municipality, about which the municipality may exercise its Home Rule powers, so long as doing so is competitively neutral and not unreasonable. Additionally, municipalities may prohibit use or occupation of a part of the public right-of-way due to a reasonable public interest, so long as the reason is competitively neutral and not unreasonable or discriminatory.

The Wireless Communication Master Plan and associated Unified Zoning Code Amendments bring the City of Wichita's regulatory process into compliance with the new law by streamlining the City's application process for the siting of a wireless facility including:

- Accelerating application review and approval process;
- Removing facility co-location requirements as a condition for approval;
- Removing barriers to wireless facilities in certain locations of the City.

Analysis: The attached Wireless Communication Master Plan, September 2016, was adopted on September 29, 2016, by the Wichita-Sedgwick County Metropolitan Area Planning Commission (MAPC) as an amendment of the Wireless Communication Master Plan adopted in March 2011 in order to comply with changes to Kansas law. The policies of the Wireless Communication Master Plan are implemented through the regulations of the Wichita-Sedgwick Unified Zoning Code. On September 29, 2016, the MAPC voted (10-1) to recommend the attached Amendments to the Wichita-Sedgwick County Unified Zoning Code. The recommended amendments also include amendments related to the D-O Delano Neighborhood Overlay District. On September 12, 2016, the Delano Advisory Committee reviewed the provisions of the D-O District and recommended that wireless communication facilities be permitted in the D-O District with Conditional Use approval rather than prohibited. The MAPC concurred with the Delano Advisory Committee recommendation.

Financial Considerations: While the law places limits on the application fees municipalities can charge for permitting wireless communication facilities, the City's current fees are below the statutory limits. The law allows the City to enter into franchise agreements with wireless service providers for use of the right-of-way.

Legal Considerations: The Wireless Communication Master Plan and associated amendments to the Wichita-Sedgwick Unified Zoning Code have been reviewed by the Law Department and approved as to form.

Recommendations/Actions: Adopt the findings of the MAPC; approve the Wireless Communication Master Plan, September 2016, and adopt the associated amendments to the Wichita-Sedgwick County Unified Zoning Code; place the ordinances on first reading; authorize the necessary signatures; and instruct the City Clerk to publish the ordinances after approval on second reading.

Attachments: Wireless Communication Master Plan, September 2016
Amendments to the Wichita-Sedgwick County Unified Zoning Code
Wireless Communication Master Plan Ordinance
Wichita-Sedgwick County Unified Zoning Code Ordinance
MAPC Minutes

(OCA 150004) **PUBLISHED IN THE WICHITA EAGLE ON November 25, 2016**

ORDINANCE NO. 50-354

AN ORDINANCE ADOPTING THE WIRELESS COMMUNICATION MASTER PLAN, SEPTEMBER 2016, AS AN AMENDMENT OF THE COMMUNITY INVESTMENTS PLAN 2015-2035, THE WICHITA-SEDGWICK COUNTY COMPREHENSIVE PLAN.

WHEREAS, pursuant to the authority granted by the statutes of the State of Kansas, in K.S.A. 12-747 *et seq.*, on November 19, 2015, the Wichita-Sedgwick County Metropolitan Area Planning Commission adopted the Community Investments Plan, 2015-2035, The Wichita-Sedgwick County Comprehensive Plan, that was subsequently approved by the City of Wichita on December 18, 2016, and the Sedgwick County Board of Commissioners on January 20, 2016; and

WHEREAS, the Comprehensive Plan may be amended from time to time to ensure it reflects timely and relevant information and the needs of the community; and

WHEREAS, on July 7, 2016, the Wichita-Sedgwick County Metropolitan Area Planning Commission, did initiate the development of a new Wireless Communication Master Plan to address mandates by the State of Kansas; and

WHEREAS, before the adoption of any Comprehensive Plan or amendment thereto, the Wichita-Sedgwick County Metropolitan Area Planning Commission is required by K.S.A. 12-747 *et seq.* to hold a public hearing; and

WHEREAS, the Wichita-Sedgwick County Metropolitan Area Planning Commission did give notice by publication in the official City and County newspaper on July 28, 2016, of a public hearing to consider the adoption of a the Wireless Communication Master Plan as an amendment of the Comprehensive Plan; and

WHEREAS, the Wichita-Sedgwick County Metropolitan Area Planning Commission, on August 18, 2016, did hold a public hearing at which a quorum was present, continued said public hearing until September 29, 2016, at which a quorum was present, and did hear all comments and testimony relating to said Wireless Communication Master Plan;

WHEREAS, the Wichita-Sedgwick County Metropolitan Area Planning Commission, on September 29, 2016, did approve a Resolution adopting the Wireless Communication Master, September 2016, as an amendment of the Community Investments Plan, 2015-2035, The Wichita-Sedgwick County Comprehensive Plan, which Resolution has been submitted to the Wichita City Council and the Board of County Commissioners of Sedgwick County for consideration.

NOW THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The City of Wichita hereby approves the Wireless Communication Master, September 2016, as an amendment of the Community Investments Plan, 2015-2035, The Wichita-Sedgwick County Comprehensive Plan.

SECTION 2. Notice of this action shall be transmitted to the Sedgwick County Board of County Commissioners and to all other taxing subdivisions in the planning area that request a copy of the plan.

SECTION 3. This Ordinance shall take effect and be in force from and after this adoption by the Governing Body and publication in the official City newspaper.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, this date

November 22, 2016.

_____
Jeff Longwell, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

Approved as to form:

_____
Jennifer Magana, City Attorney and Director of Law

(OCA 150004) **Published in the Wichita Eagle on November 25, 2016**

ORDINANCE NO. 50-355

AN ORDINANCE AMENDING SECTIONS II-B.14.P., II-B.14.Q., III-C.8.B., III-D.6., III-D.6.G., IV-C.5., VI-G.9., AND VI-H.5. OF THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE (SEPTEMBER 25, 2009 EDITION), AS ADOPTED BY REFERENCE IN CITY OF WICHITA CODE SEC. 28.04.010 BY ORDINANCE NO. 48-451 AND CREATING SECTIONS VI-B.7. AND VI-C.7. OF THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, PERTAINING TO THE REGULATION OF WIRELESS COMMUNICATION FACILITIES.

WHEREAS, under the authority of K.S.A. 12-741, *et seq.*, the City of Wichita desires to adopt amendments to the Wichita-Sedgwick County Unified Zoning Code pertaining to the regulation of wireless communication facilities; and

WHEREAS, the Wichita-Sedgwick County Metropolitan Area Planning Commission made a recommendation regarding the amendments on September 29, 2016, after notice and hearing as provided by law under the authority granted by K.S.A. 12-741, *et seq.*;

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA:

SECTION 1. Section II-B.14.p. of the Wichita-Sedgwick County Unified Zoning Code (September 25, 2009 Edition) as adopted by reference in Code Sec. 28.04.010 by Ordinance No. 48-451, is hereby amended to read as follows:

p. **Wireless Communication** means personal wireless services and personal wireless service facilities as defined in 47 U.S.C. § 332(c)(7)(C), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through a Wireless Communication Facility or any fixed or mobile wireless services provided using a Wireless Communication Facility.

SECTION 2. Section II-B.14.q. of the Wichita-Sedgwick County Unified Zoning Code (September 25, 2009 Edition) as adopted by reference in Code Sec. 28.04.010 by Ordinance No. 48-451, is hereby amended to read as follows:

q. **Wireless Communication Facility** means a Lot containing equipment at a fixed location that enables wireless communications between user equipment and a communications network, including, but not limited to: (A) a wireless support structure consisting of a freestanding support structure, such as a monopole, guyed, or self-supporting tower or other suitable existing or alternative structure designed to support or capable of supporting wireless facilities; (B) a base station that supports or houses an antenna, transceiver, coaxial cables, power cables or other associated equipment at a specific site that is authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies and other associated electronics; (C) equipment associated with wireless services such as private, broadcast and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul; and/or (D) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies and comparable equipment, regardless of technological configuration.

SECTION 3. Section III-C.8.b. of the Wichita-Sedgwick County Unified Zoning Code (September 25, 2009 Edition) as adopted by reference in Code Sec. 28.04.010 by Ordinance No. 48-451, is hereby amended to read as follows:

b. **Use Regulations.** The Use regulations of this Overlay District shall control over the Underlying zoning District.

(1) **Prohibited Uses.** Subject to Section III-C.8.c(1)(b), the following Uses are explicitly prohibited in the D-O District, regardless if said Uses are stated as permitted or Conditional Uses in the Underlying Districts:

Asphalt or Concrete Plant, Limited and General
Businesses of an adult entertainment nature requiring a license under the Code of the City of Wichita, Chapters 3.05, 3.07, 3.56 and 3.74
Correctional Facility
Correctional Placement Residence, Limited and General
Gas and Fuel, Storage and Sales
Manufactured Home Subdivision
Manufactured Home Park
Mining or Quarrying
Oil and Gas Drilling
Rock Crushing
Sign (off-site)
Solid Waste Incinerator Vehicle
Storage Yard
Wrecking/Salvage Yard

(2) **Conditional Uses.** Subject to Section III-C.8.c(1)(b), the following Uses shall be allowed only as a Conditional Use in the D-O District, regardless if said Uses are stated as permitted Uses in the Underlying Districts:

Car Wash
Convenience Store
Freight Terminal
Manufacturing, General and Limited
Parking Area, Commercial
Restaurant (drive-in/drive-through)
Service Station
Storage, Outdoor
Utility, Major
Vehicle and Equipment Sales (indoor)
Vehicle and Equipment Sales, Outdoor
Vehicle Repair, General
Vehicle Repair, Limited
Warehouse, Self-service Storage
Warehousing
Wholesale or Business Services
Wireless Communication Facility, subject to Sec. III-D.6.g.

SECTION 4. Section III-D.6. of the Wichita-Sedgwick County Unified Zoning Code (September 25, 2009 Edition) as adopted by reference in Code Sec. 28.04.010 by Ordinance No. 48-451, is hereby amended to read as follows:

6. **Supplementary Use Regulations.** No permit shall be issued for any Development or Use of land unless the activity is in compliance with all applicable supplementary use regulations specified in this section, or unless the supplementary use regulations have been modified or waived by the Governing Body pursuant to the Development Review Procedures contained in Article V. The supplementary use regulations of this section are not applicable to Lots in the AFB Air Force Base

District. In the case of conflict with zoning District property Development standards or other regulations of this Code, the more restrictive requirement shall apply, unless otherwise specifically provided.

SECTION 5. Section III-D.6.g. of the Wichita-Sedgwick County Unified Zoning Code (September 25, 2009 Edition) as adopted by reference in Code Sec. 28.04.010 by Ordinance No. 48-451, is hereby amended to read as follows:

g. **Wireless Communication Facility.** Whether allowed by right, subject to a Building Permit, by Administrative Permit, by CUP adjustment/amendment, by P-O adjustment/amendment or by Conditional Use approval, a Wireless Communication Facility shall be subject to the following provisions.

(1) A Wireless Communication Facility shall be evaluated in terms of conformance to the guidelines in the "Wireless Communication Master Plan" as adopted by the Governing Body, and applications for such facilities shall include information for review as required in that Plan.

(2) A following Wireless Communication Facility is permitted by right in any zoning District, subject to the issuance of a Building Permit, if it conforms to the Location/Design Guidelines in that Plan:

(a) new facility that is concealed in or mounted on top of or the side of existing buildings (excluding single-family and duplex residences) and other Structures, including support structures up to 20 feet above the Building or the maximum height permitted by a Building Permit or an Administrative Permit in the underlying zoning District, whichever is greater;

(b) modification and/or replacement of support structures (light poles, flag poles, electrical poles, private dispatch towers, etc.) that are not significantly more visible or intrusive, including cumulative height extensions of up to 25 percent above the original Structure height;

(c) modification and/or replacement of a Wireless Communication Facility, including cumulative height extensions of up to 25 percent above the original structure height that comply with the compatibility height standards as outlined in Sec. IV-C.5;

(d) new or modified lattice towers no larger than 18 inches wide on any side up to 80 feet in height measured from grade.

(e) small cell facility or distributed antennae system located in an interior Structure or upon the site of any campus, stadium, or athletic facility.

If the Zoning Administrator determines that the Wireless Communication Facility does not conform to the Location/Design Guidelines, the Building Permit shall be denied. Denied Building Permits may be appealed by applying for an Administrative Permit or a Conditional Use. An Administrative Permit shall be approved subject to conditions that maintain conformance with the Location/Design Guidelines. A Wireless Communication Facility that does not conform to the Location/Design Guidelines may be approved for a Conditional Use on a case-by-case basis as circumstances warrant.

(3) A Wireless Communication Facility shall be approved by Administrative Permit in any zoning District, under the procedures in Sec. VI-G.9 and Sec. VI-H.5, if it conforms to the Location/Design Guidelines in the "Wireless Communication Master Plan" and, for zoning Lots located within the City, is designated on the “Properties Eligible for an

Administrative Permit for a Wireless Communication Facility Map" of Sec. I- L.:

(a) new disguised ground-mounted facilities up to 85 feet in height;

(b) new undisguised ground-mounted facilities up to 65 feet in the SF- 10, SF-5, TF-3, MF-18, MF-29, B and MH zoning Districts that comply with the compatibility height standards as outlined in Sec. IV-C.5, which shall not be reduced or waived through the provisions of Sec. V-I.2.e.;

(c) new undisguised ground-mounted facilities up to 85 feet in the NO, GO and NR zoning Districts that comply with the compatibility height standards as outlined in Sec. IV-C.5, which shall not be reduced or waived through the provisions of Sec. V-I.2.e.;

(d) new ground-mounted facilities up to 120 feet in height in the RR, SF- 20, U , LC, OW, and GC zoning Districts that comply with the compatibility height standards as outlined in Sec. IV-C.5, which shall not be reduced or waived through the provisions of Sec. V-I.2.e.; or

(e) New ground-mounted facilities up to 150 feet in height in the IP, CBD, LI and GI zoning Districts that comply with the compatibility height standards as outlined in Sec. IV-C.5, which shall not be reduced or waived through the provisions of Sec. V-I.2.e.

If the property on which the facility is located is within a CUP or P-O, the Administrative Permit shall also be considered as an application for an adjustment of the CUP or P-O as outlined in Sec. V-E.14, excluding the requirement of V-E.14.a, or Sec. V-C.14, excluding the requirement of V-C.14.a., as applicable.

(4) A Wireless Communication Facility that does not meet the requirements of Sec. III-D.6.g(2) or Sec. III-D.6.g(3) shall be reviewed through the Conditional Use process as outlined in Sec. V-D or, if the property on which the facility is located is within a CUP or P-O, as an amendment to the CUP or P-O as outlined in Sec. V-E.13. or Sec. V-C.13, as applicable.

(5) There shall be no nighttime lighting of or on a Wireless Communication Facility except for aircraft warning lights or similar emergency warning lights required by applicable governmental agencies. Flashing white obstruction lights shall not be permitted for nighttime operation. Lighting for security purposes shall be permitted at the base of wireless communication facilities. Temporary lighting for nighttime repairs shall be permitted.

(6) No signs shall be allowed on a Wireless Communication Facility other than those required by applicable governmental agencies.

(7) Unused facilities, including the uppermost 20 percent of support structures that are unused (except where removal of the uppermost 20 percent would require the removal of a lower portion the support structure that is in use, in which case the required removal will be raised to the next highest portion of the support structure not in use), shall be removed by the owner within 60 days if the Wireless Communication Facility, or portion thereof, has been unused for 12 consecutive months. If such a facility or portion of a facility is not removed by the owner, then the City or County may employ all legal measures, including, if necessary, obtaining authorization from a court of competent jurisdiction, to remove it, and after removal may place a lien on the subject property for all direct and indirect costs incurred in its dismantling and disposal, including court costs and reasonable attorney

fees. Under this paragraph, "owner" shall include both the Owner of the real property and the owner of the Wireless Communication Facility, whether such ownership is divided or in the same person.

(8) All Wireless Communication Facilities shall comply with all federal, state, and local rules and regulations.

SECTION 6. Section IV-C.5. of the Wichita-Sedgwick County Unified Zoning Code (September 25, 2009 Edition) as adopted by reference in Code Sec. 28.04.010 by Ordinance No. 48-451, is hereby amended to read as follows:

5. **Compatibility Height standards.** The following Height standards shall apply to Development that is subject to compatibility standards, unless reduced or waived through the provisions of Sec. V-I.2. No Structure shall exceed 35 feet in height within 50 feet of the lot line of property zoned TF-3 or more restrictive. Structures located more than 50 feet from the Lot Line of property zoned TF-3 or more restrictive may increase Height (if permitted by the base District regulations) at a ratio of one foot in Height for each three feet of Setback beyond 50 feet. For example, a Structure limited to 35 feet in Height at 50 feet from the Lot Line of property zoned TF-3 or more restrictive could be increased to a Height of 85 feet at a distance of 200 feet from the Lot Line of property zoned TF-3 or more restrictive.

SECTION 7. Section VI.G.9. of the Wichita-Sedgwick County Unified Zoning Code (September 25, 2009 Edition) as adopted by reference in Code Sec. 28.04.010 by Ordinance No. 48-451, is hereby amended to read as follows:

9. Administrative Permits. The Planning Director, with the concurrence of the Zoning Administrator, shall have the authority to approve, approve with conditions or modifications, or deny applications for a Wireless Communication Facility pursuant to Sec. III-D.6.g. The Planning Director's decision on such an application may be appealed by filing an application for a Conditional Use.

SECTION 8. Section VI.H.5. of the Wichita-Sedgwick County Unified Zoning Code (September 25, 2009 Edition) as adopted by reference in Code Sec. 28.04.010 by Ordinance No. 48-451, is hereby amended to read as follows:

5. Administrative Permits. The Zoning Administrator shall have the authority to review and recommend to the Planning Director approval, approval with conditions or modifications, or denial of applications for a Wireless Communication Facility pursuant to Sec. III-D.6.g. An Administrative Permit for a Wireless Communication Facility may be granted by the Planning Director only with the concurrence of the Zoning Administrator.

SECTION 9. Section VI-B.7. of the Wichita-Sedgwick County Unified Zoning Code is hereby created to read as follows:

7. Zoning Adjustments. The Governing Body shall have the authority to approve, approve with conditions or modifications, or deny zoning adjustments when requested in association with an application to amend the Official Zoning Map, an application for Community Unit Plan approval, or an application for Conditional Use approval.

SECTION 10. Section VI-C.7. of the Wichita-Sedgwick County Unified Zoning Code is hereby created to read as follows:

7. Zoning Adjustments. The Planning Commission shall have the authority to approve, approve with conditions or modifications, or deny zoning adjustments when requested in association an

application for Conditional Use approval or for amendment to a Community Unit Plan and shall have the authority to recommend to the Governing Body approval, approval with conditions, or denial of a zoning adjustment when requested in association with an application to amend the Official Zoning Map or amend a Planned Unit Development or Protective Overlay.

SECTION 11. This ordinance shall be included in the Code of the City of Wichita and shall be effective upon its adoption and publication once in the official City newspaper.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, this date November 22, 2016**.**

_____
Jeff Longwell, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

Approved as to form:

_____
Jennifer Magana, City Attorney and Director of Law

EXCERPT MINUTES OF OCTOBER 6, 2016 WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION MEETING

Case No.: ZON2016-00032 - Mike Love Construction (applicant/owner); Ruggles & Bohm – Will Clevenger (agent) request a City zone change request from Single-family Residential SF-5 to Two-family Residential TF 3 for 13 lots on Victoria Street on property described as:

Lots 43, 44, 45, 46, 47, 48 and 49, Block C AND Lots 1, 2, 3, 4, 5 and 6, Block D, Rivendale Addition, Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant is requesting a zone change from Single-Family Residential (SF-5) to Two-Family Residential (TF-3) zoning on approximately 2.73 acres of Rivendale Addition to Wichita, Sedgwick County, Kansas. The applicant proposes to build duplexes on 13 platted lots located on either side of Victoria Street, immediately north of 55th Street South.

The subject site is located within the SF-5 zoned Rivendale Addition. The Rivendale Addition is partially developed with single family residences adjacent to the subject property to the north, west, and east. Immediately east and west of the subject property are single family residences on large, unplatted lots. South of the subject site is unplatted SF-5 zoned tracts developed with mobile homes.

CASE HISTORY: The site is located within the City limits of Wichita and consists of 2.73 acres of the Rivendale Addition platted in 2003.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family residential, undeveloped (Rivendale)
SOUTH:	SF-5	Single-family residential, unplatted lots
WEST:	SF-5	Single-family residential, unplatted lot
EAST:	SF-5	Single-family residential, unplatted lot

PUBLIC SERVICES: The site has access to local, paved collector streets that access East 55th Street South, a paved, two-lane arterial with 90-foot right-of-way. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Wichita City limit and the South Wichita/Haysville Area Plan. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential," encompassing areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality. The site is located in the South Wichita/Haysville Area Plan, which identifies the location for residential development.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED.**

This recommendation is based on the following findings:

(1) The zoning, uses and character of the neighborhood: The surrounding neighborhood is zoned SF-5 and is partially undeveloped. Properties immediately to the west, east and south are developed with single-family residences. The proposed duplexes are located within a stand-alone block at the entrance of the subdivision and are only adjacent to the rear of lots developed with existing single-family residences.

(2) The suitability of the subject property for the uses to which it has been restricted: The vacant site is currently zoned SF-5 and is undeveloped. As zoned, these units

would have to be single-family. With the proposed zoning, they could be single-family or duplexes.

(3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Impact on surrounding property due to the requested zone change should be minimal. Single-family residences have only partially developed in the Rivendale Addition and the proposed duplexes are in a separate portion of the subdivision. This separation should mitigate any detrimental effects on nearby property.

(4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Wichita City limit. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential," encompassing areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality. The South Wichita/Haysville Area Plan identifies the area as appropriate for residential development.

(5) **Impact of the proposed development on community facilities**: All services are in place. Any increased demand on community facilities can be handled by existing infrastructure.

KATHY MORGAN, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

WARREN moved, **GREEN** seconded the motion, and it carried (12-0).

Amendments to the Wichita-Sedgwick County of the Unified Zoning Code Required by Senate Substitute for House Bill No. 2131 and Including Recommended Delano Overlay Amendments

Section II-B.14.p. and Section II-B.14.q.

p. **Wireless Communication** means~~ wireless services covered by the Location/Design Guidelines of the Wireless Communication Master Plan. It includes the following terms as defined in the Wireless Communication Master Plan as adopted by the Governing Bodies: broadcast systems, cellular, commercial mobile radio services, common carrier wireless access exchange services, enhanced specialized mobile radio, functionally equivalent services, personal communication services, paging, personal wireless services, public service and emergency systems, specialized mobile radio, tower builder, unlicensed wireless services and wireless cable system. It does not include amateur radio or private dispatch system as defined in the Wireless Communication Master Plan as adopted by the Governing Bodies~~ personal wireless services and personal wireless service facilities as defined in 47 U.S.C. § 332(c)(7)(C), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through a Wireless Communication Facility or any fixed or mobile wireless services provided using a Wireless Communication Facility.

q. **Wireless Communication Facility** means ~~facilities covered by the Location/Design Guidelines of the Wireless Communication Master Plan. It includes the following terms as defined in the Wireless Communication Master Plan as adopted by the Governing Bodies: antenna, antenna array, equipment shelter, guyed tower, lattice tower, location, monopole, site, support Structure and tower.~~ a Lot containing equipment at a fixed location that enables wireless communications between user equipment and a communications network, including, but not limited to: (A) a wireless support structure consisting of a freestanding support structure, such as a monopole, guyed, or self-supporting tower or other suitable existing or alternative structure designed to support or capable of supporting wireless facilities; (B) a base station that supports or houses an antenna, transceiver, coaxial cables, power cables or other associated equipment at a specific site that is authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies and other associated electronics; (C) equipment associated with wireless services such as private, broadcast and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul; and/or (D) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies and comparable equipment, regardless of technological configuration.

Section III-C.8.b.

b. **Use Regulations.** The Use regulations of this Overlay District shall control over the Underlying zoning District.

(1) **Prohibited Uses.** Subject to Section III-C.8.c(1)(b), the following Uses are explicitly prohibited in the D-O District, regardless if said Uses are stated as permitted or Conditional Uses in the Underlying Districts:

Asphalt or Concrete Plant, Limited and General
Businesses of an adult entertainment nature requiring a license under the Code of the City of Wichita, Chapters 3.05, 3.07, 3.56 and 3.74
Correctional Facility
Correctional Placement Residence, Limited and General
Gas and Fuel, Storage and Sales
Manufactured Home Subdivision
Manufactured Home Park
Mining or Quarrying
Oil and Gas Drilling
Rock Crushing
Sign (off-site)
Solid Waste Incinerator Vehicle
Storage Yard
~~Wireless Communication Facility~~
Wrecking/Salvage Yard

(2) **Conditional Uses.** Subject to Section III-C.8.c(1)(b), the following Uses shall be allowed only as a Conditional Use in the D-O District, regardless if said Uses are stated as permitted Uses in the Underlying Districts:

Car Wash
Convenience Store
Freight Terminal
Manufacturing, General and Limited
Parking Area, Commercial
Restaurant (drive-in/drive-through)
Service Station
Storage, Outdoor
Utility, Major
Vehicle and Equipment Sales (indoor)
Vehicle and Equipment Sales, Outdoor
Vehicle Repair, General
Vehicle Repair, Limited
Warehouse, Self-service Storage
Warehousing
Wholesale or Business Services
Wireless Communication Facility, subject to Sec. III-D.6.g

Section III-D.6.

6. **Supplementary Use Regulations.** No permit shall be issued for any Development or Use of land unless the activity is in compliance with all applicable supplementary use regulations specified in this section, or unless the supplementary use regulations have been modified or waived by the Governing Body pursuant to the Development Review Procedures contained in Article V. The supplementary use regulations of this section are not applicable to Lots in the AFB Air Force Base

District. In the case of conflict with zoning District property Development standards or other regulations of this Code, the more restrictive requirement shall apply, unless otherwise specifically provided.

Section III-D.6.g.

g. Wireless Communication ~~Facilities~~Facility. Whether allowed by right, subject to a Building Permit, by Administrative Permit, by CUP adjustment/amendment, by P-O adjustment/amendment or by Conditional Use approval, a Wireless Communication ~~Facilities~~ Facility shall be subject to the following provisions.

(1) ~~All~~ A Wireless Communication ~~Facilities~~ Facility shall be evaluated in terms of ~~their~~ conformance to the guidelines in the "Wireless Communication Master Plan" as adopted by the Governing Body, and applications for such facilities shall include information for review as required in that Plan.

(2) ~~The~~ A following Wireless Communication ~~Facilities are~~Facility is permitted by right in any zoning District, subject to the issuance of a Building Permit, if ~~they conform~~it conforms to the Location/Design Guidelines in ~~this chapter~~that Plan:

(a) new ~~facilities~~ facility that ~~are~~ is concealed in or mounted on top of or the side of existing buildings (excluding single-family and duplex residences) and other Structures, including support structures up to 20 feet above the Building or the maximum height permitted by a Building Permit or an Administrative Permit in the underlying zoning District, whichever is greater;

(b) modification and/or replacement of support structures (light poles, flag poles, electrical poles, private dispatch towers, etc.) that are not significantly more visible or intrusive, including cumulative height extensions of up to 25 percent above the original Structure height;

(c) modification and/or replacement of a Wireless Communication ~~Facilities~~Facility, including cumulative height extensions of up to 25 percent above the original structure height that comply with the compatibility height standards as outlined in Sec. IV-C.5;

(d) new or modified lattice towers no larger than 18 inches wide on any side up to 80 feet in height measured from grade.

~~(d)~~(e) small cell facility or distributed antennae system located in an interior Structure or upon the site of any campus, stadium, or athletic facility.

If the Zoning Administrator determines that the Wireless Communication Facility does not conform to the Location/Design Guidelines, the Building ~~p~~Permit shall be denied. Denied Building Permits may be appealed by applying for an Administrative Permit or a Conditional Use. An Administrative Permit shall be approved subject to conditions that

maintain conformance with the Location/Design Guidelines. A Wireless Communication ~~Facilities~~ Facility that does not conform to the Location/Design Guidelines may be approved for a Conditional Use on a case-by-case basis as circumstances warrant.

(3) ~~The following~~A Wireless Communication ~~Facilities~~ Facility shall be approved by Administrative Permit in any zoning District, under the procedures in Sec. VI-G.9 and Sec. VI-H.5, if ~~they conform~~it conforms to the Location/Design Guidelines in the "Wireless Communication Master Plan" and, for zoning Lots located within the City, ~~are~~ is designated on the "Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map" of Sec. I- L.:

(a) new disguised ground-mounted facilities up to 85 feet in height;

(b) new undisguised ground-mounted facilities up to 65 feet in the SF- 10, SF-5, TF-3, MF-18, MF-29, B and MH zoning Districts that comply with the compatibility height standards as outlined in Sec. IV-C.5, which shall not be reduced or waived through the provisions of Sec. V-I.2.~~d~~e;

(c) new undisguised ground-mounted facilities up to 85 feet in the NO, GO and NR zoning Districts that comply with the compatibility height standards as outlined in Sec. IV-C.5, which shall not be reduced or waived through the provisions of Sec. V-I.2.~~d~~e;

(d) new ground-mounted facilities up to 120 feet in height in the RR, SF- 20, U , LC, OW, and GC zoning Districts that comply with the compatibility height standards as outlined in Sec. IV-C.5, which shall not be reduced or waived through the provisions of Sec. V-I.2.~~d~~e; or

(e) New ground-mounted facilities up to 150 feet in height in the IP, CBD, LI and GI zoning Districts that comply with the compatibility height standards as outlined in Sec. IV-C.5, which shall not be reduced or waived through the provisions of Sec. V-I.2.~~d~~e.

If the property on which the facility is located is within a CUP or P-O, the Administrative Permit shall also be considered as an application for an adjustment of the CUP or P-O as outlined in Sec. V-E.14, excluding the requirement of V-E.14.a, or Sec. V-C.14, excluding the requirement of V-C.14.a., as applicable.

(4) ~~All~~ A Wireless Communication ~~Facilities~~ Facility that does not meet the requirements of Sec. III-D.6.g(2) or Sec. III-D.6.g(3) shall be reviewed through the Conditional Use process as outlined in Sec. V-D or, if the property on which the facility is located is within a CUP or P-O, as an amendment to the CUP or P-O as outlined in Sec. V-E.13. or Sec. V-C.13, as applicable.

(5) There shall be no nighttime lighting of or on a Wireless Communication

~~Facilities~~ Facility except for aircraft warning lights or similar emergency warning lights required by applicable governmental agencies. Flashing white obstruction lights shall not be permitted for nighttime operation. Lighting for security purposes shall be permitted at the base of wireless communication facilities. Temporary lighting for nighttime repairs shall be permitted.

(6) No signs shall be allowed on ~~an antenna support structure~~ a Wireless Communication Facility other than those required by applicable governmental agencies.

~~**(7)** At the time of requesting a Conditional Use, a CUP amendment, a P-O amendment, an Administrative Permit, or a Building Permit for a new ground mounted Wireless Communication Facility, as applicable, the applicant shall demonstrate to the satisfaction of the approving authority that: (a) there is no available space on existing or approved wireless communication facilities or other structures that can be utilized to meet the communication needs (an existing site will be considered "available space" only if the site is technically feasible with a ready, willing, and able landlord); and (b) there is no other economically and technically feasible opportunity to modify or rebuild an existing structure on which the communication equipment may be located. The technical feasibility of existing, modified or rebuilt structures may be reviewed by consultants to the Planning Department.~~

~~**(8)** At the time of requesting a Conditional Use, a CUP amendment, a P-O amendment, an Administrative Permit, or a Building Permit for a Wireless Communication Facility, as applicable, the owner of a proposed new undisguised ground mounted Wireless Communication Facility, and the Owner of the land, if not the same, shall agree in writing that (a) the support structure is designed, and the ground area is adequate or will be made adequate, to accommodate at least one other carrier, if more than 80 feet in height, and at least two other carriers, if more than 100 feet in height; (b) reasonable accommodations will be made to lease space on the facility to other carriers so as to avoid having a proliferation of support structures that are not fully utilized; and (c) the owner(s) shall make available in the future the opportunity for another party to pay the cost to modify or rebuild the Structure to support additional communication equipment where economically and technically feasible. Lattice towers no larger than 18 inches on any side shall be excluded from the co-location requirements of subsection (a) of this paragraph.~~

~~**(9)**~~**(7)** Unused facilities, including the uppermost 20 percent of support structures that are unused (except where removal of the uppermost 20 percent would require the removal of a lower portion the support structure that is in use, in which case the required removal will be raised to the next highest portion of the support structure not in use), shall be removed by the owner within 60 days if the Wireless Communication Facility, or portion thereof, has been unused for 12 consecutive months. If such a facility or portion of a facility is not removed by the owner, then the City or County may employ all legal measures, including, if necessary, obtaining authorization from a court of competent jurisdiction, to remove

it, and after removal may place a lien on the subject property for all direct and indirect costs incurred in its dismantling and disposal, including court costs and reasonable attorney fees. Under this paragraph, "owner" shall include both the Owner of the real property and the owner of the Wireless Communication Facility, whether such ownership is divided or in the same person.

~~(10)~~(8) All Wireless Communication Facilities shall comply with all federal, state, and local rules and regulations.

Section IV-C.5.

5. **Compatibility Height standards.** The following Height standards shall apply to Development that is subject to compatibility standards, unless reduced or waived through the provisions of Sec. V-I.2.

   a. No Structure ~~(except for wireless communication facilities)~~ shall exceed 35 feet in height within 50 feet of the lot line of property zoned TF-3 or more restrictive. Structures located more than 50 feet from the Lot Line of property zoned TF-3 or more restrictive may increase Height (if permitted by the base District regulations) at a ratio of one foot in Height for each three feet of Setback beyond 50 feet. For example, a ~~Building~~ Structure limited to 35 feet in Height at 50 feet from the Lot Line of property zoned TF-3 or more restrictive could be increased to a Height of 85 feet at a distance of 200 feet from the Lot Line of property zoned TF-3 or more restrictive.

   b. ~~Wireless Communication Facilities shall not exceed a Height equal to the distance to the Lot Line of property zoned TF-3 or more restrictive. For example, a Wireless Communication Facility located 100 feet from the Lot Line of property zoned TF-3 or more restrictive cannot exceed a Height of 100 feet.~~

Section VI-B.7. (new)

7. **Zoning Adjustments.** The Governing Body shall have the authority to approve, approve with conditions or modifications, or deny zoning adjustments when requested in association with an application to amend the Official Zoning Map, an application for Community Unit Plan approval, or an application for Conditional Use approval.

Section VI-C.7. (new)

7. **Zoning Adjustments.** The Planning Commission shall have the authority to approve, approve with conditions or modifications, or deny zoning adjustments when requested in association an application for Conditional Use approval or for amendment to a Community Unit Plan and shall have the authority to recommend to the Governing Body approval, approval with conditions, or denial of a zoning adjustment when requested in association with an application to amend the Official Zoning Map or amend a Planned Unit Development or Protective Overlay.

Section VI-G.9.

9. **Administrative Permits.** The Planning Director, with the concurrence of the Zoning Administrator, shall have the authority to approve, approve with conditions or modifications, or deny applications for a Wireless Communication ~~Facilities~~ Facility pursuant to Sec. III-D.6.g. The Planning Director's decision on such an application may be appealed by filing an application for a Conditional Use.

Section VI-H.5.

5. **Administrative Permits.** The Zoning Administrator shall have the authority to review and recommend to the Planning Director approval, approval with conditions or modifications, or denial of applications for ~~wireless communication facilities~~a Wireless Communication Facility pursuant to Sec. III-D.6.g. An Administrative ~~permits~~ Permit for a Wireless Communication ~~Facilities~~ Facility may be granted by the Planning Director only with the concurrence of the Zoning Administrator.

Wireless Communication Master Plan

Prepared by:

Wichita-Sedgwick County Metropolitan Area Planning Department

With the assistance of:

City of Wichita Engineering Division

Sedgwick County Public Works

September 2016

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I. Background

In 1999, the City of Wichita and Sedgwick County determined that they needed a clearer framework to review proposals for wireless communication facilities. An extensive planning process was initiated that included outreach to the community and wireless communication industry representatives. Community workshops and a wireless industry roundtable were held. Wireless industry representatives were surveyed and meetings were held with individual industry representatives. After a joint workshop with the Wichita City Council, Sedgwick County Commission and Metropolitan Area Planning Commission (MAPC) to review a draft plan, a city-county staff task force was assigned to meet further with the various stakeholders and prepare revisions to the draft plan. The city-county task force held numerous meetings with stakeholders from December 1999 through July 2000. In July 2000, the MAPC adopted the Wireless Communication Master Plan ("the Plan") as an element of the Wichita-Sedgwick County Comprehensive Plan. The Plan was subsequently approved by the Wichita City Council and the Sedgwick County Commission in August 2000.

Implementing revisions to the Wichita-Sedgwick County Unified Zoning Code (UZC) were approved at the same time. The UZC revisions were based on the Plan's recommendations to limit the overall number of wireless communication facilities by promoting collocation of multiple providers' antennas at a single facility. The UZC revisions also addressed visual obtrusiveness by restricting the tallest towers to heavy commercial and industrial areas, requiring setbacks from low-density residential areas, and promoting the use of monopole rather than lattice-type towers. Over the next ten years, over 100 new wireless communication facilities were built in the community, most of them monopole towers located in commercial areas that supported multiple providers' antennas.

In March 2011, the Plan was updated to reflect modifications made in 2008 to the UZC pertaining to the heights and zoning districts in which Administrative Permits could be granted, as well the limitation of Administrative Permits within the city limits to certain designated properties. The March 2011 update also included revisions that clarified when it is acceptable to use a lattice-type tower and when it is acceptable to use a monopole.

In 2016, the Kansas Legislature adopted Senate Substitute for House Bill No. 2131, which declared the regulation of wireless communication facilities to be a state-wide interest and directed the approach of cities and counties to regulate wireless communication facilities. The bill prohibits the following established practices of the City of Wichita and Sedgwick County:

1) Requiring applicants to document that no collocation opportunity is available prior to permitting construction of a new wireless communication facility.

2) Requiring applicants to demonstrate that a wireless communication facility addresses a wireless service provider need rather than being constructed as a speculative facility.

3) Evaluating the merits of an application based on collocation opportunities.

4) Requiring small cell facilities in lieu of macro facilities in visually/ environmentally sensitive locations.

5) Requiring applicants to agree to permit collocation on their facility by other service providers as a condition of approval.

Additionally, the bill deems an application for a wireless communication facility approved if the application is not acted upon within 150 days for a new facility or 60-90 days (depending on type) for a collocation application. The bill also requires that small cell facilities or distributed antennae systems located in an interior structure or upon the site of any campus, stadium, or athletic facility be permitted by right. Finally, the bill requires equal treatment of wireless communication facilities with utility installations when applying to locate in right-of-way but establishes a right-of-way fee cap on local governments that is lower than the fee charged utilities.

The September 2016 update of the Wireless Communication Master Plan addresses the state-mandated approach to reviewing proposals for wireless communication facilities. The updated Plan also has corresponding implementing revisions to the UZC.

II. Wireless Communication Deployment

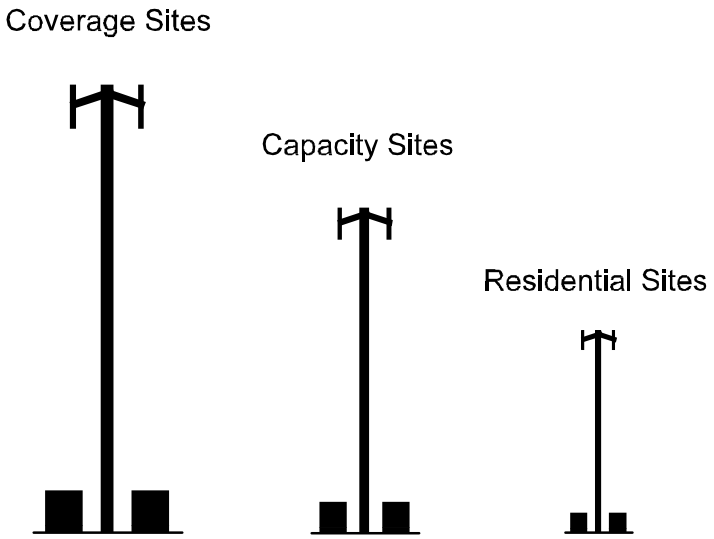
Wireless communication has evolved from a niche business catering to corporate executives in the early 1990s to a ubiquitous communication tool used by almost everyone less than 25 years later. As the business has evolved, the number of wireless communication facilities in Wichita and Sedgwick County has grown from a few dozen in the early 1990s to several hundred today. By the year 2035, there may well be thousands of wireless communication facilities. They wireless communication facilities have deployed in three phases:

- Coverage. The initial phase occurred primarily between mid-1990s and mid-2000s when carriers tried to spread their signal throughout the community in an attempt to reach new subscribers.

- Capacity. Following the coverage phase, new capacity sites were built between the coverage sites to address areas where a high number of users are located.

- Residential. The current phase of the business plan involves the replacement of most wired phones in customers' homes with wireless devices that are used more for text and data than for voice communication.

The last phase of deployment brings wireless communication facilities into residential areas where they are restricted to shorter facilities, as illustrated below.



The impact of the phases of wireless communication deployment in Wichita and Sedgwick County are:

- Coverage. Most areas of Wichita and Sedgwick County presently have coverage. The construction of additional wireless communication facilities to provide coverage will be limited in the future and are mostly like to occur in rural areas.

- Capacity. As areas of the community grow in population, the demand on the wireless communication systems will exceed the capacity of the coverage sites and providers will need new sites in developing areas to add capacity. These sites mostly can be accommodated in commercial areas and along major roadways.

- Residential. As the use of wireless devices in homes continues to increase, it is likely that there will have to be many more sites for each provider located immediately within residential areas. These mostly likely deployment of these sites will be small cell facilities and distributed antenna systems located in street right-of-way, as illustrated below.

The challenge of planning for wireless communication facilities is the same as that for many other land uses: balancing marketplace demands with public expectations for an orderly and attractive environment. This Plan anticipates and guides future wireless communication deployment with guidelines and policies that should be applied in the review of proposed new wireless communication facilities.

III. Location/Design Guidelines

This chapter contains guidelines for location, siting and design of new wireless communication facilities. The term "guidelines" is used in recognition that deviations from these guidelines can be considered on a case-by-case basis, if consistent with the general spirit and intent of this Plan.

The intent of the Location/Design Guidelines is to balance marketplace demands for deployment of wireless communication facilities with the community's desire for an orderly and attractive environment. In general, tall wireless communication facilities should be limited to heavy commercial and industrial areas and should decrease in height as the intensity of development decreases, with the shortest facilities being located in residential areas. Additionally, facilities should located and designed in a manner that minimizes visual obtrusiveness and negative aesthetic impacts on surrounding properties.

A. Location/Height Guidelines

1. The following wireless communication facilities should be permitted by right in any zoning district, subject to the issuance of a building permit, if they conform to the Location/Design Guidelines in this chapter. Note that right-of-way is not zoned and has separate permitting requirements described below in Section C.
    a. New facilities that are concealed in or mounted on top of or the side of existing buildings (excluding single-family and duplex residences) and other structures, including collocation and support structures up to 20 feet above the building or the maximum height permitted by a building permit or an Administrative Permit in the underlying zoning district, whichever is greater.
    b. Modification and/or replacement of support structures that are not significantly more visible or intrusive, including collocation and cumulative height extensions of up to 25 percent above the original structure height.
    c. Modification and/or replacement of wireless communication facilities, including collocation and cumulative height extensions of up to 25 percent above the original structure height that comply with the compatibility height standards of the Unified Zoning Code.
    d. New or modified lattice towers no larger than 18 inches wide on any side up to 80 feet in height measured from grade.
    e. Small cell facilities or distributed antennae systems located in an interior structure or upon the site of any campus, stadium, or athletic facility.

If the Zoning Administrator determines that the wireless communication facility does not conform to the Location/Design Guidelines, the building permit should be denied. Denied building permits may be appealed by applying for an Administrative Permit or a Conditional Use. An Administrative Permit should be approved subject to conditions that maintain conformance with the Location/Design Guidelines. Wireless communication facilities that do not conform to the Location/Design Guidelines may be approved for a Conditional Use on a case-by-case basis as circumstances warrant.

2. The following wireless communication facilities should be approved by Administrative Permit in any zoning district, with the concurrence of the Director of Planning and the Zoning Administrator, if they conform to the Location/Design Guidelines in this chapter and, for zoning lots located within the City, are designated on the "Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map". Note that right-of-way is not zoned and has separate permitting requirements described below in Section C.

   a. New disguised ground-mounted facilities up to 85 feet in height.

   b. New undisguised ground-mounted facilities up to 65 feet in the SF-10, SF-5, TF-3, MF-18, MF-29, B, U, and MH zoning Districts that comply with the compatibility height standards of the Unified Zoning Code.

   c. New undisguised ground-mounted facilities up to 85 feet in height in the NO, GO, and NR zoning districts that comply with the compatibility height standards of the Unified Zoning Code.

   d. New undisguised ground-mounted facilities up to 120 feet in the RR, SF-20, LC, OW, and GC zoning Districts that comply with the compatibility height standards of the Unified Zoning Code.

   e. New ground-mounted facilities up to 150 feet in height in the IP, CBD, LI, GI, and AFB zoning districts that comply with the compatibility height standards of the Unified Zoning Code.

3. Wireless communication facilities that exceed the maximum height for an Administrative Permit should be reviewed through the Conditional Use process. Conditional Use approvals typically should be subject to conditions that maintain conformance with the Location/Design Guidelines in this chapter; however, wireless communication facilities that do not conform to the Location/Design Guidelines may be approved for a Conditional Use on a case-by-case basis as circumstances warrant. Note that right-of-way is not zoned and has separate permitting requirements described below in Section C.

4. There should be no nighttime lighting of or on wireless communication facilities except for aircraft warning lights or similar emergency warning lights required by applicable governmental agencies. Flashing white obstruction lights should not be permitted for nighttime operation. Lighting for security purposes should be permitted at the base of wireless communication facilities. Temporary lighting for nighttime repairs should be permitted.
5. No signs should be allowed on a wireless communication facility other than those required by applicable governmental agencies.
6. The owner should be responsible for the removal of unused facilities, including the uppermost 20% of support structures that are unused (except where removal of the uppermost 20% would require the removal of a lower portion the support structure that is in use, in which case the required removal will be raised to the next highest portion of the support structure not in use), within 60 days if the wireless communication facility, or portion thereof, has been unused for 12 consecutive months. If such a facility or portion of a facility is not removed by the owner, then the City or County may employ all legal measures, including, if necessary, obtaining authorization from a court of competent jurisdiction, to remove it, and after removal may place a lien on the subject property for all direct and indirect costs incurred in its dismantling and disposal, including court costs and reasonable attorney fees. Under this paragraph, "owner" includes both the owner of the real property and the owner of the wireless communication facility, whether such ownership is divided or in the same person.
7. All wireless communication facilities should comply with all federal, state, and local rules and regulations.

Wireless communication providers are particularly encouraged to seek the following new locations for new facilities:

1. Mounted on top or the side of multistory buildings and other structures, appropriately concealed, screened, disguised or camouflaged.
2. On existing utility poles in street right-of-way and on parking lot and athletic field/stadium light standards.
3. On existing support structures, including those constructed for school district microwave antennas and private dispatch systems.
4. In wooded areas.

5. At certain City and County-owned properties, where the size and nature of the use does not interfere with other functions and allows for compatible siting; these may include multistory buildings, water towers, large park areas, sewer treatment plant sites, maintenance yards, and public airports.

6. The City and County should also work with public and private agencies such as KDOT, KTA, and Westar, to encourage the use of highway light standards, sign structures, and electrical support structures for new wireless communication facilities.

B. Design Guidelines

As a general rule, the less visible and obtrusive a proposed wireless communication facility is, the more acceptable it will be to the community. The visibility of facilities can be minimized by techniques such as concealment, disguise, camouflage, and sensitive design and siting. Specific guidelines include:

1. Preserving the pre-existing character of the area as much as possible.

2. Minimizing the height, mass or proportion of the facility to minimize conflict with the character of its proposed surroundings.

3. Minimizing the silhouette presented by new support structures and antenna arrays. Lattice-type support structures are generally appropriate in areas outside the "Urban Growth Areas" identified in the Wichita-Sedgwick County Comprehensive Plan. Lattice-type support structures inside the Urban Growth Area boundaries generally should be limited to installations that have antennas mounted flush to the support structure with cables attached to the main support arms rather than the girders. When an antenna array that protrudes from the wireless communication facility is used on a support structure inside the Urban Growth Area boundaries, the support structure generally should be a monopole. The figure below illustrates the types of support structures that are "encouraged" and "discouraged" by this section.

Encouraged

Discouraged

4. Using colors, textures and materials that blend in with the existing environment and minimize reflection; under some circumstances, surfaces should be painted, or otherwise treated, to match or complement existing background structures or utility poles, as appropriate.

5. Concealing facilities within potential space in or on existing structures, or disguised to look like another type of facility, like a flagpole, clock tower, or church steeple.

6. Placing facilities in areas where trees and/or buildings obscure some or all the facility from view, and installing new plantings/screening around the site where visible from major streets or residential areas.

7. Placing facilities on existing walls, flush-mounted, or on roofs buildings (excluding single-family and duplex) and structures, up to 20 feet above the existing structure, as opposed to building new ground-mounted support structures. Facilities on rooftops generally should be set back from roof edges or screened from view.

8. Screening equipment shelters and cabinets through landscaping, walls and/or fencing, as appropriate to the surroundings. In most cases, ground-level equipment should respect the setbacks for accessory uses in the applicable zoning district and be enclosed by 6-8 foot high security fencing, of a material compatible with its surroundings. Equipment should be encouraged indoors if space is available nearby. Burying equipment in an underground vault, to keep most of the equipment out of sight, may be necessary in right-of-way and in some other visually/environmentally sensitive locations, such as tourist attractions, historic landmarks/districts, museum district, river corridor, and other locations of civic importance or architectural significance. Ground level shelters/equipment, appropriately screened and generally landscaped with trees and/or shrubs, should be permitted on lots adjacent to right-of-way, to facilitate the use or reconstruction of utility poles in those right-of-way.

9. Permitting lighting on facilities only if required by federal regulations.

C. Right-of-Way

City and County right-of-way is an encouraged location for wireless communication facilities, particularly for small cell facilities and distributed antenna systems. Locating wireless communication facilities in the right-of-way requires an agreement with the City or County, as applicable. Such agreements should include an ongoing rental fee, as allowed by law, to ensure that private

property owners are not at a competitive disadvantage to the public sector in regards to renting land for the location of wireless communication facilities. However, state law requires that any rental fee for right-of-way must be competitively neutral with fees charged to other users of the right-of-way such utility companies.

In addition to the design guidelines described in Section B above, wireless communication facilities should also meet the following additional design guidelines when located in the right-of-way:

1. **Adjoining Property Owners**

   To the extent practical, the design and location should be changed to mitigate an adjoining property owner's concerns and increase consistency with the guidelines of this Plan.

2. **Wiring – Underground or Aerially**

   Facility wiring should be installed underground and within the support structure or within conduit immediately attached to the support structure. Facility wiring should not cross over, under, or through private property.

3. **Public Safety**

   Place facilities in locations that are outside of the clear zone and do not cause a sight obstruction for the traveling public and/or obstruct pedestrian safety.

4. **Right-of-Way/Utility Accommodations**

   Place facilities in locations to do not hinder existing or planned uses of the right-of-way such as utilities, drainage, street lights, sidewalks, driveways, turn lanes, etc.

5. **Facility Height**

   The height of facilities should not exceed 40 feet above ground level unless authorized by the applicable City or County Engineer, or designee.

6. **Poles**

   Replacing or utilizing existing utility poles is encouraged and installing new support structures solely for the wireless communication facility is discouraged. The figure below illustrates the types of support structures that are "encouraged" and "discouraged" by this guideline.

Encouraged

Replacement of Existing Light Pole

Discouraged

New Pole Installation

E. Submittal Requirements

Review of proposals for wireless communication facilities will be greatly aided by using a set of standardized submittal requirements. This Plan suggests the following submittal requirements:

1. A scaled vicinity plan, dimensioned and identifying existing buildings, trees, and other features within 200 feet of the wireless communication facility in the City of Wichita or within 1,000 feet of the wireless communication facility in the unincorporated area of Sedgwick County.

2. A one-inch-equals-20 feet site plan, dimensioned, identifying the location of all facility elements.

3. Typical elevations of all facility elements, dimensioned.

4. Specification of exterior materials and colors of all facility elements.

5. Landscape/screening plan, with all materials and sizes specified.

6. Appearance of proposed facility shown in site context by photo-simulation.

Appendix A: Definitions

Applicant. Any person or entity that is engaged in the business of providing wireless services or the wireless infrastructure required for wireless services and that submits an application.

Application. A request submitted by an applicant for: (A) the construction of a new wireless support structure or new wireless facility; (B) the substantial modification of a wireless support structure or wireless facility; or (C) collocation of a wireless facility or replacement of a wireless facility.

Collocation. Mounting or installation of wireless facilities on a building, structure, wireless support structure, tower, utility pole, base station or existing structure for the purposes of transmitting or receiving radio frequency signals for communication purposes.

Distributed Antenna System. A network that distributes radio frequency signals and consisting of: (A) Remote communications or antenna nodes deployed throughout a desired coverage area, each including at least one antenna for transmission and reception; (B) a high capacity signal transport medium that is connected to a central communications hub site; and (C) radio transceivers located at the hub's site to process or control the communications signals transmitted and received through the antennas to provide wireless or mobile service within a geographic area or structure.

Lattice Tower. A type of support structure that consists of an open network of braces forming a tower that is usually triangular or square in cross section.

Modification and/or Replacement. Modification of a support structure or wireless communication facility of comparable proportions and of comparable height or such other height that would not constitute a substantial modification in order to support wireless facilities or to accommodate collocation and includes replacement of any pre-existing wireless communication facility or support structure.

Monopole. A type of support structure that consists of a vertical pole fixed into the ground and/or attached to a foundation.

Right-of-Way. The area of real property in which the City or County has a dedicated or acquired right-of-way interest in the real property. It shall include the area on, below or above the present and future streets, alleys, avenues, roads, highways, parkways or boulevards dedicated or acquired as right-of-way. ''Right-of-way" does not include any state, federal or interstate highway right-of-way, which generally includes the area that runs contiguous to, parallel with,

and is generally equidistant from the center of that portion of the highway improved, designed or ordinarily used for public travel.

Small Cell Facility. A wireless communication facility that meets both of the following qualifications: (A) Each antenna is located inside an enclosure of no more than six cubic feet in volume, or in the case of an antenna that has exposed elements, the antenna and all of the antenna's exposed elements could fit within an imaginary enclosure of no more than six cubic feet; and (B) primary equipment enclosures that are no larger than 17 cubic feet in volume, or facilities comprised of such higher limits as the federal communications commission has excluded from review pursuant to 54 U.S.C. § 306108. Associated equipment may be located outside the primary equipment, and if so located, is not to be included in the calculation of equipment volume. Associated equipment includes, but is not limited to, any electric meter, concealment, telecommunications demarcation box, ground-based enclosures, back-up power systems, grounding equipment, power transfer switch, cut-off switch and vertical cable runs for the connection of power and other services.

Substantial Modification. Modification of a wireless communication facility or support structure that will substantially change the physical dimensions under the objective standard for substantial change, established by the federal communications commission pursuant to 47 C.F.R. 1.40001.

Support Structure. A freestanding structure, such as a monopole, guyed or self-supporting tower or other suitable existing or alternative structure designed to support or capable of supporting wireless facilities, and any structure that is currently supporting or designed to support the attachment of wireless facilities, including, but not limited to, towers, buildings and water towers.

Utility Pole. A structure owned or operated by a public utility as defined in K.S.A. 66-104, and amendments thereto, a municipality as defined in K.S.A. 75-6102, and amendments thereto, or an electric cooperative as defined in K.S.A. 2015 Supp. 17-4652, and amendments thereto, that is designed specifically for and used to carry lines, cables or wires for telecommunications, cable, electricity or to provide lighting.

Wireless Communication. Personal wireless services and personal wireless service facilities as defined in 47 U.S.C. § 332(c)(7)(C), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through a wireless communication facility or any fixed or mobile wireless services provided using a wireless communication facility.

Wireless Communication Facility. Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including, but not limited to: (A) a support structure consisting of a freestanding support structure, such as a monopole, guyed, or self-supporting tower or other suitable existing or alternative structure designed to support or capable of supporting wireless facilities; (B) a base station that supports or houses an antenna, transceiver, coaxial cables, power cables or other associated equipment at a specific site that is authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies and other associated electronics; (C) equipment associated with wireless services such as private, broadcast and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul; and/or (D) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies and comparable equipment, regardless of technological configuration.

Appendix B: Adopting Documents

RESOLUTION

WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION

WHEREAS, pursuant to the authority granted by the statutes of the State of Kansas, in K.S.A. 12-747 et seq., the Wichita-Sedgwick County Metropolitan Area Planning Commission developed a Comprehensive Plan, entitled Community Investments Plan that was adopted by the City of Wichita on December 8, 2015, and Sedgwick County on January 20, 2016; and

WHEREAS, the Comprehensive Plan may be amended as needed to ensure it reflects timely and relevant information and the needs of the community; and

WHEREAS, the Metropolitan Area Planning Commission did initiate an update of the Wireless Communication Master Plan to reflect changes to Kansas State Law enacted by Senate Substitute for House Bill 2131; and

WHEREAS, before the adoption of any Comprehensive Plan or amendment thereto, the Wichita-Sedgwick County Metropolitan Area Planning Commission is required by K.S.A. 12-747 et seq. to hold a public hearing; and

WHEREAS, the Wichita-Sedgwick County Metropolitan Area Planning Commission did give notice by publication in the official City and County newspaper on July 28, 2016, of a public hearing on said Plan; and

WHEREAS, the Wichita-Sedgwick County Metropolitan Area Planning Commission, on August 18, 2016, tabled the public hearing to September 29, 2016, and on September 29, 2016, did hold a public hearing at which a quorum was present, and did hear all comments and testimony relating to said area plan;

NOW, BE IT THEREFORE RESOLVED, the Wichita-Sedgwick County Metropolitan Area Planning Commission hereby adopts the Wireless Communication Master Plan, September 2016, as an official amendment to the Wichita-Sedgwick County Comprehensive Plan; and

BE IT FURTHER RESOLVED, that notice of this action be transmitted to the City Council of the City of Wichita and to the Sedgwick County Board of County Commissioners for their consideration and adoption.

ADOPTED at Wichita, Kansas, this 29th day of September 2016.

Carol Chapman Neugent

Carol Chapman Neugent, Chair
Wichita-Sedgwick County
Metropolitan Area Planning Commission

Attest:

Dale Miller

Dale Miller, Secretary
Wichita-Sedgwick County
Metropolitan Area Planning Commission

Approved as to Form:

Jennifer Magana, City Attorney and Director of Law
City of Wichita

City of Wichita
City Council Meeting
November 8, 2016

TO: Mayor and City Council

SUBJECT: CON2015-00030 – City Conditional Use Request for a Nightclub in the City on LC Limited Commercial Zoned Property Located on the Northeast Corner West 48th Street North and North Arkansas Avenue. (District VI)

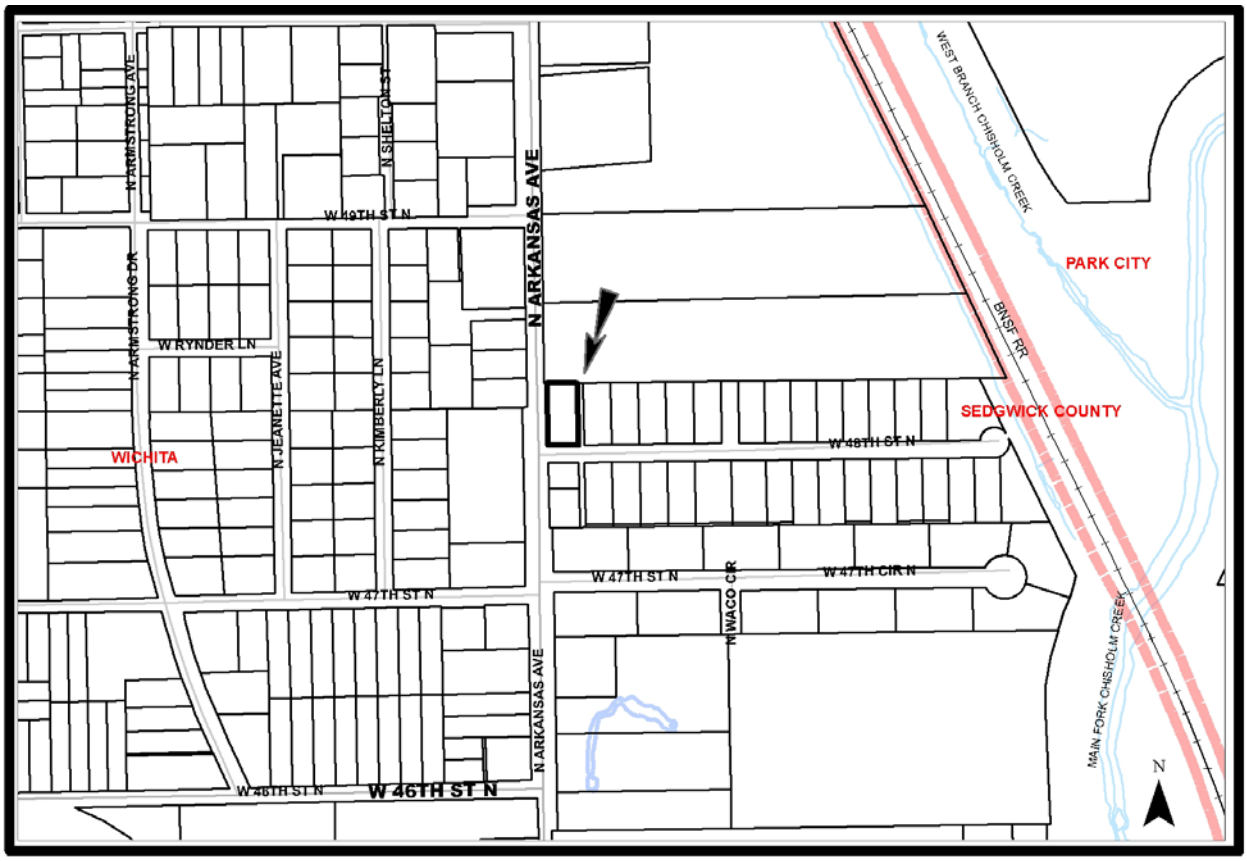
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-Consent)

MAPC Recommendation: The MAPC recommended denial of the request (12-0).

DAB Recommendation: District Advisory Board VI recommended approval of the request (5-3).

MAPD Staff Recommendation: The Metropolitan Area Planning Department staff recommended denial of the request.



Background: The LC Limited Commercial (LC) zoned site advertises itself as "Baby Dolls" a nightclub that provides its customers with dancing by employees and cereal malt beverages or alcoholic liquor for sale and consumption on the site. As defined by the Wichita-Sedgwick County Unified Zoning Code (UZC) this is a nightclub. The 1958 Sedgwick County zoning map shows the site being zoned LC Light Commercial, which was changed to LC Limited Commercial (LC) with the 1996 adoption of the UZC. The applicant's agent has stated the site has continuously been a nightclub for over 30-years. An oral history of the site indicates the site was perhaps previously known in the 1970s as the "49 A-Go-Go", which provided the same services as the current nightclub. Planning could not find a Use Exception or Conditional Use for a tavern, drinking establishment or nightclub on this site. The nightclub is considered a nonconforming use, i.e., being established prior to the current UZC and prior to the site being annexed in 1998 into the City. The applicant is requesting a Conditional Use to bring the site into compliance with the current UZC, which was adopted by the City of Wichita and Sedgwick County in 1996.

The current UZC (Sec.III-D.6.w.) requires consideration of a Conditional Use for a LC zoned tavern, drinking establishment or a nightclub when it is located within 300 feet of a church or place of worship, public park, public or parochial school or residential zoning district. The site abuts SF-5 Single-Family (SF-5) residential property on its north side and is adjacent to SF-5 zoned single-family neighborhoods on its east (separated by a 20-foot wide alley), south (across 48th Street North) and west (across Arkansas Avenue) sides.

The site (built 1951) is located in an area that is zoned mostly SF-5 and developed with urban scale subdivision or large tracts and lots of an acre or more. A platted 20-foot alley separates the site from the east, adjacent SF-5 zoned single-family residences (built late 1940s – early 1950s). Large tract SF-5 zoned properties abut and are adjacent to the north side of the site. Most of these north properties are being used as agricultural fields, with the only single-family residences (built 1950) located north of the site. It is difficult to determine what the abutting north SF-5 zoned property is being used for, but the aerial shows what appears to be an oval track and numerous out buildings. Directly south of the site, across 48th Street North, there is a LC zoned site that the appraiser's link describes as car repair, paint shop and detail shop. There is a lot of outdoor vehicle parking or storage, including trailers for semis, on the site. SF-5 zoned single-family residences (built late 1970- early 1980s) are located further south, as is a SF-5 zoned Buddhist worship complex (built 2001). Approximately 17-acres of undeveloped LI Limited Industrial zoned property owned by the City of Bel Aire is also located south of the site. All of these abutting and adjacent north, east and south properties end up against the Chisholm Creek Diversion portion of the "Big Ditch." The City of Park City is located east, across the Big Ditch. Properties located west of the site, across Arkansas Avenue are zoned SF-5 and are developed as single-family residences (built 1940s -1980s). The exceptions are two LC zoned properties located directly west of the site across Arkansas Avenue. The larger of the two LC zoned sites has a single-family residence (built 1970) and the smaller is listed on the appraiser's link as having a manufactured home located on it. There are also some undeveloped properties in the area.

The applicant's site plan is an aerial of the site, which lacks the detail needed to determine the required parking of one space per two occupants, as well as the required solid screening, lights, location of the trash receptacles, etc. The manager of Baby Dolls has stated that the posted occupancy for the site is 101, which requires 51 paved parking spaces. An on-site trip to the site could not determine parking. However, it did reveal a wooden fence separating the site from the abutting north and a portion of the adjacent east properties and the location of an unscreened trash receptacle. Both the east fence and trash receptacle may be partially located in the platted 20-foot wide unimproved alley. The trip showed no parking barriers separating the parking from Arkansas Avenue and 48th Street North.

Analysis: On October 3, 2016, District Advisory Board (DAB) VI considered the requested conditional use. There were protesters at the DAB VI meeting. The protesters stated that the site generated loud music from the nightclub, customers playing loud music in their vehicles late at night, reckless customer

driving, trash, past shootings, intoxicated customer behavior and lewd behavior by the employees. The DAB voted to approve (5-3) the requested conditional use, with the following conditions:

(1) The site shall be developed with an approved revised site plan, showing, but not limited to, the required parking spaces, locating dumpsters 20 feet from the north and east abutting and adjacent SF-5 zoned properties, solid screening with a solid screening gate around the dumpsters, and a solid wooden fence along the east property line. The site plan shall also confirm the location of the east abutting platted 20-foot wide alley to determine that the wooden fence and dumpster(s) are not located in the platted alley. The site plan shall also show barriers separating parking from all public street right of way and the platted alley. The barrier on the south side of the site shall be constructed to allow no access onto 48th Street North. The site plan must be submitted for review within 60-days of approval by the MAPC or, as applicable, the appropriate governing body.
(2) No outdoor speakers or outdoor entertainment are permitted.
(3) No exterior flashing lights.
(4) The Conditional Use shall not be in effect until all improvements on the site are completed, including the location of dumpsters 20 feet from the abutting and adjacent SF-5 zoned properties, the required screening (including dumpsters), parking barriers and the paved parking lot is stripped to determine if any adjustments or variances are needed to resolve the required parking is competed. This must be completed within 90 days of approval by the MAPC or, as applicable, the appropriate governing body or the Conditional use shall be declared null and void.
(5) The applicant shall obtain all required state, local and other applicable permits and inspections.
(6) 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.

On October 6, 2016, the Metropolitan Area Planning Commission (MAPC) considered the request. There were protesters at the MAPC meeting. The protesters stated that the site generated loud music from the nightclub, customers playing loud music in their vehicles late at night, reckless customer driving, trash, past shootings, intoxicated customer behavior and lewd behavior by the employees. The MAPC denied (12-0) the requested conditional use.

Planning staff has received valid protests to the request totaling 63.85% of the total land area located within the 200-foot protest radius. There were many protests located outside the 200-foot protest radius that have appeal status. Because valid protests totaled more than 20 percent of the total land area located within the 200-foot protest radius six (6) votes are required to overturn the protest.

Financial Considerations: Approval of this request will not create any financial obligations for the City.

Legal Considerations: The Law Department has reviewed and approved the resolution as to form.

Recommendation/Actions: It is recommended that the City Council either: 1) Concur with the findings of the MAPC and deny the requested conditional use (requires four votes), 2) Overturn the recommendation of the MAPC, establish alternate findings to support the approval, and approve the requested conditional use subject to the conditions listed (requires six votes to overturn protests), or 3) return requests to MAPC for further considerations (requires four votes to return to MAPC).

Attachments:

- MAPC minutes
- DAB memo
- Protest map
- Resolution
- Aerial/Site Plan

EXCERPT MINUTES OF OCTOBER 6, 2016 WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION MEETING

Case No.: CON2015-00030 - Homer Morgan Revocable Trust (applicant/owner); Stephen M. Joseph (agent) request a City Conditional Use to permit a Tavern and Drinking Establishment and an Entertainment Establishment on property zoned LC Limited Commercial on property described as:

Lot 32, Northern Acres Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The LC Limited Commercial (LC) zoned site advertises itself as "Baby Dolls" a nightclub that provides its customers with dancing by employees and cereal malt beverages or alcoholic liquor for sell and consumption on the site. As defined by the Wichita-Sedgwick County Unified Zoning Code (UZC) this is a nightclub. The site has been zoned commercial since 1958 (see case history). The applicant's agent has stated the site has continuously been a nightclub for over 30-years. An oral history of the site indicates the site was perhaps previously known in the 1970s as the "49 A-Go-Go", which provided the same services as the current nightclub. The site was annexed into the City of Wichita in 1998 (see case history). Planning could not find a Use Exception or Conditional Use for a tavern, drinking establishment or nightclub on this site. The nightclub is considered a nonconforming use, i.e., being established prior to the current UZC and prior to the site being annexed into the City. The applicant is requesting a Conditional Use to bring the site into compliance with the current UZC, which was adopted by the City of Wichita and Sedgewick County in 1996.

The current UZC (Sec.III-D.6.w.) requires consideration of a Conditional Use for a LC zoned tavern, drinking establishment or a nightclub when it is located within 300 feet of a church or place of worship, public park, public or parochial school or residential zoning district. The site abuts SF-5 Single-Family (SF-5) residential property on its north side and is adjacent to SF-5 zoned single-family neighborhoods on its east (separated by a 20-foot wide alley), south (across 48th Street North) and west (across Arkansas Avenue) sides.

The site (built 1951) is located in an area that is zoned mostly SF-5 and developed with urban scale subdivision or large tracts and lots of an acre or more. A platted 20-foot alley separates the site from the east, adjacent SF-5 zoned single-family residences (built late 1940s – early 1950s). Large tract SF-5 zoned properties abut and are adjacent to the north side of the site. Most of these properties are being used as agricultural fields, with the only single-family residences located north of the site being built in 1950. It is difficult to determine what the abutting north SF-5 zoned property is being used for, but the aerial shows what appears to be an oval track and numerous out buildings. Directly south of the site, across 48th Street north, there is a LC zoned site that the appraiser's link describes as car repair, paint shop and detail shop. There is a lot of outdoor vehicle parking or storage, including trailers for semis, on the site. SF-5 zoned single-family residences (built late 1970- early 1980s) are located further south, as is a SF-5 zoned Buddhist worship complex (built 2001). Approximately 17-acres of undeveloped LI Limited Industrial zoned property owned by the City of Bel Aire is also located south of the site. All of these abutting and adjacent north, east and south properties end up against the Chisholm Creek Diversion portion of the "Big Ditch." The City of Park City is located east, across the Big Ditch. Properties located west of the site, across Arkansas Avenue are zoned SF-5 and are developed as single-family residences (built 140s -1980s). The exceptions are two LC zoned properties located directly west of the site across Arkansas Avenue. The larger of the two LC zoned sites

has a single-family residence (built 1970) and the smaller is listed on the appraiser's link as having a manufactured home located on it. There are also some undeveloped properties in the area.

The applicant's site plan is an aerial of the site, which lacks the detail needed to determine the required parking of one space per two occupants, as well as the required solid screening, lights, location of the trash receptacles, etc. The manager of Baby Dolls has stated that the posted occupancy for the site is 101, which requires 51 paved parking spaces. An on-site trip to the site could not determine parking. However it did reveal a wooden fence separating the site from the abutting north and a portion of the adjacent east properties and the location of an unscreened trash receptacle. Both the east fence and thrash receptacle may be partially located in the platted 20-foot wide unimproved alley. The trip showed no parking barriers separating the parking from Arkansas Avenue and 48th Street North

CASE HISTORY: The site is located on Lot 32, Northern Acres Addition, which was recorded with the Register of Deeds June 16, 1948. The 1958 Sedgwick County zoning map shows the site being zoned LC Light Commercial, which was changed to Limited Commercial with the 1996 adoption of the UZC. As previously noted the site was annexed into the City in 1998; Annexation Ordinance Number 43-965. Staff has received numerous calls protesting the request.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Agricultural land, a single-family residence
SOUTH:	LC, SF-5	Garage for vehicle repair, painting and vehicle storage, single-family residences
EAST:	SF-5	Single-family residences, Big Ditch
WEST:	LC, SF-5	Single-family residences

PUBLIC SERVICES: The site has one drive onto North Arkansas Avenue, a paved two-lane minor arterial, with bar ditches on both sides of it. Access onto 48th Street North, a sand and gravel residential cul-de-sac street, is undefined but appears to be wherever a customer wants it to be. Public Water is available to the site. Public sewer is not available to the site nor to the area the site is located in. The applicant has not provided the location of an on-site sewer facility, which would be a septic system. All other utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" (Land Use Guide) depicts this location as being appropriate for "residential" and "parks and open space" designations. Neither site's LC zoning nor its use as a nightclub is in conformance with the Land Use Guide. Per the "Community Investment Plan" the nonconforming nightclub does not contribute to promoting a safe, active, stable, and healthy living environment for what is overwhelmingly a single-family neighborhood.

Planning could not find a Use Exception or Conditional Use for a tavern, drinking establishment or nightclub on this site. The current nightclub is considered a nonconforming use, i.e., being established prior to the current UZC and prior to the site being annexed into the City. The site is located within 300 feet of SF-5 zoned properties, which is the trigger that requires approval of Conditional Use to bring the site into compliance with the current UZC and the site losing its noncompliance status.

The nightclub provides dancing by employees for the entertainment of its customers. However, according to the Police Department's Vice Division and the Metropolitan Area Building and Construction Department's Code Enforcement Division the nightclub is not considered a "sexually oriented business", i.e., a SOB. The UZC (Sec.II.B.12.n and o.) defines a SOB and per that definition Vice and Code Enforcement has determined that the nightclub's dancing by its

employees for the entertainment of its customers does not make it a SOB. Planning Staff has not visited the nightclub, but will rely on Vice and Code Enforcement for that determination.

The site does have access onto the minor arterial Arkansas Avenue, which meets the locational criteria for commercial uses. However, there is no buffer of less intensive uses between the nightclub and the abutting and adjacent, which is suggested for the location of commercial development.

RECOMMENDATION: The nightclub is out of character and incompatible with the development in the area, which is long time established single-family residential development. Even two of the three remaining LC zoned sites located in the area are developed as single-family residences, with the exception being what appears to be a nonconforming repair, paint and vehicle storage business. Based upon the information available prior to the public hearings, Planning staff recommends that a Conditional Use for a tavern, drinking establishment or nightclub be **DENIED.** If denied the site's LC zoning would not be removed and applicant could continue to operate as a non-conforming nightclub, per the UZC's Non-Conforming policies. Denial would make it more difficult for the site to continue to operate as a nonconforming use, prevent an expansion of the nightclub and could eventually remove the nonconforming nightclub and allow another use to operate by right on the LC zoned property that would be a more neighborhood oriented and compatible business for the area.

This recommendation is based on the following findings:

(1) The zoning, uses and character of the neighborhood: The area is overwhelmingly zoned SF-5 and developed with long established single-family residences. Even two of the four area's LC zoned sites are developed as single-family residences, with the exception being what appears to be a nonconforming repair, paint and vehicle storage business.

(2) The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC, which accommodates office and retail uses. If denied the site's LC zoning would not be removed and applicant could continue to operate as a non-conforming nightclub, per the UZC's Non-Conforming policies. Denial would make it more difficult for the site to continue to operate as a nonconforming use, prevent an expansion of the nightclub and could eventually remove the nonconforming nightclub and allow another use to operate by right on the LC zoned property that would be a more neighborhood oriented and compatible business for the area.

(3) Extent to which removal of the restrictions will detrimentally affect nearby property: Typical concerns about tavern-drinking establishments include bad behavior resulting from unlimited liquor sales, noise, and the hours of the nightclub having a detrimental impact on the adjacent single-family residential neighborhood. Denial of the request could have a negative financial impact on the applicants.

(4) Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" (Land Use Guide) depicts this location as being appropriate for "residential" and "parks and open space" designations. Neither site's LC zoning nor its use as a nightclub is in conformance with the Land Use Guide. Per the "Community Investment Plan" the nonconforming nightclub does not contribute to promoting a safe, active, stable, and healthy living environment for what is overwhelmingly a single-family neighborhood.

Planning could not find a Use Exception or Conditional Use for a tavern, drinking establishment or nightclub on this site. The current nightclub is considered a nonconforming use, i.e., being established prior to the current UZC and prior to the site being annexed into the City. The site is located within 300 feet of SF-5 zoned properties, which is the trigger that requires approval of

Conditional Use to bring the site into compliance with the current UZC and the site losing its noncompliance status.

The nightclub provides dancing by employees for the entertainment of its customers. However, according to the Police Department's Vice Division and the Metropolitan Area Building and Construction Department's Code Enforcement Division the nightclub is not considered a "sexually oriented business", i.e., a SOB. The UZC (Sec.II.B.12.n and o.) defines a SOB and per that definition Vice and Code Enforcement has determined that the nightclub's dancing by its employees for the entertainment of its customers does not make it a SOB. Planning Staff has noted visited the nightclub, but will rely on Vice and Code Enforcement for that determination.

The site does have access onto the minor arterial Arkansas Avenue, which meets the locational criteria for commercial uses. However, there is no buffer of less intensive uses between the nightclub and the abutting and adjacent, which is suggested for the location of commercial development.

(5) **Impact of the proposed development on community facilities:** It is possible that approval of this request could result in an increased demand for police services.

However, if the MAPD finds the Conditional Use request for a nightclub appropriate and votes to approve it, the MAPD must make alternate findings. Planning Staff proposes the following conditions if the MAPD approves the Conditional Use:

(1) The site shall be developed with an approved revised site plan, showing, but not limited to, the required parking spaces, locating dumpsters 20 feet from the north and east abutting and adjacent SF-5 zoned properties, solid screening with a solid screening gate around the dumpsters, and a solid wooden fence along the east property line. The site plan shall also confirm the location of the east abutting platted 20-foot wide alley to determine that the wooden fence and dumpster(s) are not located in the platted alley. The site plan shall also show barriers separating parking from all public street right of way and the platted alley. The barrier on the south side of the site shall be constructed to allow no access onto 48th Street North. The site plan must be submitted for review within 60-days of approval by the MAPC or, as applicable, the appropriate governing body.
(2) No outdoor speakers or outdoor entertainment are permitted.
(3) The Conditional Use shall not be in effect until all improvements on the site are completed, including the location of dumpsters 20 feet from the abutting and adjacent SF-5 zoned properties, the required screening (including dumpsters), parking barriers and the paved parking lot is stripped to determine if any adjustments or variances are needed to resolve the required parking is competed. This must be completed within 90 days of approval by the MAPC or, as applicable, the appropriate governing body or the Conditional use shall be declared null and void.
(4) The applicant shall obtain all required state, local and other applicable permits and inspections.
(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.

BILL LONGNECKER, Planning Staff presented the Staff Report.

He said staff has received a lot of calls on this case regarding traffic, bad behavior of bar patrons, littering, and the reputation of the bar itself. He said staff is recommending denial because they do not feel this is an appropriate site for this type of business. He said DAB VI did recommend approval as a way to try to get some improvements on the property to make it less of a nuisance. He commented that neither the applicant nor the agent is at this meeting nor were they at the DAB meeting.

MARVIN L. HAYS, 614 WEST 48TH STREET which is the residence immediately abutting the east side of Baby Dolls. He said he also owns commercial property to the south of the club. He said has a long history in this area back to 1978. He said he has seen a lot of violence and drugs and poor behavior of everyone that has gone to the club. He said the only two times he has been in the club was to confront someone who was violating his space. He said he has found needles and condoms and other assorted trash next to the building and in the street and gutter. He said this business is particularly offensive to the neighborhood because a school bus stop is located in front of the place. He said the children are subjected to seeing girls who work at the club out front. He said you can "put lipstick on a pig - it is still a pig." He said this is a strip club and it is a sexually oriented business.

MOTION: To give the speaker one additional minute.

WARREN moved, **TODD** seconded the motion, and it carried (12-0).

HAYS said he has been asked to represent the neighborhood and other commercial property owners located west of Arkansas across from this establishment. He said of the thirteen neighbors he visited, all thirteen of them absolutely and positively want this establishment closed. He said it is a nuisance, and eyesore and a cancer that needs to be removed. He said he can't stress it any more.

DAILEY explained that if the Commission denies this request, the neighbors realize that the club can continue to operate the way they are doing.

HAYS said yes they do. He said he doesn't have anything against the property owner but he has heard a rumor that the only reason he is making all his properties compliant with the zoning code is so he can sell them. He said he also understands that the owner can get more for the property if it is a strip club.

ELLISON asked about any WPD presence in the last six months.

HAYS said he has talked to several WPD officers who really can't give him any information, but it is a well-known location for drug dealers, distributers, pimps and prostitutes.

JUDY IRVING MORELAND, 4841 NORTH ARKANSAS said she has lived across the street from Baby Dolls since 1993. She said she realized that the club was 'grandfathered" in and that they have to live with it and put up with it. She said her home is blocked by trees and is well off the road. She said she has called the WPD numerous times for loud music, gunshots and motorcycle races. She said the windows in her home shake because the music is so loud. She said the club has gone downhill in the last year and the patrons and employees don't honor the neighborhood at all because they play loud music, dance, talk outside, and the girls that are scantily clad are out in front of the business. She said the school bus used to drop the kids off but they changed the location of the stop. She asked why not change the problem. She said this business is a degradation to the neighborhood. She asked the Commission to block this application. She said she understands that the business can continue as is and the neighbors will continue to call the WPD with nuisance and violation reports.

KELSEY HAYS, 435 WEST 48TH STREET, NORTH said she used to ride the bus and be dropped off in front of the strip club. She said the bus drivers didn't want to drop the kids off there so they used to take them down to 47th street but they still had to walk past the club to get to their homes. She said she has seen patrons and employees smoking, doing drugs and drinking alcohol in broad daylight during the day. She said it has been that way since she was little. She said they would find used condoms, money and it was just overwhelming and terrible.

JERRY FORSHEE, 4917 NORTH ALEXANDER said his son lives at 424 West 48th Street and he owns two rental properties next to his son's home. He said he grew up in the area 5-6 blocks south of the club. He said he is familiar with the club and everything that goes on there. He said he hoped and prayed that the Commission votes against it.

WARREN asked staff under what conditions would the property lose its legal non-conforming use. He for example, i.e. change of title, being vacant, etc.

LONGNECKER abandonment or if the building is destroyed or damaged beyond 50% of the air market value. He reviewed the section of the UZC with regard to the definition of abandonment. He commented that these places are hard to get rid of.

CHAIR FOSTER asked doesn't the amount of food or drink sold or the liquor license come into play on this.

LONGNECKER said no. He said letting a liquor license or entertainment license expire is not cause to lose non-conforming use status; they can re-apply for those licenses.

TODD asked if it was legal for them to operate a sexually oriented business at this location and how is that enforced, and why hasn't it been enforced.

LONGNECKER said staff notifies WPD Vice whenever a bar application comes up to see if there are any concerns about the operation. He commented that WPD is looking closer at the operation of this club and whether it is a nightclub in the City or a sexually oriented business. He said a sexually oriented business cannot be operated in this zoning district.

TODD asked staff why the DAB approved this.

LONGNECKER said he thought the DAB was under the impression that if they approved the request they could have the property owner spend some money and make some improvements on the property such as putting a railing around it.

TODD clarified that if the request was approved there could be stipulations on making upgrades and maybe pressuring the owner into becoming a responsible good neighbor.

ELLISON said he understands that this is the roughest nightclub in the north end of Wichita. He said they advertise as a sexually oriented club. He asked how that doesn't violate the requirements.

JEFF VANZANDT, ASSISTANT CITY ATTORNEY said the loop is they area a legal non-conforming club and have been for a long time since this areas was annexed from the County. He said that would not be allowed is this were a new club.

RICHARDSON asked if there is any way to enforce any improvements required with the approval.

LONGNECKER said if the request is approval and the applicant does not make the required improvements within the prescribed timeframe, they still retain their legal non-conforming use.

WARREN said if the Commission approves the zoning, the zoning doesn't allow adult entertainment so is that a way to eliminate the use and give WPD the authority and teeth to enforce that.

VANZANDT explained that the Commission was not approving zoning but a Conditional Use permit.

CHAIR FOSTER asked if the agent or applicant would come to the podium

LONGNECKER reported that neither the agent nor the applicant were present at the meeting and it was noted for the record.

TODD asked if anyone had any idea why they were not present.

RAMSEY commented that he has never heard of this place, but according to their web site they are very much an adult entertainment, sexually oriented business according to their advertising.

MOTION: To deny subject to staff recommendation.

JOHSNON moved, **RICHARDSON** seconded the motion, and it carried (12-0).

INTEROFFICE MEMORANDUM

TO: MAPC

FROM: Martha Sanchez, Community Service Representative, District VI

SUBJECT: **CON2015-00040**

DATE: February 1, 2016

On Monday, February 1, 2016, the District VI Advisory Board considered a request for a Conditional Use permit to allow outdoor vehicle and equipment sales (used car dealership).

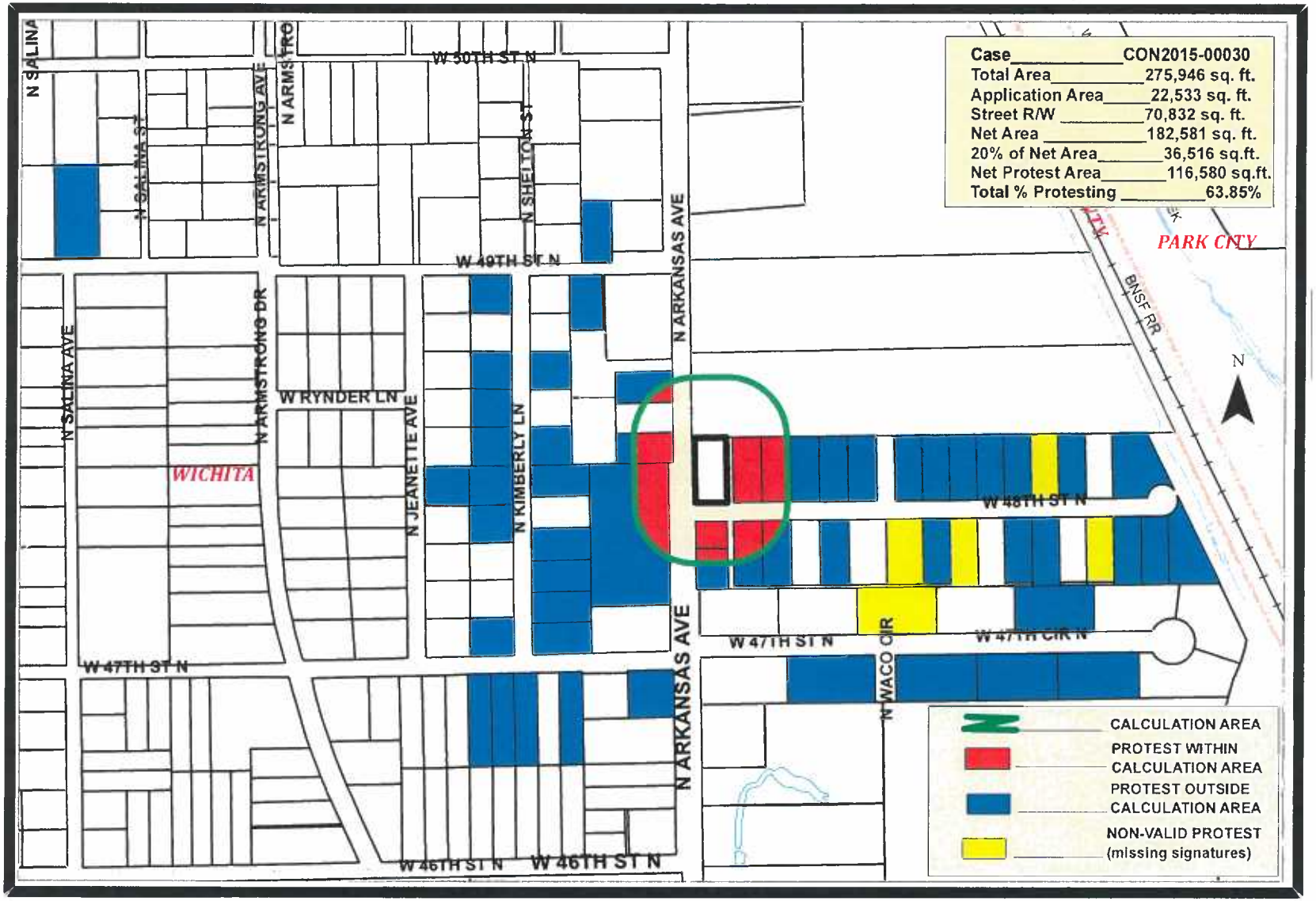
DAB members asked questions on the following items:

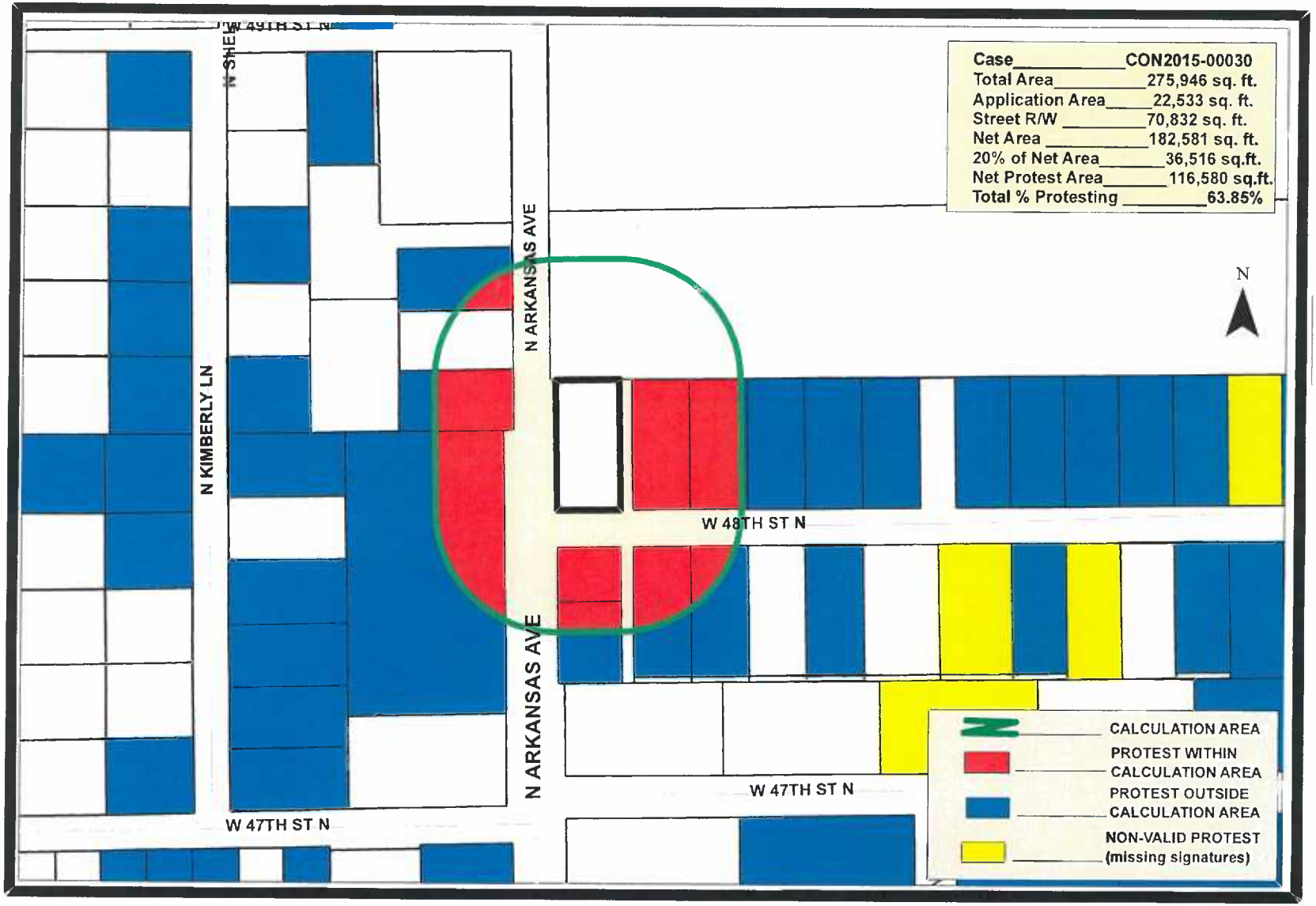
- Landscaping requirements
- Screening of trash receptacle
- Grandfathering in of existing ordinance
- Number of vehicles allowed to be displayed for sale
- Customer parking requirements
- 21st Street Corridor Plan

Action Taken: O'Leary-Siemer/Gard made a motion to recommend denial of the Conditional Use request.

Motion carried: (6-1)

Please review this information when **CON2015-00040** is considered.


Case CON2015-00030
Total Area 275,946 sq. ft.
Application Area 22,533 sq. ft.
Street R/W 70,832 sq. ft.
Net Area 182,581 sq. ft.
20% of Net Area 36,516 sq.ft.
Net Protest Area 116,580 sq.ft.
Total % Protesting 63.85%
CALCULATION AREA
PROTEST WITHIN CALCULATION AREA
PROTEST OUTSIDE CALCULATION AREA
NON-VALID PROTEST (missing signatures)
N
PARK CITY
WICHITA
BNSF RR
N ARKANSAS AVE
W 50TH ST N
W 49TH ST N
W 48TH ST N
W 47TH ST N
W 47TH CIR N
W 46TH ST N
W RYNDER LN
N SALINA AVE
N ARMSTRONG DR
N JEANETTE AVE
N KIMBERLY LN
N WACO CIR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Total % Protesting 63.85%
N
N KIMBERLY LN
N ARKANSAS AVE
N ARKANSAS AVE
W 48TH ST N
W 47TH ST N
W 47TH ST N
CALCULATION AREA
PROTEST WITHIN CALCULATION AREA
PROTEST OUTSIDE CALCULATION AREA
NON-VALID PROTEST (missing signatures)

RESOLUTION No. _____

A RESOLUTION AUTHORIZING A CONDITIONAL USE TO PERMIT A NIGHTCLUB IN THE CITY, ON APPROXIMATELY 0.52-ACRES ZONED LCLIMITED COMMERCIAL ("LC"), LOCATED NORTHEAST CORNER OF WEST 48TH STREET NORTH AND NORTH ARKANSAS AVENUE, IN THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-D, AS ADOPTED BY ORDINANCE NO. 44-975 AS AMENDED.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS:

SECTION 1. That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section V-D of the Wichita-Sedgwick County Unified Zoning Code, for a Conditional Use to allow a Nightclub in the City, on approximately 0.52-acres zoned LC Limited Commercial ("LC") legally described below:

Case No. CON2015-00030

A Conditional Use to allow a Nightclub in the City, on approximately 0.52-acres zoned LC Limited Commercial ("LC") legally described as:

Lot 32, Northern Acres Addition, Wichita, Sedgwick County, Kansas; generally located on the northeast corner of West 48th Street North and North Arkansas Avenue.

SUBJECT TO THE FOLLOWING CONDITIONS:

(1) The site shall be developed with an approved revised site plan, showing, but not limited to, the required parking spaces, locating dumpsters 20 feet from the north and east abutting and adjacent SF-5 zoned properties, solid screening with a solid screening gate around the dumpsters, and a solid wooden fence along the east property line. The site plan shall also confirm the location of the east abutting platted 20-foot wide alley to determine that the wooden fence and dumpster(s) are not located in the platted alley. The site plan shall also show barriers separating parking from all public street right of way and the platted alley. The barrier on the south side of the site shall be constructed to allow no access onto 48th Street North. The site plan must be submitted for review within 60-days of approval by the MAPC or, as applicable, the appropriate governing body.

(2) No outdoor speakers or outdoor entertainment are permitted.

(3) No exterior flashing lights.

(4) The Conditional Use shall not be in effect until all improvements on the site are completed, including the location of dumpsters 20 feet from the abutting and adjacent SF-5 zoned properties, the required screening (including dumpsters), parking barriers and the paved parking lot is stripped to determine if any adjustments or variances are needed to resolve the required parking is competed. This must be completed within 90 days of approval by the MAPC or, as applicable, the appropriate governing body or the Conditional use shall be declared null and void.

(5) The applicant shall obtain all required state, local and other applicable permits and inspections.

(6) 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.

SECTION 2. That upon the taking effect of this Resolution, the notation of such Conditional Use permit shall be shown on the "Official Zoning District Map" on file in the office of the Planning Director of the Wichita-Sedgwick County Metropolitan Area Planning Department.

SECTION 3. That this Resolution shall take effect and be in force from and after its adoption by the Governing Body.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, this date

_____

_____
Jeff Longwell, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

Approved as to form:

_____
Jennifer Magana, City Attorney and Director of Law

CON 2015-30

SITE PLAN
Conditional Use Permit Application
CONDITIONAL USE:
Tavern and Drinking Establishment and Entertainment Establishment
APPLICANT:
Homer Morgan, Trustee
AGENT:
Stephen M. Joseph
LEGAL DESCRIPTION:
Lot 32, Northern Acres Addition
BUSINESS:
Baby Dolls
ADDRESS:
4900 N. Arkansas, Wichita
Legend
4900 N Arkansas
10' setback
10' setback
4900 N Arkansas
Parking
Parking
W 49th St N
Arkansas Ave
Google earth
N
100 ft

RESOLUTION No. 16-431

A RESOLUTION AUTHORIZING A CONDITIONAL USE TO PERMIT A NIGHTCLUB IN THE CITY, ON APPROXIMATELY 0.52-ACRES ZONED LCLIMITED COMMERCIAL ("LC"), LOCATED NORTHEAST CORNER OF WEST 48TH STREET NORTH AND NORTH ARKANSAS AVENUE, IN THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-D, AS ADOPTED BY ORDINANCE NO. 44-975 AS AMENDED.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS:

SECTION 1. That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section V-D of the Wichita-Sedgwick County Unified Zoning Code, for a Conditional Use to allow a Nightclub in the City, on approximately 0.52-acres zoned LC Limited Commercial ("LC") legally described below:

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(3) No exterior flashing lights.

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(6) 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

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SECTION 3. That this Resolution shall take effect and be in force from and after its adoption by the Governing Body.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, this date

November 8, 2016.

_____
Jeff Longwell, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

Approved as to form:

_____
Jennifer Magana, City Attorney and Director of Law

Agenda Report No. V-3

City of Wichita
City Council Meeting
November 8, 2016

TO: Mayor and City Council

SUBJECT: ZON2016-00037 and CUP2016-00028 – City Zone Change from SF-5 Single-Family Residential (SF-5) and GO General Office (GO) to LC Limited Commercial (LC) and an Amendment to Community Unit Plan DP-233 to Allow Limited Commercial Development of Parcels 2, 3 and 4 on Property Generally Located at the Southwest Corner of West Central Avenue and North 135th Street West (District V)

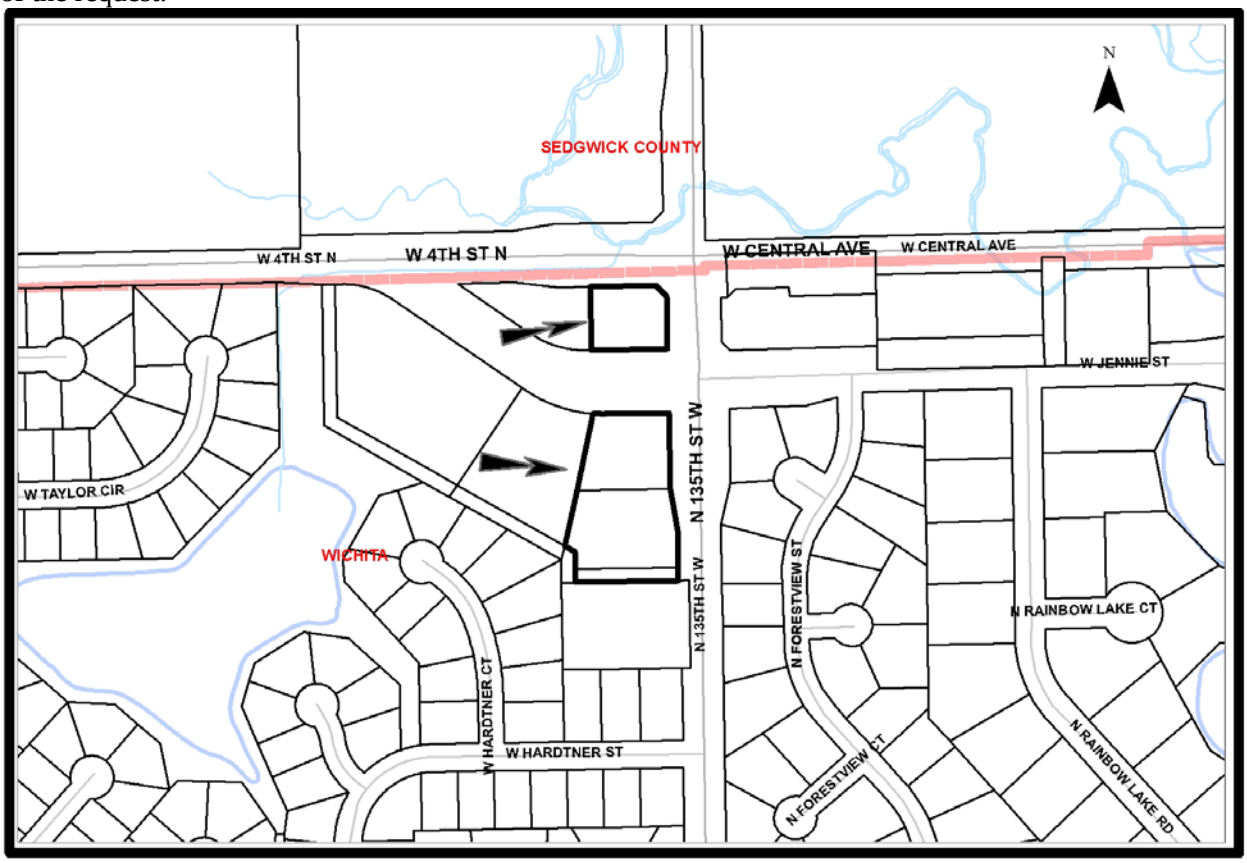
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-Consent)

MAPC Recommendation: The MAPC recommended approval of the request (12-0).

DAB Recommendation: District Advisory Board V recommended approval of the request (7-0-1).

MAPD Staff Recommendation: Metropolitan Area Planning Department staff recommended approval of the request.



Background: The subject site is located at the southwest corner of West Central Avenue and North 135th Street West and contains 2.5 acres that are zoned SF-5 Single-Family Residential and GO General Office subject to the development standards and general provisions contained in the Highland Springs Community Unit Plan (CUP) DP-233. Currently CUP DP-233 is a six-parcel CUP that currently permits the following uses: Parcel 1 – LC; Parcel 2 – GO; Parcel 3 – GO; Parcel 4 –SF-5; Parcel 5 – LC; and Parcel 6 – LC.

In addition to a zone change to LC on Parcels 2, 3, and 4, the CUP contains the following amendments to CUP DP-233:

1. General Provision 6 is proposed to read: "Approval of Amendment #1 shall be contingent upon the replatting of the Highland Springs Commercial Addition, which shall address the realigned street right-of-way, parcel layout, elimination of a portion of Reserve A, and any other alteration created by the plat. The applicant shall provide four copies of an updated CUP following the replat. Guarantees for left turn center lanes and right turn decel lanes to all full movement approaches, and other specific street improvements for 135th St W. and Central Ave., shall be further reviewed and determined at the time of platting."

2. General Provision 7(B) is proposed to read: "Flashing, rotating or moving signs, signs with moving lights or signs which create illusions of movement are not permitted."

3. General Provision 7(C) is amended to prohibit LED signs.

4. General Provision 7(F) is proposed to read: "Signs shall be limited to one monument type per frontage for Parcel 3 and 4, no taller than eight feet in height, and be limited to 48 square feet in area. Parcels 1, 2, 5, and 6 shall each be limited to a monument type sign no taller than 12 feet in height and a maximum of 60 square feet of signage. No signage shall be permitted in Reserve A, B, and C.

5. General Provision 16 is amended to include screening of loading docks and screening materials are to be similar to the building materials.

6. General Provision 17 is proposed to change the last sentence to: "The building in Parcel 4 shall appear residential in character."

7. General Provision 19 is proposed to read: "All parcels shall be zoned Limited Commercial. No parcel within this CUP shall allow the use of adult entertainment establishments, group residences, halfway houses, correctional placement residences, private clubs, taverns, drinking establishments, sexually oriented businesses and nightclub. Restaurants that serve liquor can be developed and may serve liquor, as long as food is the primary service of the establishment. Restaurants with drive-through windows, convenience stores, service stations, and vehicle repair (limited) are not permitted with 200 feet of residential uses. Drive-through lanes shall be designed to ensure queuing lanes will not align vehicle headlights in a manner that faces residential uses. No overhead doors shall be permitted within 200 feet of residential uses and shall not face any residential zoning district. Exterior audio systems that project sound beyond the boundaries of the CUP are prohibited."

8. Replat of "Reserve A."

The property has an existing screening wall along the southwest property lines of Parcels 5 and 6 that screen the existing LC zoning from adjacent residential uses. There are wood screening fences along the west and south property lines of Parcel 4 abutting and adjacent residential uses. The replat of the Highland Springs CUP (see attached CUP concept) proposes 35-foot building setbacks along the frontages of West Central and North 135th Street West and 30-foot setbacks for Reserve A, B and C along

the southwest property lines of Parcels 4, 5 and 6.

Land to the north (across West Central) of the application area is zoned SF-20 Single-family Residential and is undeveloped. Properties located to the west, south and east of the subject site are zoned SF-5 and developed with single-family residences. Property east of the site, at the southeast corner of West Central and North 135th Street West, is zoned NO Neighborhood Office and is partially developed.

Analysis: The Rainbow Lake Neighborhood Association and Highland Spring Neighborhood Association presented a PowerPoint show of the area and voiced concerns about the negative impact to property values in the area, increase in traffic and the use didn't fit the residential neighborhood. DAB V recommended approval (7-0-1) of the request. The MAPC recommended approval of the application unanimously (12-0) subject to the following conditions agreed to by the applicant:

1. An eight-foot high concrete wall shall be constructed along the south property line of Parcel 4 where adjacent to residential zoning.
2. Prohibit signs within 100 feet of south property line on Parcel 4.
3. Trash receptacles, loading docks, outdoor storage and loading areas shall be prohibited within 50 feet of residential-zoned property within Parcel 4; trash collection shall be limited to the hours between 6:00 a.m. and 10 p.m. within Parcel 4.
4. Existing Parcels 1-3, 5 and 6 (Proposed Parcels 1-3) shall be zoned LC Limited Commercial. Parcel 4 shall be zoned GO General Office and limited to the uses and development standards of the NO Neighborhood Office zoning district, with the allowance of ancillary parking to serve the CUP.
5. Parcel 3 shall prohibit the following uses: convenience stores, service stations, vehicle repair, and restaurants with drive-through facilities.
6. Where permitted, restaurants with drive-through windows shall be designed to ensure queuing lanes will not align vehicle headlights in such a manner as to face residential uses.

Planning staff has received valid protests representing 53.33 percent of the net land area located within the protest area. Since the protests represent more than 20 percent of the net land area located within the protest area, a three-quarter majority vote is required to overturn the protests.

Financial Considerations: Approval of this request will not create any financial obligations for the City.

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

Recommendation/Actions: It is recommended that the City Council: 1) Concur with the findings of the MAPC and approve the zoning change and Community Unit Plan amendment subject to the conditions enumerated, and adopt the findings of the MAPC and publish the ordinance for first reading (requires three-quarter majority vote) or 2) Deny the zoning and Community Unit Plan amendment request by making alternative findings, and override the MAPC's recommendation (requires two-thirds majority vote); or 3) return to MAPC for further consideration.

Attachments: MAPC minutes, Site Plan, DAB V memo, Protest Letters, Ordinance, PowerPoint Information and Protest Maps.

Published in The Wichita Eagle on November 25, 2016

OCA 150004

ORDINANCE NO. 50-356

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. ZON2016-00037

City zone change from SF-5 Single-Family Residential and GO General Office to LC Limited Commercial and NR Neighborhood Retail; described as:

Lots 1 & 2 exc part taken for r/w, Block B, AND Lots 1 & 2, Blk A and Reserve A, Highland Springs Commercial Addition, Wichita, Sedgwick County, Kansas

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.

_____
Jeff Longwell, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

Approved as to form: _____
Jennifer Magaña, City Attorney and Director of Law

EXCERPT MINUTES OF OCTOBER 6, 2016 WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION MEETING

OLD BUSINESS

4. **Case No.: ZON2016-00037 and CUP2016-00028** - DMD, LLC (Marlin Penner)/Baughman Company, PA, (Russ Ewy) request a City zone change from SF-5 Single-family Residential and GO General Office to LC Limited Commercial and amendment to CUP DP-233 Highland Springs described as:

All of Lots 1 and 2, Block A, Highland Springs Commercial Addition, Wichita, Sedgwick County, Kansas, TOGETHER with Lot 2, Block B, in said Highland Springs Commercial Addition, except that part of Lot 2 in said Block B conveyed to the City of Wichita in the Kansas Warranty Deed recorded in DOC.#/FLM-PG:29317276, TOGETHER with that part of Reserve "A" as platted in said Highland Springs Commercial Addition described as follows: Beginning at the most easterly corner common to Lot 2 in said Block A and said Reserve "A"; thence S89°53'12"W along the lot line common to Lot 2 in said Block A and said Reserve "A", 236.70 feet to a deflection corner in said common lot line; thence S00°06'48"E, 30.00 feet to a point on the south line of said Reserve "A", said point being 30.00 feet east of the most southerly southwest corner of said Reserve "A"; thence N89°53'12"E along the south line of said Reserve "A", 236.70 feet to the southeast corner of said Reserve "A"; thence N00°06'48"W along the east line of said Reserve "A", 30.00 feet to the point of beginning, and TOGETHER with that part of Central Ave. as dedicated in said Highland Springs Commercial Addition lying east of and abutting the following described line: Beginning at the northwest corner of Lot 1 in said Block A; thence N00°12'25"W, 148.93 feet to the southwest corner of Lot 2 in said Block B, and for a point of termination, and lying west of and abutting the following described line: Beginning at the northeast corner of Lot 1 in said Block A; thence N00°06'48"W, 150.00 feet to the southeast corner of Lot 2 in said Block B, and for a point of termination.

RUSS EWY, BAUGHMAN COMPANY, PA, 315 ELLIS, AGENT FOR THE APPLICANT briefly reviewed General Provision 19 commenting on the additional prohibitions on Parcel 3 including convenience stores, service stations, vehicle repair and restaurants with drive thru service. He said since restaurants with drive thru service are allowed on other parcels there was a provision that cuing lanes not face residential development so headlights will not be an issue. He added that Parcel 3 became slightly smaller and Parcel 2 became slightly larger in the latest, revised handout.

CHAIR FOSTER asked about condition #7 on signage regarding signage being perpendicular and not parallel to the roadway.

EWY said the applicant would be willing to specify that monument signs would be perpendicular to the roadway.

RICHARDSON asked if the applicant would be willing to add that there be no signs on Parcel 4 within 100 feet from the residential lot.

EWY said the applicant would be willing to limit signage to no closer than 100 feet of the south property line.

> **MOTION:** To approve subject to staff recommendation with signage changes as agreed to at this meeting.
>
> **WARREN** moved, **GREENE** seconded the motion, and it carried (12-0).

EXCERPT MINUTES OF SEPTEMBER 29, 2016 WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION MEETING

Case No.: ZON2016-00037 and CUP2016-00028 - DMD, LLC (Marlin Penner)/Baughman Company, PA, (Russ Ewy) request a City zone change from SF-5 Single-family Residential and GO General Office to LC Limited Commercial and amendment to CUP DP-233 Highland Springs described as:

All of Lots 1 and 2, Block A, Highland Springs Commercial Addition, Wichita, Sedgwick County, Kansas, TOGETHER with Lot 2, Block B, in said Highland Springs Commercial Addition, except that part of Lot 2 in said Block B conveyed to the City of Wichita in the Kansas Warranty Deed recorded in DOC.#/FLM-PG:29317276, TOGETHER with that part of Reserve "A" as platted in said Highland Springs Commercial Addition described as follows: Beginning at the most easterly corner common to Lot 2 in said Block A and said Reserve "A"; thence S89°53'12"W along the lot line common to Lot 2 in said Block A and said Reserve "A", 236.70 feet to a deflection corner in said common lot line; thence S00°06'48"E, 30.00 feet to a point on the south line of said Reserve "A", said point being 30.00 feet east of the most southerly southwest corner of said Reserve "A"; thence N89°53'12"E along the south line of said Reserve "A", 236.70 feet to the southeast corner of said Reserve "A"; thence N00°06'48"W along the
east line of said Reserve "A", 30.00 feet to the point of beginning, and TOGETHER with that part of Central Ave. as dedicated in said Highland Springs Commercial Addition lying east of and abutting the following described line: Beginning at the northwest corner of Lot 1 in said
Block A; thence N00°12'25"W, 148.93 feet to the southwest corner of Lot 2 in said Block B, and for a point of termination, and lying west of and abutting the following described line: Beginning at the northeast corner of Lot 1 in said Block A; thence N00°06'48"W, 150.00 feet to the southeast corner of Lot 2 in said Block B, and for a point of termination.

BACKGROUND: The subject site is located at the southwest corner of West Central and North 135th Street West and contains 2.5 acres that is zoned SF-5 Single-Family Residential and GO General Office subject to the development standards and general provisions contained in the Highland Springs Community Unit Plan (CUP) DP-233. Currently CUP DP-233 is a six-parcel CUP that currently permits the following uses: Parcel 1 – LC; Parcel 2 – GO; Parcel 3 – GO; Parcel 4 –SF-5; Parcel 5 – LC; and Parcel 6 – LC.

In addition to a zone change to LC on Parcels 2, 3, and 4, the applicant is proposing the attached CUP that contains the following amendments to CUP DP-233:

1) General Provision 6 is proposed to read: "Approval of Amendment #1 shall be contingent upon the replatting of the Highland Springs Commercial Addition, which shall address the realigned street Right-of-way, parcel layout, elimination of a portion of Reserve A, and any other alteration created by the plat. The applicant shall provide four copies of an updated CUP following the replat. Guarantees for left turn center lanes and right turn decal lanes to all full movement approaches, ant other specific street improvements for 135th St W. and Central Ave., shall be further reviewed and determined at the time of platting."

2) General Provision 7(B) is proposed to read: "Flashing, rotating or moving signs, signs with moving lights or signs which create illusions of movement are not permitted."

3) General Provision 7(C) is amended to prohibit LED signs.

4) General Provision 7(F) is proposed to read: "Signs shall be limited to one monument type per frontage for Parcel 3 and 4, no taller than 8 feet in height, and be limited to 48 square feet in area. Parcels 1, 2, 5, and 6 shall each be limited to a monument type sign no tall that 12 feet in height and a maximum of 60 square feet of signage. No signage shall be permitted in Reserve A, B, and C.

5) General Provision 16 is amended to include screening of loading docks and screening materials are to be similar to the building materials.

6) General Provision 17 is proposed to change the last sentence to: "The building in Parcel 4 shall appear residential in character."

7) General Provision 19 is proposed to read: "All parcels shall be zoned Limited Commercial. No parcel within this CUP shall allow the use of adult entertainment establishments, group residences, halfway houses, correctional placement residences, private clubs, taverns, drinking establishments, sexually oriented businesses and night club. Restaurants that serve liquor can be developed and may serve liquor, as long as food is the primary service of the establishment. Restaurants with drive-through windows, convenience stores, service stations, and vehicle repair (limited) are not permitted with 200 feet of residential uses. Drive-through lanes shall be designed to ensure queuing lanes will not align vehicle headlights in a manner that faces residential uses. No overhead doors shall be permitted within 200 feet of residential uses and shall not face any residential zoning district. Exterior audio systems that project sound beyond the boundaries of the CUP are prohibited."

8) Replat of "Reserve A."

The property has an existing screening wall along the southwest property lines of Parcels 5 and 6 that screen the existing LC zoning from adjacent residential uses. There are wood screening fences along the west and south property lines of Parcel 4 abutting and adjacent residential uses. The replat of the Highland Springs CUP (see attached CUP concept) proposes 35-foot building setbacks along the frontages of West Central and North 135th Street West and 30-foot setbacks for Reserve A, B and C along the southwest property lines of Parcels 4, 5 and 6.

Land to the north (across West Central) of the application area is zoned SF-20 Single-family Residential and is undeveloped. Properties located to the west, south and east of the subject site are zoned SF-5 and developed with single-family residences. Property east of the site, at the southeast corner of West Central and North 135th Street West, is zoned NO Neighborhood Office and is partially developed.

CASE HISTORY: The Highland Springs CUP was established in September 1999. This is the first Amendment and first zone change.

ADJACENT ZONING AND LAND USE:

North:	SF-5	County, Single-family residential
South:	SF-5	Single-family residential
East:	NO and SF-5	Partially developed Neighborhood Office; Single-family residential
West:	SF-5	Single-family residences, Highland Springs 2nd & 3rd Additions

PUBLIC SERVICES: The site is served by municipal services. West Central and 135th Street West is a paved five-lane arterial intersection with dedicated turn lanes. West of the intersection the lanes reduce to two-lane paved street; north of the intersection reduces to two-lane paved street; east of the intersection remains four lanes with dedicated turn access; south of the intersection reduces to three paved lanes with turn access. The proposed CUP amendment provides for controlled access along West Central and North 135th Street West

CONFORMANCE TO PLANS/POLICIES: The 2035 Wichita Future Growth Concept Map indicates the site is appropriate for "new employment growth" uses. The "new employment growth" category encompasses areas that are likely to be redeveloped by 2035 with uses that constitute centers or concentration of employment primarily in manufacturing warehousing, distribution, construction, research, technology, business services or corporate offices. In certain areas, especially those in proximity to existing residential uses, convenience retail centers likely will be developed.

RECOMMENDATION: Based upon the information available at the time the report was prepared, staff recommends approval of the zone change and amendments to CUP DP233 subject to the development guidelines the amended CUP and the following conditions:

A. The applicant shall record a document with the Register of Deeds indicating that this tract (referenced as CUP DP-233) has been replatted and includes special conditions for development on this property.
B. Unless specifically modified, the development shall comply with all applicable ordinances, regulations or codes, including but not limited to zoning, fire, building and sanitation.
C. The applicant shall submit four final 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: Land to the north (across West Central) of the application area is zoned SF-20 Single-family Residential and is undeveloped. Properties located to the west, south and east of the subject site are zoned SF-5 and developed with single-family residences. Property east of the site, at the southeast corner of West Central and North 135th Street West, is zoned NO Neighborhood Office and is partially developed.

2. The suitability of the subject property for the uses to which it has been restricted: The Highland Springs Commercial CUP DP-233 and its LC, GO and SF-5 zoning was established in September of 1999. The site could continue to be economically viable as currently zoned; however, the proposed zone changes and CUP amendment address existing market trends.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The zoning for the site was approved in 1999 and has been undeveloped since that time. The proposed zone change and CUP amendments address existing tenant needs. The requested changes should not detrimentally impact nearby property owners to any greater extent than the existing development.

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 represents a gain to the public in that it contributes to the area's long term economic opportunity. Denial would presumably represent a loss in economic opportunity. The arterial intersection has been improved to accommodate the proposed uses.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2035 Wichita Future Growth Concept Map indicates the site is appropriate for "new employment growth" uses. The "new employment growth" category encompasses areas that are likely to be redeveloped by 2035 with uses that constitute centers or concentration of employment primarily in manufacturing warehousing, distribution, construction, research, technology, business services or corporate offices. In certain areas, especially those in proximity to existing residential uses, convenience retail centers likely will be developed.

6. Impact of the proposed development on community facilities: Existing or proposed improvements are in place to address anticipated demands.

KATHY MORGAN, Planning Staff presented the Staff Report.

The Planning Commissioners indicated that each of them had received ex-parte communication on the item through e-mails and U.S. Mail.

RICHARDSON asked when zoning was put into place didn't all section line roads come in with commercial zoning.

DIRECTOR MILLER said in 1958 certain intersections and section line roads outside the City limits were zoned commercial but there has never been a blanket zoning.

TODD asked staff to explain the bridges and drainage at Central Avenue and 135 Streets.

MORGAN said the bridges were located at 135th and Central Avenue. She added that any drainage issues associated with the CUP will be addressed by the drainage plan at the time of platting.

RUSS EWY, BAUGHMAN COMPANY, PA, 315 ELLIS, AGENT FOR THE APPLICANT commented this is part of a commercial addition that was platted at the same time as the Highland Springs Addition. He said most of the drainage on the site drains either southwest before going to the west and ultimately to a detention pond and drains to the north and back to the east. He stated that there have been four meetings with the neighborhood (which is outside the normal process) and two District Advisory Board meetings regarding the proposal. He said drainage was a primary concern to residents at each of those meetings. He said since the development was already planned for, there is a drainage plan on file with the City that was approved some 20 years ago; however, he said they will revisit all of the drainage issues when they file for the replat of the area.

EWY referred to a handout which were "Revised General Provisions" as a result of a meeting with about 50 residents at Auburn Hills Golf Course on August 25, 2016. He gave a brief overview of that meeting stating that they fielded a variety of questions about the proposal and the process. He said they took feedback from the meeting and tried to concentrate all issues down to a handful of concerns. He said the text highlighted in orange represents the applicant's final negotiated restrictions on the property. He said the applicant offered to limit the uses to the NO district; GO on what will ultimately become Parcel 4 further limited to uses in the NO district with the exception of ancillary parking; with the two lots to the north zoned LC with an increase in the height of the screening wall to eight feet to the south where it affects residential property. He mentioned that the existing CUP already has one and one half times the landscape requirement for buffers and street trees. In addition, he said they would limited times of trash pickup on Parcel 4 from 6:00 a.m. – 10:00 p.m. He concluded by stating that there were a number of people present to speak. He added that he appreciated the neighbor's willingness to meet for negotiations. He said at the end of the day the parties were not able to come to an agreement on use restrictions on Parcel 3. He offered to answer any questions.

MCKAY asked the agent to explain the difference in the handout map provided at this meeting and what was provided with the Staff Report.

EWY gave a brief background of the zoning case on the parcels back in1998 that was quite contentious. He said at that time the City Council voted 5-2 to approve the zone changes as they are today; however, there were sufficient protests to require a "super majority" or six votes to approve the application so the City Council action failed. He said the applicant appealed to the District Court and the Council decision was overturned and the CUP zoning was established. He said subsequently Central Avenue was realigned. He said as a result they feel that a lot the conditions that predicated the single-family residential and office zoning along Central Avenue are no longer in existence now. He said the handout map reflects the concept of how the property will look after the replat, with just those three parcels and vacation of the Central Avenue right of way; and reparcel 1, 5 and 6. He said those are the three steps that are somewhat unique to this application.

RICHARDSON clarified that all the homes built in Highland Springs were after this zoning was in place.

EWY said that was correct.

FOSTER asked for clarification of the proposed commercial zoning.

EWY stated that the original application asked for LC zoning on the entire CUP; however, after negotiations at the neighborhood meetings and in an effort to reach some kind of compromise, they are proposing limiting the LC zoning to Parcels 2 and 3 and requesting GO on Parcel 4 with further restrictions to NO uses and development standards. He said the existing CUP from 1998 already limits the building size to 8,000 square feet. He said Parcel 1 is outside of the application area and is currently zoned LC.

RICHARDSON noted a reduction in the size of Parcel 4.

DIRECTOR MILLER clarified that the UZC required that the CUP lots match the plat.

JOHNSON asked what was presently planned for Parcels 2 and 3.

EWY replied that right now nothing specific is planned on any of this development.

RICHARDSON clarified that the pond located to the southwest was part of the original drainage plan for the area.

EWY replied yes, and said that drainage requirements in the area have changed over time so they are anticipating changes to the drainage plan and perhaps some water retention on their property.

NEUGENT asked since the public was under the impression they would have five minutes each, can the Commission do a blanket motion to allow each speaker five minutes.

> **MOTION:** To give each speaker five minutes.
>
> **NEUGENT** moved, **JOHNSON** seconded the motion, and it carried (12-0).

LORI MARCEAU, 431 N. 135TH ST., WEST said her home for the last 28 years is just south of the application area. She said the neighborhood understands and accepts that there will some level of commercial development on the southwest corner of Central Avenue and 135th Street West. However, it is important to the neighborhood that the commercial development not have an adverse effect on the existing single family homes in close proximity.

MARCEAU brought up the following issues of concern: wall height; trash dumpster locations and collection times; landscaping, signage; hours of operation; types of businesses; odors and noises; LC zoning adjacent to SF-5 residential zoning and the fact that this proposal, if approved will open the door for a wider variety of commercial development in close proximity to established residential homes. She gave a brief history of the CUP case filed in1998 which the applicant/owner appealed to the District Court in 1999. She said when the denial was overturned, Parcels 1, 5 and 6 were zoned LC; Parcels 2 and 3 were zoned GO; and Parcel 4 remained SF-5.

MARCEAU said since that time those who filed protest petitions were never notified of the appeal made to the District court, the reversal of the case and were surprised to learn that Parcels 1, 5 and 6 had been zoned LC. She said the last the neighbors knew the matter failed to pass at the City Council due to a lack of a super majority vote. She said the property was subsequently sold to a new owner. She said the area has remained undeveloped and a for sale sign has been on the property for many years.

MARCEAU briefly reviewed the current rezoning application noting that the process was delayed because the property owner closest to the application area (her) was not notified as required by law.

MOTION: To give the speaker one additional minute.

WARREN moved, **GREENE** seconded the motion, and it carried (12-0).

MARCEAU mentioned the various meetings with neighbors and the property owner's representative and the concerns expressed by the neighborhood including the close proximity of single family residences, traffic flow in/out of the LC development, lighting, types of businesses, hours of operation, etc. and the fact that the property owner has no specific plans for the type of businesses that will be part of the development.

CHRIS LATHAM, 605 N. FORESTVIEW COURT, AT LARGE BOARD MEMBER, RAINBOW LAKES WEST 4TH ADDITION referred to a picture of the view from his back deck looking west at Parcel 3 of the development.

LATHAM reviewed the Golden Rules as follows: 1 – The zoning, uses and character of the neighborhood. He said the property on three sides of the commercial development area is zoned SF-5; the age of houses to the west, south and east; currently there was no commercial development at this corner. 2 – The suitability of the subject property for the uses to which it has been restricted. All parcels are undeveloped; Parcel 4 is currently being used to store dirt from the 135th Street road development; Staff Report says the site could continue to be economically viable as currently zoned. 3 – Extent to which removal of the restrictions will detrimentally affect nearby property. Residential housing in close proximity on three sides, GO or NO zoning would be more appropriate next to SF-5 zoning as buffering. 4 – Length of time subject property has remained vacant as zoned. The property has never been developed possibly because of the economy.

FOSTER referred to the diagram of Parcel 4 and the buffer to the south.

LATHAM said in his perspective there are four sides to this story – the developers side, Ms. Marceau's side; people to the east of the property in Rainbow Lakes and the people who live in Highland Springs. He said all of them have different things on their agenda. He said Parcel 3 being zoned GO is the most significant from his perspective because it is right outside his backdoor.

WARREN asked what types of businesses they don't want.

LATHAM said 24 hour convenience store; drive thru restaurant and garage repair that would create ancillary noise.

BOB LAMBERGER, 13738 WEST HARDTNER COURT continued reviewing the Golden Rules 5 – Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant – commercial development is possible as currently zoned; use of NO and GO zoning would not deter development. 6 – Conformance of the requested change to the adopted or recognized Comprehensive Plan – Staff Report indicates site is appropriate for new employment and growth uses; Report states convenience retail centers likely will be developed in proximity to existing residential uses not immediately next to residential zoning. 7 – Impact of the proposed development on community facilities. Central Avenue west of 135th and 135th street north of Central Avenue is unimproved; questionable if widened 135th Street can accommodate traffic from commercial development; access in/out of the application area is uncertain; and close proximity of Jennie Street to Central Avenue poses traffic flow problems in/or out of the application area. 8 – Opposition or support of neighborhood residents. The surrounding neighborhoods (Rainbow Lakes, Highland Springs and individual property owners) are opposed to increasing LC zoning at this corner, current level of commercial zoning is appropriate for development, not one homeowner expressed support for increasing LC zoning at this corner at any of the meetings held. 9 – Recommendation of professional staff. Staff Report does not detail history surrounding the zoning; recommendation by staff does not take into consideration the numerous issues detailed in this presentation; select neighbors wish to work with the owner/applicant to develop a compromise to the zoning of Parcels 3 and 4 and the general provision of the CUP. He concluded by stating that the neighborhood recommendation was as follows: Parcel 2 currently zoned GO – to LC zoning; Parcel 3 currently zoned GO – to remain GO; Parcel 4 currently zoned SF-5 – to NO zoning. They also request that fencing be either an eight foot cement wall or a six foot wall on top of a two foot berm around the entire CUP area and that trash collection be limited to the hours of 6:00 a.m. to 10:00 p.m.

DAVID DENNIS, 615 N. RAINBOW LAKE ROAD, PRESDIENT, RAINBOW LAKES WEST HOMEOWNERS ASSOCIATION said there are residents from three different HOA's which were Rainbow Lake West; Rainbow Lakes West 4th Addition; and Highland Springs. He said each group has their own concerns about the proposal. He said the homeowners are not opposed to development as long as the development meets the needs of the neighborhood.

DENNIS said the neighbors thought they had an agreement worked out after the meeting at Fire Station 21; however, the next day they received an e-mail with the current proposal provided to the Commission as a handout. He referred to the last slide of the neighbor's proposal. He asked since the agent is amending certain portions of the original CUP shouldn't the entire CUP come under review. He touched on the fact that the surrounding property owners did not know of the District Court decision until they started to research the current proposal. He mentioned a higher fence and limits on trash collection times. He said the owner to the south is looking for less intensive zoning in that area and Mr. Latham does not want to see LC right outside his back deck. He said NO and GO is used to buffer LC from residential development but this is proposing LC right next to homes. He concluded by congratulating David Foster and Joe Johnson on their election.

RAY PRIEKSAD, 14342 W. HARDTNER COURT, TREASURER - HIGHLAND SPRINGS HOMEOWNERS ASSOCIATION commented that the parcels adjacent to residential should be GO or NO to act as a buffer. He said het supports the idea that the development will be a good neighbor to the residences that are already there and established. He commented that none of the homes in Highland Springs were there in 1999 when this zoning took place. He said Highland Springs contains 290 residents. He said some of those residences are within 100 feet of the development. He said they recognize that development is coming and they welcome the right kind of development that will be a good neighbor to those that already live in the community.

ELLISON asked Mr. Prieksad what type of development he would like to see.

PRIEKSAD mentioned that they don't want to see businesses that produce noise or have late hours. He said they would like to see office businesses and some type of LC businesses that would fit into an 8-5 timeframe that don't adversely impact the existing residential neighbors. He said they are also interested in some type of buffer wall on the south, southwest and west areas of the development.

ANNE KRUEGER, 518 N. FORESTVIEW COURT, PRESIDENT, RAINBOW LAKES HOMEOWNERS ASSOCIATION said the City just completed a major landscaping job and planted trees in the median along 135th Street. She said she is concerned about the level of traffic that a major commercial development will bring along 135th Street which is heavily travelled now and will eventually lead to an on-ramp to Kellogg. She also asked about the other part of this corner. She said the neighbors are not "no growth" but they want to limit the traffic in their neighborhood.

EWY clarified there would be no left turn function and it would be right in/right out only access onto 135th Street which was a known factor coming into the project. He said that will have a limited impact on the neighbors to the east. He said the major access will be off of Central Avenue with ancillary access off of 135th Street. He said there was discussion about platting, access controls and the possibility of getting a curb cut at the second meeting but he said the curb cut was a practical impossibility. He commented that a number of options and items were discussed at that meeting.

MOTION: To give the speaker an additional minute.

RICHARDSON moved, **GREENE** seconded the motion, and it carried (12-1).

EWY referred to the list of neighborhood concerns and commented that they have been able to address a certain number of them including trash pickup, location of dumpsters, and concessions on buffering on Parcel 4. He said the original CUP provides protections to adjacent homeowners in Highland Springs that were there when they purchased their home. He said they are not volunteering additional restrictions or lessening of any of the other pre-existing CUP conditions outside this application area.

RICHARDSON asked about the wall on Parcel 1. He clarified that there was already a requirement for a 6 foot wall on the entire south and west sides of the CUP.

EWY said currently there is a requirement for a 6-foot concrete masonry wall on the outer edge of a 30-foot landscaped buffer that is one and one half times the landscape requirement on the east edge of the CUP and a 6 foot masonry wall on the entire south and west sides of the CUP.

RICHARDSON asked if they would be willing to restrict trash pickup on Parcel 1.

EWY replied no.

GREENE referred to General Provision #19 of the current CUP with relation to businesses not allowed in the CUP including restaurants with drive thru windows, convenience stores, service stations and vehicle repair not being permitted within 200 feet of residential uses. He mentioned Mr. Latham's concerns about Parcel 3 and said it looks like those concerns are covered if he is reading the CUP correctly.

EWY said that provision restricts overhead doors associated with vehicle repair and no restaurants to que facing to the east so that eliminates drive thru restaurants. He said he believes the neighbors first choice was to keep Parcel 3 zoned GO. He said the client declined to eliminate convenience stores, service stations and vehicle repair. He added that the DAB voted to approve the request 7-0 based on the Revised General Provisions included in the handout.

There was discussion concerning what the neighborhood wanted and what the applicant agreed to and the discussions at various neighborhood meetings.

EWY briefly summarized the various meetings and levels of compromise at each meeting. He said the applicant could not give the neighbors the entire compromise they wanted but they did feel they have compromised on the most critical elements that were not zoning Parcel 4 to LC but downzoning it so for all practical purposes it is NO. He apologized to the neighbors who felt they were misled and thought that had given them an iron clad promise, because he was in no position to do that without first checking with his client. He said they felt like they have worked with the neighbors in good faith.

NEUGENT asked what the applicant has agreed to that is on the neighbor's list.

EWY said increasing the height of the wall to 8 feet and limiting trash collection to between 6:00 a.m. – 10:00 p.m. He said the difficult issue to get around is when he speaks, he is talking about the 3 parcels on the application, but when the neighbors speak, they are talking about the entire CUP. He said the applicant is not going outside the bounds of the amendment application that they have applied for and are present to talk about. He said they were not willing to volunteer restrictions outside of this application area that do have an economic impact on the client. He said the zoning pattern in this area is based on a condition that no longer exists. He said two of the parcels were zoned GO because they were located on arterial intersection pad sites.

MCKAY (Out @3:00 p.m.)

WARREN asked if the applicant could reverse the dimensions on Parcel 2 and 3. He said make Parcel 2 – 271 feet and Parcel 3 – 244 feet and give both of those LC zoning but restrict Parcel 3 to eliminate certain types of businesses which were: 24 hour convenience store, garage and drive through businesses. He asked the agent if that was a compromise the client could agree to.

EWY responded that his client has authorized him to offer only the concessions the Commission has before them.

JOHNSON suggested that the agent take the proposed compromise back to his client and that the Planning Commission defer action on the item until the next Planning Commission Meeting.

> **MOTION:** To close the public hearing and that the agent take the proposed compromise back to his client and that the Planning Commission defer action until the next meeting (October 6, 2016).
>
> **JOHNSON** moved, **NEUGENT** seconded the motion.

EWY clarified that he was to take the compromise proposed by Commissioner Warren back to his client and be prepared to respond at the October 6, 2016 Planning Commission Meeting.

DAILEY clarified that trash pickup times were only limited on Parcel 4.

EWY said that is correct. He said they felt Parcel 4 had the most impact on the residential development in the area.

JEFF VANZANDT, ASSISTANT CITY ATTORNEY said City Ordinance limits trash pick to between 6:00 a.m. and 8:00 p.m. so that would apply to all parcels.

EWY said he thought that ordinance applied to residential trash collection and that commercial and industrial trash collection was different.

ELLISON asked if the neighbors were happy with what is being proposed.

WARREN asked about a point of order and said the discussion needs to involve the motion. He asked staff it would be appropriate if the Commission just made a substitute motion to include the proposed compromise.

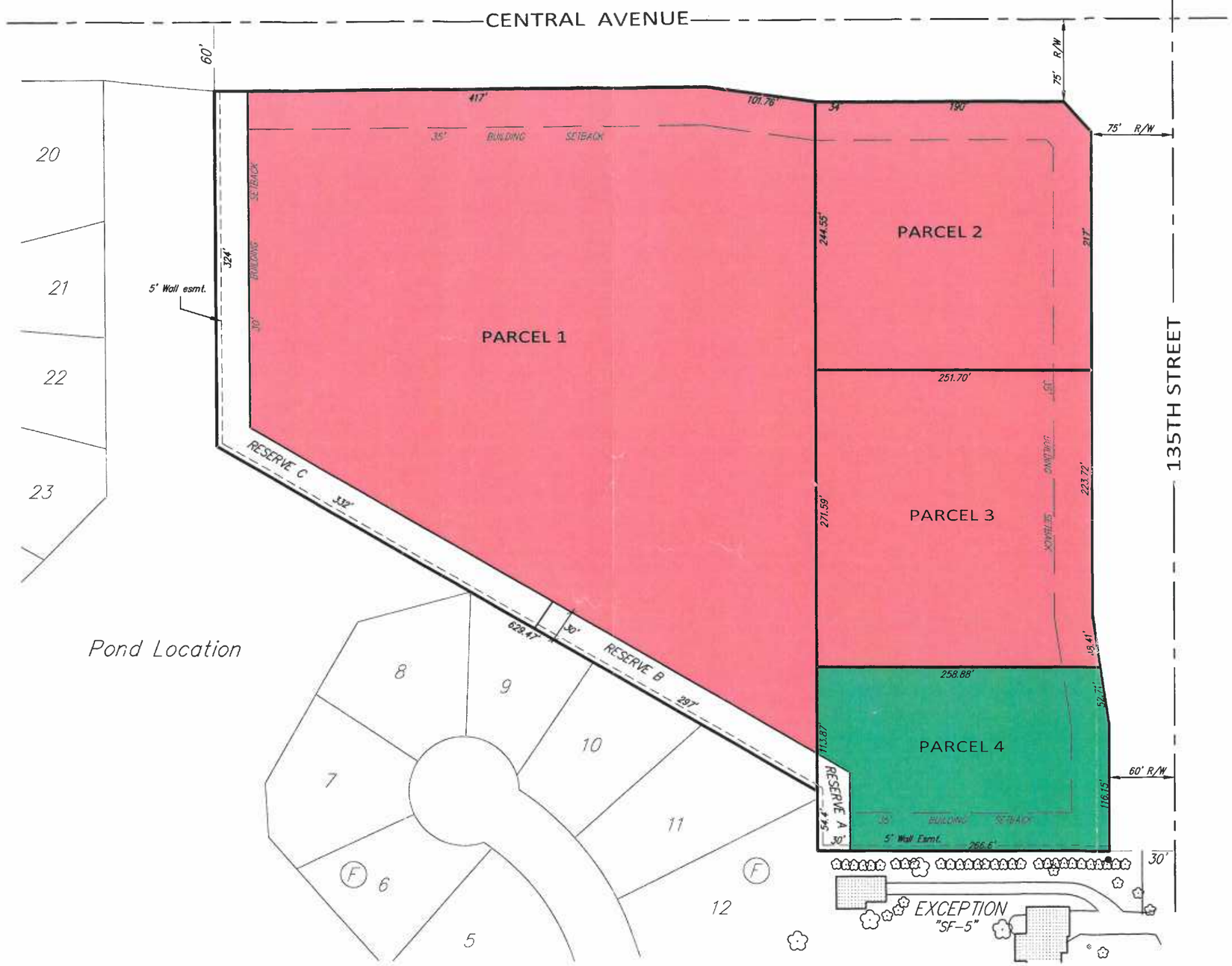
MILLER STEVENS said she believes the Commission has jumped off course and are making things up as they go along. She said that is not the plat that they are talking about. She said she would prefer that the motion address the current case and platting not parcels that do not currently exist.

CHAIR FOSTER said he believes they should give the applicant time to consider the compromise offered by Commissioner Warren relative to making this a workable piece of property.

MILLER STEVENS said she believes the motion is illegal because the parcels don't exist.

VANZANDT explained that the applicant will have to come back with a plat that matches the discussion.

The **ORIGINAL MOTION** to close the public hearing and defer the item one week so the agent can present the proposed compromise to his client for consideration, which was to make Parcel 2 – 271 feet and Parcel 3 – 244 feet and give both of those LC zoning but restrict Parcel 3 to eliminate certain types of businesses which were: 24 hour convenience store, garage and drive thru businesses carried (9-2). **ELLISON** and **MILLER STEVENS** – No.



HIGHLAND SPRINGS COMMERCIAL CONCEPT

135TH STREET WEST AND CENTRAL AVENUE

SCALE: 1" = 100'

BAUGHMAN

CITY OF WICHITA

INTEROFFICE MEMORANDUM

TO: MAPC
FROM: Laura Rainwater
SUBJECT: **ZON2016-00037 & CUP2016-00028**
DATE: September 20, 2016

Kathy Morgan, Senior Planner, Metropolitan Area Planning Department, presented a request to DAB V on Tuesday, September 6, 2016, for a City zone change from SF-5 Single-Family Residential and GO General Office to LC Limited Commercial and amendment to allow limited commercial development of Parcels 2, 3 and 4 on an area generally located at the southwest corner of West Central and North 135th Street West.

In attendance were **Russ Ewy**, Baughman Company(agent for Applicant) and 15 impacted property owners from the adjacent properties on the east and north side of proposed development. Complete guest list is provided at the end of this report.

DAB member, **Trevor Kurth**, excused himself from the meeting due to a conflict of interest.

After staff presentation, **Ewy** addressed the Board. After staff presentation, **Ewy** addressed the Board. He indicated that he had met with surrounding property owners to address their concerns over the zone change and future development site. He indicated the owners are very willing to work with surrounding property to reach a compromise for the development.

The following property owners addressed the Board and voiced their concerns:

- **Lori Marceau**, 431 N. 135th – Property is immediately to the south of proposed zone change. She has owned her residence for 28 years. Not opposed to development of the parcel but wants to have a voice in how best to develop. Concerns over wall height, landscaping, signage, trash, hours of operation, noise and lighting.
- **Chris Latham**, 605 N. Forestview Ct. There is a need for GO zoning and it should not be changed. Neighborhoods should not be negatively impacted for the financial gain of the property owner/developer. Would like to have any action deferred until a compromise can be reached with the property owner.
- **David Dennis,** 615 N. Rainbow Lakes Rd. President of Rainbow Lakes HOA. Disappointed that the staff report didn't include the history of the zoning cases involving these parcels. Neighborhood isn't opposed to development but they want to make sure the development meets the needs of the neighborhood. Please allow homowners the opportunity to work out a compromise with the developer.
- **Margaret James,** 306 N. Rainbow Lakes Rd. She wants to make sure that there will be no adverse effects on utilities. Also opposes any car lots.
- **Barbara Vopat,** 503 N. Forestview. She agrees with everything that has been voiced and also wants to voice opposition to any loading docks because of noise and truck traffic.

Ewy addressed their questions and concerns and stated he is willing to meet next week with impacted property owners to work out a compromise for development.

Action Taken: Palmer, motioned to defer decision until a special DAB V meeting at 6:30 pm on Sept. 19, 2016 at Fire Station #21. **Bradley** seconded the motion.

Motion **PASSED** 9-0-1 (abstention due to conflict of interest).

On **Sept. 19, 2016**, DAB V held a special open meeting to readdress this application. Eight DAB V members were present.

Ewy addressed the Board. He indicated he had met with impacted property owners on Sept. 14 to address their concerns over the zone change and future development site. Issues addressed included:

- Screening and land use – increase wall height from six feet to eight along south line of Parcel 4
- Limit hours of trash pick-up from 6:00 am – 10:00 pm
- Increase setback for trash from 25 feet to 50 feet
- Zone parcel 4 GO (General Office) limited to NO (Neighborhood Office)
- Limit the number of access points and allow for ancillary parking

The following property owners addressed the Board and voiced their concerns:

- **Bob Lamberger**, 13738 W. Hardtner Ct.
  - Wants eight-foot fence constructed the entire length of Highland Springs Addition (Parcels 4 and 1) to protect the neighborhood.
  - Prohibit trucks from idling.
  - Zone Parcel 3 NO (Neighborhood Office) instead of LC.
  - Additional restrictions on trash pick-up.
- **Lori Marceau**, 431 N. 135th
  - Staff Report is not comprehensive of history of zoning on these Parcels which goes back to 1998
  - Staff report needs to be rewritten to reflect the failed attempt to pass Council by supermajority vote in 1998. Petitioner took it to District Court. District Court order in 1999 dictated the zoning for these parcels. No one has the authority to change the District Court order made in 1999.
- **Chris Latham**, 605 N. Forestview Ct.
  - Concern over noise which would impact his property across from Parcel 3
  - The applicant knew how this was zoned when they bought the property
  - The current zoning in place is to protect the adjacent property owners
  - The applicant also owns the southeast corner of the intersection and the neighborhood fears they will then request a zone change for it down the road
  - Please reject these amendments to the CUP unless applicant will agree to the requests of the impacted property owners

Ewy responded:

- Council voted 5-2 in favor of the zone change back in 1998. It failed to pass by one vote.
- The applicant is well within their legal rights to make an application for a zone change
- Central used to be 200 feet closer to Rainbow Lakes which would have brought traffic very close to residential. Since it has been moved to the north, that is no longer the case.
- The southeast corner of the intersection is no relevance. The applicant owns thousands of acres across the county/state. The southeast corner is not part of the application.

Questions from DAB members:

- **DAB:** Will it be a 6' fence plus 2' berm or will it be an 8' wall?
  Ewy: Applicant agrees to an 8' wall along south line of Parcel 4. The rest will be 6'
- **DAB:** Do we know what kind of business/industry?
  Ewy: No, it's a land use decision. Parcel 4 will be limited to NO (Neighborhood Office) restrictions.

Action Taken: Palmer motioned to **APPROVE** the request with the following conditions as set forth by applicant for Parcels 2, 3 and 4:

1. An eight (8) foot high concrete wall shall be constructed along the south property line of Parcel 4 where adjacent to residential zoning.
2. Trash receptacles, loading docks, outdoor storage and loading areas shall be appropriately screened, with similar materials to the main building, to reasonably hide them from ground view, and shall be prohibited within 50 feet of residential-zoned property within Parcel 4. Trash collection shall be limited to between the hours of 6:00 am to 10:00 pm within Parcel 4.
3. Existing Parcels 1-3, 5 and 6 (proposed Parcels 1-3) shall be zoned "LC" Limited Commercial. Parcel 4 shall be zoned "GO" General Office and limited to the use and development standards of the "NO" Neighborhood Office zoning district, with the allowance of ancillary parking to serve the CUP.

Unruh seconded the motion.

Motion **PASSED** 7-0-1 (abstention due to conflict of interest).

Respectfully submitted,

Laura Rainwater, Community Services Representative – Districts II & V

Guest List – Sept. 6, 2016

Lori Marceau	Bob Lamberger
Chris Latham	Earl Huelskamp
David Dennis	Ron Mullen
Diann Fowler	Jan Mullen
John Shafers	Susan Schulte
Margaret James	Pat Kraus
Linda Riley	Frank Vopat
Jana Millikan	Barbara Vopat

Guest List – Sept. 19, 2016

Lori Marceau
Chris Latham
Bob Lamberger
Ron & Jan Mueller
Matt & Ray Lynn Carr
Steven & Lisa Schulte
Gary Reichuber
Becky Twietmeyer
Pat & Stacie Kraus

Miller, Dale

From: Joe Millikan <jmillikan@cox.net>
Sent: Thursday, September 29, 2016 11:15 AM
To: Miller, Dale
Subject: Zoning

Dear MAPC Board Member,
I live directly west of the proposed 135th and Central zoning request location. Please consider the impact of traffic, noise, light shining in my windows all night, and possible odors- good or bad that commercial property would bring to our quiet and safe neighborhood. General or Neighborhood Office would be impact us far less. Thank you for listening to our leaders today.
Jana Millikan

Sent from my iPhone

9-29-16 MAPC HANDOUT ITEM 4

Miller, Dale

From: Craig Leonard <celeon@sbcglobal.net>
Sent: Wednesday, September 28, 2016 2:02 PM
To: Miller, Dale
Subject: Re: Rezoning request ZON2016-37 & CON2016-28

Sir, regarding the upcoming MAPC hearing to be held 9/29/16 on the request to rezone the SW corner of 135th St. W. and Central, I would like to provide my concerns to you.

We have lived in Highland Springs for seven years now, and find it to be a very well maintained neighborhood. 135th St. W. is a two lane street from 21st to Kellogg. While the city did improve the street between Central and Maple, it remains a two lane street with turn lanes and planted islands in the middle. Changing the zoning restrictions without limitations in the CUP would allow for the potential of increased traffic beyond the designed use of the street.

Also, because the corner has been used for agricultural purposes even after Highland Springs was completed, there has been no barrier separating the residential area and agricultural area. In approving significant changes to the current zoning restrictions, provisions must be made to create an aesthetically approved and pleasing barrier. An eight foot wall or wall and berm combination equaling eight feet should be part of the CUP.

Trash pick-up times and lighting considerations must also be made so as not to disrupt the current residential atmosphere of the neighborhood.

Please consider these factors when making your vote.

Respectively submitted,
Craig Leonard
14306 W.Binter Circle, Highland Springs

9-29-16 MAPC HANDOUT ITEM #4

Miller, Dale

From: waliman@cox.net
Sent: Wednesday, September 28, 2016 10:22 AM
To: Miller, Dale
Subject: 135th/ Central

I live at 306 N Angela Cir. I use that corner every day, very light traffic. If this gets rezoned for commercial building this would cause more traffic, more accidents, more crime. City would have to install a traffic light (more money) The residents that live in Rain Bow lakes NW corner would have to look at lights at night, plus there deck would be higher than the fence. I have no problem putting in a DR. OFFICE or any type of small office. But putting in a large commercial building would be a bad idea.

Mark Joy

9-29-16 MAPC HANDOUT ITEM #4

Miller, Dale

From: Barbara Vopat <professeurfrog@hotmail.com>
Sent: Wednesday, September 28, 2016 9:36 PM
To: john@casadomckay.com; matt@mattgoolsby.com; pyromike@cox.net; davidfoster@ricefoster.com; millerstevens911@sbcglobal.net; lowellr-1332@swbell.net; jjohnson@sjcf.com; john@johntodd.net; bob.dool@outlook.com; j-cab@msn.com; chuckw692@gmail.com; Vanzandt, Jeff; Miller, Dale; Barbara Vopat; bill@thebillguy.com; ccn.ks.1@gmail.com
Subject: Rezoning of SW corner of insection of Central and 135th Street West

Members of the Wichita Area Planning Commission,
As a resident of the area known as Rainbow Lake which is adjacent to the nine acre parcel of land being considered for rezoning by your commission I want to express my objection to the planned rezoning and proposed usage of this land. I am aware that some commercial development on the corner lots of each major intersection is a given even before residential development is completed. My objection is to the **type** of commercial business that the developer discussed in a previous meeting with area homeowners. In a rather cavalier manner the developer revealed plans for loading docks, the screening of dumpster with green areas and a 48 hour parking limit for semitrailer trucks. Of these three things I find the words **loading docks** to be the most alarming. Does a business that demands semi parking and loading docks belong in a mostly quiet residential neighborhood? I don't think so! I am sure any number of businesses would be welcome on our corners, useful small businesses that would be patronized by the many families of our area: a nail salon, a wine store, a consignment store, a hair salon, a dentist, a general practice medical doctor, Super Cuts, a veterinarian, a UPS store. The list is endless. The bottom line is we don't need a heavy duty cluster of shopping right at our doorstep. New Market Square is only minutes away. Proposed businesses on the corner in question will not be able to compete with New Market Square or other established stores in the vicinity especially if there are animosities stemming from the takeover of this area by developers whose only concern is profit. I urge you to carefully consider the effects of passing this rezoning petition on the neighboring areas and their homes and families.

Barbara Vopat
503 North Forestview
Wichita, KS 67235
professeurfrog@hotmail.com

Sent from Outlook

9-29-16 MAPC HAND OUT ITEM #4

Miller, Dale

From: Chris Lathem <calathem@cox.net>
Sent: Tuesday, September 27, 2016 6:17 PM
To: "john@casadomckay.com"@EXCHMAIL.wichita.gov; "bill@thebillguy.com"@EXCHMAIL.wichita.gov; "matt@mattgoolsby.com"@EXCHMAIL.wichita.gov; "pyromike@cox.net"@EXCHMAIL.wichita.gov; "millerstevens911 @sbcglobal.net"@EXCHMAIL.wichita.gov; "lowellr-1332 @swbell.net"@EXCHMAIL.wichita.gov; "jjohnson@sjcf.com"@EXCHMAIL.wichita.gov; "ccn.ks.1@gmail.com"@EXCHMAIL.wichita.gov; "john@johntodd.net"@EXCHMAIL.wichita.gov; "chuckw692 @gmail.com"@EXCHMAIL.wichita.gov; "davidfoster@ricefoster.com"@EXCHMAIL.wichita.gov; "bob.dool@outlook.com"@EXCHMAIL.wichita.gov; "j-cab@msn.com"@EXCHMAIL.wichita.gov
Cc: "jvanzandt@wichita.gov"@EXCHMAIL.wichita.gov; "dmiller@wichita.gov"@EXCHMAIL.wichita.gov
Subject: ZON2016-00037 and CUP2016-00028
Attachments: MAPC zoning presentation.pdf

MAPC Members:

My name is Chris Lathem, 605 N Forestview Ct, Wichita, KS. I am a board member of the Rainbow Lakes Fourth West HOA and live directly across the street from Parcel 3 of the zoning change ZON20016-0037. I am writing to oppose the zoning change as it is currently slated. As neighbors, we have tried to reach an agreement with the developers by asking for protections that maintain the character of our neighborhood, while at the same time allowing the developers to have less restrictive zoning in Parcels 2 and 4. The attached power point outlines our concerns. Slide 17 outlines our proposed zoning/CUP changes. These changes allow the developers greater use while granting the neighborhood some protection from unwanted consequences.

It is my position that the developers who bought this land, for purely speculative reasons, full knowing the restrictions that were already in place should not be allowed to trump dozens of home owners who lives interact with this property on a daily basis and have shown a willingness to reach a common ground. We have tried to reach a compromise, yet the developers are only willing to consider changes to parcel 4, which represents a very small portion of the overall CUP.

Again, I ask you to reject the changes in its current form and support our proposed compromise. I look forward to addressing you in person on Thursday.

Sincerely,

Chris Lathem

Miller, Dale

From: Lori Marceau <lmarceau1123@gmail.com>
Sent: Tuesday, September 27, 2016 12:23 PM
To: john@casadomckay.com; bill@thebillguy.com; matt@mattgoolsby.com; pyromike@cox.net; davidfoster@ricefoster.com; millerstevens911@sbcglobal.net; lowellr-1332@swbell.net; jjohnson@sjcf.com; ccn.ks.1@gmail.com; john@johntodd.net; bob.dool@outlook.com; j-cab@msn.com; chuckw692@gmail.com
Cc: Miller, Dale; Vanzandt, Jeff; Frye, Bryan
Subject: ZON2016-00037/CUP2016-00028
Attachments: MAPC zoning presentation.pdf; Journal entry-9-24-99.pdf

I am writing to you to express my opposition to the proposed zoning change for parcels 2, 3 and 4 of zoning case ZON2016-00037. Attached you will find a PowerPoint presentation that will detail the issues involved with this zoning change request. This presentation will be made to the MAPC on Thursday, 9/29/16.

I am disappointed that the Staff Report you have been provided does not detail the history of the zoning of this property so during my presentation at MAPC on Thursday, I will detail the history of this zoning matter that goes back to 1998. I will not go into great detail on that aspect at this time, but I want you to know that for the past 28 years, I have owned the single family home on the parcel of land immediately south of parcel 4, 431 N. 135th Street West. Obviously, since I have called this house my home for many years, I have a vested interest in the area and have had a front row seat to many changes to my neighborhood over the past 28 years. I am opposed to the unilateral LC zoning on this CUP for a number of reasons.

Of primary concern is the close proximity of single family homes to the current LC zoning in this CUP (parcels 1,5, and 6 which are being combined into one parcel), and the addition of LC zoning on parcels 2, 3, and 4, again in close proximity to single family homes. In 1998, when parcels 1, 5 and 6 were zoned LC, homes in Highland Springs had not been built so there were no "home owners" to complain about the closeness of LC zoning to their homes. However, there were home owners in Rainbow Lakes, across the street to the east of parcels 2, 3 and 4 and of course my house to the south. In 1998 we expressed our dissatisfaction to this re-zoning, speaking to CPO (what they call DAB now), MAPC , filing protest petitions, and writing to the City Council members. Due to the super-majority vote requirement, the zoning request failed to pass at the City Council. This was not acceptable to the applicant, and an appeal was filed in District Court. The judge overturned the Council's vote on the grounds that one council member who voted in opposition of the motion, cited the reason for his vote to the contrary was due to flooding concerns in the area. The court ruled that flooding concerns are addressed at the platting stage and should not have been a consideration in zoning. However, the court clearly laid out the zoning of each of the 6 parcels. Parcels 1, 5 and 6 were zoned LC, parcels 2 and 3 were zoned GO and parcel 4 was to remain SF-6. I have attached a copy of the journal entry for your review.

Another reason for my opposition to this request is that it is premature. The applicant has stated that he has no specific plans for this CUP. If the applicant had identified a business wanting to locate at this corner, but needed all parcels to be LC zoning, then this request would be more reasonable. But, by making all parcels LC zoning now when there is no specific need or plan for the LC zoning, it is much like writing a blank check to the applicant. LC zoning allows a much wider range of commercial development, many of which are not suited for a residential setting such as this.

The agent for the developer has attempted to separate parcels 1, 5 and 6 from this request. However, this is not only a zoning case for parcels 2, 3, and 4 but the CUP has been clearly made a part of this as well. A review of the Staff Report makes reference to all six parcels, therefore the conditions for parcels 1, 5 and 6 are up for discussion.

A small group of neighbors impacted by this project met with the developer's agent in an attempt to negotiate an agreement that would be beneficial to all parties. However, the applicant was only willing to negotiate about parcel 4, even though this CUP project area is surrounded by SF zoning. We are not being unreasonable in this and understand

that commercial development will occur on this corner. However, zoning such as NO and GO should be utilized to buffer existing single family homes from the LC zoning areas and fencing should be of a height to adequately reduce noise.

Thank you for your consideration.

Lori Marceau
lmarceau1123@gmail.com

Central & 135th St. West

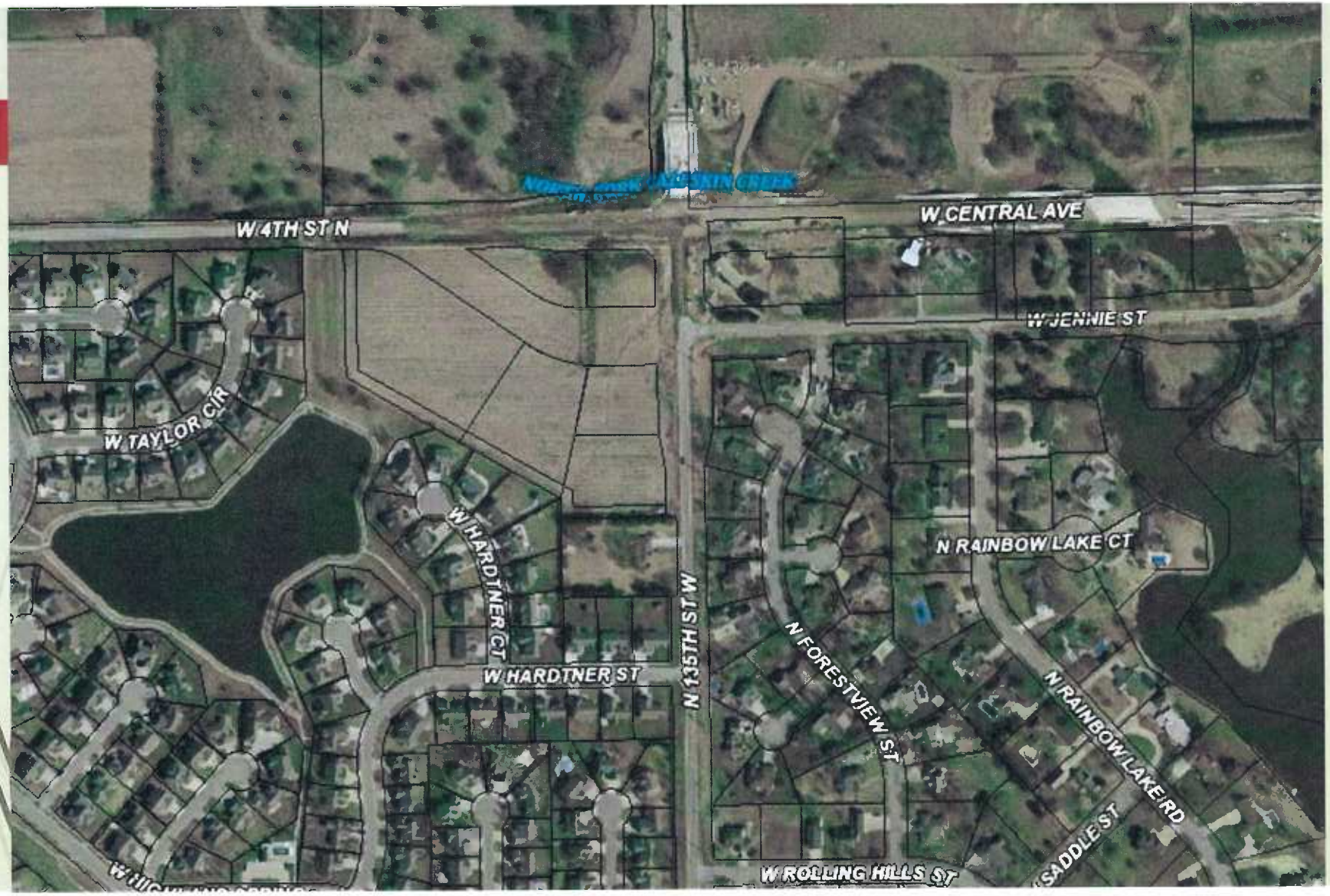
ZON2016-37 & CUP2016-28

Introduction

- The neighborhood understands and accepts that there will some level of commercial development on the southwest corner of Central & 135th Street West.
- However, it is important to the neighborhood that the commercial development not have an adverse effect on the existing single family homes in close proximity to the development.

Issues of concern

- Wall height
- Trash dumpster location & collection time
- Landscaping
- Signage
- Hours of operation
- Types of businesses
- Odors & noises
- Additional LC zoning adjacent to SF zoning
  - LC zoning on all parcels provides no buffer for single family residences
  - Opens the door for a wider variety of commercial development in close proximity to established homes


W 4TH ST N
W CENTRAL AVE
W JENNIE ST
W TAYLOR CIR
W HARDTNER CT
W HARDTNER ST
N 135TH ST W
N FORESTVIEW ST
N RAINBOW LAKE CT
N RAINBOW LAKE RD
SADDLE ST
W ROLLING HILLS ST

History
1998-present

- Summer 1998- Rezoning request Z-3287 submitted (SF to LC)for the SW corner of Central and 135th St. West
- 8/26/1998 CPO 5 Unanimously denied request
- 8/27/1998 MAPC deferred plan for 2 weeks
- 9/10/1998 MAPC deferred
- 10/15/1998 MAPC Approved plan, 8-5 vote

  Protest petitions submitted
- 11/10/1998 WCC referred plan back to CPO & MAPC
- 12/16/1998 CPO 5 denied plan
- 12/17/1998 MAPC Approved parcel 3 to GO, parcel 4 to B, parcels 5 & 6 to LC and parcels 1 & 2 remain SF
- 1/26/1999 WCC motion failed due to super-majority vote requirement, 5-2

  Property owner/applicant appealed decision to District Court
- 9/24/1999 WCC vote overturned by a District Court Judge

  Parcels 1, 5 & 6 zoned LC, parcels 2 & 3 GO, and parcel 4 remained SF

Since then…

- Those filing protest petitions were not notified of the appeal made to District Court, or the reversal, therefore we were surprised to learn that parcels 1, 5 and 6 had been zoned LC. Last we knew, the matter failed to pass at WCC due to a lack of a super-majority vote.
- Property sold to new owner
- Remained undeveloped
- For sale sign on property for many years
- 2016 Re-zoning request made.

2016

- The current re-zoning application area is the portion of the 9 acre corner that had been included in the LC zoning request in 1998, but out of concern for the close proximity of single family homes, parcels 2, 3 and 4 were not changed to LC. There were no homes in Highland Springs in 1998. The current request to re-zone those parcels that were not zoned LC 1998; parcels 2 & 3 from GO to LC and parcel 4 from SF to LC.
- One of the property owner closest to the application area was not notified as required by law.
  - Process delayed to comply with the notification requirement.
- Meetings with neighbors and the property owner's representative
  - Basic concerns of close proximity of SF residences, traffic flow in/out of LC development, lighting, type of businesses, hours of operation, etc.
  - Property owner has no specific plans for the type of businesses that will be a part of the development.

Golden rule 1

The zoning, uses and character of the neighborhood

- Property on three sides of the proposed commercial development area is zoned SF, the fourth side (just east of parcel 2) is NO.
- Houses to the west are 5-10 years old (Highland Springs).
- House to the south is 48 years old. The current owner has been there for 28 years.
- House to the east of parcel , vacant, approx. 50 years old –zoned NO.
- Houses to the east and south 10-25 years old (Rainbow Lakes).
- Property to the north is undeveloped, zoned SF-20.
- There is no commercial development at this corner.

Golden rule 2

The suitability of the subject property for the uses to which it has been restricted

- Since 1999, application area parcels are zoned LC, GO, NO and SF.
- All parcels undeveloped.
- Parcel 4 (zoned SF) is being used to store a large dirt pile left over from 135th Street road development.
- As the site is currently zoned, commercial development is possible, taking into consideration the close proximity of residential zoning.
- Staff report states **"The site could continue to be economically viable as currently zoned"**.

Golden rule 3

Extent to which removal of the restrictions will detrimentally affect nearby property

- Residential housing in close proximity on three side of the application area.
- GO or NO would be more appropriate next to SF zoning; still allows for commercial development but residential areas would be less impacted by noise, traffic, business hours of operation, signage, lighting, etc.
- NO zoning on the southeast corner.
- GO or NO zoning should be used to "buffer" residential areas from LC zoning.

Golden rule 4
Length of time subject property has remained vacant as zoned

- This property has never been developed.
- Portions zoned LC in 1998 never developed.
- Updated Central Street configuration.
- Economy
- With the exception of one parcel, the entire CUP zoning allows commercial development.

Golden rule 5

Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant

- Commercial zoning is currently in place on 5 of the 6 parcels.
- Commercial development is possible as zoned.
- The corner is viewed by the applicant as being a "minor" intersection in which large commercial development would not be appropriate, therefore the use of NO and GO zoning would not deter development.

Golden rule 6

Conformance of the requested change to the adopted or recognized Comprehensive Plan

- Staff report indicates the site is appropriate for "new employment growth" uses.
- Reports also states, "In certain areas, especially those in proximity to existing residential uses, convenience retail centers likely will be developed".
  - It does not suggest those "convenience retail centers" should be immediately next to residential zoning.

Golden rule 7
Impact of the proposed development on community facilities

- Central, west of 135th is unimproved.
- 135th, north of Central is unimproved and in the County.
- 135th Street from Maple to Center has recently been widened to 3 lanes, including turning lanes. As currently constructed, it is questionable whether if could accommodate traffic from commercial development.
- Access in/out of the application area is uncertain.
- The close proximity of Jennie Street to Central poses traffic flow problems in/out of the application area.

Golden rule 8
Opposition or support of neighborhood residents

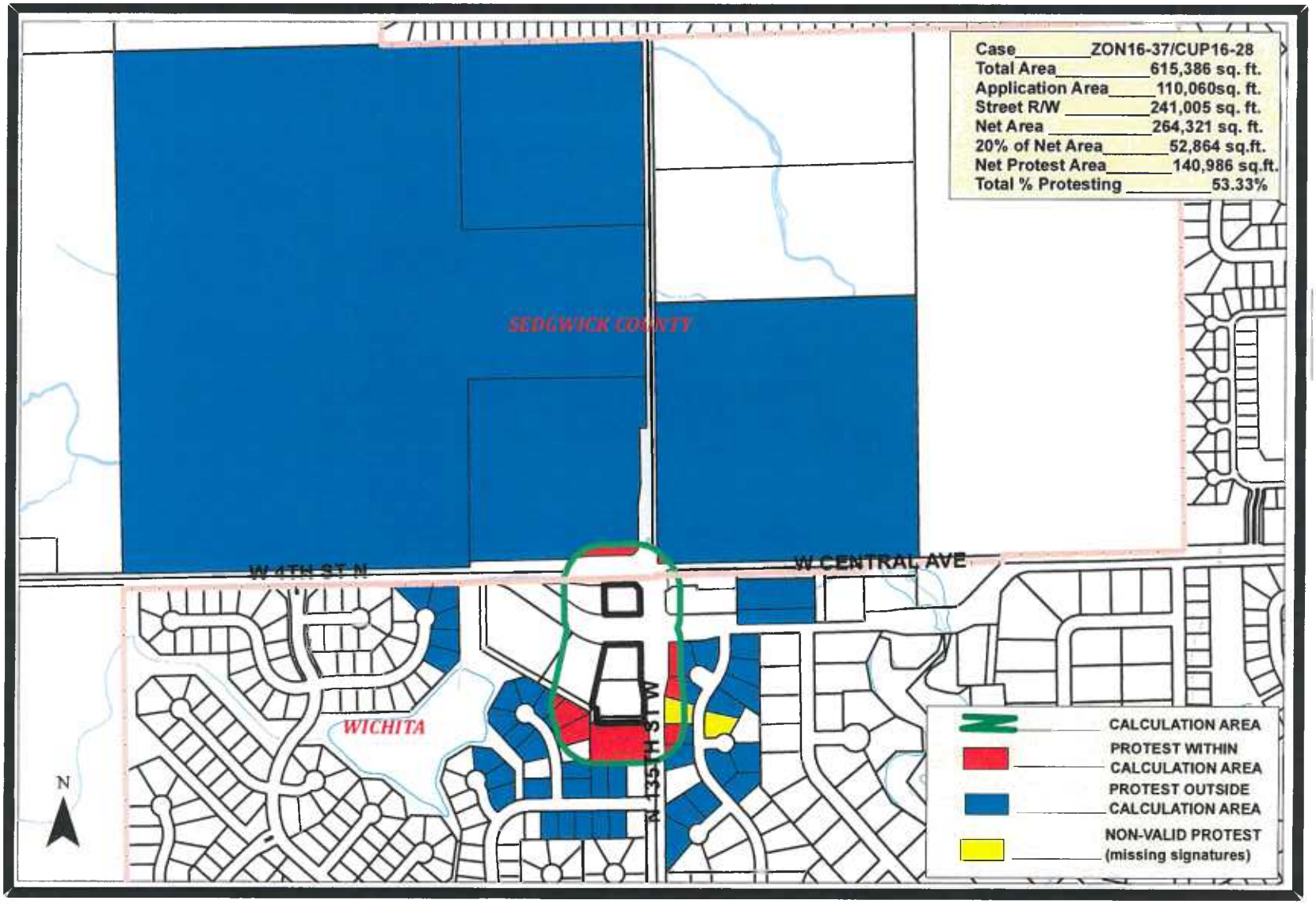
- The neighborhood (Rainbow Lakes, Highland Springs, individual property owner) are opposed to increasing LC zoning at this corner.
- The current level of commercial zoning is appropriate for development.
- A meeting with neighbors and the applicant had very good attendance and not one homeowner expressed support for increasing LC zoning at this corner.

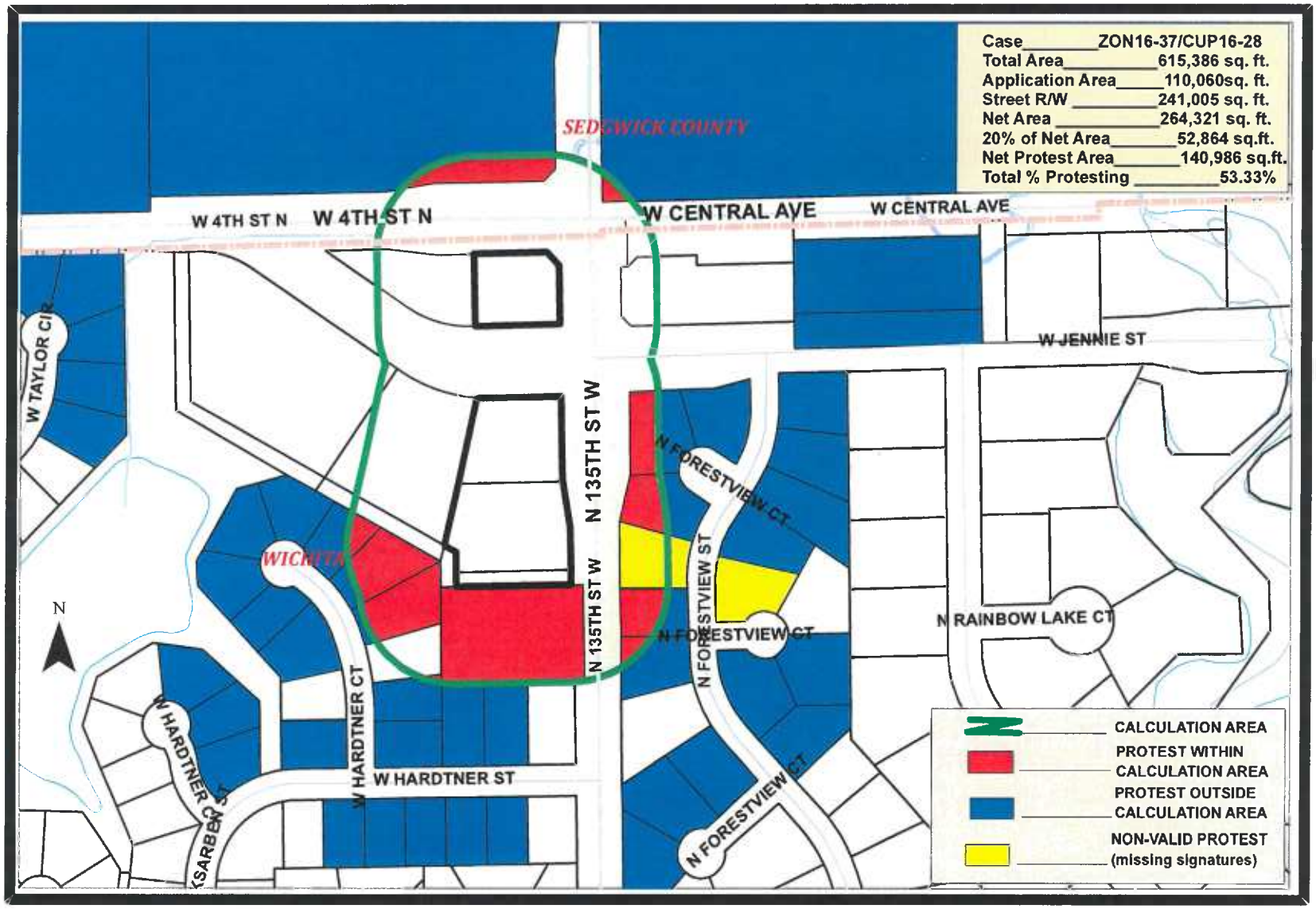
Golden rule 9
Recommendation of professional staff

- Staff Report does not detail the 1998-1999 history surrounding the zoning of this corner.
- Recommendation by staff does not take into consideration the numerous issues detailed in this presentation.
- Select neighbors wish to work with the owner/applicant to develop a compromise to the zoning of parcels 3 & 4 and the general provisions for the CUP.

Neighborhood Recommendation

- The neighborhood is willing to compromise
  - Parcel 2 currently zoned GO – we propose LC zoning.
  - Parcel 3 currently zoned GO- we propose it to remain GO zoning.
  - Parcel 4 currently zoned SF-5- we propose NO zoning
- Fencing (either 8' cement wall or 6' wall on top of 2' berm) around entire CUP area.
- Trash collection limited to between 6:00 a.m.-10:00 p.m.


Case ZON16-37/CUP16-28
Total Area 615,386 sq. ft.
Application Area 110,060sq. ft.
Street R/W 241,005 sq. ft.
Net Area 264,321 sq. ft.
20% of Net Area 52,864 sq.ft.
Net Protest Area 140,986 sq.ft.
Total % Protesting 53.33%
SEDGWICK COUNTY
W 4TH ST N
W CENTRAL AVE
WICHITA
N 135TH ST W
N
CALCULATION AREA
PROTEST WITHIN CALCULATION AREA
PROTEST OUTSIDE CALCULATION AREA
NON-VALID PROTEST (missing signatures)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NON-VALID PROTEST (missing signatures)

City of Wichita
City Council Meeting
November 8, 2016

TO: Mayor and City Council

SUBJECT: ZON2016-00038 – Zone Change from SF-5 Single-Family Residential to LC Limited Commercial, Generally Located North of Central Avenue on the East Side of Edgemoor (District I)

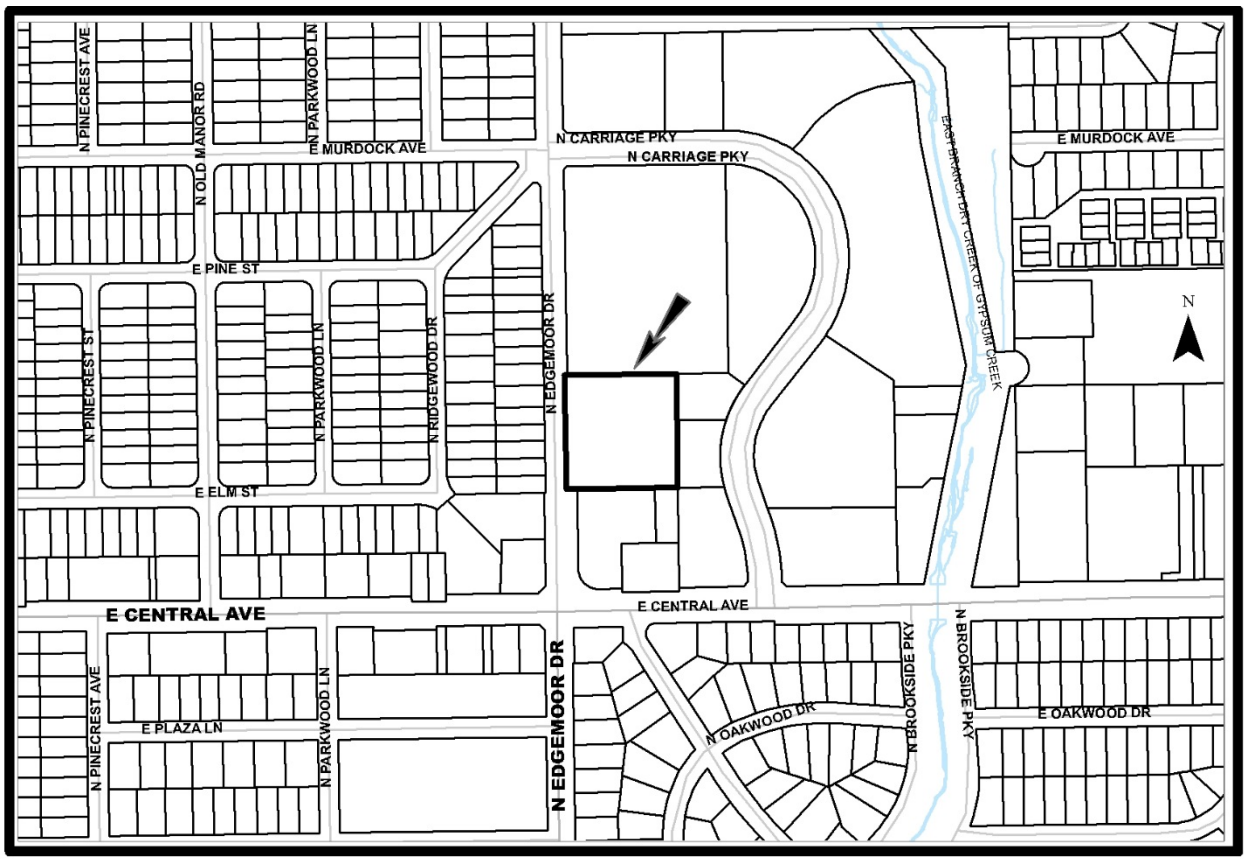
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-Consent)

MAPC Recommendation: The MAPC recommended approval of the request (12-0) subject to staff and DAB recommended conditions.

DAB Recommendation: District Advisory Board I recommended approval of the request (6-2-1) subject to prohibiting loan businesses using car titles and pay check verification as loan collateral, pawn shops and liquor stores.

MAPD Staff Recommendation: Metropolitan Area Planning Department staff recommended approval of the request.



Background: The applicant requests LC Limited Commercial zoning on a 2.45-acre unplatted lot, generally located north of Central on the east side of Edgemoor. The lot has 325 feet of frontage along Edgemoor and is approximately 315 feet deep. The applicant intends to redevelop the existing building. The applicant has filed the Edgemoor Commercial Addition plat for the subject property.

The surrounding neighborhood is developed with single-family residential, offices, retail, skilled care facility, restaurants and medical services. West of the site is GO General Office and SF-5 Single-Family zoning, north of the site is B Multi-family zoning. South and east of the site is LC Limited Commercial zoning in DP-126 Central Avenue Plaza Community Unit Plan.

Analysis: On October 6, 2016, the Metropolitan Area Planning Commission (MAPC) recommended approval of the request (12-0). No members of the public spoke at the MAPC hearing.

On October 3, 2016, District Advisory Board (DAB) I reviewed the application and recommended approval (6-2-1) subject to a protective overlay to prohibit loan businesses using car titles and pay check verification as loan collateral, pawn shops and liquor stores.

No protest petitions have been received. The request can be approved with a simple majority vote.

Financial Considerations: Approval of this request will not create any financial obligations for the City.

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

Recommendation/Actions: It is recommended that the City Council 1) adopt the findings of the MAPC and approve the requested zone change place the ordinance on first reading, authorize the necessary signatures, and instruct the City Clerk to publish the ordinance after approval on second reading (requires 4-7 votes); 2) Adopt the findings of DAB I and MAPC and approve the requested zone change place the ordinance on first reading, authorize the necessary signatures, and instruct the City Clerk to publish the ordinance after approval on second reading(requires 5-7 votes); 3) deny the zone change (requires 5-7 votes); or 4) return the case to MAPC (requires 4-7 votes).

Attachments: Ordinance, MAPC minutes, DAB I report.

Published in The Wichita Eagle on November 25, 2016

OCA 150004

ORDINANCE NO. 50-358

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. ZON2016-00038

City zone change from SF-5 Single-Family Residential to LC Limited Commercial; described as:

BEG 650 FT S & 30 FT E OF NW COR SW1/4 SE1/4 E 326 FT S 330 FT W 326 FT N TO BEG SEC 13-27-1E, Wichita, Sedgwick County, Kansas

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.

_____
Jeff Longwell, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

Approved as to form: _____
Jennifer Magaña, City Attorney and Director of Law

EXCERPT MINUTES OF OCTOBER 6, 2016 WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION MEETING

Case No.: ZON2016-00038 - ECD, LLC (applicant); KE Miller Engineering, Kirk Miller (agent) request a City zone change from Single-family Residential SF-5 to Limited Commercial LC on 2.45 acres on property described as:

Beginning at a point 650 feet South and 30 feet East of the Northwest corner of the Southwest Quarter of the Southeast Quarter of Section 13, Township 27 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence East along the South line of the tract taken under condemnation by the Board of Education of the City of Wichita, Kansas, a distance of 326 feet; thence South, parallel to the West line of said Southeast Quarter, a distance of 330 feet; thence West, parallel to the South line of said Southeast Quarter, a distance of 326 feet more or less, to a point 30 feet East of the West line of said Southeast Quarter; thence North on a line 30 feet East of and parallel to the West line of said Southeast Quarter, a distance of 330 feet, to the point of beginning.

BACKGROUND: The applicant requests LC Limited Commercial zoning on a 2.45-acres unplatted lot, generally located north of Central on the east side of Edgemoor. The lot has 325 feet of frontage along Edgemoor and is approximately 315 feet deep. The applicant intends to redevelop the existing building. The applicant has filed Edgemoor Commercial Addition plat for the subject property.

The surrounding neighborhood is developed with single-family residential, offices, retail, skilled care facility, restaurants and medical services. West of the site is GO General Office and SF-5 Single-Family zoning, north of the site is B Multi-family zoning. South and east of the site is LC Limited Commercial zoning in DP-126 Central Avenue Plaza Community Unit Plan.

CASE HISTORY: The site is unplatted and is currently developed with a masonry building, which served as a Kansas National Guard Armory. The building has been vacant since 2009.

ADJACENT ZONING AND LAND USE:

NORTH:	B Multi-family	Skilled Nursing Facility
SOUTH:	LC	Fast Food Restaurant, Retail Strip Center
EAST:	TF-3	Duplexes
WEST:	GO; SF-5	Offices; Single-Family Residences

PUBLIC SERVICES: The property is serviced by all publicly supplied municipal services. Edgemoor is a paved four-lane local street. The site has a shared access drive to Edgemoor with the property to the north. Access to the overflow parking area at the rear of the site is provided by this shared drive.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the downtown core and mature neighborhoods surrounding it in a roughly three-mile radius. The Plan encourages infill development within the Established Central Area that maximizes public investment in existing and planned infrastructure and services. The site is also located within the Central Northeast Area Plan Update adopted in September 2005, which identifies retention of businesses in the area as one of the goals of the plan. The 2035 Wichita Future Growth Concept Map identifies the site as "Commercial." The "Commercial" category encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban area.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**.

This recommendation is based on the following findings:

(1) **The zoning, uses and character of the neighborhood:** The surrounding neighborhood is zoned LC, GO, SF-5 and B. The subject property is bounded by LC zoned property on its east and south boundary.

(2) **The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned SF-5 and is developed with masonry building that was used to house the Kansas National Guard Armory. As zoned, the subject property could only be used for single-family. With the proposed zoning, the property could be redeveloped in a manner compatible with the immediately adjacent properties.

(3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Impact on surrounding property due to the requested zone change should be minimal; the site has enough space to provide on-site parking for commercial development.

(4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the downtown core and mature neighborhoods surrounding it in a roughly three-mile radius. The Plan encourages infill development within the Established Central Area that maximizes public investment in existing and planned infrastructure and services. The site is also located within the Central Northeast Area Plan Update adopted in September 2005, which identifies retention of businesses in the area as one of the goals of the plan. The 2035 Wichita Future Growth Concept Map identifies the site as "Commercial." The "Commercial" category encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban area.

(5) **Impact of the proposed development on community facilities:** All services are in place. Any increased demand on community facilities can be handled by existing infrastructure.

KATHY MORGAN, Planning Staff presented the Staff Report. She reported that the DABI recommended approval 6-2-1. She said at this point in time the applicant has no defined plans for the property.

RICHARDSON asked about screening from SF-5 residential zoning across the street.

MORGAN stated that there was no screening requirement for properties across the street.

KIRK MILLER, K.E. MILLER ENGINEERING, AGENT FOR THE APPLICANT said they in agreement with staff comments.

RICHARDSON asked if the applicant was going to tear down the building or reuse it.

KE MILLER commented that the applicant will probably reuse the building.

ELLISON asked if they have had any feedback from the neighborhood concerning the proposal.

KE MILLER indicated they have not heard a word from neighbors.

MOTION: To approve subject to staff recommendation.

MCKAY moved, **TODD** seconded the motion, and it carried (12-0).

CITY OF WICHITA

INTEROFFICE MEMORANDUM

TO: MAPC

FROM: Kameelah Alexander, Office of Community Services

SUBJECT: ZON2016-00038 SF-5 Single-family Residential to LC Limited Commercial

DATE: October 4, 2016

On Monday, October 3, 2016, the District I Advisory Board considered a request for SF-5 Single-family Residential to LC Limited Commercial on 2.45 acres generally located north of E. Central on the east side of Edgemoor Street. (602 N. Edgemoor St.)

Scheduled for MAPC on Thursday, October 6, 2016 at 1:30pm

DAB members and the public asked questions on the following items:

Q: What are future plans for the site?
A: Plans are unknown but the property is owned by Occidental Management.

Q: Can a payday loan business be established under this zoning?
A: Yes

Q: Can the DAB put a timeline on ground breaking for the new business?
A: No, not on a base zoning

Q: Has this building been out of compliance since its existence?
A: Correct, it was previously federally owned.

Public Comment: The new business could possibly be inappropriate for the area.

The agent and Planning Staff, Scott Knebel were able to provide responses.

Action Taken: James/Wilson made a motion to recommend that City Council approve the Zoning request. Discussion after the motion took place and an amended motion was made by Roseboro/Domitrovic to insert an overlay to prohibit a payday loan business, pawn shop or a store that sales liquor.

Motion carried 6:2 and 1 abstention.

Agenda Item No. VII-1

City of Wichita
City Council Meeting
November 8, 2016

TO: Wichita Airport Authority

SUBJECT: Agreement relating to the ACT 3 Construction Contract
Wichita Dwight D. Eisenhower National Airport

INITIATED BY: Law Department

AGENDA: Wichita Airport Authority (Non-Consent)

Recommendation: Consider the settlement agreement for action as determined by WAA.

Background: KeyWalbridge, a joint venture (KW) and the Wichita Airport Authority (WAA) entered into a construction contract on July 17, 2012 for the new passenger terminal at Eisenhower National Airport and related campus-wide, integrated systems. On September 14, 2016, the parties participated in voluntary mediation of the pending contractual matters.

Analysis: The settlement agreement proposed by KW after mediation would resolve all of WAA's and KW's pending contractual claims by payment of the sum of $2,044,651. The WAA's warranty claims would hereafter be made directly to manufacturers and subcontractors. The KW two-year maintenance obligation and all insurance and surety obligations would be eliminated by the proposal. Within five days after KW's submission of closing documentation and payment by the WAA, KW will pay the balance it owes to its systems integrator subcontractor, Leidos. These terms, if approved, will resolve remaining contractual issues between the parties.

Financial Considerations: The payment to be made by the WAA includes work done for Final Acceptance and retainage. The proposed payment is within the project budget authorized and will be accomplished by a deductive change order of $45,385. The proposed agreement from KW would absolve third parties, i.e., insurers and sureties, of obligations for which they have already been paid.

Legal Considerations: The mediation resolution is expressly subject to WAA acceptance.

Recommendations/Actions: It is recommended that the Wichita Airport Authority consider the proposed agreement, accept or reject the same, provide direction to staff and authorize the necessary signatures as necessary to effect the WAA's decision.

Attachment: Proposed Agreement.

City of Wichita
City Council Meeting
November 8, 2016

TO: Mayor and City Council

SUBJECT: City Council Policy for Proceeds from the Sale of City-Owned Property

INITIATED BY: City Manager's Office

AGENDA: Council Member Agenda

Recommendation: Approve the policy.

Background: The City seeks to dispose of property that is no longer needed for a public purpose. This allows property to be returned to the tax rolls and reduces City maintenance costs. In addition, surplus property sales often allow property to be used for its highest purpose, which benefits the entire community. The process for disposing of surplus property is guided by the final report recommendations of the Request for Proposal (RFP) Advisory Committee and by the Downtown Development Incentives Policy. The committee report was received and the Downtown Development Incentives Policy approved by the City Council on June 10, 2014.

The surplus property often includes remnants of property purchased for capital improvement projects. These remnants usually have no development potential, limited or no street access, and limited economic value. Staff receive City Council approval to market these remnants, then return for City Council approval to sell when a reasonable offer is received.

The City may dispose of property currently used by the City, but that is within an area that has an adopted plan for a higher and better use. In these cases, staff would utilize a streamlined Request for Proposal (RFP) process. In this process, City staff would evaluate any proposals received and recommend City Council approval of the proposal that is considered the most advantageous for the community.

The City also may own property that has a potentially strategic use. In these cases, staff utilize a Request for Proposal (RFP) process to solicit proposals to repurpose the property. A selection committee would review all proposals, often interview finalists, and provide a recommendation to the City Council for adoption.

Analysis: Although the process to dispose property has been well defined, there is not a specific policy on the use of proceeds from the sale of property. Staff have developed a proposed City Council policy to outline how proceeds from the sale of surplus property should be credited, and how those proceeds should be used.

Crediting of Net Proceeds - The proposed City Council policy outlines the potential uses of the proceeds from the sale of surplus property. First, any direct costs of selling the property will be deducted. The remaining amount will be considered "net proceeds." Staff recommend that any net proceeds initially be directed with regard to any stipulations or legal requirements made when the property was initially purchased that are relevant based on the funding source used to initially purchase the property. This would include any stipulations that may exist on any property purchased with federal funds and any debt outstanding associated with the property being disposed.

Next, the proposed policy would direct any net proceeds back to the initial funding source of that acquisition. Often, the City would use Tax Increment Financing resources, the Debt Service Fund, or the Local Sales Tax Fund to purchase property. In addition, the City's enterprise funds (especially the Golf, Water and Sewer funds) may have acquired the property that is being disposed. Any net proceeds would

be directed back to those initial funding sources.

Finally, if there are no legal restrictions and no debt outstanding, the net proceeds would by default be directed 45% to the Economic Development Fund and 55% to the General Fund. In addition, the net proceeds would be redirected to any other fund if the City Council provides alternative direction at the time the property is disposed.

Use of Net Proceeds - The proposed City Council policy also outlines the potential uses of the net unrestricted proceeds. Since each property sale is non-recurring, staff recommend that the unrestricted net proceeds be directed toward non-recurring or one-time purposes. Additionally, staff recommend that any proceeds be used to improve outcomes in City Council priority areas or for any other purposes directed by the City Council.

Financial Considerations: Revenues from the disposal of surplus property are difficult to forecast and vary widely each year. In 2014 a total of $1,410,661 in net proceeds was received. In 2015, a total of $1,930,599 was received. The 2017 Adopted Budget estimates total net proceeds to the General Fund from surplus property sales of $200,000.

Legal Considerations: The proposed policy has been reviewed by the Law Department.

Recommendation/Action: It is recommended that the City Council approve City Council Policy 37: Proceeds from the Sale of City-Owned Property.

Attachments: Draft City Policy for Proceeds from the Sale of City-Owned Property

CITY COUNCIL POLICY

Policy 37
November 8, 2016

Subject: Proceeds from the Sale of City-Owned Property

It shall be the policy of the City Council of the City of Wichita to direct the proceeds of the sale of surplus property first towards satisfying any legal obligations or existing debt and then to direct any remaining net proceeds to both the Economic Development Fund and the General Fund, and to use any proceeds for non-recurring purposes, or other specific priority areas as identified by the City Council.

I. Crediting the Proceeds from the Sale of Surplus Property:

Any sale of surplus property will be approved by the City Council. Any costs of disposing of the property will first be deducted from the amount received, including any amount due the Property Management Section of the City Manager's Office for marketing and selling the property. Any amount remaining after direct costs are deducted will be considered "net proceeds."

Any net proceeds will first be directed based on any legal or regulatory requirements. If the City issued debt to acquire the property being disposed, any net proceeds will be directed to retiring any remaining outstanding debt balance.

Any remaining net proceeds will then be directed to the funding source that initially acquired the property. Any property acquired from enterprise fund revenues will be re-directed back to the appropriate enterprise fund. Any remaining proceeds will be considered "unrestricted proceeds."

Unrestricted proceeds will be credited 45% to the Economic Development Fund and 55% to the General Fund.

II. Use of Net Proceeds from the Sale of Surplus Property:

Net proceeds from the sale of surplus property should be considered as a funding source for one-time projects and for non-recurring purposes. Net proceeds may also be directed for specific priority areas based on Council direction.

City of Wichita
City Council Meeting
November 8, 2016

TO: Mayor and City Council

SUBJECT: Revised Petitions for Improvements to Harry's Landing Addition (District II)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Approve the revised petitions and adopt the amending resolutions.

Background: On May 10, 2016, the City Council approved petitions for water, sanitary sewer, and paving improvements to serve Harry's Landing Addition. The improvement district has been revised and increased to include all lots in the subdivision, allowing for a more equitable distribution of specials. The signatures on the revised petitions represent 100% of the improvement district and the petitions are valid per Kansas Statute 12-6a01.

Analysis: The project will provide water, sanitary sewer, and paving improvements required for a new residential development located north of Harry and east of Rock Road.

Financial Considerations: The petition amounts remain the same at $52,000 for water, $61,500 for sewer, and $264,500 for paving. The funding source for the project is 100% special assessments.

Legal Considerations: The Law Department has reviewed and approved the revised petitions and amending resolutions as to form.

Recommendation/Actions: It is recommended that the City Council approve the revised petitions, adopt the amending resolutions, and authorize the necessary signatures.

Attachments: Petitions, and amending resolutions.

Revised
448-90735

RECEIVED

JUL 15 '16

CITY CLERK OFFICE

PETITION
WATER DISTRIBUTION IMPROVEMENT – HARRY'S LANDING, WICHITA, KS

TO: The Mayor and City Council (the "Governing Body")
City of Wichita, Kansas

1. The undersigned, being the owners of record of more than one-half of the area liable for assessment set forth below for the proposed improvements of the City of Wichita, Kansas (the "City"), do hereby request that said improvements be made in the manner provided by K.S.A. 12-6a01 *et seq* (the "Act").

(a) The improvements proposed to be made are as follows (the "Improvements"):

Construction of a water distribution system, including necessary water mains, pipes, valves, hydrants, and appurtenances to serve the Improvement District defined below

The Improvements shall be constructed in accordance with City standards and plans and specifications prepared or approved by the City Engineer

(b) The estimated or probable cost of the proposed Improvements is: $ 52,000, exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of submission of this Petition to the City. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions hereof.

(c) The extent of the proposed improvement district (the "Improvement District") to be assessed for the costs of the proposed Improvements is:

Lots 1 through 24, Block A, Harry's Landing Addition, Wichita, Sedgwick County, Kansas

(d) The proposed method of assessment is equally per lot (24 lots)

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

(e) The proposed apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: 100% to be assessed against the Improvement District and 0% to be paid by the City-at-large.

(f) The payment of assessments proposed to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

2. It is further requested that the proposed Improvements be made without notice and hearing as required by the Act.

3. If the Improvements are: (i) abandoned, altered and/or constructed privately, in part or whole, precluding the building of the Improvement under the authority of this Petition and the Act; or (ii) it is necessary for the City to redesign, repair or reconstruct the Improvements after its initial design and/or construction because the design and/or construction does not meet the requirements of City code provisions; any costs incurred by the City as a result of submission of this Petition shall be assessed to property within the proposed Improvement District in accordance with the provisions hereof.

4. Names may not be withdrawn from this Petition by the signers hereof after the Governing Body commences consideration of this Petition, or, later than seven (7) days after the filing hereof, whichever occurs first.

5. The Governing Body is further requested to proceed with adoption of a resolution authorizing the Improvements and establishing the Improvement District in accordance with the Act and the construction of the Improvements in an expeditious manner.

Signature	**Dated**	**Property Owned Within Proposed Improvement District**
	7/13/16	Lots 1-24, Block A, Harry's Landing

****

THIS PETITION was filed in my office on July 15, 2016

Deputy City Clerk

735558

(Published in the *Wichita Eagle*, on _____)

RESOLUTION NO. _____

A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE MAKING OF THE IMPROVEMENTS IN ACCORDANCE WITH SUCH FINDINGS (WATER DISTRIBUTION SYSTEM – HARRY'S LANDING ADDITION/NORTH OF HARRY, EAST OF ROCK ROAD) (448-90735).

WHEREAS, the City of Wichita, Kansas (the "City") is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, the City Council of the City (the "Governing Body") has heretofore by **Resolution No. 16-103** of the City (the "Prior Resolution") authorized certain internal improvements; and

WHEREAS, the extent of the proposed improvement district to be assessed for the cost of the proposed improvements authorized by the Prior Resolution has changed;

WHEREAS, pursuant to the receipt of a new petition (the "Petition"), it is necessary to authorize the improvements requested therein by the adoption of a new resolution of the City and repeal the Prior Resolution; and

WHEREAS, the Petition was filed with the City Clerk proposing certain internal improvements; and said Petition sets forth: (a) the general nature of the proposed improvements; (b) the estimated or probable cost of the proposed improvements; (c) the extent of the proposed improvement district to be assessed for the cost of the proposed improvements; (d) the proposed method of assessment; (e) the proposed apportionment of the cost between the improvement district and the City at large; and (f) a request that such improvements be made without notice and hearing as required by K.S.A. 12-6a01 *et seq.* (the "Act"); and

WHEREAS, the Governing Body hereby finds and determines that said Petition was signed by **the owners of record of more than one-half of the area** liable for assessment for the proposed improvements, and is therefore sufficient in accordance with the provisions of the Act.

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Repealer. The Prior Resolution is hereby repealed.

Section 2. Findings of Advisability. The Governing Body hereby finds and determines that:

(a) It is advisable to make the following improvements:

Construction of a water distribution system, including necessary water mains, pipes, valves, hydrants, and appurtenances to serve the Improvement District defined below (the "Improvements").

(b) The estimated or probable cost of the Improvements is **Fifty-Two Thousand Dollars ($52,000),** exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of submission of the Petition to the City. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions hereof.

(c) The extent of the improvement district (the "Improvement District") to be assessed for the cost of the Improvements is:

Lots 1 through 24, Block A, Harry's Landing Addition, Wichita, Sedgwick County, Kansas

(d) The method of assessment is: **equally per lot (24 lots).**

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

(e) The apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: **100%** to be assessed against the Improvement District and **0%** to be paid by the City-at-large.

(f) The payment of assessments to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

Section 3. Authorization of Improvements. The Improvements are hereby authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in ***Section 2*** of this Resolution.

Section 4. Plans and Specifications. The City Engineer shall prepare plans and specifications for said Improvements and a preliminary estimate of cost therefore, which plans, specifications and estimate shall be presented to the Governing Body for its approval.

Section 5. Bond Authority; Reimbursement. The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of adoption of the Prior Resolution, and 60 days before the date of adoption of this Resolution, to the extent of the increased authorization contained herein, all pursuant to Treasury Regulation § 1.150-2.

Section 6. Effective Date. This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

ADOPTED by the City Council of the City of Wichita, Kansas, on _____.

(SEAL)

_____
Jeff Longwell, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
for Jennifer Magaña, City Attorney
and Director of Law

Revised
468-85113
Lot 14, M11, WIS

RECEIVED

JUL 15 '16

CITY CLERK OFFICE

PETITION
SANITARY SEWER IMPROVEMENT – HARRY'S LANDING ADDITION, WICHITA, KS

TO: The Mayor and City Council (the "Governing Body")
City of Wichita, Kansas

1. The undersigned, being the owners of record of more than one-half of the area liable for assessment set forth below for the proposed improvements of the City of Wichita, Kansas (the "City"), do hereby request that said improvements be made in the manner provided by K.S.A. 12-6a01 *et seq* (the "Act").

(a) The improvements proposed to be made are as follows (the "Improvements"):

Construction of a lateral sanitary sewer, including necessary sewer mains and appurtenances to serve the Improvement District defined below.

The Improvements shall be constructed in accordance with City standards and plans and specifications prepared or approved by the City Engineer

(b) The estimated or probable cost of the proposed Improvements is: $ 61,500, exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of submission of this Petition to the City. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions hereof.

(c) The extent of the proposed improvement district (the "Improvement District") to be assessed for the costs of the proposed Improvements is:

Lots 1 through 24, Block A, Harry's Landing Addition, Wichita, Sedgwick County, Kansas

(d) The proposed method of assessment is equally per lot (24 lots)

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

(e) The proposed apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: 100% to be assessed against the Improvement District and 0% to be paid by the City-at-large.

(f) The payment of assessments proposed to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

2. It is further requested that the proposed Improvements be made without notice and hearing as required by the Act.

3. If the Improvements are: (i) abandoned, altered and/or constructed privately, in part or whole, precluding the building of the Improvement under the authority of this Petition and the Act; or (ii) it is necessary for the City to redesign, repair or reconstruct the Improvements after its initial design and/or construction because the design and/or construction does not meet the requirements of City code provisions; any costs incurred by the City as a result of submission of this Petition shall be assessed to property within the proposed Improvement District in accordance with the provisions hereof.

4. Names may not be withdrawn from this Petition by the signers hereof after the Governing Body commences consideration of this Petition, or, later than seven (7) days after the filing hereof, whichever occurs first.

5. The Governing Body is further requested to proceed with adoption of a resolution authorizing the Improvements and establishing the Improvement District in accordance with the Act and the construction of the Improvements in an expeditious manner.

Signature	**Dated**	**Property Owned Within Proposed Improvement District**
	7/12/16	Lots 1-24, Block A, Harry's Landing

****

THIS PETITION was filed in my office on July 15, 2016.

Deputy City Clerk

744423

(Published in the ***Wichita Eagle***, on _____)

RESOLUTION NO. _____

A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE MAKING OF THE IMPROVEMENTS IN ACCORDANCE WITH SUCH FINDINGS (LATERAL 14, MAIN 11, WAR INDUSTRIES SEWER – HARRY'S LANDING ADDITION/NORTH OF HARRY, EAST OF ROCK ROAD) (468-85113).

WHEREAS, the City of Wichita, Kansas (the "City") is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, the City Council of the City (the "Governing Body") has heretofore by **Resolution No. 16-101** of the City (the "Prior Resolution) authorizing certain internal improvements; and

WHEREAS, the extent of the proposed improvement district to be assessed for the cost of the proposed improvements authorized by the Prior Resolution has changed;

WHEREAS, pursuant to the receipt of a new petition (the "Petition"), it is necessary to authorize the improvements requested therein by the adoption of a new resolution of the City and repeal the Prior Resolution; and

WHEREAS, the Petition was filed with the City Clerk proposing certain internal improvements; and said Petition sets forth: (a) the general nature of the proposed improvements; (b) the estimated or probable cost of the proposed improvements; (c) the extent of the proposed improvement district to be assessed for the cost of the proposed improvements; (d) the proposed method of assessment; (e) the proposed apportionment of the cost between the improvement district and the City at large; and (f) a request that such improvements be made without notice and hearing as required by K.S.A. 12-6a01 *et seq.* (the "Act"); and

WHEREAS, the Governing Body hereby finds and determines that said Petition was signed by **the owners of record of more than one-half of the area** liable for assessment for the proposed improvements, and is therefore sufficient in accordance with the provisions of the Act.

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Repealer. The Prior Resolution is hereby repealed.

Section 2. Findings of Advisability. The Governing Body hereby finds and determines that:

(a) It is advisable to make the following improvements:

Construction of a lateral sanitary sewer, including necessary sewer mains and appurtenances to serve the Improvement District defined below (the "Improvements").

(b) The estimated or probable cost of the Improvements is **Sixty-One Thousand Five Hundred Dollars ($61,500),** exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of submission of the Petition to the City. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions hereof.

(c) The extent of the improvement district (the "Improvement District") to be assessed for the cost of the Improvements is:

Lots 1 through 24, Block A, Harry's Landing Addition, Wichita, Sedgwick County, Kansas

(d) The method of assessment is: **equally per lot (24 lots).**

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

(e) The apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: **100%** to be assessed against the Improvement District and **0%** to be paid by the City-at-large.

(f) The payment of assessments to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

Section 3. Authorization of Improvements. The Improvements are hereby authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in ***Section 2*** of this Resolution.

Section 4. Plans and Specifications. The City Engineer shall prepare plans and specifications for said Improvements and a preliminary estimate of cost therefore, which plans, specifications and estimate shall be presented to the Governing Body for its approval.

Section 5. Bond Authority; Reimbursement. The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of adoption of the Prior Resolution, and 60 days before the date of adoption of this Resolution, to the extent of the increased authorization contained herein, all pursuant to Treasury Regulation § 1.150-2.

Section 6. Effective Date. This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

ADOPTED by the City Council of the City of Wichita, Kansas, on _____.

(SEAL)

_____
Jeff Longwell, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
for Jennifer Magaña, City Attorney
and Director of Law

Revised
472-85291

RECEIVED

JUL 15 '16

CITY CLERK OFFICE

PETITION
PAVING IMPROVEMENT – HARRY'S LANDING ADDITION, WICHITA, KS

TO: The Mayor and City Council (the "Governing Body")
City of Wichita, Kansas

1. The undersigned, being the owners of record of more than one-half of the area liable for assessment set forth below for the proposed improvements of the City of Wichita, Kansas (the "City"), do hereby request that said improvements be made in the manner provided by K.S.A. 12-6a01 *et seq* (the "Act").

(a) The improvements proposed to be made are as follows (the "Improvements"):

Construction of pavement on Harry Ct., with drainage to be installed where necessary.

The Improvements shall be constructed in accordance with City standards and plans and specifications prepared or approved by the City Engineer

(b) The estimated or probable cost of the proposed Improvements is: $ 264,500, exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of submission of this Petition to the City. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions hereof.

(c) The extent of the proposed improvement district (the "Improvement District") to be assessed for the costs of the proposed Improvements is:

Lots 1 through 24, Block A, Harry's Landing Addition, Wichita, Sedgwick County, Kansas

(d) The proposed method of assessment is equally per lot (24 lots)

In the event that the driveway approaches and curb cuts are not included within the scope of the Improvements and the estimated cost thereof as set forth in subsection (b) above, the costs of such driveway approaches and curb cuts so constructed shall be directly assessed to the property benefitted thereby in addition to the assessments levied for the Improvements.

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

(e) The proposed apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: 100% to be assessed against the Improvement District and 0% to be paid by the City-at-large.

(f) The payment of assessments proposed to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

2. It is further requested that the proposed Improvements be made without notice and hearing as required by the Act.

3. If the Improvements are: (i) abandoned, altered and/or constructed privately, in part or whole, precluding the building of the Improvement under the authority of this Petition and the Act; or (ii) it is necessary for the City to redesign, repair or reconstruct the Improvements after its initial design and/or construction because the design and/or construction does not meet the requirements of City code provisions; any costs incurred by the City as a result of submission of this Petition shall be assessed to property within the proposed Improvement District in accordance with the provisions hereof.

4. Names may not be withdrawn from this Petition by the signers hereof after the Governing Body commences consideration of this Petition, or, later than seven (7) days after the filing hereof, whichever occurs first.

5. The Governing Body is further requested to proceed with adoption of a resolution authorizing the Improvements and establishing the Improvement District in accordance with the Act and the construction of the Improvements in an expeditious manner.

Signature	**Dated**	**Property Owned Within Proposed Improvement District**
	7/13/16	Lots 1-24, Block A, Harry's Landing

****

THIS PETITION was filed in my office on July 15 2016

Deputy City Clerk

766370

(Published in the *Wichita Eagle*, on _____)

RESOLUTION NO. _____

A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE MAKING OF THE IMPROVEMENTS IN ACCORDANCE WITH SUCH FINDINGS (PAVING IMPROVEMENTS – HARRY'S LANDING ADDITION/NORTH OF HARRY, EAST OF ROCK ROAD) (472-85291).

WHEREAS, the City of Wichita, Kansas (the "City") is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, the City Council of the City (the "Governing Body") has heretofore by **Resolution No. 16-102** of the City (the "Prior Resolution) authorizing certain internal improvements; and

WHEREAS, the extent of the proposed improvement district to be assessed for the cost of the proposed improvements authorized by the Prior Resolution has changed;

WHEREAS, pursuant to the receipt of a new petition (the "Petition"), it is necessary to authorize the improvements requested therein by the adoption of a new resolution of the City and repeal the Prior Resolution; and

WHEREAS, the Petition was filed with the City Clerk proposing certain internal improvements; and said Petition sets forth: (a) the general nature of the proposed improvements; (b) the estimated or probable cost of the proposed improvements; (c) the extent of the proposed improvement district to be assessed for the cost of the proposed improvements; (d) the proposed method of assessment; (e) the proposed apportionment of the cost between the improvement district and the City at large; and (f) a request that such improvements be made without notice and hearing as required by K.S.A. 12-6a01 *et seq.* (the "Act"); and

WHEREAS, the Governing Body hereby finds and determines that said Petition was signed by **the owners of record of more than one-half of the area** liable for assessment for the proposed improvements, and is therefore sufficient in accordance with the provisions of the Act.

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Repealer. The Prior Resolution is hereby repealed.

Section 2. Findings of Advisability. The Governing Body hereby finds and determines that:

(a) It is advisable to make the following improvements:

Construction of pavement on Harry Court, with drainage to be installed where necessary (the "Improvements").

(b) The estimated or probable cost of the Improvements is **Two Hundred Sixty-Four Thousand Five Hundred Dollars ($264,500),** exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of submission of the Petition to the City. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions hereof.

(c) The extent of the improvement district (the "Improvement District") to be assessed for the cost of the Improvements is:

Lots 1 through 24, Block A, Harry's Landing Addition, Wichita, Sedgwick County, Kansas

(d) The method of assessment is: **equally per lot (24 lots).**

In the event that the driveway approaches and curb cuts are not included within the scope of the Improvements and the estimated cost thereof as set forth in subsection (b) above, the costs of such driveway approaches and curb cuts so constructed shall be directly assessed to the property benefitted thereby in addition to the assessments levied for the Improvements.

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

(e) The apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: **100%** to be assessed against the Improvement District and **0%** to be paid by the City-at-large.

(f) The payment of assessments to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

Section 3. Authorization of Improvements. The Improvements are hereby authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in ***Section 2*** of this Resolution.

Section 4. Plans and Specifications. The City Engineer shall prepare plans and specifications for said Improvements and a preliminary estimate of cost therefore, which plans, specifications and estimate shall be presented to the Governing Body for its approval.

Section 5. Bond Authority; Reimbursement. The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of adoption of the Prior Resolution, and 60 days before the date of adoption of this Resolution, to the extent of the increased authorization contained herein, all pursuant to Treasury Regulation § 1.150-2.

Section 6. Effective Date. This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

ADOPTED by the City Council of the City of Wichita, Kansas, on _____.

(SEAL)

_____
Jeff Longwell, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
for Jennifer Magaña, City Attorney
and Director of Law

744423

(Published in the ***Wichita Eagle***, on November 11, 2016)

RESOLUTION NO. 16-

A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE MAKING OF THE IMPROVEMENTS IN ACCORDANCE WITH SUCH FINDINGS (LATERAL 14, MAIN 11, WAR INDUSTRIES SEWER – HARRY'S LANDING ADDITION/NORTH OF HARRY, EAST OF ROCK ROAD) (468-85113).

WHEREAS, the City of Wichita, Kansas (the "City") is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, the City Council of the City (the "Governing Body") has heretofore by **Resolution No. 16-101** of the City (the "Prior Resolution) authorizing certain internal improvements; and

WHEREAS, the extent of the proposed improvement district to be assessed for the cost of the proposed improvements authorized by the Prior Resolution has changed;

WHEREAS, pursuant to the receipt of a new petition (the "Petition"), it is necessary to authorize the improvements requested therein by the adoption of a new resolution of the City and repeal the Prior Resolution; and

WHEREAS, the Petition was filed with the City Clerk proposing certain internal improvements; and said Petition sets forth: (a) the general nature of the proposed improvements; (b) the estimated or probable cost of the proposed improvements; (c) the extent of the proposed improvement district to be assessed for the cost of the proposed improvements; (d) the proposed method of assessment; (e) the proposed apportionment of the cost between the improvement district and the City at large; and (f) a request that such improvements be made without notice and hearing as required by K.S.A. 12-6a01 *et seq.* (the "Act"); and

WHEREAS, the Governing Body hereby finds and determines that said Petition was signed by **the owners of record of more than one-half of the area** liable for assessment for the proposed improvements, and is therefore sufficient in accordance with the provisions of the Act.

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. **Repealer**. The Prior Resolution is hereby repealed.

Section 2. **Findings of Advisability**. The Governing Body hereby finds and determines that:

(a) It is advisable to make the following improvements:

Construction of a lateral sanitary sewer, including necessary sewer mains and appurtenances to serve the Improvement District defined below (the "Improvements").

(b) The estimated or probable cost of the Improvements is **Sixty-One Thousand Five Hundred Dollars ($61,500),** exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of submission of the Petition to the City. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions hereof.

(c) The extent of the improvement district (the "Improvement District") to be assessed for the cost of the Improvements is:

Lots 1 through 24, Block A, Harry's Landing Addition, Wichita, Sedgwick County, Kansas

(d) The method of assessment is: **equally per lot (24 lots).**

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

(e) The apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: **100%** to be assessed against the Improvement District and **0%** to be paid by the City-at-large.

(f) The payment of assessments to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

Section 3. **Authorization of Improvements**. The Improvements are hereby authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in ***Section 2*** of this Resolution.

Section 4. **Plans and Specifications**. The City Engineer shall prepare plans and specifications for said Improvements and a preliminary estimate of cost therefore, which plans, specifications and estimate shall be presented to the Governing Body for its approval.

Section 5. **Bond Authority; Reimbursement**. The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of adoption of the Prior Resolution, and 60 days before the date of adoption of this Resolution, to the extent of the increased authorization contained herein, all pursuant to Treasury Regulation § 1.150-2.

Section 6. **Effective Date**. This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

ADOPTED by the City Council of the City of Wichita, Kansas, on November 8, 2016.

(SEAL)

_____
Jeff Longwell, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Jennifer Magaña, City Attorney
and Director of Law

735558

(Published in the ***Wichita Eagle***, on November 11, 2016)

RESOLUTION NO. 16-433

A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE MAKING OF THE IMPROVEMENTS IN ACCORDANCE WITH SUCH FINDINGS (WATER DISTRIBUTION SYSTEM – HARRY'S LANDING ADDITION/NORTH OF HARRY, EAST OF ROCK ROAD) (448-90735).

WHEREAS, the City of Wichita, Kansas (the "City") is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, the City Council of the City (the "Governing Body") has heretofore by **Resolution No. 16-103** of the City (the "Prior Resolution") authorized certain internal improvements; and

WHEREAS, **the extent of the proposed improvement district to be assessed for the cost of the proposed improvements authorized by the Prior Resolution has changed;**

WHEREAS, pursuant to the receipt of a new petition (the "Petition"), it is necessary to authorize the improvements requested therein by the adoption of a new resolution of the City and repeal the Prior Resolution; and

WHEREAS, the Petition was filed with the City Clerk proposing certain internal improvements; and said Petition sets forth: (a) the general nature of the proposed improvements; (b) the estimated or probable cost of the proposed improvements; (c) the extent of the proposed improvement district to be assessed for the cost of the proposed improvements; (d) the proposed method of assessment; (e) the proposed apportionment of the cost between the improvement district and the City at large; and (f) a request that such improvements be made without notice and hearing as required by K.S.A. 12-6a01 *et seq.* (the "Act"); and

WHEREAS, the Governing Body hereby finds and determines that said Petition was signed by **the owners of record of more than one-half of the area** liable for assessment for the proposed improvements, and is therefore sufficient in accordance with the provisions of the Act.

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. **Repealer**. The Prior Resolution is hereby repealed.

Section 2. **Findings of Advisability**. The Governing Body hereby finds and determines that:

(a) It is advisable to make the following improvements:

Construction of a water distribution system, including necessary water mains, pipes, valves, hydrants, and appurtenances to serve the Improvement District defined below (the "Improvements").

(b) The estimated or probable cost of the Improvements is **Fifty-Two Thousand Dollars ($52,000),** exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of submission of the Petition to the City. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions hereof.

(c) The extent of the improvement district (the "Improvement District") to be assessed for the cost of the Improvements is:

Lots 1 through 24, Block A, Harry's Landing Addition, Wichita, Sedgwick County, Kansas

(d) The method of assessment is: **equally per lot (24 lots).**

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

(e) The apportionment of the cost of the Improvements, between the Improvement District and the City at large, is**: 100%** to be assessed against the Improvement District and **0%** to be paid by the City-at-large.

(f) The payment of assessments to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

Section 3. **Authorization of Improvements**. The Improvements are hereby authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in ***Section 2*** of this Resolution.

Section 4. **Plans and Specifications**. The City Engineer shall prepare plans and specifications for said Improvements and a preliminary estimate of cost therefore, which plans, specifications and estimate shall be presented to the Governing Body for its approval.

Section 5. **Bond Authority; Reimbursement**. The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of adoption

of the Prior Resolution, and 60 days before the date of adoption of this Resolution, to the extent of the increased authorization contained herein, all pursuant to Treasury Regulation § 1.150-2.

Section 6. **Effective Date**. This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

ADOPTED by the City Council of the City of Wichita, Kansas, on November 8, 2016.

(SEAL)

_____
Jeff Longwell, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Jennifer Magaña, City Attorney
and Director of Law

766370

(Published in the ***Wichita Eagle***, on November 11, 2016)

RESOLUTION NO. 16-434

A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE MAKING OF THE IMPROVEMENTS IN ACCORDANCE WITH SUCH FINDINGS (PAVING IMPROVEMENTS – HARRY'S LANDING ADDITION/NORTH OF HARRY, EAST OF ROCK ROAD) (472-85291).

WHEREAS, the City of Wichita, Kansas (the "City") is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, the City Council of the City (the "Governing Body") has heretofore by **Resolution No. 16-102** of the City (the "Prior Resolution) authorizing certain internal improvements; and

WHEREAS, the extent of the proposed improvement district to be assessed for the cost of the proposed improvements authorized by the Prior Resolution has changed;

WHEREAS, pursuant to the receipt of a new petition (the "Petition"), it is necessary to authorize the improvements requested therein by the adoption of a new resolution of the City and repeal the Prior Resolution; and

WHEREAS, the Petition was filed with the City Clerk proposing certain internal improvements; and said Petition sets forth: (a) the general nature of the proposed improvements; (b) the estimated or probable cost of the proposed improvements; (c) the extent of the proposed improvement district to be assessed for the cost of the proposed improvements; (d) the proposed method of assessment; (e) the proposed apportionment of the cost between the improvement district and the City at large; and (f) a request that such improvements be made without notice and hearing as required by K.S.A. 12-6a01 *et seq.* (the "Act"); and

WHEREAS, the Governing Body hereby finds and determines that said Petition was signed by **the owners of record of more than one-half of the area** liable for assessment for the proposed improvements, and is therefore sufficient in accordance with the provisions of the Act.

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. **Repealer**. The Prior Resolution is hereby repealed.

Section 2. **Findings of Advisability**. The Governing Body hereby finds and determines that:

(a) It is advisable to make the following improvements:

Construction of pavement on Harry Court, with drainage to be installed where necessary (the "Improvements").

(b) The estimated or probable cost of the Improvements is **Two Hundred Sixty-Four Thousand Five Hundred Dollars ($264,500),** exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of submission of the Petition to the City. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions hereof.

(c) The extent of the improvement district (the "Improvement District") to be assessed for the cost of the Improvements is:

Lots 1 through 24, Block A, Harry's Landing Addition, Wichita, Sedgwick County, Kansas

(d) The method of assessment is: **equally per lot (24 lots).**

In the event that the driveway approaches and curb cuts are not included within the scope of the Improvements and the estimated cost thereof as set forth in subsection (b) above, the costs of such driveway approaches and curb cuts so constructed shall be directly assessed to the property benefitted thereby in addition to the assessments levied for the Improvements.

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

(e) The apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: **100%** to be assessed against the Improvement District and **0%** to be paid by the City-at-large.

(f) The payment of assessments to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

Section 3. **Authorization of Improvements**. The Improvements are hereby authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in ***Section 2*** of this Resolution.

Section 4. **Plans and Specifications**. The City Engineer shall prepare plans and specifications for said Improvements and a preliminary estimate of cost therefore, which plans, specifications and estimate shall be presented to the Governing Body for its approval.

Section 5. **Bond Authority; Reimbursement**. The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of adoption of the Prior Resolution, and 60 days before the date of adoption of this Resolution, to the extent of the increased authorization contained herein, all pursuant to Treasury Regulation § 1.150-2.

Section 6. **Effective Date**. This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

ADOPTED by the City Council of the City of Wichita, Kansas, on November 8, 2016.

(SEAL)

_____
Jeff Longwell, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Jennifer Magaña, City Attorney
and Director of Law

City of Wichita
City Council Meeting
November 8, 2016

TO: Mayor and City Council

SUBJECT: Sycamore Village Third Addition Sidewalk (District II)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Approve the petition and adopt the resolution.

Background: Homeowners in the Sycamore Village Third Addition want to extend the sidewalk along 24th Street from Rock Road to the existing sidewalk on Rutland. A petition was signed by 100% of the improvement district area and is valid per Kansas Statute 12-6a01.

Analysis: The proposed project will construct a 5-foot sidewalk along 24th Street from Rock Road to the existing sidewalk on Rutland.

Financial Considerations: The estimated cost of the sidewalk is $120,000, with 100% of the final cost being assessed to the improvement district.

Legal Considerations: The petition and resolution have been reviewed and approved as to form by the Law Department.

Recommendation/Actions: It is recommended that the City Council approve the petition, adopt the resolution, and authorize the necessary signatures.

Attachments: Petition, resolution, map, and budget sheet.

Sycamore Village Sidewalk

Legend
Parcels

0.1 0 0.04 0.1 Miles

1: 2,300 Map Created On: 6/20/16 1:59 PM

This information is not an official record, and cannot be used as such. The user should rely only upon official records available from the custodian of records in the appropriate City and/or County department. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita.

Project Request

◯ CIP ◉ Non-CIP

☒ NEIGHBORHOOD IMPROVEMENT ◯ ORDERED BY WCC ◉ PETITION PETITION PERCENTAGE: 100%

DEPARTMENT: 13 Public Works & Utilities DIVISION: Engineering RESOLUTION/ORDINANCE #:

ENGINEERING REFERENCE #: 472-85310

FUND: 435 Public Improvements

COUNCIL DISTRICT: Council District 2 DATE COUNCIL APPROVED: 11/8/16 REQUEST DATE:

PROJECT # : PROJECT TITLE: Sycamore Village Addition Sidewalks

PROJECT DETAIL # : PROJECT DETAIL DESCRIPTION: Sycamore Village Addition Sidewalks

OCA # : OCA TITLE: Sycamore Village Addition Sidewalks

PERSON COMPLETING FORM: Janis Edwards PHONE #: 268-4548

PROJECT MANAGER: Rebecca Greif PHONE #: 268-4505

◉ NEW BUDGET ◯ REVISED BUDGET

REVENUE		EXPENSE	
Object Level 3	**Budget**	**Object Level 3**	**Budget**
9730 S.A. Bonds	$120,000.00	2999 Contractuals	$120,000.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
REVENUE TOTAL:	$120,000.00	**EXPENSE TOTAL:**	$120,000.00

NOTES:

Print Form

SIGNATURES REQUIRED

DIVISION HEAD: Gary Jones DATE: 10/26/16

DEPARTMENT HEAD: Joseph T. Rice DATE: 10-26-16

BUDGET OFFICER: Cheryl L. Buskada DATE: 10/26/16

CITY MANAGER: DATE:

RECEIVED
CITY CLERK OFFICE

472-85310

PETITION
(Sidewalk – Sycamore Village Third Addition/N. of 21st, W. of Rock)

TO: The Mayor and City Council (the "Governing Body")
City of Wichita, Kansas

1. The undersigned, being either a majority of the resident owners of record of the property, a majority of the resident owners of record of more than one-half of the area, and/or a majority of the owners of record of more than one-half of the area liable for assessment set forth below for the proposed improvements of the City of Wichita, Kansas (the "City"), do hereby request that said improvements be made in the manner provided by K.S.A. 12-6a01 *et seq.* (the "Act").

(a) The improvements proposed to be made are as follows (the "Improvements"):

Construction of sidewalk along 24th Street from 21st to Rutland.

The Improvements shall be constructed in accordance with City standards and plans and specifications prepared or approved by the City Engineer

(b) The estimated or probable cost of the proposed Improvements is: **$120,000**, exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of preparation of this Petition. If, at the time the City Engineer bids or is ready to bid the Improvements for construction it appears that the final cost will be more than 12% over the project cost estimate set forth above, a new petition with an increased estimated costs must be circulated and submitted. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions hereof.

(c) The extent of the proposed improvement district (the "Improvement District") to be assessed for the costs of the proposed Improvements is:

Sycamore Village Third Addition
Reserve

(d) The proposed method of assessment is: **equally per square foot**.

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

(e) The proposed apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: **100%** to be assessed against the Improvement District and **0%** to be paid by the City-at-large.

(f) The payment of assessments proposed to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

2. It is further requested that the proposed Improvements be made without notice and hearing as required by the Act.

3. If the Improvements are: (i) abandoned, altered and/or constructed privately, in part or whole, precluding the building of the Improvement under the authority of this Petition and the Act; or (ii) it is necessary for the City to redesign, repair or reconstruct the Improvements after its initial design and/or construction because the design and/or construction does not meet the requirements of City code provisions; any costs incurred by the City as a result of submission of this Petition shall be assessed to property within the proposed Improvement District in accordance with the provisions hereof.

4. Names may not be withdrawn from this Petition by the signers hereof after the Governing Body commences consideration of this Petition, or, later than seven (7) days after the filing hereof, whichever occurs first.

5. The Governing Body is further requested to proceed with adoption of a resolution authorizing the Improvements and establishing the Improvement District in accordance with the Act and the construction of the Improvements in an expeditious manner. This petition shall be considered null and void if it is not filed with the City Clerk within one year of the preparation date of **June 20, 2016**.

Signature	**Dated**	**Property Owned Within Proposed Improvement District**
Sycamore Village Home Owners Association		Reserve
Mark Johnson PRESIDENT	8-15-16	
B. MEMBER	8-15-16	

****

THIS PETITION was filed in my office on 8-18-16.

THE CITY OF WICHITA SEDGWICK COUNTY, KANSAS

Deputy City Clerk

132019

(Published in the *Wichita Eagle*, on _____)

RESOLUTION NO._____

A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE MAKING OF THE IMPROVEMENTS IN ACCORDANCE WITH SUCH FINDINGS (SIDEWALK – SYCAMORE VILLAIGE THIRD ADDITION/NORTH OF 21ST, WEST OF ROCK) (472-85310).

WHEREAS, a petition (the "Petition") was filed with the City Clerk of the City of Wichita, Kansas (the "City") proposing certain internal improvements; and said Petition sets forth: (a) the general nature of the proposed improvements; (b) the estimated or probable cost of the proposed improvements; (c) the extent of the proposed improvement district to be assessed for the cost of the proposed improvements; (d) the proposed method of assessment; (e) the proposed apportionment of the cost between the improvement district and the City at large; and (f) a request that such improvements be made without notice and hearing as required by K.S.A. 12-6a01 *et seq.*, (the "Act"); and

WHEREAS, the City Council (the "Governing Body") of the City hereby finds and determines that said Petition was signed by either **a majority of the resident owners of record of the property, a majority of resident owners of record of more than one-half of the area, and/or a majority of the owners of record of more than one-half of the area** liable for assessment for the proposed improvements, and is therefore sufficient in accordance with the provisions of the Act.

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Findings of Advisability. The Governing Body hereby finds and determines that:

(a) It is advisable to make the following improvements:

Construction of sidewalk along 24th Street from 21st to Rutland (the "Improvements").

(b) The estimated or probable cost of the Improvements is **One Hundred Twenty Thousand Dollars ($120,000)**, exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of preparation of the Petition If, at the time the City Engineer bids or is ready to bid the Improvements for construction it appears that the final cost will be more than 12% over the project cost estimate set forth above, a new petition with an increased estimated cost must be circulated and submitted. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions hereof.

(c) The extent of the improvement district (the "Improvement District") to be assessed for the cost of the Improvements is:

Sycamore Village Third Addition
Reserve

(d) The method of assessment is: **equally per square foot.**

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

(e) The apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: **100%** to be assessed against the Improvement District and **0%** to be paid by the City-at-large.

(f) The payment of assessments to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

Section 2. Authorization of Improvements. The Improvements are hereby authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in ***Section 1*** of this Resolution.

Section 3. Plans and Specifications. The City Engineer shall prepare plans and specifications for said Improvements and a preliminary estimate of cost therefore, which plans, specifications and estimate shall be presented to the Governing Body for its approval.

Section 4. Bond Authority; Reimbursement. The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation § 1.150-2.

Section 5. Effective Date. This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

ADOPTED by the City Council of the City of Wichita, Kansas, on _____.

(SEAL)

_____
Jeff Longwell, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
for Jennifer Magaña, City Attorney and Director of Law

132019

(Published in the ***Wichita Eagle***, on November 11, 2016)

RESOLUTION NO. 16-440

A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE MAKING OF THE IMPROVEMENTS IN ACCORDANCE WITH SUCH FINDINGS (SIDEWALK – SYCAMORE VILLAGE THIRD ADDITION/NORTH OF 21ST, WEST OF ROCK) (472-85310).

WHEREAS, a petition (the "Petition") was filed with the City Clerk of the City of Wichita, Kansas (the "City") proposing certain internal improvements; and said Petition sets forth: (a) the general nature of the proposed improvements; (b) the estimated or probable cost of the proposed improvements; (c) the extent of the proposed improvement district to be assessed for the cost of the proposed improvements; (d) the proposed method of assessment; (e) the proposed apportionment of the cost between the improvement district and the City at large; and (f) a request that such improvements be made without notice and hearing as required by K.S.A. 12-6a01 *et seq.*, (the "Act"); and

WHEREAS, the City Council (the "Governing Body") of the City hereby finds and determines that said Petition was signed by either **a majority of the resident owners of record of the property, a majority of resident owners of record of more than one-half of the area, and/or a majority of the owners of record of more than one-half of the area** liable for assessment for the proposed improvements, and is therefore sufficient in accordance with the provisions of the Act.

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. **Findings of Advisability**. The Governing Body hereby finds and determines that:

(a) It is advisable to make the following improvements:

Construction of sidewalk along 24th Street from 21st to Rutland (the "Improvements").

(b) The estimated or probable cost of the Improvements is **One Hundred Twenty Thousand Dollars ($120,000)**, exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of preparation of the Petition If, at the time the City Engineer bids or is ready to bid the Improvements for construction it appears that the final cost will be more than 12% over the project cost estimate set forth above, a new petition with an increased estimated cost must be circulated and submitted. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions hereof.

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(c) The extent of the improvement district (the "Improvement District") to be assessed for the cost of the Improvements is:

Sycamore Village Third Addition
Reserve

(d) The method of assessment is: **equally per square foot.**

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

(e) The apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: **100%** to be assessed against the Improvement District and **0%** to be paid by the City-at-large.

(f) The payment of assessments to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

Section 2. **Authorization of Improvements**. The Improvements are hereby authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in ***Section 1*** of this Resolution.

Section 3. **Plans and Specifications**. The City Engineer shall prepare plans and specifications for said Improvements and a preliminary estimate of cost therefore, which plans, specifications and estimate shall be presented to the Governing Body for its approval.

Section 4. **Bond Authority; Reimbursement**. The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation § 1.150-2.

Section 5. **Effective Date**. This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

ADOPTED by the City Council of the City of Wichita, Kansas, on November 8, 2016.

(SEAL)

_____
Jeff Longwell, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Jennifer Magaña, City Attorney and Director of Law

Agenda Item No. II-4a

City of Wichita
City Council Meeting
November 8, 2016

TO: Mayor and City Council

SUBJECT: Community Events – Say Grace 5K (District VI)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Consent

Recommendation: Approve the request for temporary street closures.

Background: In accordance with the Community Events procedure the event promoter, Trevor Darmstetter, goracetiming.com, is coordinating the Say Grace 5K event with City of Wichita staff, subject to final approval by the City Council.

Analysis: The following street closure requests have been submitted:

Say Grace 5K November 24, 2016 8:00 am – 12:00 pm

- North Topeka Avenue, East Elm Street to East 13th Street North
- East 13th Street North, North Topeka Avenue to Saint Francis North
- Saint Francis North, East 13th Street North to East 9th Street North
- East 9th Street North, North Topeka Avenue to North Santa Fe Avenue
- North Santa Fe Avenue, East 10th Street North to East 9th Street North
- Saint Francis North, East Pine Street to East Elm Street
- East Elm Street, North Topeka to Saint Francis North
- East Pine Street, North Topeka Avenue to Saint Francis North

The event promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

Financial Consideration: The event promoter is responsible for all costs associated with the special event.

Legal Consideration: This action complies with the ordinance on street closures for community events.

Recommendation/Actions: It is recommended that the City Council approve the request subject to: 1) hiring off-duty certified law enforcement officers as required; and 2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department.

Agenda Item No. II-4b

City of Wichita
City Council Meeting
November 8, 2016

TO: Mayor and City Council

SUBJECT: Community Events –Wichita Turkey Trot 2 Mile and 10 Mile (Districts I, IV and VI)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Consent

Recommendation: Approve the request for temporary street closures.

Background: In accordance with the Community Events procedure the event promoter, Carolyn Robinson, Timer Guys, is coordinating the Turkey Trot 2 Mile and 10 Mile event with City of Wichita staff, subject to final approval by the City Council.

Analysis: The following street closure requests have been submitted:

Turkey Trot 2 Mile and 10 Mile November 19, 2016 7:00 am – 12:00 pm

- Douglas Ave, Wichita to McLean Boulevard
- McLean Boulevard, Douglas Avenue to 13th Street North
- 13th Street North, McLean Boulevard to Perry Avenue
- Perry Avenue, 13th Street North to 12th Street North
- 12th Street North, Perry Avenue to Amidon Street
- Amidon Street, 12th Street North to Murdock Street
- Murdock Street, Amidon Avenue to Sim Park Drive
- Sim Park Drive, Murdock Street to Museum Boulevard
- Museum Boulevard, Sim Park Drive to Stackman Drive
- Stackman Drive, Museum Boulevard to Buffum Street
- Buffum Street, Stackman Drive to River Boulevard
- River Boulevard, Bufftum Street to 11th Street North
- 11th Street North, River Boulevard to Oak Park Drive
- Oak Park Drive, 11th Street North to 12th Street North
- 12th Street North, Oak Park Drive to Bitting Street
- Bitting Street, 12th Street North to River Boulevard
- River Boulevard, Bitting Street to Stackman Drive
- Stackman Drive, River Boulevard to Nims
- Nims, Stackman Drive to Central Avenue
- Central Avenue, Nims to Veterans Parkway
- Veterans Parkway, Central Avenue to 2nd Street North
- 2nd Street North, Veterans Parkway to Waco Avenue

- Waco Avenue, 2nd Street North to Douglas Avenue

The event promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

Financial Consideration: The event promoter is responsible for all costs associated with the special event.

Legal Consideration: This action complies with the ordinance on street closures for community events.

Recommendation/Actions: It is recommended that the City Council approve the request subject to: 1) hiring off-duty certified law enforcement officers as required; and 2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department.

Agenda Item No. II-4c

City of Wichita
City Council Meeting
November 8, 2016

TO: Mayor and City Council

SUBJECT: Community Events – Yingling Memorial (District I)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Consent

Recommendation: Approve the request for temporary street closures.

Background: In accordance with the Community Events procedure the event promoter, Deputy Fire Chief E.C. Snow, Wichita Fire Department, is coordinating the Yingling Memorial event with City of Wichita staff, subject to final approval by the City Council.

Analysis: The following street closure request has been submitted:

Yingling Memorial November 21, 2016 9:30 am – 11:00 am

- Topeka Street, English Street to Waterman Street

The event promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

Financial Consideration: The event promoter is responsible for all costs associated with the special event.

Legal Consideration: This action complies with the ordinance on street closures for community events.

Recommendation/Actions: It is recommended that the City Council approve the request subject to: 1) Hiring off-duty certified law enforcement officers as required; 2) Obtaining barricades to close the streets in accordance with requirements of the Police, Fire and Public Works and Utilities Departments; and 3) Securing a Certificate of Liability Insurance on file with the Community Event Coordinator.

Agenda Item No. II-4d

City of Wichita
City Council Meeting
November 8, 2016

TO: Mayor and City Council

SUBJECT: Community Events – Red Dress Dash (District VI)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Consent

Recommendation: Approve the request for temporary street closures.

Background: In accordance with the Community Events procedure the event promoter, Kristin Ghere, American Heart Association, is coordinating the Red Dress Dash event with City of Wichita staff, subject to final approval by the City Council.

Analysis: The following street closure request has been submitted:

Red Dress Dash November 10, 2016 3:00 pm – 6:30 pm

- Mosley Street, Douglas Avenue to First Street
- First Street, Mosely Street to Rock Island Street
- Rock Island Street, First Street to Douglas Avenue

The event promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

Financial Consideration: The event promoter is responsible for all costs associated with the special event.

Legal Consideration: This action complies with the ordinance on street closures for community events.

Recommendation/Actions: It is recommended that the City Council approve the request subject to: 1) Hiring off-duty certified law enforcement officers as required; 2) Obtaining barricades to close the streets in accordance with requirements of the Police, Fire and Public Works and Utilities Departments; and 3) Securing a Certificate of Liability Insurance on file with the Community Event Coordinator.

City of Wichita
City Council Meeting
November 8, 2016

TO: Mayor and City Council

SUBJECT: Acquisition of an Easement at 400 W. Central for the Riverside Siphon Project (District VI)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On December 10, 2013, the City Council approved the funding to replace or rehabilitate failing water and sewer infrastructure using the Water Mains Replacement or Relocation Program or the Reconstruction or Rehabilitation of Aged Sanitary Sewers Program. The abandonment and replacement of a siphon at 727 N. Waco is a project within the Reconstruction or Rehabilitation of Aged Sanitary Sewers Program. The project requires temporary easements from the property located at 400 W. Central. The easements will be used for staging and access. This property is improved as an apartment complex, however; no improvements are impacted by the project. The proposed temporary construction easement area is comprised of 14,287 square feet, and the access easement is 8,232 square feet.

Analysis: The owner agreed to accept the estimated market value of the taking at $4,055. This amount is based on $2 per square foot for the land using the Kansas Department of Transportation's formula for calculating temporary easements.

Financial Considerations: The City's Reconstruction or Rehabilitation of Aged Sanitary Sewers are being funded from future revenue bonds or sewer utility and water utility cash revenues. A budget of $4,250 is requested. This includes $4,055 for the acquisition and $195 for title work and other administrative fees.

Legal Considerations: The Law Department has approved the easement as to form.

Recommendation/Action: It is recommended that the City Council approve the budget.

Attachments: Temporary construction and access easement, aerial and tract map.

TEMPORARY CONSTRUCTION AND ACCESS EASEMENT

THIS EASEMENT made this 4th day of October, 2016, by and between 400 West, LLC, a Kansas limited liability company, parties of the first part, and the City of Wichita, Kansas, a municipal corporation of the second part.

WITNESSETH: That the said first party, in consideration of the sum of Four Thousand Fifty-Five Dollars ($4,055) and other valuable consideration, the receipt whereof is hereby acknowledged, do hereby grant and convey unto the said second party a temporary right-of-way and easement for the purpose of constructing sanitary sewer collection facilities, over, along and under the following described real estate situated in Sedgwick County, Kansas, to wit:

A Temporary Construction Easement across a portion of Lot 5, Block 1, Park Plaza First Addition, Wichita, Sedgwick County, Kansas being more particularly described as follows:

COMMENCING at the Northwest corner of Lot 5, Block 1 (also being the westerly most corner of Lot 7, Block 1), in said Park Plaza First Addition; Thence Bearing S44°00'00"E, along the northern boundary of said Lot 5, a distance of 193.46 feet to a P.I. in the boundary of said Lot 5 and the POINT OF BEGINNING; Thence continuing Bearing S44°00'00"E, a distance of 100.00 feet; Thence Bearing N46°00'00"E, a distance of 142.88 feet to a point on the northern boundary of said Lot 5; Thence Bearing N44°00'00"W, along the boundary of said Lot 5, a distance of 100.00 feet to a P.I. in the boundary of said Lot 5; Thence Bearing S46°00'00"W, along the northern boundary of said Lot 5, a distance of 142.88 feet to the POINT OF BEGINNING.

(said Temporary Construction Easement contains 0.328 acres, more or less)

and,

A Temporary Access Easement across a portion of Lot 5, Block 1, Park Place First Addition, Wichita, Sedgwick County, Kansas being more particularly described as follows:

COMMENCING at the Northwest corner of Lot 5, Block 1 (also being the westerly most corner of Lot 7, Block 1), in said Park Plaza First Addition; Thence Bearing S44°00'00"E, along the northern boundary and extended northern boundary of said Lot 5, a distance of 293.46 feet; Thence bearing N46°00'00"E, a distance of 99.88 feet to the POINT OF BEGINNING; Thence Bearing S44°00'00"E, a distance of 262.77 feet; Thence Bearing N46°00'00"E, a distance of 76.94 feet to the P.C. of a curve to the left, also being a point on the West line of a platted 30' Utility Easement in said Lot 5; Thence along the West line of said platted easement, being a curve to the left (non-tangent), having a radius of 864.93 feet, a chord bearing of N08°02'54"E, a chord distance of 48.78 feet, through a central angle of 03°13'53", an arc distance of 48.78 feet; Thence Bearing S46°00'00"W, a distance of 92.40 feet; Thence Bearing N44°00'00"W, a distance of 232.77 feet; Thence Bearing S46°00'00"W, a distance of 23.00 feet to the POINT OF BEGINNING.

(said Temporary Access Easement containing 0.189 acres, more or less)

Said easement shall expire upon completion of the sanitary sewer collection facilities construction, or June 30, 2017, whichever date arrives first.

The party of the Second Part hereby agrees to maintain access to the parent property during construction, and restore the easement areas in a workmanlike condition to the condition of the property prior to construction. Repairs will include but not be limited to damage to landscaping, fencing, and the patching and striping of the parking lot.

IN WITNESS WHEREOF: The said first party has signed these presents the day and year first written.

400 West, LLC, a Kansas limited liability company:

By: Consolidated Capital Investments, LLC, an Oklahoma limited liability company, manager of 400 West, LLC:

Megan McGinnis, Manager of Consolidated Capital Investments, LLC

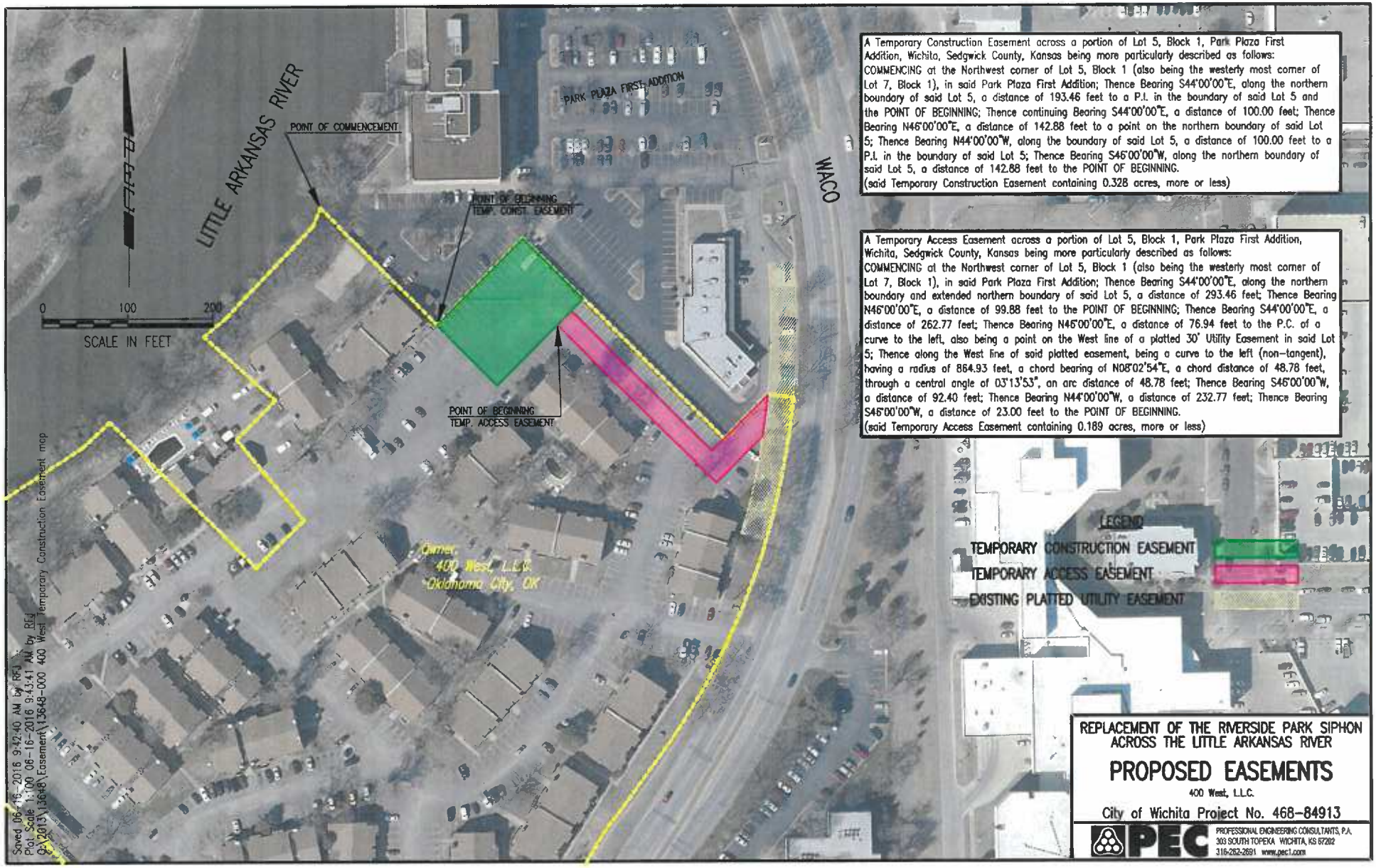
State of Oklahoma **)**
) ss:
Oklahoma **County)**

This instrument acknowledged before me on October 4, 2016 by Megan McGinnis, manager of Consolidated Capital Investments, LLC, an Oklahoma limited liability company, manager of 400 West, LLC

JAYNE K. HILGER
Notary Public, State of Oklahoma
Commission # 15007892
My Commission Expires August 25, 2019

Jayne K. Hilger
Notary Public
My Commission Expires 8-25-19

The above instrument approved as to form
this 30th day of November 2016
Jennifer Magnison
Assistant City Attorney



A Temporary Construction Easement across a portion of Lot 5, Block 1, Park Plaza First Addition, Wichita, Sedgwick County, Kansas being more particularly described as follows:
COMMENCING at the Northwest corner of Lot 5, Block 1 (also being the westerly most corner of Lot 7, Block 1), in said Park Plaza First Addition; Thence Bearing S44°00'00"E, along the northern boundary of said Lot 5, a distance of 193.46 feet to a P.I. in the boundary of said Lot 5 and the POINT OF BEGINNING; Thence continuing Bearing S44°00'00"E, a distance of 100.00 feet; Thence Bearing N46°00'00"E, a distance of 142.88 feet to a point on the northern boundary of said Lot 5; Thence Bearing N44°00'00"W, along the boundary of said Lot 5, a distance of 100.00 feet to a P.I. in the boundary of said Lot 5; Thence Bearing S46°00'00"W, along the northern boundary of said Lot 5, a distance of 142.88 feet to the POINT OF BEGINNING.
(said Temporary Construction Easement containing 0.328 acres, more or less)

A Temporary Access Easement across a portion of Lot 5, Block 1, Park Plaza First Addition, Wichita, Sedgwick County, Kansas being more particularly described as follows:
COMMENCING at the Northwest corner of Lot 5, Block 1 (also being the westerly most corner of Lot 7, Block 1), in said Park Plaza First Addition; Thence Bearing S44°00'00"E, along the northern boundary and extended northern boundary of said Lot 5, a distance of 293.46 feet; Thence Bearing N46°00'00"E, a distance of 99.88 feet to the POINT OF BEGINNING; Thence Bearing S44°00'00"E, a distance of 262.77 feet; Thence Bearing N46°00'00"E, a distance of 76.94 feet to the P.C. of a curve to the left, also being a point on the West line of a platted 30' Utility Easement in said Lot 5; Thence along the West line of said platted easement, being a curve to the left (non-tangent), having a radius of 864.93 feet, a chord bearing of N08°02'54"E, a chord distance of 48.78 feet, through a central angle of 03°13'53", an arc distance of 48.78 feet; Thence Bearing S46°00'00"W, a distance of 92.40 feet; Thence Bearing N44°00'00"W, a distance of 232.77 feet; Thence Bearing S46°00'00"W, a distance of 23.00 feet to the POINT OF BEGINNING.
(said Temporary Access Easement containing 0.189 acres, more or less)

City of Wichita
City Council Meeting
November 8, 2016

TO: Mayor and City Council

SUBJECT: Amendments to Resolutions 12-185 and 13-052 for Century II (All Districts)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Consent

Recommendation: Approve the amendments to Resolution 12-185 and 13-052.

Background: The City Council approved a bonding resolution on March 26, 2013 to provide various upgrades and renovations to Century II. The amendment to Resolution 12-185 and 13-052 allows for the clarification of projects recently identified for completion to keep the building and operations functional.

Analysis: The continuation of improvements is necessary to keep Century II competitive and functional while planning, design study and subsequent design/development of Century II expansion/renovation reaches completion.

Financial Consideration: The proposed amendments do not alter the original bonding resolution funding.

Legal Consideration: The Law Department has reviewed and approved the amendments as to form.

Recommendations/Action: It is recommended that the City Council approve the amendments to the resolutions.

Attachments: Resolution Amendments 12-185 and 13-052

OCA 112000

Published in the Wichita Eagle on November 11, 2016

RESOLUTION NO. 16-441

A RESOLUTION AMENDING AND SUPPLEMENTING RESOLUTION NO. 12-185 OF THE CITY OF WICHITA, KANSAS WHICH AUTHORIZED THE ISSUANCE OF GENERAL OBLIGATION BONDS TO PAY THE COSTS OF CERTAIN PUBLIC IMPROVEMENTS IN THE CITY.

WHEREAS, the City of Wichita, Kansas is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, the Governing Body is authorized, pursuant to K.S.A. 13-1024c, as amended by Charter Ordinance No. 156 of the City to issue general obligation bonds of the City without an election for the purpose of paying for the construction, purchase or improvement of any public improvement, including the land necessary therefore, and for the purpose of rebuilding, adding to or extending the same as the necessities of the City may require and for the purpose of paying for certain personal property therefore; and

WHEREAS, the Governing Body has heretofore by Resolution No. 12-185 of the City of Wichita, Kansas, authorized the following described public improvements:

Improvements: Labor, material, and equipment for improvements at the Century II Convention Center security enhancements, carpet, kitchen design and upgrades, meeting room upgrades, audio/visual and stage sound improvements, lighting equipment, event equipment, stage equipment, new doors, terrazzo repairs, event equipment repair and replacement, paint, asbestos remediation, repair glazing system, and replace windows on north and east side of Expo Hall; caulk and waterproof exterior walls of Century II, roof-top unit and air handlers repair/replacement, rooftop HVAC and energy plant, design/development and renovation of Kennedy Plaza; office space and restrooms in 2nd floor Concert Hall, and first floor men's restrooms renovation; and replacement of Blue roof over main building core. Technology improvements including labor, material equipment for improvements to the phone system and ticketing at multiple locations, including but not limited to Century II Convention Center, CityArts, Old Cowtown Museum and Mid-America All-Indian Center and provided for the payment of all or a portion of the costs thereof by the issuance of general obligation bonds of the City pursuant to the Act.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

Section 1. **Amendment**. ***Section 1*** of the Prior Resolution is hereby amended to read as follows:

Section 1. That the Governing Body of the City of Wichita finds it necessary to make certain related improvements as follows: labor, material, and equipment for improvements at the Century II Convention Center including but not limited to planning, design study and subsequent design/development of Century II expansion/renovation, security enhancements, carpet, kitchen design and upgrades, meeting room upgrades, audio/visual and stage sound improvements, lighting equipment, event equipment, stage equipment, new doors, terrazzo repairs, event equipment repair and replacement, paint, asbestos remediation, repair glazing system, and replace windows on north and east side of Expo Hall; caulk and waterproof exterior walls of Century II, roof-top unit and air handlers repair/replacement, rooftop HVAC and energy plant, design/development and renovation

of Kennedy Plaza; office space and restrooms in 2nd floor Concert Hall, and first floor men's restrooms renovation; and replacement of Blue roof over main building core. Technology improvements including labor, material equipment for improvements to the phone system and ticketing at multiple locations, including but not limited to Century II Convention Center, CityArts, Old Cowtown Museum and Mid-America All-Indian Center.

Section 2. Bonding Authority; Reimbursement. The Prior Resolution is hereby amended to add a new SECTION 8 as follows:

SECTION 8. **Bond Authority; Reimbursement**. K.S.A. 12-1736 and K.S.A. 13-1024C, as amended by Charter Ordinance No. 156, provide for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of adoption of Resolution 12-185, for Improvements authorized thereunder, and the date on or after the date which is 60 days before the date of adoption of this Resolution, to the extent of the additional Improvements added to the project hereby, all pursuant to Treasury Regulation § 1.150-2."

Section 3. **Repealer; Ratification**. ***Section 1*** of the Prior Resolution is hereby repealed; and the rest and remainder thereof is hereby ratified and confirmed.

Section 4. **Effective Date**. This Resolution shall be in full force and effect from and after its adoption by the Governing Body.

ADOPTED by the City Council of the City of Wichita, Kansas, on November 8, 2016.

(SEAL)

_____
Jeff Longwell, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Jennifer Magaña, City Attorney and Director of Law

OCA 112000

Published in the Wichita Eagle on November 11, 2016

RESOLUTION NO. 16-442

A RESOLUTION AMENDING AND SUPPLEMENTING RESOLUTION NO. 13-052 OF THE CITY OF WICHITA, KANSAS WHICH AUTHORIZED THE ISSUANCE OF GENERAL OBLIGATION BONDS TO PAY THE COSTS OF CERTAIN PUBLIC IMPROVEMENTS IN THE CITY.

WHEREAS, the City of Wichita, Kansas is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, the Governing Body is authorized, pursuant to K.S.A. 13-1024c, as amended by Charter Ordinance No. 156 of the City to issue general obligation bonds of the City without an election for the purpose of paying for the construction, purchase or improvement of any public improvement, including the land necessary therefore, and for the purpose of rebuilding, adding to or extending the same as the necessities of the City may require and for the purpose of paying for certain personal property therefore; and

WHEREAS, the Governing Body has heretofore by Resolution No. 13-052of the City of Wichita, Kansas, authorized the following described public improvements:

Labor, material and equipment for improvements at the Century II Convention Center, including planning, design study, and subsequent design/development of Century II Convention Hall expansion/renovation, purchase of additional event equipment, facility wide phone switch and subsequent phone service upgrades, creation of rehearsal space in meeting room 102, exhibitor services technology and equipment, security plan development and improvements, evaluation study of elevators and lifts facility wide, clean and paint interior facility wide, kitchen remodel, concession service remodel. In addition, funds will be allocated for electrical mechanical, plumbing and restroom maintenance projects.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

Section 1. **Amendment**. ***SECTION 1*** of the Prior Resolution is hereby amended to read as follows:

> SECTION 1: That the Governing Body of the City of Wichita finds it necessary to make certain related improvements as follows: labor, material and equipment for improvements at the Century II Convention Center, including but not limited to planning, design study, and subsequent design/development of Century II Convention Hall expansion/renovation, purchase of additional event equipment, facility wide phone switch and subsequent phone service upgrades, creation of rehearsal space in meeting room 102, exhibitor services technology and equipment, security plan development and improvements, evaluation study of elevators and lifts facility wide, clean and paint interior facility wide, kitchen remodel, concession service remodel. In addition, funds will be allocated for electrical mechanical, plumbing and restroom maintenance projects.

Section 2. Bond Authority; Reimbursement. The Prior Resolution is hereby amended to add a new SECTION 5, as follows:

SECTION 5: **Bond Authority; Reimbursement**. K.S.A. 12-1736 and K.S.A. 13-1024C, as amended by Charter Ordinance No. 156, provide for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of adoption of Resolution 13-052, for Improvements authorized thereunder, and the date on or after the date which is 60 days before the date of adoption of this Resolution, to the extent of the additional Improvements added to the project hereby, all pursuant to Treasury Regulation § 1.150-2."

Section 3. **Repealer; Ratification**. ***SECTION 1*** of the Prior Resolution is hereby repealed; and the rest and remainder thereof is hereby ratified and confirmed.

Section 4. **Effective Date**. This Resolution shall be in full force and effect from and after its adoption by the Governing Body.

ADOPTED by the City Council of the City of Wichita, Kansas, on November 8, 2016.

(SEAL)

_____
Jeff Longwell, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Jennifer Magaña, City Attorney and Director of Law

City of Wichita
City Council Meeting
November 8, 2016

TO: Mayor and City Council

SUBJECT: Request to Extend and Amend the Letter of Intent for Industrial Revenue Bonds (Co-Co Properties, LLC) (District III)

INITIATED BY: Office of Urban Development

AGENDA: Consent

Recommendation: Approve the extension and amendment of the Letter of Intent for Industrial Revenue Bonds.

Background: On September 9, 2014, the City Council approved a Letter of Intent (LOI) to issue Industrial Revenue Bonds in an amount not to exceed $3,600,000 for the complete replacement of the parking facilities at 4031 E. Harry (the former Wichita Mall) by its owner, Co-Co Properties, LLC (Co-Co). Co-Co is a real estate development and leasing company managed by Max Cole. The letter of intent was extended September 15, 2015 through the end of 2016. Co-Co is requesting an extension of the letter of intent through December 31, 2017.

Analysis: The Wichita Mall was a 400,000 square-foot interior-oriented mall located on almost 27 acres at the time Co-Co acquired it. Co-Co collapsed the interior corridor, filled in the floor space of a former movie theater and invested to add modern technology to the building prior to pursuing new tenants. While it has been successful in recruiting large office users, the parking lot is beyond repair and requires complete removal and replacement at an estimated cost of $3,600,000. Replacement of the parking lot will largely complete the multi-year redevelopment and rehabilitation of a significant commercial property in south Wichita. Current tenants include several Sedgwick County offices, Bethany College, St. Francis Communities and Starwood Hotel Call Center. Co-Co spent the first year increasing cash flow and reducing expenses to prepare the property to better handle the new debt that would be incurred through the replacement of the parking facilities.

The developer, Max Cole, experienced personal issues that delayed addressing this project and therefore is requesting an extension of one year for the LOI.

Financial Considerations: Co-Co agrees to pay all costs of issuing the bonds and agrees to pay the City's $2,500 annual IRB administrative fee for the term of the bonds. It also intends to purchase the bonds. City staff and Co-Co have negotiated the terms of a property tax abatement designed to abate the taxes only on any increased value over the 2014 taxes. Under this arrangement, all bond-financed improvements will be subject to 100% five-year abatement, plus a second five years subject to Council review and approval. Each year of the abatement period, Co-Co has greed to pay the City a "payment-in-lieu-of-taxes" ("PILOT") based on the current appraised value. In the original LOI, the PILOT amount was listed as $72,729. Since that time the project has increased in value and the LOI needs to be amended to stated that the PILOT payment will be $192,796.25

Legal Considerations: Gilmore & Bell will serve as bond counsel and will prepare bond documents needed for the issuance of the bonds. Execution of the documents and issuance of the bonds will be subject to the City Law Department's review and approval of the bond documents as to form.

Recommendations/Actions: It is recommended that the City Council extend the letter of intent for the issuance of Industrial Revenue Bonds to Co-Co Properties, LLC through December 31, 2017 and amend the Payment-In-Lieu-Of -Taxes.

Attachments: None

City of Wichita
City Council Meeting
November 8, 2016

TO: Mayor and City Council Members

SUBJECT: Nuisance Abatement Assessments, Lot Clean Up (Districts I, III, IV and VI)

INITIATED BY: Metropolitan Area Building and Construction Department

AGENDA: Consent

Recommendation: Approve the assessments and place the ordinance on first reading.

Background: The Metropolitan Area Building and Construction Department (MABCD) supports neighborhood maintenance and improvement through abatement of nuisances under Titles 7 and 8 of the City Code. State law and local ordinance allow the City to clean up private properties that are in violation of environmental standards after proper notification is sent to the responsible party. A private contractor performs the work and the MABCD bills the cost to the property owner.

Analysis: State law and City ordinance allow placement of the lot clean up costs as a special property tax assessment if the property owner does not pay. Payment has not been received for the nuisance abatements in question and the MABCD is requesting permission for the Department of Finance to process the necessary special assessments.

Financial Considerations: Nuisance abatement contractors are paid through budgeted appropriations from the City's General Fund. Owners of abated property are billed for the contractual costs of the abatement plus an additional administrative fee. If the property owner fails to pay, these charges are recorded as a special property tax assessment against the property. Nuisance abatements to be placed on special assessments are listed on the attached property list.

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

Recommendation/Action: It is recommended that the City Council approve the proposed assessments and place the ordinance on first reading.

Attachments: Property List for Special Assessments and Ordinance.

PIN #	Geo Code #	Address / Location	Amount	District #
00103587	A 04050	1242 N Coolidge Ave	$581.00	VI
00106268	A 060370001	210 E Gilbert St	$449.40	III
00120200	B 01617	1632 N Emporia Ave	$515.65	VI
00121516	B 028200001	708 N Minneapolis Ave	$722.12	I
00121552	B 028530002	V/L SE of Murdock & Minneapolis	$640.00	I
00122328	B 03478	1305 N Indiana Ave	$700.73	I
00122349	B 03500	1310 N Ohio Ave	$699.73	I
00124811	B 05626	1755 S Mosley Ave	$783.66	III
00124905	B 05713	1st V/L S of 701 E Harry St	$1,011.80	III
00127185	B 07569	1041 S Ida Ave	$595.27	I
00127954	B 08275	1639 S Lulu Ave	$503.56	I
00128270	B 08506	1734 S Ida Ave	$429.50	III
00128930	B 088410001	V/L W of 1946 N Hydraulic Ave	$621.20	I
00130234	B 100120001	2550 S Washington Ave	$442.60	III
00130482	B 10243	1703 N Pennsylvania	$586.80	I
00135921	C 00833	1141 N Madison Ave	$575.20	I
00136265	C 01098	V/L N of 1446 N Piatt Ave	$467.36	I
00136616	C 013000001	V/L N of 1642 N Hydraulic Ave	$736.90	I
00136858	C 01396000B	1921 N Madison Ave	$2,413.22	I
00137252	C 01522001A	2047 N Minnesota Ave	$610.12	I
00138781	C 02799	1348 N Green St	$713.00	I
00138924	C 02935	1317 N Erie Ave	$624.40	I
00139014	C 03015	V/L S of 1306 N Chautauqua Ave	$410.20	I
00139380	C 03305	1601 N Hillside Ave	$338.20	I
00139610	C 03516	1457 N Estelle Ave	$360.00	I
00139742	C 036160001	2712 E 15th St N	$474.90	I
00152322	C 07720000D	1838 N Poplar Ave	$788.60	I
00152933	C 08303	1134 S Hydraulic Ave	$532.60	I
00154733	C 099980002	NE of E 16th St N & N Poplar Ave	$442.60	I
00157801	C 12205	2109 E Mesita Dr	$732.60	I
00158432	C 12727	2228 N Minnesota Ave	$462.00	I
00158556	C 12850	1119 S George Washington Blvd	$679.20	I
00158954	C 13251	2808 E Shadybrook Ln	$595.10	I
00159136	C 13462	2935 E Maplewood Dr	$479.20	I
00159648	C 13913	1529 N Matlock Dr	$663.12	I
00162250	C 16533	2135 E Shadybrook Ln	$683.40	I
00168210	C 22694	2825 E Glen Oaks Dr	$1,305.00	III
00198271	D 00242	207 S Sycamore St	$737.60	IV
00198457	D 0031300UP	1517 W 48th St S	$3,260.80	IV
00202317	D 03062	2520 W Monroe Ave	$417.00	IV
00205575	D 0540600AA	517 W Hendryx Ave	$636.80	IV
		Total	$29,422.14	

Published in the Wichita Eagle on November 25, 2016

ORDINANCE NO. 50-353

AN ORDINANCE MAKING A SPECIAL ASSESSMENT TO PAY FOR THE COST OF ABATING CERTAIN PUBLIC HEALTH NUISANCES (**LOT CLEAN UP**) UNDER THE PROVISION OF SECTION 7.40.050 OF THE CODE OF THE CITY OF WICHITA, KANSAS. BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. That the sum set opposite each of the following lots, pieces and parcels of land or ground, herein specified, be and the same is hereby levied to pay the cost of abating certain public nuisances under the provision of Section 7.40.050 of the Code of the City of Wichita, Kansas, which public health nuisances are determined to have existed upon the following described property:

Legal of Parcel in Benefit District	Assessment
LOTS 226-228 COOLIDGE AVE RIVERSIDE ADD.	$581.00
E 51 FT LOT 108 MARKET ST. LEE'S ADD.	$449.40
LOTS 131-133 EMPORIA ST EAGLE ADD	$515.65
S 23 FT LOT 16-ALL LOT 18 EXC E 8 FT TO CITY MINNEAPOLIS AVE. OAKLAND ADD.	$722.12
LOTS 102-104-106 EXC S 8 FT TO CITY& EXC E 8 FT LOT 106 TO CITY & EXC N 92 FT LOT 106 MURDOCK AVE OAKLAND ADD.	$640.00
S 16 2/3 FT LOT 43 & N 16 2/3 FT LOT 45 INDIANA AVE. BURLEIGH'S 3RD. ADD.	$700.73
LOTS 38-40 OHIO AVE. BURLEIGH'S 3RD. ADD.	$699.73
LOTS 89-91 RANSON & KAY'S 2ND. ADD.	$783.66
LOTS 6-8 BLOCK 3 ALLEN & SMITH'S ADD.	$1,011.80
LOTS 52-54 IDA AVE. KELSCH 3RD. ADD.	$595.27
N 10 FT LOT 14-ALL LOT 16 & S 10 FT LOT 18 STRONG'S SUB. BLK 4 SCHWEITER'S 2ND. ADD.	$503.56
LOT 78 & N 23 FT LOT 80 & VAC 10 FT OF ALLEY ADJ IDA AVE RANSON & KAY'S 3RD ADD	$429.50
S 125 FT N 275 FT E 175 FT SE1/4 NE1/4 SEC 9-27-1E	$621.20
S1/2 LOT 88 - ALL LOTS 90-92 WASHINGTON AVE. WABASH AVE SUB.	$442.60
LOT 5 FOX-HUEY ADD.	$586.80
LOTS 13-15 NORRIS SUB.	$575.20
LOTS 146-148-150 PIATT AVE. LOGAN ADD.	$467.36
LOTS 55-57-59 BLOCK 5 KANSAS ADD.	$736.90
LOTS 28-30 MADISON AVE. STOUT'S ADD.	$2,413.22
LOTS 57-59 MINNESOTA AVE. PARKVIEW ADD.	$610.12
LOTS 10-12 GREEN ST. FAIRMOUNT PARK ADD.	$713.00
LOTS 33-35 ERIE AVE. FAIRMOUNT PARK ADD.	$624.40
LOTS 46-48 MT. OLIVE NOW CHAUTAUQUA AVE. FAIRMOUNT PARK ADD.	$410.20
LOTS 1-3 HILLSIDE AVE. WOODRIDGE PLACE ADD.	$338.20
LOTS 1-3 GOETHE NOW ESTELLE AVE. ROSE HILL ADD.	$360.00

E 67 1/4 FT LOTS 10-12 ESTELLE AVE. FAIRMOUNT ORCHARDS ADD.	$474.90
LOTS 17-19 BLOCK 7 WESTMORELAND ADD.	$788.60
LOTS 18-20 & 1/2 VAC ALLEY ADJ HYDRAULIC AVE D B MEYER ADD	$532.60
LOTS 40-42-44-46 WALTER MORRIS & SON'S 4TH. ADD.	$442.60
LOT 2 BLOCK 9 SCHWEITER'S 8TH. ADD.	$732.60
LOT 9 BLOCK I MILLAIR ADD.	$462.00
LOT 14 BLOCK 8 SCHWEITER'S 9TH. ADD.	$679.20
LOT 2 BLOCK 3 SHADYBROOK ADD.	$595.10
LOT 8 BLOCK 13 SHADYBROOK ADD.	$479.20
LOT 17 BLOCK G YALE HEIGHTS ADD.	$663.12
LOT 4 BLOCK 3 BUILDERS 2ND. ADD.	$683.40
LOT 9 BLOCK 9 PAWNEE RANCH ADD.	$1,305.00
LOT 3 SYCAMORE AVE. MC KEE'S RESURVEY	$737.60
BEG 576.95 FT W OF SW COR LOT 8 HILLMAN ADD W 172 FT N 263.72FT E 172 FT S TO BEG IN NE 1/4 SEC 19-28-1E	$3,260.80
LOTS 238-240 RICHMOND'S 2ND. ADD.	$417.00
LOTS 8-9 ELMDALE ADD.	$636.80

SECTION 2. This ordinance shall take effect and be in force from and after its publication once in the official City paper.

ADOPTED at Wichita, Kansas, this **22nd day of November, 2016**.

_____

Jeff Longwell, Mayor

ATTEST:

_____

Karen Sublett, City Clerk

(SEAL)

Approved as to form:

_____

Jennifer Magana, City Attorney and Director of Law

City of Wichita
City Council Meeting
November 8, 2016

TO: Mayor and City Council

SUBJECT: Amending Resolution for Sanitary Sewer Improvements to Northgate Addition (District VI)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Adopt the amending resolution.

Background: On September 6, 2016, the City Council adopted Resolution No. 16-339 for sanitary sewer improvements to a residential development located at 53rd Street North, west of Meridian. A review of the resolution revealed a technical error, which should be corrected.

Analysis: Resolution No. 16-339 amended Resolution 06-566. The resolution listed the incorrect number for amendment. An amending resolution has been prepared to correct the resolution number. An additional review step has been added in processing to prevent errors such as this in the future.

Financial Considerations: The project budget remains at $42,000, as previously approved on September 6, 2016, and is funded by special assessments.

Legal Considerations: The Law Department has reviewed and approved the amending resolution as to form.

Recommendation/Actions: It is recommended that the City Council adopt the amending resolution and authorize the necessary signatures.

Attachment: Amending resolution.

132019

(Published in the ***Wichita Eagle***, on November 11, 2016)

RESOLUTION NO. 16-435

A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE MAKING OF THE IMPROVEMENTS IN ACCORDANCE WITH SUCH FINDINGS (LATERAL 6, MAIN 15, SANITARY SEWER NO. 23 – PHASE 5 NORTHGATE ADDITION/NORTH OF 53RD STREET NORTH, WEST OF MERIDIAN) (468-84252).

WHEREAS, the City of Wichita, Kansas (the "City") is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, the City Council of the City (the "Governing Body") has heretofore by **Resolutions No. 09-012** and **No. 16-339** of the City (the "Prior Resolutions") authorized certain internal improvements; and

WHEREAS, **Resolution No. 16-339** was intended to replace **Resolution No. 09-012,** but, due to an error, referred to an earlier Resolution as the one replaced; and

WHEREAS, it is desirable to correct the error by adoption of a new Resolution of the City, repealing and replacing both of the Prior Resolutions; and

WHEREAS, the Petition was filed with the City Clerk proposing certain internal improvements; and said Petition sets forth: (a) the general nature of the proposed improvements; (b) the estimated or probable cost of the proposed improvements; (c) the extent of the proposed improvement district to be assessed for the cost of the proposed improvements; (d) the proposed method of assessment; (e) the proposed apportionment of the cost between the improvement district and the City at large; and (f) a request that such improvements be made without notice and hearing as required by K.S.A. 12-6a01 *et seq.* (the "Act"); and

WHEREAS, the Governing Body hereby finds and determines that said Petition was signed by **the owners of record of more than one-half of the area** liable for assessment for the proposed improvements, and is therefore sufficient in accordance with the provisions of the Act.

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. **Repealer**. The Prior Resolutions are hereby repealed.

Section 2. **Findings of Advisability**. The Governing Body hereby finds and determines that:

(a) It is advisable to make the following improvements:

Construction of a lateral sanitary sewer, including necessary sewer mains and appurtenances to serve the Improvement District defined below (the "Improvements").

(b) The estimated or probable cost of the Improvements is **Forty-Two Thousand Dollars ($42,000)**, exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of submission of the Petition to the City. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions hereof.

(c) The extent of the improvement district (the "Improvement District") to be assessed for the cost of the Improvements is:

NORTHGATE ADDITION
Lots 22 through 25, Block B
Lots 28 through 31, Block B

(d) The method of assessment is: **equally per lot (8 lots).**

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

(e) The apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: **100%** to be assessed against the Improvement District and **0%** to be paid by the City-at-large.

(f) The payment of assessments to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

Section 3. **Authorization of Improvements**. The Improvements are hereby authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in ***Section 2*** of this Resolution.

Section 4. **Plans and Specifications**. The City Engineer shall prepare plans and specifications for said Improvements and a preliminary estimate of cost therefore, which plans, specifications and estimate shall be presented to the Governing Body for its approval.

Section 5. **Bond Authority; Reimbursement**. The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of adoption of the Prior Resolution, and 60 days before the date of adoption of this Resolution, to the extent of the increased authorization contained herein, all pursuant to Treasury Regulation § 1.150-2.

Section 6. **Effective Date**. This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

ADOPTED by the City Council of the City of Wichita, Kansas, on November 8, 2016.

(SEAL)

_____
Jeff Longwell, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Jennifer Magaña, City Attorney
and Director of Law

132019

(Published in the ***Wichita Eagle***, on _____)

RESOLUTION NO. _____

A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE MAKING OF THE IMPROVEMENTS IN ACCORDANCE WITH SUCH FINDINGS (LATERAL 6, MAIN 15, SANITARY SEWER NO. 23 – PHASE 5 NORTHGATE ADDITION/NORTH OF 53RD STREET NORTH, WEST OF MERIDIAN) (468-84252).

WHEREAS, the City of Wichita, Kansas (the "City") is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, the City Council of the City (the "Governing Body") has heretofore by **Resolutions No. 09-012** and **No. 16-339** of the City (the "Prior Resolutions") authorized certain internal improvements; and

WHEREAS, Resolution No. 16-339 was intended to replace **Resolution No. 09-012,** but, due to an error, referred to an earlier Resolution as the one replaced; and

WHEREAS, it is desirable to correct the error by adoption of a new Resolution of the City, repealing and replacing both of the Prior Resolutions; and

WHEREAS, the Petition was filed with the City Clerk proposing certain internal improvements; and said Petition sets forth: (a) the general nature of the proposed improvements; (b) the estimated or probable cost of the proposed improvements; (c) the extent of the proposed improvement district to be assessed for the cost of the proposed improvements; (d) the proposed method of assessment; (e) the proposed apportionment of the cost between the improvement district and the City at large; and (f) a request that such improvements be made without notice and hearing as required by K.S.A. 12-6a01 *et seq.* (the "Act"); and

WHEREAS, the Governing Body hereby finds and determines that said Petition was signed by **the owners of record of more than one-half of the area** liable for assessment for the proposed improvements, and is therefore sufficient in accordance with the provisions of the Act.

Section 1. Repealer. The Prior Resolutions are hereby repealed.

Section 2. Findings of Advisability. The Governing Body hereby finds and determines that:

(a) It is advisable to make the following improvements:

Construction of a lateral sanitary sewer, including necessary sewer mains and appurtenances to serve the Improvement District defined below (the "Improvements").

(b) The estimated or probable cost of the Improvements is **Forty-Two Thousand Dollars ($42,000)**, exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of submission of the Petition to the City. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions hereof.

(c) The extent of the improvement district (the "Improvement District") to be assessed for the cost of the Improvements is:

NORTHGATE ADDITION
Lots 22 through 25, Block B
Lots 28 through 31, Block B

(d) The method of assessment is: **equally per lot (8 lots).**

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

(e) The apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: **100%** to be assessed against the Improvement District and **0%** to be paid by the City-at-large.

(f) The payment of assessments to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

Section 3. Authorization of Improvements. The Improvements are hereby authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in ***Section 2*** of this Resolution.

Section 4. Plans and Specifications. The City Engineer shall prepare plans and specifications for said Improvements and a preliminary estimate of cost therefore, which plans, specifications and estimate shall be presented to the Governing Body for its approval.

Section 5. Bond Authority; Reimbursement. The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of adoption of the Prior Resolution, and 60 days before the date of adoption of this Resolution, to the extent of the increased authorization contained herein, all pursuant to Treasury Regulation § 1.150-2.

Section 6. Effective Date. This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

ADOPTED by the City Council of the City of Wichita, Kansas, on _____.

(SEAL)

_____
Jeff Longwell, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
for Jennifer Magaña, City Attorney
and Director of Law

City of Wichita
City Council Meeting
November 8, 2016

TO: Mayor and City Council

SUBJECT: Change Order Limit Adjustment for Improvements to Water Tower Rehabilitation (District I)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Approve the change order limit adjustment and adopt the resolution.

Background: On November 2, 2010, the City Council approved Phase 1 of the Water Tower Rehabilitation project, which was later put on hold. On October 14, 2014, the City Council approved expanding the scope of the project to include removal and replacement of the internal and external coatings on the Woodlawn and Roosevelt water towers. On March 22, 2016, the City Council approved construction funding for the project. On June 7, 2016, the City Council awarded a contract with American Suncraft Company Inc. for construction of the improvements and the standard change order limit of $50,000 for the project.

Analysis: The project will rehabilitate two water towers, located at Woodlawn, south of 21st Street, and Roosevelt, north of 17th Street. Sandblasting is only 2% complete at the Woodlawn water tower and the Roosevelt water tower is scheduled to begin construction in early 2017. Upon further detailed inspection of the access tube hatch and knuckle stiffener beams in the Woodlawn tower, corrosion of the steel is worse than initially anticipated. The steel hatch and beams are no longer structurally sound and need to be replaced. As further detailed inspections are performed, it is anticipated that more structural beams will need to be replaced. Previous inspections were limited due to inability to access within the towers. Detailed inspections could not be performed until the contractor installed a cable scaffolding system to allow close-up inspection of the structural beams. The proposed cost of the initial change order to complete this work was $44,650, just under the approved limit of $50,000. Based on remaining work, staff recommends an increase in the change order limit to 10% of the original contract amount, or $246,405.

Without increasing the change order limit, all change orders above the approved total of $50,000 will require approval by the City Council regardless of cost. The approximate six-week process for change order approval will result in $70,000 remobilization costs and further delay completion until crews can return to the project.

Financial Consideration: The budget remains at $4,830,000 as previously approved. Increasing the change order limit will not increase the overall budget.

The projects will be funded from future revenue bonds or Water or Sewer Utility cash reserves. If revenue bonds are issued, an additional 8% will be added for financing and administrative costs.

Legal Considerations: The Law Department has reviewed and approved the resolution as to form. The requested change order limit adjusted is authorized under Charter Ordinance 222.

Recommendation/Actions: It is recommended that the City Council approve the change order limit adjustment, adopt the resolution, and authorize the necessary signatures.

Attachment: Resolution.

RESOLUTION NO. 16-436

A RESOLUTION TO ADJUST THE CHANGE ORDER LIMIT GOVERNING THE CONSTRUCTION OF A SINGLE PUBLIC WORKS PROJECT AS ALLOWED BY CHARTER ORDINANCE 222:

WHEREAS, the construction of major public works projects routinely entail the need to make contract modifications for field conditions, quantity adjustments, and other alterations necessary for efficient and effective project completion; and

WHEREAS, the use of public bidding followed by use of professional City staff for project oversight protects against cost overruns that do not inure to the benefit of the public; and

WHEREAS, the **Water Tower Rehabilitation project** covered by contract number **448-90662** qualifies as such a major public works construction project. Continued, timely prosecution of that work is in the best interest of the public and nearby commercial and residential property owners;

WHEREAS, an increase in the level of change orders allowed without additional Council approval, as authorized in Charter Ordinance 222, will allow responsible project management to continue without costly and inconvenient construction delays;

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA ON THIS 8th DAY OF November 2016 that,

1. The City Council for the City of Wichita, Kansas hereby adopts and approves a one-time modification to the change order limit governing the Water Tower Rehabilitation project covered by contract number 448-90662. This modification grants City staff authority to approve change orders for the **Water Tower Rehabilitation** project up to a cumulative cost not exceeding ten percent (10%) of the original contract price without separate City Council approval.

2. This policy is effective only for project change order work that both arises from unforeseen conditions that are discovered after bids are let and that does not expand the scope of work to be performed under the original contract. Work that is not the result of unforeseen conditions or that expands the scope of the contract work is to be separately bid.

ADOPTED AT WICHITA, KANSAS BY THE GOVERNING BODY OF THE CITY OF WICHITA ON THIS 8th DAY OF November, 2016.

_____
JEFF LONGWELL, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
JENNIFER MAGAÑA, CITY ATTORNEY AND DIRECTOR OF LAW

CONTRACTS & AGREEMENTS
BLANKET PURCHASE ORDERS RENEWAL OPTIONS
OCTOBER 2016

COMMODITY TITLE	EXPIRATION DATE	VENDOR NAME	DEPARTMENT	ORIGINAL CONTRACT DATES	RENEWAL OPTIONS REMAINING
Architectural Services (On-Call)	10/31/2017	Schaefer Johnson Cox Frey & Associates PA	Public Works & Utilities	11/17/2015 - 10/31/2016	1 - 1 year option
Architectural Services (On-Call)	10/31/2017	GLMV Architecture, Inc.	Public Works & Utilities	11/17/2015 - 10/31/2016	1 - 1 year option
Architectural Services (On-Call)	10/31/2017	Spangenberg Phillips Tice, LLC DBA Spangenberg Phillips	Public Works & Utilities	11/17/2015 - 10/31/2016	1 - 1 year option
Computer PC Accessories and Peripherals	10/31/2017	PCMG, Inc. dba Global GovEd	IT / IS	11/26/2013 -10/31/2014	1 - 1 year option
Computer Hardware	10/31/2017	High Touch, Inc.	IT / IS	11/26/2013 -10/31/2014	1 - 1 year option
Environmental - Phase 1 Environmental Site Assessments On-Call Services - Phase II Limited Soil & Groundwater Investigations	10/31/2017	GSI Engineering, LLC	Airport	11/13/2015 - 10/31/2016	1 -1 year option
Fire Alarms Systems Monitoring Service and/or Equipment	10/31/2017	Kansas Fire Equipment Co., Inc.	Housing & Community Services	11/1/2015 - 10/31/2016	1 - 1 year option
Garments, Employee Embroidered	10/31/2017	Industrial Uniform Company, LLC	Various	11/1/2004 - 10/31/2005	Annual basis
Ice Requirements	10/31/2017	Arctic Glacier USA Inc	Various	11/1/2009 - 10/31/2010	Annual basis
Independent Financial Analysis on Developers for Development Projects Within Downtown Wichita	10/31/2016	Springsted Incorporated	City Manager's Office	7/20/2011 - 7/31/2012	Last option
Indigent Defense Legal Services	10/31/2017	Lautz Mueller & Osburn LLC	Municipal Court	11/1/2015 - 10/31/2016	3 - 1 year options
Liquid Carbon Dioxide - Bulk Delivery	10/31/2017	Praxair, Inc.	Public Works & Utilities	11/4/2014 - 10/31/2015	Last option
Meters, Badger 2" - 6" & Replacement Parts	10/31/2017	Midwest Meter, Inc.	Public Works & Utilities	11/1/2015 - 10/31/2016	1 - 1 year option
Nuisance Code Wrecker Services	10/31/2017	Kidd's Towing & Recovery	Metropolitan Area Building and Construction Department (MABCD)	10/10/2014 - 10/31/2015	2 - 1 year options
Paint & Paint Supplies	10/31/2017	PPG Architectural Finishes, Inc. dba Porter Paints	Housing & Community Services	11/4/2014 - 10/31/2015	Last option
SCRAM Installation and Monitoring	10/31/2017	Premier Monitoring Solutions LLC	Municipal Court	11/1/2007 - 10/31/2008	Annual basis
Security Services for Central Library (On-Call)	10/31/2017	Total Security Solutions, LLC dba Signal 88 Security of Wichita	Library	10/22/2013 - 10/31/2014	1 - 1 year option
Snow Removal Equipment and Operators (Emergency)	10/31/2017	Mies Const. Inc	Public Works & Utilities	11/1/2014 - 10/31/2015	Last option
Snow Removal Equipment and Operators (Emergency)	10/31/2017	A Plus Logistics LLC	Public Works & Utilities	11/1/2014 - 10/31/2015	Last option
Snow Removal for the Wichita/Sedgwick County Law Enforcement Training Facility	10/31/2016	New Image Roofing LLC dba Treemendous, LLC	Police	11/1/2013 - 10/31/2014	Last option
Software for Park & Recreation	10/31/2016	Cirilian, Inc. dba Rec1	Park & Recreation	11/6/2012 - 10/31/2013	1 - 1 year option
Street Sign Hardware	10/31/2017	MDSolutions, Inc.	Public Works & Utilities	11/1/2014 - 10/31/2015	Last option
Telescoping Steel Sign Post System	10/31/2017	J & A Traffic Products	Public Works & Utilities	11/1/2014 - 10/31/2015	Last option
Trash Can Liners	10/31/2017	Envision Industries, Inc.	Various	11/1/2014 - 10/31/2015	Annual basis
Valve Boxes	10/31/2017	Wichita Winwater Works Company	Public Works & Utilities	11/1/2015 - 10/31/2016	1 - 1 year option
Valves, Angle & Brass Low Lead	10/31/2017	HD Supply Waterworks LTD	Public Works & Utilities	11/1/2015 - 10/31/2016	1 - 1 year option
Vending Services for Wichita Transit	10/31/2017	Premier Food Service, Inc. dba Premier Catering	Wichita Transit	11/1/2014 - 10/31/2015	Last option

PROFESSIONAL CONTRACTS UNDER $50,000
OCTOBER 2016

VENDOR NAME	DOCUMENT NO	DOCUMENT TITLE	AMOUNT		

ANNUAL MAINTENANCE CONTRACTS OVER $50,000
DIRECT PURCHASE ORDERS FOR OCTOBER 2016

VENDOR NAME	DOCUMENT NO	DOCUMENT TITLE	AMOUNT		
Avail Technologies Inc.	DP640643	ITS Support Services	$135,864.00		

CITY OF WICHITA, KANSAS
SENIOR MANAGEMENT TRAVEL EXPENSES
Quarter Ended September 30, 2016

EMPLOYEE BY DEPARTMENT	PURPOSE	AMOUNT
City Manager		
Robert Layton, City Manager	ICMA Annual Conference, Kansas City, MO	$ 1,907.08
Robert Layton, City Manager	Large Cities Executive Forum, Long Beach, CA	1,687.86
Cathy Holdeman, Assistant City Manager	ICMA Annual Conference, Kansas City, MO	1,843.08
Airport		
Brad Christopher, Assistant Director of Airports	4 States Airport Conference, Kansas City, MO	758.26
Finance		
Michelle Law, City Treasurer	BKD Governmental Update Seminar, LaVista, NE	165.50
Housing & Community Services		
John Hall, Director of Housing	2016 NAHRO Summer Conference, Portland, OR	2,504.02
Law		
Sharon Dickgrafe, Chief Deputy City Attorney	IMLA 81st Annual Conference, San Diego, CA	1,554.43
Park & Recreation		
Troy Houtman, Director of Parks	2016 International Open Streets Summit, Portland, OR	2,268.73
Police		
Troy Livingston, Deputy Chief	Police Executive Leadership Institute, Charlotte, NC	714.87
Gavin Seiler, Deputy Chief	PERF Conference on Outreach to Refugee Communities, Washington, DC	155.00
Transit		
Steve Spade, Director	Transit Midwest Conference and FTA Roundtable, Kansas City, MO	1,295.00
Total Third Quarter Travel Expenses for Senior Management		$ 14,853.83
Year-To-Date Senior Management Travel Expenses		$ 37,141.26

CITY OF WICHITA, KANSAS
SENIOR MANAGEMENT TRAVEL EXPENSES
Quarter Ended June 30, 2016

EMPLOYEE BY DEPARTMENT	PURPOSE	AMOUNT
City Manager		
Cathy Holdeman, Assistant City Manager	City/County Management Conference, Lawrence, KS	$ 531.91
Scot Rigby, Development Services Director/Asst City Mgr	Meeting at Aviation Week MRO Conference, Dallas, TX	605.46
Airport		
Victor White, Director of Airports	88th Annual AAAE Conference, Houston, TX	2,824.45
Victor White, Director of Airports	Tenant lease negotiation, New York City, NY	1,149.70
Metropolitan Area Planning		
Phillip Nelson, Interim Director	KAMPO Meeting, Manhattan, KS	152.28
Phillip Nelson, Interim Director	Kansas Freight Advisory Meeting, Topeka, KS	169.15
Police		
Hassan Ramzah, Deputy Chief	Child Exploitation Seminar for Chief Executive Officers, Alexandria, VA	245.50
Hassan Ramzah, Deputy Chief	Major Cities Chiefs Association, FBI National Executive Institute and Police Executive Research Forms 2016 Joint Meeting, New York City, NY	2,607.00
Gavin Seiler, Deputy Chief	Annual Kansas Association of Police Spring Conference, Dodge City, KS	344.73
Troy Livingston, Deputy Chief	Research and site visit for COMSTAT, Los Angeles, CA	2,347.76
Public Works & Utilities		
Gary Janzen, City Engineer	2016 KSPE Professional Engineers Conference, Olathe, KS	553.45
Gary Janzen, City Engineer	2016 Professional Engineers Conference, Dallas, TX	1,328.93
Gary Janzen, City Engineer	98th Annual Transportation Engineering Conference, Manhattan, KS	133.25
Total Second Quarter Travel Expenses for Senior Management		$ 12,993.57
Year-To-Date Senior Management Travel Expenses		$ 22,287.43

CITY OF WICHITA, KANSAS
SENIOR MANAGEMENT TRAVEL EXPENSES
Quarter Ended March 31, 2016

EMPLOYEE BY DEPARTMENT	PURPOSE	AMOUNT
City Manager		
Robert Layton, City Manager	Large Cities Executive Form, Phoenix, AZ	$ 1,089.37
Robert Layton, City Manager	2016 National League of Cities Congressional City Conference, Washington, DC	1,649.06
Ken Evans, Strategic Communications Director	2016 National League of Cities Congressional City Conference, Washington, DC	3,315.64
Ken Evans, Strategic Communications Director	League of Kansas Municipalities, Local Government Day, Topeka, KS	5.50
Ken Evans, Strategic Communications Director	Traveled to Topeka for Kansas Legislature	147.10
Ken Evans, Strategic Communications Director	Attended Legislature Lobbying Events, Topeka, KS	297.56
Airport		
Brad Christopher, Assistant Director of Airports	2016 South Central Chapter Conference, Galveston, TX	1,502.86
Park & Recreation		
Troy Houtman, Director of Parks	Kansas Recreation and Park Association Annual Conference, Dodge City, KS	342.65
David McGuire, Division Manager Park Maintenance	Kansas Recreation and Park Association Annual Conference, Dodge City, KS	860.12
Public Works & Utilities		
Joe Pajor, Deputy Director of Public Works & Utilities	Kansas Water Congress Winter Meeting, Topeka, KS	84.00
Total First Quarter Travel Expenses for Senior Management		$ 9,293.86
Year-To-Date Senior Management Travel Expenses		$ 9,293.86

City of Wichita
City Council Meeting
November 8, 2016

TO: Mayor and City Council

SUBJECT: AFG Grant Program (All Districts)

INITIATED BY: Wichita Fire Department (WFD)

AGENDA: Consent

Recommendation: Authorize submission for the 2016 Assistance to Firefighter Grant (AFG).

Background: The Fiscal Year 2016 AFG grant is issued by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), and Grant Programs Directorate. The purpose of the AFG Program is to protect the health and safety of the public and firefighting personnel. Since 2001, AFG has helped firefighters and other first responders to obtain critically needed equipment, protective gear, training and other resources needed to protect the public and emergency personnel from fire and related hazards.

Analysis: Wichita received a 2007 AFG in support of the Wichita Fire Department (WFD) Health and Wellness program. Funding from the 2007 AFG enabled the WFD to purchase two EKG Monitor/Defibrillators. The life expectancy for the two EKG Monitor/Defibrillators purchased in 2007 has been reached.

As a result of economic challenges, the 2016 Adopted Budget does not have adequate funding to replace aging EKG monitors nor does it support the purchase of a trauma simulator manikin. The 2016 AFG funding for the replacement of two EKG Monitor/Defibrillators and one Trauma Simulation Manikin will improve service and training for the community.

Financial Considerations: The 2016 AFG program requires a 10% local match. The 2016 AFG submission is for $136,457 with $122,811 in federal funding and $13,646 in match. The grant match will be paid from the WFD operating budget.

Legal Considerations: The Law Department has approved the 2016 AFG submission as to form.

Recommendations/Actions: It is recommended City Council authorize submission for the 2016 Assistance to Firefighter Grant (AFG).

City of Wichita
City Council Meeting
November 8, 2016

TO: Mayor and City Council

SUBJECT: 2017 Water and Sewer Mains for Future Development (All Districts)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Adopt the resolutions.

Background: The Adopted 2016-2025 Capital Improvement Program (CIP) includes funding for projects to construct new water and sewer main extensions to provide service to currently unserved areas.

Analysis: The projects will primarily serve new development with water and sewer availability as needed when the City grows. Proposed projects are requested by developers and evaluated by staff to make sure the project is in the best interest of the utilities and the City of Wichita. This funding will be used on a first come, first serve basis.

Financial Considerations: The CIP includes the following for 2017:

$1,900,000 for Water Mains for Future Development
$1,900,000 for Sewer Mains for Future Development

The collection of main benefit fees in the amount of $0.26 (water) and $0.05 (sewer) per square-foot will reimburse the utilities 50% of the main cost as mains are extended.

The projects will be funded from future revenue bonds or Water or Sewer Utility cash reserves. If revenue bonds are issued, an additional 8% will be added for financing and administrative costs.

Legal Considerations: The Law Department has reviewed and approved the resolutions and notices of intent as to form.

Recommendation/Actions: It is recommended that the City Council approve the budgeted projects, adopt the resolutions, and authorize the necessary signatures.

Attachments: Resolutions, notices of intent, and budget sheets.

Project Request

◉ CIP ○ Non-CIP CIP YEAR: 2017 CIP #: Pg 107, Line 27

☐ NEIGHBORHOOD IMPROVEMENT

DEPARTMENT: 18 Public Works & Utilities DIVISION: Distribution RESOLUTION/ORDINANCE #:

ENGINEERING REFERENCE #: None

FUND: 470 Water Improvements N.I.

COUNCIL DISTRICT: 07 All Districts DATE COUNCIL APPROVED: REQUEST DATE:

PROJECT # : 777069 PROJECT TITLE: 2017 Water Mains for Future Development (W-65)

PROJECT DETAIL # : 01 PROJECT DETAIL DESCRIPTION: 2017 Water Mains for Future Development (W-65)

OCA # : 636500 OCA TITLE: 2017 Water Mains for Future Development (W-65)

PERSON COMPLETING FORM: Joni Chamberlain PHONE #: 268-4572

PROJECT MANAGER: Deb Ary PHONE #: 268-4614

◉ NEW BUDGET ○ REVISED BUDGET

REVENUE		EXPENSE	
Object Level 3	**Budget**	**Object Level 3**	**Budget**
9813 Cash Transfer In	$1,900,000.00	2999 Contractuals	$1,900,000.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
REVENUE TOTAL:	$1,900,000.00	**EXPENSE TOTAL:**	$1,900,000.00

NOTES:

Print Form

SIGNATURES REQUIRED

DIVISION HEAD: DATE: 10/13/16

DEPARTMENT HEAD: DATE: 10/25/16

BUDGET OFFICER: DATE: 10/13/2016

CITY MANAGER: DATE:

RESOLUTION NO. 16-_____

A RESOLUTION DECLARING IT NECESSARY TO CONSTRUCT, RECONSTRUCT, ALTER, REPAIR, IMPROVE, EXTEND AND ENLARGE THE WATER AND SEWER UTILITY OWNED AND OPERATED BY THE CITY OF WICHITA, KANSAS, TO ISSUE REVENUE BONDS FOR THE PURPOSE OF PAYING CERTAIN COSTS THEREOF, AND PROVIDING FOR THE GIVING OF NOTICE OF SUCH INTENTION IN THE MANNER REQUIRED BY LAW.

WHEREAS, the City of Wichita, Kansas (the "City") is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, the City Council of the City (the "Governing Body"), has heretofore by Ordinance No. 39-888, passed May 26, 1987 and published in the official newspaper of the City on May 29, 1987, as required by law, authorized the combining of the City-owned and operated municipal water utility and municipal sewer utility thereby creating the City of Wichita, Kansas Water and Sewer Utility (the "Utility"); and

WHEREAS, the City is authorized under the Constitution and laws of the State of Kansas, including K.S.A. 10-1201 *et seq.*, as amended and supplemented by Charter Ordinance No. 211 of the City (collectively, the "Act"), to issue revenue bonds to construct, reconstruct, alter, repair, improve, extend and enlarge the Utility;

WHEREAS, the Governing Body hereby finds and determines that it is necessary and advisable to construct, reconstruct, alter, improve, extend and enlarge the Utility in the following manner:

2017 Water Mains for Future Development (W-65)

(the "Project") and to provide for the payment of all or a portion of the costs thereof by the issuance of revenue bonds of the City pursuant to the Act; said bonds to be payable from the revenues of the Utility.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

Section 1. Project Authorization. It is hereby authorized, ordered and directed that the Project be acquired, constructed and/or installed in accordance with plans and specifications therefore prepared under the direction of the City Engineer or designate and approved by the Governing Body; said plans and specifications to be placed on file in the offices of the Utility. The estimated cost of the Project, including related design and engineering expenses is $1,900,000. The Project will not cause duplication of any existing water or sewer utility service furnished by a private utility in the City.

Section 2. Project Financing. It is hereby found and determined to be necessary and advisable to issue revenue bonds of the City under the authority of the Act, in an aggregate principal amount not to exceed $2,052,000 in order to pay all or a portion of the costs of the Project and related reserves, interest on financing and administrative and financing costs (the "Bonds"). The Bonds shall not be general obligations of the City payable from taxation, but shall be payable from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of the Bonds, if any, shall be paid from unencumbered moneys of the Utility which will be available for that purpose. The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation 1.150-2.

Section 3. Notice. Before issuing the Bonds, there shall be published one (1) time in the official newspaper of the City, a notice of the intention of the Governing Body to undertake the Project and to issue the Bonds (the "Notice"); and if within fifteen (15) days after the publication of such Notice, there shall be filed with the City Clerk, a written protest against the Project or the issuance of the Bonds, signed by not less than twenty per cent (20%) of the qualified electors of the City, the Governing Body shall thereupon submit such proposed Project and the Bonds to the electors of the City at a special election to be called for that purpose as provided by the Act. If no sufficient protest is filed with the City Clerk within the period of time hereinbefore stated, then the Governing Body shall have the authority to proceed with the Project and issuance of the Bonds.

Section 4. Effective Date. This Resolution shall be in full force and effect from and after its adoption by the Governing Body.

ADOPTED by the City Council of the City of Wichita, Kansas, by not less than two-thirds of the members voting in favor thereof, on _____, 2016.

(SEAL)

_____
Jeff Longwell, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
for Jennifer Magaña, Director of Law
and City Attorney

636500

(Published in ***The Wichita Eagle***, on _____, 2016.)

NOTICE

TO: THE RESIDENTS OF THE CITY OF WICHITA, KANSAS

You are hereby notified that the City Council (the "Governing Body") of the City of Wichita, Kansas (the "City"), by Resolution No. 16-_____, duly adopted _____, 2016, has found and determined it to be necessary and declared its intention to construct, reconstruct, alter, improve, extend and enlarge the City of Wichita, Kansas Water and Sewer Utility, which is owned and operated by the City (the "Utility"), in the following manner:

2017 Water Mains for Future Development (W-65)

(the "Project") at an estimated cost, including related design and engineering expenses of $1,900,000.

In order to finance all or a portion of the costs of the Project and related reserves, interest on financing and administrative and financing costs, the Governing Body has further found and determined it to be necessary and declared its intention to issue revenue bonds an aggregate principal amount not to exceed $2,052,000 under the authority of K.S.A. 10-1201 *et seq.*, as amended and supplemented by Charter Ordinance No. 211 of the City (the "Bonds"). The Bonds shall not be general obligation bonds of the City payable from taxation, but shall be payable only from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of the Bonds shall be paid from unencumbered moneys of the Utility which will be available for that purpose.

This Notice shall be published one time in the official newspaper of the City; and if, within fifteen (15) days from and after the publication date hereof, there shall be filed in the Office of the City Clerk a written protest against the Project and the issuance of the Bonds, which protest is signed by not less than twenty percent (20%) of the qualified electors of the City, then the question of the Project and the issuance of the Bonds shall be submitted to the electors of the City at a special election which shall be called for that purpose as provided by law. If no sufficient protest to the Project and the issuance of the Bonds is filed within said period, then the Governing Body shall have the authority to proceed with the Project and issuance of the Bonds.

BY ORDER of the Governing Body of the City of Wichita, Kansas, on _____, 2016.

/s/ JEFF LONGWELL, Mayor

ATTEST:
/s/ Karen Sublett, City Clerk

Project Request

(•) CIP ( ) Non-CIP CIP YEAR: 2017 CIP #: Pg 95, Line 12

☐ NEIGHBORHOOD IMPROVEMENT

DEPARTMENT: 18 Public Works & Utilities DIVISION: Sewage Treatment RESOLUTION/ORDINANCE #:

ENGINEERING REFERENCE #: None

FUND: 533 Sewer Construction

COUNCIL DISTRICT: 07 All Districts DATE COUNCIL APPROVED: REQUEST DATE:

PROJECT # : 667006 PROJECT TITLE: 2017 Sewer Mains for Future Development (S-5)

PROJECT DETAIL # : 01 PROJECT DETAIL DESCRIPTION: 2017 Sewer Mains for Future Development (S-5)

OCA # : 621100 OCA TITLE: 2017 Sewer Mains for Future Development (S-5)

PERSON COMPLETING FORM: Joni Chamberlain PHONE #: 268-4572

PROJECT MANAGER: Deb Ary PHONE #: 268-4614

(•) NEW BUDGET ( ) REVISED BUDGET

REVENUE		EXPENSE	
Object Level 3	**Budget**	**Object Level 3**	**Budget**
9813 Cash Transfer In	$1,900,000.00	2999 Contractuals	$1,900,000.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
REVENUE TOTAL:	$1,900,000.00	**EXPENSE TOTAL:**	$1,900,000.00

NOTES:

Print Form

SIGNATURES REQUIRED

DIVISION HEAD: Gary Jones DATE: 10/13/16

DEPARTMENT HEAD: Deb Ary DATE: 10/25/16

BUDGET OFFICER: Troy Timson DATE: 10/13/2016

CITY MANAGER: DATE:

RESOLUTION NO. 16-_____

A RESOLUTION DECLARING IT NECESSARY TO CONSTRUCT, RECONSTRUCT, ALTER, REPAIR, IMPROVE, EXTEND AND ENLARGE THE WATER AND SEWER UTILITY OWNED AND OPERATED BY THE CITY OF WICHITA, KANSAS, TO ISSUE REVENUE BONDS FOR THE PURPOSE OF PAYING CERTAIN COSTS THEREOF, AND PROVIDING FOR THE GIVING OF NOTICE OF SUCH INTENTION IN THE MANNER REQUIRED BY LAW.

WHEREAS, the City of Wichita, Kansas (the "City") is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, the City Council of the City (the "Governing Body"), has heretofore by Ordinance No. 39-888, passed May 26, 1987 and published in the official newspaper of the City on May 29, 1987, as required by law, authorized the combining of the City-owned and operated municipal water utility and municipal sewer utility thereby creating the City of Wichita, Kansas Water and Sewer Utility (the "Utility"); and

WHEREAS, the City is authorized under the Constitution and laws of the State of Kansas, including K.S.A. 10-1201 *et seq.*, as amended and supplemented by Charter Ordinance No. 211 of the City (collectively, the "Act"), to issue revenue bonds to construct, reconstruct, alter, repair, improve, extend and enlarge the Utility;

WHEREAS, the Governing Body hereby finds and determines that it is necessary and advisable to construct, reconstruct, alter, improve, extend and enlarge the Utility in the following manner:

2017 Sewer Mains for Future Development (S-5)

(the "Project") and to provide for the payment of all or a portion of the costs thereof by the issuance of revenue bonds of the City pursuant to the Act; said bonds to be payable from the revenues of the Utility.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

Section 1. Project Authorization. It is hereby authorized, ordered and directed that the Project be acquired, constructed and/or installed in accordance with plans and specifications therefore prepared under the direction of the City Engineer or designate and approved by the Governing Body; said plans and specifications to be placed on file in the offices of the Utility. The estimated cost of the Project, including related design and engineering expenses is $1,900,000. The Project will not cause duplication of any existing water or sewer utility service furnished by a private utility in the City.

Section 2. Project Financing. It is hereby found and determined to be necessary and advisable to issue revenue bonds of the City under the authority of the Act, in an aggregate principal amount not to exceed $2,052,000 in order to pay all or a portion of the costs of the Project and related reserves, interest on financing and administrative and financing costs (the "Bonds"). The Bonds shall not be general obligations of the City payable from taxation, but shall be payable from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of the Bonds, if any, shall be paid from unencumbered moneys of the Utility which will be available for that purpose. The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation 1.150-2.

Section 3. Notice. Before issuing the Bonds, there shall be published one (1) time in the official newspaper of the City, a notice of the intention of the Governing Body to undertake the Project and to issue the Bonds (the "Notice"); and if within fifteen (15) days after the publication of such Notice, there shall be filed with the City Clerk, a written protest against the Project or the issuance of the Bonds, signed by not less than twenty per cent (20%) of the qualified electors of the City, the Governing Body shall thereupon submit such proposed Project and the Bonds to the electors of the City at a special election to be called for that purpose as provided by the Act. If no sufficient protest is filed with the City Clerk within the period of time hereinbefore stated, then the Governing Body shall have the authority to proceed with the Project and issuance of the Bonds.

Section 4. Effective Date. This Resolution shall be in full force and effect from and after its adoption by the Governing Body.

ADOPTED by the City Council of the City of Wichita, Kansas, by not less than two-thirds of the members voting in favor thereof, on _____, 2016.

(SEAL)

_____
Jeff Longwell, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
for Jennifer Magaña, Director of Law
and City Attorney

621100

(Published in ***The Wichita Eagle***, on _____, 2016.)

NOTICE

TO: THE RESIDENTS OF THE CITY OF WICHITA, KANSAS

You are hereby notified that the City Council (the "Governing Body") of the City of Wichita, Kansas (the "City"), by Resolution No. 16-_____, duly adopted _____, 2016, has found and determined it to be necessary and declared its intention to construct, reconstruct, alter, improve, extend and enlarge the City of Wichita, Kansas Water and Sewer Utility, which is owned and operated by the City (the "Utility"), in the following manner:

2017 Sewer Mains for Future Development (S-5)

(the "Project") at an estimated cost, including related design and engineering expenses of $1,900,000.

In order to finance all or a portion of the costs of the Project and related reserves, interest on financing and administrative and financing costs, the Governing Body has further found and determined it to be necessary and declared its intention to issue revenue bonds an aggregate principal amount not to exceed $2,052,000 under the authority of K.S.A. 10-1201 *et seq.*, as amended and supplemented by Charter Ordinance No. 211 of the City (the "Bonds"). The Bonds shall not be general obligation bonds of the City payable from taxation, but shall be payable only from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of the Bonds shall be paid from unencumbered moneys of the Utility which will be available for that purpose.

This Notice shall be published one time in the official newspaper of the City; and if, within fifteen (15) days from and after the publication date hereof, there shall be filed in the Office of the City Clerk a written protest against the Project and the issuance of the Bonds, which protest is signed by not less than twenty percent (20%) of the qualified electors of the City, then the question of the Project and the issuance of the Bonds shall be submitted to the electors of the City at a special election which shall be called for that purpose as provided by law. If no sufficient protest to the Project and the issuance of the Bonds is filed within said period, then the Governing Body shall have the authority to proceed with the Project and issuance of the Bonds.

BY ORDER of the Governing Body of the City of Wichita, Kansas, on _____, 2016.

/s/ JEFF LONGWELL, Mayor

ATTEST:
/s/ Karen Sublett, City Clerk

RESOLUTION NO. 16-437

A RESOLUTION DECLARING IT NECESSARY TO CONSTRUCT, RECONSTRUCT, ALTER, REPAIR, IMPROVE, EXTEND AND ENLARGE THE WATER AND SEWER UTILITY OWNED AND OPERATED BY THE CITY OF WICHITA, KANSAS, TO ISSUE REVENUE BONDS FOR THE PURPOSE OF PAYING CERTAIN COSTS THEREOF, AND PROVIDING FOR THE GIVING OF NOTICE OF SUCH INTENTION IN THE MANNER REQUIRED BY LAW.

WHEREAS, the City of Wichita, Kansas (the "City") is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, the City Council of the City (the "Governing Body"), has heretofore by Ordinance No. 39-888, passed May 26, 1987 and published in the official newspaper of the City on May 29, 1987, as required by law, authorized the combining of the City-owned and operated municipal water utility and municipal sewer utility thereby creating the City of Wichita, Kansas Water and Sewer Utility (the "Utility"); and

WHEREAS, the City is authorized under the Constitution and laws of the State of Kansas, including K.S.A. 10-1201 *et seq*., as amended and supplemented by Charter Ordinance No. 211 of the City (collectively, the "Act"), to issue revenue bonds to construct, reconstruct, alter, repair, improve, extend and enlarge the Utility;

WHEREAS, the Governing Body hereby finds and determines that it is necessary and advisable to construct, reconstruct, alter, improve, extend and enlarge the Utility in the following manner:

2017 Sewer Mains for Future Development (S-5)

(the "Project") and to provide for the payment of all or a portion of the costs thereof by the issuance of revenue bonds of the City pursuant to the Act; said bonds to be payable from the revenues of the Utility.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

Section 1. **Project Authorization**. It is hereby authorized, ordered and directed that the Project be acquired, constructed and/or installed in accordance with plans and specifications therefore prepared under the direction of the City Engineer or designate and approved by the Governing Body; said plans and specifications to be placed on file in the offices of the Utility. The estimated cost of the Project, including related design and engineering expenses is $1,900,000. The Project will not cause duplication of any existing water or sewer utility service furnished by a private utility in the City.

Section 2. **Project Financing**. It is hereby found and determined to be necessary and advisable to issue revenue bonds of the City under the authority of the Act, in an aggregate principal amount not to exceed $2,052,000 in order to pay all or a portion of the costs of the Project and related reserves, interest on financing and administrative and financing costs (the "Bonds"). The Bonds shall not be general obligations of the City payable from taxation, but shall be payable from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of the Bonds, if any, shall be paid from unencumbered moneys of the Utility which will be available for that purpose. The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation 1.150-2.

Section 3. **Notice**. Before issuing the Bonds, there shall be published one (1) time in the official newspaper of the City, a notice of the intention of the Governing Body to undertake the Project and to issue the Bonds (the "Notice"); and if within fifteen (15) days after the publication of such Notice, there shall be filed with the City Clerk, a written protest against the Project or the issuance of the Bonds, signed by not less than twenty per cent (20%) of the qualified electors of the City, the Governing Body shall thereupon submit such proposed Project and the Bonds to the electors of the City at a special election to be called for that purpose as provided by the Act. If no sufficient protest is filed with the City Clerk within the period of time hereinbefore stated, then the Governing Body shall have the authority to proceed with the Project and issuance of the Bonds.

Section 4. **Effective Date**. This Resolution shall be in full force and effect from and after its adoption by the Governing Body.

ADOPTED by the City Council of the City of Wichita, Kansas, by not less than two-thirds of the members voting in favor thereof, on November 8, 2016.

(SEAL)

_____
Jeff Longwell, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Jennifer Magaña, Director of Law
and City Attorney

621100

(Published in ***The Wichita Eagle***, on November 11, 2016.)

NOTICE

TO: THE RESIDENTS OF THE CITY OF WICHITA, KANSAS

You are hereby notified that the City Council (the "Governing Body") of the City of Wichita, Kansas (the "City"), by Resolution No. 16-437, duly adopted November 8, 2016, has found and determined it to be necessary and declared its intention to construct, reconstruct, alter, improve, extend and enlarge the City of Wichita, Kansas Water and Sewer Utility, which is owned and operated by the City (the "Utility"), in the following manner:

2017 Sewer Mains for Future Development (S-5)

(the "Project") at an estimated cost, including related design and engineering expenses of $1,900,000.

In order to finance all or a portion of the costs of the Project and related reserves, interest on financing and administrative and financing costs, the Governing Body has further found and determined it to be necessary and declared its intention to issue revenue bonds an aggregate principal amount not to exceed $2,052,000 under the authority of K.S.A. 10-1201 *et seq*., as amended and supplemented by Charter Ordinance No. 211 of the City (the "Bonds"). The Bonds shall not be general obligation bonds of the City payable from taxation, but shall be payable only from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of the Bonds shall be paid from unencumbered moneys of the Utility which will be available for that purpose.

This Notice shall be published one time in the official newspaper of the City; and if, within fifteen (15) days from and after the publication date hereof, there shall be filed in the Office of the City Clerk a written protest against the Project and the issuance of the Bonds, which protest is signed by not less than twenty percent (20%) of the qualified electors of the City, then the question of the Project and the issuance of the Bonds shall be submitted to the electors of the City at a special election which shall be called for that purpose as provided by law. If no sufficient protest to the Project and the issuance of the Bonds is filed within said period, then the Governing Body shall have the authority to proceed with the Project and issuance of the Bonds.

BY ORDER of the Governing Body of the City of Wichita, Kansas, on November 8, 2016.

/s/ JEFF LONGWELL, Mayor

ATTEST:
/s/ Karen Sublett, City Clerk

RESOLUTION NO. 16-438

A RESOLUTION DECLARING IT NECESSARY TO CONSTRUCT, RECONSTRUCT, ALTER, REPAIR, IMPROVE, EXTEND AND ENLARGE THE WATER AND SEWER UTILITY OWNED AND OPERATED BY THE CITY OF WICHITA, KANSAS, TO ISSUE REVENUE BONDS FOR THE PURPOSE OF PAYING CERTAIN COSTS THEREOF, AND PROVIDING FOR THE GIVING OF NOTICE OF SUCH INTENTION IN THE MANNER REQUIRED BY LAW.

WHEREAS, the City of Wichita, Kansas (the "City") is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, the City Council of the City (the "Governing Body"), has heretofore by Ordinance No. 39-888, passed May 26, 1987 and published in the official newspaper of the City on May 29, 1987, as required by law, authorized the combining of the City-owned and operated municipal water utility and municipal sewer utility thereby creating the City of Wichita, Kansas Water and Sewer Utility (the "Utility"); and

WHEREAS, the City is authorized under the Constitution and laws of the State of Kansas, including K.S.A. 10-1201 *et seq*., as amended and supplemented by Charter Ordinance No. 211 of the City (collectively, the "Act"), to issue revenue bonds to construct, reconstruct, alter, repair, improve, extend and enlarge the Utility;

WHEREAS, the Governing Body hereby finds and determines that it is necessary and advisable to construct, reconstruct, alter, improve, extend and enlarge the Utility in the following manner:

2017 Water Mains for Future Development (W-65)

(the "Project") and to provide for the payment of all or a portion of the costs thereof by the issuance of revenue bonds of the City pursuant to the Act; said bonds to be payable from the revenues of the Utility.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

Section 1. **Project Authorization**. It is hereby authorized, ordered and directed that the Project be acquired, constructed and/or installed in accordance with plans and specifications therefore prepared under the direction of the City Engineer or designate and approved by the Governing Body; said plans and specifications to be placed on file in the offices of the Utility. The estimated cost of the Project, including related design and engineering expenses is $1,900,000. The Project will not cause duplication of any existing water or sewer utility service furnished by a private utility in the City.

Section 2. **Project Financing**. It is hereby found and determined to be necessary and advisable to issue revenue bonds of the City under the authority of the Act, in an aggregate principal amount not to exceed $2,052,000 in order to pay all or a portion of the costs of the Project and related reserves, interest on financing and administrative and financing costs (the "Bonds"). The Bonds shall not be general obligations of the City payable from taxation, but shall be payable from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of the Bonds, if any, shall be paid from unencumbered moneys of the Utility which will be available for that purpose. The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation 1.150-2.

Section 3. **Notice**. Before issuing the Bonds, there shall be published one (1) time in the official newspaper of the City, a notice of the intention of the Governing Body to undertake the Project and to issue the Bonds (the "Notice"); and if within fifteen (15) days after the publication of such Notice, there shall be filed with the City Clerk, a written protest against the Project or the issuance of the Bonds, signed by not less than twenty per cent (20%) of the qualified electors of the City, the Governing Body shall thereupon submit such proposed Project and the Bonds to the electors of the City at a special election to be called for that purpose as provided by the Act. If no sufficient protest is filed with the City Clerk within the period of time hereinbefore stated, then the Governing Body shall have the authority to proceed with the Project and issuance of the Bonds.

Section 4. **Effective Date**. This Resolution shall be in full force and effect from and after its adoption by the Governing Body.

ADOPTED by the City Council of the City of Wichita, Kansas, by not less than two-thirds of the members voting in favor thereof, on November 8, 2016.

(SEAL)

_____
Jeff Longwell, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Jennifer Magaña, Director of Law
and City Attorney

636500

(Published in ***The Wichita Eagle***, on November 11, 2016.)

NOTICE

TO: THE RESIDENTS OF THE CITY OF WICHITA, KANSAS

You are hereby notified that the City Council (the "Governing Body") of the City of Wichita, Kansas (the "City"), by Resolution No. 16-438, duly adopted November 8, 2016, has found and determined it to be necessary and declared its intention to construct, reconstruct, alter, improve, extend and enlarge the City of Wichita, Kansas Water and Sewer Utility, which is owned and operated by the City (the "Utility"), in the following manner:

2017 Water Mains for Future Development (W-65)

(the "Project") at an estimated cost, including related design and engineering expenses of $1,900,000.

In order to finance all or a portion of the costs of the Project and related reserves, interest on financing and administrative and financing costs, the Governing Body has further found and determined it to be necessary and declared its intention to issue revenue bonds an aggregate principal amount not to exceed $2,052,000 under the authority of K.S.A. 10-1201 *et seq*., as amended and supplemented by Charter Ordinance No. 211 of the City (the "Bonds"). The Bonds shall not be general obligation bonds of the City payable from taxation, but shall be payable only from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of the Bonds shall be paid from unencumbered moneys of the Utility which will be available for that purpose.

This Notice shall be published one time in the official newspaper of the City; and if, within fifteen (15) days from and after the publication date hereof, there shall be filed in the Office of the City Clerk a written protest against the Project and the issuance of the Bonds, which protest is signed by not less than twenty percent (20%) of the qualified electors of the City, then the question of the Project and the issuance of the Bonds shall be submitted to the electors of the City at a special election which shall be called for that purpose as provided by law. If no sufficient protest to the Project and the issuance of the Bonds is filed within said period, then the Governing Body shall have the authority to proceed with the Project and issuance of the Bonds.

BY ORDER of the Governing Body of the City of Wichita, Kansas, on November 8, 2016.

/s/ JEFF LONGWELL, Mayor

ATTEST:
/s/ Karen Sublett, City Clerk

SECOND READING ORDINANCES FOR NOVEMBER 8, 2016 (FIRST READ NOVEMBER 1, 2016)

a. Ordinance No. 50-347

AN ORDINANCE FURTHER AMENDING ORDINANCE NO. 49-208 OF THE CITY OF WICHITA, KANSAS, THAT ESTABLISHED THE K-96 GREENWICH STAR BOND PROJECT DISTRICT.

b. Ordinance No. 50-348

AN ORDINANCE ADOPTING THE INTERNATIONAL PLUMBING CODE, 2015 EDITION, UNIFORM PLUMBING CODE, 2015 EDITION, AND PORTIONS OF BOTH THE INTERNATIONAL RESIDENTIAL CODE, 2015 EDITION, AND THE INTERNATIONAL FUEL GAS CODE, 2015 EDITION, WITHIN THE WICHITA/SEDGWICK COUNTY UNIFIED BUILDING AND TRADE CODE

c. Ordinance No. 50-349

AN ORDINANCE MAKING A SPECIAL ASSESSMENT TO PAY FOR THE REMOVAL OF CERTAIN STRUCTURES, BEING DANGEROUS AND UNSAFE BUILDINGS WHICH HAVE BEEN DECLARED A NUISANCE **(BUILDING CONDEMNATION-DEMOLITION)** UNDER THE PROVISION OF SECTIONS 18.16.010 TO 18.16.090 OF THE CODE OF THE CITY OF WICHITA, KANSAS

d. Ordinance No. 50-350

AN ORDINANCE MAKING A SPECIAL ASSESSMENT TO PAY FOR THE BOARDING-UP AND SECURING OF CERTAIN STRUCTURES, BEING DANGEROUS AND UNSAFE BUILDINGS WHICH HAVE BEEN DECLARED A NUISANCE **(BUILDING EMERGENCY BOARD-UP)** UNDER THE PROVISION OF SECTIONS 18.16.010 TO 18.16.090 OF THE CODE OF THE CITY OF WICHITA, KANSAS

e. Ordinance No. 50-351

AN ORDINANCE INCLUDING AND INCORPORATING CERTAIN BLOCKS, PARCELS, PIECES AND TRACTS OF LAND WITHIN THE LIMITS AND BOUNDARIES OF THE CITY OF WICHITA, KANSAS. (A16-04)

f. Ordinance No. 50-352

AN ORDINANCE INCLUDING AND INCORPORATING CERTAIN BLOCKS, PARCELS, PIECES AND TRACTS OF LAND WITHIN THE LIMITS AND BOUNDARIES OF THE CITY OF WICHITA, KANSAS. (A16-06)

City of Wichita
City Council Meeting
November 8, 2016

TO: Mayor and City Council

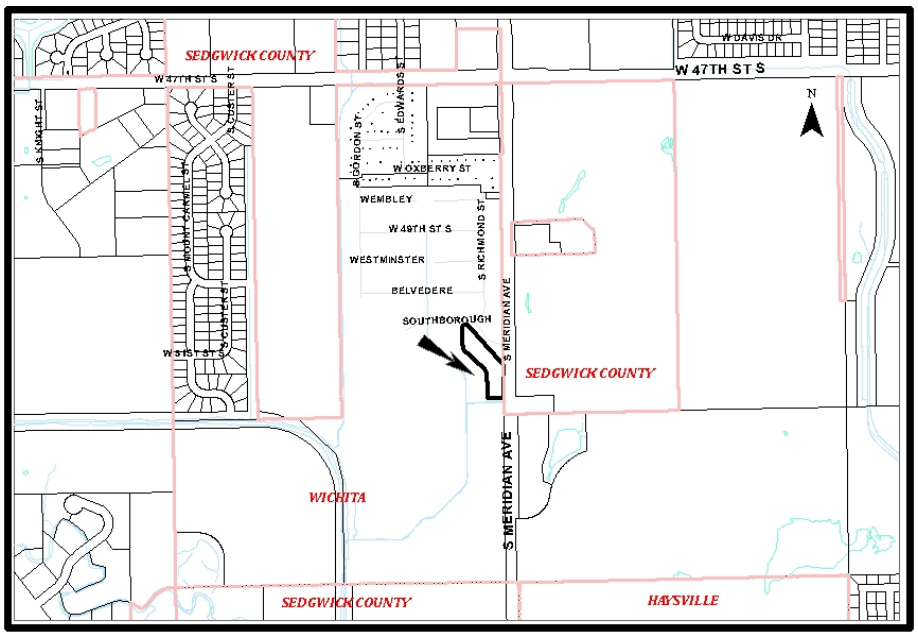
SUBJECT: SUB2015-00029 -- Plat of Southborough Estates 2nd Subdivision Addition Located South of West 47th Street South, on the West Side of South Meridian Avenue (District IV)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (13-0-1)



Background: The site consists of two lots on 1.98 acres. A zone change (ZON2015-00046) has been approved from Manufactured Home (MH) to Limited Commercial (LC). A conditional use (CON2015-00034) has been approved for manufactured home sales and display.

Analysis: The applicant has submitted Petitions and a Certificate of Petition for sanitary sewer and water improvements. The applicant has submitted a Private Street Access Agreement.

The plat has been reviewed and approved by the Metropolitan Area Planning Commission subject to conditions.

Publication of the Ordinance should be withheld until the plat is recorded with the Register of Deeds.

Financial Considerations: The petition totals are $89,000, with $47,000 for the water and $42,000 for the sanitary sewer. The funding source for both projects is special assessments.

Legal Considerations: The Law Department has reviewed and approved the Certificate of Petition, Private Street Access Agreement and Resolutions as to form and the documents will be recorded with the Register of Deeds.

The Law Department has reviewed and approved the Ordinance as to form.

Recommendations/Actions: It is recommended that the City Council approve the documents and plat, authorize the necessary signatures, adopt the Resolutions and place the Ordinance on first reading. Publication of the Ordinance should be withheld until the plat is recorded with the Register of Deeds.

Attachments: Certificate of Petition
Private Street Access Agreement
Ordinance
Resolutions

CERTIFICATE OF PETITIONS

CITY OF WICHITA)
COUNTY OF SEDGWICK) ss.
STATE OF KANSAS)

I, Paul Treadwell and Virginia Treadwell, members, Welcome Home LLC owner of Southborough Estates 2nd Subdivision, do hereby certify that petitions for the following improvements have been submitted to the City Council of the City of Wichita, Kansas:

1. Sanitary Sewer Extensions

2. Waterline Extensions

3.

4.

As a result of the above-mentioned petitions for improvements, lots or portions thereof within Southborough Estates 2nd Subdivision may be subject to special assessments thereto for the cost of constructing the above described improvements.

Signed this 20, day of July, 2016.

Welcome Home, LLC

Paul Treadwell, Member

Virginia Treadwell, Member

CITY OF WICHITA)

COUNTY OF SEDGWICK) ss.
STATE OF KANSAS)

The foregoing instrument was acknowledged before me this 20 day of July, 2016, by Paul Treadwell and Virginia Treadwell, Members of Welcome Home, LLC.

Seal or Stamp

Carrie Soto, Notary Public
(signature of notary officer)

CARRIE SOTO
NOTARY
#1080889
EXP. 01/14/17
PUBLIC
STATE OF KANSAS

My appointment expires: 01/14/2017

APPROVED AS TO FORM:

Jennifer Magaña, Director of Law

~~3" from top of page~~

PRIVATE STREET ACCESS AGREEMENT

This agreement, executed this 5th day of January, 2016

WITNESSETH: That

WHEREAS, the undersigned is platting certain real property to be known as Southborough Estates 2nd Addition, an addition to Wichita, Sedgwick County, Kansas; and

WHEREAS, the undersigned Welcome Home LLC, is the current owner of Southborough Estates, an Addition to Sedgwick County, Kansas, and the property to be known as Southborough Estates 2nd Addition, an addition to Wichita, Sedgwick County, Kansas;
and

WHEREAS, the undersigned desires that all Lots in Southborough Estates 2nd Addition, an addition to Wichita, Sedgwick County, Kansas, have access to the adjacent private streets in Southborough Estates, an Addition to Sedgwick County, Kansas.

NOW THEREFORE, The undersigned owner of Welcome Home, LLC do hereby subject Southborough Estates 2nd Addition, an Addition to Wichita, Sedgwick County, Kansas, and Southborough Estates, an Addition to Sedgwick County, Kansas, to the following covenants and restrictions:

The current and future owners of any Lot in Southborough Estates 2nd Addition, an Addition to Wichita, Sedgwick County, Kansas, shall have access across that owner's lot line to the adjacent private streets in Southborough Estates, an Addition to Sedgwick County, Kansas.

This covenant runs with the land and is binding on the future owners and assigns.

The covenants, conditions, and restrictions on the property created and established in this instrument may be waived, terminated, or modified only upon written consent of the City of Wichita. No such waiver, termination or modification shall be effective until such written consent is recorded in the office of the Register of Deeds for Sedgwick County, Kansas.

EXECUTED the day and year first written above.

Paul Treadwell

Paul Treadwell,
Member, Welcome Home, LLC

Virginia M. Treadwell

Virginia Treadwell,
Member, Welcome Home, LLC

STATE OF KANSAS)
) SS
COUNTY OF SEDGWICK)

BE IT REMEMBERED, that on this 5th day of Jan., 2016, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came, Paul Treadwell and Virginia Treadwell, who are personally known to me to be the same person who executed the within instrument of writing and such persons duly acknowledged the execution of the same, for and on behalf of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

Notary Public

CARRIE DOTO
NOTARY PUBLIC
#1080889
EXP. 01/14/17
STATE OF KANSAS

(My Commission Expires: 1/14/17)

APPROVED AS TO FORM:

Jennifer Magana, City Attorney and Director of Law

(OCA150004 BID 37529-009 CID #76383)

Published in The Wichita Eagle on November 25, 2016

ORDINANCE NO. 50-359

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. ZON2015-00046

Zone change request from Manufactured Housing (MH) to Limited Commercial (LC) on property described as:

Southborough Estates 2nd Subdivision Addition, Wichita, Sedgwick County, Kansas.

Generally located on the West Side of South Meridian Avenue, South of West 47th Street South.

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 22nd day of November, 2016.

ATTEST:

_____ _____

Karen Sublett, City Clerk Jeff Longwell, Mayor

(SEAL)

APPROVED AS TO FORM:

_____

Jennifer Magaña, City Attorney and Director of Law

132019

(Published in the ***Wichita Eagle***, on November 11, 2016)

RESOLUTION NO. 16-439

A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE MAKING OF THE IMPROVEMENTS IN ACCORDANCE WITH SUCH FINDINGS (LATERAL 555, SOUTHWEST INTERCEPTOR SEWER – SOUTHBOROUGH ESTATES 2ND SUBDIVISION/SOUTH OF 47TH STREET SOUTH, WEST OF MERIDIAN) (468-85151).

WHEREAS, a petition (the "Petition") was filed with the City Clerk of the City of Wichita, Kansas (the "City") proposing certain internal improvements; and said Petition sets forth: (a) the general nature of the proposed improvements; (b) the estimated or probable cost of the proposed improvements; (c) the extent of the proposed improvement district to be assessed for the cost of the proposed improvements; (d) the proposed method of assessment; (e) the proposed apportionment of the cost between the improvement district and the City at large; and (f) a request that such improvements be made without notice and hearing as required by K.S.A. 12-6a01 *et seq.*, (the "Act"); and

WHEREAS, the City Council (the "Governing Body") of the City hereby finds and determines that said Petition was signed by the **owners of record of more than one-half of the area** liable for assessment for the proposed improvements, and is therefore sufficient in accordance with the provisions of the Act.

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. **Findings of Advisability**. The Governing Body hereby finds and determines that:

(a) It is advisable to make the following improvements:

Construction of a lateral sanitary sewer, including necessary sewer mains and appurtenances to serve the Improvement District defined below (the "Improvements").

(b) The estimated or probable cost of the Improvements is **Forty-Two Thousand Dollars ($42,000),** exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of submission of the Petition to the City. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions hereof.

(c) The extent of the improvement district (the "Improvement District") to be assessed for the cost of the Improvements is:

Lots 1 and 2 Block 1, Southborough Estates 2nd Subdivision

(d) The method of assessment is: **equally per lot (2 lots).**

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before or after assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

(e) The apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: **100%** to be assessed against the Improvement District and **0%** to be paid by the City-at-large.

(f) The payment of assessments to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

Section 2. **Authorization of Improvements**. The Improvements are hereby authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in ***Section 1*** of this Resolution.

Section 3. **Plans and Specifications**. The City Engineer shall prepare plans and specifications for said Improvements and a preliminary estimate of cost therefore, which plans, specifications and estimate shall be presented to the Governing Body for its approval.

Section 4. **Bond Authority; Reimbursement**. The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation § 1.150-2.

Section 5. **Effective Date**. This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

ADOPTED by the City Council of the City of Wichita, Kansas, on November 8, 2016.

(SEAL)

_____
Jeff Longwell, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Jennifer Magaña, City Attorney and Director of Law

(Published in the ***Wichita Eagle***, on _____)

RESOLUTION NO. _____

A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE MAKING OF THE IMPROVEMENTS IN ACCORDANCE WITH SUCH FINDINGS (WATER DISTRIBUTION SYSTEM – SOUTHBOROUGH ESTATES 2ND SUBDIVISION/SOUTH OF 47TH STREET SOUTH, WEST OF MERIDIAN) (448-90764).

WHEREAS, a petition (the "Petition") was filed with the City Clerk of the City of Wichita, Kansas (the "City") proposing certain internal improvements; and said Petition sets forth: (a) the general nature of the proposed improvements; (b) the estimated or probable cost of the proposed improvements; (c) the extent of the proposed improvement district to be assessed for the cost of the proposed improvements; (d) the proposed method of assessment; (e) the proposed apportionment of the cost between the improvement district and the City at large; and (f) a request that such improvements be made without notice and hearing as required by K.S.A. 12-6a01 *et seq.*, (the "Act"); and

WHEREAS, the City Council (the "Governing Body") of the City hereby finds and determines that said Petition was signed by **the owners of record of more than one-half of the area** liable for assessment for the proposed improvements, and is therefore sufficient in accordance with the provisions of the Act.

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. **Findings of Advisability**. The Governing Body hereby finds and determines that:

(a) It is advisable to make the following improvements:

Construction of a water distribution system, including necessary water mains, pipes, valves, hydrants, and appurtenances to serve the Improvement District defined below (the "Improvements").

(b) The estimated or probable cost of the Improvements is **Forty-Seven Thousand Dollars ($47,000),** exclusive of interest on financing and administrative and financing costs; said estimated amount to be increased at the pro rata rate of 1 percent per month from and after the date of submission of the Petition to the City. If expenses have been incurred for the Improvements and construction has not started within two years of the initial design contract, the Improvements will be deemed abandoned and expenses incurred to date will be assessed against property in the Improvement District defined below in accordance with the provisions hereof.

(c) The extent of the improvement district (the "Improvement District") to be assessed for the cost of the Improvements is:

Lots 1 and 2, Block 1 Southborough Estates 2nd Subdivision

(d) The method of assessment is: **equally per lot (2 lots).**

In the event all or part of the lots or parcels in the proposed Improvement District are reconfigured before assessments have been levied, the assessments against the replatted area shall be recalculated on a square foot basis.

(e) The apportionment of the cost of the Improvements, between the Improvement District and the City at large, is: **100%** to be assessed against the Improvement District and **0%** to be paid by the City-at-large.

(f) The payment of assessments to be imposed hereunder may be indefinitely deferred against those property owners eligible for deferral pursuant to the City's Special Assessment Deferral Program.

Section 2. **Authorization of Improvements**. The Improvements are hereby authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in ***Section 1*** of this Resolution.

Section 3. **Plans and Specifications**. The City Engineer shall prepare plans and specifications for said Improvements and a preliminary estimate of cost therefore, which plans, specifications and estimate shall be presented to the Governing Body for its approval.

Section 4. **Bond Authority; Reimbursement**. The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation § 1.150-2.

Section 5. **Effective Date**. This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

ADOPTED by the City Council of the City of Wichita, Kansas, on _____.

(SEAL)

_____
Jeff Longwell, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Jennifer Magaña, City Attorney and Director of Law

City of Wichita
City Council Meeting
November 8, 2016

TO: Mayor and City Council

SUBJECT: CUP2016-00025 – Request to Create the Village at Greenwich Commercial Community Unit Plan (DP-342) on Property Generally Located at the Northeast Corner of 21st Street North and Greenwich Road (District II)

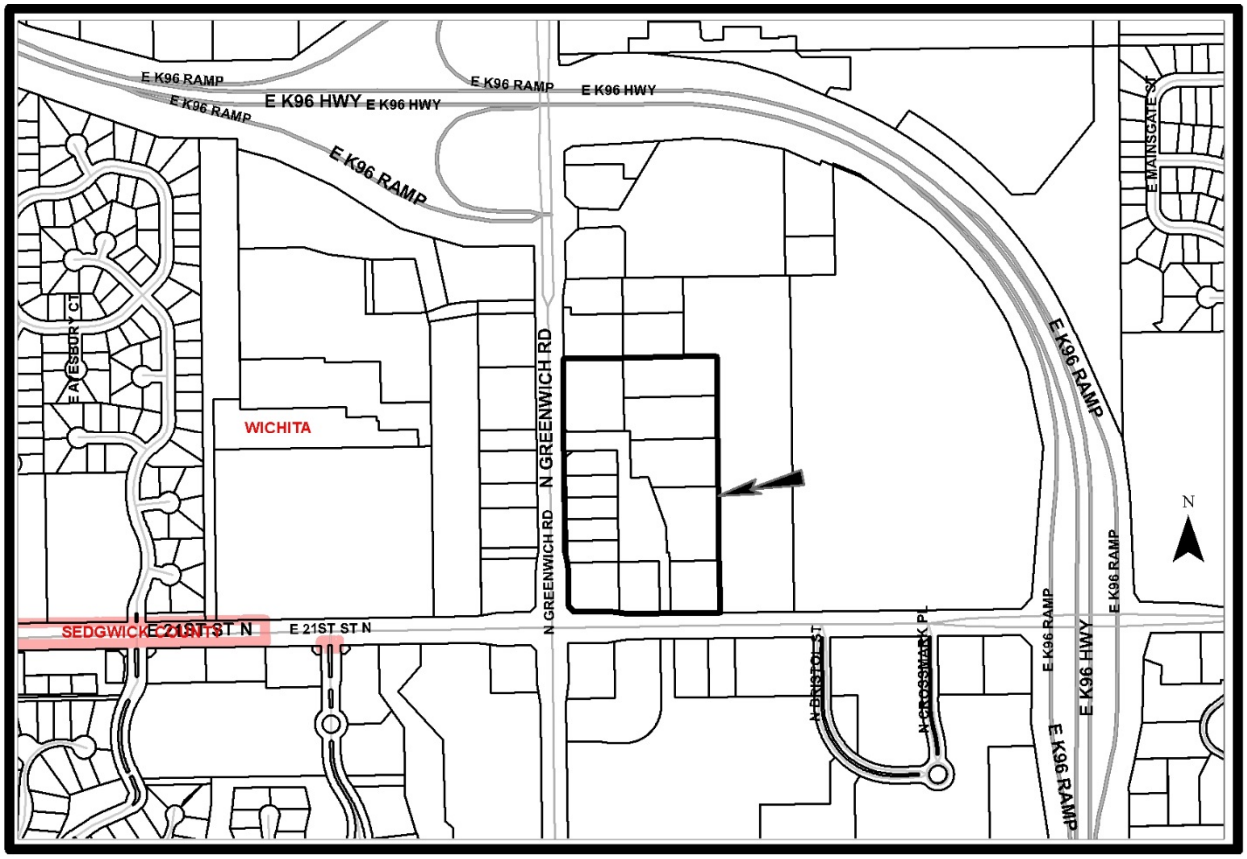
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendation: The MAPC voted (8-0) to approve the request.

DAB Recommendation: District Advisory Board II did not consider this request.

MAPD Staff Recommendation: Metropolitan Area Planning Department staff recommended approval of the request.



Background: The site was zoned LC Limited Commercial in 1997 subject to conditions of a development agreement with the City of Wichita (attached) establishing use restrictions and development standards. The agreement is recorded as a deed restriction on the site. The 19.25-acre site is developed with three strip shopping centers, two hotels, and a bank. Five (5) acres of the site remains undeveloped.

The applicant proposes to eliminate the deed restriction controlling development of the site and replace it with the attached Village at Greenwich Commercial Community Unit Plan (CUP). Other than updated code references, the only changes from the deed restriction proposed by the Village at Greenwich CUP are:

1. A reduction of the setback requirements along 21st Street North and Greenwich Road to match the setbacks established by the Village at Greenwich Addition.
2. An increase in the number of permitted monument signs from seven (7) to eleven (11). The number of proposed monument signs is still two (2) fewer than would be permitted by right in the LC district.

The site is located in the middle of a major commercial area along K-96 Highway. North of the site is zoned LC and LI Limited Industrial (LI) and is developed with a vehicle repair garage, big box retail, and commercial pad sites. South of site is a proposed 59-acre shopping center that is zoned LC and has two fast food restaurants and a bank developed on pad sites to date. East of the site is a 57-acre cemetery that is zoned LC and SF-5 Single-Family Residential (SF-5). West of the site is zoned LC and LI and is developed with a 70-acre shopping center developed with big box retail and commercial pad sites.

Analysis: On August 18, 2016, the Metropolitan Area Planning Commission (MAPC) approved the request (8-0). No citizens spoke at the hearing. Since no appeals were received, MAPC approval of the CUP is the final action on the CUP request. City Council action is required for the attached Declaration to remove the deed restriction on the site and declare the development agreement null and void.

Financial Considerations: Approval of this request will not create any financial obligations for the City.

Legal Considerations: The Law Department has reviewed and approved the Declaration as to form.

Recommendation/Actions: It is recommended that the City Council approve the Declaration and authorize the necessary signatures and notarization (simple majority required).

Attachments: MAPC Minutes
Development Agreement
Village at Greenwich CUP
Declaration

DECLARATION

THIS DECLARATION made this 8th day of November, 2016 by the undersigned Declarant.

WITNESSETH

WHEREAS, the Declarant entered into an agreement with Luxury Development Partners, Inc., dated January 7th, 1997, (the "Agreement") to put certain restrictions on certain real property that is legally described as Lot 1, Block 1, The Manhattan Addition to Sedgwick County, Kansas, (the "Property"); and

WHEREAS, the Agreement was filed at Film 1667, Page 0820 with the Sedgwick County Register of Deeds; and

WHEREAS, there are multiple successors in interest to Luxury Development Partners, Inc. (the "Successors"); and

WHEREAS, the Successors have requested that the legally described Property be rezoned subject to the provisions of a Community Unit Plan, DP-342, Village at Greenwich; and

WHEREAS, the Declarant has approved DP-342 on the 18th day of August, 2016; and

WHEREAS, such approval action of DP-342 has eliminated the need for the restrictions as reflected in the Agreement.

NOW, THEREFORE, the Declarant hereby declares the following:

1. An approved Community Unit Plan, DP-342, Village at Greenwich, has placed restrictions on the use and requirements on the Property.

2. That a copy of DP-342 is on file with the Metropolitan Area Planning Department.

3. That Declarant hereby agrees and consents that the Agreement is no longer applicable and declares the Agreement to be null and void.

IN WITNESS WHEREOF, the Declarant has been executed as of the date first written above.

THE CITY OF WICHITA

By: _____
Jeff Longwell, Mayor

ATTEST:

_____
Karen Sublett
City Clerk

Approved as to Form

_____
Jennifer Magana
City Attorney and Director of Law

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS
COUNTY OF SEDGWICK)

BE IT REMEMBERED, that on this _____ day of _____, 2016 before me, a Notary Public, in and for the County and State aforesaid, came Jeff Longwell, Mayor of the City of Wichita, Kansas, personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same, for and on behalf, and as the act and deed of said City.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

_____
Notary Public

My Commission Expires:_____

Approved / Accepted By City Council
This JAN 7 1997

AGREEMENT

JAN 7 1997

THIS AGREEMENT, made and entered into this _____ _____, ..., by and between the City of Wichita, Kansas, hereinafter "City", and Luxury Development Partners, Inc.

WITNESSETH:

WHEREAS, City approves and files the agreement for the property legally described as follows: Lot 1, Block 1, The Manhattan Addition to Sedgwick County, Kansas.

WHEREAS, City and Owner wish to agree on the terms and restrictions for the subject property. The development of this property shall be in accordance to the plan attached hereto (Exhibit A) and any substantial deviation of the plan shall constitute a violation of the building permit authorizing construction of the proposed development. The foregoing agreements are hereby made binding on all heirs, successors and assigns and are made a covenant to run with the land and shall not be withdrawn or modified without the consent of the City of Wichita.

The undersigned agrees not to transfer title to the above premises or any portion thereof without notifying the purchaser of the existence of this Agreement, but failures of purchasers of above property or any portion thereof to have actual notice of this Agreement shall in no way diminish or enlarge the rights or obligations imposed hereunder.

NOW, THEREFORE, in consideration of the premises, the parties agree as follows:
See Attached Exhibit "A"

IN WITNESS WHEREOF, the Parties have set their hands and seals the day and year first above written.

THE CITY OF WICHITA, KANSAS

BY _____
Bob Knight, Mayor

ATTEST:

Pat Burnett
City Clerk

STATE OF KANSAS }
SEDGWICK COUNTY } SS
FILED FOR RECORD AT
1:00p M
1579752 $156

LARRY CONSOLVER
REGISTER OF DEEDS

Deanna Manheimer
Deputy

16.00 cl

City Clerk

UNOFFICIAL COPY

Approved as to Form:

Gary E. Rehenstorf
Director of Law

LUXURY DEVELOPMENT PARTNERS, INC.

By: _____
William J. Warren, President

ACKNOWLEDGMENTS

STATE OF KANSAS)
) SS:
SEDGWICK COUNTY)

BE IT REMEMBERED, on this 7th day of January, 1997, before me a Notary public in and for the County and State aforesaid, came Bob Knight, Mayor of the City of Wichita, Kansas, personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same for and on behalf, and as the act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

PATRICIA L. BURNETT
Notary Public - State of Kansas
My Appt. Expires 2-10-98

_____
Notary Public

My Appointment Expires: 2-10-98

STATE OF KANSAS)
) SS:
SEDGWICK COUNTY)

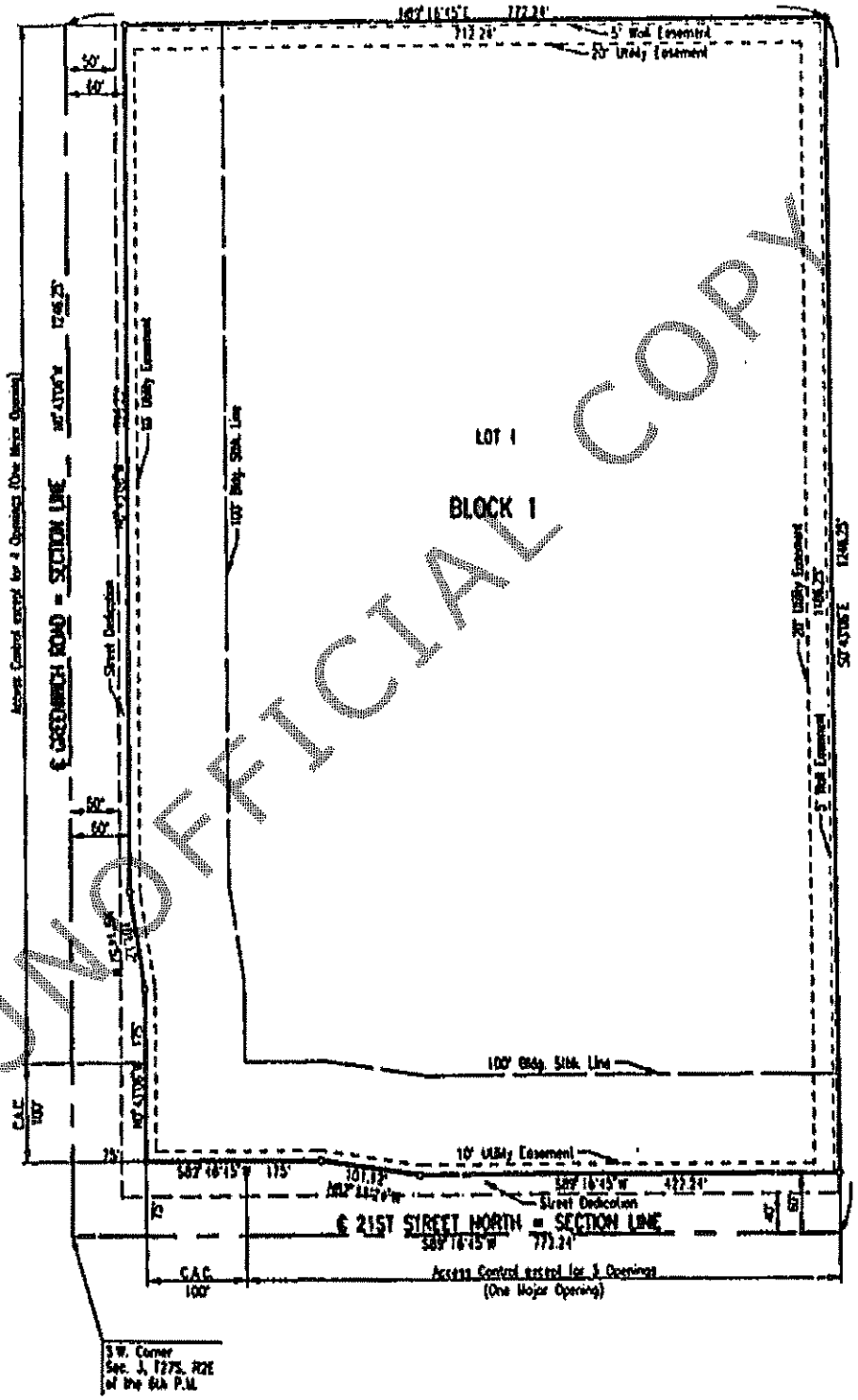
BE IT REMEMBERED on this 4th day of December, 1996, before me, a Notary public in aforesaid State and County, came William J. Warren, President of Luxury Development Partners, Inc., to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of same for and on behalf and as the act and deed of said corporation, in testimony whereof I have hereunto set my hand and affixed my notarial seal the day and year above written.

_____
Notary Public

My Appointment Expires: Jan. 15, 1997

GARY L. WILEY
NOTARY PUBLIC
STATE OF KANSAS
My Appt. Exp. 1-15-97

UNOFFICIAL COPY



APRIL, 1996

UNOFFICIAL COPY

THE MANHATTAN ADDITION

COMMERCIAL DEVELOPMENT AGREEMENT

EXHIBIT "A"

SHEET 1 OF 4

THE MANHATTAN ADDITION COMMERCIAL DEVELOPMENT AGREEMENT 04/10/96

GENERAL PROVISIONS

1. THIS DEVELOPMENT CONTAINS 19.25± NET ACRES.

2. BUILDING SETBACKS SHALL BE AS FOLLOWS:
100 FEET ADJACENT TO 21ST ST. NORTH AND GREENWICH ROAD FOR MAJOR STRUCTURES.
50 FEET ADJACENT TO 21ST ST. NORTH AND GREENWICH ROAD FOR PAD SITES.
35 FEET ALONG THE NORTH AND EAST PROPERTY LINES.

3. ALL UTILITIES SHALL BE INSTALLED UNDERGROUND.

4. A DRAINAGE PLAN AND GUARANTEES FOR THE DRAINAGE IMPROVEMENTS SHALL BE PROVIDED AT THE TIME OF PLATTING.

5. FINAL DETERMINATION OF STREET RIGHT-OF-WAY AND PAVEMENT WIDTHS SHALL BE RESOLVED AT THE TIME OF PLATTING.

6. PARKING SHALL BE PROVIDED IN ACCORDANCE WITH SECTION 28.04.140 ET. SEQ. OF THE CODE OF THE CITY OF WICHITA.

7. THE TRANSFER OF THE TITLE ON ALL OR ANY PORTION OF THE LAND INCLUDED IN THE DEVELOPMENT DOES NOT CONSTITUTE A TERMINATION OF THESE PROVISIONS OR ANY PORTION THEREOF, BUT SAID PROVISIONS SHALL RUN WITH THE LAND FOR DEVELOPMENT AND BE BINDING UPON THE PRESENT LAND OWNERS, THEIR SUCCESSORS AND ASSIGNS AND THEIR LESSEES UNLESS AMENDED.

8. ARCHITECTURAL CONTROLS:

   A. ALL BUILDINGS SHALL HAVE PREDOMINANT EXTERIOR BUILDING MATERIAL, CONSISTENT ARCHITECTURAL CHARACTER, COLOR, OR TEXTURE, AND CONSISTENT LIGHTING DESIGN (FIXTURES, POLES, LAMPS, ETC.) VARIATIONS MUST BE APPROVED BY THE DIRECTOR OF PLANNING.
   B. ALL LIGHTING SHALL BE SHIELDED TO REFLECT LIGHT DOWNWARD AND AWAY FROM RESIDENTIAL AREAS.

9. FIRE LANES SHALL BE IN ACCORDANCE WITH THE APPROPRIATE FIRE CODE. NO PARKING SHALL BE ALLOWED IN SAID FIRE LANES, ALTHOUGH THEY MAY BE USED FOR PASSENGER LOADING AND UNLOADING. DURING THE BUILDING PERMIT REVIEW, THE FIRE CHIEF, OR HIS DESIGNATED REPRESENTATIVE, SHALL APPROVE THE SITE PLAN REGARDING THE DESIGN OF THE FIRE LANES PRIOR TO THE ISSUANCE OF A BUILDING PERMIT.

10. TRASH RECEPTACLES SHALL BE APPROPRIATELY SCREENED TO REASONABLY HIDE THEM FROM GROUND VIEW FROM ADJACENT STREETS OR RESIDENTIAL AREAS.

EXHIBIT "A"
SHEET 2 OF 4

UNOFFICIAL COPY

11. MASONRY WALL - A SOLID OR SEMI-SOLID WALL CONSTRUCTED OF BRICK, STONE, MASONRY, ARCHITECTURAL TILE OR OTHER SIMILAR MATERIAL (NOT INCLUDING WOOD OR WOVEN WIRE) AT LEAST SIX FEET BUT NOT MORE THAN 8 FEET HIGH SHALL BE CONSTRUCTED ALONG THE NORTH & EAST PROPERTY LINES. CONSTRUCTION OF WALL WILL REQUIRE A BUILDING PERMIT. NO WALL SHALL BE CONSTRUCTED IN A UTILITY EASEMENT.

    SHOULD THE AREA ADJACENT TO THE NORTH AND EAST PROPERTY LINES BE ZONED ANY ZONING DISTRICT OTHER THAN RESIDENTIAL, THE ABOVE REFERENCED WALL SHALL NOT BE REQUIRED.

12. ALL ROOF-TOP EQUIPMENT SHALL BE SCREENED FROM GROUND LEVEL VIEW FROM ADJACENT RESIDENTIAL AREAS.

13. SIGNS SHALL BE IN ACCORDANCE WITH CHAPTER 24.04 OF THE SIGN CODE OF THE CITY OF WICHITA WITH THE FOLLOWING EXCEPTIONS:

    A. NO OFF-SITE, PORTABLE SIGNS, OR SIGNS WITH ROTATING OR FLASHING LIGHTS SHALL BE PERMITTED.
    B. IF THE PROPERTY IS PLATTED INTO MULTIPLE LOTS, AN AGREEMENT FOR SIGNAGE ALLOCATIONS WILL BE REQUIRED.
    C. ALL SIGNS ALONG GREENWICH AND 21ST STREET NORTH SHALL BE MONUMENT TYPE SIGNS WITH A MAXIMUM HEIGHT OF 20 FEET; PROVIDED, HOWEVER, IF THE NUMBER OF SIGNS ALONG GREENWICH IS LIMITED TO FOUR (4) OR LESS OR THE NUMBER OF SIGNS ALONG 21ST STREET NORTH IS LIMITED TO THREE (3) OR LESS, ONE (1) SIGN ON THAT FRONTAGE MAY BE INCREASED TO 25 FEET.
    D. THE MAXIMUM SQUARE FOOTAGE OF SIGN AREA PERMITTED FOR GROUND MONUMENT SIGNS SHALL BE CALCULATED AT 0.8 SQ. FT. PER FOOT OF LINEAR STREET FRONTAGE. AS THE FRONTAGE DEVELOPS ALONG THE ARTERIAL ROADWAYS, GROUND OR POLE SIGNS SHALL BE SPACED A MINIMUM 150 FEET APART, IRRESPECTIVE OR HOW LAND IS LEASED OR SOLD.

14. LANDSCAPE BUFFERS AND SCREENING - SHALL BE IN ACCORDANCE WITH SECTION 10.32.010 ET. SEQ. OF THE CODE OF THE CITY OF WICHITA. A LANDSCAPE PLAN INDICATING THE LOCATION, TYPE, AND SPECIFICATION OF PLANT MATERIALS SHALL BE SUBMITTED TO THE PLANNING DEPARTMENT FOR THEIR REVIEW AND APPROVAL PRIOR TO THE ISSUANCE OF ANY BUILDING PERMIT(S). THE LANDSCAPE PLAN SHALL ALSO STATE HOW WATER IS TO BE PROVIDED TO THE PLANT MATERIALS.

    A FINANCIAL GUARANTEE FOR THE PLANT MATERIALS AND WATERING SYSTEM(S) APPROVED FOR THE LANDSCAPE PLAN SHALL BE REQUIRED PRIOR TO THE ISSUANCE OF ANY OCCUPANCY PERMIT IF THE REQUIRED LANDSCAPING HAS NOT BEEN INSTALLED.

15. ACCESS CONTROL

    A. ACCESS TO 21ST ST. NORTH SHALL BE LIMITED TO 3 OPENINGS, AT LEAST ONE OF WHICH SHALL BE A MAJOR OPENING. THERE SHALL BE COMPLETE ACCESS CONTROL TO 21ST ST. NORTH ON THE WEST 100' OF THE PROPERTY.

EXHIBIT "A"
SHEET 3 OF 4

Journal Copy

B. ACCESS TO GREENWICH ROAD SHALL BE LIMITED TO 4 OPENINGS, ONE OF WHICH SHALL BE A MAJOR OPENING. THERE SHALL BE COMPLETE ACCESS CONTROL TO GREENWICH ROAD ON THE SOUTH 100' OF THE PROPERTY.

C. GENERAL LOCATION OF OPENINGS SHALL BE DETERMINED AT THE TIME OF PLATTING.

16. PEDESTRIAN WALK SYSTEM
PRIOR TO ISSUING BUILDING PERMITS, A PLAN FOR A PEDESTRIAN WALK SYSTEM SHALL BE SUBMITTED AND APPROVED BY THE DIRECTOR OF PLANNING. THIS WALK SYSTEM SHALL LINK SIDEWALKS ALONG 21ST STREET NORTH AND GREENWICH ROAD, WITH PROPOSED BUILDINGS WITHIN THE SUBJECT PROPERTY.

17. NO BUILDING PERMITS SHALL BE ISSUED FOR ANY DEVELOPMENT WITHOUT SERVICE BY MUNICIPAL WATER AND SEWER SERVICES.

18. THE SUBJECT PROPERTY SHALL BE SUBJECT TO THE NOISE ORDINANCE (SECTION 7.41) AND ODOR ORDINANCE (SECTION 7.42) OF THE CODE OF THE CITY OF WICHITA.

CONDITIONS

PROPOSED USE - ALL USES PERMITTED IN THE "L.C." ZONING DISTRICT EXCEPT TAVERNS, DRINKING ESTABLISHMENTS AND ADULT ENTERTAINMENT AS DEFINED BY CITY CODE.
NET AREA - 19.25 ACRES± OR 838,670 SQ. FT.
MAX. BUILDING COVERAGE - 30% OR 251,601 SQ. FT.
MAX. GROSS FLOOR AREA - 35% OR 293,535 SQ. FT.
MAX. BUILDING HEIGHT - 45 FT.
MAX. NUMBER OF BUILDINGS - 7

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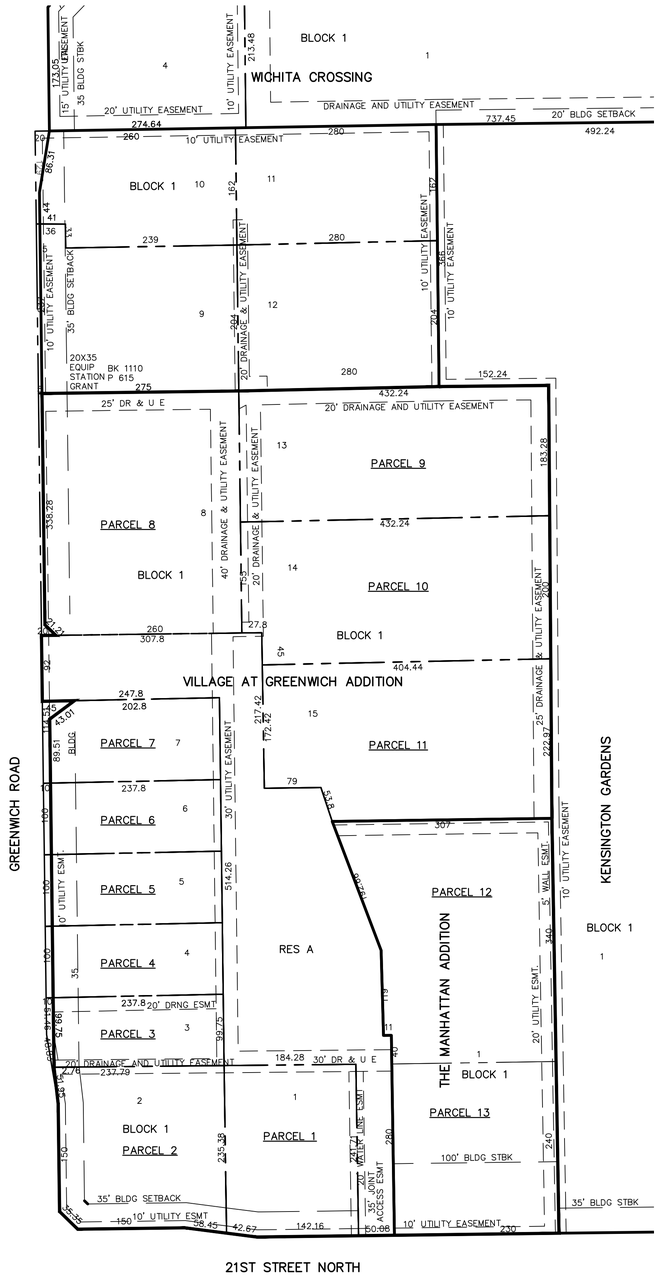
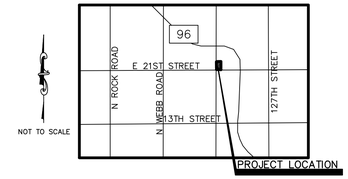
EXHIBIT "A"
SHEET 4 OF 4

COMMUNITY UNIT PLAN DP-342

VILLAGE AT GREENWICH

WICHITA, SEDGWICK COUNTY, KANSAS





LOCATION MAP
CITY OF WICHITA, KANSAS

GRAPHIC SCALE
(IN FEET)
1 inch = 100 ft.

LEGAL DESCRIPTION
A TRACT OF LAND DESCRIBED AS FOLLOWS;

THE MANHATTAN ADDITION, SEDGWICK COUNTY, KANSAS, EXCEPT THAT PART PLATTED AS VILLAGE AT GREENWICH ADDITION, AN ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS; ALONG WITH LOTS 1–8 , LOTS 13–15, AND RESERVE A, VILLAGE AT GREENWICH ADDITION, AN ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS.

GENERAL PROVISIONS:

1. THIS DEVELOPMENT CONTAINS 19.25± NET ACRES.
2. BUILDING SETBACKS SHALL BE AS SHOWN ON THE CUP:
3. ALL UTILITIES SHALL BE INSTALLED UNDERGROUND.
4. A DRAINAGE PLAN AND GUARANTEES FOR THE DRAINAGE IMPROVEMENTS SHALL BE PROVIDED AT THE TIME OF PLATTING.
5. FINAL DETERMINATION OF STREET RIGHT–OF–WAY AND PAVEMENT WIDTHS SHALL BE RESOLVED AT THE TIME OF PLATTING.
6. PARKING SHALL BE PROVIDED IN ACCORDANCE WITH THE UNIFIED ZONING CODE.
7. THE TRANSFER OF THE TITLE ON ALL OR ANY PORTION OF THE LAND INCLUDED IN THE DEVELOPMENT DOES NOT CONSTITUTE A TERMINATION OF THESE PROVISIONS OR ANY PORTION THEREOF, BUT SAID PROVISIONS SHALL RUN WITH THE LAND FOR DEVELOPMENT AND BE BINDING UPON THE PRESENT LAND OWNERS, THEIR SUCCESSORS AND ASSIGNS AND THEIR LESSEES UNLESS AMENDED.
8. ARCHITECTURAL CONTROLS:
   - 8.1. ALL BUILDINGS SHALL HAVE PREDOMINANT EXTERIOR BUILDING MATERIAL, CONSISTENT ARCHITECTURAL CHARACTER, COLOR, OR TEXTURE, AND CONSISTENT LIGHTING DESIGN (FIXTURES, POLES, LAMPS, ETC.), VARIATIONS MUST BE APPROVED BY THE DIRECTOR OF PLANNING.
   - 8.2. ALL LIGHTING SHALL BE SHIELDED TO REFLECT LIGHT DOWNWARD AND AWAY FROM RESIDENTIAL AREAS.
   - 8.3. ANY BUILDING CONSTRUCTED ON THE PREMISES SHALL BE SO DESIGNED AND CONSTRUCTED AS TO MINIMIZE NOISE POLLUTION IN ANY SUCH STRUCTURE, GIVING DUE CONSIDERATION TO THE USE FOR WHICH SUCH STRUCTURE IS DESIGNED AND BUILT.
9. FIRE LANES SHALL BE IN ACCORDANCE WITH THE APPROPRIATE FIRE CODE. NO PARKING SHALL BE ALLOWED IN SAID FIRE LANES, ALTHOUGH THEY MAY BE USED FOR PASSENGER LOADING AND UNLOADING. DURING THE BUILDING PERMIT REVIEW, THE FIRE CHIEF, OR HIS DESIGNATED REPRESENTATIVE, SHALL APPROVE THE SITE PLAN REGARDING THE DESIGN OF THE FIRE LANES PRIOR TO THE ISSUANCE OF A BUILDING PERMIT.
10. TRASH RECEPTACLES SHALL BE APPROPRIATELY SCREENED TO REASONABLY HIDE THEM FROM GROUND VIEW FROM ADJACENT STREETS OR RESIDENTIAL AREAS.
11. MASONRY WALL – A SOLID OR SEMI–SOLID WALL CONSTRUCTED OF BRICK, STONE, MASONRY, ARCHITECTURAL TILE OR OTHER SIMILAR MATERIAL (NOT INCLUDING WOOD OR WOVEN WIRE) AT LEAST SIX FEET BUT NOT MORE THAN 8 FEET HIGH SHALL BE CONSTRUCTED ALONG THE NORTH & EAST PROPERTY LINES. CONSTRUCTION OF WALL WILL REQUIRE A BUILDING PERMIT. NO WALL SHALL BE CONSTRUCTED IN A UTILITY EASEMENT.
   - 11.1 SHOULD THE AREA ADJACENT TO THE ORTH AND EAST PROPERTY LINES BE ZONED ANY ZONING DISTRICT OTHER THAN RESIDENTIAL, THE ABOVE REFERENCED WALL SHALL NOT BE REQUIRED.
12. ALL ROOF–TOP EQUIPMENT SHALL BE SCREENED FROM GROUND LEVEL VIEW FROM ADJACENT RESIDENTIAL AREAS.
13. SIGNS SHALL BE IN ACCORDANCE WITH CHAPTER 24.04 OF THE SIGN CODE OF THE CITY OF WICHITA WITH THE FOLLOWING EXCEPTIONS:
   - 13.1. NO OFF–SITE, PORTABLE SIGNS, OR SIGNS WITH ROTATING OR FLASHING LIGHTS SHALL BE PERMITTED.
   - 13.2. IF THE PROPERTY IS PLATTED INTO MULTIPLE LOTS, AN AGREEMENT FOR SIGNAGE ALLOCATIONS WILL BE REQUIRED.
   - 13.3. ALL SIGNS ALONG GREENWICH AND 21ST STREET NORTH SHALL BE MONUMENT TYPE SIGNS WITH A MAXIMUM HEIGHT OF 25 FEET. IF THE NUMBER OF SIGNS ALONG GREENWICH EXCEEDS FOUR (4) OR THE NUMBER OF SIGNS ALONG 21ST STREET NORTH EXCEEDS THREE (3), ANY ADDITIONAL SIGN(S) SHALL BE LIMITED TO 140 SQUARE FEET PER SIDE. NO MORE THAN TWO ADDITIONAL SIGNS SHALL BE PERMITTED ALONG BOTH GREENWICH AND 21ST STREET NORTH, WITH A SIGN ON PARCEL 2 ANGLED TO THE INTERSECTION OF GREENWICH AND 21ST STREET NORTH COUNTING AS ONE OF THE ADDITIONAL PERMITTED SIGNS FOR BOTH STREET FRONTAGES.
   - 13.4. THE MAXIMUM SQUARE FOOTAGE OF SIGN AREA PERMITTED FOR GROUND MONUMENT SIGNS SHALL BE CALCULATED AT 0.8 SQ. FT. PER FOOT OF LINEAR STREET FRONTAGE. AS THE FRONTAGE DEVELOPS ALONG THE ARTERIAL ROADWAYS, GROUND OR POLE SIGNS SHALL BE SPACED A MINIMUM OF 150 FEET APART, IRRESPECTIVE OF HOW LAND IS LEASED OR SOLD.
14. LANDSCAPE BUFFERS AND SCREENING – SHALL BE IN ACCORDANCE WITH THE CITY OF WICHITA LANDSCAPE ORDINANCE. A LANDSCAPE PLAN INDICATING THE LOCATION, TYPE, AND SPECIFICATION OF PLANT MATERIALS SHALL BE SUBMITTED TO THE PLANNING DEPARTMENT FOR THEIR REVIEW AND APPROVAL PRIOR TO THE ISSUANCE OF ANY BUILDING PERMIT (S). THE LANDSCAPE PLAN SHALL ALSO STATE HOW WATER IS TO BE PROVIDED TO THE PLANT MATERIALS.
   - 14.1. A FINANCIAL GUARANTEE FOR THE PLANT MATERIALS AND WATERING SYSTEM(S) APPROVED FOR THE LANDSCAPE PLAN SHALL BE REQUIRED PRIOR TO THE ISSUANCE OF ANY OCCUPANCY PERMIT IF THE REQUIRED LANDSCAPING HAS NOT BEEN INSTALLED.
15. ACCESS CONTROL
   - 15.1. ACCESS TO 21ST STREET NORTH SHALL BE LIMITED TO 3 OPENINGS, AT LEAST ONE OF WHICH SHALL BE A MAJOR OPENING. THERE SHALL BE COMPLETE ACCESS CONTROL TO 21ST STREET NORTH ON THE WEST 100' OF THE PROPERTY.
   - 15.2. ACCESS TO GREENWICH ROAD SHALL BE LIMITED TO 4 OPENINGS, ONE OF WHICH SHALL BE A MAJOR OPENING. THERE SHALL BE COMPLETE ACCESS CONTROL TO GREENWICH ROAD ON THE SOUTH 100' OF THE PROPERTY.
   - 15.3. GENERAL LOCATION OF OPENINGS SHALL BE DETERMINED AT THE TIME OF PLATTING.
16. PEDESTRIAN WALK SYSTEM – PRIOR TO ISSUING BUILDING PERMITS, A PLAN FOR A PEDESTRIAN WALK SYSTEM SHALL BE SUBMITTED AND APPROVED BY THE DIRECTOR OF PLANNING. THIS WALK SYSTEM SHALL LINK SIDEWALKS ALONG 21ST STREET NORTH AND GREENWICH ROAD, WITH PROPOSED BUILDINGS WITHIN THE SUBJECT PROPERTY.
17. NO BUILDING PERMITS SHALL BE ISSUED FOR ANY DEVELOPMENT WITHOUT SERVICE BY MUNICIPAL WATER AND SEWER SERVICES.
18. THE SUBJECT PROPERTY SHALL BE SUBJECT TO THE NOISE ORDINANCE (SECTION 7.41) AND ODOR ORDINANCE (SECTION 7.42) OF THE CODE OF THE CITY OF WICHITA.
19. PARCEL DESCRIPTIONS:

PARCEL NO. 1
PROPOSED USES: ALL USES PERMITTED IN THE "LC" LIMITED COMMERCIAL ZONING DISTRICT BY RIGHT EXCEPT: TAVERNS, DRINKING ESTABLISHMENTS AND SEXUALLY ORIENTED BUSINESSES AS DEFINED BY CITY CODE.

NET AREA – 1.01 ACRES±
TOTAL NUMBER OF BUILDINGS – 1
MAXIMUM BUILDING COVERAGE – 30%
MAXIMUM GROSS FLOOR AREA – 35%
PARKING – SEE GENERAL PROVISION NUMBER 6
MAXIMUM BUILDING HEIGHT – 45 FEET

PARCEL NO. 2
PROPOSED USES: SAME AS PARCEL 1

NET AREA – 1.21 ACRES±
TOTAL NUMBER OF BUILDINGS – 1
MAXIMUM BUILDING COVERAGE – 30%
MAXIMUM GROSS FLOOR AREA – 35%
PARKING – SEE GENERAL PROVISION NUMBER 6
MAXIMUM BUILDING HEIGHT – 45 FEET

PARCEL NO. 3
PROPOSED USES: SAME AS PARCEL 1

NET AREA – 0.54 ACRES±
TOTAL NUMBER OF BUILDINGS – 1
MAXIMUM BUILDING COVERAGE – 30%
MAXIMUM GROSS FLOOR AREA – 35%
PARKING – SEE GENERAL PROVISION NUMBER 6
MAXIMUM BUILDING HEIGHT – 45 FEET

PARCEL NO. 4
PROPOSED USES: SAME AS PARCEL 1

NET AREA – 0.55 ACRES±
TOTAL NUMBER OF BUILDINGS – 1
MAXIMUM BUILDING COVERAGE – 30%
MAXIMUM GROSS FLOOR AREA – 35%
PARKING – SEE GENERAL PROVISION NUMBER 6
MAXIMUM BUILDING HEIGHT – 45 FEET

PARCEL NO. 5
PROPOSED USES: SAME AS PARCEL 1

NET AREA – 0.55 ACRES±
TOTAL NUMBER OF BUILDINGS – 1
MAXIMUM BUILDING COVERAGE – 30%
MAXIMUM GROSS FLOOR AREA – 35%
PARKING – SEE GENERAL PROVISION NUMBER 6
MAXIMUM BUILDING HEIGHT – 45 FEET

PARCEL NO. 6
PROPOSED USES: SAME AS PARCEL 1

NET AREA – 0.55 ACRES±
TOTAL NUMBER OF BUILDINGS – 1
MAXIMUM BUILDING COVERAGE – 30%
MAXIMUM GROSS FLOOR AREA – 35%
PARKING – SEE GENERAL PROVISION NUMBER 6
MAXIMUM BUILDING HEIGHT – 45 FEET

PARCEL NO. 7
PROPOSED USES: SAME AS PARCEL 1

NET AREA – 0.61 ACRES±
TOTAL NUMBER OF BUILDINGS – 1
MAXIMUM BUILDING COVERAGE – 30%
MAXIMUM GROSS FLOOR AREA – 35%
PARKING – SEE GENERAL PROVISION NUMBER 6
MAXIMUM BUILDING HEIGHT – 45 FEET

PARCEL NO. 8
PROPOSED USES: SAME AS PARCEL 1

NET AREA – 2.13 ACRES±
TOTAL NUMBER OF BUILDINGS – 1
MAXIMUM BUILDING COVERAGE – 30%
MAXIMUM GROSS FLOOR AREA – 35%
PARKING – SEE GENERAL PROVISION NUMBER 6
MAXIMUM BUILDING HEIGHT – 45 FEET

PARCEL NO. 9
PROPOSED USES: SAME AS PARCEL 1

NET AREA – 1.82 ACRES±
TOTAL NUMBER OF BUILDINGS – 1
MAXIMUM BUILDING COVERAGE – 30%
MAXIMUM GROSS FLOOR AREA – 35%
PARKING – SEE GENERAL PROVISION NUMBER 6
MAXIMUM BUILDING HEIGHT – 45 FEET

PARCEL NO. 10
PROPOSED USES: SAME AS PARCEL 1

NET AREA – 1.95 ACRES±
TOTAL NUMBER OF BUILDINGS – 1
MAXIMUM BUILDING COVERAGE – 30%
MAXIMUM GROSS FLOOR AREA – 35%
PARKING – SEE GENERAL PROVISION NUMBER 6
MAXIMUM BUILDING HEIGHT – 45 FEET

PARCEL NO. 11
PROPOSED USES: SAME AS PARCEL 1

NET AREA – 1.95 ACRES±
TOTAL NUMBER OF BUILDINGS – 1
MAXIMUM BUILDING COVERAGE – 30%
MAXIMUM GROSS FLOOR AREA – 35%
PARKING – SEE GENERAL PROVISION NUMBER 6
MAXIMUM BUILDING HEIGHT – 45 FEET

PARCEL NO. 12
PROPOSED USES: SAME AS PARCEL 1

NET AREA – 2.01 ACRES±
TOTAL NUMBER OF BUILDINGS – 1
MAXIMUM BUILDING COVERAGE – 30%
MAXIMUM GROSS FLOOR AREA – 35%
PARKING – SEE GENERAL PROVISION NUMBER 6
MAXIMUM BUILDING HEIGHT – 45 FEET

PARCEL NO. 13
PROPOSED USES: SAME AS PARCEL 1

NET AREA – 1.26 ACRES±
TOTAL NUMBER OF BUILDINGS – 1
MAXIMUM BUILDING COVERAGE – 30%
MAXIMUM GROSS FLOOR AREA – 35%
PARKING – SEE GENERAL PROVISION NUMBER 6
MAXIMUM BUILDING HEIGHT – 45 FEET

RESERVE A
PROPOSED USES: UTILITIES, CONFINED BY EASEMENTS, SIDEWALKS, DRIVES, DRAINAGE, BERMING, LANDSCAPING, IRRIGATION, MONUMENTS, OPEN SPACE, DEVELOPMENT SIGNS, FOUNTAINS, AND PRIVATE RECIPROCAL VEHICULAR AND PEDESTRIAN ACCESS

NET AREA – 3.11 ACRES±
TOTAL NUMBER OF BUILDINGS – 0
MAXIMUM BUILDING COVERAGE – N/A
MAXIMUM GROSS FLOOR AREA – N/A
PARKING – SEE GENERAL PROVISION NUMBER 6
MAXIMUM BUILDING HEIGHT – N/A

KAW VALLEY ENGINEERING, INC.
200 N EMPORIA AVENUE, SUITE 100
WICHITA, KANSAS 67202
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DATE OF PREPARATION: AUGUST 09, 2016 PROJECT NO. G14D0100 SHEET 1 OF 1

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EXCERPT MINUTES OF AUGUST 18, 2016 WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION MEETING

Case No.: CUP2016-00025 - Wheeler Trust; Brandon Hospitality, LLC; and Wichita Hospitality Group, LLC (owners/applicants); and Kaw Valley Engineering, Inc., c/o Tim Austin (agent) request a City request to create the Village at Greenwich Commercial CUP DP-340 on property described:

The Manhattan Addition, Sedgwick County, Kansas, EXCEPT that part platted as Village at Greenwich Addition, as Addition to Wichita, Sedgwick County, Kansas; ALONG WITH Lots 1-8, Lots 13-15, and Reserve A, Village at Greenwich Addition, an Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant requests creation of the Village at Greenwich Community Unit Plan (CUP) DP-342 (see attached) in existing LC Limited Commercial (LC) zoning located at the northeast corner of 21st Street North and Greenwich Road. The 19.25-acre site is developed with three strip shopping centers, two hotels, and a bank. Five (5) acres of the site remains undeveloped. The site is controlled by an agreement (see attached) with the City of Wichita establishing use restrictions and development standards. The agreement is recorded as a deed restriction on the site.

The applicant proposes to eliminate the deed restriction controlling development of the site and replace it with the proposed Village at Greenwich CUP. Other than updated code references, the only changes from the deed restriction proposed by the Village at Greenwich CUP are:

1. A reduction of the setback requirements along 21st Street North and Greenwich Road to match the setbacks established by the Village at Greenwich Addition.
2. An increase in the number of permitted monument signs from seven (7) to eleven (11). The number of proposed monument signs is still two (2) fewer than would be permitted by right in the LC district.

The site is located in the middle of a major commercial area along K-96 Highway. North of the site is zoned LC and LI Limited Industrial (LI) and is developed with a vehicle repair garage, big box retail, and commercial pad sites. South of site is a proposed 59 acre shopping center that is zoned LC and has two fast food restaurants and a bank developed on pad sites to date. East of the site is a 57 acre cemetery that is zoned LC and SF-5 Single-Family Residential (SF-5). West of the site is zoned LC and LI and is developed with a 70 acre shopping center developed with big box retail and commercial pad sites.

CASE HISTORY: The southwest portion of the site was zoned LC in 1958 when Sedgwick County established zoning within three (3) miles of the Wichita city limits. The remainder of the site was approved for LC zoning by the Sedgwick County Board of County Commissioners on December 13, 1995 (SCZ-0699). Approval of the expanded LC zoning was subject to platting the entire site, including a development agreement with the City of Wichita to provide for the extension of municipal services and establish use controls and development restrictions. The development agreement for the site was approved by the Wichita City Council on January 7, 1997, and the site was platted as The Manhattan Addition on February 21, 1997. A portion of the site was replatted as the Village at Greenwich Addition on September 30, 2008.

ADJACENT ZONING AND LAND USE:

NORTH:	LC, LI	Vehicle repair, big box retail, commercial pad sites
SOUTH:	LC	Undeveloped, fast food restaurant, bank
EAST:	LC, SF-5	Cemetery
WEST:	LC, LI	Big box retail, commercial pad sites

PUBLIC SERVICES: 21st Street North and Greenwich Road are both section line arterial streets at this location with 60-foot half-width right of way (ROW), tapering to 75-foot half-width ROW at the intersection. Greenwich Road is a six-lane arterial with dual left turn lanes at 21st Street North and a single left turn lane into the major entrance to the site. Both intersections are signalized. 21st Street North is a six-lane arterial with a continuous center left turn lane. The CUP proposes three (3) access openings to 21st Street North, all of which have been constructed, and four (4) access openings to Greenwich Road, three of which have been constructed. Any remaining access opening to Greenwich Road is subject to the City of Wichita's Access Management Policy per the requirements of the CUP and plat. All utilities currently serve the site, and the CUP indicates that all utilities will be placed underground.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Wichita City Limits. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "New Employment" which encompasses areas that likely will be developed or redeveloped by 2035 with uses that constitute centers or concentrations of employment primarily in manufacturing, warehousing, distribution, construction, research, technology, business services, or corporate offices. Major shopping centers and office parks likely will be developed within this area as well, based upon market driven location factors. In certain areas, especially those in proximity to existing residential uses, higher density housing and convenience retail centers likely will be developed. The Locational Guidelines of the Comprehensive Plan encourage major commercial development at arterial street intersections. This application meets the Comprehensive Plan Land Use Compatibility and Design recommendations regarding screening, buffering, shared internal vehicular and pedestrian circulation, access controls, noise and lighting controls and aesthetic considerations.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the proposed CUP be APPROVED, subject to the following conditions:

A. The applicant shall record a CUP certificate with the Register of Deeds indicating that this tract (referenced as DP-342 Village at Greenwich CUP) has special conditions for development on the property. A copy of the recorded certificate along with four copies of the approved CUP shall be submitted 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 site is located in the middle of a major commercial area along K-96 Highway. North of the site is zoned LC and LI Limited Industrial (LI) and is developed with a vehicle repair garage, big box retail, and commercial pad sites. South of site is a proposed 59 acre shopping center that is zoned LC and has two fast food restaurants and a bank developed on pad sites to date. East of the site is a 57 acre cemetery that is zoned LC and SF-5 Single-Family Residential (SF-5). West of the site is zoned LC and LI and is developed with a 70 acre shopping center developed with big box retail and commercial pad sites.

2. The suitability of the subject property for the uses to which it has been restricted: The 19.25-acre site is zoned LC. Current Wichita-Sedgwick County Unified Zoning Code (UZC) requirements include a CUP for LC zoned sites of 6-acres or more that are held under unified control at the time of initial approval. A CUP is intended to provide well planned and organized commercial development to certain standards prescribed by the UZC.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: LC zoning exists on the property. The requested CUP restricts land uses on the site and require specific development standards that are greater than standard LC zoning requirements. The proposed CUP use restrictions and development standards should mitigate detrimental impacts on nearby property.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Wichita City Limits. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "New Employment" which encompasses areas that likely will be developed or redeveloped by 2035 with uses that constitute centers or concentrations of employment primarily in manufacturing, warehousing, distribution, construction, research, technology, business services, or corporate offices. Major shopping centers and office parks likely will be developed within this area as well, based upon market driven location factors. In certain areas, especially those in proximity to existing residential uses, higher density housing and convenience retail centers likely will be developed. The Locational Guidelines of the Comprehensive Plan encourage major commercial development at arterial street intersections. This application meets the Comprehensive Plan Land Use Compatibility and Design recommendations regarding screening, buffering, shared internal vehicular and pedestrian circulation, access controls, noise and lighting controls and aesthetic considerations.

5. Impact of the proposed development on community facilities: Any remaining access opening to Greenwich Road is subject to the City of Wichita's Access Management Policy per the requirements of the CUP and plat. All utilities currently serve the site, and the CUP indicates that all utilities will be placed underground.

SCOTT KNEBEL, Planning Staff presented the Staff Report.

RICHARDSON mentioned changing the height of the signs to 25 feet. He commented that there are also a number of references to actions to be taken at the time of platting, but added that this property is already platted.

KNEBEL said he thought it was just the sign at the corner 21st Street and Greenwich Road that the applicant wanted to be 25 feet high. He said they will revise the CUP language to reflect that. He commented that there are a number of CUP's that mention items to be done at platting when the platting happened 50 years ago. He said staff did not see the purpose in rewriting the entire CUP.

WARREN clarified that the applicant was asking to replace a deed restriction with a CUP. He said he thought deed restrictions lasted forever.

KNEBEL said the applicant is asking for creation of a CUP for the property. He said they will have to petition the City Council to eliminate the deed restriction.

MOTION: To approve subject to staff recommendation.

WARREN moved, **GREENE** seconded the motion, and it carried (8-0).

City of Wichita
City Council Meeting
November 8, 2016

TO: Mayor and City Council

SUBJECT: ZON2016-00032 – Zone Change from SF-5 Single-Family Residential to TF-3 Two-Family Residential, Generally Located Northwest of the Intersection of East 55th Street South and South Hydraulic Avenue (District III)

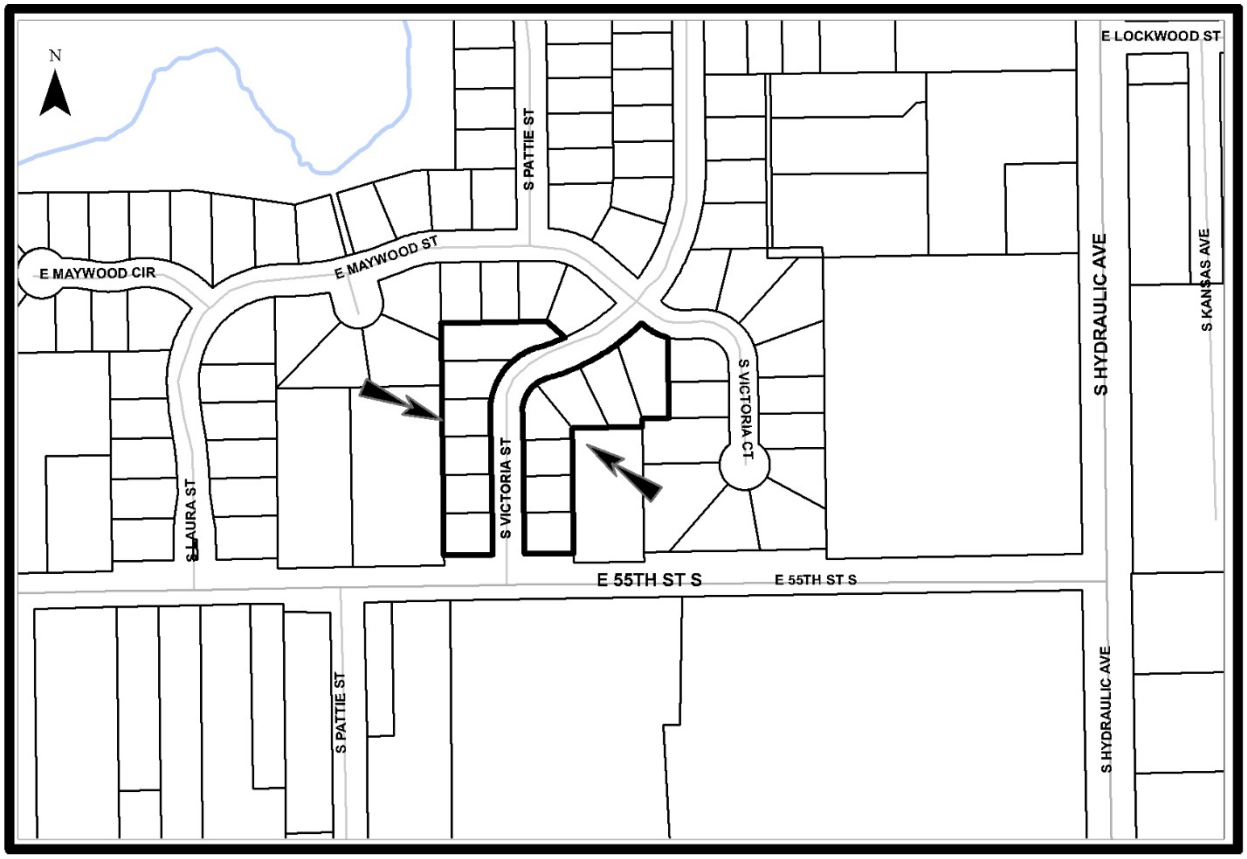
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendation: The MAPC recommended approval of the request (12-0).

DAB Recommendation: District Advisory Board III recommended approval of the request (9-0).

MAPD Staff Recommendation: Metropolitan Area Planning Department staff recommended approval of the request.



Background: The applicant is requesting a zone change from Single-Family Residential (SF-5) to Two-Family Residential (TF-3) zoning on approximately 2.73 acres of Rivendale Addition to Wichita, Sedgwick County, Kansas. The applicant proposes to build duplexes on 13 platted lots located on both sides of Victoria Street, immediately north of 55th Street South.

The subject site is located within the SF-5 zoned Rivendale Addition. The Rivendale Addition is partially developed with single family residences adjacent to the subject property to the north, west and east. Immediately east and west of the subject property are single family residences on large, unplatted lots. South of the subject site is unplatted SF-5 zoned tracts developed with mobile homes.

Analysis: On October 6, 2016, the Metropolitan Area Planning Commission (MAPC) recommended approval of the request (12-0). No members of the public spoke at the MAPC hearing.

On September 7, 2016, District Advisory Board (DAB) III reviewed the application and recommended approval (9-0) subject to staff recommended conditions.

No protest petitions have been received. The request can be approved with a simple majority vote.

Financial Considerations: Approval of this request will not create any financial obligations for the City.

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

Recommendation/Actions: It is recommended that the City Council adopt the findings of the MAPC, approve the requested zone change subject to MAPC recommended conditions, place the ordinance on first reading, authorize the necessary signatures, and instruct the City Clerk to publish the ordinance after approval on second reading.

Attachments: Ordinance, MAPC minutes, DAB III report.

Published in The Wichita Eagle on November 25, 2016

OCA 150004

ORDINANCE NO. 50-360

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. ZON2016-00032

City zone change from Single-Family Residential (SF-5) to TF-3 Two-Family Residential; described as:

Lot 1-6, Block D, and Lots 43-49, Block C, Rivendale Addition to Wichita, Sedgwick County, Kansas.

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.

_____
Jeff Longwell, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

Approved as to form: _____
Jennifer Magaña, City Attorney and Director of Law

EXCERPT MINUTES OF OCTOBER 6, 2016 WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION MEETING

Case No.: ZON2016-00032 - Mike Love Construction (applicant/owner); Ruggles & Bohm – Will Clevenger (agent) request a City zone change request from Single-family Residential SF-5 to Two-family Residential TF 3 for 13 lots on Victoria Street on property described as:

Lots 43, 44, 45, 46, 47, 48 and 49, Block C AND Lots 1, 2, 3, 4, 5 and 6, Block D, Rivendale Addition, Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant is requesting a zone change from Single-Family Residential (SF-5) to Two-Family Residential (TF-3) zoning on approximately 2.73 acres of Rivendale Addition to Wichita, Sedgwick County, Kansas. The applicant proposes to build duplexes on 13 platted lots located on either side of Victoria Street, immediately north of 55th Street South.

The subject site is located within the SF-5 zoned Rivendale Addition. The Rivendale Addition is partially developed with single family residences adjacent to the subject property to the north, west, and east. Immediately east and west of the subject property are single family residences on large, unplatted lots. South of the subject site is unplatted SF-5 zoned tracts developed with mobile homes.

CASE HISTORY: The site is located within the City limits of Wichita and consists of 2.73 acres of the Rivendale Addition platted in 2003.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family residential, undeveloped (Rivendale)
SOUTH:	SF-5	Single-family residential, unplatted lots
WEST:	SF-5	Single-family residential, unplatted lot
EAST:	SF-5	Single-family residential, unplatted lot

PUBLIC SERVICES: The site has access to local, paved collector streets that access East 55th Street South, a paved, two-lane arterial with 90-foot right-of-way. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Wichita City limit and the South Wichita/Haysville Area Plan. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential," encompassing areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality. The site is located in the South Wichita/Haysville Area Plan, which identifies the location for residential development.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED.**

This recommendation is based on the following findings:

(1) **The zoning, uses and character of the neighborhood:** The surrounding neighborhood is zoned SF-5 and is partially undeveloped. Properties immediately to the west, east and south are developed with single-family residences. The proposed duplexes are located within a stand-alone block at the entrance of the subdivision and are only adjacent to the rear of lots developed with existing single-family residences.

(2) **The suitability of the subject property for the uses to which it has been restricted:** The vacant site is currently zoned SF-5 and is undeveloped. As zoned, these units

would have to be single-family. With the proposed zoning, they could be single-family or duplexes.

(3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Impact on surrounding property due to the requested zone change should be minimal. Single-family residences have only partially developed in the Rivendale Addition and the proposed duplexes are in a separate portion of the subdivision. This separation should mitigate any detrimental effects on nearby property.

(4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Wichita City limit. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential," encompassing areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality. The South Wichita/Haysville Area Plan identifies the area as appropriate for residential development.

(5) **Impact of the proposed development on community facilities:** All services are in place. Any increased demand on community facilities can be handled by existing infrastructure.

KATHY MORGAN, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

WARREN moved, **GREEN** seconded the motion, and it carried (12-0).

CITY OF WICHITA

INTEROFFICE MEMORANDUM

TO: MAPC

FROM: Teia Wair, Community Services Representative, District III

SUBJECT: **ZON2016-00032**: Mike Love Construction, Will Clevenger, & Ruggles & Bohm Zone change from Single-Family Residential (SF-5) to Two-Family Residential (TF-3)

DATE: September 08, 2016

On Wednesday, September 7, 2016 the District III Advisory Board re-considered a request from Mike Love (Owner) Will Clevenger & Ruggles & Bohm (Agent) for a city zone change from Single-Family Residential (SF-5) to Two-Family Residential (TF-3) zoning on approximately 2.73 acres of Rivendale Addition to Wichita, Sedgwick County, Kansas. The applicant proposes to build duplexes on 13 platted lots located on either side of Victoria Street, immediately north of 55th Street South. DAB III voted on Wednesday, August 3, 2016 to not make an action until the Developer or Agent was available to answer questions as well as concerns from DAB III and the public.

DABIII members had the following questions or concerns:

1. If this was the Owners first development

Public had the following questions or concerns:

1. The amount of rent, if the units are all electric and who pays trash
2. What type of renters will reside in the duplexes
3. The upkeep of the landscape
4. The quality of the materials used to construct the dwellings

The MAPC staff/Owner/Agents were able to provide satisfactory responses to all questions.

At the September 7, 2016, DAB III meeting the DAB approved the requested TF-3 Two-Family Residential zoning. There were no protesters at the DAB III Meeting on September 7, 2016 and Planning has not received any further valid protests.

Action Taken: Motion Approved: Dave Robbins motioned to approve, Jessica Hutton and Cindy Miles 2nd **Motion carried 9-0**

Motion carried 8-1 Elena Ingles opposed due to fear that contaminates are seeping into the Arkansas River.

City of Wichita
City Council Meeting
November 8, 2016

TO: Mayor and City Council

SUBJECT: ZON2016-00039 – Zone Change from SF-5 Single-Family Residential and NR Neighborhood Retail to LC Limited Commercial, Generally Located at the Northeast Corner of West Maple and South Tyler Road (District V)

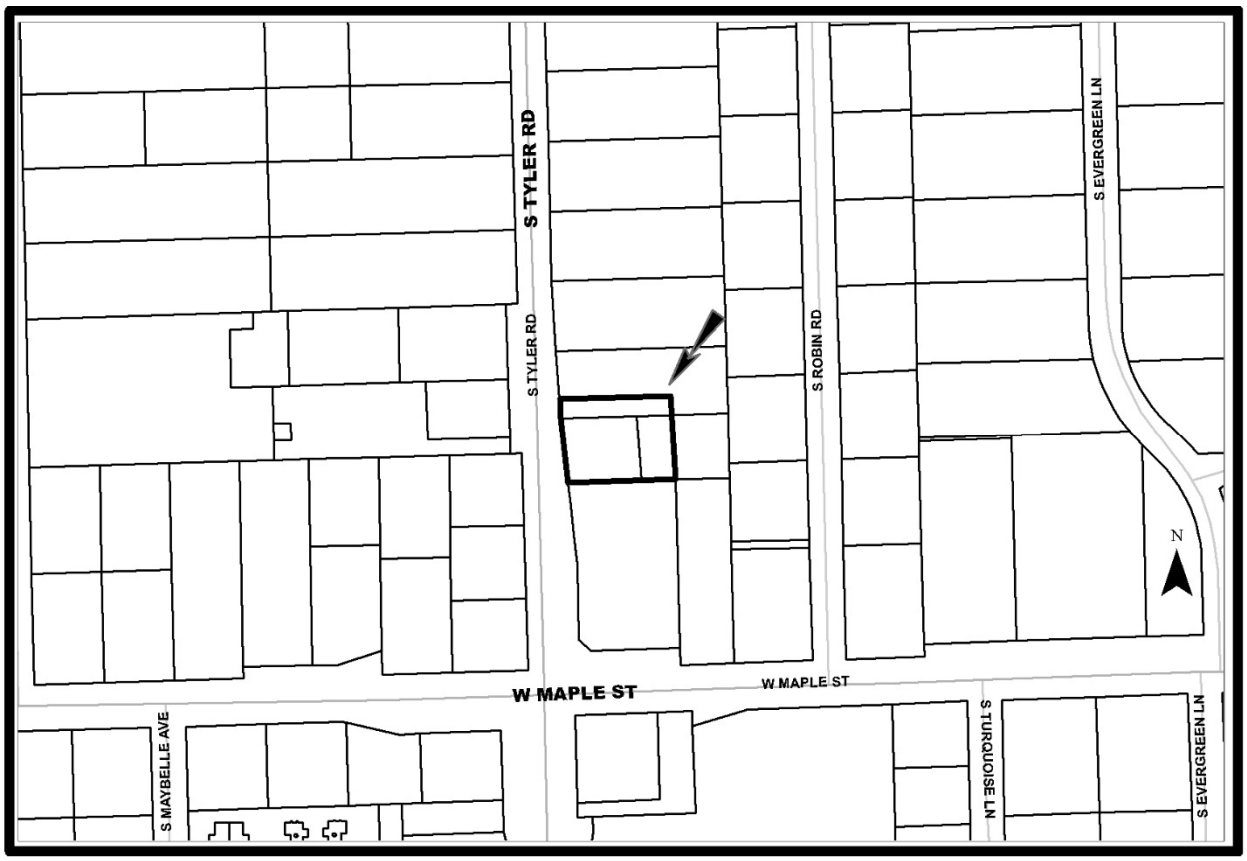
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendation: The MAPC recommended approval of the request (12-0) subject to staff and DAB recommended conditions.

DAB Recommendation: District Advisory Board V recommended approval of the request (7-0) subject to increasing the landscape requirement by 1.5 times.

MAPD Staff Recommendation: Metropolitan Area Planning Department staff recommended approval of the request subject.



Background: The subject site is located at the northeast corner of West Maple and South Tyler and is currently zoned Single-Family Residential and NR Neighborhood Retail to LC Limited Commercial. The requested change to LC Limited Commercial would allow the existing convenience store at the northeast corner of Maple and Tyler to expand.

Land to the north of the application area is zoned SF-5 Single-family Residential and is developed with single-family residences. Properties located to the east are zoned NR and SF-5. South of the subject site lots are zoned LC and developed with restaurant, warehouse/storage, convenience store and strip retail center. Property west of the site (across West Central), is zoned NR and LC.

Analysis: On October 6, 2016, the Metropolitan Area Planning Commission (MAPC) recommended approval of the request (12-0) subject to staff and DAB V recommended conditions including increase in landscaping to 1.5 times along the north property line. No members of the public spoke at the MAPC hearing.

On October 3, 2016, District Advisory Board (DAB) V reviewed the application and approved it 7-0 subject to staff recommended conditions and condition that the applicant increase the landscape requirement 1.5 times along the north property line.

No protest petitions have been received. The request can be approved with a simple majority vote.

Financial Considerations: Approval of this request will not create any financial obligations for the City.

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

Recommendation/Actions: It is recommended that the City Council adopt the findings of the MAPC, approve the requested zone change subject to MAPC recommended conditions, place the ordinance on first reading, authorize the necessary signatures, and instruct the City Clerk to publish the ordinance after approval on second reading.

Attachments: Ordinance, MAPC minutes, DAB V report.

OCA 150004

ORDINANCE NO. 50-

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. ZON2016-00039

City zone change from SF-5 Single-Family Residential and NR Neighborhood Retail to LC Limited Commercial subject to Protective Overlay #310; described as:

Parcel 1:
A portion of the following: Lots 1 and 2, Chappelle Addition, Wichita, Sedgwick County, Kansas more particularly described as beginning at the northeast corner of Lot 1, Quiktrip 2nd Addition, Wichita, Sedgwick County, Kansas; thence S87°55'09"W, along the north line of Lot 1 in said Quiktrip 2nd Addition, and along the south line of Lots 1 and 2 in said Chappelle Addition, 185.39 feet to the southwest corner of Lot 1 in said Chappelle Addition, and the northwest corner of Lot 1 in said Quiktrip 2nd Addition; thence N03°47'51"W, along the west line of Lot 1 in said Chappelle Addition, 120.02 feet to the northwest corner of Lot 1 in said Chappelle Addition, and to a point in the south line of Lot 2 Park Acres Addition, Sedgwick County, Kansas, said point is 8.35 feet east of the southwest corner of Lot 2 in said Park Acres; thence N87°55'09"E, along the south line of Lot 2 in said Park Acres and the north line of Lots 1 and 2 in said Chapelle Addition, 190.38 feet; thence S01°24'51"E, parallel with the east line of Lot 2 in said Chappelle Addition, 120.00 feet to the point of beginning.

Parcel 1 contains 22,519.0 Square Feet, or 0.517 Acres.

Parcel 2:
A portion of Lot 2, Park Acres Addition, Sedgwick County, Kansas, described as commencing at the southwest corner of said Lot 2; thence N87°55'09"E along the south line of said Lot 2, 8.35 feet to the point of beginning, said point of beginning also being the northwest corner of Lot 1, Chappelle Addition, Wichita, Sedgwick County, Kansas; thence continue N87°55'09"E, along the south line of Lot 2 in said Park Acres, and the north line of Lots 1 and 2 in said Chappelle Addition, 190.38 feet; thence N01°24'51"W, parallel with the east line of Lot 2 in said Park Acres, 33.00 feet; thence S87°54'06"W, 191.75 feet to a point in the east line of North Tyler Road right of way; thence S03°47'51"E, along the east line of North Tyler Road right of way, 32.95 feet to the point of beginning.

Parcel 2 contains 6,302.1 Square Feet, or 0.145 Acres

Protective Overlay #310 shall require landscaping along the north property line to be 1.5 times the required landscaping per the City of Wichita Landscape Ordinance.

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.

_____
Jeff Longwell, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

Approved as to form: _____
Jennifer Magaña, City Attorney and Director of Law

EXCERPT MINUTES OF OCTOBER 6, 2016 WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION MEETING

Case No.: ZON2016-00039 - Holland Paving and Holland Ventures -George Holland (applicant/owner); MKEC Engineering –Brian Lindebak (agent) request a City request to rezone from NR Neighborhood Retail and SF-5 Single family Residential to LC Limited Commercial on property described as:

Parcel 1:
A portion of the following: Lots 1 and 2, Chappelle Addition, Wichita, Sedgwick County, Kansas more particularly described as beginning at the northeast corner of Lot 1, Quiktrip 2nd Addition, Wichita, Sedgwick County, Kansas; thence S87°55'09"W, along the north line of Lot 1 in said Quiktrip 2nd Addition, and along the south line of Lots 1 and 2 in said Chappelle Addition, 185.39 feet to the southwest corner of Lot 1 in said Chappelle Addition, and the northwest corner of Lot 1 in said Quiktrip 2nd Addition; thence N03°47'51"W, along the west line of Lot 1 in said Chappelle Addition, 120.02 feet to the northwest corner of Lot 1 in said Chappelle Addition, and to a point in the south line of Lot 2 Park Acres Addition, Sedgwick County, Kansas, said point is 8.35 feet east of the southwest corner of Lot 2 in said Park Acres; thence N87°55'09"E, along the south line of Lot 2 in said Park Acres and the north line of Lots 1 and 2 in said Chapelle Addition, 190.38 feet; thence S01°24'51"W, parallel with the east line of Lot 2 in said Chappelle Addition, 120.00 feet to the point of beginning.

TOGETHER WITH,
Parcel 2:
A portion of Lot 2, Park Acres Addition, Sedgwick County, Kansas, described as commencing at the southwest corner of said Lot 2; thence N87°55'09"E along the south line of said Lot 2, 8.35 feet to the point of beginning, said point of beginning also being the northwest corner of Lot 1, Chappelle Addition, Wichita, Sedgwick County, Kansas; thence continue N87°55'09"E, along the south line of Lot 2 in said Park Acres, and the north line of Lots 1 and 2 in said Chappelle Addition, 190.38 feet; thence N01°24'51"W, parallel with the east line of Lot 2 in said Park Acres, 33.00 feet; thence N87°54'06"W, 191.75 feet to a point in the east line of North Tyler Road right of way; thence S03°47'51"E, along the east line of North Tyler Road right of way, 32.95 feet to the point of beginning.

BACKGROUND: The subject site is located at the northeast corner of West Maple and South Tyler and is currently zoned Single-Family Residential and NR Neighborhood Retail to LC Limited Commercial. The requested change in zoning would allow the existing convenience store at the northeast corner of Maple and Tyler to expand.

Land to the north of the application area is zoned SF-5 Single-family Residential and is developed with single-family residences. Properties located to the east are zoned NR and SF-5. South of the subject site lots are zoned LC and developed with restaurant, warehouse/storage, convenience store and strip retail center. Property west of the site (across West Central), is zoned NR and LC.

CASE HISTORY: The expansion of LC zoning includes Lot 1, Chappelle Addition, which has an existing single-family residential structure built in 1952; Lot 2, Chappelle Addition, which is

vacant; and approximately 6,330 square feet of the southwest corner of Lot 2, St. Park Acres Addition that is developed with a single-family residential structure.

ADJACENT ZONING AND LAND USE:

North:	SF-5	Single-family residence
South:	LC	Convenience Store, Retail Strip Center
East:	NR, SF-5	Vacant; Single-family residence
West:	LC	Restaurant, warehouse/storage

PUBLIC SERVICES: The site is served by municipal services. West Maple and South Tyler Road is a paved five-lane arterial intersection with dedicated turn lanes. West of the intersection the lanes reduce to four-lane paved street; north of the intersection reduces to four-lane paved street; east of the intersection remains four lanes; south of the intersection remains five-lane with turn access.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Wichita City limit. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential," encompassing areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality. In certain areas, especially those at major arterial intersections in proximity to existing residential uses, convenience retail centers likely will be developed. The locational guidelines indicate that expansion of existing uses to adjacent areas should be supported.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The subject site is located at a major arterial intersection with LC zoning at all four corners surrounded by residential zoning. At the northwest corner LC zoning extends 370 feet west and 630 feet north. The northeast corner has 415 feet LC frontage along Maple and 315 feet LC frontage along Tyler. The southwest corner has 575 feet LC frontage on Maple and 770 feet LC frontage on Tyler. The southeast corner has 550 feet LC frontage on Maple and 550 LC frontage on Tyler.

2. The suitability of the subject property for the uses to which it has been restricted: Impact on surrounding property due to the requested zone change should be minimal as there will be required solid screening between LC and SF-5 zoning.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed zone change addresses expansion needs for the existing convenience store which has been at the northeast corner of Maple and Tyler since 1993. The requested changes should not detrimentally impact nearby property owners to any greater extent than the existing development.

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 represents a gain to the public in that it contributes to the area's long term economic opportunity. The arterial intersection was designed to accommodate the proposed uses.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2035 Wichita Future Growth Concept Map indicates the area is appropriate for "residential" uses. In certain areas, especially those at major arterial intersections in proximity to existing residential uses, convenience retail centers likely will be developed. The locational guidelines indicate that expansion of existing uses to adjacent areas should be supported.

6. Impact of the proposed development on community facilities: Existing or proposed improvements are in place to address anticipated demands.

KATHY MORGAN, Planning Staff presented the Staff Report. She reported that DAB V recommend approval with a provision that the landscaping be one and one-half times what is required by the Landscape Ordinance requirement. She said there is an existing QuikTtrip to the south that is being expanded and developed into a "Gen 3 Store."

RICHARDSON asked what was the reason the DAB requested one and one-half times the landscaping requirement.

MORGAN said there were concerns about just having a 6 foot wood fence and it was felt that extra landscaping would provide noise buffering.

BRIAN LINDEBAK, MKEC ENGINEERING, 411 NORTHWEBB ROAD, AGENT FOR THE APPLICANT AND JESSICA GLAVIS, QUIK TRIP, 4705 , TULSA, OK said they met with both the neighborhood and DAB.

MCKAY asked if the applicant/agent were in agreement with staff recommendations.

CHAIR FOSTER asked if they agreed with the requirement for one and one-half times the landscape.

LINDEBAK said they had some reservations but yes they agree to the one and one-half times the landscape requirement.

RICHARDSON said he believes this will help traffic flow on the corner.

MOTION: To approve subject to staff recommendation.

WARREN moved, **MCKAY** seconded the motion, and it carried (12-0).

CITY OF WICHITA

INTEROFFICE MEMORANDUM

TO: MAPC
FROM: Laura Rainwater
SUBJECT: **ZON2016-00039**
DATE: October 4, 2016

Kathy Morgan, Senior Planner, Metropolitan Area Planning Department, presented a request to DAB V on Monday, October 3, 2016, for a zone change from NR Neighborhood Retail and SF-5 Single-Family Residential to LC Limited Commercial on property located on the northeast corner of Maple Street and Tyler Road.

In attendance were **Brian Lindebak**, MKEC, agent for the applicant, and **Mike Wooten** and **Jessica Glavas** from QuikTrip (QT), applicant.

After staff presentation, **Lindebak** and **Glavas** addressed Board and guests. QT desires to rebuild store into larger Gen3 model. There have been no protests within the 200' notification area and screening will be maintained between SF-5 properties.

Kurth, motioned to **APPROVE** staff recommendation with the addition of 1 ½ times the landscape screening requirements along SF-5 properties. **Palmer** seconded. Motion **PASSED** 7-0.

Respectfully submitted,

Laura Rainwater, Community Services Representative – Districts II & V

City of Wichita
City Council Meeting
November 8, 2016

TO: Wichita Airport Authority

SUBJECT: Timothy Chappell
Farming Permit First Amendment
Colonel James Jabara Airport

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the Farming Permit First Amendment.

Background: In December 2009, the Wichita Airport Authority (WAA) approved a permit with Timothy Chappell (Chappell) to provide farming services of cutting, baling, and removing approximately 422 acres of brome and native grass from the Colonel James Jabara Airport property. The permit is a five-year term with an option to extend for another five years.

Analysis: Chappell is now desirous of revising the Management Plan to include improving the property by removing full grown trees and reseeding specific areas to brome. Therefore, the term would be extended for an additional five-year renewal option to recover the capital investment. The permit would then expire on December 31, 2024. In addition, the designated areas have been revised to include 434 acres.

Financial Considerations: The acreage has increased by 12 acres however, the permit fee of $5.25 per acre continues at the same rate. Therefore, the revised annual revenue is $2,279 to the WAA.

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

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the permit amendment and authorize the necessary signatures.

Attachment: Farming Permit First Amendment.

FIRST AMENDMENT

By and Between

WICHITA AIRPORT AUTHORITY
Wichita, Kansas

and

TIMOTHY CHAPPELL

for

Farming License
Colonel James Jabara Airport
Wichita, Kansas

THIS FIRST AMENDMENT is entered into this November 8, 2016, between The Wichita Airport Authority, Wichita, Kansas (OWNER) and Timothy Chappell, (LICENSEE).

WHEREAS, the parties previously entered into a License, dated December 22, 2009 to permit certain agricultural operations on various tracts of land located on Colonel James Jabara Airport;

WHEREAS, the OWNER and LICENSEE now wish to enter into this First Amendment for the purpose of modifying Exhibit A, the Management Plan and extending the term of this License:

NOW, THEREFORE, in consideration of the mutual promises and agreements herein set forth, OWNER and LICENSEE do hereby agree as follows:

1. TERM

Section 2 – Term of this License, dated December 22, 2009 shall be **replaced** with the following:

Initial Term of the License.
The term of this License shall be for a period of five (5) years, beginning January 1, 2010 and ending December 31, 2014.

Option Term of the License
License may be renewed for one or two (2), consecutive, five (5) year periods ("Option Terms"), subject to renegotiation; and subject to cancellation provisions contained in Sections 24 and 25 hereof.

First Option Term: **January 1, 2015**, and expire on **December 31, 2019**
Second Option Term: **January 1, 2020**, and expire on **December 31, 2024**

2. CROPS PLANTED

Section 8 – Crops Planted of this License, dated December 22, 2009 shall be **replaced** with the following:

The Owner reserves the right to determine what crops may be planted to minimize the hazards of wild life incursions over or upon aircraft operations areas. The approved crop is brome or native grass.

LICENSEE agrees to comply with the Jabara Farming Management Plan ("Management Plan"), attached hereto and made a part hereof. As set out in the Management Plan, during the term of the License all native grass, with the exception of Fields 6 and 13 acres located, shall be converted to brome grass. No-till operations will be acceptable with the exception of Field 3, (as reflected on Exhibit "A") which shall be tilled.

3. CROPS HARVESTED

Section 9 – Crops Harvested of this License, dated December 22, 2009 shall be replaced with the following:

LICENSEE shall harvest brome grass and native grass, as shown on Exhibit "A" attached hereto, on Jabara Airport prior to August 1, 2010 and each subsequent August 1 throughout the term of this License and any renewal options. One-hundred percent of the harvested crop shall become property of the LICENSEE. All machinery and hay bales shall be removed from the proximity of the Runway Safety Zones (see Exhibit "A") 14 days after harvest. All machinery and hay bales shall be removed from all other areas within 28 days after harvest.

4. PAYMENT TO OWNER

LICENSEE agrees to engage in agricultural operations as specified herein, confined to the areas on Exhibit "A" as identified annually by the OWNER and shall pay all of the expenses associated with this Agricultural Operating License, including but not limited to, harvesting and hauling. Payment to the OWNER shall be five dollars and twenty-five cents ($5.25) per acre, for use of the identified acreage payable on an annual basis with the first payment being due June 1, 2011, and each subsequent June 1 throughout the term of this License and any renewal options.

It is understood by both Parties that the areas available for cultivation may be adjusted annually. Therefore, the annual amount may be adjusted without requiring formal amendment to this Agreement based on the revised Exhibit "A".

All payments shall be made to the Wichita Airport Authority, 2173 Air Cargo Road, Wichita, KS 67209, or such other address as designed in writing from time to time. If payment is not paid to the Owner by the due date, Owner will have the right to terminate this License. In addition, Owner may charge LICENSEE a service charge equal to the maximum allowable under state statutes on any such overdue amount, plus reasonable attorneys' and administrative fees incurred by Owner in attempting to obtain payment.

5. EXHIBITS "A" AND "B"

Exhibit "A" of this License, dated September 4, 2009, shall be replaced with the revised Exhibit "A", dated April 4, 2016, as shown on the attached Exhibit "A". The Exhibit "A" may be adjusted annually without requiring formal amendment to this Agreement.

Exhibit "B" of this License, shall be **replaced** with the revised Management Plan, dated October 13, 2016, as shown on the attached Exhibit "B".

6. OTHER TERMS

It is understood and agreed that all other terms and conditions of the existing License between the parties hereto are incorporated herein and reaffirmed.

IN WITNESS WHEREOF, the parties hereto have executed this License the day and year first above written.

ATTEST:

By _____
Karen Sublett, City Clerk

By _____
Victor D. White, Director of Airports

THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

By _____
Jeff Longwell, President
"OWNER"

ATTEST:

By _____

By _____
Timothy Chappell
"LICENSEE"

APPROVED AS TO FORM: _____ Date: 10-24-16
Jennifer Magana, City Attorney and Director of Law

Chappell Farms

Jabara Airport

Grass Management Plan Proposal

October 13, 2016

This proposal is to extend the current farming lease on the Jabara Airport property from January 1, 2020 to December 31, 2024 with an optional term of five more years from January 1, 2025 to December 31, 2029. For these additional years of lease I shall continue to manage the property the way that I have previously and additionally I will do the following things to make the overall Jabara property a better parcel of land:

Fall of 2016 and Spring and Fall of 2017 -

1. Over seed and reseed fields Four (4) and Eight (8).

2. Spray and cut small trees within designated areas.

3. Remove all trees from fields 5, 6, 13, 14.

4. Spray to manage Johnson grass and mow around concrete markers, primarily at the southwest corner of Field 8.

During the Years of 2016-2024 -

1. Remove trees west and north of barn located in Field One (1).

2. Remove existing hedgerows on east and west side of Fields Two (2) and Three (3). The trees will be cut and sprayed to manage any regrowth.

3. Remove existing hedgerows north of WATC in Field Eight (8).

4. Remove existing hedgerow between Field Six (6) and Field Seven (7).

The cost of tree removal is $75/hr. Approximately 500-700 estimated hours of removal and cleanup of the hedgerows on property.

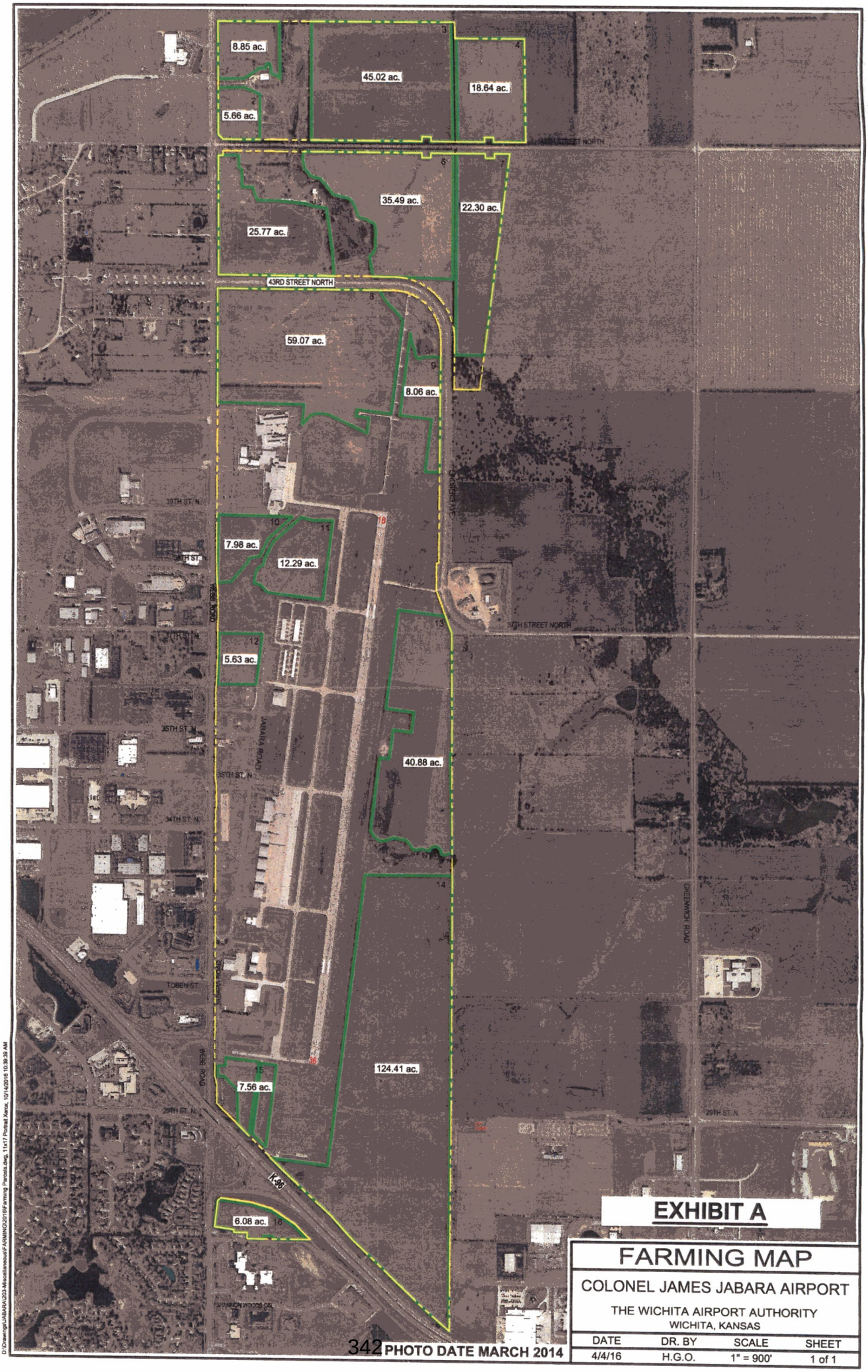
During the Years of 2016-2030

1. Cut and bale farming areas that have been previously established.

2. Fertilize brome and grass as needed.

3. Mow and maintain non-farming areas north of 45th St. to include tree growth and grass in areas that are unable to be cut for hay. This includes areas between Fields One (1) and Three (3).

4. Over seed the areas of brome that are needed.



FARMING MAP

COLONEL JAMES JABARA AIRPORT

THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

DATE	DR. BY	SCALE	SHEET
4/4/16	H.G.O.	1" = 900'	1 of 1

PHOTO DATE MARCH 2014

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