

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

January 9, 2014

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, January 9, 2014 at 1:30 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Don Klausmeyer; Chair; Matt Goolsby; Vice Chair; David Dennis; David Foster; Joe Johnson (Out @ 2:15 p.m.); John McKay, Jr.; M.S. Mitchell; Carol Neugent; Don Sherman (In @ 1:36 p.m.); George Sherman and Debra Miller Stevens and Chuck Warren. Steve Anthimides and Bill Johnson were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Jess McNeely, Senior Planner; Jeff Vanzandt, Assistant City Attorney, Robert Parnacott, Assistant County Counselor and Maryann Crockett, Recording Secretary.

1. Approval of the prior December 5, 2013 meeting minutes.

MOTION: To approve the December 5, 2013 meeting minutes, as amended.

MCKAY moved, **DENNIS** seconded the motion, and it carried (9-0-2). **GOOLSBY** and **J. JOHNSON** – Abstained.

Approval of the prior December 19, 2013 meeting minutes.

MOTION: To approve the December 19, 2013 meeting minutes, as amended.

J. JOHNSON moved, **MCKAY** seconded the motion, and it carried (9-0-2). **NEUGENT** and **WARREN** – Abstained.

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB2013-00052: ONE-STEP FINAL PLAT-SILVER SPUR 5TH ADDITION,**
located on the south side of MacArthur Road, East of Meridian.

NOTE: This is a replat of the Silver Spur 2nd Addition in addition to unplatted property to the east. The east 30 feet of the site has been approved for a zone change (ZON2013-00031) from SF-5 Single-family Residential to MH Manufactured Housing.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that water and sewer are currently serving the site.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has requested revisions to the applicant's drainage plan. An offsite drainage agreement is needed.

- D. Traffic Engineering has approved the access controls. The plat proposes one opening along MacArthur Road.
- E. This property is within a zone identified by the City Engineer's office as likely to have groundwater at some or all times within ten feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineer's office.
- F. The year "2014" needs to replace "2013" within the signature blocks for City Council, County Clerk and Register of Deeds.
- G. Approval of this plat will require a waiver of the lot depth-to-width ratio of the Subdivision Regulations. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. The Subdivision Committee has recommended a modification of the design criteria in Article 7 of the Subdivision Regulations as it finds that the strict application of the design criteria will create an unwarranted hardship, the proposed modification is in harmony with the intended purpose of the Subdivision Regulations and the public safety and welfare will be protected.
- H. A note on the preliminary plat has indicated a blanket easement for the area involved in this plat. The Applicant shall either obtain a release of this easement or provide proof that the easement has been confined. If confined, any portion of this easement impacting this site shall be denoted on the plat and shall be properly referenced. A recorded copy of the release/confinement of the easement shall be submitted.
- I. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- J. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- M. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.

- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- R. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

MCKAY moved, MITCHELL seconded the motion, and it carried (11-0).

2-2. **SUB2013-00050: ONE-STEP FINAL PLAT-KANSAS TRAP SHOOTERS ASSOCIATION SUBDIVISION**, located on the Northeast corner of 117th Street North and Hillside.

NOTE: This site is located in the County in an area designated as "rural" by the Wichita-Sedgwick County Comprehensive Plan. A Conditional Use for a Recreation and Entertainment use has been requested.

STAFF COMMENTS:

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact the Metropolitan Area Building and Construction Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.

- C. County Public Works has approved the drainage plan subject to revisions.
- D. The plat should be bounded by a bold line which does not include the right-of-way.
- E. Access controls along 117th Street North and Hillside are noted as meeting the access management regulations. “The City of Wichita” should be deleted from the plattor’s text. Access controls shall be referenced in the plattor’s text as being dedicated to the appropriate governing body.
- F. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.
- G. The spelling of “president” needs corrected.
- H. The language in the first line of the surveyor’s certificate needs corrected.
- I. County Public Works has approved the right-of-way along both arterials.
- J. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.
- K. The plat needs to be called an Addition and referenced in the title block and plattor’s text.
- L. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- N. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant’s responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment

control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- S. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

MCKAY moved, MITCHELL seconded the motion, and it carried (11-0).

3. **PUBLIC HEARING – VACATION ITEMS**

There were no vacation items.

D. SHERMAN (In @1:36 p.m.)

PUBLIC HEARINGS

- 4. **Case No.: ZON2013-00021 (referred back from City Council)** – Markland, LLC; Ulysess Gooch (applicants)/Robert W. Kaplan (agent) request a City zone change from SF-5 Single family Residential to LC Limited Commercial on 2.93 acres on property described as:

Lot 11, Block 2, in Crestview Lakes Addition to Wichita, Sedgwick County, Kansas AND .065% interest in and to the drives, lake and park areas lying in Crestview Lakes Addition.

AND

Lot 12, Block 2, in Crestview Lakes Addition to Wichita, Sedgwick County, Kansas AND .065% interest in and to the drives, lake and park areas lying in Crestview Lakes Addition.

BACKGROUND: This application was originally submitted as a request for LC Limited Commercial (LC) zoning, was reviewed by the planning commission on September 26, 2013, and received a recommendation of denial. At the City Council hearing of January 9, 2014, the City Council voted to return the application to the planning commission for reconsideration. Since the City Council hearing, the applicant has modified the request, as described in the paragraph below. The majority of the original staff report is still pertinent to the revised application; therefore, most of the original staff report has been retained. Modifications or additions to the original staff report are italicized.

The applicants are seeking LC Limited Commercial (LC) zoning, *subject to a protective overlay that limits the site's uses to a drug store/pharmacy and uses permitted by-right in the NO Neighborhood Office (NO) district* for two platted lots (Lots 11 and 12, Block 2, Crestview Lakes and addressed as 11 and 12 North Crestview Lakes Drive) located northwest of the intersection of East 21st Street North and North Oliver Avenue. The subject lots are currently zoned SF-5 Single-family Residential (SF-5), are developed with single-family residences (built in 1946 and 1953) and contain a total of 2.93 acres. Combined the two properties have approximately 445 feet of frontage along North Oliver Avenue, and 290 feet of frontage along East 21st Street North. The application area has street access to North Oliver Avenue and to East 21st Street, not to the interior local serving streets – Crestview Lakes Drive, North Belmont Avenue or North Fountain Avenue – that serve the majority of the area's residential lots.

Located immediately north and west of the subject property are SF-5 zoned single-family residences located on approximately two-acre lots. In fact, the much larger area located farther north and west of the application area is developed with single-family residences located on lots ranging in size from two-plus acres to approximately 11,000 square feet. The homes in the larger residential neighborhood located north and west of the application area appear to be well-maintained. The Crestview Lakes Addition has a park-like setting with water features and open space, which probably has contributed to the homes having maintained market value.

Located east across North Oliver Avenue is a mostly zoned LC University Plaza commercial-retail sales center, subject to the development standards contained in Community Unit Plan (CUP) DP-8. Part of the CUP is zoned SF-5 with a variance to permit non-residential that supports the retail center. Southeast of the application area, south of East 21st Street North and east of North Oliver Avenue are two SF-5 zoned churches. East of the Unity Church that is located at the southeastern corner of the intersection of East 21st Street North and North Oliver Avenue is property that is zoned LC. South of the subject property, at the southwest corner of the intersection of East 21st Street and North Oliver Avenue, is Wichita State University's 123-acre golf course that is zoned SF-5 subject to the U University District (U) overlay. The U overlay district limits development to uses typically associated with institutions of higher learning, such as: classrooms, dorms, athletic facilities, laboratories, libraries, museums, parking and other facilities typically associated with institutions of higher learning.

The purpose of the LC zoning district is to accommodate retail, commercial, office and other complementary land uses. The LC district permits 66 uses by-right; selected uses permitted by-right in the LC district include: single-family, multi-family, assisted living, group residence, community assembly, hospital, nursing facility, bank, convenience store, hotel/motel, medical service, office, restaurant, personal care service, personal improvement service, general retail sales, limited vehicle repair and agricultural sales and service. *If the requested amendment is approved, the only LC use permitted would be a drugstore or pharmacy.* Building setbacks are established by the standards required by the LC district or by separate compatibility standards that override the zoning district standards, and are as follows: front (East 21st Street North) 20 feet; street side (North Oliver Avenue) 10 feet; rear (north property line) 25 feet (compatibility setback) and interior side (west property line) 25 feet (compatibility setback). Building height is limited to 43 feet (compatibility height) even though the LC district permits building height of up to 80 feet or higher with additional building setback. Dumpsters and refuse receptacles are required to be located a minimum of 20 feet from the north and west property lines. Light poles are limited to a maximum of 15 feet in height, including the base, if located within 200 feet of SF-5 zoning unless a lighting study has been prepared that demonstrates light will be contained on-site, and cutoff fixtures are required to minimize light trespass. The LC district

permits larger, taller and a greater number of sign types than signage permitted in SF-5 district, including: building signs up to 400 square feet, ground or pole signs up to 300 square feet in area and 25 to 35 feet tall, portable and possibly off-site billboard signs. Single-family residences generate approximately 10 average daily vehicle trips whereas retail uses in a shopping center can generate approximately 42 average daily trips per 1,000 square feet of floor area. If the site were developed at 30 percent coverage, 38,289 square feet of floor area could be developed on the site. At 42 average daily trips, 38,289 square feet of floor area could generate 1,608 average daily trips. Convenience stores during the p.m. peak period can generate an average of 97 daily vehicle trips per 1,000 square feet of gross floor area. A drug store during the weekday can generate 88 average daily vehicle trips per 1,000 square feet of gross floor area. Zoning screening is required along the common property line where property that is zoned for nonresidential uses abuts SF-5 zoned property (north and west property lines). Zoning screening can be provided by a six-foot tall fence, landscaping thick enough to provide a solid screen year-round, earth berms or some combination of the three. The Landscape Ordinance will require one tree to be planted every 40 feet where zoning screening is required. New parking lots are also required to be landscaped when located within view of streets.

The NO district was established to accommodate very-low intensity office development and other complementary land uses that are generally appropriate near residential neighborhoods. Selected uses permitted by-right in the NO district include: single-family, duplex, group home, church, limited and general day care, library, park, minor utility, automated teller machine, medical service and general office. Minimum lot area requirements are: single-family and nonresidential uses, 5,000 square feet; duplex and multi-family (maximum of 14.5 dwelling units per acre), 3,000 square feet. Setbacks in the NO district are: front, 20 feet; rear, 10 feet; interior side, zero or five feet; street side, 15 feet. Maximum building height is 35 feet. The NO district also stipulates that no individual commercial use that is permitted by-right or as a conditional use can exceed 8,000 square feet gross floor area.

CASE HISTORY: Crestview Lakes Addition was recorded in 1940.

ADJACENT ZONING AND LAND USE:

North: SF-5; large-lot single-family residential
South: SF-5; WSU golf course
East: LC, SF-5; commercial-retail sales center; church
West: SF-5; large-lot single-family residential

PUBLIC SERVICES: The intersection of East 21st Street and North Oliver Avenue carries an average daily traffic volume of 16,656 to 25,853 vehicles. East 21st Street North and North Oliver Avenue are paved four-lane arterial streets with left-turn lanes at the intersection. Where East 21st Street North and North Oliver Avenue abut the application area there is only 40 feet of half-street right-of-way, which does not meet current minimum right-of-way standards. The current right-of-way width for arterial street intersections is 75 feet and 60 feet otherwise. The intersection of East 21st Street at North Oliver is signalized in all four directions. All publicly supplied utilities are available or can be extended to serve the site. *Drug store/pharmacy uses generate approximately 88 average daily trips per 1,000 square feet of gross floor area. An 8,000 square-foot pharmacy or drug store could generate 704 average daily trips per day. Office uses generate approximately 11 average daily trips per 1,000 square feet of gross floor area or approximately 421 average daily trips if the site were developed at 30 percent of its gross area.*

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for “urban residential” uses. The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. Applicable commercial location guidelines contained in the “1999 Comprehensive Plan Update” state, in general: 1) commercial sites should be located near arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic; 2) commercial development should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses and 3) locate commercial uses in compact clusters or nodes versus extended strip developments. The Comprehensive Plan also contains a goal statement, Goal XI that the City should develop, conserve and revitalize housing and neighborhoods that will provide safe, decent, marketable and affordable conditions for all residents. The Comprehensive Plan also contains an objective to “minimize the detrimental impact of higher intensity land uses and transportation facilities located near residential living environments.”

RECOMMENDATION: From a zoning standpoint, the intersection of North Oliver Avenue and East 21st Street North is somewhat unusual in that only one of the corners is zoned LC; the other three corners are zoned SF-5. Many, if not most, properties located at arterial street intersections throughout the city have been rezoned to LC or some other non-SF-5 district. However, the fact that the intersection of East 21st Street and North Oliver Avenue has three SF-5 zoned corners with single-family residences, a neighborhood scale church and a university golf course gives the intersection a feel more like a neighborhood than a commercial area. Based upon the information available at the time the staff report was prepared, it is recommended that the *amended* request be denied.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Properties located north, west, south and southeast are zoned SF-5, and are developed with low-intensity uses such as single-family residences, university golf course and churches. Properties located east of the site are zoned SF-5 and LC, and are developed with retail uses. Land located west of North Oliver Avenue has a low intensity and/or park-like feel because of the large-lot single-family residences and associated neighborhood open space. The golf course also adds to the low-intensity feel of the land located west of North Oliver Avenue.
2. The suitability of the subject property for the uses to which it has been restricted: The subject properties are zoned SF-5, which permit single-family residential uses plus a few other institutional, civic or public uses typically found in residential neighborhoods. The properties are developed with single-family residences that appear to be in reasonable repair and should have continued economic value as currently zoned. County appraiser data indicates the two residences are valued, for tax purposes, at \$168,200 and \$201,400.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request will introduce LC *zoning* into the East 21st Street North mile segment located west of North Oliver Avenue and east of North Hillside Avenue. Currently, there is not any LC zoning on either side of East 21st Street North between North Oliver Avenue and Hillside Avenue. There are significant areas of LC zoning located along East 21st Street North, east of North Oliver Avenue, and west of North Hillside Avenue. The LC district permits a much larger number of more intense uses

that SF-5 district, including multi-family residential, office and retail commercial uses not requiring significant amounts of outdoor storage or display. The LC district permits building heights up to 80 feet and higher with larger than minimum required building setback; however, compatibility height setbacks would limit building height to 43 feet. Approval of the request will place more intense uses next to large-lot residential uses. *The amended application is more sensitive to the larger neighborhood in that it limits LC uses to a drug store or pharmacy and NO uses. However, compared to the SF-5 district, the request places nonresidential uses and the potential negative impacts in close proximity to economically viable residential uses. Drug stores and pharmacies can operate 24 hours per day/seven days a week and have drive-thru services with outside speakers and commercial lighting.*

4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial would presumably represent a loss in increased economic return compared to selling the properties at SF-5 rates. Approval would increase the number of LC zoned lots available for development.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for “urban residential” uses. The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. Applicable commercial location guidelines contained in the “1999 Comprehensive Plan Update” state, in general: 1) commercial sites should be located near arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic; 2) commercial development should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses and 3) locate commercial uses in compact clusters or nodes versus extended strip developments. The Comprehensive Plan also contains a goal statement, Goal XI that the City should develop, conserve and revitalize housing and neighborhoods that will provide safe, decent, marketable and affordable conditions for all residents. The Comprehensive Plan also contains an objective to minimize the detrimental impact of higher intensity land uses and transportation facilities located near residential living environments.
6. Impact of the proposed development on community facilities: At 40-feet, the half-street right-of-way widths located along the application area are substandard. It is almost certain that if the site is rezoned, the property will convert to uses more intense than single-family residences. More intense uses will generate increased numbers of vehicle trips on substandard street right-of-way.

If the MAPC feels the request is appropriate, the application should be subject to the following “protective overlay:”

- A. *Although the site is zoned LC, the only LC use permitted is a drug store/pharmacy; all other uses are limited to those allowed by-right in the NO district. ~~Uses permitted shall be limited to the following LC Limited Commercial zoning district uses: single-family residential, duplex, multi-family, assisted living, day care limited, day care general, government service, safety service, animal care limited, automated teller machine, bank or financial institution, convenience store, funeral home, medical service, monument sales, general office, personal care service, personal improvement service, restaurant and general retail provided the restaurant does not exceed 2,000~~*

~~square feet and does not provide drive thru or in-car service and no general retail use that exceeds 8,000 square feet in size).~~ The following office uses ~~are~~ *is* specifically prohibited: ~~retail liquor store, nightclub in the city, drinking establishment or tavern, entertainment establishment, pawnshop or business that accepts vehicle titles or other property as security for loans and drive through services except for banks and pharmacies.~~ All buildings within the subject property shall share a uniform architectural character, color and same predominate exterior building material. The building walls shall not utilize metal as a predominate exterior façade material.

- B. Landscaped street yards, buffers and parking lot landscaping/screening shall utilize a shared palette of landscape material, and shall comply with the City of Wichita Landscape Ordinance unless modified by another provision of this Protective Overlay.
- C. A landscape plan shall be prepared for the above referenced requirement, and shall indicate type, location and specifications for all plant materials.
- D. Zoning code required screening located along the north and west property lines shall be a masonry wall, a 15-foot wide evergreen landscape yard with plant materials not less than six feet in height and spaced close enough to provide an opaque living wall or earth berm, or some combination of the three, shall be installed. Occupancy permits shall not be issued until a landscaping and screen plan has been approved by the Planning Director. *Landscaping shall be installed prior to occupancy.*
- E. The applicant shall dedicate sufficient right-of way to create half-street widths of 75 feet at the intersection tapering down to 60 feet elsewhere along the site street frontages, per City right-of-way width standards.
- F. The parcel shall share similar or consistent parking lot lighting elements (i.e. fixtures, poles and lamps). All lighting shall be shielded to direct light in a downward direction and directed away from residential areas. Light standards, including the base, shall not exceed 15 feet in height when located within 200 feet of residentially zoned property.
- G. Building setbacks shall be 25 feet along the north and west property line.
- H. Maximum building height is limited to 35 feet.
- I. Rooftop mechanical equipment, trash receptacles, loading docks and loading areas shall be screened from ground level view, and said screening is required to match or be similar to the building façade.
- J. *If the site is developed with a drug store or pharmacy, S signage on the lot containing the drug store/pharmacy is limited to that permitted in the NR zoning district. Lots or parcels developed with NO district uses shall be limited to signage permitted in the NO district. Billboard and/or off-site signage is prohibited.*

DALE MILLER, Planning Staff presented the Staff Report.

G. SHERMAN asked if banks and/or banks with drive-thrus are allowed in Neighborhood Office NO zoning.

MILLER said ATM's are allowed, however, he would have to refer to the Unified Zoning Code (UZC).

G. SHERMAN asked if there were any physical restrictions on the "hard" corner directly east of the proposed location.

MILLER said he would have to review the Community Unit Plan (CUP); however, he added that the corner is the high point of the area and the property drops off from there so there is no level view of the rest of the shopping center.

BOB KAPLAN, 301 NORTH MAIN STREET, SUITE 1600, AGENT FOR THE APPLICANT said he believes the Staff Report is rather contradictory because it admits that most arterial intersections are zoned for commercial use, which the Commission is aware of. He referred to previous Commission action back in the 1970's where with one motion every corner with 6 acres was zoned LC Limited Commercial. He said that was what was accepted and it is as true today as it was then. He said staff notes that 25,000 cars a day pass by the front door at the intersection, but nevertheless they maintain the location has a neighborhood feel. He said 25,000 plus cars is not a neighborhood feel; it is commercial. He said Mr. Gooch and Mr. Marks want to accommodate the neighbors concerns, avoid conflict and be good neighbors. In addition he said they would like to avoid court intervention to resolve the matter. He said consequently he filed an amended application on the site for NO only. He said he would like to discuss the possibility of a drugstore. He commented that he had attended a neighborhood meeting, City Council meeting and is familiar with the problems as the neighbors perceive them which are the convenience store and gas station. He clarified that the applicants are no longer asking for a convenience store or fuel stop. He said they now request only NO subject to development standards in the NO zoning district. He commented most NO usually consists of doctor's offices, medical offices, accountants, lawyers and sales representatives but no retail. He said he reserved drugstore because several people at the neighborhood meeting he attended indicated they would support a pharmacy or drug store operation at the location. However, he said if the pharmacy is a problem for the Commission; the applicants will drop that proposal and request straight NO zoning.

KAPLAN commented that the rule of law is that real property can be appraised and valued at its highest and best economic and advantageous use. He said they are trying to do that and are not going to develop this location as residential. He commented that the Commission is not neighborhood complaint driven but are land use and land use planners. He said unfortunately governing bodies are neighborhood complaint driven. He said this is not a residential location. He said these houses were built in 1946 and 1953. He said the neighborhood then is not what it is today. He said when the homes were built; the southeast corner of Oliver and Central was way out in the country. He said these two homes are not going to sell. He said they would be marketable if they were seriously and significantly discounted. He asked who was going to buy a property to remodel or build on an intersection with this kind of traffic. He concluded by saying they would like to have a drugstore, but if that was not possible, they will go with NO zoning. He said all conditions set by staff are acceptable including screening and other development restrictions. He said the applicants would like to get this rezoning done without court intervention.

RIP GOOCH, 12 CRESTVIEW LAKES ESTATES said he owned part of the property requested to be rezoned. He said they think it meets the guidelines to be rezoned. He mentioned community feelings on the matter. He said this property was first developed across the street from Crestview Country Club. He said they were nice homes when he moved there 30-40 years ago. He said he is one of only three people that have resided there during this entire time. He said about 80 % of the property has changed owners at least 3 times since he has been there. He said he bought the property for a home and that there were lakes for swimming and fishing docks. He said there was a beautiful inside arrangement in the neighborhood for use as recreation. He said they now have two mud ponds with ducks and geese which are not very attractive. He said turnover of the properties is because some of the amenities have gone

down. He said there is also high traffic in the area because of improvements along 21st Street and the north end that have occurred since he has been there. He said he wanted to explain the changes in the area so the Commission could understand what has come about. He said he has spent approximately \$150,000 on improvements to his property; however, he could probably only get \$200,000 for it and it is one of the better pieces of property in the area.

MOTION: To give the speaker one additional minute.

J. JOHNSON moved, **D. SHERMAN** seconded the motion and it carried (12-0).

He said he has given 15 years of his time and effort to the City of Wichita and State of Kansas. He said any wealth that he has accumulated is tied to that particular piece of property. He said people have offered to buy the property for several times the amount he could sell it for as residential. He said since this rezoning request has been delayed, they don't know what the potential for the property is. He said he made many decisions based on merit and he believes this property merits being rezoned. He said after living there for 40 years he has the right to get the best value for his property that he can.

CHRISTINE UNREIN, 7 CRESTVIEW LAKES ESTATES said the reason the City Council sent this back to the Commission is that they wanted the people requesting this zone change to come out to the neighborhood and work with them. She said the neighbors didn't receive one phone call, there has not been one meeting and the neighborhood didn't even know what the applicants were going to submit until this meeting. She said the applicants are not working with the neighborhood. She referred to the Protest Map and said over 40 households submitted Protest Petitions against the proposed rezoning. She mentioned that this area was supposed to be left residential according to the Wichita-Sedgwick County Comprehensive Plan. In addition, she said the Central Northeast Area Plan suggests maintaining open space and residential areas along the 21st Street Corridor. She also mentioned the 21st Street Revitalization Plan. She said people put their time and effort into these plans and the plans were put in place to maintain the area and guide future development.

UNREIN said she paid \$300,000 for her home and that is her nest egg also. She said she thinks giving the applicants commercial zoning that might spread through the neighborhood is unfair to the other homeowners. She mentioned the underutilization of the commercial property across the street. She mentioned that the Hobby Lobby one mile away moved to K-96 and that there was 50,000 square feet of space at that location that needs to be utilized. She said she called the property owners and they said they would be willing to break the space up into 10,000 square foot pieces for lease as retail and office. She said as far as some people wanting a pharmacy, when the idea was presented for a pharmacy it was not specified that it would be at this corner. She asked why can't the pharmacy be located across the street. She mentioned the "Golden Rules" and said that is what the Commission should use to make their decision. She commented that the applicants say they can't sell the properties but they have not listed them on the Multiple Listing Service (MLS). She said she knows this because several people might be interested in purchasing the properties and keeping them residential. She said the neighbors don't want to go the legal route either; however, the deeds on the properties have a restrictive covenant that the properties can only be used for residential. She said you can't change the deed after you buy the property.

UNREIN mentioned that this was an arterial, but just because corners have been commercial that doesn't mean the Commission should do the same thing on this corner. She said three of the corners at

this location are zoned SF-5, one with a church and one with a golf course, but they are still zoned residential.

STEVE FALKE, 3 CRESTVIEW LAKES ESTATES, PRESIDENT, CRESTVIEW LAKES HOMEOWNERS ASSOCIATION said he has been spearheading the opposition to this application. He said he has lived in the neighborhood since 2006. He mentioned the Planning Commission meeting in fall where he spoke on this issue which is a matter of record. He said one thing planners must do with the City is be good custodians and stewards of the land. He said one of the things they value in that neighborhood is the neighborhood feel. He said that neighborhood feel has largely been lost around the rest of the City. He said there is plenty of commercial property in the area. He said approving the application to rezone will create a detrimental effect to the neighborhood and would be a domino that would tumble and the neighborhood would end up like a lot of other neighborhoods in the area.

DENNIS (and the rest of the Commission) mentioned the e-mail he received from Mr. Falke as ex-parte communication. He asked how the neighborhood association felt about NO zoning on both pieces of property.

FALKE said their neighborhood and homeowners association has been pretty clear that they want to retain SF-5 residential zoning.

G. SHERMAN asked about the restrictive covenants limiting development to residential.

FALKE said the HOA restrictive covenants limit the properties to residential uses.

CHARLIE RIVERA, 2401 N. PERSHING, PRESIDENT, WILLOW LAKES HOMEOWNERS ASSOCIATION said there are 31 homes in the association and a significant amount of homes face Oliver. He said they are concerned about the rezoning request because this may precipitate other rezoning requests along the corridor. He commented that the ponds are stocked with fish and there is wildlife and ducks and geese in the area. He said he has lived in the area since 1988 and that he is originally from New York so he knows about urbanization. He said they have made an extensive commitment and additions to their home. He said you make money on real estate when you buy it, not when you sell it. He said his home was recently valued at twice as much as they paid for it probably because of the upkeep, maintenance and landscaping they have done. He admitted that the lots on the corners are in highly trafficked areas and he can sympathize with that; however, there are other areas with similar communities. He said he hoped the Commission would rule favorably and consider the long term residents in the area.

GREG FERRIS said he doesn't represent the applicant or agent but is speaking as a family friend and was asked to come and share some points of view that he might have. He said one of the items the Commission needs to consider is the claim that a commercial corner automatically devalues the surrounding residential property. He said it's one thing to make that statement but it's another thing to provide information that documents or doesn't document that as fact. He provided a handout that was research he did on property values in close proximity to the intersections of Central and 119th St., 135th St. and Maple St., 13th St. and Ridge Rd. and Maple St. and Tyler Rd. which are developed as commercial. He said he compared home prices in areas immediately adjacent to the intersections in 2005 and 2013 against properties within 1,000 -1,500 feet of the commercially zoned areas and that he did not see any difference in the values of those increases. He said the Wichita-Sedgwick County

Comprehensive Plan states that commercial development should be limited to corners which would eliminate the concern of Oliver being stripped out for commercial use. He mentioned that he understood the long-term plan for the university included development of the golf course into neighborhood office. He said the facts are that neighbors don't want commercial next to them, but the truth is that well developed commercial property that is landscaped, bermed and/or screened does not impact property values. He said the City has developed corners this way in many areas. He said he believes this corner is appropriate for commercial.

J. JOHNSON (Out @2:15 p.m.)

KATE NEILSEN, 2 CRESTVIEW LAKES ESTATES said she lives west and adjacent to the house on the corner. She said there was some discussion about who would want to rebuild and remodel the homes in the area and take care of them and that the neighborhood was in decline. She said they purchased their home in August and have every intention of working on it and bringing up its value. She said she will be directly impacted by this rezoning request. She said they moved to Wichita from the country and that this location was a compromise because it has a country setting. She said the way her house sits she doesn't see a lot of the traffic but if this proposed rezoning goes through it will be in her backyard and she will see it, hear it, and smell it every waking hour of every day. She said they came to this area to be in the City in as much of a peaceful place as they could find and that this proposal would disturb that. She mentioned that through this process she has met some amazing people in the neighborhood who are supportive of keeping the neighborhood strong and revitalized. She said these two properties are the cornerstone of the entire area and she fears letting them go may cause a domino effect.

GOOLSBY asked if someone approached her and asked about developing her property into commercial and offered to double her investment, would she be interested in that.

NEILSEN said she would not be interested because although they have only been there a few months, they have put so much into the property already. She said they are trying to make it into somewhere they will stay for a long time. She said they found out about the rezoning within two weeks of moving in and it was definitely not something they were planning on.

CRAIG TOLSON, 4 CRESTVIEW LAKES ESTATES said he lives adjacent to Mr. Gooch's property to the west. He said he has heard all of the arguments but he had a question about the changing of the proposal. He referred to page 4, the statement at the end of the paragraph after Case History regarding building height and square footage of floor area.

MILLER explained that the original proposal for LC zoning doesn't have limitation on gross floor area; however, NO zoning does have limitations on gross floor area which is 8,000 square feet. He said the applicant would have to ask for LC zoning for a drugstore because staff is assuming that a drugstore would be larger than 8,000 square feet. He said the PO applies to NO zoning if they don't develop the site with a drugstore. He said if the site is developed as a drugstore, LC standards would apply except for what is specified in the PO.

TOLSON asked what happens if the business fails and the drugstore doesn't make it. He asked what happens to the land, will it be another vacant area that the rules will change on and anyone wanting light commercial use can use it or will it have to wait until another pharmacy applies.

MILLER clarified that any approved zone change runs with the land. He said if the application is approved and the applicant builds a drugstore and it fails, redevelopment will be subject to the same uses and restrictions.

TOLSON requested that the Commission deny the request and ask the applicant to move across the street.

JULIA FALKE, 3 CRESTVIEW LAKES ESTATES said they have had several years of drought and the lakes have suffered because of that. She said the neighborhood has spent time and resources on the lakes which in reality are part of City's stormwater management system that the neighborhood maintains for the City. She said they have problems with fish and algae growth in the south pond because of all the gas and oil run off. She said they stock the ponds and do not have a dock by choice for liability reasons. She said this neighborhood is not an area that is in decline. She said as far as she knows all homes have gone up in value, it is a wonderful place to live and they wouldn't want to be anywhere else. She said there is a home on the southwest corner of 13th and Woodlawn that sold, another major arterial, and their solution was to build a fence. She said if you are going to sell a property as residential you have to make some effort to give it curb appeal. She said the neighbors want to maintain the residential area; that is what it is zoned and that is why they all bought homes there because they like that county in the City feel. She mentioned taking homes and turning them into LC zoning. She mentioned the shopping center across the street that has failed all these years, is run down and can't seem to keep tenants. She said the area has been unable to maintain an anchor and they don't want to take the risk on this proposal.

JAMES ROSEBORO, 4518 GREENBRIAR, PRESIDENT, NORTHEAST HEIGHTS NEIGHBORHOOD ASSOCIATION said he was present to voice the Northeast Heights NA's concerns about changing the zoning from residential to commercial. He said this may set a precedent and then this could happen to any corner in any neighborhood across Wichita and they don't need that. He discussed how the Oliver Development Committee tried to develop the east side of Oliver at 21st Street after the Dillon's and K-Mart closed in the 1990's. He asked why can't the applicants sell their homes and leave them single family. He mentioned the Grove and Metroplex and commented that he feels development will bring in crime. He said they have had problems with gatherings on the east side of the street in the empty parking lot. He said the area needs to be left residential. He said he does not want to see the area go commercial. He mentioned Shockerville and said they have tried to bring businesses into the area previously and couldn't. He said he thinks they should stick with the plan for development of the 21st Street Corridor. He said he is not against development but this area needs to stay residential.

JANET WILSON, 1152 N. ESTELLE, PRESIDENT, CENTRAL NORTHEAST AREA COUNCIL said poison with sugar is still poison and they feel this proposal will poison the atmosphere in the neighborhood. She said because of the success of WSU she believes the properties will command a greater value. She mentioned the 21st Revitalization Program that recommends that neighborhoods remain neighborhoods. She said the Central Northeast Area Council cannot recommend that the property be rezoned.

BONITA GOOCH, 2918 E. DOUGLAS, TCB PUBLISHING, OWNER/OPERATOR OF THE COMMUNITY VOICE said she has been working in the community for the last 17 years and what she

hears over and over again in the community is that Wichita needs economic development and services. She said they couldn't get anyone to come to these location years ago and finally people are interested. She said development of this corner will bring jobs to the community and encourage further development. She mentioned the ACT ICT process and the number one issue is jobs and economic development. She said the community needs jobs in northeast Wichita. She said anything at this corner will help develop the community. She said she does not believe that economic development automatically brings crime. She said she lives in the area and is pleased to finally have a Wal-Mart and Save-A-Lot. She said she would like to have more services and mentioned that there is no service station or drugstore along 21st Street. She said the readers of the Community Voice indicate over and over again that they want services in the community. She commented that living on Oliver is not the country atmosphere like living back in Crestview Lakes which is a nice little area. She said she wishes her dad's home was back there because living on Oliver is a totally different thing. She said there is commercial development along most of the major arterial intersections throughout the City. She mentioned the trash, oil, gas and snow piled up in the driveway and the bus stop near her father's home. She said this is just not a pleasant place to live. She said where her father lives is not like living on the little cul-de-sacs represented by most of the neighbors. She said that is not life on the corner of 21st Street and Oliver.

BILL WYNN, 934 N. CRESTWAY, MEMBER OF DISTRICT I ADVISORY BOARD said he worked 36 years at WSU so he is familiar with the corner. He said if they want more services in the area the northeast corner of Oliver and 21st would love to have development. He said it is already zoned commercial. He said they have a commercial corner in the area that has not been well used and hasn't attracted very many customers. He said that would be the corner to put more services on.

GOOSLSBY asked Mr. Wynn if he had any insight on costs to develop the northeast corner.

WYNN responded no.

GOOSLSBY commented these property owners would like to develop the northwest corner and the Commission has not heard from the owners of the northeast corner.

KAPLAN said with two minutes he did not have the luxury of responding to personal indictments or incorrect information. He asked the Commission to do what they knew how to do which was deal with land use issues. He said he will take care of the legal issues and legal concerns. He told the Commission that if there were any legal prohibitions to this request he wouldn't be wasting his time and his client's money trying to rezone property that they couldn't otherwise develop. He said he cannot imagine straight NO development impacting an entire subdivision. He said they continually hear how commercial development will impact property values and since he has been practicing land use he has never yet had anyone document the effect of development on residential one way or other. He said they withdrew the request for a convenience store and will withdraw the drugstore request not because of any legal requirement, lawful use or appropriate use but as a concession to the neighborhood.

MOTION: To give the speaker two more minutes.

G. SHERMAN moved, **GOOSLSBY** seconded the motion, and it carried (11-0).

KAPLAN commented that there were some misstatements that hurt him. He said he was asked to go to a meeting and he went but said he couldn't make a presentation with all the vocal and frequent interruptions. He said it is impossible to make a presentation when people don't want to listen. He said to suggest that they don't cooperate or work with the neighborhood, although it has no effect or relevancy on the Commission's decision, is simply not true and the Commission needs to know that. He said as far as restrictive covenants; that is not within the Planning Commission's jurisdiction. He said if this couldn't be developed he would not waste his time and his client's money. He concluded by asking the Commission to approve the NO zoning and said he would like to save the drugstore use. He said the northeast corner has nothing to do with this application.

G. SHERMAN asked about approval of the NO zoning without the pharmacy. He asked if the applicants would still be looking for limited LC uses.

KAPLAN said he wanted to get something done here and his clients do not want court appeal; that is why they are willing to make so many concessions. He mentioned the NO district regulations and said they requested LC to accommodate the 13,000 square foot drugstore. He said they will give up the drugstore to try to get approval for something because it is not fair to leave the corner residential.

DENNIS asked if they agreed with the PO in the Staff Report.

KAPLAN said they accept that and the limit to NO uses. He added that they will provide twice the landscaping required.

D. SHERMAN mentioned body language said when the agent talks the audience shakes their heads, when the neighbors talk the agent and applicants shake their heads. He asked if the neighbors and applicants have talked about the issue enough and asked if one more meeting would do any good.

KAPLAN responded in his opinion no, but he would be willing to meet with the neighbors again.

D. SHERMAN said he wanted to put it on the record that the applicants and agent would be willing to meet one more time. He said he would ask Mr. Falke the same question.

KAPLAN suggested that the neighborhood designate a committee of say 5 or 6 people as representatives of the neighborhood so they can have a meaningful discussion.

G. SHERMAN clarified that if the application was purely NO would staff still recommend denial.

MILLER responded yes.

D. SHERMAN asked if Mr. Falke would be willing to meet with Mr. Kaplan and his clients.

FALKE commented that they sent a representative to the previous neighborhood meeting with a list of questions. He said they would be willing to form a committee and meet with Mr. Kaplan.

WARREN asked if there was any scenario other than residential property that the neighbors would agree with.

FALKE said he can't speak for everyone, but he thinks the property needs to stay residential.

WARREN asked for a show of hands in the audience who agreed with that statement. He commented that he saw no reason to have a meeting since the neighbors' minds are made up.

FOSTER asked if staff had any information on plans for the south side of 21st Street.

MILLER said he had no knowledge and referred the question to Director Schlegel.

DIRECTOR SCHLEGEL said there are plans to extend the campus eastward.

DENNIS asked about the PO in the Staff Report and commented that NO zoning is designed to be a buffer between commercial and residential; that is the purpose of that zoning. He asked what it would take to make staff think NO zoning was appropriate.

MILLER said in his personal opinion the way this is set up now it is a complete neighborhood and unified because there have been no non-residential intrusions into it. He said the uses at the southwest and southeast corners are allowed in SF-5 residential zoning. He said the northeast corner is the only break in the residential feel of the area. He said the uses there are appropriate and more intense uses on the northwest corner would be detrimental to the long-term benefit of the corner and the homes that back up to it.

DENNIS mentioned Staff's approval of the Sam's application at Maize Road with berms, walls and other landscaping, etc. to buffer the commercial development from residential zoning. He said he is still does not understand why staff does not think that some type of buffering would allow this to work.

MILLER commented that the Sam's location on Maize Road was a much larger site and that there was a lot more room to work with in terms of buffers and heights of berms. He said this location is a relatively small site. He said from staff's perspective the best use of this location is residential as suggested by the Wichita-Sedgwick County Comprehensive Plan. He said staff tries to be consistent with developed plans, and if the Commission thinks the plan is wrong, the Commission will let staff know.

DENNIS said his worry is what is going to happen in the future. He mentioned an opportunity to design this now so there is a buffer between the homes. He said another application may not be as palatable as this proposal.

MILLER STEVENS said she believes the Commission needs to deal with the current application and not try to be soothsayers and determine what might happen in the future. She said the zoning stays with the property and she does not think the Commission needs to worry about what might happen in the future.

G. SHERMAN commented that a lot of other areas where LC corners back up to residential were never part of the neighborhood itself. He said the two lots they are discussing are part of the HOA. He said when all corners were rezoned in the 1970's; this corner was not because homes, a golf course and a church already existed at the location. He said because this is a neighborhood it is treated differently than corners that are left open for future commercial use.

WARREN said it would be nice to have a crystal ball and see how the City developed. He mentioned that the area was developed in 1940. He said these homes face Oliver and are not part of the residential neighborhood. He said if he thought the existing properties would be detrimentally hurt by putting in commercial property that is properly buffered then he would not vote for this application. He said there are nice homes along busy streets but they don't face out onto the busy streets. He said 25,000 cars driving by your house do not have any sense or feel of a neighborhood. He said he thinks this is prime property for putting in place properly buffered development that will protect the neighbors as much as possible. He said someone asked what if the development fails but the flip side is what if it is a success. He said it could change the dynamics of the property to the east. He said the northeast corner has a stigma to it because a number of businesses have not done well there. He said a good, well built, well designed development could change the aspect of the community in a positive way. He said it is a possibility and he was going to vote in favor of the change with the necessary PO's and screening overlays. He said he does not feel this will hurt the existing neighborhoods and will help the overall community.

MILLER STEVENS said she disagrees that this development will only impact the neighborhood in a good way. She said she lives close to the corner of Hillside and Harry and the best thing that ever happened to her neighborhood was when Quiktrip moved down the street. She said having a high volume business on the corner impacts the neighborhood. She said she knows how difficult it is to maintain your neighborhood when you are close to high traffic. She said development of this corner will impact the neighborhood by creating more traffic and noise and it will change the neighborhood.

WARREN said he did not think development would increase traffic that much. He said businesses want to go where there is high traffic and it is already there. He said he doesn't see a huge increase in traffic, in his opinion.

MILLER STEVENS reiterated that there will be an increase in traffic and there will be an impact on the neighborhood.

MCKAY said he didn't think another meeting was going to make any difference. In addition, he referred to the corners in the handout provided by Mr. Ferris and commented that the difference in these locations and what the Commission is considering today is that those corners were preplanned and people located there knowing it was designed that way because he developed some of them. He said when the Commission changed the zoning on corners some of the corners were left out for a reason and this was one of them. He said he cannot support the rezoning request.

MOTION: To deny subject to staff recommendation.

MCKAY moved, **MITCHELL** seconded the motion, and it carried (8-3). **GOOLSBY, D. SHERMAN** and **WARREN** – No.

FOSTER recused himself from the item.

5. **Case No.: ZON2013-00038 and CON2013-00036** – Don Cary request a City zone change from LI Limited Industrial and LC Limited Commercial to CBD Central Business District subject to

the DO Delano Overlay District and Conditional Use for a nightclub in the City on property described as:

Lots 31, 33, 35, 37 and 39 on Osage Avenue together with the East half of vacated alley adjoining said lots on the West together with the South 20 feet of vacated Pearl St adjoining said Lot 39 on the North; AND lots 32, 34, 36, 38 and 40 on Wichita Street now Handley Avenue, together with the West half of vacated alley adjoining said Lots on the East, together with the South 20 feet of vacated Pearl Street adjoining lot 40 on the North; AND Lots 41, 43, 45, 47 and 49 Chicago Avenue now Douglas Avenue, together with a 10 foot strip of vacated land adjoining lot 41 on the West, all in West Wichita Addition to the City of Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant is seeking to rezone to the CBD Central Business District (CBD) 1.38 platted acres that are currently zoned LI Limited Industrial (LI) (115, 117 and 149 North Osage and 120 North Handley) and LC Limited Commercial (LC) (818, 822, 822-1/2 and 826 West Douglas), subject to the D-O Delano Overlay Neighborhood Overlay District (D-O). The applicant is also seeking Conditional Use approval for a “nightclub in the city” on the same properties included in the rezoning request.

The application area is located northeast of the intersection of West Douglas Avenue and North Handley Street and covers three-fourths of the block on which it is located. The property is developed with two sets of commercial buildings and a parking lot. The first set of commercial buildings front West Douglas Avenue, just east of North Handley Street, and are zoned LC. The buildings fronting West Douglas Avenue are separated from the rest of the application area by an east-west alley that runs from North Osage Street to North Handley Street. Another alley runs north-south to the previously noted east-west alley along the eastern property line of the application area that fronts West Douglas Avenue. A second set of commercial buildings, zoned LI, are located in the northeast-quarter of the block; these buildings front North Osage Street. Located west of the previously mentioned buildings, on the northwest corner of the application area, is a parking lot that is zoned LI, fronts North Handley Street and provides off-street parking for the two sets of commercial buildings contained in the application area.

The applicant operates a business named “All Things Barbecue” from the commercial buildings that front West Douglas Avenue. All Things Barbecue is an establishment that offers for sale items used in competition barbecuing. The applicant has identified an approximately 34-foot by 66-foot outdoor area (2,244 square feet) that fronts Douglas Avenue, just west of the north-south alley, that is currently zoned LC that is proposed to be used to store and display outdoors barbecue grills and to hold promotional activities for goods offered for sale. The LC zoning district has significant limits on the outdoor display and outdoor storage of merchandise available for sale within an LC zoned building.

In part, Article III, Section III-B.14.e of the Wichita-Sedgwick County Unified Zoning Code (UZC) reads as follows: the outdoor display of merchandise that is for sale within a building may be displayed in areas immediately contiguous to and within ten feet of the building, subject to certain standards: (a) no portion of the display area shall be on publicly owned property without a minor street permit; (b) no required off-street parking space or loading space shall be utilized for display; (c) no food or drink shall be displayed outside the building except in accordance with standards and prior written approval of Environmental Services; (d) the outdoor display of motor vehicles, rental trailers, rental equipment, used

furniture, used appliances, used plumbing, used housewares, used building materials or similar items, except as may be otherwise authorized by this Code.

Article III, Section III-B.14.e(3) of the UZC deals with outdoor storage and reads in part, storage of merchandise available for sale shall be allowed outside of an enclosed building in the LC district only as an accessory use and only in compliance with the following standards: (a) the area used for outdoor storage shall be enclosed by a fence or screening wall not less than six feet in height nor less than the height of the merchandise to be screened and (b) the enclosure around the storage area shall be attached to the main building, and the area within such enclosure shall not exceed 10 percent of the floor area occupied by the principal uses within the building. The area within the enclosure shall comply with the same building setbacks as are required for the main building and shall be used in the area calculation used to determine parking requirements.

The CBD zoning district does not have the display and storage restrictions described above. The applicant's proposal to use the 34- by 66-foot area described above for outdoor activities exceeds the LC district limitations described above; therefore, the applicant is requesting CBD zoning. The application area is located within the D-O Delano Neighborhood Overlay District (D-O); however, the uses proposed by the applicant are not regulated by the D-O district except that building demolition, construction or alterations (as well as certain other appurtenances) require review for compliance with the Delano Neighborhood Design Guidelines and approval by the Delano Neighborhood Design Review Committee. The requested zone change and the proposed improvements that have triggered the application now under consideration have been reviewed and approved (5-0) by the Delano Neighborhood Design Review Committee (December 13, 2013, HPC2013-00104).

Another part of the applicant's business model is to have the service of food, alcohol and/or live entertainment at promotional events held on-site. The service of alcohol with live entertainment within 300 feet of a place of worship, church, school, residential zoning or a public park is categorized by the UZC as a "nightclub in the city" use, requiring Conditional Use approval. B Multi-family Residential zoning is located 295 feet to the northwest and there is a place of worship, the Potter's House, located approximately 260 feet to the east; therefore, the applicant is requesting Conditional Use approval for a "nightclub in the city."

Land located immediately north of the application is unimproved right-of-way. Property north of the unimproved right-of-way is zoned LI and developed with warehouse and office uses. Property located to the east is also zoned LI and developed with warehouse and office uses. Land to the south is zoned LI, General Commercial (GC) and LC, and is developed with a bank, office and retail sales uses. Land to the west is zoned GC and LI and is developed with retail sales, office and warehouse uses. There is CBD zoning located one-half block east of North Osage Street. An MAPD parking study of West Douglas Avenue between Sycamore Street and Seneca Street reveals that, most of the businesses fronting West Douglas Avenue, between Sycamore Street and Seneca Street do not provide the current code required number of off-street parking spaces. The planning department analysis estimates that 5,373 off-street spaces are required; an estimated 3,989 have been provided.

CASE HISTORY: The property is platted as the West Wichita Addition, 1872. There were some vacation actions that added land to the application area along North Handley Street, North Osage Street and along the north property line.

ADJACENT ZONING AND LAND USE:

North: LI; warehouse and office
South: LI, GC and LC; bank, retail and office
East: LI, GC and LC; warehouse and office
West: LI, GC and LC; retail, warehouse and office

PUBLIC SERVICES: The application area is located in one of the older parts of Wichita, and is served by all normally supplied municipal and franchise utilities. West Douglas Avenue has 100 feet of right-of-way; North Handley Street has 80 feet of right-of-way; North Osage Street has 60 feet and the sand and gravel right-of-way located north of application area is 60 feet wide.

CONFORMANCE TO PLANS/POLICIES: The application area was included in the 2001 Delano Neighborhood Revitalization Plan that indicates the property is appropriate for commercial mixed uses. The 2030 Wichita Functional Land Use Guide indicates the property is suited for local commercial serving uses that do not have a significant regional market draw.

RECOMMENDATION: Based upon the information available at the time the staff report was prepared, it is recommended the requested zone change to CBD, subject to the D-O Delano Neighborhood District be approved and the conditional use for a “nightclub in the city” be approved, subject to the following conditions:

- (1) The Conditional Use permits a “nightclub in the city” only as an accessory and subordinate use to another non-night club principal use on the platted lots fronting West Douglas Avenue, currently addressed as 818, 822, 822-1/2 and 826 West Douglas Avenue. The parking lot located north of the lots that front Douglas shall be allowed to provide parking for the accessory nightclub in the city. The site shall be developed, operated and maintained in compliance with the approved site plan, and applicable ordinances, codes, regulations and/or licenses, including but not limited to, zoning, building, fire, noise and health.
- (2) No outside loudspeakers are permitted.
- (3) 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.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** Properties surrounding the application area are zoned LI, GC and LC, and are developed with a variety of uses: warehouse, bank, offices and retail sales. CBD zoning is located one-half block east of North Osage Street. The area has from its beginnings been developed with a mix of retail, office, food and/or drink establishments. Most of the businesses that front West Douglas in the Delano District do not have the minimum parking required by current zoning code standards.
2. **The suitability of the subject property for the uses to which it has been restricted:** The property is currently developed with commercial buildings or a parking lot that supports the commercial buildings. The buildings fronting North Osage Street appear to be vacant; the buildings fronting West Douglas Avenue house the All Things Barbecue. The application area is a mix of zoning,

including LC, subject to the D-O Neighborhood Overlay District and the LI district. Both the LC and the LI districts permit a wide range of land uses that should make the property economically viable as currently zoned. The LC district permits uses as varied as single-family residential, multi-family residential, office and retail commercial uses not requiring significant outside display or storage uses. The LI district permits an expansive range of industrial, commercial and office uses, but does not permit residential uses.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The residential, public and civic uses permitted by-right in both the LC and CBD district are nearly identical. "Auditorium or stadium," "correctional facility" (prohibited by the D-O district), "recycling processing center" are permitted in the CBD district but not the LC district. The following uses require conditional use approval in the LC district but are permitted by-right in the CBD district: "animal care, general," kennels, hobby or boarding/breeding," "monument sales," "printing and publishing, general," "recreation and entertainment, outdoor," "vehicle sales outdoor," (requires conditional use approval in the D-O overlay district), "vehicle repair, general" (requires conditional use approval in the D-O overlay district), "warehouse, self-service" (requires conditional use approval in the D-O overlay district) and "manufacturing, limited" (requires conditional use approval in the D-O district). CBD uses not permitted in the LC district are: "microbrewery," "vehicle storage yard," (not permitted by the D-O district), "outdoor storage," (requires conditional use approval per the D-O district), "research services," "manufacturing, general" (requires conditional use approval in the D-O overlay district) "warehousing" (requires conditional use approval in the D-O overlay district) and "warehousing" (requires conditional use approval in the D-O overlay district). The requested zone change will remain subject to the CBD district and should not detrimentally impact nearby property. The recommended conditions of the approval for the conditional use should also minimize anticipated impacts.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request would provide the applicant the ability to promote his goods and services in an enhanced manner and provide the community with a specialized shopping experience.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The application area was included in the 2001 Delano Neighborhood Revitalization Plan that indicates the property is appropriate for commercial mixed uses. The 2030 Wichita Functional Land Use Guide indicates the property is suited for local commercial serving uses that do not have a significant regional market draw.
6. Impact of the proposed development on community facilities: None identified.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

DENNIS moved, **G. SHERMAN** seconded the motion, and it carried (11-0-1).
FOSTER – Abstained.

6. **Case No.: ZON2013-00039** – Galichia Medical Property, LLC c/o Matt Leary (applicant) / Baughman Company, PA, c/o Russ Ewy (agent) request a City zone change from GO General Office to LC Limited Commercial on property described as:

That part of Lot 1, Block 1, Hinkle's Addition, Wichita, Sedgwick County, Kansas described as follows: Beginning at the Southwest corner of said Lot 1; thence North, 584.50 feet; thence East, 334.00 feet; thence North, 217.00 feet; thence East, 450.00 feet; thence South, 801.50 feet; thence West, 784.00 feet to a point of beginning.

BACKGROUND: The applicant's GO General Office (GO) zoned site is developed with a medical office and hospital use. The applicant intends to continue medical office and hospital use on the site, but desires increased signage as allowed under LC Limited Commercial (LC) zoning. The applicant submitted a voluntary Protective Overlay (PO) restricting land uses to those permitted in the GO zoning district, but permitting signage in accordance with LC zoning under the Sign Code, see the attached letter from the applicant. The application area received three Sign Code variances and one administrative adjustment between 2001 and 2006 (case numbers BZA2001-21, BZA2006-26, BZA2006-34 and BZA2006-36). Those variances and adjustments allowed: an increase in ground sign size from 32 to 96 square feet, an increase in building sign size from 32 to 130 square feet, an increase in the number of signs for a business from one to two, the internal illumination of building signs, and a decrease in ground sign separation from 150 to 100 feet. The addition of an emergency room to the site prompted the three cases in 2006, as the applicant was concerned with adequate signage during emergency situations.

The Sign Code allows a maximum of 32 square feet for pole or monument signs in GO zoning; it allows .8 square feet per linear foot of arterial street frontage in LC zoning, not to exceed 300 square feet. The application area has approximately 580 linear feet of frontage along Woodlawn, an arterial street. Building signs in GO zoning are limited to 32 square feet; building signs in LC zoning are permitted up to 20 percent of building elevation per building tenant, not to exceed a total of 400 square feet. Because the application area is over 6 acres, the Unified Zoning Code (UZC) requires LC zoned developments to submit a Community Unit Plan (CUP) document, or a PO in lieu of a CUP as submitted by the applicant. Code required compatibility setbacks, parking, screening and landscaping is identical under GO and LC zoning. With a change from GO to LC zoning, the site could increase maximum building height from 60 to 80 feet. Because medical use buildings already exist on the site, staff does not anticipate buildings taller than those permitted under GO zoning.

The application area is on the east side of N. Woodlawn with a mixture of surrounding zoning and land uses. North of the site is GO zoned vacant land and a medical office use. Immediately south of the site is an SF-5 Single-family Residential (SF-5) zoned residential neighborhood, 580 feet further south of the site is an LC zoned shopping center. East of the site is an SF-5 zoned residential neighborhood. West of the site, across Woodlawn, is a TF-3 Two-family Residential (TF-3) zoned duplex neighborhood. Northwest of the site, across Woodlawn, is an SF-5 zoned elementary school. Southwest of the site is a large GO zoned office use on the west side of Woodlawn, and a GO zoned retirement community. Further west of the GO office use is an MF-29 Multi-family Residential (MF-29) zoned apartment complex.

CASE HISTORY: The site was platted as a portion of Lot 1, Block 1 of the Hinkle's Addition in 1972.

ADJACENT ZONING AND LAND USE:

NORTH:	GO	Medical office, vacant
SOUTH:	SF-5, LC	Single-family residences, shopping center
EAST:	SF-5	Single-family residences
WEST:	TF-3, GO	Two-family residences, office development, retirement community

PUBLIC SERVICES: The site has access to Woodlawn, a four-lane arterial with central turn lanes, a 110-foot right of way and a daily traffic volume of 20,597 vehicles per day. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The "2013 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies the site as "major institutional." The major institutional category includes institutional facilities of a significant size and scale of operation and could include a range of such uses as government facilities, military bases, libraries, schools, cemeteries, churches, hospital and medical treatment facilities.

RECOMMENDATION: The requested LC with PO land use restrictions is consistent with surrounding zoning and uses, a PO should protect residential neighbors to the east and south from incompatible land uses and signage. The requested zone change will permit signage that is larger than signage already permitted on the site through variances and adjustments. However, the requested LC zoning will allow signage consistent with nearby commercial developments. Based upon the information available prior to the public hearings, planning staff recommends that the request for LC zoning be **APPROVED** subject to a Protective Overlay with the following conditions:

1. The subject property shall be limited to those uses as permitted by the GO zoning district only.
2. Signs shall be permitted in accordance with the City of Wichita Sign Code for the LC zoning district. No building signs are permitted on the south or east building facades facing residential zoning. A pole or monument sign shall not be permitted on the southern 60 feet of the Woodlawn frontage.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The application area is on the east side of N. Woodlawn with a mixture of surrounding zoning and land uses. North of the site is GO zoned vacant land and a medical office use. Immediately south of the site is an SF-5 zoned residential neighborhood, 580 feet further south of the site is an LC zoned shopping center. East of the site is an SF-5 zoned residential neighborhood. West of the site, across Woodlawn, is a TF-3 zoned duplex neighborhood. Northwest of the site, across Woodlawn, is an SF-5 zoned elementary school. Southwest of the site is a large GO zoned office use on the west side of Woodlawn, and a GO zoned retirement community. Further west of the GO office use is an MF-29 zoned apartment complex.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The existing GO zoning allows the existing medical office and hospital development. However, GO sign restrictions on this site may not be adequate considering the traffic volume on this portion of Woodlawn, the facility scale and the building setback from Woodlawn.

- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:**
Abutting properties to the north are zoned GO, the proposed PO should protect residences south and east of the site.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2013 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies the site as “major institutional.” The major institutional category includes institutional facilities of a significant size and scale of operation and could include a range of such uses as government facilities, military bases, libraries, schools, cemeteries, churches, hospital and medical treatment facilities.
- (5) **Impact of the proposed development on community facilities:** The existing Woodlawn Street and public utilities accommodate the current land use.

JESS MCNEELY, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

MCKAY moved, MITCHELL seconded the motion, and it carried (11-0).

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7. **Case No.: ZON2013-00040** – Russell Investments, LLC, c/o Jay Russell (applicant/owner) /Baughman Company, PA, c/o Russ Ewy (agent) request a County zone change SF-20 Single family Residential to LI Limited Industrial on property described as:

The North half of the Southwest Quarter of Section 26, Township 26 South, Range 1 West of the Sixth Principle Meridian, Sedgwick County, Kansas, EXCEPT that part deeded for highway in Deed Book 1383, Page 79.

CHAIR KLAUSMEYER announced that the application has been deferred to January 23, 2014.

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8. **Case No.: ZON2013-00041** - Manual Fernandez (applicant) / Myra De La Torre (agent) request a City zone change request from LC Limited Commercial to GC General Commercial on property described as:

Lots 1 and 3, Block 2 in Archie Adams Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant’s LC Limited Commercial (LC) zoned site was developed with two small retail buildings along E. Pawnee. The applicant intends to redevelop the site with one larger building used primarily as a commercial bakery; the bakery would send most baked goods out for distribution but would have a walk-in retail component. The Unified Zoning Code (UZC) first permits manufacturing, general in the GC General Commercial zoning district. The UZC defines “manufacturing, general” to include “bakeries engaged in large-scale production and wholesale distribution.” The UZC supplementary use conditions for manufacturing in GC requires that building principal street frontage be used for office space, display, wholesale or retail sales. Other code requirements such as parking, screening and landscaping are identical under LC or GC zoning. The

Sign Code would allow more signage under GC than LC zoning. The applicant submitted a proposed site plan (see attached) which appears to meet all UZC requirements.

The application area is at the southwest corner of E. Pawnee and Greenwood. Areas north of the site, across Pawnee, and south of the site, across a platted alley, are TF-3 Two-family Residential (TF-3) zoned residential neighborhoods. Property east and west of the site, along the south side of E. Pawnee, is zoned LC and developed with retail, convenience store, restaurant and vehicle repair uses. The Pawnee/Hydraulic intersection has LC zoning at all four corners developed with retail, auto service and restaurant uses. The nearest GC General Commercial zoning is 850 feet northeast of the site at the northeast corner of Southeast Boulevard and Blake Street; this GC zoned site is developed with a manufacturing use.

CASE HISTORY: The site was platted as Lots 1 and 3, Block 2 of the Archie Adams Addition in 1949.

ADJACENT ZONING AND LAND USE:

NORTH:	TF-3	Single-family residences
SOUTH:	TF-3	Single-family residences
EAST:	LC	Restaurant, vehicle repair
WEST:	LC	Convenience store, retail

PUBLIC SERVICES: The site proposes one joint access point to Pawnee, a five-lane arterial with an 80-foot right of way; one access point to Greenwood, a paved two-lane local street with 60 feet of right of way; and public alley access from the paved alley south of the site. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The “2013 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies the site as “local commercial.” The local commercial category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw.

RECOMMENDATION: The requested use is compatible with surrounding commercial land uses; the requested GC zoning is more intense than surrounding zoning along Pawnee, but not out of character with more intense zoning and uses at the Pawnee/Southeast Boulevard intersection two blocks east of the site. A Protective Overlay (PO) should protect residential neighbors north and south of the site from incompatible land uses and signage. Based upon the information available prior to the public hearings, planning staff recommends that the request for GC zoning be **APPROVED** subject to a Protective Overlay with the following conditions:

1. The site shall be limited to those uses permitted in the LC zoning district and Manufacturing, General only.
2. The site shall be developed and maintained in conformance with the approved site plan.
3. Manufacturing, General uses on the site shall conform with the UZC Section III.D.6.n. with office, display, wholesale or retail use along the building’s Pawnee Street frontage.
4. The site shall conform with all code requirements to include but not limited to zoning, landscaping, building, fire and health.

5. Signs shall be permitted in accordance with the City of Wichita Sign Code for the LC zoning district. No building signs are permitted on the south building facade facing residential zoning.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The application area is at the southwest corner of E. Pawnee and Greenwood. Areas north of the site, across Pawnee, and south of the site, across a platted alley, are TF-3 zoned residential neighborhoods. Property east and west of the site, along the south side of E. Pawnee, is zoned LC and developed with retail, convenience store, restaurant and vehicle repair uses. The Pawnee/Hydraulic intersection has LC zoning at all four corners developed with retail, auto service and restaurant uses. The nearest GC General Commercial zoning is 850 feet northeast of the site at the northeast corner of Southeast Boulevard and Blake Street; this GC zoned site is developed with a manufacturing use.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site could be used for various local commercial uses under the existing LC zoning.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The requested zone change could impact residences south of the site, across the alley, with increased traffic, noise and odors. Existing codes and the staff proposed PO should mitigate those impacts.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2013 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies the site as “local commercial.” The local commercial category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw.
- (5) **Impact of the proposed development on community facilities:** The existing Pawnee Avenue and public utilities should accommodate the proposed manufacturing land use.

JESS MCNEELY, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

DENNIS moved, G. SHERMAN seconded the motion, and it carried (12-0)

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9. **Case No.: CON2013-00038** - Bethany Lutheran Church and School (owner/applicant), c/o Rev. Mark P. Wenger request a City Conditional Use request for a Day Care, General, on SF-5 Single Family Residential zoned property on property described as:

Lot A EXCEPT the West 238.2 feet in Kuechenmeister Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant is requesting a Conditional Use to permit a “day care, general,” on the SF-5 Single-Family Residential zoned, platted 7-acre subject site. The site is located a block east of Seneca Street, between 26th and 25th Streets South on its south and north sides and Osage Avenue on its west side. The site is currently developed with a church, school, activity center, paved parking, and two playgrounds. The church proposes to operate a day care in a portion of the church and school for a

maximum of 99 children and 10 employees. The “Wichita-Sedgwick County Unified Zoning Code” (UZC, Article II, Section II-B.4.b.), defines a day care, general, as a day care center that provides care, protection and supervision for more than ten (10) individuals at any one time, including those under the supervision or custody of employees. Per the UZC, a day care, general, is permitted in the SF-5 zoning district only by Conditional Use approval, with conditions; Article III, Section III-D. The UZC, Article III, Section III-D 6.i. Supplementary Use regulations for a day care, general, are: day care centers shall comply with all applicable state regulations; outdoor play shall be limited to the hours of 7:30 a.m. to 6:30 p.m. if located within 100 feet of a lot containing a dwelling unit; and that the provisions for parking in Article IV, Section IV-A.4. may be provided by shared parking when the day care is located within an existing church or place of worship, and the day care shall provide convenient off-street loading spaces equivalent to one space per ten students.

The site plan shows a paved parking lot with 113 parking spaces, the off-street drop off area for the day care and school, as well the church and its educational-activity complex. There is sufficient parking and queuing for the proposed day care.

Undeveloped MF-18 Multi-Family Residential zoned property abuts the northwest portion of the site. Adjacent northern and eastern properties (located across 25th Street North and Osage Avenue) are zoned SF-5 and are developed as single-family residences (built 1950s-1960s). Abutting the west side of the site are LC Limited Commercial zoned properties developed as a small retail strip, a small stand alone retail building and the Circle Theater, which is an adult motion picture theater. These LC zoned properties all have Seneca Street frontage, an arterial road with commercial development located along both its sides. Properties located south of the site, across 26th Street South, include a LC zoned small retail strip, undeveloped LC zoned property, a B Multi-Family Residential and GO General Office zoned large apartment (two-story apartments) complex and a SF-5 zoned electrical substation and a small church. A-half block south of the subject site is a SF-5 zoned 7th Day Adventist Church with an associated school and an activity center; the subject site’s location and church/school/activity complex is similar to the adjacent 7th Day Adventist site’s location and church/school/activity complex.

CASE HISTORY: The property is platted as the Kuechenmeister Addition, which was recorded with the Register of Deeds March 31, 1956.

ADJACENT ZONING AND LAND USE:

NORTH: MF-18, SF-5	Undeveloped land, single-family residences
SOUTH: LC, B, GO, SF-5	Small retail strip, undeveloped land, apartment complex electrical substation, small church, church/school/activity center
EAST: SF-5	Single-family residences
WEST: LC	Small retail strip and stand alone retail, adult motion picture theater

PUBLIC SERVICES: The site has two drives onto 26th Street South, a paved two-lane local residential street with a 60-foot of right-of-way. All utilities are available at the subject property.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide of the Comprehensive Plan” (Guide) identifies the subject site as appropriate for “major institutional” uses, reflecting the site’s land use as a church and its educational-activity complex. Uses of a significant scale of operation such as school, churches, government facilities, military bases, libraries, cemeteries, hospitals and medical facilities are found in this category. The UZC lists day care, general as a “public

and civic” use type, which most closely matches the major institutional use category of the Guide. The SF-5 zoning district permits schools and churches by right and considers day care, general, with a Conditional Use application.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. In addition to the uses permitted by right in the SF-5 district, a Day Care, General, is permitted for 100 students and 10 employees. The maximum number of students can be increased by Administrative Adjustment or an Amendment to the Conditional Use.
2. All applicable requirements of Article III, Section III-D.6.i. of the UZC shall be met.
3. The site shall be developed in general conformance with the approved site plan.
4. The Day Care, General, shall be developed and operated in compliance with all federal, state, and local licensing, ordinances and regulations.
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 Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The staff’s recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** Undeveloped MF-18 Multi-Family Residential zoned property abuts the northwest portion of the site. Adjacent northern and eastern properties (located across 25th Street South and Osage Avenue) are zoned SF-5 and are developed as single-family residences (built 1950s-1960s). Abutting the west side of the site are LC Limited Commercial zoned properties developed as a small retail strip, a small stand alone retail building and the Circle Theater, which is an adult motion picture theater. These LC zoned properties all have Seneca Street frontage, an arterial road with commercial development located along both its sides. Properties located south of the site, across 26th Street South, include a LC zoned small retail strip, undeveloped LC zoned property, a B Multi-Family Residential and GO General Office zoned large apartment (two-story apartments) complex and a SF-5 zoned electrical substation and a small church. Half a block south of the subject site is a SF-5 zoned 7th Day Adventist Church with an associated school and an activity center; the subject site’s location and church/school/activity complex is similar to the adjacent 7th Day Adventist site’s location and church/school/activity complex.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site’s SF-5 zoning permits low density residential uses and a few compatible non-residential uses such as religious institutions, parks or schools. The site’s church/school/activity complex is permitted in the SF-5 zoning district by right. The Conditional Use process allows consideration of a day care, general, as appropriate use for the SF-5 zoning district on a site by site basis.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The partially developed seven-acre subject site currently has a church/school/activity complex. The subject site’s development is similar to another church/school/activity complex located a half a block south. Neither of the church/school/activity complexes seems to have had a negative impact on the neighborhood.

- 4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2030 Wichita Functional Land Use Guide of the Comprehensive Plan” (Guide) identifies the subject site as appropriate for “major institutional” uses, reflecting the site’s land use as a church and its educational-activity complex. Uses of a significant scale of operation such as school, churches, government facilities, military bases, libraries, cemeteries, hospitals and medical facilities are found in this category. The UZC lists day care, general, as a “public and civic” use type, which most closely matches the major institutional use category of the Guide. The SF-5 zoning district permits schools and churches by right and considers day care, general, with a Conditional Use application.
- 5. **Impact of the proposed development on community facilities:** Traffic for the drop-off and pick-up of children would resemble the site’s current traffic pattern generated by its small K-5 elementary school. The site has adequate parking and drop-off queuing space to prevent impacting traffic flow onto the abutting residential street 26th Street South. All other community facilities are in place to serve the proposed use.

BILL LONGNECKER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

WARREN moved, **NEUGENT** seconded the motion, and it carried (11-0).

The Metropolitan Area Planning Commission adjourned at 3:10 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2014.

(SEAL)

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission