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WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION AGENDA

Thursday, April 10, 2014

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission will be held on **Thursday, April 10, 2014**, beginning at **1:30 PM** in the Planning Department Conference Room City Hall - 10th Floor, 455 N. Main Street, Wichita, Kansas. **If you have any questions regarding the meeting or items on this agenda, please call the Wichita-Sedgwick County Metropolitan Area Planning Department at 316.268.4421.**

1. Approval of the prior MAPC meeting minutes:

Meeting Date: March 6, 2014 and March 20, 2014

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

Items may be taken in one motion unless there are questions or comments.

- 2-1. **SUB2014-00005: Final Plat – HOOVER INDUSTRIAL PARK ADDITION**, located on the southeastern corner of K-96 Highway and Hoover Road. (COUNTY 3 MILE RING)

Committee Action: APPROVED 3-0
Surveyor: Baughman Company, P.A.
Acreage: 75.43
Total Lots: 37

- 2-2. **SUB2014-00009: Final Plat – CASTLEGATE ADDITION**, located on the north side of Central, west of 119th Street West.

Committee Action: APPROVED 3-0
Surveyor: Baughman Company, P.A.
Acreage: 25.24
Total Lots: 87

- 2-3. **SUB2014-00014: One-Step Final Plat – TALLGRASS VILLAS ADDITION**, located north of 21st Street North, east of Rock Road.

Committee Action: APPROVED 3-0
Surveyor: MKEC Engineering Consultants, Inc.
Acreage: 0.72
Total Lots: 1

- 2-4. **SUB2014-00015: One-Step Final Plat – DAVID & PALMER ADDITION**, located on the south side of 29th Street North, west of Broadway.

Committee Action: APPROVED 3-0
Surveyor: K.E. Miller Engineering, P.A.
Acreage: 4.59
Total Lots: 1

- 2-5. **SUB2014-00016: One-Step Final Plat – DEVLIN AUTO REALTY ADDITION,**
located on the southwest corner of Douglas and Hydraulic.

Committee Action: **APPROVED 3-0**
Surveyor: **K.E. Miller Engineering, P.A.**
Acreage: **0.37**
Total Lots: **1**

3. PUBLIC HEARING – VACATION ITEMS

ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 PM

Items may be taken in one motion unless there are questions or comments.

Complete legal descriptions are available for public inspection at the Metropolitan Area Planning Department – 10th Floor, City Hall, 455 N. Main Street, Wichita, Kansas

- 3-1. **VAC2014-00004: City request to vacate a platted easement on property,** generally located south of 2nd Street, a block west of West Street on the east side of Florence Street (150 N Florence St).

Committee Action: **APPROVED 3-0**

- 3-2. **VAC2014-00005: City request to vacate a portion of a utility easement dedicated by separate instrument on property,** generally located midway between 21st and 29th Streets North, on the west side of Maize Road.

Committee Action: **APPROVED 3-0**

- 3-3. **VAC2014-00006: City request to vacate a portion of a platted street side yard setback on property,** generally located east of Woodlawn Boulevard, south of 9th Street, on the northwest corner of Stratford and Cresthill Roads (705 N Stratford Lane).

Committee Action: **APPROVED 3-0**

- 3-4. **VAC2014-00007: City request to vacate a portions of a platted easement, an easement dedicated by separate instrument, platted access control and an access easement on property,** generally located south of K-96 on the west side of Maize Road.

Committee Action: **APPROVED 3-0**

PUBLIC HEARINGS

ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 PM

4. Case No.: CON2014-00004 (deferred from 3-6-14)
Request: City request to amend CON2012-33 (nightclub in the City) to remove restrictions on days when alcohol is served, remove restrictions on hours of operation and remove affiliation with a fraternal order on LC Limited Commercial zoned property.
General Location: East of Zoo Boulevard on the northeast corner of Mt. Carmel and Central Avenues.
Presenting Planner: Bill Longnecker
5. Case No.: ZON2014-00002
Request: City zone change request from SF-5 Single-family Residential to LC Limited Commercial.

- General Location: East of West Street, south of Taft Avenue on the east side of Illinois Avenue (526 S. Illinois Ave.)
 Presenting Planner: Jess McNeely
6. Case No.: ZON2014-0003 and CON2014-00011
 Request: City zone change request from LC Limited Commercial and SF-5 Single-family Residential to LI Limited Industrial and Conditional Use request to permit wrecking/salvage.
 General Location: 3059 N. Hoover Road.
 Presenting Planner: Dale Miller
7. Case No.: CON2014-00012
 Request: City Conditional Use request to permit sand extraction on SF-5 Single-family Residential zoned property.
 General Location: North of 45th Street North and west of Hoover Road.
 Presenting Planner: Bill Longnecker
8. Case No.: CON2014-00013
 Request: City Conditional Use request for an accessory apartment on SF-5 Single-family Residential zoned property.
 General Location: Midway between 13th and 21st Streets North, on the east side of Greenwich Road.
 Presenting Planner: Dale Miller
9. Case No.: CUP2014-00006
 Request: City Amendment to CUP Community Unit Plan DP-21 to permit "recreation and entertainment outdoor."
 General Location: 2541 South Seneca Street.
 Presenting Planner: Dale Miller

NON-PUBLIC HEARING ITEMS

10. Other Matters/Adjournment

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

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

MINUTES

March 6, 2014

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, March 6, 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; Bill Johnson; John McKay, Jr.; M.S. Mitchell; Bill Ramsey; Debra Miller Stevens and Chuck Warren (Out @2:55 p.m.). Joe Johnson, Don Sherman, George Sherman and Carol Neugent 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 and Robert Parnacott, Assistant County Counselor.

1. To approve the February 20, 2014 or MAPC meeting minutes.

MOTION: To approve the February 20, 2014 meeting minutes, as amended.

MCKAY moved, **B. JOHNSON** seconded the motion, and it carried (8-0-1).
WARREN – Abstained. **GOOLSBY** was out of the room.

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB2010-00032: Revised One-Step Final Plat – SIERRA POINTE ADDITION,**
located on the Southwest corner of Pawnee and 127th St. East.

Note: This is an unplatted site located within the City. A zone change (ZON2010-00018) was approved from SF-5 Single-family Residential to LC Limited Commercial for a portion of the property subject to platting. The Pawnee and 127th Commercial CUP (CUP2010-00011, DP-322) was also approved.

This revised plat includes one additional lot.

STAFF COMMENTS:

- A. City of Wichita Water Utilities Department advises that Lots 1-6 have access to water and will have transmission and distribution in lieu of assessments. Water needs to be extended (transmission and distribution) to serve Lots 7-12. Sewer needs to be extended (mains and laterals) to serve all lots being platted.
- 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 approved the drainage plan subject to revisions.
- D. Traffic Engineering has approved the access controls. Access controls have been platted along both Pawnee and 127th Street East as being in accordance with the access management standards.

- E. Traffic Engineering requests a petition for left-turn and right-turn decel lanes to major openings.
- F. County Surveying advises the basis of bearings in the legal description and as shown on the face of the plat should match.
- G. The Subdivision Committee has required the applicant to participate in the paving of 127th St. East.
- H. The standard language regarding vacation statutes need to reference "K.S.A. 12-512b, as amended".
- I. In accordance with the CUP, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- J. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- 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.

MITCHELL moved, **DENNIS** seconded the motion, and it carried (10-0).

2-2. SUB2013-00030: One-Step Final Plat – CORNERSTONE BAPTIST CHURCH ADDITION, located north of 61st Street North, on the east side of 63rd Street East.

NOTE: This unplatted site is located in the County. The property is in an area designated as “Kechi 2030 Urban Growth Area” by the Wichita-Sedgwick County Comprehensive Plan. It is located in the Kechi Area of Influence. A Conditional Use (CON2012-00009) for a Church has been approved for this site.

STAFF COMMENTS:

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact 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. The site is currently located within the Sedgwick County Rural Water District No. 1. If service is available, feasible and the property is eligible for service, Metropolitan Area Building and Construction Department recommends connection.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. County Public Works has approved the applicant’s drainage plan. A Notice of Intent is needed from the State and a stormwater permit application.
- E. The land surveyor shall file a reference report for each section corner per K.S.A. 58-2011.
- F. The plat denotes one opening along Woodlawn. County Public Works has approved the access controls.
- G. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.
- H. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of

Engineer (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.

- I. Approval of this plat will require a waiver of the lot depth-to-width ratio. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. The Subdivision Committee recommends 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.
- J. 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.
- 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 (1) 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 disc (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 disc. If a disc 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.

MITCHELL moved, **DENNIS** seconded the motion, and it carried (10-0).

2-3. SUB2014-00001: Final Plat – SCHOLFIELD HONDA COMMERCIAL ADDITION, located South of Kellogg, East of Woodlawn.

NOTE: This is a replat of the Scholfied-Hatchett 3rd Addition, McHugh East Mission 2nd Addition, Ripstra Addition and the Eastridge Addition. A portion of the site has been approved for a zone change (ZON2013-00023) from SF-5 Single-family Residential and TF-3 Two-family Residential to Limited Commercial. This site is also included within the Scholfield Honda Commercial Community Unit Plan (CUP2013-00031, DP-305).

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that water and sewer services are available to serve the site. A guarantee is needed for the abandonment of the 8-inch water line in Orme from Drury to Gouverneur by cut and cap at Drury and Gouverneur.
- 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 approved the drainage plan. Revisions may be needed with the final site design, per the Stormwater manual design requirements.
- D. Traffic Engineering has approved the access controls. The plat proposes complete access control along Orme as required by the zone change. Two openings are proposed along both Mission and Gouverneur Road. Three openings are proposed along Kellogg Drive.
- E. 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.
- F. As the plat consists of a commercial lot abutting non-arterial streets, the Subdivision regulations require sidewalks along the street frontages. A Sidewalk Certificate in lieu of a guarantee may be provided.
- G. The site is located within the Maximum Mission Area of the Air Installation Compatible Use Zone (AICUZ) study to identify noise impact areas around McConnell Air Force Base. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that

adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.

- H. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- 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.

B. JOHNSON moved, **FOSTER** seconded the motion, and it carried (10-0).

2-4. **SUB2014-00007: One-Step Final Plat – CAPALL BAILE ADDITION**, located on the east side of 143rd Street East, south of 31st Street South.

NOTE: This site is located in the County within three miles of Wichita's boundaries. The property is located in an area designated as "Wichita 2030 Urban Growth Area" by the Wichita-Sedgwick County Comprehensive Plan. The property has been approved for a conditional use (CON2009-00047) for boarding kennels and a conditional use (CON2001-00050) for horse breeding and veterinarian services.

STAFF COMMENTS:

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact 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. The site is currently located within the Sedgwick County Rural Water District No. 3. If service is available, feasible and the property is eligible for service, Metropolitan Area Building and Construction Department recommends connection.
- C. City Public Works and Utilities Department has requested a No Protest Agreement for future sanitary sewer expansion.
- D. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- E. County Public Works has approved the drainage plan subject to revisions. The developer intends to utilize the existing pond adjacent to the property for water quality and quantity purposes. An agreement between these two properties needs to be provided.
- F. The standard language regarding vacation statutes need to reference "K.S.A. 12-512b, as amended".
- G. County Surveying advises there is a conflict with the bearings shown. The north line of the northwest quarter is "N 89°42'55" E" and the other lines that should be parallel are "N 89°42'25" E".
- H. County Surveying advises the legal description needs corrected to reference the west line of the northwest quarter.

- I. The plat denotes one opening along 143rd Street East. County Public Works has approved the access controls.
- J. The owner's signature block and acknowledgment should state the representative capacity of the signors (e.g. "managing members").
- K. The City Council certification needs to be added as this plat is located within three miles of the City of Wichita.
- L. The signature block for the Board of Commissioners Chairman should be revised to read underneath the signature line, "David M. Unruh, First District".
- M. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.
- N. The plat's text shall include the correct the spelling of "stormwater".
- O. 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.)
- P. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- Q. 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.
- R. 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.
- S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) 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.
- T. Perimeter closure computations shall be submitted with the final plat tracing.

- U. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- V. A compact disc (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 disc. If a disc 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.

MITCHELL moved, DENNIS seconded the motion, and it carried (10-0).

2-5. SUB2014-00008: One-Step Final Plat – WEST 54 INDUSTRIAL 2ND ADDITION,
located on the South of Kellogg, west of West Street.

NOTE: This is a replat of the West 54 Industrial Addition which includes the west half of the vacated street to the east and the south portion of the abandoned railroad right-of-way to the north.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that water and sewer services are available to serve 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. Stormwater Management has approved the drainage plan subject to a drainage easement extending to the abandoned railway. Site development will need to address nuisance water near the northwest corner of the plat.
- D. County Surveying advises the legal description needs to be corrected to "lying westerly of and abutting the northerly extension of the east line of the west 23.00 feet of said Lot 3".
- E. The Applicant has platted a 3-foot building setback along a portion of Irving which represents an adjustment of the Zoning Code standard of a 20-foot front setback for the LI Limited Industrial District. A contingent 20-foot building setback should be platted through the existing building. The plattor's text should specify that the contingent setback is effective upon all subsequent reconstruction.
- F. 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.
- G. 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.)

- H. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- I. 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.
- J. 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.
- K. 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.
- L. Perimeter closure computations shall be submitted with the final plat tracing.
- M. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- N. 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.

MITCHELL moved, DENNIS seconded the motion, and it carried (10-0).

3. **PUBLIC HEARING – VACATION ITEMS**

- 1. **VAC2014-00003: City request to vacate a portion of a platted easement on property**, generally located south of Lincoln Street, south of Zimmerly Street, on the *west side of Broadway Avenue*.

OWNER/AGENT: USD 259, c/o Shane Schumacher (owner/applicant)

LEGAL DESCRIPTION: Generally described as vacating the north 112.28 feet of the platted north to south 20-foot wide platted utility easement located approximately in

the middle of the south 137.28 feet of Lot 1, Block A, Hamilton Middle School Addition, Wichita, Sedgwick County, Kansas.

LOCATION:

Generally located south of Lincoln, on the north side of Boston Avenue and on the west side of Broadway Avenue (WCC #III)

REASON FOR REQUEST:

Associated with future development

CURRENT ZONING:

The east half of the site is zoned LC Limited Commercial and the west half is zoned SF-5 Single-Family Residential. Adjacent northern properties (across Zimmerly Street) are zoned LC and TF-3 Two-family Residential. Adjacent western properties (across Market Street) are zoned TF-3 and MF-29 Multi-family Residential. Adjacent southern properties (across Boston Avenue) are zoned LC and B Multi-family Residential. Adjacent western properties (across Broadway Avenue) are zoned LC and GC General Commercial.

The applicant proposes to vacate the north 112.28 feet of the platted north to south 20-foot wide platted utility easement located approximately in the middle of the south 137.28 feet of Lot 1, Block A, Hamilton Middle School Addition. There is a sewer line and manhole located in the platted easement. The subject easement ends at its intersection with a platted 10-foot wide east-west utility easement that runs parallel with the south lot line of Lot 1, Block A, Hamilton Middle School Addition and Boston Avenue. The applicant will need to provide plans to Public Works/Water & Sewer for relocating/abandoning the sewer line and manhole. Westar has a power pole located in the area of the platted utility easement. The Hamilton Middle School Addition was recorded with the Register of Deeds September 5, 2011.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water & Sewer/Stormwater, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the platted utility easement.

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time February 13, 2014, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by vacating the described portion of the platted utility easement, and that the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Provide plans to Public Works/Water & Sewer for relocating/abandoning the sewer line and manhole. Abandonment or relocation/reconstruction of any/all utilities made necessary by this

vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. The approved plans PPS number must be provided to Planning prior to this case going to City Council for final action.

- (2) Provide any needed dedication of easement(s) by separate instrument for relocated sewer and other utilities, prior to this case going to City Council for final action. The easement(s) and Vacation Order will be sent to City Council for subsequent recording with the Register of Deeds.
- (3) Retain any needed easement and/or provide any needed dedication of easement(s) by separate instrument for the Westar equipment. The approved Westar easement must be provided to Planning prior to this case going to City Council for final action.
- (4) Provide Planning with a legal description of the vacated utility easement on a Word document, via e-mail. This must be provided to Planning prior to the case going to City Council for final action.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide plans to Public Works/Water & Sewer for relocating/abandoning the sewer line and manhole. Abandonment or relocation/reconstruction of any/all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. The approved plans PPS number must be provided to Planning prior to this case going to City Council for final action.
- (2) Provide any needed dedication of easement(s) by separate instrument for relocated sewer and other utilities, prior to this case going to City Council for final action. The easement(s) and Vacation Order will be sent to City Council for subsequent recording with the Register of Deeds.
- (3) Retain any needed easement and/or provide any needed dedication of easement(s) by separate instrument for the Westar equipment. The approved Westar easement must be provided to Planning prior to this case going to City Council for final action.
- (4) Provide Planning with a legal description of the vacated utility easement on a Word document, via e-mail. This must be provided to Planning prior to the case going to City Council for final action.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are

not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

B. JOHNSON moved, **MCKAY** seconded the motion, and it carried (10-0).

PUBLIC HEARINGS

4. **Case No.: CON2014-00001** – Paulino Sanchez, Noemy Sanchez, Pamela S. Pirotte (owners) and SCC/AT&T Wireless, c/o Justin Anderson (applicant/agent) request a City Conditional Use to permit a 140-foot tall wireless communication facility on SF-5zoned property (Deferred from 2-20-14) described as:

Lot 136, Van View Addition, Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant, AT&T Mobility, is seeking a Conditional Use to permit the construction of a wireless communication facility with a 140-foot tall, wireless, galvanized steel, monopole tower (monopole tower) within a 100-foot (x) 100-foot lease site on the 4.82-acre SF-5 Single-Family Residential zoned lot: Lot 136, Van View Addition. Access to the lease site and monopole tower is by a proposed access easement to Legion Street. The proposed access will run between the subject property's single-family residence and the south common property line. Per the amended Wireless Communication Facility Ordinance (adopted by the WCC 4-08-08 & BoCC 4-9-08), new undisguised ground-mounted wireless communication facilities over 65-feet in height in the SF-5 zoning district may be considered as a Conditional Use on a site by site analysis.

The SF-5 zoned lot is located approximately midway between Meridian Avenue and Seneca Street, north of 57th Street North (which has no access onto Legion Street) on the west side of Legion Street. The most direct access onto Legion Street is off of 53rd Street North. The site is currently developed with a single-family residence built in 1921. The site is located within a SF-5 zoned single-family residential neighborhood, with most of the homes in the immediate area being built in the 1920s-1940s. These homes are located on large tracts or lots. More recently built homes (1970s-1980s) in the area are located on urban scale City subdivisions. The Little Arkansas River is located approximately 850 feet east of the site. The proposed lease site is located: approximately 140 feet from the abutting south SF-5 zoned lot, and; approximately 100 feet from the abutting north SF-5 zoned lot, and; approximately 480 feet from the adjacent (across Legion Street) east SF-5 zoned lot. The exception to this single-family residential neighborhood is the west, abutting SF-20 Single-Family Residential zoned 36.86-acre Monsanto agricultural research field. The GO General Office zoned Monsanto research offices are part of the western portion of this acreage and are located along Meridian Avenue. The Monsanto property is an isolated portion of Sedgwick County. The SF-20 zoned portion of the Monsanto's site permits consideration of new undisguised ground-mounted facilities/towers up to 120 feet as a Conditional Use.

The applicant's Radio Frequency (RF) Engineer has stated that the proposed facility is needed to provide the future 4th Generation Long Term Evolution (4G LTE) capacity needs of AT&T's customers. The 4G LTE technology is the fourth generation of mobile communication technology and is touted as

an upgrade to the currently and still widely used 3G technology. Most tower sites will continue to support the 3G networks for many years. In the meantime the 4G LTE technology allows the users of the tower sites to migrate from simple voice communication to high-speed data for sending pictures and video from their more sophisticated smartphones. However, as the network evolves from 3G to 4G LTE technology and beyond, more tower sites are required because 4G coverage areas tend to be geographically smaller and many of Wichita's and Sedgwick County's existing towers' capacity is maxed out as they continue to supply the current 3G technology. The move towards 4G LTE technology could lead to more contentious public forums in regards to Conditional Use applications for wireless communication facilities with cell towers, as cell towers move into areas where residential development is dominate. The challenge is the balancing of the technology-driven supply side of the industry, with the marketplace demands and the public expectations for an orderly and attractive environment.

The applicant has provided current coverage and projected coverage maps showing the impact of the site in providing 4G LTE service to the area. The applicant has not provided the current coverage/capacity provided by any facilities in the area that use the current 3G technology. The RF Engineer states that there are no facilities in the area of the proposed site that would allow co-location opportunities and provide the desired coverage/capacity. The agent has stated that there is a Kansas Public Telecommunication Services, Inc., guyed line tower located just over a mile from the site, but does not state if they had contacted the tower owner for co-location. Staff has spoken with the agent about several other possible site's in the area including the abutting SF-20 zoned Monsanto's site, the cluster of partial developed (Wal-Mart) LC Limited Commercial zoned properties located approximately a half-mile southwest of the site at the 53rd Street North and Meridian Avenue intersection and the LI Limited Industrial zoned property located less than three-quarters of a mile northeast of the site. The agent has stated that those properties had no interest in a lease site of the wireless communication facility and its monopole tower.

The proposed tower and associated communication frequencies and wattages must meet standards determined by the Federal Aviation Administration (FAA) to pose no hazard to air navigation or interferes with other radio/communication frequencies. The applicant has not provided an analysis of airspace in the area, which must be provided to staff prior to building permits being issued. Tower lighting must meet the FAA requirements for aircraft warning. The proposed galvanized surface of the tower will blend into the sky more readily than a red or white paint, which meets the intent of the "Design Guidelines" of the "Wireless Communication Master Plan." The proposed 140-foot tower must allow co-location for at least three (3) other providers. The applicant has indicated that the tower will have all antenna arrays located within the proposed tower.

CASE HISTORY: The subject site is Lot 136, Van View Addition, which was recorded with the Register of Deeds August 17, 1922. The site was annexed into the City between 1991 and 2000. At 6:30 PM, Thursday, February 20, 2014, the North End Riverview Neighborhood Association (NA) met at the Salvation Army Camp Hiawatha to discuss CON2014-00001. Bill Longnecker, MAPD - Senior Planner, Current Plans, attended the meeting as did Rex Curry, SSC, agent for AT&T Wireless. The NA did not vote on the application, but comments on the application included: placing a tower in the backyard of a single-family zoned single-family residence sets an undesirable precedence, and; the facility would devalue the homes of the area, and; the facility was not in character with the area, and; they did not want to look at a 140-foot tall tower, and; health concerns.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5 Single-family residences
SOUTH: SF-5 Single-family residences
EAST: SF-5 Single-family residences
WEST: SF-20, GO, SF-5 Agricultural research, single-family residences

PUBLIC SERVICES: The site is served by City water. City sewer service has not been extended to the area where the site is located; sewer is a septic system. No municipally supplied public services are required. The applicant will extend electrical and phone service to the site. The site has proposed an access easement to Legion Street, a paved, curbless residential street.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide Map” identifies the site as being “urban residential.” The urban residential category reflects the full diversity of residential development densities and types typically found in a large municipality. Elementary and middle school facilities, churches, playgrounds, parks and other similar residential serving uses may also be found in this category. The UZC considers a wireless communication facility a commercial type of use. The proposed wireless communication facility with its 140-foot tall tower is proposed to provide the future 4G LTE capacity needs of AT&T’s customers in this part of Wichita.

The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. It states that all towers comply with the compatibility setback standards. The applicant’s site plan shows the 140-foot tall monopole tower meeting the compatibility setback standards, as it is located entirely within the owner’s 4.82-acre property. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area as much as possible. The proposed 140-foot tall monopole tower is located in the back yard of an SF-5 zoned single-family residence, which in turn is located in a SF-5 zoned residential neighborhood. The presence of the proposed of the monopole tower would alter the pre-existing character of the area. The proposed location of the wireless facilities is not in close proximity to the residential area, it is in the residential area; 2) Minimize the height, mass, or proportion. Making the monopole tower shorter or changing its profile to a lattice tower would still compromise the area’s single-family residential development/character and set an undesirable precedence of approving the location of wireless communication facilities and their towers in the back yards of SF-5 zoned single-family residences; 3) Minimize the silhouette. For this site, there is no way to minimize the silhouette of the monopole tower. A lattice tower similar to those used by the City, may reduce the silhouette; 4) Use colors, textures, and materials that blend in with the existing environment. There are no colors, textures, or materials that would help a 140-foot tall monopole tower of this size blend in with the existing environment; 5) Be concealed or disguised as a flagpole, clock tower, or church steeple. The area presents no opportunities for disguising the proposed tower as a clock tower or church steeple. It is hard to see any softening of the monopole tower’s presences in attempting to disguise it as a 140-foot tall flag pole; 6) Be placed in areas where trees and/or buildings obscure some or all of the facility. The applicant proposes planting 14 junipers around the facility. There are trees on the site that could help obscure a tower. Proposed and existing trees may cancel the visual impact of the first 30 feet of the proposed 140-foot tall tower; 7) Be placed on walls or roofs of buildings. The opportunity is not present; 8) Be screened through landscaping, walls, and/or fencing. As stated, the applicant is proposing to plant 14 junipers around the facility. The proposed junipers will be spaced 15 feet apart, center to center of each juniper. This spacing will provide solid screening when the junipers mature and with proper care provide a more attractive and efficient

screening than a 6-8-foot tall wooden privacy fence; and 9) Painting towers red and white instead of using strobe lighting. The applicant has stated that there will be no strobes and that it will be a galvanized steel finish. NOTE: Since the time the Wireless Communication Master Plan was first adopted, the FAA changed their regulations to require daytime strobe lighting; whereas, when the plan was adopted, the FAA allowed painted towers red and white instead of using strobe lighting.

The site is not designated on the “Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map.” The site is located in Airport Hazard Zone D, which allows a maximum height of 300 feet.

RECOMMENDATION: Based on the information available prior to the public hearings, planning staff recommends that the request be DENIED. This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The site is located within a SF-5 zoned single-family residential neighborhood, with most of the homes in the immediate area being built in the 1920s-1940s. These homes are located on large tracts or lots. More recently built homes (1970s-1980s) in the area are located on urban scale City subdivisions. The Little Arkansas River is located approximately 850 feet east of the site. The proposed tower lease site is located: approximately 140 feet from the abutting south SF-5 zoned tract, and; approximately 100 feet from the abutting north SF-5 zoned tract, and; approximately 480 feet from the adjacent (across Legion Street) east SF-5 zoned tract. The exception to this single-family residential neighborhood is the west, abutting SF-20 Single-Family Residential zoned 36.86-acre Monsanto agricultural research field. The GO General Office zoned Monsanto research offices are part of the western portion of this acreage and are located along Meridian Avenue. The Monsanto property is an isolated portion of Sedgwick County. The SF-20 zoned portion of the Monsanto’s site permits consideration of new undisguised ground-mounted facilities up to 120 feet as a Conditional Use.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned SF-5 and is currently developed with a single-family residence, which is appropriate for this area.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Approval of locating a wireless communication facility and its 140-foot tall, galvanized steel, monopole tower in the back yard of a SF-5 zoned single-family residence sets an undesirable precedence of approving the location of them in the back yards of SF-5 zoned single-family residences.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan:** The “2030 Wichita Functional Land Use Guide Map” identifies the site as being “urban residential.” The urban residential category reflects the full diversity of residential development densities and types typically found in a large municipality. Elementary and middle school facilities, churches, playgrounds, parks and other similar residential serving uses may also be found in this category. The UZC considers a wireless communication facility a commercial type of use. The proposed wireless communication facility with its 140-foot tall tower is proposed to provide the future 4G LTE capacity needs of AT&T’s customers in this part of Wichita.

The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. It states that all towers comply with the compatibility setback standards. The applicant's site plan shows the 140-foot tall monopole tower meeting the compatibility setback standards, as it is located entirely within the owner's 4.82-acre property. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area as much as possible. The proposed 140-foot tall monopole tower is located in the back yard of an SF-5 zoned single-family residence, which in turn is located in a SF-5 zoned residential neighborhood. The presence of the proposed of the monopole tower would alter the pre-existing character of the area. The proposed location of the wireless facilities is not in close proximity to the residential area, it is in the residential area; 2) Minimize the height, mass, or proportion. Making the monopole tower shorter or changing its profile to a lattice tower would still compromise the area's single-family residential development/character and set an undesirable precedence of approving the location of wireless communication facilities and their towers in the back yards of SF-5 zoned single-family residences; 3) Minimize the silhouette. For this site, there is no way to minimize the silhouette of the monopole tower. A lattice tower similar to those used by the City, may reduce the silhouette; 4) Use colors, textures, and materials that blend in with the existing environment. There are no colors, textures, or materials that would help a 140-foot tall monopole tower of this size blend in with the existing environment; 5) Be concealed or disguised as a flagpole, clock tower, or church steeple. The area presents no opportunities for disguising the proposed tower as a clock tower or church steeple. It is hard to see any softening of the monopole tower's presences in attempting to disguise it as a 140-foot tall flag pole; 6) Be placed in areas where trees and/or buildings obscure some or all of the facility. The applicant proposes planting 14 junipers around the facility. There are trees on the site that could help obscure a tower. Proposed and existing trees may cancel the visual impact of the first 30 feet of the proposed 140-foot tall tower; 7) Be placed on walls or roofs of buildings. The opportunity is not present; 8) Be screened through landscaping, walls, and/or fencing. As stated, the applicant is proposing to plant 14 junipers around the facility. The proposed junipers will be spaced 15 feet apart, center to center of each juniper. This spacing will provide solid screening when the junipers mature and with proper care provide a more attractive and efficient screening than a 6-8-foot tall wooden privacy fence; and 9) Painting towers red and white instead of using strobe lighting. The applicant has stated that there will be no strobes and that it will be a galvanized steel finish. NOTE: Since the time the Wireless Communication Master Plan was first adopted, the FAA changed their regulations to require daytime strobe lighting; whereas, when the plan was adopted, the FAA allowed painted towers red and white instead of using strobe lighting.

The site is not designated on the "Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map." The site is located in Airport Hazard Zone D, which allows a maximum height of 300 feet.

5. **Impact of the proposed development on community facilities:** FAA approval should ensure that the proposed tower is not a hazard to air navigation (including the need or not for lighting) and that the tower does not interfere with other radio/communication frequencies. No municipally supplied public services are required.

However, if the MAPC finds the location of the 100-foot (x) 100-foot wireless communication facility with a 140-foot tall wireless, galvanized steel, monopole tower an appropriate use on the SF-5 zoned lot, the following conditions are recommended:

- A. This request must have the approval by the FAA in determining the proposed wireless communication facility with its 140-foot tall monopole tower carrying AT&T's 4G LTE pose no hazard to air navigation or interferes with other radio communication frequencies. The applicant shall submit a current copy of FAA approval to the MAPD and the Code Enforcement Office prior to the issuance of a building permit.
- B. All requirements of Art. III Sec. III.D.6.g. of the Unified Zoning Code shall be met.
- C. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- D. The support structure shall be a monopole design, as shown on the elevation and that generally conforms to the approved site elevation and that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- E. The support structure shall not exceed 140 feet in height and shall be designed and constructed to accommodate communication equipment for at least three (3) wireless service providers.
- F. The tower site shall be developed in general conformance with the approved revised site and a landscape plan. These plans must show the type and size of fencing around the site, parking, all light poles, lights, power poles, cabinets, equipment or buildings within the fenced in site or in the immediate area if it is to be used by the site. The plan must identify existing and/or proposed trees and shrubs, give their total numbers and their general size to determine if it meets screening requirements of the Unified Zoning Code (UZC) Art. IV, Sec. IV-B.3.b.1. If evergreens are planted they must be a minimum size of 5-foot at the time of their planting (but be taller than 8-foot when mature) and planted on 15-foot centers. The site plan must identify the all utility and or access easements. A proposed access easement must be recorded with the Register of Deeds. If a surface is needed for the drive/access easement, it must be approved by the Zoning Administrator. All improvements and construction of the facility/tower shall be completed within a year and before the facility becomes operational.
- G. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations. Provide the Stormwater Engineer with any required plans for review and approval of the site.
- H. 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.

BILL LONGNECKER, Planning Staff presented the Staff Report.

JUSTIN ANDERSON, SELECTIVE SITE CONSULTANTS (SSC), AGENT FOR AT&T MOBILITY, 9990 WEST 109th STREET, SUITE 300, OVERLAND PARK, KANSAS said he was present to ask approval of the request. He said they would not normally choose a residential area in which to put a commercial use. He said old sites provided coverage for voice and texting. He said new sites require more compact areas because they run on higher frequencies and push a lot more data on fiber lines and different antennas that are for video streaming, emails sending photos. He said the location is 430 feet off Legion which is a setback that is well beyond the requirement. He said the

location of the proposed cell tower is actually closer to Monsanto who they tried to work with, but Monsanto pretty much said being a wireless landlord was not in their business plan. He said they also tried to work with properties to the west, such as Wal-Mart. He said they are trying to find a site that will provide the new capacity for Sullivan, Meridian, 53rd and the top of Monsanto field. He said the target area is this neighborhood, and he understands the neighbors are not all that keen on having a wireless tower in their back yard. However, he added that this wireless site will serve hundreds if not thousands of users every day. He mentioned that there are 20 to 30 electric poles sticking up in the air on every single street in this neighborhood. He said they could install 10 or 15 shorter towers instead of this one to do the job. He said there are other sites in town where the zoning is different but the intent is the same; to provide wireless coverage. He said there is a 160-foot monopole at 2031 Woodrow Street on GC General Commercial zoning that is about 220 feet away from a residence located SF-5 Single-family Residential zoning. He said this location is over 400 feet from the closest residence. He mentioned there is another 120-foot monopole at 320 West 21st Street in GO General Office zoning 40 feet away from a residence. He said his point was these towers are safe and are being built to the International Building Code (IBC) and the International Electrical Code (IEC). He said they also meet all state and national requirements and all of the engineers on the project are Kansas licensed. He said they are hoping to provide a service and are not trying to be bad neighbors. He mentioned a previous case for a mono-cross at the Woodland Community Church. He mentioned a height restriction of 75-feet at the site because of Beechcraft so they ended up withdrawing the application. He said the design of these sites is within such a small threshold it is not cost effective to lower the height or locate towers in areas where they are not needed or areas with existing coverage. He said he would stand for questions.

RICK SMITH, 6120 NORTH LEGION, WICHITA, KANSAS said his property is a few blocks away from this site. He asked the Commission to uphold the recommendation contained in the Staff Report and the DAB VI recommendation to deny the application. He said this is a residential neighborhood and people bought their homes and property in the area because of location, location, location. He said while there are arguments both ways whether the project will hurt property values, he said a Court in New Mexico did award a plaintiff a judgment against the city of Santa Fe for constructing a tower. He said the award wasn't based upon actual decline in property value; it was based upon the perceived property value. He said everyone he has talked to in the neighborhood is against this proposal. He said the bottom line is when you wake up in the morning would you rather see a yard and landscaping or a communications tower. He mentioned the Wireless Communications Master plan prepared by the Metropolitan Area Planning Department. He said it recommends that no single communications tower should be over 65 feet in SF-5 zoning. He asked why a 145-foot tall communications tower was even being thought about at this location. He said he was in real estate and believes this will lower property values. He mentioned that the study submitted by AT&T shows some evidence from the 90's, when property values were going up anyway, that cell towers do not hurt property values but that study is antiquated. He said he has seen nothing more recent that upholds that. He urged the Commission, on behalf of all the citizens that are being affected by this tower to uphold the Staff Report and DAB recommendation.

JOHN STARK, 5518 NORTH SULLIVAN, WICHITA, KANSAS said he would like to thank the Planning Department for a thorough review and recommendation of denial. He said he thinks Planning Staff have done a good job of defining the issues. He mentioned that SF-5 residential zoning is the most restrictive zoning classification that there is. He said the neighbors feel having a 140-foot tall monopole in the area will be detrimental. He said he understands that sixty-feet is the height limit in residential

zoning. He said this cell tower will stick up like the Seattle Space Needle except that it will not be as amazing looking. He said the neighbors feel this is an inappropriate use of the property that will detrimentally impact nearby property values. He said it is incumbent upon the city to try to maintain property values. He said close to 75 people attended the North End Riverview Neighborhood Association meeting last week and that everyone, except an AT&T representative, were opposed to this project. He also mentioned that District Advisory Board VI unanimously recommended denial of the project. He said the neighbors feel this application does not meet the review criteria on at least five major points. He concluded by stating that allowing the project to proceed will set an undesirable precedent of allowing commercial projects on single-family residential zoned properties.

GERRI WATTS, 5241 NORTH CHARLES, WICHITA, KANSAS, PRESIDENT OF THE NORTH END RIVERVIEW HOMEOWNERS ASSOCIATION which has been in existence for three years. He said this project is a good example of why neighborhood associations are so very important because neighbors would never have heard about this tower without the association. He referred to a map of the location of the proposed tower in the middle of the home association boundaries. He mentioned that there are unincorporated areas not an eighth of a mile away that could be considered for location of the cell tower. He mentioned a tower located at 33rd Street North and Amidon Avenue where all the trees and the landscaping is dead. He asked who is going to maintain the property so it doesn't become blighted. He said he had a feeling that there are probably several towers around the City that are probably blighted right now.

GRETCHEN RUPERT, 5626 LEGION, WICHITA, KANSAS said she has lived in her residence about 27 years and also owns the property right next to her at 5660 Legion. She said she knows all her neighbors are opposed to the proposed tower. She said they moved to this location originally as a place on the river; full of nature and natural beauty. She said she agreed with all the other neighborhood speakers, this just does not fit in with that concept at all. She said she is also concerned about possible health impacts of these cell towers. She said enough research has not been done to prove that there are no detrimental impacts.

DAWNA RUGGLES, 5702 LEGION, WICHITA, KANSAS said she and her husband live at that address. She said she was not going to repeat what everyone has already said in opposition of the project. She said last year she planted 200 bulbs and 130 Irish mums to beautify her front yard so when people drive down Legion they would see flowers and nature. She said that is what the neighborhood looks like now and she does not want to waste the flowers because all people will see is the tower instead.

ANDERSON said the applicant did not choose this site to offend anyone or to blight a specific neighborhood. He said they actually deferred their application to attend the North End Riverview meeting. He said they have tried to accommodate the neighbors concerns; however, he doesn't believe there is anything that can be done as far as stealthing the tower, putting up a canister or lowering the tower by 20 feet. He said the project is a 140-foot monopole in a residential neighborhood. He said as far as the site that was mentioned that has some mismanaged landscaping, that could be due to the weather; that could not be an AT&T site. He said as far as property values are concerned, that is a case of perception. He said they can go back and forth all day long finding cases on Google or whatever search engine. He asked that the Commission base its findings on facts, not perceptions. He referred to the aerial map of the area that showed the unincorporated area belonging to Monsanto and the entire red square where Wal-Mart is located. He said Wal-Mart was also not interested in having a tower on their

property. He concluding by stating that they also tried to located at 53rd and Meridian but that was outside the coverage area.

MITCHELL commented that the drawing on the board differs from the one Commissioners received in their agenda packets as far as the location of the tower on the site as concerned. He said this map shows the tower close to the street. He said the map provided with the Staff Report shows the tower located near the Monsanto property line.

ANDERSON indicated the blue line on the map is a 430-foot access all the way back to near Monsanto. He said the tower is located more in Monsanto's back yard than anyone else's.

GOOLSBY asked how maintenance of the site is handled. He said some companies hire landscape companies to take care of lawn and landscape at these sites. He asked if that was common practice.

ANDERSON said they have an operations team who fix the internal radios and basically make sure the site is functioning correctly, and they are supposed to report any maintenance issues, including trees that may have died. He said some jurisdictions require applicants to put in some type of maintenance bond. He said it is common practice to use landscape companies for initial installation; however, typically wireless companies like to depend on their employees to report things.

DENNIS noted that the Staff Report states there is a tower just over a mile from the site, but it does not indicate if AT&T contacted the owner of that tower with respect to co-location.

ANDERSON said AT&T is on that tower now.

DENNIS clarified so that tower was not a possibility?

ANDERSON said that question goes to his point about new capacity sites versus coverage sites. He said this proposed site helps off load traffic from that site as well as push new data that is on more modern phones.

MITCHELL said even though it was difficult to do, he was going to recommend approval of the application based on prior experience with what neighbors and adjacent property owners have told us would happen, and what has actually happened in the vicinity of other towers. He said he believes the neighbors are out of their realm of their expertise when they say it is going to ruin property values.

MOTION: To approve the request with the alternate conditions recommended by staff.

MITCHEL moved, **WARREN** seconded the motion.

DENNIS proposed an alternate motion to deny the application based upon the fact that this is a 140-foot tower in the middle of a residential district.

SUBSTITUTE MOTION: To deny the request per staff recommendation.

DENNIS moved, **FOSTER** seconded the substitute motion.

WARREN said he agreed with COMMISSIONER MITCHELL. He said several months ago he was driving to work when out of nowhere he saw this tower pop up close to where he works. He said when he called the City and asked when the tower went up they said about four years ago. He said cell towers have become part of our life. He said he is in the real estate business and he has seen no evidence that property values have been diminished as a result of cell towers. He asked if this was moved a hundred-foot to the west, would that alleviate some of the neighbors concerns.

LONGNECKER said the LI Limited Industrial zoning district allows for a higher tower.

WARREN said this is a fairly low density area in terms of the number of houses and it is becoming more difficult to find appropriate locations for cell towers. He said he would vote against the substitute motion and for the original motion.

GOOLSBY commented that when we go to use our cell phones we want them to work. He said his generation sees cell phone towers just as critical as utility poles, stormwater maintenance, facilities and roads. He said we live in the 21st Century and cell phone towers are a necessity to have that infrastructure and the luxury of cell phones. He commented that the Planning Commission agenda is on his cell phone and we have to have the towers to do that. He said he would vote against the substitute motion and in favor of the original motion.

SUBSTITUTE MOTION to deny failed (3-7). **KLAUSMEYER, GOOLSBY, MCKAY, MITCHELL, B. JOHNSON, RAMSEY** and **WARREN** - No.

ORIGINAL MOTION to approve, subject to staff's alternate conditions carried (7-3). **DENNIS, FOSTER** and **MILLER-STEVENS** - No.

5. **Case No.: CON2014-00002** – Stephen W. and Gloria K. Peacock (property owner, applicant and agent) request a County Conditional Use to permit "kennel, boarding, breeding and training" at 2858 South 127th Street East on property described as:

A tract of land beginning 1,980.64 feet North of the Southwest corner of the Southwest Quarter; thence North to a point 345 feet South of the Northwest corner; thence East to the East line of the West half; thence South to a point East of beginning; thence West to the point of beginning EXCEPT 50 feet for road on the West, Section 2, Township 28, Range 2 East of the 6th P.M., Sedgwick County, Kansas.

BACKGROUND: The applicants are seeing Conditional Use approval for a "kennel, boarding, breeding and training." The application area is approximately 9.48 (320 feet by 1,273.68 feet) unplatted acres located on the east side of South 127th Street East, approximately 3,080 feet south of East Pawnee Road. As depicted on the applicant's aerial photo the site contains a residence located approximately 760 feet east of South 127th Street East and 112 feet south of the application's north property line. Fifty-four feet north of the house and 833 feet east of East 127th Street South is an existing 30 by 50-foot accessory building. The applicant proposes to convert the 30 by 50-foot accessory building into the kennel and add fenced outdoor kennels and runs to the south side of the accessory building. The accessory building is located 30 feet south of the north property line, and approximately 186 feet from an off-site residence, located straight north of the proposed kennel. The kennel will operate on a "by appointment only" basis with general hours of operation of 7:00 a.m. to 7:00 p.m. The applicant's

property is zoned SF-20 Single-family Residential (SF-20), which permits a boarding, breeding and training kennel only with Conditional Use approval, subject to the Supplementary Use Regulations contained in Section III-D.6.k(1)-(3) of the Wichita-Sedgwick County Unified Zoning Code (UZC).

The UZC's Supplementary Use Regulations state:

- (1) The minimum lot size for a boarding, breeding or training kennel is five acres, unless all animals are harbored indoors with no discernible noise or odor at the property lines. The application area contains approximately 9.48 acres.
- (2) Outside runs, holding pens or other open-air enclosures and shelters shall be located behind the front setback line and located at least 200 feet from any off-site dwelling unit and at least 50 feet from contiguous property lines. The SF-20 zoning district has a 25-foot front setback and a 10-foot interior side setback. As shown on the applicant's site plan, the proposed kennel is located approximately 833 feet east of East 127th Street South and 30 feet south of the north property line. The proposed outdoor pens and runs are approximately 210 feet south of the closest off-site residence, and are 80 feet south of the north property line, approximately 833 feet east of the west property line, at least 180 feet from the south property line and 394 feet from the east property line.
- (3) Screening shall be provided except for those facilities located 600 feet or more from contiguous property lines. Screening fencing must be at least four feet high. The converted building will provide screening for the outdoor kennels located south of the converted building. The property located directly north of the proposed kennel has a significant tree row that provides the required screening. Should the off-site screening be removed, or if there are gaps that do not provide solid screening, the applicant will be responsible to replace code required screening or fill in any gaps in code required screening.

Properties abutting the application area vary in size from 78 acres to 4.67 acres. Land located west of East 127th Street South is 156 acres used for agriculture. All nearby properties are zoned SF-20 and are used for large-lot residential and/or farming or ranching. Unified School District 259 owns SF-5 Single-family Residential (SF-5) zoned land approximately 500 feet northwest of the application that is scheduled to be developed into a new high school.

CASE HISTORY: The property's current SF-20 zoning was assigned in 1985 when Sedgwick County adopted county-wide zoning.

ADJACENT ZONING AND LAND USE:

North: SF-20; single-family residences

South: SF-20 with a variance to allow an accessory structure in front of the principal structure; single-family residences

East: SF-20; ranch with a single-family residence

West: SF-20; agriculture

PUBLIC SERVICES: East 127th Street South is a sand and gravel road with approximately 100 feet of right-of-way. The site is served by an on-site waste-water system and by either on-site well or rural water district.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita and Small Cities 2030 Urban Growth Areas map indicates the property is located inside Wichita's 2030 Urban Growth Area, which means the area is expected to develop by the year 2030. The UZC permits boarding, breeding and training kennels with conditional approval, subject to Supplementary Use Regulation Section III-D.6.k(1)-(3) noted above.

RECOMMENDATION: Based upon the information available at the time the staff report was prepared, it recommended the request be approved subject to the following conditions:

1. The Conditional Use shall permit a "kennel, boarding, breeding and training" for up to 35 dogs.
2. The kennel shall be developed, operated and maintained in compliance with the approved site plan and will all applicable local, state or federal regulations, resolutions or statutes. In the event that any required screening is located offsite is removed, the applicant shall be responsible to provide Code required screening.
3. The kennel operator shall have on file proof of rabies vaccinations for all dogs harbored at the facility.
4. Cleaning of the boarding kennel facility shall be performed as often as necessary to maintain sanitary conditions. A suitable method of eliminating excessive water from any kennel enclosures shall be provided. Interior surface materials shall be constructed of non-porous materials or materials approved by Metropolitan Area Building and Construction Department.
5. Sufficient quantities of food and water shall be provided to keep the dogs in good physical health. The animals shall be fed at least once daily and provided clean water at all times. Food and water containers shall be located to minimize contamination and shall be cleaned as often as necessary to maintain sanitary conditions.
6. All waste materials shall be disposed of in such a manner to minimize odors and disease hazards. The kennel shall be maintained in a sanitary manner as required by applicable codes. All solid waste generated by the kennel must be removed from the site, unless specifically approved by MAB&CD, and shall not be discharged into residential sewage facilities (lagoon or septic systems) or any other unapproved on-site disposal system.
7. The animals confined in the kennel shall be maintained in good physical condition, free of infectious disease and parasites.
8. The applicant shall obtain all applicable permits including, but not limited to building, health and zoning.
9. The boarding facility shall be open to the unannounced inspection by MAB&CD personnel during normal business hours.
10. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The properties surrounding the application area are zoned SF-20, and vary in size from 4.67 acres up to 156 acres. The small tracts are developed with single-family residences. The larger tracts may have single-family residences and be used for ranching. The largest tract is used for agricultural purposes. The City of Wichita city limits are located within 500 feet to the northwest of the application, and that site is expected to be developed as a USD 259 high school. Currently the character of the area is a suburban

residential development located in a predominately agricultural area; however, development pressure is expected to increase within the projected 2030 time frame.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-20, which primarily permits single-family residential use on lots at least 20,000 square feet or larger in size. Other nonresidential uses, such as churches, schools or public parks, customarily found in residential areas are also permitted. The site is developed with a single-family residence and will retain economic value as currently zoned. It is not unusual for SF-20 zoned land to have accessory uses approved through the Conditional Use process.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request should not detrimentally impact adjacent properties provided the kennel is developed, operated and maintained in compliance with Code requirements and conditions of approval.
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 would provide the public with additional kennel services. Denial would presumably represent a loss of economic opportunity to the applicant.
5. Opposition or support of neighborhood residents: At the time this report was prepared, staff had not received a negative comments regarding the application. Staff has received e-mails from two residents - 2950 South 127th Street East and 2920 South 127th Street East - expressing support for the application.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita and Small Cities 2030 Urban Growth Areas map indicates the property is located inside Wichita's 2030 Urban Growth Area, which means the area is expected to develop by the year 2030. The UZC permits boarding, breeding and training kennels with conditional approval, subject to Supplementary Use Regulation Section III-D.6.k(1)-(3) noted above.
6. Impact of the proposed development on community facilities: Traffic can be expected to increase to the site; however, existing facilities are adequate to handle expected minor increases.

DALE MILLER, Planning Staff presented the Staff Report.

FOSTER referred to condition number two and asked if there was some sort of timing that should be set for replacing required screening.

MILLER said the time limit would be addressed during any enforcement action. He said Code Enforcement would set a time limit to replace the screening.

FOSTER said as long as staff thinks Code Enforcement will cover the issue then he is fine.

STEVE PEACOCK, APPLICANT indicated they have received great support from their neighbors. He said the building and the trees would provide screening.

MOTION: To approve subject to staff recommendation.

WARREN moved, **B. Johnson** seconded the motion, and it carried (10-0).

6. **Case No.: CON2014-00003** - John Murray, Greg Mies (applicants) request a County Conditional Use request for a rock crusher in SF-20 Single family Residential zoning on property described as:

A tract in the Northeast Quarter of Section 20, Township 28 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, described as beginning at the Northwest corner thereof; thence North 90 degrees 00' East along the North line of said Northeast Quarter 1138.53 feet more or less to a point 1528.71 feet West of the Northeast corner of said Northeast Quarter; thence South parallel with the East line of said Northeast Quarter 208.71 feet; thence East parallel with the North line of said Northeast Quarter 208.71 feet; thence South parallel with the East line of said Northeast Quarter 2459.25 feet to a point on the South line of said Northeast Quarter; thence West 1329.05 feet to the Southwest corner of said Northeast Quarter; thence North 2671.38 feet to the point of beginning.

BACKGROUND: The applicants request a Conditional Use for Rock Crushing in SF-20 Single-family Residential (SF-20) zoning on 80 acres located south of 47th Street South and ½ mile west of Tyler. The applicant's submitted site plan would restrict the rock crushing activity to a much smaller area of approximately five acres (see the attached site plan). The site falls within the Wichita Airport Hazard Zoning Map Area C and within the Mid-Continent Airport Overlay along the extended centerline of an instrument runway. Airport staff strongly encourages an approval condition requiring the applicant to submit a Form FAA 7460-1 *Notice of Proposed Construction or Alteration* and then receive from the FAA a *Determination of No Hazard to Air Navigation* demonstrating no adverse impact, no safety hazards, and no risk to air navigation approaches.

The applicant indicates to staff that a water system on the rock crusher mitigates dust from the crushing process. The applicant anticipates 10 to 15 trucks per day visiting the site; most anticipated traffic will be from customers picking up product. The applicant intends to mitigate vehicle-generated dust on the site by improving the drive to an all-weather rock surface. The applicant indicates that the rock crusher equipment is mobile, it moves off the site to be used at other locations, and the applicants intend to use this site for approximately two years.

The application area is zoned SF-20 which generally permits by right agricultural activities, larger lot residential uses and a limited set of nonresidential uses; SF-20 is generally compatible with the "Wichita 2030 Urban Growth Area" designation of the *Wichita-Sedgwick County Comprehensive Plan*. Per the Wichita-Sedgwick County Unified Zoning Code (UZC), "Rock Crushing" in the SF-20 district requires Conditional Use approval. The Sedgwick County Tax Appraiser lists the current land use of this property as "farming/ranching operations."

All land surrounding the subject tract is zoned SF-20, with the predominant land use being agriculture. The closest home to the application area, measured from the application area site plan boundary to the residential property line, is approximately 400 feet. Other farmstead residences lie within 600 to 1400 feet of the site in all directions. Mapped floodplain exists on the east side of the application area, but does not exist within the site plan limited rock crushing area.

CASE HISTORY: The property was zoned SF-20 when the County adopted county-wide zoning in 1985.

ADJACENT ZONING AND LAND USE:

NORTH: SF-20 Agriculture, farmstead
SOUTH: SF-20 Agriculture, farmstead
EAST: SF-20 Agriculture, single-family residence, farmstead
WEST: SF-20 Agriculture, farmstead

PUBLIC SERVICES: 47th Street South and Tyler are both two-lane, un-paved County section line roads. 47th Street south has a 50-foot right of way at this location and Tyler has an 80-foot right of way. No public water or sewer is available at the site.

CONFORMANCE TO PLANS/POLICIES: The Wichita and Small Cities 2030 Urban Growth Areas map depicts the site as being within the Wichita 2030 Urban Growth Area. This category identifies Wichita's urban fringe areas that are presently undeveloped but have the potential to be developed by the year 2030, based upon population growth projections and market trends. The site is one mile south of the existing City limit along Macarthur Road.

RECOMMENDATION: The proposed use could potentially cause no more vehicle-generated dust than a large agricultural use, which is permitted by right. Staff concurs with Airport officials in recommending FAA approval as a condition. Staff feels that the recommended conditions, along with a time limit, should ensure that surrounding property and potential future development is not impacted by the rock crusher use. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

- A. The site shall be developed and operated in conformance with the approved site plan and all applicable codes to include but not limited to zoning, building, fire and environmental regulations. All rock crushing operations and material storage shall take place within the designated site plan area.
- B. Prior to rock crushing operations, the applicant shall submit to the FAA a Form FAA 7460-1 *Notice of Proposed Construction or Alteration*, and then receive from the FAA a *Determination of No Hazard to Air Navigation* demonstrating no adverse impact, no safety hazards, and no risk to air navigation approaches.
- C. Rock crushing operations on the site shall not create dust which travels on to surrounding properties.
- D. All vehicular drives on the site, work and parking areas shall be surfaced with an all-weather material, which may include crushed rock, to minimize dust on the site.
- E. All conditions shall be met and operations begun within one year of final approval or the Conditional Use shall be null and void. Time extensions may be approved with an administrative adjustment to the Conditional Use.
- F. The rock crushing operation shall cease and all equipment and material shall be removed from the site two years after final approval. This time limit may be extended with an Amendment to the Conditional Use.
- G. If the Zoning Administrator finds that there is a violation of any of the provisions or 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 the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All land surrounding the subject tract is zoned SF-20, with the predominant land use being agriculture. The closest home to the application area, measured from the application area site plan boundary to the residential property line is approximately 400 feet. Other farmstead residences lie within 600 to 1400 feet of the site in all directions.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-20, which permits agricultural activities, larger lot residential uses and a limited set of nonresidential uses by right. The site could be used as presently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: If approved, the site could impact surrounding properties with increased traffic, noise and dust. These impacts could be no more severe than those created by an agricultural use which is permitted by right. Proposed conditions and existing codes should mitigate impacts on the surrounding property owners.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Wichita and Small Cities 2030 Urban Growth Areas map depicts the site as being within the Wichita 2030 Urban Growth Area. This category identifies Wichita's urban fringe areas that are presently undeveloped but have the potential to be developed by the year 2030, based upon population growth projections and market trends. The site is one mile south of the existing City limit along Macarthur Road.
5. Impact of the proposed development on community facilities: The conditions of approval and other regulations should minimize impacts on community facilities. Traffic on 47th Street South and Tyler Road could increase due to rock crushing operations. Demand for other County services such as inspections and fire prevention may temporarily increase, but a time limit on the rock crushing use should ensure future development on the site is compatible with community facilities.

JESS MCNEELY, Planning Staff presented the Staff Report.

FOSTER asked about condition A regarding site repair.

MCNEELY clarified that COMMISSIONER FOSTER meant removal of equipment and stockpiled materials when the conditional use ceases to exist.

FOSTER said any required repairs to the surrounding area such as erosion, etc. He asked if that was covered by Supplemental Use Regulations.

MCNEELY said that issue is not covered by Supplemental Use Regulations and he considers COMMISSIONER FOSTER'S comments a good recommendation. He said staff has recommended a

two-year sunset clause on the operation. He said staff could add an additional condition regarding site reparation if that is what the Commission recommends.

FOSTER expressed concern about chemicals in and on the crushed materials leeching into the surrounding soil.

MCNEELY said he could check with County Environmental Health Staff to see if there were regulations to address those issues including a condition to require inspection of the site by County Environmental Staff.

MCNEELY explained that the applicant/property owner was unable to attend the meeting today; however, he sent a company representative who could answer technical questions regarding the rock crusher. He said if Staff cannot answer all the Commission's questions, the applicant requested that the item be deferred.

DENNIS WOODS, 5201 SOUTH 119th STREET WEST, CLEARWATER, KANSAS asked if there has been crushing activity at the site prior to the application.

It was indicated that there has been crushing activity at the site.

WOODS said he also wanted to point out that this site is in proximity and adjacent to an environmentally compromised area. He said this came up on a previous application for a Construction and Demolition (C&D) landfill. He added that there is a public water source within a mile of the area owned by Oxi-Chemical to the east. He said he does not know if the water is potable, but he wanted to raise the issue. He said he is also concerned about the potential for runoff.

MCNEELY referred to an aerial site plan of the location and indicated the 5-acre site within the 80-acre site that had been designated as the crushing area. He said he understands the speaker's concerns but said there is native vegetation between the site and the creek.

DENNIS clarified that Sedgwick County does not consider this an environmentally sensitive area.

MCNEELY said none of the Global Information System (GIS) data showed that this was an environmentally impacted area; however, he added that does not mean that it is not. He said staff needs to verify that fact with County Environmental Office.

CHAIRMAN KLAUSMEYER asked about condition C and asked how dust is controlled.

MCNEELY responded that the applicant has a water/misting system that mitigates dust.

MOTION: To defer the application for two weeks (3-20-14).

MILLER STEVENS moved, **DENNIS** seconded the motion, and it carried (7-3).
MITCHELL, B. JOHNSON and **WARREN** - No.

MCNEELY said an amended recommendation will be provided based on County Environmental Staff input.

7. **Case No.: CON2014-00004** – Gibson Wholesale Co., Inc., c/o Scott Riffel (owner/applicant) request a City request to amend CON2012 33 (nightclub in the City) to remove restrictions on days when alcohol is served, remove restrictions on hours of operation and remove affiliation with a fraternal order on LC Limited Commercial zoned property described as:

Lots 1 and 2 EXCEPT the East 100 feet of the South 125 feet of lot 2 and EXCEPT beginning at the Northwest corner of lot 1; thence East 276 feet; thence South 212.86 feet; thence West 276 feet; thence North 212.75 feet to the beginning, Schrader Bros 5th Addition to Wichita, Sedgwick County, Kansas.

CHAIR KLAUSMEYER announced that the item has been deferred one month to the April 10, 2014, Planning Commission Hearing.

8. **Case No.: CON2014-00005** – Gibson Wholesale Co, c/o Scott Riffel (owner) request a City Conditional Use request for a Nightclub in the City on LC Limited Commercial zoned property on property described as:

Lots 1 and 2 EXCEPT the East 100 feet of the South 125 feet of lot 2 and EXCEPT beginning at the Northwest corner of lot 1; thence East 276 feet; thence South 212.86 feet; thence West 276 feet; thence North 212.75 feet to the beginning, Schrader Bros 5th Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant seeks a Conditional Use to permit a Nightclub in the City on property zoned LC Limited Commercial (LC), generally located south of Pawnee Avenue, south of Wassall Street and west of Hydraulic (2841 S. Hydraulic). The proposed site is within a larger strip commercial center, the space was previously used as a bingo hall. The applicant now wishes to obtain an Entertainment Establishment license to allow dance lessons, dances, and reception rentals; the applicant desires the flexibility to have alcohol catered at receptions. Under the Unified Zoning Code (UZC) the combination of an Entertainment License and serving alcohol is defined as a Nightclub, Nightclub in the City is a permitted land use in the LC zoning district. However, the application area is within 300 feet of residential zoning; the UZC requires that Nightclubs, Taverns and Drinking Establishments located within 300 feet of residential zoning, a church, school or park be subject to Conditional Use review to determine if the particular site is suitable for the operation of a Nightclub. The previous bingo hall on the site had a fire marshal's occupancy of 240, the proposed change in use and any building changes will require re-establishing the occupancy. The applicant's site plan (see attached) indicates 80 parking spaces, more parking spaces would be available within the larger commercial center. The UZC requires one parking space per two patrons for a Nightclub.

North of the site is the attached LC zoned commercial center, a convenience store and vehicle sales. South of the site, across a paved alley, is a B Multi-family Residential (B) zoned multi-family development. East of the site is a retail building on the same lot; further east, across Hydraulic are LI Limited Industrial (LI) zoned warehousing uses and LC zoned auto repair, retail and restaurant uses. West of the site, across a paved alley, are TF-3 Two-family Residential (TF-3) and SF-5 Single-family Residential (SF-5) zoned single-family residences. The single-family houses west of the site are approximately 75 feet from the proposed nightclub building, the apartments south of the site are approximately 170 feet from the proposed nightclub. Single-family residences west of the site have a

screening/privacy fence on the west side of the alley; the multi-family residences south of the site have direct vehicular access from the alley and no screening from the site. The nearest other drinking establishment is at the northeast corner of Hydraulic and Wassall, approximately 700 feet from the site.

CASE HISTORY: The property was platted as a portion of Lot 2 of the Schrader Bros 5th Addition in 1953.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Retail, convenience store, vehicle sales
SOUTH:	B	Apartment complex
EAST:	LC, LI	Warehousing, retail, vehicle repair, restaurant
WEST:	TF-3, SF-5	Single-family residences

PUBLIC SERVICES: The site has direct access points to Hydraulic, a four-lane arterial street at this location with a 100-foot right of way. The site also has direct access to 20-foot paved alleys west and south of the site. All normal public services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide, as amended in May 2005, of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* designates this site as "Local Commercial." The Local Commercial category includes commercial, office and personal services that do not have a significant regional market draw.

RECOMMENDATION: Historically this site has been a bingo hall with evening activity which did not appear to negatively impact the neighborhood. The proposed dance lesson and dance hall business is not out of character with the surrounding neighborhood, a bar exists in the neighborhood nearby. The proposed reception rental facility could impact residences west and south of the site if hours are late and crowd sizes are large. Code noise compatibility standards state that noise from this site shall not trespass onto residentially zoned properties above ambient noise in the area. The site appears to meet all other zoning code requirements, such as parking and a screening requirement from single-family residences. All property owners within 200 feet of the site have been notified of this request, no property owners have contacted staff. Staff feels that code requirements and the recommended conditions will mitigate impacts on the surrounding neighborhood, and that the Conditional Use for a Nightclub will not necessarily change the business' impact on the neighborhood. Based upon information available prior to the public hearings, planning staff recommends that the Conditional Use request be APPROVED, subject to the following conditions:

1. The site shall be developed in general conformance with the approved site plan. A modified site plan, to be approved by staff, shall identify all parking spaces required by code (based on approved occupancy) and shall identify public entrances to the facility. An updated site plan shall be submitted to staff within 60 days of Conditional Use final approval or the request shall be considered null and void.
2. The site shall be operated in compliance with all city ordinances, including but not limited to: zoning, sign, building, fire and health codes and licensing requirements. Failure to conform to any city code and/or failure to maintain proper licensing will be a violation of the Conditional Use.
3. The site shall not obtain a Drinking Establishment (DE) or Drinking Establishment Restaurant (DER) license. Alcohol may only be served on the site through a licensed caterer.
4. The Conditional Use shall be limited to the building space identified on the approved site plan.

5. The parking lot shall be kept free of all trash and debris. No loitering, congregating or excessive noise shall be permitted in the parking lot. No outside loudspeakers, entertainment, food or drink service shall be permitted.
6. Business hours shall be no later than 10 pm Sunday through Thursday, and midnight on Friday and Saturday.
7. 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 the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: North of the site is the attached LC zoned commercial center, a convenience store and vehicle sales. South of the site, across a paved alley, is a B zoned multi-family development. East of the site is a retail building on the same lot; further east, across Hydraulic are LI zoned warehousing uses and LC zoned auto repair, retail and restaurant uses. West of the site, across a paved alley, are TF-3 and SF-5 zoned single-family residences. The nearest other drinking establishment is at the northeast corner of Hydraulic and Wassall, approximately 700 feet from the site.
2. The suitability of the subject property for the uses to which it has been restricted: The building could be used for a wide variety of LC uses allowed by the current zoning without a Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: A dance hall and reception facility could bring more late night activity and traffic to this location than the previous bingo hall. The proposed conditions along with existing codes should keep parking limited to the applicant's site, will limit late hours of operation, and should mitigate noise and trash issues associated with the facility.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide, as amended in May 2005, of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* designates this site as "Local Commercial." The Local Commercial category includes commercial, office and personal services that do not have a significant regional market draw.
5. Impact of the proposed development on community facilities: The facility should have no significant impact on streets and utility services. The proposed use will increase the need for oversight from the police and MABCD to ensure compliance with licensing requirements and other conditions of approval.

JESS MCNEELY, Planning Staff presented the Staff Report.

MCNEELY reported that the item was approved by the District Advisory Board. He also noted an e-mail in opposition to the proposal given to the Commission as a handout. He said he did not believe they fully understood the nature of the application which was to provide a venue for party rentals and dance lessons. He said one of the conditions was that the applicant could not have their own liquor

license, and would only be able to serve alcohol if a licensed caterer was involved. He referred to condition #6 on page 6, and said they would like to amend the hours to a 1:00 a.m. closing time for New Year's events only.

STEVE TRENT, 900 NORTH DERBY, DERBY, KANSAS said he was the building tenant. He said the Moose Lodge which was behind Club Rodeo closed in 2012 and they are trying to fill a void. He said their target group is dancers who are between the ages of 40 – 80 years old. He said they do not like loud music, are not rowdy and do not leave trash either inside or outside the building. He said they have an e-mail network and that is how they advertise their venue. He said attendance at dance lessons Monday –Thursday will be 40 people or less and attendance at dances on Friday and Saturday's will be 100 people or less. He closed by stating that the venue will also be rented out for weddings and showers also.

MOTION: To approve subject to the amended staff recommendation that includes a 1:00 a.m. closing time for New Year's events.

B. JOHNSON moved, **MITCHELL** seconded the motion, and it carried (10-0).

9. **Case No.: CON2014-00006** - A request for a City Conditional Use to permit a 100-foot wireless communication facility on LC Limited Commercial zoned property described as:

Lot 1, EXCEPT the South 110 feet of the East 160 feet, Agile Addition, Wichita, Sedgwick County, Kansas.

CHAIR KLAUSMEYER announced that the item has been deferred indefinitely.

10. **Case No.: CON2014-00007** - Wehrman Ranch LP, c/o John Wehrman (owner) AT&T Mobility SSC, c/o Justin Anderson (applicant/agent) request a County Conditional Use to permit a 155-foot wireless communication facility on RR Rural Residential zoned property described as:

The Southeast Quarter of Section 21, Township 28 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas

BACKGROUND: The applicant, AT&T Mobility, is seeking a Conditional Use to permit the construction of a 155-foot tall, wireless, galvanized steel, monopole tower within a 100-foot (x) 100-foot leased site on RR Rural Residential zoned property. The lease site is located approximately 820 feet west of Greenwich Road and 180 feet north of 55th Street South. Per the amended Wireless Communication Facility Ordinance (adopted by the WCC 4-08-08 & the BoCC 4-9-08), new undisguised ground-mounted wireless communication facilities over 120 feet in height in the RR zoning district may be considered as a Conditional Use on a site by site analysis.

The Sedgwick County site and the surrounding area are zoned RR and are developed with a mix of farmland and high density (for the County) single-family residences. There are approximately 100 single-family homes built (1960-2009) on large tracts, located east - southeast, across Greenwich Road, and south - southwest, across 55th Street South, from the site. The owner's farmland and Greenwich Road provides approximately 960 feet of physical buffer from the nearest home located east of the site.

The owner's farmland and 55th Street South provides approximately 250 feet of physical buffer from the nearest home located south of the site. The owner's farmland also provides approximately 1,860 feet of physical buffer from the nearest homes located west of the site and 2,350 feet of physical buffer from the nearest homes located north (the Quail Creek Estates Addition) of the site. There is significant drainage located west of the site that is called out in the Derby Comprehensive Plan as a future trail that may buffer western, future residential development from the tower.

The applicant's RF Engineer has stated that the proposed facility is needed to provide the future 4th Generation Long Term Evolution (4G LTE) capacity needs of AT&T's customers. The 4G LTE technology is the fourth generation of mobile communication technology and is touted as an upgrade to the currently and still widely used 3G technology. Most tower sites will continue to support the 3G networks for many years. In the meantime the 4G LTE technology allows the users of the tower sites to migrate from simple voice communication to high-speed data for sending pictures and video from their more sophisticated smartphones. However as the network evolves from 3G to 4G LTE technology and beyond, more tower sites are required because 4G coverage areas tend to be geographically smaller and many of Wichita's and Sedgwick County's existing towers' capacity is maxed out as they continue to supply the current 3G technology. The move towards 4G LTE technology could lead to more contentious public forums in regards to Conditional Use applications for wireless communication facility with cell towers, as cell towers move into areas where residential development is dominate.

The applicant has provided current coverage and projected coverage maps showing the impact of the site in providing 4G LTE service to the area. The applicant has not provided the current coverage/capacity provided by any facilities in the area that use the current 3G technology. The RF Engineer states that there are no facilities in the area of the proposed site that would allow co-location opportunities and provide the desired coverage/capacity. The agent has stated that the nearest co-location opportunity is located 1.69-miles from the site and does not meet the coverage/capacity that the subject site does.

The site's proximity to the McConnell Air Force Base places the site in Area D of the Airport Hazard Zone. Area D has a 300-foot maximum height restriction, which the proposed 155-foot tall tower does not exceed.

The proposed tower and associated communication frequencies and wattages must meet standards determined by the Federal Aviation Administration (FAA) to insure it poses no hazard to air navigation or interferes with other radio/communication frequencies. The applicant has not provided an analysis of airspace in the area, which must be provided to staff prior to building permits being issued. Tower lighting must meet the FAA requirements for aircraft warning. The proposed galvanized surface of the tower will blend into the sky more readily than a red or white paint, which meets the intent of the "Design Guidelines" of the "Wireless Communication Master Plan." The proposed 155-foot tower must allow co-location for at least three (3) other providers. The proposed tower is shown with an antenna array ("top hat") that protrudes from the top of the monopole.

CASE HISTORY: The RR zoning district was essentially established with county-wide zoning in 1985; R Rural Residential (R) became RR Rural Residential in 1996, with the adoption of the Wichita-Sedgwick County Unified Zoning Code (UZC). At the February 20, 2014, Derby Planning Commission meeting, CON2014-00007 was approved (6-3) per the MAPD's conditions. Several people at the Derby meeting commented that: the facility would devalue the homes of the area, and; the facility was not in character with the area, and; no homes would be built along the northwest corner of the Greenwich Road

– 55th Street South intersection because of the facility, and; the facility would encourage commercial development along the northwest corner of the Greenwich Road – 55th Street South intersection, and they did not want to look at a 155-foot tall tower.

ADJACENT ZONING AND LAND USE:

NORTH: RR	Farmland, large lot single-family residences
SOUTH: RR	Large tract single-family residences, farmland
EAST: RR	Large tract single-family residences, farmland
WEST: RR	Farmland, large tract single-family residences

PUBLIC SERVICES: No municipally supplied public services are required. The applicant will extend electrical service to the site. The site has a proposed access easement to 55th Street South, a sand and gravel Gypsum Township Road. 55th is also a section line road with 50-foot of right-of-way. The proposed wireless communication facility and its 155-foot tall tower will generate less traffic onto 55th than the area’s single-family residences. Greenwich Road is the closest (820 feet east of the site) arterial road to the site. Greenwich is a paved, two-lane County Highway/Section Line Road at this location. Greenwich is paved its entire length in Sedgwick County, from Harvey to Sumner Counties.

CONFORMANCE TO PLANS/POLICIES: The “Wichita and Small Cities 2030 Urban Growth Areas Map” depicts this site as being inside of the City of Wichita’s 2030 urban growth area, which means that there is potential for urban development to occur in the near future on land so designated. The proposed wireless communication facility with its 155-foot tall tower is supposed to provide the future 4G LTE capacity needs of AT&T’s customers in this part of Sedgwick County.

The “2030 Wichita Functional Land Use Guide Map” identifies the site as being in the “urban development mix.” The urban development mix category encompasses land that is likely to be developed in the next 30-years with uses predominately found in the “urban residential use” category. However there is likelihood that concentrations or pockets of “major industrial uses,” “local commercial uses” and “park and open space uses” may also be developed in this area. Generally speaking, the urban development mix category is an area waiting for development trends. However as noted the area has high density (for the County) of single-family residences. The UZC considers a wireless communication facility a commercial type of use.

The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. It states that all towers comply with the compatibility setback standards. The applicant’s site plan shows the tower meeting the compatibility setback standards, as it is located entirely within the owner’s 157.41-acre property. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area as much as possible. The proposed 155-foot monopole tower is the first tower in the area and as such is not in character with this area’s predominate mix of farmland and large tract/lot single-family residential development. However, as more of the general population continues to use the services provided by these facilities, the location of wireless facilities in closer proximity to residential areas is anticipated; 2) Minimize the height, mass, or proportion. Making the tower shorter may lead to more shorter towers to provide the desired coverage; 3) Minimize the silhouette. Monopoles and certain lattice type structures (think City microwave towers) are recommended for up to 150-feet, with antennas mounted flush to the support structure over triangular “top hat” antenna arrays. Top hat antenna arrays tend to provide better coverage; 4) Use colors,

textures, and materials that blend in with the existing environment. The monopole will have a galvanized surface, which will blend into the sky more readily than red or white paint; 5) Be concealed or disguised as a flagpole, clock tower, or church steeple. The area presents no opportunities for disguising the proposed tower as a clock tower or church steeple. It is hard to see any softening of the monopole's presences in attempting to disguise it as a 155-foot tall flag pole; 6) Be placed in areas where trees and/or buildings obscure some or all of the facility. The applicant proposes planting 21 junipers around the facility. There are no buildings in the immediate or general area that would help obscure the tower. There are not a lot of trees on the owner's farmland that would help screen the site, except those following a creek located approximately 2,100 feet west of the site; 7) Be placed on walls or roofs of buildings. The opportunity is not present; 8) Be screened through landscaping, walls, and/or fencing. As stated, the applicant is proposing to plant 21 junipers around the facility. The proposed junipers will be spaced 15 feet apart, center to center of each juniper. This spacing will provide solid screening when the junipers mature and with proper care provide a more attractive and efficient screening than a 6-8-foot tall wooden privacy fence; and 9) Painting towers red and white instead of using strobe lighting. The applicant has stated that there will be no strobes and that it will be a galvanized steel finish. NOTE: Since the time the Wireless Communication Master Plan was first adopted, the FAA changed their regulations to require daytime strobe lighting; whereas, when the plan was adopted, the FAA allowed painted towers red and white instead of using strobe lighting.

Because the site is located in Sedgwick County it is not designated on the "Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map."

The site is located within the City of Derby's Area of Zoning Influence and as such the Derby Planning Commission will consider CON2014-00007 at their February 20, 2014, meeting; UZC, Article V., Section V-B.4.d. If the Derby Planning Commission recommends denial before the March 6, 2014, MAPC meeting and the MAPC recommends approval, CON2014-00007 will proceed to the Sedgwick County Board of County Commissioners (BoCC/Governing Body) for final action; UZC, Article V., Section V-D.6. It takes a unanimous vote all of the BoCC members to overturn the small city's recommendation of denial; UZC, Article V., Section V-D.9.

The "Derby Comprehensive Plan's Future Land Use Map" shows the site's future use to be "rural agricultural." The "Derby Comprehensive Plan's Growth Area Map" shows the site projected as being in a "long-term growth area." The proposed wireless communication facility with its 155-foot tall tower would not seem to be in conflict with the City of Derby's long range plans for the area the site is located in. The density of the single-family residential development in the area would seem to reflect the residential development patterns along Greenwich Road, which may be the only north-south arterial that is paved for its entire length in Sedgwick County, from Harvey to Sumner Counties.

RECOMMENDATION: The primary consideration in this request is the relatively high number of single-family residences in this portion of the County. The area's residence will weigh the touted benefits of the proposed wireless communication facility and its 155-foot tall monopole tower with its 4G LTE technology against the site's visual impact. Based upon this factor and the information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to the following conditions:

- A. This request must have the approval by the FAA in determining the proposed wireless communication facility with its 155-foot tall monopole tower carrying AT&T's 4G LTE pose no

hazard to air navigation or interferes with other radio/communication frequencies. The applicant shall submit a current copy of FAA approval to the MAPD and the Code Enforcement Office prior to the issuance of a building permit.

- B. All requirements of Art. III Sec. III.D.6.g. of the Unified Zoning Code shall be met.
- C. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- D. The support structure shall be a monopole design, as shown on the elevation and that generally conforms to the approved site elevation and that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- E. The support structure shall not exceed 155 feet in height and shall be designed and constructed to accommodate communication equipment for at least three (3) wireless service providers.
- F. The tower site shall be developed in general conformance with the approved revised site and a landscape plan. These plans must show the type and size of fencing around the site, parking, all light poles, lights, power poles, cabinets, equipment or buildings within the fenced in site or in the immediate area if it is to be used by the site. The plan must identify existing and/or proposed trees and shrubs, give their total numbers and their general size to determine if it meets screening requirements of the Unified Zoning Code (UZC) Art. IV, Sec. IV-B.3.b.1. If evergreens are planted they must be a minimum size of 5-foot at the time of their planting (but be taller than 5-foot when mature) and planted on 15-foot centers. The site plan must identify the all utility and or access easements. If it is proposed it must be recorded. If a surface is needed for the drive/access easement, it must be approved by the Zoning Administrator. All improvements and construction of the facility/tower shall be completed within a year and before the facility becomes operational.
- G. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations. Provide the Stormwater Engineer with any required plans for review and approval of the site.
- H. 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.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The Sedgwick County site and the surrounding area are zoned RR and are developed with a mix of farmland and high density (for the County) single-family residences. There are approximately 100 single-family homes built (1960-2009) on large tracts, located east - southeast, across Greenwich Road, and south - southwest, across 55th Street South, from the site. The owner's farmland and Greenwich Road provides approximately 960 feet of physical buffer from the nearest home located east of the site. The owner's farmland and 55th Street South provides approximately 250 feet of physical buffer from the nearest home located south of the site. The owner's farmland also provides approximately 1,860 feet of physical buffer from the nearest homes located west of the site and 2,350 feet of physical buffer from the nearest homes located north (the Quail Creek Estates Addition) of the site. There is significant drainage located west of the site that is called out in the Derby Comprehensive Plan as a future trail that may buffer western, future residential development from the tower.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned RR and is currently used as farmland. The site could continue to be used as farmland by right or developed as single-family residential with a minimum lot size of two-acres if served by a septic system or 4.5-acres if served by a lagoon, depending on perc test on the soil.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed 155-foot tall, wireless, galvanized steel, monopole would be the first in the area. Its visual impact is undeniable, however the conditions of approval will add landscaping around the site, to help minimize the eye level visual impact. The area's residence will weigh the touted benefits of the proposed wireless communication facility and its 155-foot tall monopole tower with its 4G LTE technology against the site's visual impact.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The "Wichita and Small Cities 2030 Urban Growth Areas Map" depicts this site as being inside of the City of Wichita's 2030 urban growth area, which means that there is potential for urban development to occur in the near future on land so designated. The proposed wireless communication facility with its 155-foot tall tower is supposed to provide the future 4G LTE capacity needs of AT&T's customers in this part of Sedgwick County.

The "2030 Wichita Functional Land Use Guide Map" identifies the site as being in the "urban development mix." The urban development mix category encompasses land that is likely to be developed in the next 30-years with uses predominately found in the "urban residential use" category. However there is likelihood that concentrations or pockets of "major industrial uses," "local commercial uses" and "park and open space uses" may also be developed in this area. Generally speaking, the urban development mix category is an area waiting for development trends. However as noted the area has high density (for the County) of single-family residences. The UZC considers a wireless communication facility a commercial type of use.

The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. It states that all towers comply with the compatibility setback standards. The applicant's site plan shows the tower meeting the compatibility setback standards, as it is located entirely within the owner's 157.41-acre property. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area as much as possible. The proposed 155-foot monopole tower is the first tower in the area and as such is not in character with this area's predominate mix of farmland and large tract/lot single-family residential development. However, as more of the general population continues to use the services provided by these facilities, the location of wireless facilities in closer proximity to residential areas is anticipated; 2) Minimize the height, mass, or proportion. Making the tower shorter may lead to more shorter towers to provide the desired coverage; 3) Minimize the silhouette. Monopoles and certain lattice type structures (think City microwave towers) are recommended for up to 150-feet, with antennas mounted flush to the support structure over triangular "top hat" antenna arrays. Top hat antenna arrays tend to provide better coverage; 4) Use colors, textures, and materials that blend in with the existing environment. The monopole will have a galvanized surface, which will blend into the sky more readily than red or white paint; 5) Be concealed or disguised as a flagpole, clock tower, or church steeple. The area presents no opportunities for disguising the proposed tower as a clock tower or church steeple. It is hard to see any softening of the

monopole's presences in attempting to disguise it as a 155-foot tall flag pole; 6) Be placed in areas where trees and/or buildings obscure some or all of the facility. The applicant proposes planting 21 junipers around the facility. There are no buildings in the immediate or general area that would help obscure the tower. There are not a lot of trees on the owner's farmland that would help screen the site, except those following a creek located approximately 2,100 feet west of the site; 7) Be placed on walls or roofs of buildings. The opportunity is not present; 8) Be screened through landscaping, walls, and/or fencing. As stated, the applicant is proposing to plant 21 junipers around the facility. The proposed junipers will be spaced 15 feet apart, center to center of each juniper. This spacing will provide solid screening when the junipers mature and with proper care provide a more attractive and efficient screening than a 6-8-foot tall wooden privacy fence; and 9) Painting towers red and white instead of using strobe lighting. The applicant has stated that there will be no strobes and that it will be a galvanized steel finish. NOTE: Since the time the Wireless Communication Master Plan was first adopted, the FAA changed their regulations to require daytime strobe lighting; whereas, when the plan was adopted, the FAA allowed painted towers red and white instead of using strobe lighting.

The site is located within the City of Derby's Area of Zoning Influence and as such the Derby Planning Commission will consider CON2014-00007 at their February 20, 2014, meeting; UZC, Article V., Section V-B.4.d. If the Derby Planning Commission recommends denial before the March 6, 2014, MAPC meeting and the MAPC recommends approval, CON2014-00007 will proceed to the Sedgwick County Board of County Commissioners (BoCC/Governing Body) for final action; UZC, Article V., Section V-D.6. It takes a unanimous vote all of the BoCC members to overturn the small city's recommendation of denial; UZC, Article V., Section V-D.9.

The "Derby Comprehensive Plan's Future Land Use Map" shows the site's future use to be "rural agricultural." The "Derby Comprehensive Plan's Growth Area Map" shows the site projected as being in a "long-term growth area." The proposed wireless communication facility with its 155-foot tall tower would not seem to be in conflict with the City of Derby's long range plans for the area the site is located in. The density of the single-family residential development in the area would seem to reflect the residential development patterns along Greenwich Road, which may be the only north-south arterial that is paved for its entire length in Sedgwick County, from Harvey to Sumner Counties.

5. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed tower is not a hazard to air navigation (including the need or not for lighting) and that the tower does not interfere with other radio/communication frequencies.

BILL LONGNECKER, Planning Staff presented the Staff Report.

LONGNECKER reported that the Derby Planning Commission recommended approval of the proposed application at the February 20, 2014 meeting. He said he has received phone calls in opposition of the request. In addition, he reported that there were people at the Derby Planning Commission to protest the proposal.

JUSTIN ANDERSON, SELECTIVE SITE CONSULTANTS (SSC), AGENT FOR AT&T MOBILITY, 9990 WEST 109th STREET, SUITE 300, OVERLAND PARK, KANSAS briefly reviewed the proposal stating that that was a capacity site and that the closest AT&T towers about one

mile and 1/3 away. He said several discussed location of the tower with nearby property owners, one of which he believes is at this meeting. He said they believe this location will cause the least amount of impact as far as the access road. He referred to an aerial map of the area that showed the capacity coverage.

FOSTER referred to the letter of opposition to the proposal provided with the staff report. He asked the agent to explain how the applicant determines what height of the tower is needed.

ANDERSON said they employ a licenses electrical engineer who specializes in radio frequency technology and modeling. He referred to RF propagation maps which showed existing and proposed coverage areas. He said given the distance to existing towers and the ability of this site to provide more coverage that is why the height recommended is 155 feet.

CLARK SHOLTS, 5776 SOUTH 107TH STREET EAST, DERBY, KANSAS referred to his letter provided with the Staff Report. He said he is still concerned about the height of the tower. He referenced several other towers in and around the area ranging in height from 100 to 150 feet. He said there is a high power south of his property which the neighborhood tried to get stopped. He asked the Commission to have the height issue looked into.

EMILY JONES, CITY ARCHEOLOGIST, 1044 SOUTH BLECKLEY, WICHITA, KANSAS recommended having a survey done to insure that there is no archeological impact.

ANDERSON said they go through the National Historic Preservation Office (NHPO) and State Historic Preservation Office (SHPO) prior to any site development or groundbreaking. He said he would like to be able to say that they can make all their towers 100 feet tall or less, which would be more economical for them and safer for their tower climbers but that is not the situation. He mentioned the height of several other towers in the area.

GOOLSBY mentioned that when he is at 63rd Street South and Greenwich Road his calls are continually dropped. He asked if this tower will improve the coverage.

ANDERSON briefly reviewed the complaint system which is how they generate new tower locations.

FOSTER asked about co-locations.

ANDERSON briefly reviewed the AT&T system and said this location would provide more density and wireless services.

MOTION: To approve subject to staff recommendation.

B. JOHNSON approved, **RAMSEY** seconded the motion, and it carried (10-0).

NON-PUBLIC HEARING ITEMS

WARREN recused himself from the issue due to his service on the Derby City Council.

WARREN (Out @2:55 p.m.)

11. **Case No.: DER2014-00002** - The City of Derby seeks Unilateral Annexation of various tracts located adjacent to the City of Derby - Resolution No. 1-2014.

Background: On January 28, 2014, the City of Derby passed Resolution No. 1-2014 authorizing a public hearing on April 8, 2014, for the purposes of considering the unilateral annexation of several properties eligible under KSA 12-520(a) and located immediately adjacent to the City of Derby.

Prior to unilaterally annexing property, Kansas statutes require that a plan be prepared indicating the means by which city services will be extended to the area proposed for annexation. The City of Derby has submitted to the MAPD, a copy of the service plan describing the extension of services to the annexation area.

Analysis: Kansas statutes governing unilateral annexations provide for official notification to certain local officials, including planning commissions having jurisdiction in the area. Additionally, Kansas statutes require that the planning commission review the proposal and make a finding of compatibility or incompatibility with any adopted land use or comprehensive plans related to the area and the annexing city.

After review by staff, it has been determined that the four tracts proposed for unilateral annexation fall within the City of Derby 2030 Urban Growth Area as designated within the Wichita-Sedgwick County Comprehensive Plan *Preparing for Change*, adopted and updated by the Metropolitan Area Planning Commission and the Board of County Commission in May 2005. Furthermore, the four tracts fall within Derby's future urban growth area as identified in the latest version (December 2006) of the City of Derby Comprehensive Plan Growth Areas Map. Staff has concluded that the proposed unilateral annexation by the City of Derby is consistent with the Wichita-Sedgwick County Comprehensive Plan.

Recommended Action: That the Metropolitan Area Planning Commission pass a motion finding the unilateral annexation proposed by Resolution No. 1-2014 of the City of Derby to be consistent with the adopted Wichita-Sedgwick County Comprehensive Plan.

DAVE BARBER, Planning Staff presented the Staff Report.

MITCHELL verified that all the sites were east of K-15.

BARBER responded yes.

MOTION: To approve subject to staff recommendation.

MCKAY approved, **DENNIS** seconded the motion, and it carried (8-0-1).

The Metropolitan Area Planning Commission adjourned at 3:00 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

DRAFT

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

MINUTES

March 20, 2014

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, March 20, 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; John McKay, Jr.; M.S. Mitchell; Bill Ramsey; George Sherman; Debra Miller Stevens and Chuck Warren. Bill Johnson; Joe Johnson; Carol Neugent and Don Sherman were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Jeff Vanzandt, Assistant City Attorney; Robert Parnacott, Assistant County Counselor and Maryann Crockett, Recording Secretary.

1. There were no minutes for approval.

2. CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS

2-1. SUB2014-00010: One-Step Final Plat - 21st and Amidon Addition, located on the southeast corner of 21st Street North and Amidon.

NOTE: This is an unplatted site located within the City of Wichita.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that the site is currently being served by water and sewer.
- 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 approved the applicant's drainage plan.
- D. Traffic Engineering has approved the access controls. The plat proposes one access opening along both Amidon and 21st Street North.
- E. The plat's text shall reference "a lot and block".
- F. County Surveying advises the permanent easement Doc./Flm.-Pg. 29425286 shown at the northwest corner of the plat needs shown as road right-of-way.
- G. Traffic Engineering has requested a restrictive covenant that permits cross-lot access with the abutting property owners to the east and south.
- H. 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.

- I. Traffic Engineering has approved the major street right-of-way which has been denoted on the plat as a contingent right-of-way. The plat's text shall state: "The contingent right-of-way dedication shown hereon shall become effective at the time the city programs a capital improvement project and the construction of such capital improvement requires the use of said right of way. The property owner shall have the beneficial use of the right of way until such time as it is dedicated."
- J. The correct plat name needs to be denoted in the surveyor's certificate.
- K. The spelling of "private sewer easement" needs to be corrected.
- L. 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.
- M. 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.)
- N. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- O. 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.
- P. 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.
- Q. 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.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Westar Energy has been contacted by the applicant regarding existing lines that the applicant proposes to be moved or vacated due to this plat. Marsha Jesse, Construction Services Representative (261-6734) for the northwest area is working to resolve this issue. Additional easements may need to be requested at a later date.

T. 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.

GOOLSBY moved, **MITCHELL** seconded the motion, and it carried (10-0).

2-2. **LSP2014-00002: Lot Split - PROVIDENCE SQUARE ADDITION**, located on the north side of 13th Street North, west of Oliver - Modification of Lot Width-to-Depth Ratio.

This proposed lot split is for property zoned LC Limited Commercial. It encompasses the reconfiguration of two lots and a reserve into two lots denoted as Tracts 1 and 2.

The maximum lot width-to-depth ratio of 3 to 1 for commercial lots is exceeded by Tract 2 and a modification needs to be approved by MAPC.

MAPC may approve a modification of the design criteria in Article 7 of the Subdivision Regulations only if 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.

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

GOOLSBY moved, **MITCHELL** seconded the motion, and it carried (10-0).

3. PUBLIC HEARING – VACATION ITEMS

There were no Vacation Items.

PUBLIC HEARINGS

4. **Case No.: CON2014-00003 (Deferred from 3-6-2014)** - John Murray, Greg Mies (applicants) request a County Conditional Use request for a rock crusher in SF-20 Single-family Residential zoning on property described as:

A tract in the Northeast Quarter of Section 20, Township 28 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, described as beginning at the Northwest corner thereof; thence North 90 degrees 00' East along the North line of said Northeast Quarter 1138.53 feet more or less to a point 1528.71 feet West of the Northeast corner of said Northeast Quarter; thence South parallel with the East line of said Northeast Quarter 208.71 feet; thence East parallel with the North line of said Northeast Quarter 208.71 feet; thence South parallel with the

East line of said Northeast Quarter 2459.25 feet to a point on the South line of said Northeast Quarter; thence West 1329.05 feet to the Southwest corner of said Northeast Quarter; thence North 2671.38 feet to the point of beginning.

Following the March 6, 2014 MAPC hearing on this request, planning staff consulted County Environmental Resources with concerns raised at the MAPC hearing. Environmental Resources staff states that crushed concrete is inert and poses no risk to groundwater. However, to avoid crushed concrete from entering a stream on the site, Environmental Resources recommends a site drainage plan. And, Environmental Resources recommends KDHE review to determine in an air quality permit is required. With these recommendations, planning staff recommends approval of the request with the following amended conditions:

- A. The site shall be developed and operated in conformance with the approved site plan and all applicable codes to include but not limited to zoning, building, fire and environmental regulations. All rock crushing operations and material storage shall take place within the designated site plan area.
- B. The applicant shall submit a drainage plan for approval by the County Engineer; the site plan shall ensure that crushed materials on the site will not enter the stream on the application area. Operations shall not take place until a drainage plan is approved.
- C. The applicant shall request KDHE review to determine if an air quality permit is required. If an air quality permit is required, operations shall not take place until an air quality permit is approved.
- D. Prior to rock crushing operations, the applicant shall submit to the FAA a Form FAA 7460-1 *Notice of Proposed Construction or Alteration*, and then receive from the FAA a *Determination of No Hazard to Air Navigation* demonstrating no adverse impact, no safety hazards, and no risk to air navigation approaches.
- E. Rock crushing operations on the site shall not create dust which travels on to surrounding properties.
- F. All vehicular drives on the site, work and parking areas shall be surfaced with an all-weather material, which may include crushed rock, to minimize dust on the site.
- G. All conditions shall be met and operations begun within one year of final approval or the Conditional Use shall be null and void. Time extensions may be approved with an administrative adjustment to the Conditional Use.
- H. The rock crushing operation shall cease and all equipment and material shall be removed from the site two years after final approval. This time limit may be extended with an Amendment to the Conditional Use.
- I. If the Zoning Administrator finds that there is a violation of any of the provisions or 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 the Conditional Use null and void.

DALE MILLER, Planning Staff presented the Staff Report.

GREG MIES, 22626 W. 37TH ST., NORTH, ANDALE, KANSAS, CONCRETE RECYCLING PLUS, APPLICANT said there will be no mining or aggregate production at the site. They will just be storing and recycling concrete that they bring in from other jobs they are doing. He said there will be a concrete crusher at the site about two weeks out of the year. He said they are licensed by the Kansas Department of Health and Environment (KDHE) and mentioned compliance with periodic air control

checks. He said he had records with him if the Commission would like to review them. He said since his partner owns the land this is an ideal place to start storing material and using it.

KLAUSMEYER asked if the applicant was in agreement with staff recommendations.

MIES said they are agreement with staff recommendations with the exception of getting a survey plan for drainage. He said they don't understand why they have to do that because they are not draining hazardous materials just concrete that is used for sub grade for buildings and roads.

MOTION: To approve subject to staff's amended recommendation.

DENNIS moved, **MCKAY** seconded the motion, and it carried (9-0-1). **G. SHERMAN** – Abstained.

MCKAY clarified that approval included the drainage plan.

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5. **Case No.: ZON2014-00001** - Mark Heinz, John Theis (owners), Baughman Co. PA c/o Russ Ewy (agent) request a City zone change from SF-5 Single-family Residential to MF-18 Multi-family Residential on property described as:

That part of the Southeast Quarter of Section 13, Township 27 South, Range 2 West of the Sixth Principal Meridian, Sedgwick County, Kansas described as follows: Beginning at the southwest corner of said Southeast Quarter; thence N00°13'30"W, (assumed basis of bearings), along the west line of said Southeast Quarter, 263.83 feet; thence N89°46'39"E, 213.59 feet; thence N14°07'21"E, 124.74 feet to a point on a curve to the right; thence southeasterly along said curve, through a central angle of 36°52'24" and having a radius of 19.00 feet, an arc distance of 12.23 feet, (having a chord length of 12.02 feet bearing S57°48'58"E), to a point of reverse curvature; thence southeasterly along a tangent curve to the left, through a central angle of 37°27'45" and having a radius of 116.00 feet, an arc distance of 75.85 feet, (having a chord length of 74.50 feet bearing S58°06'38"E); thence S01°29'29"E, 23.77 feet to the point of curvature of a tangent curve to the right; thence southerly along said curve, having a central angle of 23°05'59" and a radius of 55.00 feet, an arc distance of 22.17 feet, (having a chord length of 22.02 feet bearing S10°03'30"W), to a point of reverse curvature; thence southerly along a tangent curve to the left, having a central angle of 21°15'56" and a radius of 195.00 feet, an arc distance of 72.38 feet, (having a chord length of 71.96 feet bearing S10°58'32"W), to the point of tangency of said curve; thence S00°20'34"W, 215.99 feet to a point on the south line of said Southeast Quarter; thence S88°30'17"W along the south line of said Southeast Quarter, 298.30 feet to the point of beginning, subject to road rights-of-way of record.

BACKGROUND: The applicant requests MF-18 Multi-family Residential (MF-18) zoning on vacant, un-platted property within a larger single-family residential development, see the attached preliminary plat document. The 1.98-acre site is currently zoned SF-5 Single-Family Residential (SF-5). The Unified Zoning Code (UZC) permits up to 18 multi-family dwelling units per acre in MF-18 zoning, the application area could in theory accommodate 35 dwelling units. However, UZC required setbacks, compatibility setbacks from SF-5 zoning, parking and landscaping will limit the total number of units on the site. The UZC requires a 25-foot compatibility setback from SF-5 zoning, it limits building height to

35 feet within 50 feet of SF-5 zoning, it limits maximum height to 45 feet, and it requires 1.25 parking spaces per efficiency or one bedroom dwelling and 1.75 spaces per two bedroom or larger dwelling.

Property to the north, south and east is zoned SF-5 and is developed with or planned for single-family residences. Three single-family residential properties located immediately east of the site range in size from .75 to 10 acres. Property west of the site is zoned SF-20 Single-family Residential and used for agriculture and a farmstead. The application area will be developed within a larger single-family development, and will be accessed from Thorton Street within the development. The preliminary plat for this site indicates that the southwest corner of the site could have right-in right-out access to Central.

CASE HISTORY: The site is vacant and un-platted.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family residences
SOUTH:	SF-5	Single-family residences
EAST:	SF-5	Single-family residences
WEST:	SF-20	Agriculture, farmstead

PUBLIC SERVICES: Central is a paved arterial. Central is currently under construction at this location to become a four-lane street with central medians and turn lanes. Once platted, Central will have a 60-foot half-width right of way at this location. All other public utilities are available.

CONFORMANCE TO PLANS/POLICIES: The *2030 Wichita Functional Land Use Guide* of the Comprehensive Plan identifies the site as “urban residential.” The urban residential category encompasses areas that reflect the full diversity of residential development densities and types, including multi-family units, typically found in large urban municipality. The UZC identifies MF-18 zoning as being generally compatible with the urban residential category.

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

This recommendation is based on the following findings:

- 1) **The zoning, uses and character of the neighborhood:** Property to the north, south and east is zoned SF-5 and is developed with or planned for single-family residences. Three single-family residential properties immediately east of the site range in size from .75 to 10 acres. Property west of the site is zoned SF-20 Single-family Residential and used for agriculture and a farmstead. The application area will be developed within a larger single-family development, and will be accessed from Thorton Street within the development.
- 2) **The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned SF-5 and could be developed with single-family residences, similar to most surrounding properties.
- 3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Impact on surrounding property due to the requested zone change should be minimal. Increased density due to the zone change on this site could increase traffic in the immediate

area. The agent indicates that primary access from the site to Central will be via Firefly Street, through the larger development.

- 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 identifies the site as “urban residential.” The urban residential category encompasses areas that reflect the full diversity of residential development densities and types, including multi-family units, typically found in large urban municipality. The UZC identifies MF-18 zoning as being generally compatible with the urban residential category.
- 5) **Impact of the proposed development on community facilities:** All services are in place, any increased demand on community facilities can be handled by existing and planned infrastructure.

DALE MILLER, Planning Staff presented the Staff Report.

DENNIS asked for clarification as to exactly what is being rezoned. He also asked about the right-in, right-out access onto Central Avenue. He said 99% of the cars exiting the subdivision will want to go east on Central Avenue.

MILLER clarified that the right-in, right-out access only applies to the MF-18 Multi-family Residential site.

DENNIS asked if traffic from the MF-18 site had access to Firefly Lane.

RUSS EWY, BAUGHMAN COMPANY, PA, 315 ELLIS, AGENT FOR THE APPLICANT said the right-in, right-out access applies to the 2-acre zone change site with the exception of the west 60 feet. He said the site is scheduled to be designed with tri-plexes, four-plexes and maybe some six-plexes and that there will be access through a private drive onto Firefly Lane. He said the access onto Central Avenue will be a secondary point of access. He mentioned median control on Central Avenue and that access will not be “full movement” in some areas.

DENNIS clarified that the site was 1.9 acres only. He also asked about the maximum number of units allowed on a site this size. He said he is concerned because there are no apartments in this area. He asked if the applicant would accept a requirement for single-story rather than multi-story development.

EWY said the site will be developed with single-story patio and town homes. He mentioned that since it is a 2-acre site they won't know how many units will be developed until the design is complete. He said the number of residences will be per the Unified zoning Code (UZC) and that they never reach the maximum density allowed. He said they would be willing to add the building restriction.

MCKAY suggested a height restriction instead of restricting the building type.

EWY said a 25 foot height limit would be acceptable.

FOSTER said the preliminary plat had been heard by the Subdivision Committee. He asked if pedestrian access to the north would be addressed on the final plat.

EWY said he had no idea how the plat was progressing, but added that he would let Baughman staff know about Commissioner Foster's concerns regarding pedestrian access to the north of the site.

MOTION: To approve subject to staff recommendation with the inclusion of a 25-foot height restriction.

MITCHELL moved, MCKAY seconded the motion, and it carried (10-0).

6. **Case No.: CUP2014-00003** - 127 PAW LLC, c/o Gary Oborny (owner) AT&T Mobility/SSC, c/o Justin Anderson (applicant/agent) PEC. Brian Lindebak (applicant/agent) request a City Amendment to Parcel 10 of CUP Community Unit Plan DP-322 to permit a wireless communication facility on property described as:

A tract of land lying in a portion of Government Lots 1 and 2, Section 3, Township 28 South, Range 2 East, of the 6th Principal Meridian, Wichita, Sedgwick County, Kansas; said tract being more particularly described as follows:

BEGINNING at the northeast corner of said Northeast Quarter, thence along the east line of said Quarter on a Kansas coordinate system of 1983 south zone grid bearing of S00°16'43"E, 960.06 feet; thence parallel with and 960.00 feet south of the north line of said Quarter, S89°05'03"W, 675.04 feet; thence N45°11'06"W, 279.30 feet to a point lying 760.00 feet south of said north line; thence S89°05'03"W, 729.45 feet; thence N00°54'57"W, 760.00 feet to said north line; thence along said north line, N89°05'03"E, 1610.13 feet to the POINT OF BEGINNING, EXCEPT, for 30 foot street right-of-way of East 127th Street and 40 foot street right-of-way of East Pawnee Road.

BACKGROUND: The applicant, AT&T Mobility, is seeking an amendment to the permitted uses on the undeveloped LC Limited Commercial* zoned Sierra Pointe Community Unit Plan (CUP) DP-322 to allow a wireless communication facility with a 150-foot tall, wireless, galvanized steel, monopole tower. The wireless facility will be located on a 100-foot (x) 100-foot lease site. The applicant proposes to create Parcel 12 out of the 100-foot (x) 100-foot lease site located on the southwest corner of Parcel 11. Parcel 12, the lease site, is located approximately 1,500 feet west of 127th Street East and 780 feet south of Pawnee Road. Per the amended Wireless Communication Facility Ordinance (adopted by the WCC 4-08-08 & the BoCC 4-9-08), new undisguised ground-mounted wireless communication facilities over 120 feet in height in the LC zoning district may be considered as a Conditional Use on a site by site analysis. The proposed amendment to DP-322 is the equivalent to a Conditional Use request.

The LC zoned site is located on an eastern edge of the City of Wichita. The surrounding area is zoned SF-5, SF-20 Single-Family Residential, LC, and NR Neighborhood Retail. The SF-5 zoned agricultural fields abutting the south and west sides of the site is the future home of USD 259's newest high school. The recently constructed USD 259 Christa McAuliffe Academy elementary school is located approximately a mile northeast of the high school site. SF-20 zoned subdivisions are located further west and northwest (across Pawnee) of the subject site. Partially developed (built 2006-2013) SF-5 zoned urban scale subdivisions are located north of the site, across Pawnee Road, as is a small TF-3 zoned duplex development (built 2011-2013) and a LC zoned agricultural field located on the northwest corner of 127th and Pawnee. Properties located further northeast of the site include another corner LC zoned agricultural field, SF-5 zoned agricultural land, a SF-5 zoned private golf course (with a NR

zoned golf shop) and a mostly undeveloped SF-5 zoned urban scale subdivision. SF-20 zoned agricultural fields are located east of the subject site across 127th Street East.

There are two wireless communication facilities' towers visible from the subject site. A wireless communication facility with a 150-foot tall, wireless, galvanized steel, monopole tower (CU-547, 12-16-1999) is located approximately a mile west of the subject site, off of Pawnee Road. A wireless communication facility with a 200-foot tall lattice tower (CU-352, 12-12-1984) is located approximately a mile southwest of the subject site, off of 31st Street South. The applicant's RF Engineer has stated that neither of these sites provides the desired coverage.

The applicant's RF Engineer has stated that the proposed facility is needed to provide the future 4th Generation Long Term Evolution (4G LTE) capacity needs of AT&T's customers. The 4G LTE technology is the fourth generation of mobile communication technology and is touted as an upgrade to the currently and still widely used 3G technology. Most tower sites will continue to support the 3G networks for many years. In the meantime the 4G LTE technology allows the users of the tower sites to migrate from simple voice communication to high-speed data for sending pictures and video from their more sophisticated smartphones. However as the network evolves from 3G to 4G LTE technology and beyond, more tower sites are required because 4G coverage areas tend to be geographically smaller. The move towards 4G LTE technology could lead to more contentious public forums in regards to Conditional Use applications for wireless communication facility with cell towers, as cell towers move into areas where residential development is dominate. The applicant has provided current coverage and projected coverage maps showing the impact of the site in providing 4G LTE service to the area.

The proposed tower and associated communication frequencies and wattages must meet standards determined by the Federal Aviation Administration (FAA) to insure it poses no hazard to air navigation or interferes with other radio/communication frequencies. The applicant has not provided an analysis of airspace in the area, which must be provided to staff prior to building permits being issued. Tower lighting must meet the FAA requirements for aircraft warning. The proposed galvanized surface of the tower will blend into the sky more readily than a red or white paint, which meets the intent of the "Design Guidelines" of the "Wireless Communication Master Plan." The proposed 150-foot tower must allow co-location for at least three (3) other providers. The proposed tower is shown with an antenna array ("top hat") that protrudes from the top of the monopole.

As noted the proposed amendment to DP-322 will create the 100-foot (x) 100-foot Parcel 12 out of Parcel 11. The amendment will also establish the only permitted use of Parcel 12 as a wireless communication facility with a 150-foot tall, wireless, galvanized steel, monopole tower, and; add to Provision 9, that Parcel 12 shall have no building setbacks, and; add Provision 6.D., establishing the landscaping requirements for Parcel 12 to provide evergreens to be planted at the time of construction at the rate of one evergreen every 10 feet (center to center) around the perimeter of the site with the exception of a space for access onto the site, and; add provision 8.F addressing screening around Parcel 12, and; change a portion of provision 7.D. to allow light poles, including their base, to be 25-foot tall (rather 30-foot tall) and that in this 'instance a school is not considered a residential use.'

CASE HISTORY: CUP2010-00011 and ZON2010-00018, a zone change from SF-5 to LC, contingent on platting (SUB2010-00032), created CUP DP-322. Because SUB2010-00032 is being prepared for a future Wichita City Council meeting, the LC zoning district will be considered the base zoning*. No

building permits shall be issued until SUB2010-00032 is approved by the City Council and subsequently recorded with the Sedgwick County Register of Deeds.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5, LC, TF-3, NR	Agricultural fields, partially developed single-family subdivisions, golf course, duplexes
SOUTH: SF-5, SF-20	Agricultural fields
EAST: SF-20	Agricultural fields
WEST: SF-5 SF-20	Agricultural fields, single-family residences

PUBLIC SERVICES: No municipally supplied public services are required. The applicant will extend electrical service to the site. The site has a proposed access easement to Pawnee Road, a paved two-lane arterial road. The proposed wireless communication facility and its 150-foot tall tower will generate less traffic onto Pawnee than the area's single-family residences or the anticipated High School and commercial development.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide Map" identifies the site as being "urban residential." The urban residential category reflects the full diversity of residential development densities and types typically found in a large municipality. Elementary and middle school facilities, churches, playgrounds, parks and other similar residential serving uses may also be found in this category. The Unified Zoning Code (UZC) considers a wireless communication facility a commercial type of use. The proposed wireless communication facility with its 150-foot tall tower is proposed to provide the future 4G LTE capacity needs of AT&T's customers in this part of Wichita and Sedgwick County.

The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. It states that all towers comply with the compatibility setback standards. The applicant's site plan shows the 150-foot tall monopole tower does not meet the compatibility setback standards on its west and south sides, and as such the applicant is requesting a waiver of the compatibility setback standards. The impacted property is USD 259's property. Prior to the submittal of CUP2014-00003 Planning Staff had e-mailed USD 259 inquiring if they had been approached by the applicant for co-location on this tower. Staff received no reply to these e-mails. There have been no inquires from USD 259 in regards to CUP2014-00003.

The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should:

- 1) Preserve the pre-existing character of the area as much as possible. Two other communication towers are visible from the subject site. These two towers are located approximately a mile from the subject site, in areas with less dense county residential development. Visually the presence of the proposed of the monopole tower would not significantly alter the pre-existing character of the larger area;
- 2) Minimize the height, mass, or proportion. The height of the proposed monopole tower provides more coverage than a shorter monopole tower, it also provides more co-location opportunities than a shorter tower and in theory this could mean fewer towers in the area, which could mean less chance for encroachment into the SF-5 and SF-20 single-family residences and;
- 3) Minimize the silhouette. A lattice tower similar to those used by the City may reduce the silhouette. However, when an antenna array that protrudes from the wireless communication facility is used on a support structure inside the Urban Growth Area boundaries, the support structure generally should be a monopole. In addition, although flush mounted antennas work well in cluttered (urban or heavily treed) environments, the

signal doesn't travel as far as with the typical triangular antenna arrays. Therefore, use of flush mounted antennas may require additional wireless communication facilities to achieve the same coverage, and; 4) Use colors, textures, and materials that blend in with the existing environment. The proposed grey galvanized steel finish has been found to be the least intrusive color, and; 5) Be concealed or disguised as a flagpole, clock tower, or church steeple. Concealment as a clock tower, or church steeple or flag pole has not been discussed and; 6) Be placed in areas where trees and/or buildings obscure some or all of the facility. The applicant proposes planting evergreens around the facility. There are trees on the site that could help obscure a tower. There are no buildings around the site that help obscure the tower. Because the area is still in the early stages of urban residential and commercial development, the proposed tower will be highly visible for the foreseeable future, and; 7) Be placed on walls or roofs of buildings. The opportunity is not present, and; 8) Be screened through landscaping, walls, and/or fencing. As stated, the applicant is proposing to plant evergreens around the facility. The proposed evergreens will be spaced 10 feet apart, center to center of each evergreen. This spacing will provide solid screening when the evergreens mature and with proper care provide a more attractive and efficient screening than a 6-8-foot tall wooden privacy fence, and; 9) Painting towers red and white instead of using strobe lighting. The applicant has stated that there will be no strobes and that it will be a galvanized steel finish. NOTE: Since the time the Wireless Communication Master Plan was first adopted, the FAA changed their regulations to require daytime strobe lighting; whereas, when the plan was adopted, the FAA allowed painted towers red and white instead of using strobe lighting.

The site is not designated on the "Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map." The site is located in Area C of the Airport Hazard Zone. Area C has a 150-foot maximum height restriction, which the proposed 150-foot tall tower does not exceed.

RECOMMENDATION: The request comes at a time when the area is still in the early stages of urban residential and commercial development, but has established county residential development, which could reduce the number of possible protests to the request. The area's residence will weigh the touted benefits of the proposed wireless communication facility and its 150-foot tall monopole tower with its 4G LTE technology against the site's visual impact. Based upon this factor and the information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to the following conditions:

- A. This request must have the approval by the FAA in determining the proposed wireless communication facility with its 150-foot tall galvanized steel, monopole tower carrying AT&T's 4G LTE pose no hazard to air navigation or interferes with other radio/communication frequencies. The applicant shall submit a current copy of FAA approval to the MAPD and the Code Enforcement Office prior to the issuance of a building permit.
- B. Waive the compatibility height standard, contingent upon no protest to the waiver by USD 259.
- C. No building permits shall be issued until SUB2010-00032 is approved by the City Council and subsequently recorded with the Sedgwick County Register of Deeds.
- D. All requirements of Art. III Sec. III.D.6.g. of the Unified Zoning Code shall be met.
- E. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- F. The support structure shall be a monopole design, as shown on the elevation and that generally conforms to the approved site elevation and that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.

- G. The support structure shall not exceed 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least three (3) wireless service providers.
- H. The tower site shall be developed in general conformance with the approved revised site and a landscape plan. These plans must show the type and size of fencing around the site, parking, all light poles, lights, power poles, cabinets, equipment or buildings within the fenced in site or in the immediate area if it is to be used by the site. The plan must identify existing and/or proposed trees and shrubs, give their total numbers and their general size to determine if it meets screening requirements of the Unified Zoning Code (UZC) Art. IV, Sec. IV-B.3.b.1. If evergreens are planted they must be a minimum size of 5-foot at the time of their planting (but be taller than 5-foot when mature) and planted on 10-foot centers. The site plan must identify the all utility and or access easements. The proposed access/utility easement must be recorded and its surface approved by MABCD and Fire. All improvements and construction of the facility/tower shall be completed within a year and before the facility becomes operational.
- I. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations. Provide the Stormwater Engineer with any required plans for review and approval of the site.
- J. Approve the proposed amendments to DP-322 in the creation of Parcel 12, limiting the uses of Parcel 12 to a wireless communication facility with its 150-foot tall galvanized steel, monopole tower, and; Provision 9, that Parcel 12 shall have no building setbacks, and; add Provision 6.D., establishing the landscaping requirements for Parcel 12 to provide evergreens to be planted at the time of construction at the rate of one evergreen every 10 feet (center to center) around the perimeter of the site with the exception of a space for access onto the site, and; add provision 8.F addressing screening around Parcel 12, and; change a portion of provision 7.D. to allow light poles, including their base, to be 25-foot tall (rather 30-foot tall) and that in this instance a school is not considered a residential use.'
- K. 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.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The LC zoned site is located on an eastern edge of the City of Wichita. The surrounding area is zoned SF-5, SF-20 Single-Family Residential, LC, and NR Neighborhood Retail. The SF-5 zoned agricultural fields abutting the south and west sides of the site is the future home of USD 259's newest high school. The recently constructed USD 259 Christa McAuliffe Academy elementary school is located approximately a mile northeast of the high school site. SF-20 zoned subdivisions are located further west and northwest (across Pawnee) of the subject site. Partially developed (built 2006-2013) SF-5 zoned urban scale subdivisions are located north of the site, across Pawnee Road, as is a small TF-3 zoned duplex development (built 2011-2013) and a LC zoned agricultural field located on the northwest corner of 127th and Pawnee. Properties located further northeast of the site include another corner LC zoned agricultural field, SF-5 zoned agricultural land, a SF-5 zoned private golf course (with a NR zoned golf shop) and a mostly undeveloped SF-5 zoned urban scale subdivision. SF-20 zoned agricultural fields are located east of the subject site across 127th Street East.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-5 and is currently used as farmland. The SF-5 zoning would allow single-family residential development. However, the site was approved for LC zoning (ZON2010-00018) and a commercial CUP (CUP2010-00011, DP-322), contingent on platting. The LC zoning and proposed DP-322 allows commercial development. The UZC considers a wireless communication facility a commercial type of use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed 150-foot tall, wireless, galvanized steel, monopole would not be a first in the larger area. Its visual impact is undeniable, however the conditions of approval will add landscaping around the site, to help minimize the eye level visual impact. Future development of DP-322 may provide some additional screening, by buildings, to the residential development located east and north of the site. The property located south and west of the site is a future USD 259 high school complex. Placement of the proposed wireless communication facility with its 150-foot monopole tower up against the school property has a similar impact on the area as if USD 259 placed a tower on their site.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The “2030 Wichita Functional Land Use Guide Map” identifies the site as being “urban residential.” The urban residential category reflects the full diversity of residential development densities and types typically found in a large municipality. Elementary and middle school facilities, churches, playgrounds, parks and other similar residential serving uses may also be found in this category. The Unified Zoning Code (UZC) considers a wireless communication facility a commercial type of use. The proposed wireless communication facility with its 150-foot tall tower is proposed to provide the future 4G LTE capacity needs of AT&T’s customers in this part of Wichita and Sedgwick County.

The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. It states that all towers comply with the compatibility setback standards. The applicant’s site plan shows the 150-foot tall monopole tower does not meet the compatibility setback standards on its west and south sides, and as such the applicant is requesting a waiver of the compatibility setback standards. The impacted property is USD 259’s property. Prior to the submittal of CUP2014-00003 Planning Staff had e-mailed USD 259 inquiring if they had been approached by the applicant for co-location on this tower. Staff received no reply to these e-mails. There have been no inquires from USD 259 in regards to CUP2014-00003.

The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) Preserve the pre-existing character of the area as much as possible. Two other communication towers are visible form the subject site. These two towers are located approximately a mile from the subject site, in areas with less dense county residential development. Visually the presence of the proposed of the monopole tower would not significantly alter the pre-existing character of the larger area; 2) Minimize the height, mass, or proportion. The height of the proposed monopole tower provides more coverage than a shorter monopole tower, it also provides more co-location opportunities than a shorter tower and in theory this could mean fewer towers in the area, which could mean less chance for encroachment into the SF-5 and SF-20 single-family residences and; 3) Minimize the silhouette. A lattice

tower similar to those used by the City, may reduce the silhouette. However, when an antenna array that protrudes from the wireless communication facility is used on a support structure inside the Urban Growth Area boundaries, the support structure generally should be a monopole. In addition, although flush mounted antennas work well in cluttered (urban or heavily treed) environments, the signal doesn't travel as far as with the typical triangular antenna arrays. Therefore, use of flush mounted antennas may require additional wireless communication facilities to achieve the same coverage, and; 4) Use colors, textures, and materials that blend in with the existing environment. The proposed grey galvanized steel finish has been found to be the least intrusive color, and; 5) Be concealed or disguised as a flagpole, clock tower, or church steeple. Concealment as a clock tower, or church steeple or flag pole has not been discussed, and; 6) Be placed in areas where trees and/or buildings obscure some or all of the facility. The applicant proposes planting evergreens around the facility. There are trees on the site that could help obscure a tower. There are no buildings around the site that help obscure the tower. Because the area is still in the early stages of urban residential and commercial development, the proposed tower will be highly visible for the foreseeable future, and; 7) Be placed on walls or roofs of buildings. The opportunity is not present, and; 8) Be screened through landscaping, walls, and/or fencing. As stated, the applicant is proposing to plant evergreens around the facility. The proposed evergreens will be spaced 10 feet apart, center to center of each evergreen. This spacing will provide solid screening when the evergreens mature and with proper care provide a more attractive and efficient screening than a 6-8-foot tall wooden privacy fence, and; 9) Painting towers red and white instead of using strobe lighting. The applicant has stated that there will be no strobes and that it will be a galvanized steel finish. NOTE: Since the time the Wireless Communication Master Plan was first adopted, the FAA changed their regulations to require daytime strobe lighting; whereas, when the plan was adopted, the FAA allowed painted towers red and white instead of using strobe lighting.

The site is not designated on the "Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map." The site is located in Area C of the Airport Hazard Zone. Area C has a 150-foot maximum height restriction, which the proposed 150-foot tall tower does not exceed.

5. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed tower is not a hazard to air navigation (including the need or not for lighting) and that the tower does not interfere with other radio/communication frequencies.

BILL LONGNECKER, Planning Staff presented the Staff Report.

FOSTER referenced a typographical error in the first paragraph on page 6 and several other places in the Staff Report concerning the height of the lights including the bases.

JUSTIN ANDERSON, SELECTIVE SITE CONSULTANTS (SSC), 9900 WEST 109TH STREET, OVERLAND PARK, KANSAS, AGENT FOR THE APPLICANT said they agree with staff comments.

MITCHELL said he was confused about access to the monopole from Pawnee Avenue.

ANDERSON said an access will be installed.

FOSTER asked if the plat was going to be updated to allow for an access easement.

LONGNECKER said the access easement will be dedicated by separate instrument.

MOTION: To approve subject to staff recommendation.

WARREN moved, **MITCHELL** seconded the motion, and it carried (10-0).

-
- 7. **Case No.: CON2014-00008** - request City Conditional Use request for a wireless communication facility with a 93-foot monopole tower on SF-5 Single-family Residential zoned property on property described as:

CHAIRMAN KLAUSMEYER announced that this item was deferred indefinitely.

-
- 8. **Case No.: CON2014-00009** - request a City Conditional Use request for a wireless communication facility with a 120-foot monopole on LC Limited Commercial zoned property on property described as:

CHAIRMAN KLAUSMEYER announced that this item was deferred indefinitely.

NON-PUBLIC HEARING ITEMS

The Metropolitan Area Planning Commission adjourned at 1:53 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

STAFF REPORT

CASE NUMBER: SUB 2014-00005 – HOOVER INDUSTRIAL PARK ADDITION

OWNER/APPLICANT: Russell Investment, LLC; Attn: Jay Russell, P.O. Box 75337,
Wichita, KS 67275

SURVEYOR/AGENT: Baughman Company, P.A., Attn: Kris Rose, 315 Ellis, Wichita, KS
67211

LOCATION: Southeast corner of K-96 Highway and Hoover Road (County
District IV)

SITE SIZE: 75.43 acres

NUMBER OF LOTS

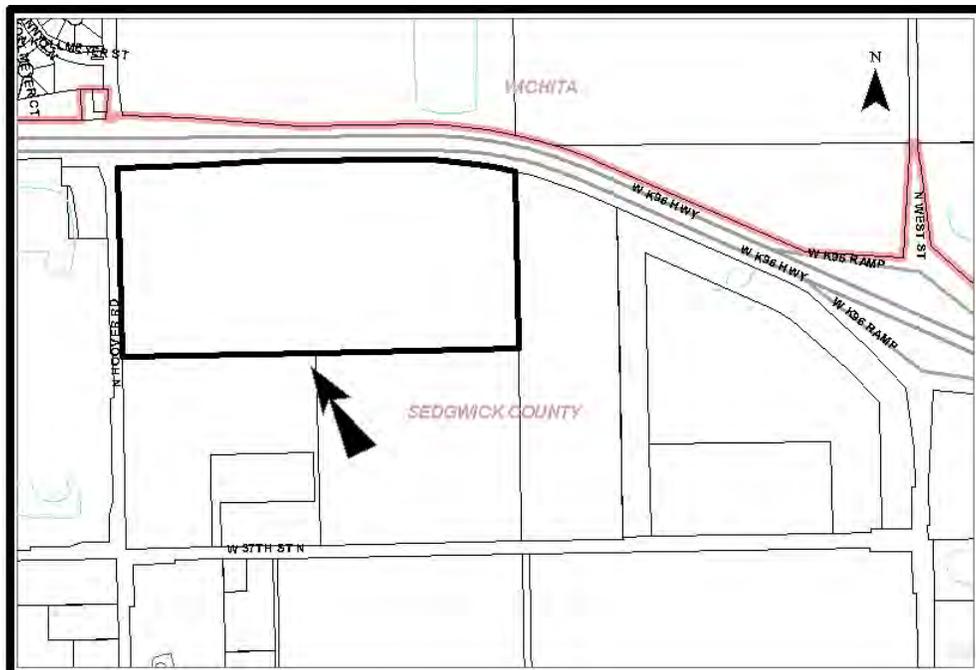
Residential:	
Office:	
Commercial:	
Industrial:	<u>36</u>
Total:	<u>36</u>

MINIMUM LOT AREA: 1.24 acres

CURRENT ZONING: SF-20 Single-family Residential

PROPOSED ZONING: LI Limited Industrial

VICINITY MAP



SUB2014-00005 – Final Plat of HOOVER INDUSTRIAL PARK ADDITION
April 10, 2014 - Page 2

NOTE: This unplatted site is located in the County adjoining Wichita's boundary. The applicant requests that this plat remain in the County and be annexed upon the extension of city services. A zone change (ZON2013-00040) has been approved from SF-20 Single-family Residential to LI Limited Industrial.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that water (transmission) is available to serve the site and is subject to transmission in-lieu-of-assessments. The applicant needs to extend water (distribution) to serve all lots. Sanitary sewer is not available. A petition is needed to guarantee extension of sewer (main and lateral). The petitions will include language that consent to annexation would occur when the petition is activated to extend service.
- 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 requested a drainage plan. City Stormwater Management has approved the drainage plan. The landowner will need to obtain an agreement from KDOT to pump their site's runoff to State right-of-way. Additional detail will need to be provided with the drainage plan with regards to the site's downstream runoff patterns. Additional downstream drainage improvements may need to occur to support the pumped runoff from the proposed detention facility.
- D. The plat proposes two street openings along Hoover and complete access control along the remaining street frontage. Complete access control has been platted along the westerly 75 feet of both 39th and 41st Streets North as requested by County Public Works.
- E. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.
- F. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineer (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- G. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a restrictive covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- H. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- I. The Applicant shall guarantee the paving of the proposed streets.

SUB2014-00005 – Final Plat of HOOVER INDUSTRIAL PARK ADDITION
April 10, 2014 - Page 3

- J. GIS has requested 39th Street North be replaced with 40th Street North. 41st Street North is acceptable or it may be replaced with West Candlewood.
- K. The plat^{or}'s 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.
- 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).

This is a placeholder document for the report "Castlegate ADD -MAPC STAFF RPT". There was an error in the publishing process and it could not be converted to PDF.

STAFF REPORT

CASE NUMBER: SUB2014-00014 – TALLGRASS VILLAS ADDITION

OWNER/APPLICANT: Perfection Signature Properties, LLC, Attn: Scott Lehner, 28 West Central Avenue, Suite 124, Wichita, KS 67212

SURVEYOR/AGENT: MKEC Engineering Consultants, Inc., Attn: Brian Lindebak, 411 North Webb Road, Wichita, KS 67206

LOCATION: North of 21st Street North, east of Rock Road (District II)

SITE SIZE: .72 acres

NUMBER OF LOTS

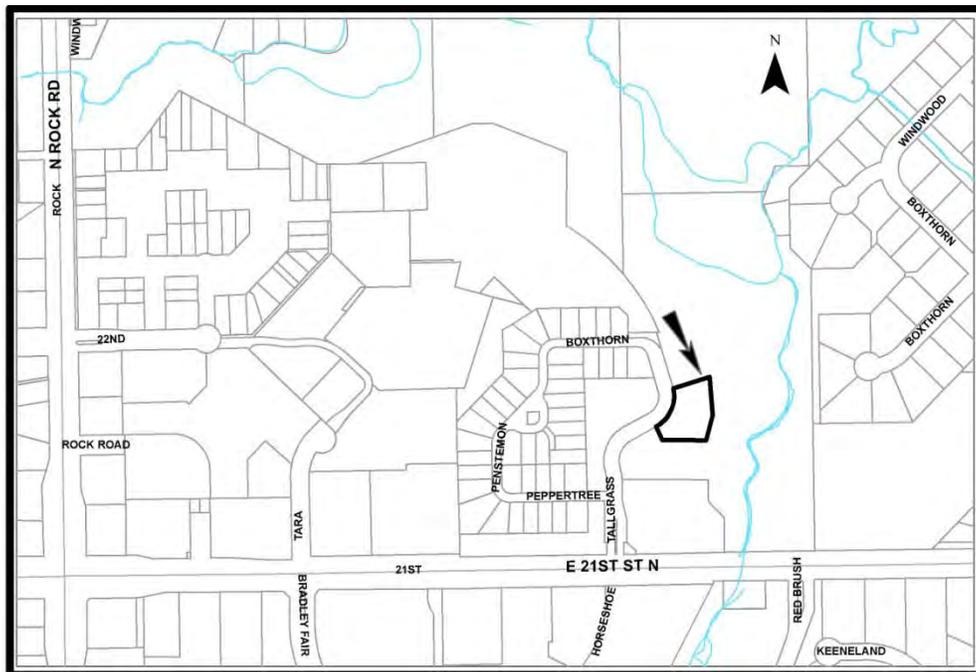
Residential:	1
Office:	
Commercial:	
Industrial:	
Total:	1

MINIMUM LOT AREA: 31,554 square feet

CURRENT ZONING: SF-5 Single-family Residential

PROPOSED ZONING: Same

VICINITY MAP



SUB2014-00014 -- Final Plat of TALLGRASS VILLAS ADDITION
April 10, 2014 - Page 2

NOTE: This is an unplatted site located within the City. This site is also contained within Parcel 12B of the Tallgrass Community Unit Plan (DP-96). Townhome condominiums are proposed in conformance with the CUP.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department requests the extension of sanitary sewer (lateral) to serve the lot. Water is available subject to in-lieu-of-assessments (transmission and distribution). A utility easement at the northeast corner is needed for the existing sewer line.
- 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 approved the drainage plan subject to an offsite drainage easement being dedicated as necessary for the construction of the ditch or offsite stormwater sewer. A drainage easement corner clip may also be necessary in the northeast corner of the proposed lot.
- D. A CUP adjustment is needed so that the perimeter of the proposed residential block matches the perimeters of the CUP parcel boundaries.
- E. The front and rear setbacks do not conform to the building setback lines which were established by the CUP. An adjustment to the CUP will be needed.
- F. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- G. 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.)
- H. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- I. 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.
- J. 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.

SUB2014-00014 -- Final Plat of TALLGRASS VILLAS ADDITION
April 10, 2014 - Page 3

- K. 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.
- L. Perimeter closure computations shall be submitted with the final plat tracing.
- M. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- N. 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).

STAFF REPORT

CASE NUMBER: SUB2014-00015 – DAVID & PALMER ADDITION

OWNER/APPLICANT: Walter Palmer, 101 West 29th Street North, Wichita, KS 67204-4801

SURVEYOR/AGENT: K.E. Miller Engineering, 117 East Lewis Street, Wichita, KS 67202

LOCATION: West of Broadway, on the south side of 29th Street North (District VI)

SITE SIZE: 4.59 acres

NUMBER OF LOTS

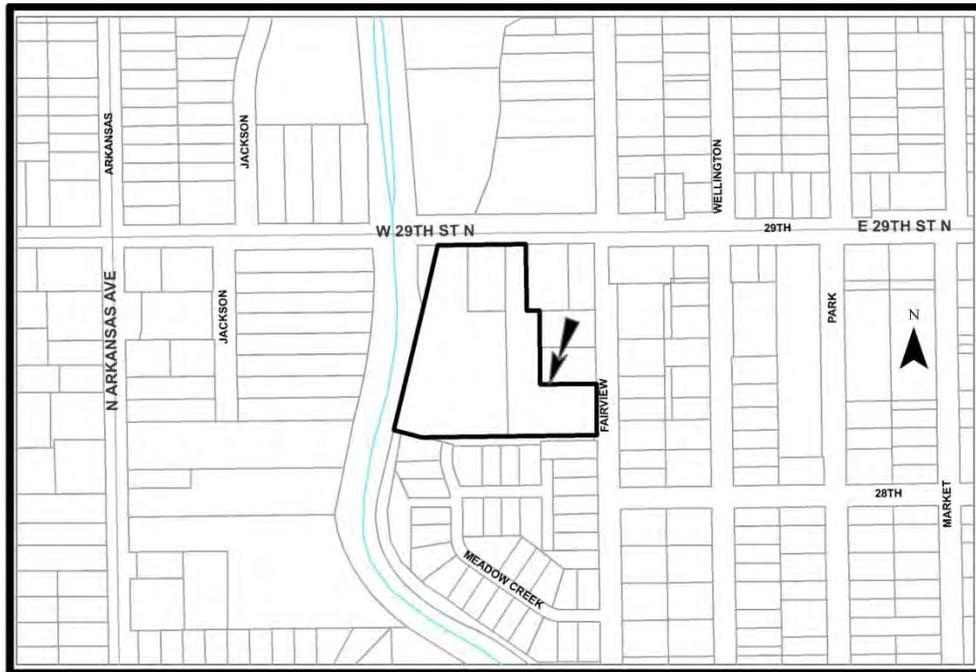
Residential:	
Office:	
Commercial:	2
Industrial:	—
Total:	2

MINIMUM LOT AREA: 3.33 acres

CURRENT ZONING: B Multi-family Residential

PROPOSED ZONING: GC General Commercial

VICINITY MAP



SUB2014-00015 -- Final Plat of DAVID & PALMER ADDITION
April 10, 2014 - Page 2

NOTE: This unplatted site has been approved for a zone change (ZON2009-00032) from B Multi-family to GC General Commercial. A Protective Overlay (P-O #236) was also approved for this site addressing signage, lighting, noise, building height and development standards.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that water and sewer services are available to serve 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 approved the drainage plan subject to the offsite runoff being delineated and the development accepting this additional runoff.
- D. Traffic Engineering has requested the platting of access controls along 29th Street North in conformance with the site plan which denotes two openings. The easterly opening along 29th Street North shall permit cross-lot access for the benefit of the abutting property to the east, if and when said lot is developed for non-residential use. A restrictive covenant or agreement shall be provided addressing this condition.
- E. County Surveying notes that interior lot dimensions need corrected in three places.
- F. County Surveying requests separation between the overlapping bearings and distances.
- G. County Surveying requests a dimension on the northwest property line.
- H. County Surveying advises that the benchmark type needs described.
- I. The applicant is advised that a boundary shift is recommended with the property to the west to address the building and fence encroachment.
- J. The final plat tracing shall state in the plattor's text the purposes of the proposed reserve as well as the ownership and maintenance responsibilities.
- K. Provisions shall be made for ownership and maintenance of the proposed reserve. A restrictive covenant shall be submitted regarding ownership and maintenance responsibilities.
- L. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- M. A Protective Overlay Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved Protective Overlay and its special conditions for development on this property.

SUB2014-00015 -- Final Plat of DAVID & PALMER ADDITION
April 10, 2014 - Page 3

- N. 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.
- O. On the final plat tracing, the MAPC signature block needs to reference "Don Klausmeyer" as Chair.
- P. The signature block needs to specify whether the owner is single or married, since a married person needs to have the spouse's signature.
- Q. 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 non-residential lots shall not exceed three 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.
- R. The standard language regarding vacation statutes need to reference "K.S.A. 12-512b, as amended".
- S. 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.)
- T. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- U. 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.
- V. 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.
- W. 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.

SUB2014-00015 -- Final Plat of DAVID & PALMER ADDITION
April 10, 2014 - Page 4

- X. Perimeter closure computations shall be submitted with the final plat tracing.
- Y. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- Z. 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).

STAFF REPORT

CASE NUMBER: SUB2014-00016 – DEVLIN AUTO REALTY ADDITION

OWNER/APPLICANT: Devlin Auto Realty Inc., PO Box 782170, Wichita, KS 67278-2170

SURVEYOR/AGENT: K.E. Miller Engineering, 117 East Lewis Street, Wichita, KS 67202

LOCATION: Southwest corner of Douglas and Hydraulic (District I)

SITE SIZE: .37 acres

NUMBER OF LOTS

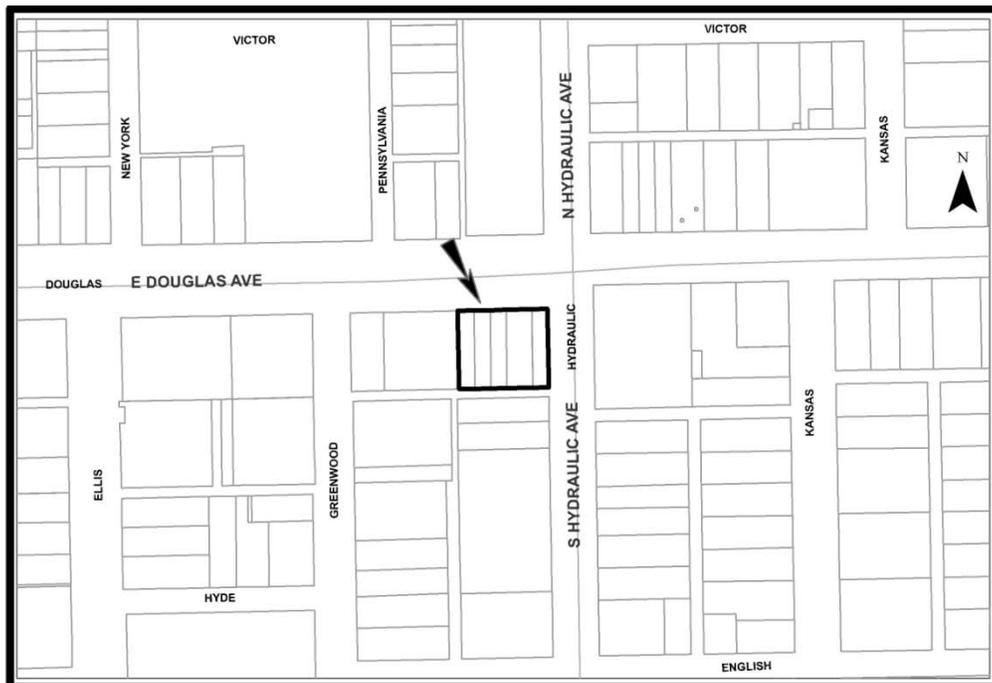
Residential:	
Office:	
Commercial:	1
Industrial:	—
Total:	1

MINIMUM LOT AREA: .37 acres

CURRENT ZONING: CBD Central Business District

PROPOSED ZONING: Same

VICINITY MAP



SUB2014-00016 -- Final Plat of DEVLIN AUTO REALTY ADDITION
April 10, 2014 - Page 2

NOTE: This is an unplatted site located within the City.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that the site is currently being served by water and sewer.
- 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 approved the applicant's drainage plan.
- D. The plat proposes complete access control along Douglas and two access openings along Hydraulic. Traffic Engineering has approved the south opening along Hydraulic. Complete access control is needed along the north 70 feet of Hydraulic.
- E. A block number or letter and a lot number shall be denoted on the face of the plat.
- F. 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.
- G. The legal description needs corrected to Township 27 South.
- H. County Surveying advises that the 35.00' (D) along Hydraulic needs removed and 37.4' needs added at the north line per City Resurvey of 1962.
- I. The plat name needs corrected in the MAPC certificate.
- J. The standard language regarding vacation statutes need to reference "K.S.A. 12-512b, as amended".
- 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.

SUB2014-00016 -- Final Plat of DEVLIN AUTO REALTY ADDITION
April 10, 2014 - Page 3

- 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.

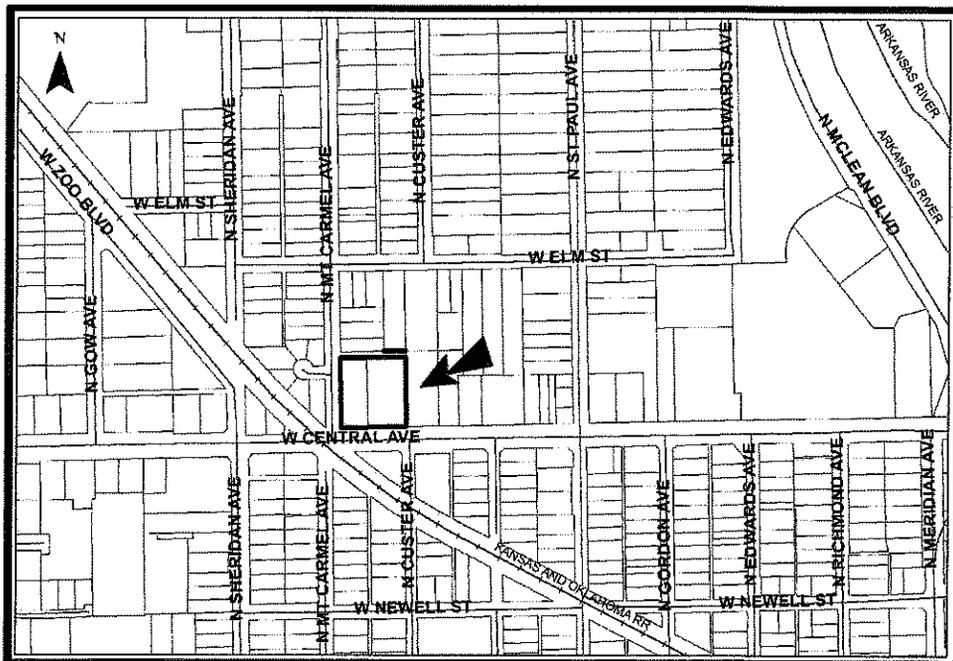
- Q. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.

- 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).

STAFF REPORT

MAPC March 6, 2014
DAB VI March 3, 2014
DAB VI April 7, 2014
MAPC April 10, 2014

- CASE NUMBER:** CON2014-00004
- OWNER / APPLICANT:** Gibson Wholesale Co., Inc., c/o Scott Riffel (owner/applicant)
- REQUEST:** Amendment to Conditional Use CON2012-00033, a Nightclub in the City
- CURRENT ZONING:** LC Limited Commercial
- SITE SIZE:** 1.48-acres
- LOCATION:** Generally located east of Zoo Boulevard, on the northeast corner of Mt. Carmel and Central Avenues
- PROPOSED USE:** Remove restrictions on days when alcohol is served, remove restrictions on hours of operation, and remove affiliation with a fraternal order



BACKGROUND: The applicant is requesting consideration for an amendment to Conditional Use CON2012-00033, a “nightclub in the city.” The proposed amendment changes conditions C and D: removes restrictions on days when alcohol is served; removes restrictions on hours of operation, and; removes affiliation with a fraternal order (see attached MAPC Resolution and the referenced Activities). Conditions A, B, E, F, and G are proposed to remain in effect. The proposed amendment does not change the facility’s zoning classification as a night club in the city. The 1.48-acre LC Limited Commercial zoned platted lot and its 11,597-square foot vacant facility is located on the northeast corner of Mt. Carmel and Central Avenues.

The applicant proposes that the 11,597-square foot vacant facility will not be open to the public, but will be rented out any day of the week for events such as weddings, receptions, graduation parties, dances and similar activities. The consumption and serving of alcohol and/or cereal malt beverages (drinking) is an option for these events, as is dining. Live music or music provided by a DJ is an option for these events. The applicant’s proposed hours of operation are 9 am-midnight Thursday-Sunday and 9 am-2 am Friday and Saturday. A nightclub in the city is required to stop serving and selling alcohol and/or cereal malt beverages at 2 AM. A night club in the city is required to close at 2 am. Unlike CON2012-00033, there will be no affiliation with a fraternal order or a private club.

The vacant facility is part of an LC zoned retail strip that includes a pharmacy. Properties abutting and adjacent to the north side of the site is developed as SF-5 Single-Family Residential zoned single family residences and a TF-3 Two-Family Residential zoned duplex. There is a paved alley located along the north side of the site, which intersects with Mt. Carmel. There are also SF-5 zoned single family residences located west of the site, across Mt. Carmel Avenue. Properties located south, east and west of the site, with Central Avenue frontage, are zoned LC and are developed as retail, offices, restaurants, a liquor store, some vacant commercial spots, a convenience store, a donut shop and a 2,080-square foot drinking establishment – tavern (the Cowboy Inn, located southeast of the St Paul and Central Avenues intersection).

The applicant has provided a parking agreement with the abutting east property and has provided the following breakdown on available parking and the corresponding occupancy:

- Minimum parking available seven days per week= 134 spaces. This includes the 28 off-site spaces and the parking around the ‘Moose’, but does not include the parking in front of Barney’s. This parking permits 268 occupants when alcohol is served (1 space per two occupants/night club in the City parking standards*) and 402 occupants when alcohol is not served (1 space per three occupants/dance hall parking standards*). NOTE: The 134 available parking spaces and its corresponding 402 occupants are the lowest number of available parking spaces and occupants.
- Parking available after 7 pm, Monday-Friday = 188 spaces. This includes the parking around the ‘Moose’, Barney’s and the 40 off-site parking spaces. This parking permits 376 occupants when alcohol is served* and 564 occupants when alcohol is not served*. NOTE: The 188 available parking spaces and its corresponding 564 occupants are the highest number of available parking spaces and occupants.

- Parking available before 6 pm Saturday = 146 spaces. This does not include the parking in front of Barney’s. This parking permits 292 occupants when alcohol is served* and 438 occupants when alcohol is not served.*
- Parking available after 6 pm on Saturday = 188 spaces. This includes the parking around the ‘Moose’, Barney’s and the 40 off-site parking spaces. This parking permits 376 occupants when alcohol is served* and 564 occupants when alcohol is not served*
- Parking available on Sunday = 188 spaces. This includes the parking around the ‘Moose’, Barney’s and the 40 off-site parking spaces. This parking permits 376 occupants when alcohol is served* and 564 occupants when alcohol is not served*.

CASE HISTORY: The site is part of Lot 1, Detzour’s Addition, which was recorded with the Sedgwick County Register of Deeds August 27, 1957. CON2012-0033, a Conditional Use for a Nightclub in the City was approved by the MAPC, at their August 16, 2012 meeting. There were no protests, therefore the MAPC action was final. BZA2012-00072 was an Administrative Adjustment that reduced parking by 25 per-cent; NOTE: The additional 40-28 off-site parking spaces agreement were not available at the time of the parking adjustment. CON2012-00051 was an Administrative Adjustment that allowed drinking, dining and dancing for Moose members and guest on New Year’s Eve. Staff had received calls seeking information or expressing concern about the request.

DAB VI considered CON2014-00004 at their March 3, 2014. DAB VI unanimously recommended denial, with concern about the site’s parking. There was no one present at the DAB VI meeting that protested the request. At the MAPC’s March 6, 2014, meeting the applicant requested a month deferral, which the MAPC granted. The applicant is going to the April 7, 2014, DAB VI meeting with additional information.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5, TF-3	Single-family residences, duplex
SOUTH:	LC	Donut shop, restaurant, office-ware-house, office, retail, drinking establishment
EAST:	LC	Restaurant, retail, liquor store, convenience store
WEST:	SF-5, LC	Single-family residences, office ware-house

PUBLIC SERVICES: The site has access onto Central and Mt. Carmel Avenues. Central Avenue is a four-lane major arterial street, with center turn lanes at this location. Mt. Carmel is a paved and curbed local residential street. There is a paved alley located along the north side of the site, which intersects with Mt. Carmel. All utilities are available to the site. The classification of roads, access and utilities have not changed since CON2012-00033 was approved

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” depicts this location as being appropriate for “local commercial,” which contains concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes: medical or insurance offices, auto repair or service stations, grocery stores, florist shops, restaurants and personal service facilities. The UZC requires a Conditional Use for a nightclub in the city when located within 300 feet of

“Church or a Place of Worship,” public “Park,” “School,” or residential zoning. There have been no changes in the zoning or development around the site that would change the need for the site to have a Conditional Use for a nightclub in the city. The proposed amendment does not change the facility’s zoning classification as a night club in the city.

The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed night club is located within an existing commercial development, with direct access onto Central Avenue a four-lane major arterial street, with center turn lanes at this location. There is a 20-foot paved alley between the site and the north abutting properties which offers minimal buffering. CON2012-00033 required six foot tall solid screening between the site and the north abutting properties as well as four foot tall solid screening along the west side of the site’s parking lot

Any night club or drinking establishment has the potential to become a nuance to its neighborhood. The applicant’s proposed amendment will not open the 11,597-square foot facility to the general public, but would allow it to be rented out for public or private activities that are not repeated on a weekly basis, and that are not open to the public on a daily basis at times other than when an event is schedule. The proposed amendment is somewhat less restrictive than CON2012-00033 in the days of operation and definitely less restrictive in its hours of operation. It will no longer be affiliated with a fraternal order, but will not become a private club. A key consideration is who will be using the 11,597-square foot facility. If the facility was open to the general public as a night club in the city it would be out of character with the development pattern along this Central Avenue and become more likely to become a nuance or worse to the neighborhood. The area’s only establishment that provides the sale, consumption and serving of alcohol and/or cereal malt beverages, is the 2,080-sqaure foot Cowboy Inn, which is dwarfed by the applicant’s 11,597-square foot facility.

Enforcement of the proposed conditions may fall outside the hours and days of the City’s Code Enforcement division, which leaves the Police Department as the group that may get the call for enforcement. The Police Department does not operate under the same codes as Code Enforcement. The applicant is concerned on how to find a business that can successfully occupy this 11,597-square foot vacant facility (prior to CON2012-00033 it was a failed grocery store), which in turn could help maintain the area’s commercial property. The location of this LC zoned property along Central Avenue, a major arterial allows good visibility and access beyond the immediate neighborhood.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request for an amendment to CON2012-00033, a nightclub in the city be APPROVED, subject to the following conditions:

- A. The site shall be in conformance with the approved site plan, which includes the parking – occupancy breakdown. Occupancy as determined by the Fire Marshall cannot increase the maximum number of occupants, but it may lower the maximum number of occupants.

- B. No outdoor entertainment, recreation, loud speakers, music, dancing, cooking, food or drink services are permitted on the site.
- C. The facility shall be rented out for public or private activities such as weddings, receptions, graduation parties, dances and similar activities that are not repeated on a weekly basis and that are not open to the public on a daily basis at times other than when an event is schedule. The exception is a weekly dance class.
- D. The consumption and serving of alcohol and/or cereal malt beverages (drinking) is an option for these events, as is dining. No consumption and serving of alcohol and/or cereal malt beverages during the weekly dance class. Live music or music provided by a DJ is an option for these events. The site shall not obtain a Drinking Establishment (DE) or Drinking Establishment Restaurant (DER) license. Alcohol may only be served on the site through a licensed caterer
- E. The facility will not be affiliated with any fraternal association or private club.
- F. The applicants shall comply with all applicable development standards of the UZC, including but not limited to parking, screening, and landscaping.
- G. The applicant shall obtain, maintain, and comply with all applicable permits and licenses necessary for the operation of a night club in the city.
- H. 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.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The proposed use shares LC zoned property with a pharmacy. Properties abutting and adjacent to the north side of the site are developed as SF-5 zoned single family residences and a TF-3 zoned duplex. There is a paved alley located along the north side of the site, which intersect with Mt. Carmel. There are also SF-5 zoned single-family residences located west of the site, across Mt. Carmel Avenue. Properties located south, east and west of the site, with Central Avenue frontage, are zoned LC and are developed as retails, offices, restaurants, a liquor store, some vacant commercial spots, a convenience store, a donut shop and a drinking establishment – tavern, the 2,080-square foot Cowboy Inn.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC which allows a wide variety of retail, office and residential uses. The site could be used as zoned and developed or redeveloped as currently zoned. CON2012-00033 was for a night club in the city that restricted the use of the facility to three groups, the Moose, bingo and dance lessons. It also restricted the days and hours of operation, to where all activities were slotting between 6 p.m. and 11 p.m. A concern is how to find a business that can successfully occupy this 11,597-square foot vacant facility, which in turn could help maintain the area’s commercial property.
2. Extent to which removal of the restrictions will detrimentally affect nearby property: There is the potential for any nightclub or a drinking establishment, becoming a nuance or worse to

a neighborhood. The applicant's proposal to rent out the facility only for public or private activities such as weddings, receptions, graduation parties, dances and similar activities, that are not repeated on a weekly basis, and that are not open to the public on a daily basis at times other than when an event is schedule may reduce the possibility of the facility becoming a nuance or worse to a neighborhood. If the 11,597-square foot facility was open to the general public as a night club in the city it would be out of character with the development pattern along this Central Avenue and become more likely to become a nuance or worse to the neighborhood.

Even so, enforcement of these restrictions may fall outside the hours and days of the City's Code Enforcement division, which leaves the Police Department as the group that may get the call for enforcement. The Police Department does not operate under the same codes as Code Enforcement.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" depicts this location as being appropriate for "local commercial," which contains concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes: medical or insurance offices, auto repair or service stations, grocery stores, florist shops, restaurants and personal service facilities. The UZC requires a Conditional Use for a nightclub in the city when located within 300 feet of "Church or a Place of Worship," public "Park," "School," or residential zoning. Since CON2012-00033 was approved there have been no changes in the zoning or development around the site that would change the need for the site to have a Conditional Use for a nightclub in the city. The proposed amendment does not change the facility's zoning classification as a nightclub in the city.

The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed night club is located within an existing commercial development, with direct access onto Central Avenue a four-lane major arterial street, with center turn lanes at this location. There is a 20-foot paved alley between the site and the north abutting properties which offers minimal buffering. CON2012-00033 required six foot tall solid screening between the site and the north abutting properties as well as four foot tall solid screening along the west side of the site's parking lot

Any night club or drinking establishment has the potential to become a nuance to its neighborhood. The applicant's proposed amendment will not open the 11,597-square foot facility to the general public, but allow it to be rented out for public or private activities that are not repeated on a weekly basis, and that are not open to the public on a daily basis at times other than when an event is schedule. The proposed amendment is somewhat less restrictive than CON2012-00033 in the days of operation and definitely less restrictive in its hours of operation. It will no longer be affiliated with a fraternal

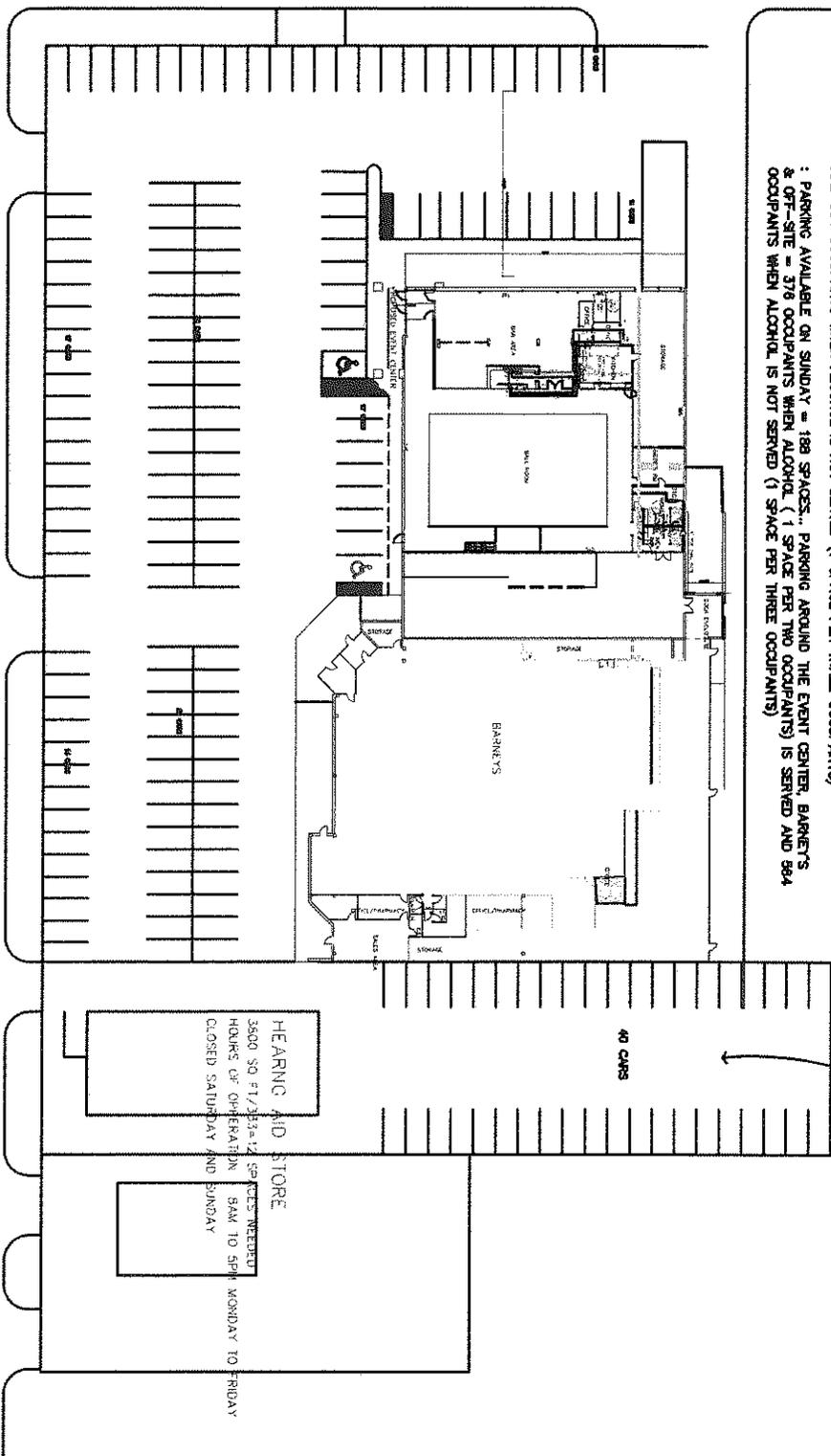
order, but will not become a private club. A key consideration is who will be using the facility. If the 11,597-square foot facility was open to the general public as a night club in the city it would be out of character with the development pattern along this Central Avenue and become more likely to become a nuisance or worse to the neighborhood. The area's only establishment that provides the sale, consumption and serving of alcohol and/or cereal malt beverages, is the 2,080-square foot Cowboy Inn, which is dwarfed by the applicant's 11,597-square foot facility.

5. Impact of the proposed development on community facilities: Possibly the need for more police service.

EVENT CENTER - PARKING BREAKDOWN

- : PARKING AVAILABLE AFTER 7, MON-FRI = 188 SPACES.. PARKING AROUND THE EVENT CENTER, BARNEY'S & OFF-SITE = 378 OCCUPANTS WHEN ALCOHOL (1 SPACE PER TWO OCCUPANTS) IS SERVED AND 564 OCCUPANTS WHEN ALCOHOL IS NOT SERVED (1 SPACE PER THREE OCCUPANTS)
- : PARKING AVAILABLE BEFORE 8 SATURDAY = 148 SPACES... DOES NOT INCLUDE BARNEY'S = 282 OCCUPANTS WHEN ALCOHOL (SPACE PER TWO OCCUPANTS) IS SERVED AND 438 OCCUPANTS WHEN ALCOHOL IS NOT SERVED (1 SPACE PER THREE OCCUPANTS)
- : PARKING AVAILABLE AFTER 6 ON SATURDAY = 188 SPACES.. PARKING AROUND THE EVENT CENTER, BARNEY'S & OFF-SITE = 378 OCCUPANTS WHEN ALCOHOL (1 SPACE PER TWO OCCUPANTS) IS SERVED AND 564 OCCUPANTS WHEN ALCOHOL IS NOT SERVED (1 SPACE PER THREE OCCUPANTS)
- : PARKING AVAILABLE ON SUNDAY = 188 SPACES.. PARKING AROUND THE EVENT CENTER, BARNEY'S & OFF-SITE = 378 OCCUPANTS WHEN ALCOHOL (1 SPACE PER TWO OCCUPANTS) IS SERVED AND 564 OCCUPANTS WHEN ALCOHOL IS NOT SERVED (1 SPACE PER THREE OCCUPANTS)

OFF-SITE PARKING
SUBJECT TO PARKING AGREEMENT



PARKING PROVIDED
ON SITE: 188

WEST CENTRAL STREET

BARNEY'S / GIBSON WHOLESALE
SALES AREA = 22617 SQ FT/335 SQ FT / PERSON=39 SPACES
STORAGE AREA 9136 SQ FT= 2300 FT / PERSON=4 SPACES

BARNEY'S / GIBSON NEED 43 PARKING SPACES TOTAL
BARNEY'S / GIBSON HOURS - OPEN FROM 9AM TO 7PM MONDAY TO FRIDAY
SATURDAY 9AM TO 5PM

DATE: 3-14-14
REVISIONS:

BARNEY'S EVENT CENTER SITE
3130 WEST CENTRAL
WICHITA, KANSAS

6512 E. WARDORF LN.
WICHITA, KANSAS
6148 393-1258

MAX CHRISTENSEN ARCHITECT

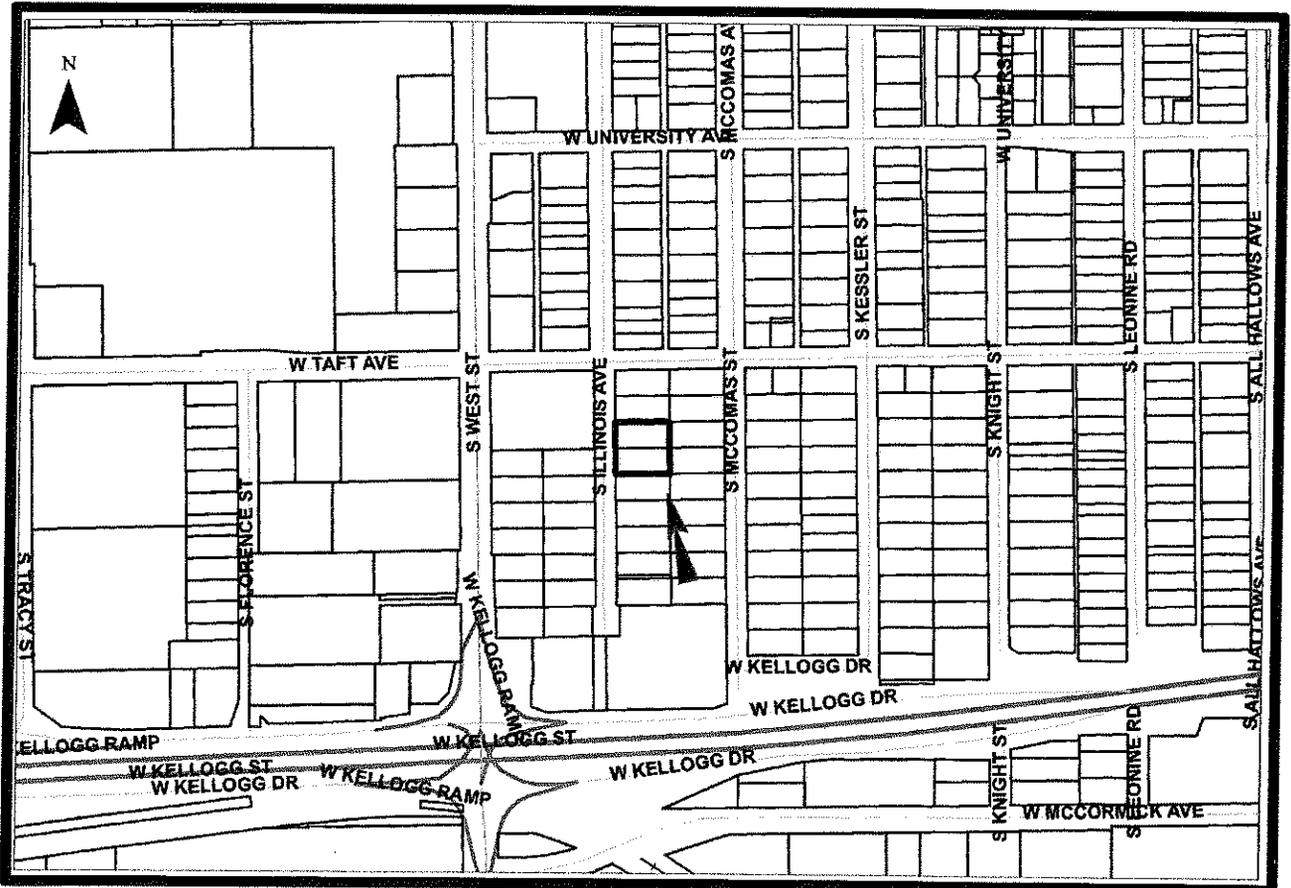
SHEET NUMBER:
A-1
OF



STAFF REPORT

MAPC April 10, 2014
DAB IV April 7, 2014

- CASE NUMBER:** ZON2014-02
- APPLICANT/AGENT:** Drew Loyd (owner)
- REQUEST:** LC Limited Commercial (LC) zoning
- CURRENT ZONING:** SF-5 Single-family Residential (SF-5) zoning
- SITE SIZE:** .5 acres
- LOCATION:** Generally located south of West Taft Street and east of South Illinois Avenue (526 S. Illinois Ave.)
- PROPOSED USE:** Commercial development



BACKGROUND: The applicant requests LC Limited Commercial (LC) zoning on two platted lots, one of which is developed with a single-family residence. The .5-acre site is currently zoned SF-5 Single-Family Residential (SF-5). Under LC zoning, the Unified Zoning Code (UZC) would permit the following land uses on this site by right (which are not permitted under the current SF-5 zoning): duplex, multi-family, assisted living, group residence, correctional placement residence, hospital, nursing facility, university or college, animal care, automated teller machine, bank or financial institution, broadcast/recording studio, construction sales and services, convenience store, farmers market, funeral home, hotel or motel, medical service, nurseries or garden centers, general office, commercial parking area, pawnshop, personal care service, personal improvement service, post office substation, limited printing and copying, indoor entertainment and recreation, restaurant, general retail, secondhand store, service station, limited vehicle repair, vocational school, agricultural research, agricultural sales and service. Under LC zoning, the UZC would require compatibility setbacks from SF-5 zoning, parking, screening and landscaping; these requirements will limit development on the site. The UZC requires a 25-foot compatibility setback from SF-5 zoning to the south and east, it limits building height to 35 feet within 50 feet of SF-5 zoning, it limits light pole height to 15 feet within 200 feet of residential zoning, and it requires three parking spaces per 1,000 square feet for most commercial uses.

This block of South Illinois Street has transitioned from residential to primarily commercial zoning over time. The entire west side of this block is zoned GC General Commercial (GC) and developed with banking, retail, vehicle repair and restaurant uses that front West Street. Other than the application area, only one other residence exists in SF-5 zoning on the east side of this block, three residences exist in LC zoning on the east side of the block. Property to the north of the site is zoned LC and developed with an office/warehouse. Property immediately south of the site is zoned SF-5 and developed with a single-family residence; further south is an LC zoned vehicle repair business and hotel/restaurant uses fronting the Kellogg expressway. East of the site are SF-5 and TF-3 Two-family Residential (TF-3) zoned single-family residences and duplexes.

CASE HISTORY: The site was platted as two lots within the Eureka Gardens Addition in 1941.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Office/warehouse, single-family residence
SOUTH:	SF-5, LC	Single-family residence, vehicle repair, hotel, restaurant
EAST:	SF-5, TF-3	Single and two-family residences
WEST:	GC	Banking, retail, vehicle repair, restaurant

PUBLIC SERVICES: South Illinois Street is a paved local street, West Street located one block to the west is an arterial, and West Taft Avenue to the north is classified as a collector. All other public utilities are available.

CONFORMANCE TO PLANS/POLICIES: The *2030 Wichita Functional Land Use Guide* of the Comprehensive Plan identifies the site as “urban residential.” The urban residential category encompasses areas that reflect the full diversity of residential development densities and types, including multi-family units, typically found in large urban municipality. The *Land Use Guide* identifies all property immediately west of the site, and property south of the site fronting Kellogg as “regional commercial.” The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials, should locate in compact clusters or nodes versus extended strip developments, should not put commercially generated traffic on residential streets, and should have site design features which limit noise, lighting and other activity from adversely impacting surrounding residential areas.

RECOMMENDATION: Staff anticipates that this entire block will eventually rezone to LC. Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** This block of South Illinois Street has transitioned from residential to primarily commercial zoning over time. The entire west side of this block is zoned GC and developed with banking, retail, vehicle repair and restaurant uses that front West Street. Other than the application area, only one other residence exists in SF-5 zoning on the east side of this block, three residences exist in LC zoning on the east side of the block. Property to the north of the site is zoned LC and developed with an office/warehouse. Property immediately south of the site is zoned SF-5 and developed with a single-family residence; further south is an LC zoned vehicle repair business and hotel/restaurant uses fronting the Kellogg expressway. East of the site are SF-5 and TF-3 zoned single-family residences and duplexes.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned SF-5 and could be developed with single-family residences. The commercial transition in this area may not make it desirable for future single-family residential development.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Residential neighbors to the south and east could be impacted with increased noise, light, trash, traffic and activity from development under LC zoning. These impacts would not be new to the area as significant commercial zoning and development already exists in the immediate area. The compatibility standards of the UZC should mitigate these impacts on nearby residences.
- (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 identifies the site as “urban residential.” The urban residential category encompasses areas that reflect the full diversity of residential development densities and types, including multi-family units, typically found in large urban municipality. The *Land Use Guide* identifies all property immediately west of the site, and property south of the site fronting Kellogg as “regional commercial.” The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials, should locate in compact clusters or nodes versus extended strip developments, should not put commercially generated traffic on residential streets, and should have site design features which limit noise, lighting and other activity from adversely impacting surrounding residential areas.
- (5) **Impact of the proposed development on community facilities:** All services are in place, any increased demand on community facilities can be handled by existing infrastructure.



AGENDA ITEM NO. 6

STAFF REPORT
MAPC 4-10-2014
DAB V 4-21-2014

CASE NUMBER: ZON2014-00003 and CON2014-00011

APPLICANT/AGENT: William G. and Laurie J. Stone and Sandlian Iron & Metal / Ferris Consulting (Greg Ferris)

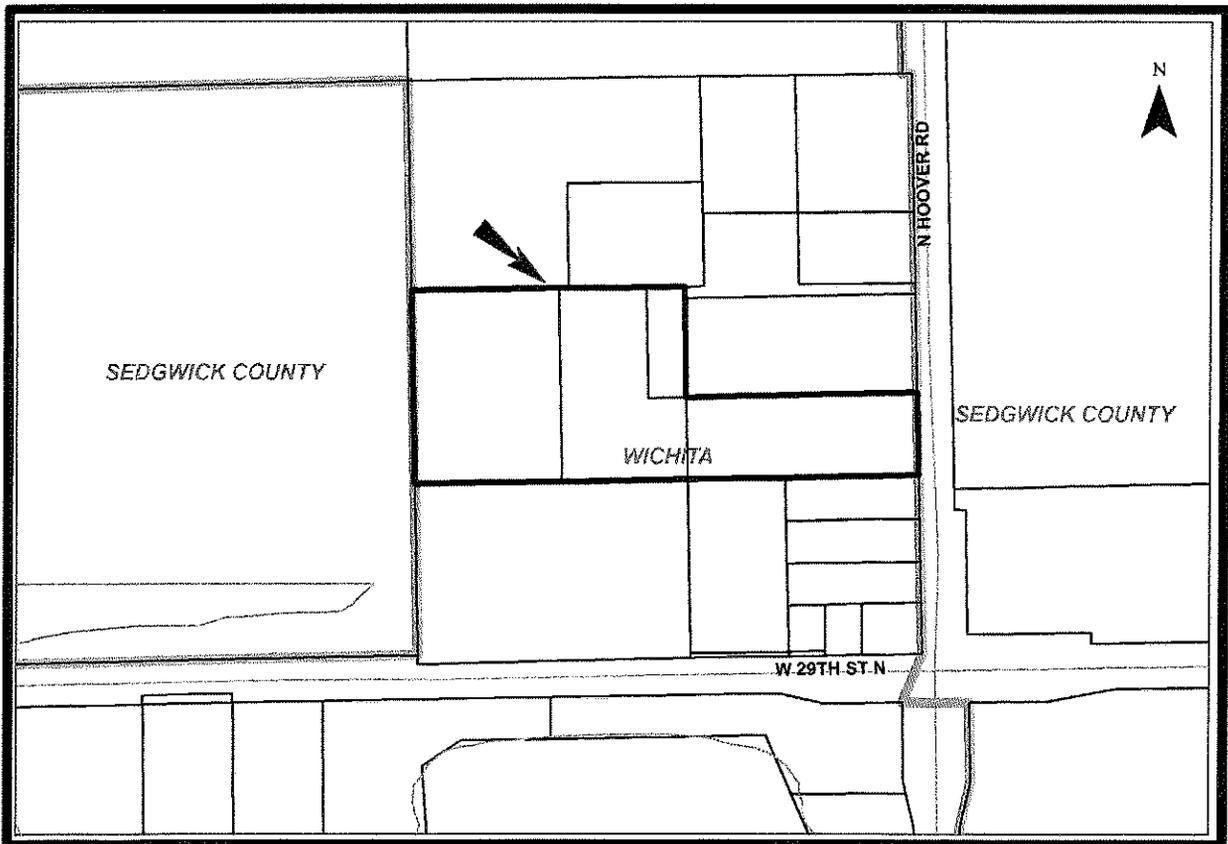
REQUEST: LI Limited Industrial and Conditional Use to permit Wrecking and Salvage

CURRENT ZONING: LC Limited Commercial and SF-5 Single-family Residential

SITE SIZE: 8.1 acres

LOCATION: 500 feet north of West 29th Street North, on the west side of North Hoover Road

PROPOSED USE: Wrecking and Salvage



BACKGROUND: The applicant is requesting LI Limited Industrial (LI) zoning and a Conditional Use to permit “wrecking and salvage” on 8.1 unplatted acres located approximately 500 feet north of West 29th Street North, east of North Ridge Road. A portion of the application area (2.25 acres) is currently zoned LC Limited Commercial (LC); the remainder of the site (5.85 acres) is zoned SF-5 Single-family Residential (SF-5). A portion of the application area currently is currently developed with a non-conforming wrecking and salvage yard. February 9, 1968, and March 30, 1974, aerial photographs show that a wrecking and salvage operation was in operation at those times. The salvage yard existed prior to the adoption of county-wide zoning. Once county-wide zoning was adopted, the wrecking and salvage operation became non-conforming but was allowed by code to continue to operate as a nonconforming use within the area that it occupied at the time county-wide zoning was adopted. Per the Unified Zoning Code, outdoor nonconforming uses such as vehicle wrecking and salvage yards do not have any expansion rights. The business is prohibited by code from expanding to a larger area unless it is properly zoned.

As shown on the applicant’s site plan, the business has existing buildings located within approximately 60 feet of Hoover Road, a designated two-lane arterial street. (The Supplementary Use Regulations prohibit wrecking and salvage operations abutting an arterial street. The Zoning Administrator has issued an opinion that wrecking and salvage operations located beyond 150 feet of an arterial street are not “abutting.”) Wrecked vehicles are located just west of the existing office building shown on the site plan. The site is partially enclosed by a solid metal fence. Solid fencing is located along: the southern property line; the western 600 feet of the northern property line (not on the site); the northern 220-foot long portion of the east property line and along the southern 72-foot portion of the east property line. A chain-link fence with plastic slats is located along the easternmost 515 feet of the site’s northern property line. (Chain-link fencing with plastic slats is a non-conforming fence type not permitted for screening. The slats do not provide effective solid screening.) The applicant’s site plan depicts a new eight-foot solid fence will be installed along the western boundary. Parking is located in front of the existing office.

Properties surrounding the application area are zoned SF-5, SF-20 Single-family Residential (SF-20) and LC. The SF-20 zoned land located to the east of Hoover Road is in Sedgwick County, and has been approved for PUD-35, which once perfected, would allow a wide range of uses: airstrip, residential, office and commercial. Mining is permitted on the land to the east of Hoover with the submission of a preliminary plat. A preliminary plat has been submitted. Land to the north of the application area appears to be developed with a non-conforming wrecking and salvage yard. There is a single-family residence, with frontage along Hoover that is located immediately north of the application areas existing office, and east of the northern half of the eastern end of the application area. The property located to the west is located in Sedgwick County, and is a completed sandpit that is now a private lake. Property located south of the application is developed with some single-family residences. One of the lots does not have a site built residence, but has a single recreational vehicle.

As noted above, outdoor nonconforming uses such as vehicle wrecking and salvage yards do not have any expansion rights. The existing business could continue to operate on the portion of its ownership that it has been using for wrecking and salvage, but it is prohibited from expanding to a larger area due to its nonconforming land use status. The UZC permits a “wrecking and salvage yard” in the LI and GI General Industrial (GI) districts, subject to Supplementary Use Regulations Section III-D.6.e and dd. “Wrecking and salvage yard” in the LI and GI districts may be approved as a “conditional use” provided that such operation: 1) is not abutting an arterial street, expressway or freeway; 2) in the opinion of the Planning Commission, will not adversely affect the character of the neighborhood; and 3) is enclosed by a fence or wall not less than eight feet in height and having cracks and openings not in excess of five percent of the area of such fence. The outdoor storage and/or bailing of junk, scrap, paper, bottles, rags or similar materials are prohibited.

Wrecking and salvage requires one parking space per 333 square feet of office or retail sales area, plus one space per 2,000 square feet of building floor area used for warehousing of salvaged parts; plus one per 43,500 square feet of outdoor storage area. The site should provide approximately 11 paved (concrete, asphaltic concrete, asphalt or other comparable surface) parking spaces (two for the approximately 800-plus square-foot office, one space for the warehouse and eight for the outside storage area).

The applicant will have to remove existing wrecked vehicles located within 150 feet of Hoover or request a waiver from the City Council. The chain-link fence will need to be replaced with code compliant screening.

CASE HISTORY: The property's LC zoning was established in 1958 as part of an area-wide extraterritorial zoning action. The SF-5 zoning was established in 2000 when the property was annexed by the City of Wichita.

ADJACENT ZONING AND LAND USE:

North: SF-5; single-family residences, non-conforming salvage and wrecking yard

South: LC and SF-5; single-family residences, an RV

East: LC and SF-20; private airport, approved for PUD-35 that permits a variety of uses, mining, airstrip, office, residential and commercial subject to platting

West: SF-20; private lake

PUBLIC SERVICES: The segment of North Hoover Road that fronts the application area has approximately 30 feet of half-street frontage. It does not appear that the site is served by public sewer or water services.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" depicts the site as being 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.

RECOMMENDATION: Based upon the information available at the time this report was prepared, it is recommended that the request be approved subject to platting within one year and the following conditions

1. The Conditional Use permits a vehicle wrecking/salvage yard.
2. The site shall be developed, operated and maintained in compliance with UZC, Art III, Sec. III-D.6.e; the conditions of approval contained in the Conditional Use and all other applicable codes, regulations or licenses, including, but not limited to the Unified Zoning Code, fire, health and environmental regulations.
3. Within six months of final approval, code required screening shall be installed (Sec. IV-B.3.h) and shall be maintained. At the time of approval, screening along the west property line and the easternmost 515 feet of the site's northern property line was either missing or not in compliance.
4. If not present at the time of final approval, the applicant shall provide at least 11 paved parking spaces within six months of final approval.

5. Stored materials, containers or bales shall be stored on a surface approved by the Office of Central Inspection.
6. If necessary, a revised site plan addressing the conditions of approval shall be submitted for Planning Director's consideration within 60 days of final approval.
7. Storage of all of vehicles shall be organized and be maintained in an orderly manner, including an exposed perimeter, as specified by Environmental Services to prevent rodent harborage and breeding. Inoperable vehicles or any other materials associated with the wrecking and salvage activities shall not be stacked, stored or piled higher than the screening required to hide the vehicles or material from ground level view.
8. The applicant shall maintain at all times an active program for the eradication and control of rodents.
9. Weeds shall be controlled within the subject property and adjacent to and along the outside perimeter of the screening fence.
10. Any locking devices on entrance gates shall meet Fire Department requirements. Access to and within the site shall be provided by fire lanes per the direction and approval of the Fire Department.
11. Access to the subject property shall be provided for on-going inspections of the site for groundwater and soil contaminants by Environmental Services and other applicable governmental agencies. If the inspections determine it to be necessary, the applicant shall be required to install monitoring wells and/or perform soil testing on the property to monitor the quality of groundwater and/or soil, and shall pay the cost of an annual groundwater and/or soil test for contaminants as designated by the Environmental Services.
12. Notification shall be given to Environmental Services of any on-site storage of fuels, oils, chemicals, or hazardous wastes or materials. A disposal plan for fuels, oils, chemicals, or hazardous wastes or materials shall be placed on file with Environmental Services. All manifests for the disposal of fuels, oils, chemicals, or hazardous wastes or materials must be kept on file at the site and available for review by the Environmental Services.
13. 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.

This recommendation is based on the following findings:

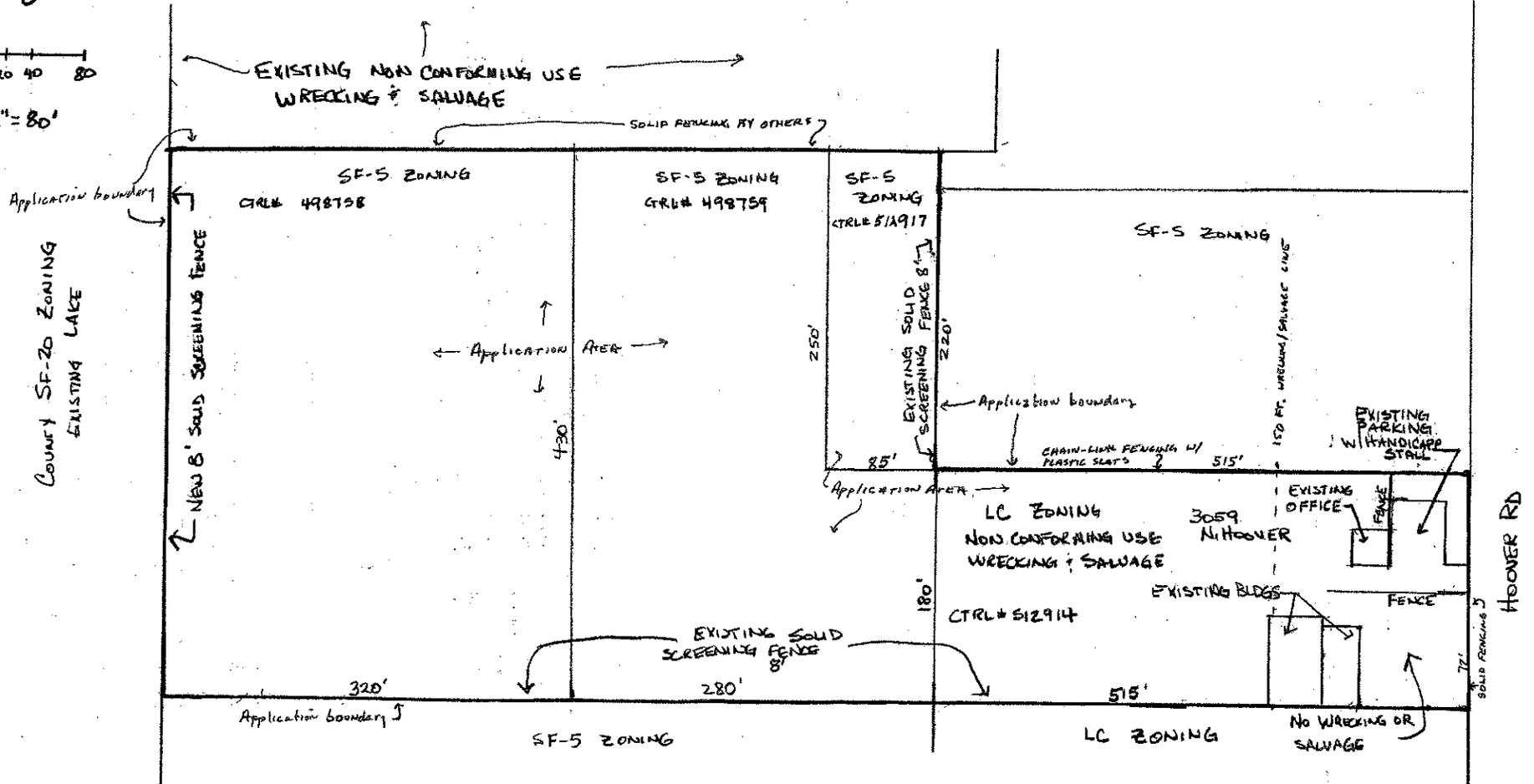
1. The zoning, uses and character of the neighborhood: Properties surrounding the application area are zoned SF-5, SF-20 Single-family Residential (SF-20) and LC. The SF-20 zoned land located to the east of Hoover Road, is in Sedgwick County, and has been approved for PUD-35, which once perfected, would allow a wide range of uses: airstrip, residential, office and commercial. Mining is permitted on the land to the east of Hoover with the submission of a preliminary plat. A preliminary plat has been submitted. Land to the north of the application area appears to be developed with a non-conforming wrecking and salvage yard. There is a single-family residence, with frontage along Hoover that is located immediately north of the application areas existing office, and east of the northern half of the eastern end of the application area. The property located to the west is located in Sedgwick County, and is a completed sandpit that is now a private lake.

Property located south of the application is developed with some single-family residences and an RV.

2. The suitability of the subject property for the uses to which it has been restricted: The property is developed and operating as a nonconforming vehicle wrecking and salvage yard. The site could continue to operate within its present area; however, the applicant has a much larger ownership and could process a larger volume of vehicles if the request were to be approved.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The subject site has been used as a wrecking and salvage yard since 1968, and could continue to operate within the bounds of the code's nonconforming perimeters. Approval of the request will add reasonable site specific development standards to the site and use, which should reduce impacts on adjoining property owners.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Wrecking and salvage operations perform a needed service in responsibly disposing of inoperable vehicles. Denial would confine the applicant to operations consistent with its nonconforming situation and prevent the use from growing, which would presumably represent a loss of economic opportunity.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" depicts the site as being 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. The request does not conform to the designation found on the land use guide.
6. Impact of the proposed development on community facilities: Approval of the request should not impact community facilities to any greater extent than the existing nonconforming use.

SITE PLAN

SAND LIAN IRON and METAL
 3059 N. HOOPER RD WICHITA 67205



20N 2014-03 + CON 2014-11
 MAP 4-10-14
 REV 3-17-14

FERRIS CONSULTING

PO BOX 573 WICHITA, KS 67201
PHONE 316-516-0808 FAX 316-722-9799

February 28, 2014

John Schlegel, Director
Metropolitan Area Planning Department
City Hall, 10th Floor
455 N. Main
Wichita, KS 67202

RE: Rezoning the Property Located at 3059 N. Hoover from LC to LI and a Conditional Use for Wrecking/Salvage and rezoning three adjacent parcels from SF-5 to LI and a Conditional Use for Wrecking/Salvage.

Dear John:

The property located at 3059 N. Hoover is currently zoned LC and used as a wrecking and salvage operation as a non-conforming use. This property has been used for this operation since it was annexed into the City in 2001. The operator of the wrecking and salvage operation would like to add the three parcels directly to the west of this property into the operation and bring the non-conforming status into conformity with the zoning regulations.

The area is a mix of commercial, industrial, and residential uses. The property to the east is zoned LC and is an airport. The property to the south is zoned LC and SF-5. While the property north of the proposed additional wrecking and salvage operation is zoned SF-5 it is also a non-conforming wrecking and salvage operation. The property to the west is zoned SF-20 but is a lake that's bank abuts the proposed new operation.

The operator will conform to the standards for a wrecking and salvage operation. This will bring the site into conformity and improve the City's ability to oversee the wrecking and salvage operation. A non-conforming wrecking and salvage operations to the north immediately abuts the area requested for a new operation.

The new area for wrecking and salvage is not adjacent to an arterial and complies with UZC Section III D. (e) (1). The existing salvage operation is seventy five feet from Hoover Road and will continue to take place behind the office area. There is an existing eight foot solid screening fence along the south property line.

The site conforms to the requirements of the Unified Zoning Code for approval as follows:

- **The zoning, uses and character of the neighborhood:** The area is mixed use with some industrial uses including existing wrecking and salvage operations. While there is existing residential property to the south and part

- of the north the current wrecking and salvage operations has been in existence for many years.
- **The suitability of the subject property for the uses to which it has been restricted:** The site is not suitable for residential development. The property has no access to Hoover except through the existing wrecking and salvage operation. The site is surrounded by wrecking and salvage operations and will not be developed as residential.
 - **The extent to which removal of the restrictions will detrimentally affect nearby property:** The adjoining properties have existed next to a wrecking and salvage operation for many years. With adequate screening and landscaping of these properties the request will have no additional affect.
 - **The length of time the subject property has remained vacant as zoned:** The property has been vacant at least since it was annexed into the City in 2000.
 - **The relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** The current non-conforming status will be removed and that will be a gain to the public welfare. The additional ground will allow the wrecking and salvage operation to be better managed; also a gain to public welfare. The hardship on the applicant if the request is denied will be severe as the property does not have access or another use.
 - **Impact of the proposed development on community facilities:** Hoover is a paved arterial. The non-conforming use will still exist whether the application is denied or approved. There will be no additional impact on community facilities from the proposed development.

This request complies with the provisions of the Zoning Code for approval. The owners request that the Planning Staff recommend approval of this request and forward it to the Planning Commission for their approval. Please let me know if you have any questions.

Sincerely,



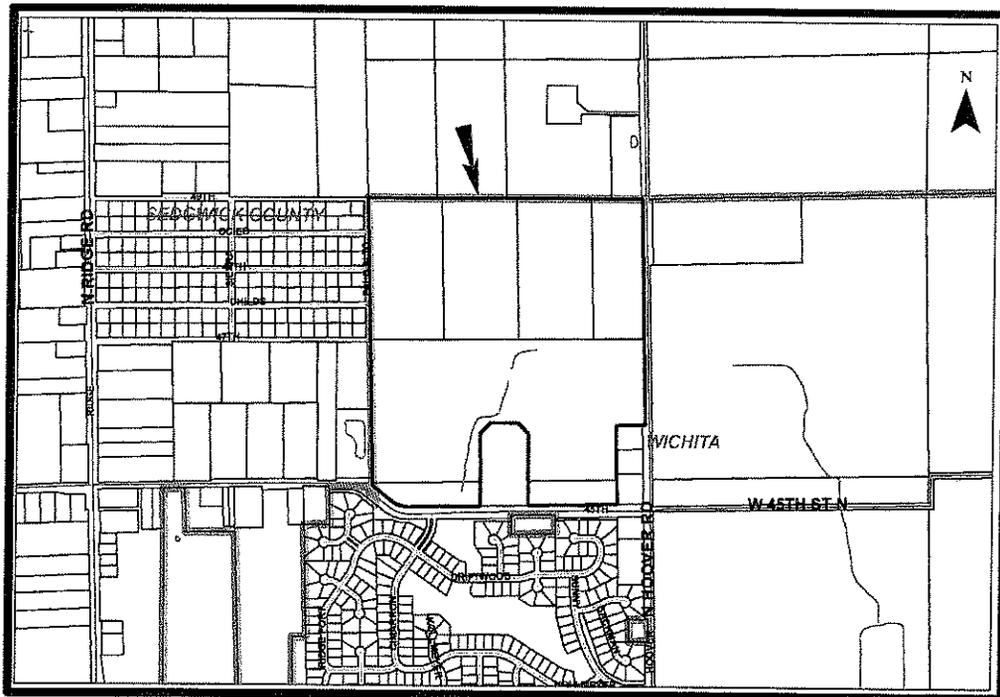
Gregory Ferris

STAFF REPORT

MAPC April 10, 2014

DAB VI, April 7, 2014

- CASE NUMBER:** CON2014-00012
- OWNER/AGENT:** R & M Real Estate, LLC, c/o Jay Russell (owner) Baughman Company, PA, c/o Russ Ewy (agent)
- REQUEST:** Conditional Use to permit “Mining or Quarrying,” specifically the extraction and removal of sand from the site
- CURRENT ZONING:** SF-5 Single-Family Residential
- SITE SIZE:** Approximately 160-acres
- LOCATION:** Generally located north of 45th Street North and west of Hoover Road
- PROPOSED USE:** Extraction of sand



BACKGROUND: The applicant is requesting a Conditional Use to allow “Mining or Quarrying”, specifically the extraction and removal of sand from the approximately 160-acre, SF-5 Single-Family Residential zoned, unplatted tract. The Unified Zoning Code (UZC), allows consideration of mining or quarrying as a Conditional Use in the SF-5 zoning district; UZC, Sec.III-D.6.gg. If approved, the Conditional Use would permit the excavation and removal of sand from the site.

The applicant’s site plan shows a Phase 1 and Phase 2 pumping areas, as well as the plant location off of Hoover Road. The applicant has provided the following operational details:

- Daily Hours of Operation: Open to public and contractors – 7:00 am to 5:00 pm. Internal operations/pumping – 6:00 am to sunset (per code). The site will be open seven days a week.
- Operations will be staggered into two phases, with both phases operating for a maximum of 8 years each, for a total of 16 years, from the date operations commence. NOTE: It may be two years before they start pumping and it may be two months before they strip topsoil.
- The recycling area, as shown on the site plan, will be for stockpiling clean fill material to be used as needed.
- Aggregate stock piles will be located near the plant site along Hoover Road.
- The plant site will occupy a 400-foot by 400-foot area (roughly 3.7-acres) on the north side of the existing hedge (currently running east-west, located midway on the subject property) with access onto Hoover Road (a paved to a two-lane arterial). All fuel storage and equipment storage will be within this area.
- The applicant has stated that the proposed sand extraction could generate between 80 and 160 trucks per day.

The applicant’s site plan shows single-family residential development around the sand pit lake after the conclusion of the extraction operation.

The SF-5 zoned site is located approximately one-mile west of the Arkansas River in a City-County area that is a mix of agricultural land, single-family residences, active sand extraction operations, single-family residential development built around sand pit lakes and inactive sand pit lakes. Properties located north and northwest of the site are SF-20 Single-family Residential zoned agricultural lands, single-family residences and a small sand pit lake with a single-family residences built around it (CON2000-00013; sand extraction). Approximately a ½-mile north of the site, across 53rd Street North, between the Arkansas River and Ridge Road, there are four large sand pit lakes, three appear to be active extraction operations, with the remaining one retired with a single-family residences built on its banks; CON2000-00012, CU-329, CU-346 and CU-343. SF-20 large tract single-family residences and a SF-20 zoned urban scale subdivision are located west of the site, including a single-family residence built around a small sand pit lake (CU-375; sand extraction). Abutting the southeast portion of the site (Hoover Road and 45th Street North intersection) are undeveloped LC Limited Commercial zoned properties. East of the site, across Hoover Road, there are three sand pit lakes, the SF-20 zoned north one has two single-family residences located around it, the SF-20 zoned middle one appears to be retired with no development around it (CU-432; sand extraction) and the SF-5 zoned south one is still

operating (CON2004-00045). SF-5 zoned agricultural land and the Brooks solid waste landfill are also located east of the site, across Hoover Road. A finger of SF-5 zoned property with a single-family residence is located on the south end of the proposed sand extraction site, and (Phase I on the site plan) is enclosed on its north, west and east sides by the subject site. A SF-5 zoned single-family subdivision built around sand pit lakes (CU-288 and CU-377; sand extraction) is located south of the site, across 45th Street North, as is a SF-20 zoned single-family residence. There are also undeveloped LC zoned lands, LC zoned single-family residences, SF-20 zoned single-family residences and agricultural land located south of the site, across 45th Street North. More sand pit lakes (active or inactive sand extraction operations) are located further south, across K-96 highway, of the site. The site is located over the Equus Beds

CASE HISTORY: The unplatted property is zoned SF-5.

ADJACENT ZONING AND LAND USE:

NORTH: SF-20	Farmhouse, agricultural land, single-family residence built around a sand pit lake
SOUTH: LC, SF-20	Single-family residences built around a sand pit lake, agricultural land, undeveloped land, single-family residences
EAST: LC, SF-20, SF-5	Undeveloped land Single-family residences built around a sand pit lake, sand pit lake, sand extraction, agricultural land, landfill
WEST: SF-20	Single-family residences, single-family residence built around a sand pit lake, agricultural land

PUBLIC SERVICES: All utilities are available to this site. Access to the site is proposed to be off of Hoover Road, a two-lane arterial road, with 60 feet of full right-of-way.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this property as “urban development mix,” which is defined as land that is likely to be developed in the next 30-years with uses predominately found in the “urban residential use” category. However there is likelihood that concentrations or pockets of “major industrial uses,” “local commercial uses” and “park and open space uses” may also be developed in this area. The urban development mix category is an area waiting for development trends. The proposed sand extraction operation (which the UZC classifies as an Industrial, Manufacturing, Extractive Use) and the proposed single-family residential development around the sand pit lake after the conclusion of the extraction operation both fit into the “urban development mix.”

The site is zoned SF-5. The UZC, allows consideration of mining or quarrying as a Conditional Use in the SF-5 zoning district; UZC, Sec-III-D.6.gg. Sec-III-D.6.gg. has 23 supplementary conditions for a mining and quarrying Conditional Use. The SF-5 zoning district is generally compatible with the Comprehensive Plan’s “urban development mix.”

Land Use-Industrial Strategy IV.A.1 recommends protecting industrial areas “from encroachment or expansion of residential land uses by requiring appropriate buffers for expansion of the

residential use when a nuisance situation is likely to be created.” The Industrial Locational Guidelines recommend:

- (1) Industrial areas should be located in close proximity to support services such as major arterials, truck routes, highways, utilities trunk lines, rail spurs, and airports and as extensions of existing industrial uses. The site has access onto Hoover Road, an arterial street.
- (2) Industrial traffic not to feed directly into local streets in residential areas. The site has access onto Hoover Road, an arterial street, which will direct its traffic away from the area’s few local streets. Because of the area’s numerous active and retired sand extraction operations, the area’s local streets are confined to two single-family residential subdivisions: a SF-5 zoned subdivision consisting of two streets leading in and out of its cul-de-sac confinement, and; a SF-20 zoned subdivision with through residential streets.
- (3) Located away from existing or planned residential areas, and site so as not to generate industrial traffic through less intensive land use areas. The Conditional Use for sand extraction will generate industrial traffic (primarily dump trucks) through an area that is a mix of agricultural land, single-family residences, active sand extraction operations and single-family residential development built around sand pit lakes.

RECOMMENDATION: The request would permit 16-years of industrial use (sand excavation and removal) to provide the greater community with an essential material needed for concrete, which is required for residential, commercial, and industrial development, maintenance and repair. Its subsequent single-family residential development around the sand pit lake after the conclusion of the extraction operation is a common pattern in the area. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. All 23 supplementary conditions of Sec-III-D.6.gg., of the Unified Zoning Code will be met.
2. Daily Hours of Operation: Open to public and contractors – 7:00 am to 5:00 pm. Internal operations/pumping – 6:00 am to sunset (per code). The site will be open seven days a week.
3. Phase 1 and Phase 2 will both pump for a maximum of 8 years each, for a total of 16 years total, from the date operations commence. It may be two years before the start of pumping and it may be two months before they strip topsoil, thus the date of the start of the extraction and removal of sands (operations) from the site will be the date the MABCD permits the operations. The applicant will forward that permit date to the MAPD for the case file.
4. The recycling area, as shown on the site plan, will be for stockpiling clean fill material to be used as needed.
5. Aggregate stock piles will be located near the plant site along Hoover Road.
6. The plant site will occupy a 400-foot by 400-foot area (roughly 3.7-acres) on the north side of the existing hedge (currently running east-west, midway on the subject property) with access onto Hoover Road (paved to a two-lane County standard). All fuel storage and equipment storage will be within this area.
7. If the Zoning Administrator finds that there is a violation of any of the conditions of this

Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

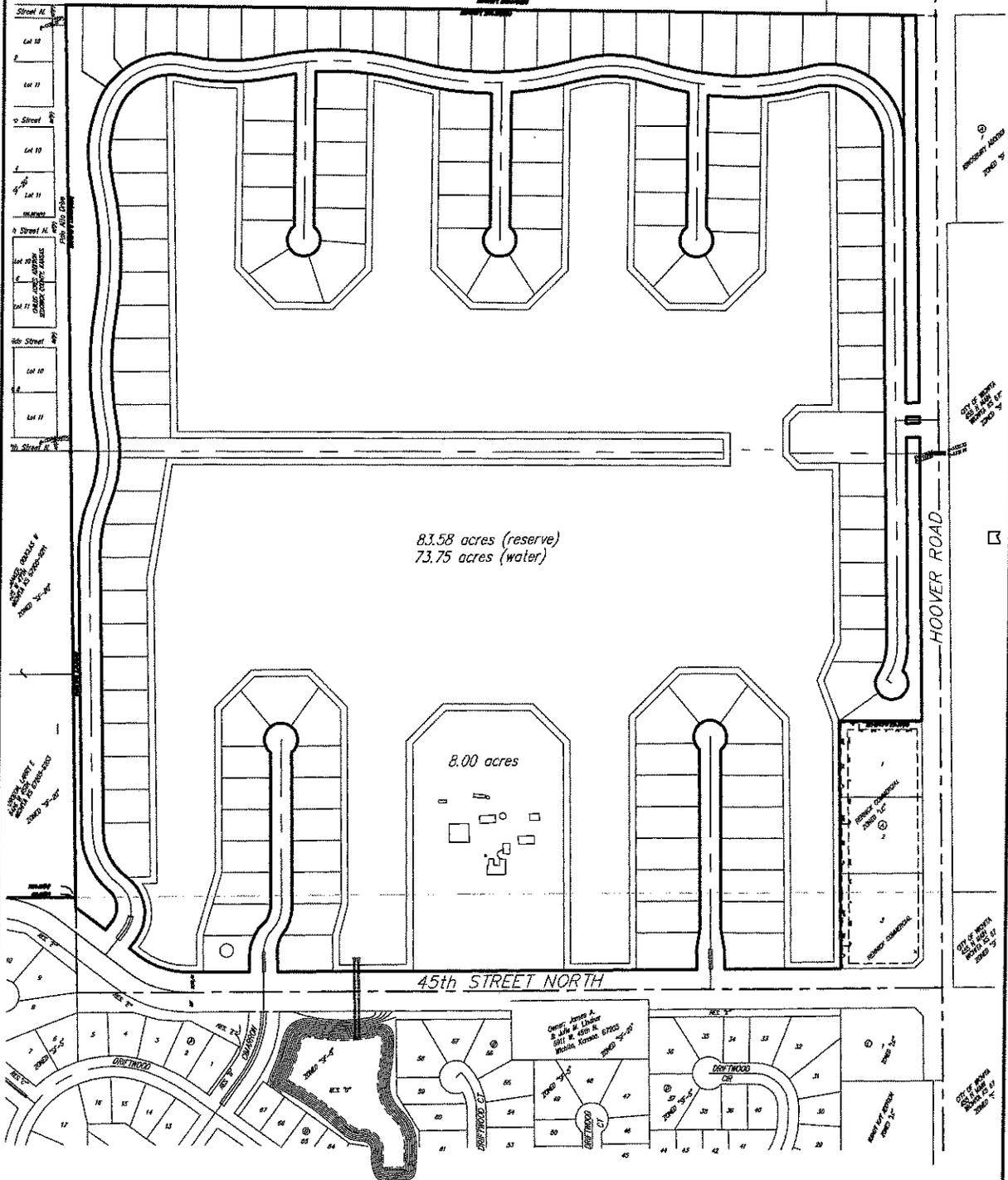
The staff's recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The area is a mix of SF-5, SF-20 and LC zoned agricultural land, single-family residences, active sand extraction operations, single-family residential development built around sand pit lakes, undeveloped retired sand pit lakes and undeveloped commercial properties.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned SF-5, which is meant to accommodate low to moderate density single-family residential development. The excavation and removal of sand (mining and quarrying) can be considered as a Conditional Use in the SF-5 zoning district on a site by site review.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** An increase in truck traffic, soil erosion and blowing dust are a given. However, the area is dominated by active sand extraction operations or retired sand extraction operations that have no development around them or low density to moderate density single-family residential development built around them, as well as agricultural land or small undeveloped commercial land in the area. The proposed use is not out of character with the area.
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 identifies this property as "urban development mix," which is defined as land that is likely to be developed in the next 30-years with uses predominately found in the "urban residential use" category. However there is likelihood that concentrations or pockets of "major industrial uses," "local commercial uses" and "park and open space uses" may also be developed in this area. The "urban development mix" category is an area waiting for development trends. The proposed sand extraction operation (which the UZC classifies as an Industrial, Manufacturing, Extractive Use) and the proposed single-family residential development around the sand pit lake after the conclusion of the extraction operation both fit into the Urban Development Mix.

The site is zoned SF-5. The UZC, allows consideration of mining or quarrying as a Conditional Use in the SF-5 zoning district; UZC, Sec-III-D.6.gg. Sec-III-D.6.gg. has 23 supplementary conditions for the mining and quarrying Conditional Use. The SF-5 zoning district is generally compatible with the Comprehensive Plan's "urban development mix." The site meets the Industrial Locational Guidelines.
5. **Impact of the proposed development on community facilities:** The primary impact of the proposed use is an increase in heavy truck traffic onto Hoover Road.

Drawn: Nancy S. Hogg (Landscape Architect)

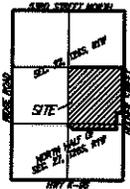
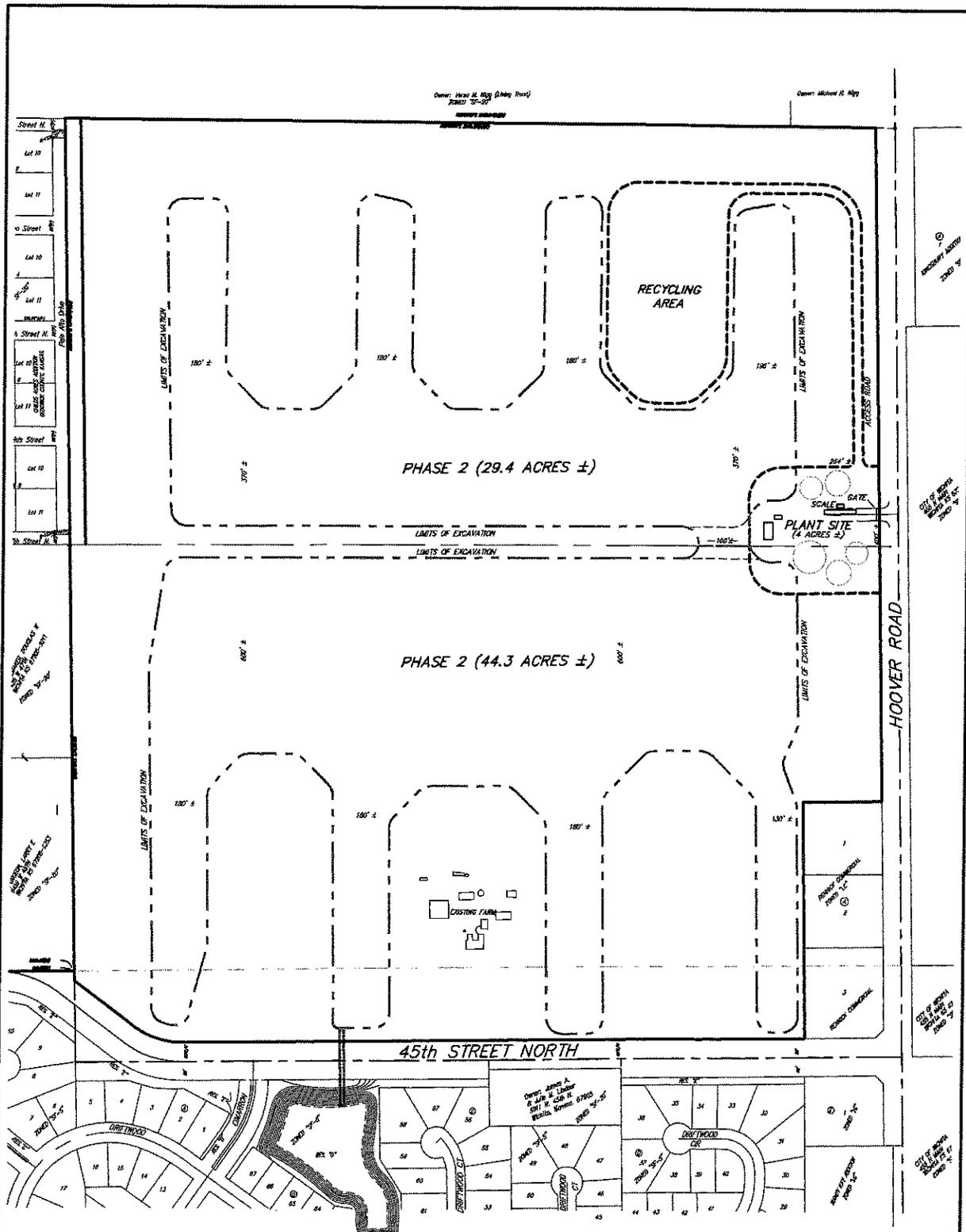
Drawn: Michael R. Hogg



SCALE: 1" = 300'

**CONDITIONAL USE CON2014-12
REDEVELOPMENT PLAN**
NORTHWEST CORNER - 45TH STREET N AND HOOVER





VICINITY MAP



SCALE: 1" = 300'

**CONDITIONAL USE CON2014-12
OPERATIONAL PLAN**
NORTHWEST CORNER - 45th STREET N AND HOOPER



CASE NUMBER: CON2014-13

APPLICANT/AGENT: Spilled Wine LLC/PEC (agent)

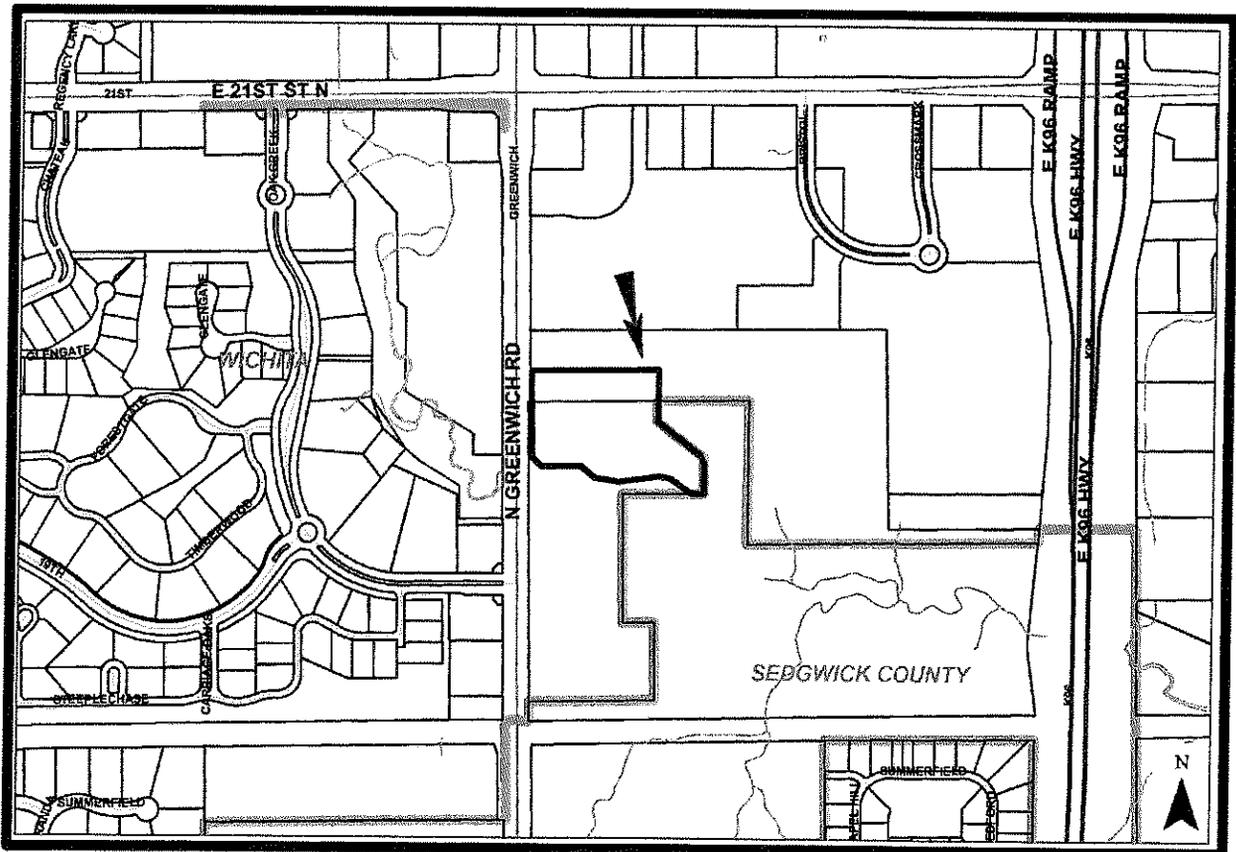
REQUEST: Conditional Use for an Accessory Apartment

CURRENT ZONING: SF-5 Single-family Residential

SITE SIZE: 6.3 acres

LOCATION: East of North Greenwich Road and south of 21st Street North

PROPOSED USE: Accessory Apartment



BACKGROUND: The applicants request a Conditional Use for an “accessory apartment” on property zoned SF-5 Single-family Residential, the site is located on the east side of North Greenwich Road and south of 21st Street North. The property is currently developed with a single-family residence and two accessory structures on the 6.3-acre site. As shown on the site plan, the applicant proposes to demolish the existing residence and accessory structures and replace with a new residential structure, accessory apartment structure and an L-shaped accessory building. The existing drive access from Greenwich Road will remain and the drive lane will be modified to provide access to the new structures.

The property immediately north of the site is zoned LC with limited development. Property east and south of the site is zoned SF-5 and SF-20 and are undeveloped at this time. Abutting the site to the west is Greenwich Road right-of-way; further west is LC Limited Commercial zoned vacant land.

The Wichita-Sedgwick County Unified Zoning Code (“UZC”) defines an “accessory apartment” (Art. II.Sec. II-B.1.b) as a dwelling unit that may be wholly within, or may be detached from a principal single-family dwelling unit. Accessory apartments are also subject to supplementary use regulation Art. III.Sec.III-D.6.a (1) a maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling unit that may be within the main building, within an accessory building or constructed as an accessory apartment; (2) the appearance of an accessory apartment shall be compatible with the main dwelling unit and with the character of the neighborhood; (3) the accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling unit, and the ownership shall not be divided or sold as a condominium and (4) the water and sewer service provided to the accessory apartment shall not be provided as separate service from the main dwelling. Electric, gas, telephone and cable television utility service may be provided as separate utility services.

The SF-5 zoning district property development standards call for a minimum rear setback of 20 feet for principal structures; however, accessory structure rear building setback (Sec. III-D.7.e(1)) shall be at least ten feet from the centerline of any platted or dedicated alley, and if no alley exists, then five feet from the rear lot line; accessory structures may be within three feet of a side lot line if on the rear half of the property. Accessory structures may not utilize more than one-half of any required rear yard, and shall not exceed 60 percent of the allowable height limit for the zoning district unless the accessory structure conforms to principal structure setback requirements. The SF-5 zoning district maximum height is 35 feet, 60 percent of which is 21 feet. The UZC parking standards require one off-street parking space per single-family residence and one per accessory apartment. The submitted site plan appears to conform to UZC requirements, except that the proposed building height is unknown.

CASE HISTORY: The subject property was part of CUP2004-30 DP-277 and associated city case ZON2004-35 and county cases CUP2004-29/ZON2004-34 designating the property to be zoned LC contingent upon platting. Multiple extensions were requested to complete the platting; however, a plat perfecting the LC zoning was never provided. Therefore, CUP2004-30/ZON2004-35 (City) and CUP2004-29/ ZON2004-34 (County) were ruled null and void. A new plat SUB2013-41 was filed and perfected on December 19, 2013 and annexed into the City limit as SF-5 zoning district.

ADJACENT ZONING AND LAND USE:

NORTH:	LC, SF-5	Single-family residence, farming/ranching operation, fast food restaurant
SOUTH:	SF-5, SF-20	Single-family residence
EAST:	SF-5, SF-20	Vacant
WEST:	LC	vacant, commercial

PUBLIC SERVICES: The property is serviced by all publicly supplied municipal services. North Greenwich Road is a paved arterial street at this location with 120 feet of right-of-way.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide map depicts this site as “regional commercial.” The “regional commercial” category encompasses major destination areas (centers and corridors) containing concentrations of commercial, office, and personal service uses that have predominately regional market areas and high volumes of retail traffic. These areas are located in close proximity to major arterials or freeways. The range of uses includes major retail malls, major automobile dealerships and big box retail outlets with a regional market draw. Regional Commercial areas may also include residential housing and uses typically found in Local Commercial areas.

RECOMMENDATION: The surrounding area has a mixture of commercial and residential land uses. This lot is deeper than average city lots, and therefore has enough room to accommodate the accessory apartment and associated parking. Existing tree growth on the site partially screens the accessory apartment from neighboring properties. Based on information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

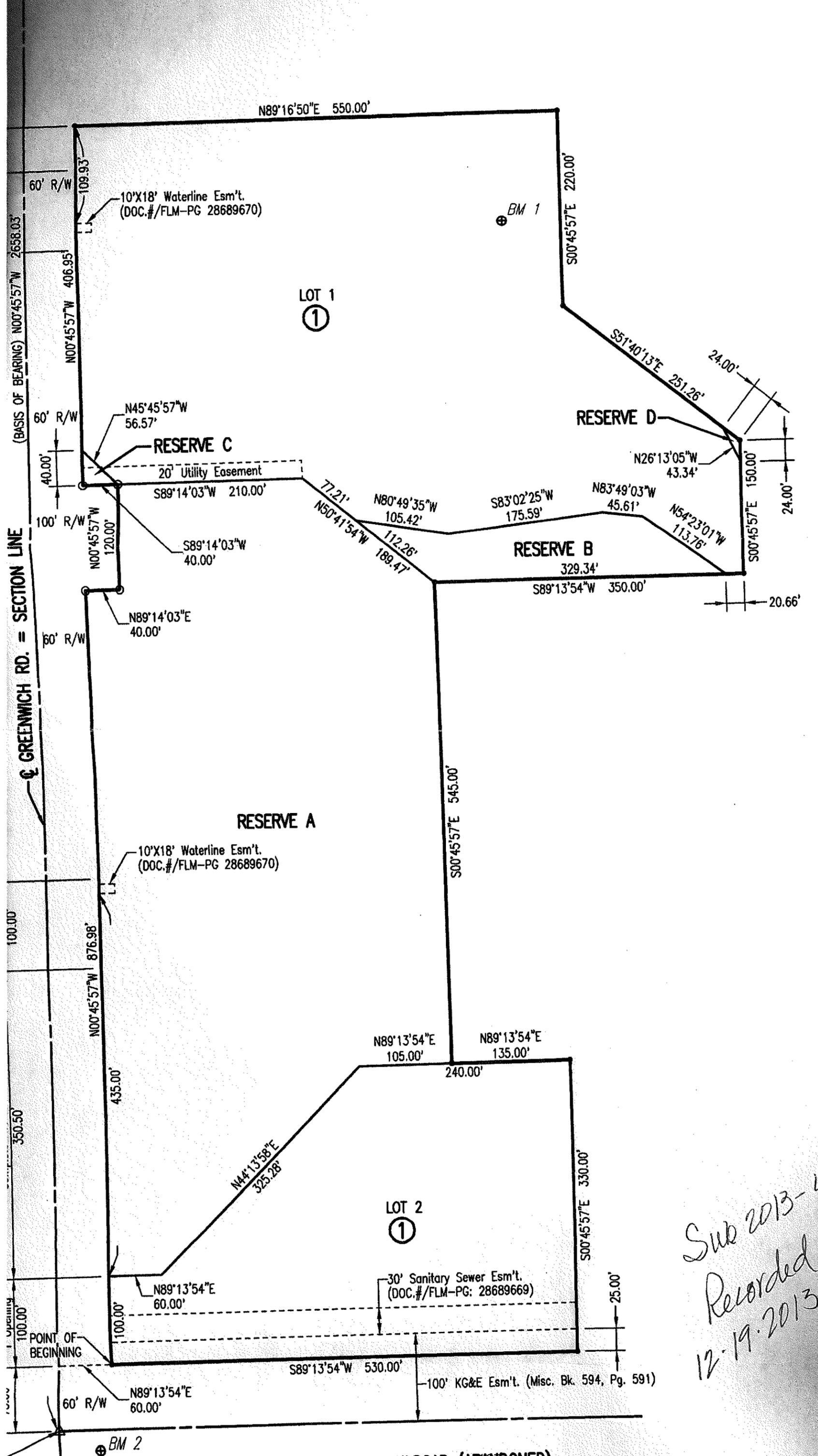
1. The Conditional Use permits one single-family accessory apartment on the site. The site shall be developed and maintained in general conformance with the approved site plan, the approved elevation drawing, and in conformance with all applicable regulations, including but not limited to: local zoning, including Article III, Section III-D.6 .a.(1)-(4); building, fire and utility regulations or codes.
2. The applicant shall submit an elevation drawing to be approved by planning staff, demonstrating dimensions and exterior materials.
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 Article VII hereof, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property immediately north of the site is zoned LC with limited development, east and south of the site is zoned SF-5 and SF-20 which are undeveloped at this time. Abutting the site to the west is Greenwich Road right-of-way; further west is LC Limited Commercial zoned vacant land.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned SF-5 which permits the existing single-family residence. The property could continue to be used for one single-family residence; the depth of the property easily accommodates an accessory apartment and the additional required parking space.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request should not detrimentally impact nearby properties. The accessory apartment site is well screened from neighboring lots. The conditions of approval should minimize any anticipated detrimental impacts.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide map depicts this site as “regional commercial.” The “regional commercial” category encompasses major destination areas (centers and corridors) containing concentrations of commercial, office, and personal service uses that have predominately regional market areas and high volumes of retail traffic. These areas are located in close proximity to major arterials or freeways. The range of uses includes major retail malls, major automobile dealerships and big box retail outlets with a regional market draw.

Regional Commercial areas may also include residential housing and uses typically found in Local Commercial areas.

5. Impact of the proposed development on community facilities: If this request is approved, the site is served by municipal services that are able to accommodate projected demand created by this request.



*Sub 2013-41
 Recorded
 12-19-2013*

N CROSSMARK PL

N TERVIS CT ST

N GREENWICH RD

N DARK CREEK PKY

N HAZEL ST

N PURCHASE ST

BACKGROUND: The application area is Parcels 1 and 13 of the Westway Shopping Center Community (CUP) DP-21 located at the southwest corner of the intersection of West Pawnee Road and South Seneca Street. Parcels 1 (11.36 acres) and 13 (6.90 acres) are zoned LC Limited Commercial (LC) subject to the development standards contained in CUP DP-21. The application area is developed with several thousand square feet of shopping center and a large parking lot. Uses permitted on both parcels include: shopping center and associated tires, batteries and accessory stores, supermarket, financial institutions, offices, personal services, retail sales as permitted by the base zoning, vocational school and restaurant. The applicant has requested the following use be added to the list of permitted uses “Outdoor entertainment, in the form of carnival rides, games and concessions, shall be allowed for a period of 14 consecutive days between the dates of March 1st and April 30th and for an additional 14 consecutive days between the dates of October 1st and November 30th each year. Owner to obtain all necessary licenses and permits.”

For several years, the shopping center has allowed a carnival to operate in the parking lots located in the application area. Recently it came to the attention of the carnival operator that the center was not properly zoned to permit a carnival. With the permission of the property owner, the carnival operator has retained an agent to file this request to operate a carnival for up to 14 days, twice a year on Parcels 1 and 13 of the Westway Shopping Center. (If approved, hours of operation for a given day will be regulated by the Community Event Permit.)

Community Unit Plan DP-21 contains 14 parcels. The following uses are permitted in all of the parcels not associated with the current application: offices, personal services and retail sales as permitted by the base zoning. Some of the parcels not associated with this request also permit restaurants and financial institutions. Nearly all of CUP DP-21 is zoned LC except for a narrow border along the west and south side of the CUP that is zoned GO General Office.

All of the parcels located immediately to the east (Parcels 5-12) and west (Parcels 2A, 2B, 3 and 4) of the application area are located within DP-21, and are part of the Westway Shopping Center. The parcels located within DP-21, but not included in the application area are primarily zoned LC, subject to the development standards contained in DP-21, and are developed with a bank, restaurants, post office or are vacant. Properties located south of the shopping center, across Crawford Street, are zoned SF-5 Single-family Residential (SF-5), and are developed with single-family residences. Land located north of the site are zoned LC except for one ownership that is zoned B Multi-family Residential (B) and SF-5. The LC zoned properties located to the north are developed with a variety of commercial, retail and restaurant uses. The B and SF-5 zoned property is developed with a church.

CASE HISTORY: On November 5, 1957, the Board of City Commissioners (today’s City Council) approved Z-0029, which was a zone change from the AA (today’s SF-5 Single-family Residential), RB (today’s MF-29 Multi-family Residential) and LC districts to the BB (today’s GO General Office) and LC districts. On July 1, 1975, the Board of City Commissioners approved Z-1698, which was a zone change from the BB (today’s GO) and LC districts to the R-6 (today’s MF-29) district. However, case number Z-1698 was ultimately denied and closed due to failure to plat the property. Board of Zoning Adjustment case BZA 14-84 granted a “use exception” to permit a nursery and garden center. On June 11, 1985, the Board of City Commissioners approved an amendment to DP-21 that created individual parcels for buildings fronting Seneca Street and Pawnee Road, and zone change Z-2687, BB (today’s GO) to LC. In 1986 an administrative interpretation was granted to allow the construction of a canopy within the 90-foot building setback located along Seneca Street. Vacation case V-2037 (June 12, 1997) vacated a portion of a platted 90-foot building setback. On July 21, 1997, an administrative adjustment to Parcel 10 permitted an automatic teller machine within the aforementioned vacated platted building setback. On April 29, 1998, an administrative adjustment was approved to reduce the building setback from 90 feet to 29 feet on

Parcel 11. On August 24, 1998, an administrative adjustment to reduce the building setback from 90 feet to 30 feet on Parcel 1 was approved. Another administrative adjustment was approved that reduced the building setback from 90 to 2 feet for another portion of Parcel 1. On September 13, 1999, an administrative adjustment was approved to permit the relocation of a “nursery and garden center” on Parcel 1. On January 5, 2001, an administrative adjustment was approved to divide the original Parcel 2 into two parcels, Parcels 2A and 2B, and to establish the development standards associated with the two parcels. On August 19, 2003, an administrative adjustment was approved to permit a “vocational school” on Parcel 1. On November 26, 2003, an administrative adjustment to add “restaurant” to the list of permitted uses on Parcel 1, and to reduce building setbacks on Parcels 1, 5, 6, 7, 8, 9, 10, and 11 to 35 feet to correspond with VAC2003-00048 that reduced a platted setback located on the same parcels just noted.

ADJACENT ZONING AND LAND USE:

North: LC, B, SF-5; a variety of commercial, retail and restaurant uses, church
South: SF-5; single-family residential
East: LC; a variety of commercial, retail and restaurant uses, church
West: SF-5; single-family residential

PUBLIC SERVICES: The site is served by all municipal and franchise facilities. Both South Seneca and West Pawnee are paved four-lane arterial streets. The Pawnee Avenue and Seneca Street intersection carries on an average day 18,000 to 22,400 vehicle trips.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” depicts the site as appropriate for “local commercial” uses. The local commercial category encompasses areas that contain concentrations of predominately commercial, office and personal services uses that do not have a significant regional market draw. The range of uses include: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. On a limited presence basis, these areas may also include mini-storage warehousing and small-scale, light manufacturing uses.

RECOMMENDATION: Based upon the information available at the time this report was prepared, it is recommended to approve the request and add the following language: “Outdoor entertainment, in the form of carnival rides, games and concessions, shall be allowed for a period of 14 consecutive days between the dates of March 1st and April 30th and for an additional 14 consecutive days between the dates of October 1st and November 30th each year. All required permits or licenses shall be obtained prior to the placement or installation of any equipment associated with carnival rides, games or concessions.”

The recommendation is subject to the following conditions:

1. The amendment permits on Parcels 1 and 13 of DP-21: outdoor entertainment, in the form of carnival rides, games and concessions that shall be allowed for a period of 14 consecutive days between the dates of March 1st and April 30th and for an additional 14 consecutive days between the dates of October 1st and November 30th each year. All required permits and licenses, including but not limited to a Community Event Permit and temporary building permits, shall be obtained prior to the placement or installation of any equipment associated with carnival rides, games or concessions, except the number of days for the use(s) permitted by this amendment shall be controlled by the CUP and not by UZC Sec. III-B.14.e(4). Required inspections shall be obtained prior to opening the carnival rides, games and concessions to the public.
2. The amendment does not permit, without proper approval, the display, sales or storage of vehicles, equipment or other merchandise not typically associated with carnival rides, games and

concessions. However, nothing in this condition is to prohibit the outdoor display, sale or storage of merchandise customarily offered for sale by businesses occupying Parcels 1 and 13 of DP-21 provided any such activities are legally conducted and have been properly reviewed and approved as may be required by any applicable codes or regulations.

3. No temporary equipment, trailers, buildings or appurtenances shall be located within any setbacks or easements.
4. Restroom facilities for employees must be provided and may be provided by agreement with a permanent use in the center upon approval of the Superintendent of Central Inspection. Portable bathroom facilities are permitted only with the approval of the MABCD.
5. All uses approved by this CUP shall be located on paved surfaces.
6. The use of outdoor speakers or amplifiers is permitted so long as they are used in conformance the City's noise ordinance.
7. As a condition of obtaining the required permits for the uses permitted by this amendment, the applicant shall demonstrate that enough parking remains to serve permanent uses located on the site once the carnival rides, games and concessions have been located on the site.
8. The transfer of title of all or any portion of the land included within the CUP does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
9. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.
10. If the Zoning Administrator finds that there is a violation of any of the conditions of the amendment to the CUP, 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 amendment to the CUP is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All of the parcels located immediately to the east (Parcels 5-12) and west (Parcels 2A, 2B, 3 and 4) of the application area are located within DP-21, and are part of the Westway Shopping Center. The parcels located within DP-21 but not included in the application area are primarily zoned LC, subject to the development standards contained in DP-21, and are developed with a bank, a post office, restaurants or are vacant. Properties located south of the shopping center, across Crawford Street, are zoned SF-5, and are developed with single-family residences. Land located north of the site are zoned LC except for one ownership that is zoned B and SF-5. The LC zoned properties located to the north are developed with a variety of commercial, retail and restaurant uses. The B and SF-5 zoned property is developed with a church. All four corners of the intersection of Pawnee Avenue and Seneca Street are zoned LC and developed with retail or commercial uses. Pawnee Avenue and Seneca Street are arterial streets. The Pawnee and Seneca intersection carries on an average day 18,000 to 22,400 vehicle trips.
2. The suitability of the subject property for the uses to which it has been restricted: The application area is zoned LC subject to the development standards contained in DP-21. Specific uses permitted on the subject parcels are: shopping center and associated tires, batteries and accessory stores, supermarket, financial institutions, offices, personal services, retail sales as permitted by the base zoning, vocational school and restaurant. The site is developed with several thousand square feet of shopping center. The center could continue to have economic value as currently zoned.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: In as much as the carnival has operated at this location in the past without known complaints, approval of the request should not detrimentally impact nearby properties. The maximum number of days in which the carnival could operate is limited to 28 days a year, and the recommended conditions of approval should minimize potential 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 permit the owner of the center and the carnival operator the opportunity to realize additional economic return and to provide southwest Wichita with carnival entertainment. Denial would be a loss of economic opportunity to both the center and the carnival operator.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide” depicts the site as appropriate for “local commercial” uses. The local commercial category encompasses areas that contain concentrations of predominately commercial, office and personal services uses that do not have a significant regional market draw. The range of uses include: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. On a limited presence basis, these areas may also include mini-storage warehousing and small-scale, light manufacturing uses. On a temporary basis, approval to allow a carnival to operate at this location can be consistent with adopted land use plans and policies.
6. Impact of the proposed development on community facilities: None identified.

