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**WICHITA-SEDGWICK COUNTY**  
**METROPOLITAN AREA PLANNING COMMISSION AGENDA**

**Thursday, June 19, 2014**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission will be held on **Thursday, June 19, 2014**, beginning at **1:30 PM** in the Planning Department Conference Room City Hall - 10<sup>th</sup> 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: May 22 and June 5, 2014*

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

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

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 – 10<sup>th</sup> Floor, City Hall, 455 N. Main Street, Wichita, Kansas*

- 3-1. **VAC2014-00018: City request to vacate a portion of platted street right-of-way, platted setback, and platted access control**, located next to properties located west of Amidon Avenue, south of 33rd Street North, on the north side of the Carlock - McLean Avenues intersection.

*Committee Action:      APPROVED 3-0*

**PUBLIC HEARINGS**

**ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 PM**

4. Case No.: CON2014-00018 (Deferred from 6-5-14)  
Request: County Conditional Use request for a temporary accessory apartment (for medical reasons) on SF-20 Single-family Residential zoned property.  
General Location: Two blocks west of Broadway Avenue, midway between 79th and 87th Streets South, on the northwest corner of Nicole and Katherine Streets.  
Presenting Planner: Bill Longnecker
5. Case No.: ZON2014-00009  
Request: City zone change request from LC Limited Commercial to OW Office Warehouse.  
General Location: South of Kellogg Drive on the west side of Hydraulic Avenue.  
Presenting Planner: Bill Longnecker
6. Case No.: ZON2014-00010  
Request: City zone change request from SF-5 Single-family Residential to TF-3 Two-family Residential.  
General Location: South of 63rd Street South and west of Clifton Avenue.  
Presenting Planner: Bill Longnecker

7. Case No.: CUP2014-00013  
Request: City CUP amendment to DP-267, Tyler's Landing Commercial Plaza Community Unit Plan to allow residential use in LC Limited Commercial zoning.  
General Location: Southeast of the 37th Street North and Tyler Road intersection.  
Presenting Planner: Jess McNeely
8. Case No.: CON2014-00019  
Request: County Conditional Use request to amend CU-346 to extend operational time (25 years) and to amend the post operational site plan on SF-20 Single-family Residential zoned property.  
General Location: East of Hoover Road, on the west side of the Arkansas River and on the north side of 53rd Street North.  
Presenting Planner: Bill Longnecker
9. Case No.: CON2014-00020  
Request: County Conditional Use request to permit mining and quarrying.  
General Location: North of West 13th Street North and east of North 151st Street West.  
Presenting Planner: Dale Miller
10. Case No.: CON2014-00021  
Request: City Conditional Use request for a Day Care, General in TF-3 Two-family Residential zoning.  
General Location: West of N. Vassar Avenue and north of Murdock Street (833 N. Vassar Ave.).  
Presenting Planner: Jess McNeely

### **NON-PUBLIC HEARING ITEMS**

#### **11. Other Matters/Adjournment**

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

**WICHITA-SEDGWICK COUNTY**  
**METROPOLITAN AREA PLANNING COMMISSION**

**MINUTES**

**May 22, 2014**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, May 22, 2014 at 1:37 p.m., in the Planning Department Conference Room, 10<sup>th</sup> 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; Joe Johnson; Carol Neugent; Bill Ramsey; and Don Sherman. John McKay Jr.; M.S. Mitchell; Debra Miller Stevens; George Sherman and Chuck Warren were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; Neil Strahl, Senior Planner; Jeff Vanzandt, Assistant City Attorney, Robert Parnacott, Assistant County Counselor and Maryann Crockett, Recording Secretary.

1. Approval of the April 24, 2014 MAPC meeting minutes.

**MOTION:** To approve the April 24, 2014 meeting minutes, as amended.

**DENNIS** moved, **GOOLSBY** seconded the motion, and it carried (6-0-3).  
**KLAUSMEYER, NEUGENT** and **RAMSEY** - Abstained.

- Approval of the May 8, 2014 MAPC meeting minutes.

**MOTION:** To approve the May 8, 2014 meeting minutes, as amended.

**DENNIS** moved, **GOOLSBY** seconded the motion, and it carried (7-0-2). **FOSTER**  
and **NEUGENT** - Abstained.

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2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB2014-00019: One-Step Final Plat – HORSCH TRAILER ADDITION**, located north of 71st Street South, on the west side of 183rd Street West.

Note: This is unplatted property located in the County in an area designated as “rural” by the Wichita-Sedgwick County Comprehensive Plan. A conditional use (CON2013-00031) was approved for expansion of agricultural sales and service.

**CHAIRMAN KLAUSMEYER** announced that the item had been deferred for two weeks to the June 5, 2014 meeting.

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- 2-2. **SUB2014-00021: One-Step Final Plat – PERFEKTA ADDITION**, located on the north side of 21st Street North, East of Broadway.

Note: This is a replat of Best Supply Addition in addition to unplatted property to the north.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that the property 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 drainage plan.
- D. Traffic Engineering has approved the access controls subject to the opening being defined at the west property line. The plat proposes one access opening along 21<sup>st</sup> Street North.
- E. Traffic Engineering has approved the 50-foot right-of-way along 21<sup>st</sup> Street North as it adjoins a 10-foot sidewalk and utility easement.
- 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 plat<sup>or</sup>'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.
- H. 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.)
- I. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- J. 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.
- K. 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.

- L. 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.
- M. Perimeter closure computations shall be submitted with the final plat tracing.
- N. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- O. 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](mailto:kwilson@wichita.gov)).

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

**B. JOHNSON** moved, **J. JOHNSON** seconded the motion, and it carried (9-0).

**3. PUBLIC HEARING – VACATION ITEMS**

- 3-1. **VAC2014-00012: City vacation of 15 feet of a platted 30-foot building setback,** generally located at 8001 East Killarney Ct. (S.E. Cor. of Killarney Ct. and Rock Road).

**OWNER/APPLICANT:** Rodney Horton (owner/applicant)

**LEGAL DESCRIPTION:** Generally described as vacating the east 15 feet of the platted 30-foot street side yard setback running parallel to the west property line of Lot 9, Block 1, First Addition to Vickridge & the Rock Road right-of-way, Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located on the southeast corner of Rock Road & Killarney Court (8001 E Killarney Court - WCC #II)

**REASON FOR REQUEST:** Future development

**CURRENT ZONING:** Subject property and all adjacent and abutting properties are zoned SF-5 Single-Family Residential (SF-5)

The applicant is requesting consideration for the vacation of the east 15 feet of the platted 30-foot street side yard setback running parallel to the west property line of Lot 9, Block 1, First Addition to Vickridge and the Rock Road right-of-way. The subject corner lot is zoned SF-5 Single-Family Residential. The Unified Zoning Code's (UZC) minimum street yard setback for the SF-5 zoning

district is 15 feet. The applicant's request is not less than the UZC's 15-foot minimum street yard setback for the SF-5 zoning district. There are no platted easements located within the setback. There are no utilities located within the proposed vacated portion of the platted street side yard setback. The First Addition to Vickridge was recorded with the Register of Deeds September 21, 1957.

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/Storm Water, 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 street side yard setback.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
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 May 1, 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 platted street side yard setback and, 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) Vacate the east 15 feet of the platted 30-foot street side yard setback running parallel to the west property line of Lot 9, Block 1, First Addition to Vickridge and the Rock Road right-of-way
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer and franchised utilities/Westar with any needed plans for review for location of utilities. Provide a guarantee or approved plans for the relocation of any utilities. This must be provided to Planning prior going to City Council for final action
- (3) All improvements shall be according to City Standards.
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request 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) Vacate the east 15 feet of the platted 30-foot street side yard setback running parallel to the west property line of Lot 9, Block 1, First Addition to Vickridge and the Rock Road right-of-way.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer and franchised utilities/Westar with any needed plans for review for location of utilities. Provide a guarantee or approved plans for the relocation of any utilities. This must be provided to Planning prior going to City Council for final action
- (3) All improvements shall be according to City Standards.
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request 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.

J. JOHNSON moved, B. JOHNSON seconded the motion, and it carried (9-0).

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- 3-2. **VAC2014-00013: City request to vacate a platted rear yard setback on TF-3 Two-Family Residential zoned property,** generally located east of West Street, south of Maple Avenue, north of University Avenue on the west side of University Court.

**OWNER/AGENT:** Marci Moore (owner), Baughman Co. PA (agent)

**LEGAL DESCRIPTION:** Generally described as vacating the platted 15-foot rear yard setback running parallel to most of the west property line of the north 68 feet of Lot 2, Block B, University Court Third Addition, Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located east of West Street, north of University Avenue, on the west side of University Court (3506 W University Court – WCC IV)

**REASON FOR REQUEST:** Room addition

**CURRENT ZONING:**

Subject property, abutting south and north properties and east adjacent properties are zoned TF-3 Two-Family Residential (TF-3). Abutting west property is zoned SF-5 Single-Family Residential

The applicant is requesting consideration for the vacation of the platted 15-foot rear yard setback running parallel to most of the west property line of the north 68 feet of Lot 2, Block B, University Court Third Addition. The subject lot has a rectangular shape broken by its angling to a point on its northwest end. The subject lot is zoned TF-3 Two-Family Residential. The Unified Zoning Code's (UZC) minimum rear yard setback for the TF-3 zoning district is 20 feet. The platted 15-foot rear yard setback is 5 feet less than the UZC's minimum 20-foot rear yard setback for the TF-3 zoning district. The platted 15-foot rear yard setback exceeds the 20% reduction allowed by an Administrative Adjustment to reduce the minimum 20-foot rear yard setback for the of the UZC's TF-3 zoning district. The applicant has filed for a variance, BZA2014-00031, to reduce the rear yard setback to 11 feet, 4-inches. The Wichita-Sedgwick County Board of Zoning Appeals (BZA) will consider BZA2014-00031 at their May 22, 2014 meeting. There is the south 10 feet of a platted 20-foot utility easement running through, east-west, the platted, north-south, rear setback. There is sewer and a manhole located in the platted easement; vacation of the platted rear yard setback will not impact this platted easement. Water is located in the right-of-way. Stormwater does not appear to be impacted. Westar has equipment in the area that serves the applicant and the applicant will need to retain that portion as easement or relocate or remove at their expense. Lee Salsbury is the contact and can be reached at 261-6859. The University Court Third Addition was recorded with the Register of Deeds January 7, 1988.

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/Storm Water, 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 platted rear yard setback.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
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 May 1, 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 platted rear yard setback and, 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) Approval of VAC2014-00013, a request to vacate the platted 15-foot rear yard setback located on the north 68 feet of the TF-3 zoned Lot 2, Block B, University Court Third Addition is contingent upon approval of BZA2014-0031, a variance request to reduce the rear yard setback on said lot to 11 feet, 4-inches, at the BZA's May 22, 2014 meeting.

- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer and franchised utilities/Westar with any needed plans for review for location of utilities. Contact Lee Sailsbury for Westar at 261-6859. Provide a guarantee or approved plans for the relocation of any utilities. This must be provided to Planning prior going to City Council for final action
- (3) All improvements shall be according to City Standards.
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request 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) Approval of VAC2014-00013, a request to vacate the platted 15-foot rear yard setback located on the north 68 feet of the TF-3 zoned Lot 2, Block B, University Court Third Addition is contingent upon approval of BZA2014-0031, a variance request to reduce the rear yard setback on said lot to 11 feet, 4-inches, at the BZA's May 22, 2014 meeting.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer and franchised utilities/Westar with any needed plans for review for location of utilities. Contact Lee Sailsbury for Westar at 261-6859. Provide a guarantee or approved plans for the relocation of any utilities. This must be provided to Planning prior going to City Council for final action
- (3) All improvements shall be according to City Standards.
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request 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.

**J. JOHNSON** moved, **B. JOHNSON** seconded the motion, and it carried (9-0).

- 3-3. **VAC2014-00014: City request to vacate a platted utility easement on property,** generally located west of West Street on the north side of 9th Street North (4102 W 9th St N).

**OWNER/AGENT:** John C. Clark (owner) Baughman Co., PA, c/o Russ Ewy (agent)

**LEGAL DESCRIPTION:** Generally described as vacating the platted 16-foot easement running parallel to the east lot line of Lot 19 and the west lot line of Lot 18, all in Block D, E.B. Cark Addition Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located west of West Street on the north side of 9<sup>th</sup> Street North (4102 West 9<sup>th</sup> Street North - WCC #VI)

**REASON FOR REQUEST:** Expansion of existing single-family residence

**CURRENT ZONING:** The site and all abutting and adjacent properties are zoned SF-5 Single-Family Residential.

The applicant proposes to vacate the platted 16-foot wide easement running parallel to the east lot line of Lot 19, and the west lot line of Lot 18, all in Block D, E.B. Cark Addition. A sale of the west 30 feet of Lot 18 to the owner (applicant) of Lot 19 shifted the applicant's property line east and placed all of the easement onto the applicant's property, creating an encumbrance that prevents the expansion of the existing single-family residence. There are no utilities located in the subject easement. Contact Marsha Jesse with Westar with any questions at 261-6734. The E.B. Cark Addition was recorded with the Register of Deeds April 15, 1955.

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 platted easement.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
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 May 1, 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 platted easement and, 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) 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.
- (2) Provide any needed easements for relocated utilities, prior to this case going to City Council for final action.
- (3) 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.
- (4) 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) 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.
- (2) Provide any needed easements for relocated utilities, prior to this case going to City Council for final action.
- (3) 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.
- (4) 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.

**J. JOHNSON** moved, **B. JOHNSON** seconded the motion, and it carried (9-0).

- 3-4. **VAC2014-00015: County request to vacate a floating easement dedicated by separate instrument on property,** generally located north of 47th Street South, on the east side of Oliver Avenue.

- OWNER/AGENT:** Boeing IRB Asset Trust, c/o Marc A. Poulin (owner) PEC, c/o Scott A. Dunakey (agent)
- LEGAL DESCRIPTION:** Generally described as vacating the perpetual easement and right-of-way dedicated by separate instrument (FLM 158 – PG 588-589) on an undeveloped, unplatted tract, Sedgwick County, Kansas.
- LOCATION:** Generally located north of 47<sup>th</sup> Street South on the west side of Oliver Avenue (BoCC #5)
- REASON FOR REQUEST:** Future development
- CURRENT ZONING:** The site, abutting north, east and southern properties and adjacent west properties are zoned LI Limited Industrial. Abutting east and southern properties are zoned GI General Industrial. The site is located within A Critical Area of Interest for McConnell Air Force Base and Air Force Protective Overlay A. The site has CU-163 overlay; a burrow pit for fill.

The applicant proposes to vacate the perpetual easement and right-of-way dedicated by separate instrument (FLM 158 – PG 588-589, recorded September 18, 1975) located on an undeveloped, unplatted tract, within the south end of the Boeing – Spirit Companies' aircraft manufacturing complex. The dedication gave the City of Wichita a perpetual easement and right-of-way for the '...installation, construction, operation, maintenance, repair, replacement and reconstruction of pipe lines and/or mains, manholes, lateral pipe lines and all structures incidental thereto, together with the perpetual right to remove buildings, structures, trees, bushes, undergrowth, flowers, and any other obstructions interfering with the use of said easement and right-of-way...' The perpetual easement and right-of-way covers the whole unplatted tract and resembles a large blanket easement that may be found in a platted reserve. There are no utilities located in the subject easement/right-of-way. Contact LaDonna Vanderford with Westar with any questions at 261-6490.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from County Public Works, 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 perpetual easement and right-of-way dedicated by separate instrument.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
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 May 1, 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 perpetual easement and right-of-way dedicated by separate instrument, 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 Planning with a legal description of the vacated perpetual easement and right-of-way dedicated by separate instrument on a Word document, via e-mail. This must be provided to Planning prior to the case going to the Board of County Commissioners for final action.
- (2) 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 Planning with a legal description of the vacated perpetual easement and right-of-way dedicated by separate instrument on a Word document, via e-mail. This must be provided to Planning prior to the case going to the Board of County Commissioners for final action.
- (2) 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.

**J. JOHNSON** moved, **B. JOHNSON** seconded the motion, and it carried (9-0).

**PUBLIC HEARINGS**

4. **Case No.: ZON2014-00005** - Tara Developers, LLC (Brett Orth) / Ruggles & Bohm, P.A. (Will Clevenger) request a City zone change request from SF-5 Single-family Residential to TF-3 Two-family Residential on 4.96 acres on property described as:

**BACKGROUND:** The application area is 4.96 acres that contains 22 platted lots zoned SF-5 Single-family Residential (SF-5). The lots are situated on both sides of Casa Bella Street and are located approximately one-quarter mile north of East Pawnee Road, west of South 127<sup>th</sup> Street East. The lots are part of the Casa Bella Third Addition and are undeveloped. The applicant is requesting to rezone the application area to the TF-3 Two-family Residential (TF-3) district, which would permit both single-family and two-family residential uses. From South 127<sup>th</sup> Street East, Casa Bella Street heads west through and beyond the application area, ultimately curving south to connect with East Willowgreen

Street, which heads further west where it connects with South Tara Falls Street that connects with East Pawnee Road.

Located immediately north of the application area is the SF-5 zoned Reserve C; a 40-foot wide drainage and utility reserve associated with the Casa Bella Addition. North of Reserve C is a nearly 20-acre tract that is developed with a residence and used for farming or ranching. East of South 127<sup>th</sup> Street East are large unplatted tracts that are zoned SF-5 and LC Limited Commercial (LC). An identical zone change request (ZON2010-00024) was approved in 2010 for 18 platted lots (Lots 1-18, Block 1, Casa Bella Third Addition) located on both sides of Willowgreen Circle, situated immediately south of the application area. The land located west of the application area is part of three Casa Bella residential subdivisions, and is zoned SF-5.

**CASE HISTORY:** The Casa Bella Third Addition was recorded in 2010. In 2004, the subject property was annexed and zoned SF-5.

**ADJACENT ZONING AND LAND USE:**

North: SF-5, SF-20; drainage/utility reserve, large-lot residence  
South: TF-3; two-family residences  
East: SF-5, LC; vacant  
West: SF-5; single-family residences

**PUBLIC SERVICES:** The site is platted and required public improvements would have been guaranteed by the plat.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for “urban residential” uses. The “urban residential” category includes the full diversity of residential development densities and types typically found in a large urban municipality including: single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhomes and apartments as well as a wide range of special residential accommodations for the elderly.

**RECOMMENDATION:** Based upon the information available at the time the report was prepared, it is recommended that the zone change be approved.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** Property surrounding the application area contains a mix of zoning districts: SF-5, SF-20, TF-3 and LC. The predominate land uses are urban density and large lot residential. East of the site are large undeveloped tracts. The application area is located east of a large SF-5 zoned urban density single-family development. The property located immediately to the south was initially zoned SF-5 but was rezoned to TF-3, and developed with two-family residences.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site has been zoned SF-5 since 2004, and has remained undeveloped. The SF-5 district is the most restrictive zoning district found in the City and limits use primarily to single-family residential

uses and a few other civic or institutional uses such as churches or schools. Presumably the property would have been developed as currently zoned if the market was strong enough to support more single-family development.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: As noted above, 18 platted lots located just south of the application area were rezoned to TF-3 in 2010. Approval of the request should not detrimentally impact nearby 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: Approval of the request will add the potential for additional two-family dwelling units to the Wichita housing market and increase housing choices. Denial would presumably represent a loss in economic opportunity to the applicant.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for "urban residential" uses. The "urban residential" category includes the full diversity of residential development densities and types typically found in a large urban municipality, including: single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhomes and apartments as well as a wide range of special residential accommodations for the elderly.
6. Impact of the proposed development on community facilities: Required community facilities are either in place or have been guaranteed by the existing plat.

**DALE MILLER**, Planning Staff presented the Staff Report.

**WILL CLEVINGER, RUGGLES AND BOHM, 924 N. MAIN, AGENT FOR THE APPLICANT** said they believe the application is in conformance with Wichita-Sedgwick County Comprehensive Plan for residential use and fills A void in the market. He mentioned that SF-5 Single-family Residential zoning has not been supported in the area but that the TF-3 Two-family Residential zoning to the south was filled quickly so they believe this proposal is a good fit for the property.

**ROBERT TOLLEY, 8220 E. OXFORD CIRCLE, WICHITA** said he was present to speak on behalf of his parents who owned the small farm north of the proposed development. He read a brief statement prepared by his parents. It said the property in question is already zoned for single-family homes and they don't feel there is a need for multi-family homes. The duplexes in question will bring even more traffic, noise and people to the area. It is a well known fact that homeowners tend to take pride in their land and neighborhood and by bringing in renters, they really don't feel that pride of ownership is going to continue. He said the community has had a downfall since development of the rental units. He noted that his family was not aware of the last proposed zoning change and that is why they were not present to voice an opinion on the request. He said they would like to see the site remain single-family homes. He said the family farm has been there 20 years and his parents make their livelihood from it. He said since development in the area, there has been a strain on the water table which is crucial to farming and livestock in the area. He said they have concerns on how the ground water is treated and polluted since they all share the aquifer. He said there is a noticeable difference in the taste of the water over the last couple of years, which they associate with development in the area. He said his family was the only ones notified of the requested zoning change. He said other home owners that they spoke with said if

they had more time, they would be here today. He asked why they weren't notified. He mentioned the berm between this area and his parent's farm which consisted of noxious weeds and thistle, which is spreading onto their farm which causes issues with harvesting. He said they know progress happens but they requested extra thought be given to keeping the site single family.

**J. JOHNSON** asked for staff comment about notification on the request.

**MILLER** commented that the site was just less than five acres and that everyone within 350 feet who was legally required to get notice of the proposal got notice.

**FOSTER** asked about the berm.

**TOLLEY** said it is a large mound covered with noxious weeds.

**GOOLSBY** commented that SF-5 Single-family Residential or TF-3 Two-family zoning wouldn't change the noxious weed issue.

**TOLLEY** responded that they believe the noxious weeds are a result of development in the area.

**J. JOHNSON** asked what kind of fencing was required between the farm and development.

**MILLER** said no fencing is required because both areas are zoned SF-5.

**CLEVINGER** commented that they believe the berm is between 5-6 feet tall. He said there are no private wells on the site, it will be developed with public water the same as the other single family residences in the area so there will be no change in well water with the requested zone change.

**FOSTER** asked for the status of the turf or vegetative cover on the berm.

**CLEVINGER** said he didn't know the answer to that question.

**FOSTER** asked about the conditions on the plat. He said typically some sort of cover or earth work is required on an acre or more.

**CLEVINGER** asked if that was cover for the existing site.

**FOSTER** said he understands the concern about thistle and weeds coming off of the berm. He asked staff if the developer should have addressed that and provided decent vegetative cover on the berm.

**MILLER** said he can't answer that question other than vegetation is required to keep sand and dirt from blowing and eroding. He said he didn't know if there was a code violation, Code Enforcement would have to check it out.

**KLAUSMEYER** asked about height requirements for the berm.

**MILLER** said the berm has to be the appropriate slope and width to keep it from eroding.

**MOTION:** To approve subject to staff recommendation.

**B. JOHNSON** moved, **GOOLSBY** seconded the motion.

**FOSTER** offered a substitute motion to provide for follow-up to verify that the status of the berm doesn't meet the original requirements of when the plat became effective.

**MILLER** said that was a Code Enforcement issue, but if the Commission made it part of the motion, staff would insure that Code Enforcement investigated.

**KLAUSMEYER** asked about a time frame and suggested before construction started.

**MILLER** explained that if the zoning case is approved by the Planning Commission it will take 35 days to go to City Council. He said he believes Code Enforcement can determine if there is a code violation within 35 days.

**SUBSTITUTE MOTION:** To approve subject to staff recommendation with the additional requirement that Code Enforcement inspect the berm.

**FOSTER** moved. **RAMSEY** seconded the motion, and it passed (9-0).

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5. **Case No.: ZON2014-00006** - Jacob Management Company, LLC, c/o Craig Harms (applicant/owner) request a City zone change request from SF-5 Single-family Residential to TF-3 Two-family Residential on property described as:

**BACKGROUND:** The applicant is requesting TF-3 Two-Family Residential (TF-3) zoning on the platted 0.51-acre SF-5 Single-Family Residential (SF-5) zoned site. There is a vacant single-family residence (built 1952) on the north half of the subject site. The applicant proposes to either tear down the single-family residence and build a duplex or convert the single-family residence into a duplex. The site is large enough for three duplexes, with two lot splits.

The site is located two blocks east of Interstate Highway 235 (I-235), north of Central Avenue on the west side of Elder Street. The area is zoned predominately LC Limited Commercial (LC) along both sides of the east-west arterial street, Central Avenue, with SF-5 zoned single-family residential neighborhoods developed behind the LC zoned small businesses. The subject site is located in one of these SF-5 zoned single-family residential neighborhoods. Some SF-5 zoning interrupts the LC zoning along Central Avenue as does two GC General Commercial (GC) zoned automobile paint and body shops. TF-3 zoned single-family residences and duplexes are scattered though the single-family neighborhoods. Development in the immediate area around the site include SF-5 zoned single-family residences abutting the north and west sides of the site and adjacent (across Elder Street) to the site's east side. An LC zoned furniture store abuts the site's south side and TF-3 zoned single-family residences also abut its west side. Most of the single-family residences in this area appear to have been built in the late 1940s through the 1950s. The immediate area's oldest single-family residence appears to be the abutting north single-family residence, built in 1925. There is also a vacant SF-5 zoned lot located north of the subject site.

**CASE HISTORY:** The site is Lot 6, Harvey Patterson Addition, which was recorded with the Sedgwick County Register of Deeds August 1, 1951. Staff has received a letter protesting the proposed TF-3 zoning, which we have forwarded to the applicant; see attached letter.

**ADJACENT ZONING AND LAND USE:**

NORTH: SF-5	Single-family residences, a vacant lot
SOUTH: LC, SF-5	Furniture store, single-family residence, retail
WEST: SF-5, TF-3	Single-family residences
EAST: SF-5, PUD	Single-family residences, fitness center, day care

**PUBLIC SERVICES:** Elder Street is a dirt and gravel residential street at this location. Approximately 280 feet south of the subject site, Elder Street intersects with Central Avenue, a four-lane arterial with a center turn lane at this location. All utilities are available to the site.

**CONFORMANCE TO PLANS/POLICIES:** The “2013 Land Use Guide of the Comprehensive Plan” (Plan) identifies the SF-5 zoned site as “urban residential.” The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in large urban municipality. The Plan identifies SF-5 zoning as being compatible with the urban residential category. The SF-5 zoning district allows single-family residential uses and parks, but not duplexes, by right. The site’s requested TF-3 zoning is compatible with the Plan’s urban residential category.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**. If more than one duplex is going to be built on the subject site a Lot Split reviewed and approved by the City will be required.

This recommendation is based on the following findings:

- (1) The zoning, uses and character of the neighborhood:** The area is zoned predominately LC along both sides of the east-west arterial street, Central Avenue, with SF-5 zoned single-family residential neighborhoods developed behind the LC zoned small businesses. The subject site is located in one of these SF-5 zoned single-family residential neighborhoods. Some SF-5 zoning interrupts the LC zoning along Central Avenue as does two GC zoned automobile paint and body shops. Some TF-3 zoned single-family residences and duplexes are scattered though the single-family neighborhoods. Development in the immediate area around the site include SF-5 zoned single-family residences abutting the north and west sides of the site and adjacent (across Elder Street) to the site’s east side. An LC zoned furniture store abuts the site’s south side and a TF-3 zoned single-family residence also abuts the site’s west side. Most of the single-family residences in this area appear to have been built in the late 1940s through the 1950s. The immediate area’s oldest single-family residence appears to be the abutting north single-family residence, built in 1925. There is also a vacant SF-5 zoned lot located north of the subject site.
- (2) The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned SF-5 and has a vacant single-family residence located on it. The SF-5 zoning permits the site’s current use as a single-family residence.
- (3) Extent to which removal of the restrictions will detrimentally affect nearby property:** The requested TF-3 zoning allows duplexes as well as single-family residences by right. The request

would not introduce TF-3 zoning into the area, as a TF-3 zoned single-family residence abuts the west side of the site. There are also another three (3) TF-3 zoned single-family residences located one and two blocks west of the site.

- (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 limit development by right to single-family residential, duplex, and some (but not limited to) institutional uses such as a parks, schools and churches. Denial of the request could impose a financial hardship on the owner.
- (5) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2013 Land Use Guide of the Comprehensive Plan” (Plan) identifies the SF-5 zoned site as “urban residential.” The urban residential category encompasses areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality. The Plan identifies SF-5 zoning as being compatible with the urban residential category. The SF-5 zoning district allows single-family residential uses and parks, but not duplexes, by right. The site’s requested TF-3 zoning is compatible with the Plan’s urban residential category.
- (6) **Impact of the proposed development on community facilities:** All services are in place, and any increased demand on community facilities can be handled by current infrastructure.

**BILL LONGNECKER**, Planning Staff presented the Staff Report.

He reported that the DAB approved the application unanimously. He referred to the letter from the adjoining neighbor provided with the application packet. He said the applicant has seen the letter and has told staff and the DAB that he has no objection to installing a 6-foot privacy fence between the rezoning site and the single family residence to the north, although it is not a zoning requirement.

**FOSTER** said he had a question for the applicant or agent.

**CRAIG HARMS, JACOB MANAGEMENT COMPANY, LLC, 906 N. MAIN STREET**, commented that they acquired the dilapidated property and feel that two-family residential may be an appropriate use.

**FOSTER** asked the applicant if he was in agreement with staff comments regarding the fencing.

**HARMS** said yes, he received a copy of the letter from the neighbor to the north and they have no problem providing a 6-foot privacy fence between the two sites. He said they are willing to work with the homeowner on the length of the fence.

**MOTION:** To approve subject to staff recommendation with the addition of a 6-foot privacy fence.

**DENNIS** moved, **B. JOHNSON** seconded the motion, and it carried (9-0).

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The Metropolitan Area Planning Commission adjourned at 1:55 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.

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

(SEAL)

**WICHITA-SEDGWICK COUNTY**  
**METROPOLITAN AREA PLANNING COMMISSION**

**Minutes**

**June 5, 2014**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, June 5, 2014 at 1:37 p.m., in the Planning Department Conference Room, 10<sup>th</sup> 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; Don Sherman and George Sherman. Joe Johnson; Carol Neugent; Bill Ramsey Debra Miller Stevens; and Chuck Warren were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Jess McNeely, 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.

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2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **Item #2-1 SUB2014-00023: One-Step Final Plat – WESTGATE VILLAGE 3RD ADDITION**, located on the north side of 13<sup>th</sup> Street North, West of Maize.

Note: This is a replat of a portion of Westgate Village 2<sup>nd</sup> Addition.

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 needs to comment on the status of the applicant's drainage plan.
- (D) Traffic Engineering has approved the access controls. The plat proposes complete access control along 13<sup>th</sup> Street North and two openings along Westgate.
- (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 a non-arterial street, the Subdivision regulations require a sidewalk along Westgate.
- (G) Provisions shall be made for ownership and maintenance of the proposed reserves. A restrictive covenant shall be submitted regarding ownership and maintenance 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 platlor'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.
- (J) 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.)
- (K) The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- (L) 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.
- (M) 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.
- (N) 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.
- (O) Perimeter closure computations shall be submitted with the final plat tracing.
- (P) Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- (Q) 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](mailto:kwilson@wichita.gov)).

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

DENNIS moved, G. SHERMAN seconded the motion, and it carried (9-0).

- 2-2. **Item #2-2 SUB2014-00019: One-Step Final Plat – HORSCH TRAILER ADDITION**, located north of 71st Street South, on the west side of 183rd Street West.

NOTE: This is unplatted property located in the County in an area designated as “rural” by the Wichita-Sedgwick County Comprehensive Plan. A conditional use (CON2013-00031) was approved for expansion of agricultural sales and service.

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. 4. If service is available, feasible and the property is eligible for service, Metropolitan Area Building and Construction Department recommends connection.
- C. County Public Works advises the property to the north should be included on the drainage plan as part of a larger plan of development. The stormwater quantity analysis does not meet the requirements necessary to waive stormwater detention. In order to waive these requirements, a downstream analysis extending to a point where the subject property comprises 10% or less of the total drainage area must be performed and demonstrate that an unconstrained release would not negatively impact peak flows downstream from the development. The stormwater quality controls do not meet the minimum requirements of Sedgwick County as the design 50% TSS removal rate for filter strips does not alone meet the required 80% removal rate. Filter strips should receive inflow as sheet flow as opposed to concentrated flow as shown on the plan.
- D. The plat proposes one opening along 183<sup>rd</sup> Street West. The Subdivision Committee has approved the opening subject to it being located as far south as practical.
- E. Sedgwick County Fire Department advises that the service drive requirements will need to be met with this development. Appendix D of the 2012 IFC, section D102 addresses the requirements for fire access roads in commercial buildings.
- F. Approval of this plat will require a waiver of the lot depth-to-width ratio of the Subdivision Regulations. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width.
- G. 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.

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

**NEIL STRAHL**, Planning Staff presented the Staff Report. He reported that the Drainage Plan has been approved subsequent to the Subdivision Committee Meeting. He said Subdivision Committee members had an issue with access control and the location of the opening into the property. He said the applicant met after the Subdivision Meeting with County Public Works, who agreed to allow the applicant to locate the access on the south property approximately in the center of the frontage.

**FOSTER** said since the recommendation was revised and the Subdivision Committee had quite a bit of discussion on this item, he felt the entire Commission should hear the case. He explained that the original Staff Report disallowed any access and required cross lot access. He said the applicant installed a culvert and put in an opening prior to applying for the plat. He asked staff what was the required separation for arterial roads.

**STRAHL** responded per Subdivision Regulations, 660 feet in the County for a full movement opening and 330 feet for right turn only opening.

**FOSTER** commented that another issue on the case was that there is a manufactured home park across the road within 75 feet of the opening. He said he felt it was important that this not become standard practice for applicants to get the “cart before the horse” because this is a dangerous situation as large trailers will be moving in and out of the space and there are many openings nearby.

**CHRIS ROSE, BAUGHMAN COMPANY, P.A., 315 ELLIS, AGENT FOR THE APPLICANT** clarified that the applicant obtained a field entrance permit on the property so he went through the proper procedure with the County and was unaware of the other issues associated with platting.

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

**MITCHELL** moved, **B. JOHNSON** seconded the motion.

**FOSTER** asked for clarification because the Subdivision Committee’s recommendation was to move the opening as far south as possible on the property. He said County Public Works allowed the access that was already there.

**KLAUSMEYER** asked what was the difference in the distance from where the opening is located now.

**ROSE** reiterated that the applicant met with County Public Works staff and also discussed drainage issues, proximity of the opening to a power pole located further south and a “stop ahead” sign. He said it looked like the opening could only be moved about 50 feet so County staff determined that the design was appropriate to the present location. He said more than one issue was discussed at the meeting.

**B. JOHNSON** said it is set up so the applicant can stack trailers at an angle and back them up to the south lot line where there is an alley so they can pull out directly into the street.

The **MOTION** carried (9-0).

3. **PUBLIC HEARING – VACATION ITEMS**

- 3-1. **Item #3-1 VAC2014-00017: City request to vacate a portion of a platted easement on property**, generally located east of Broadway Avenue, on the north side of 21st Street North.

**OWNER/AGENT:** Perfekta, Inc., c/o Eric Diehl (owner) / Baughman Co., PA, c/o Phil Meyer (agent)

**LEGAL DESCRIPTION:** Generally described as vacating the north approximately 265.53 feet of the platted 10-foot wide utility easement running parallel to the north 265.53 feet of the west lot line of Lot 1, Hoy Addition, Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located east of Broadway Avenue, on the north side of 21st Street North

**REASON FOR REQUEST:** Future development

**CURRENT ZONING:** The site and all abutting and adjacent properties are zoned GI General Industrial.

The applicant proposes to vacate the north approximately 265.53 feet of the platted 10-foot wide utility easement running parallel to the north 265.53 feet of the west lot line of Lot 1, Hoy Addition. There are no utilities located within the described portion of the subject easement. NOTE: A sewer line and manhole are located in the south end of the platted easement (outside of the proposed vacation activity) and a utility easement dedicated by separate instrument, FLM 472 PG 733, recorded April, 15, 1981. The Hoy Addition was recorded with the Register of Deeds January 23, 1980.

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 platted utility easement.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
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 May 15, 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, 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 a legal description of the vacated portion of the platted utility easement on a Word document via E-mail. This will be used on the Vacation Order and must be provided to Planning prior to the case going to City Council for final action.
- (2) 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 a legal description of the vacated portion of the platted utility easement on a Word document via E-mail. This will be used on the Vacation Order and must be provided to Planning prior to the case going to City Council for final action.
- 2) 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, **G. SHERMAN** seconded the motion, and it carried (9-0).

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**PUBLIC HEARINGS**

4. **Case No.: ZON2014-00007** – Caleb and Charles Shroul (owners) request for a City zone change from SF-5 Single-family Residential to LC Limited Commercial on property described as:

Lot 10, Block B, Vilm Gardens 2nd Addition to Wichita, Sedgwick County, Kansas.

**BACKGROUND:** The .5-acre application area is currently zoned SF-5 Single-Family Residential (SF-5), it has remained vacant since platting in 1953. The applicant also owns the LC Limited Commercial (LC) zoned lot east of the site, developed with a vehicle repair business in a metal building and a single-family residence. The applicant wishes to expand the existing vehicle repair business onto the application area and therefore requests a zone change to LC. 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 north, 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. The site was platted with a 30-foot front setback and an 8-foot easement along the west property line.

The two lots east of the application area, between the site and South Seneca, are zoned LC. Approval of this zone change request would result in contiguous LC zoning for three lots, or 450 linear feet, on the north side of West 43<sup>rd</sup> Street South. Property north of the site is zoned SF-5 and developed with a single-family house. South of the site, across 43<sup>rd</sup> Street South, is an SF-5 zoned legal non-conforming multi-family residence. East of the site is the applicant's LC zoned property, and west of the site is an MF-18 Multi-family Residential (MF-18) zoned neighborhood of single and multi-family residences.

**CASE HISTORY:** The site was platted as Lot 10, Block B of the Vilm Gardens 2<sup>nd</sup> Addition in 1953.

**ADJACENT ZONING AND LAND USE:**

NORTH:	SF-5	Single-family residence
SOUTH:	SF-5	Multi-family residences
EAST:	LC	Vehicle repair, single-family residence, warehouse/office
WEST:	MF-18	Single and multi-family residences

**PUBLIC SERVICES:** West 43<sup>rd</sup> Street South is a paved local street with a 60-foot right of way. South Seneca is an arterial located two lots to the east. 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 property east of the site along Seneca as "local 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. The application area is within the 2002 South Wichita/Haysville Area Plan. That plan recommends that the site remain low density residential. The plan also encourages the expansion of existing businesses.

**RECOMMENDATION:** Staff notes that this lot has remained vacant since platting in 1953, the requested zone change would extend contiguous LC zoning from the Seneca frontage to expand an existing business. Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED.**

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The two lots east of the application area, between the site and South Seneca, are zoned LC. Approval of this zone change request would result in contiguous LC zoning for three lots, or 450 linear feet, on the north side of West 43<sup>rd</sup> Street South. Property north of the site is zoned SF-5 and developed with a single-family house. South of the site, across 43<sup>rd</sup> Street South, is an SF-5 zoned legal non-

conforming multifamily residence. East of the site is the applicant's LC zoned property, and west of the site is an MF-18 zoned neighborhood of single and multi-family residences.

- (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. However, the site has remained vacant since platting, and existing commercial development bordering the site to the east may reduce the site's desirability for future single-family residential development.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Residential neighbors to the north, south and west 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 property east of the site along Seneca as "local 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. The application area is within the 2002 South Wichita/Haysville Area Plan. That plan recommends that the site remain low density residential. The plan also encourages the expansion of existing businesses.
- (5) **Impact of the proposed development on community facilities:** The proposed zone change would bring increased commercial traffic one lot further west on this portion of 43<sup>rd</sup> Street South. All other services are in place, any increased demand on community facilities can be handled by existing infrastructure.

JESS MCNEELY, Planning Staff presented the Staff Report.

**MOTION:** To approve subject to staff recommendation.

**B. JOHNSON** moved, **MCKAY** seconded the motion, and it carried (9-0).

5. **Case No.: PUD2014-00001** - Fruition, LLC and Jason Wenzel Framing, Inc. (Jason Wenzel) / Greg Ferris Consulting (Greg Ferris) request creation of a new City PUD Planned Unit Development for "Outdoor and Indoor Recreation" on property described as:

The Southwest Quarter of the Northwest Quarter in Section 18, Township 28, Range 1 East of the 6th P.M., Sedgwick County, Kansas EXCEPT beginning 658.24' North of the Southwest

corner; thence East 290.4'; th. South 150 feet; thence West 290.4'; thence South to the beginning and EXCEPT that part platted as Mobile Manor South Addition and EXCEPT the North 97 feet of the West 209 feet thereof and EXCEPT that part deeded for street.

**BACKGROUND:** The application area is located 1,700 feet south of West MacArthur Road on the east side of South Meridian Avenue; is zoned SF-5 Single-family Residential (SF-5) and contains 14.74 acres. The property has recently been developed with a 100 by 120-foot (12,000 square feet) metal agricultural building. The applicants request approval of Planned Unit Development (PUD #42) 2014-00001 to permit: all uses permitted by right in the SF-5 district, "recreation and entertainment, indoor," "recreation and entertainment, outdoor," "event center in the City" and "auditorium or stadium." Verbally, the applicant's agent has indicated the applicant would probably not have more than three outside baseball/softball fields and one soccer field.

In an attached statement dated April 24, 2014, the applicant indicates he proposes to convert the 12,000 square-foot agricultural building to an "inside recreation facility for the local school athletes to use." The applicant further indicates that the proposed facility is not intended to compete with other athletic facilities, such as the nearby Southwest Boys Club facilities, whose main focus is league play. The proposed facility is intended to be a training facility. The proposed zoning (recreation and entertainment, indoor) would allow the conversion of the site's existing agricultural building to a year-round training facility. If the request is approved the applicant indicates the existing building would be converted immediately. Outdoor recreation and entertainment uses would be installed over the next few years.

Proposed maximum building coverage is 30 percent or 192,622 square feet; maximum floor area ratio is 50 percent; maximum gross floor area is 321,037 square feet and maximum building height is 35 feet.

The applicant's attached site plan depicts the location of the existing 100 by 120-foot building. The site plan also indicates the structure is located approximately 40 feet from the front property line located along South Meridian Avenue. The south side of the existing structure is located approximately 43 feet from the SF-5 zoned and single-family residential developed tract located to the south. (Code required side yard compatibility building setback from SF-5 zoned property is 25 feet for a property like the subject site that has approximately 418 feet of street frontage.) The PUD proposes the following building setbacks: front 20 feet; rear 15 feet and interior side yard of five feet. (In comparison, the SF-5 district requires the following building setbacks: front-25 feet; rear-20 feet, except that the rear setback may be reduced to five feet when abutting a platted reserve with a minimum width of 20 feet and an interior side-yard is six- feet.)

Currently the site has one point of access to South Meridian Avenue. The PUD proposes a second access point but does not indicate its location.

The applicant proposes one illuminated on-site ground or pole sign up to 200 square feet. Illuminated building signs that face Meridian, not exceeding 400 square feet or 20 percent of the building elevation are also proposed. Off-site or portable signage is to be prohibited.

An existing gravel parking area, approximately 100 feet by 60 feet is located on the north side of the existing agricultural building. The zoning code specifies the number of off-street parking spaces for each requested use: recreation and entertainment, indoor and outdoor-parking study; event center in the

City—is either one space per 45 square feet used for community assembly or if alcohol is involved, one space per two occupants and auditorium or stadium-.33 space per seat. Additionally, UZC Article IV, Section IV-A.2.b. stipulates that all parking areas other than single-family through four-family dwelling units shall be surfaces with concrete, asphaltic concrete, asphalt or other comparable surfacing material. The applicant has requested that gravel parking be allowed to remain until the property is platted, except that American with Disabilities Act required (ADA) parking would be paved. At present staff does not have enough information to calculate the correct number of required parking spaces for some of the uses; however, one parking layout of the existing 100 by 60-foot parking area yields a maximum of 17-18 8 by 18-foot spaces with 24-foot driving aisles and one ADA space.

If the property is used as an event center, it could potentially be rated to hold one person per seven square feet of space resulting in a permitted occupant load approaching 1,714 persons. At this point it is unknown what sewer services are available. Public sanitary sewer is located in South Bennett Circle located along the east property line (over 1,100 feet away). Public sanitary sewer is also located along part of the north property line, over 400 feet away, in the manufactured home park. Staff from the Environmental Services Division has advised the applicant he will need to have a third party conduct a soil profile study for the site if on-site services are being considered. It is doubtful an on-site sanitary sewer facility's capacity will be an economically feasible solution to accommodate that level of service demand for a single user to operate an event center. An occupancy load of 1,714 people will require additional man-door exits beyond the existing single man-door currently in place. Separate restroom facilities with multiple fixtures would also be required. If food and drink, other than vending machines, are also provided, the building will need to be sprinklered. If there is not any food or drink other than vending machines, the building would not likely be required to be sprinklered.

The applicant has also requested that the site not be required to plat until a building permit for a second separate structure is requested, not including batting cages, fencing and/or backstops.

The applicant proposes to leave the existing tree row located along the common property line with the single-family residential lot located to the south and arterial street screening between the indoor recreation structure/parking and Meridian is proposed to be per code.

North of the application area is an unplatted .34 acre tract that contains a single-family residence; a platted 58.16-acre manufactured home park (Mobile Home Manor) and a platted reserve that appears to contain a 3.44-acre sewage lagoon. East of the application area is the platted 48.63-acre Silver Spur/Twin Oaks manufactured home park. South of the site is an unplatted .83-acre tract containing a single-family home and an unplatted 19.39-acre tract used for farming or ranching. West of the subject site, across South Meridian Avenue, is a SF-20 Single-family Residential (SF-20) zoned horse stable and a farm or ranch with a residence.

Article IV, Section IV-B.4 of the UZC states that outdoor light sources, including base or pedestal, pole and fixture shall employ cut-off luminaries to minimize light trespass and glare, and shall be mounted at a height not exceeding one-half the distance from the neighboring lot, unless evidence is provided to the satisfaction of the Zoning Administrator that the light source will be aimed or shielded such that the light source is not visible from the neighboring lot. Lighting sources shall be limited to 15 feet in height within 200 feet of residential zoning districts.

The UZC (Article IV, Section IV-B.3.d.) requires screening along rear and side yards when nonresidential uses abut or are across an alley from residential zoning. In this instance the property abuts MH and SF-5 zoning on the north and south side yards. Thirty feet of half-street right-of-way separates the application areas rear property line from the manufactured home park located farther east and eliminates the screening requirement.

The Wichita-Sedgwick County Unified Zoning Code (UZC) defines the requested uses as:

Recreation and Entertainment, Indoor means a privately-owned establishment offering recreation, entertainment or games of skill to the general public or members that is wholly enclosed in a building. Typical uses include: bowling alleys, indoor heaters, bingo parlors, pool halls, billiards parlors, video game arcades, racquetball and handball courts and amusement rides. It does not include buildings typically accessory to a subdivision that are for use by the subdivision's residents and their guests or rodeo in the City.

Recreation and Entertainment, Outdoor means a privately-owned establishment offering recreation, entertainment or games of skill to the general public or members wherein any portion of the activity takes place in the open. Typical uses include archery ranges, batting cages, golf facilities, tennis courts and amusement rides. It does not include golf courses, parks, open space and recreation facilities typically accessory to a subdivision that are for use by the subdivision's residents and their guest or rodeo in the City.

Event Center in the City means premises that are frequently 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 time other than when an event is scheduled.

Auditorium or Stadium means an open, partially enclosed or fully enclosed facility used or intended to be used primarily for spectator sports, entertainment events, expositions and other public gatherings. Typical uses include convention and exhibition halls, sports arenas and amphitheaters.

**CASE HISTORY:** The property was annexed in 1962 and was zoned SF-5.

**ADJACENT ZONING AND LAND USE:**

North: SF-5 and MH; single-family residential and manufactured home  
South: SF-5; single-family residence, farm or ranch  
East: MH; manufactured home park  
West: SF-20; horse stable; residence and farm or ranch

**PUBLIC SERVICES:** North Meridian Avenue has 50 feet of half-street right of way along the frontage of the application area. There is 30 feet of contingent half-street right-of-way, South Bennett Circle, abutting the property's east property line. At the time of platting it is likely that 30 feet of right-of-way will be requested to complete South Bennett Circle. Public water is located on the west side of North Meridian Avenue and along the north property line (over 400 feet away). Public sanitary sewer is located in South Bennett Circle located along the east property line (over 1,100 feet away). Public sanitary sewer is also located along part of the north property line, over 400 feet away, in the manufactured home park. Staff from the Environmental Services Division has advised the applicant he

will need to have a third party conduct soil profile study for the site if on-site services are being considered.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide depicts the site as appropriate for “urban residential” uses. The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. Elementary and middle school facilities, churches, playgrounds, parks and similar residential-serving uses may also be found in this category.

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

- (1) Permitted uses are: “recreation and entertainment, indoor,” “recreation and entertainment, outdoor,” “auditorium or stadium,” “event center” as defined by the Wichita-Sedgwick County Unified Zoning Code or as modified below, and all uses permitted by right in the SF-5 Single-family Residential zoning district. “Recreation and entertainment, outdoor” and “recreation and entertainment, indoor” uses are limited to sports activities extra-curriculum activities typically associated with public school sports programs, such as: football, baseball, softball, soccer, track or tennis. Prior to the commencement of any “recreation and entertainment, outdoor” use or activity, the applicant shall submit a more detailed site plan that provides specific details of the activities, including the location and size of sports fields or other improvements associated with outdoor activities; the location, number and surface of parking spaces or lots; location and height of lighting standards; location, height and material used for fencing; location, number and material used for seating or bleachers; restroom facilities; etc. The existing building may be used for sports activities similar to extra-curriculum activities typically associated with public school sports programs, such as: football, baseball, softball, soccer, track or tennis provided all applicable building, fire or sanitation code requirements have been met and all applicable inspections, licenses or permits have been obtained, including change of occupancy. Use of the property for an event center, auditorium or stadium is prohibited until the property has been platted, and has obtained all applicable inspections, licenses or permits, including but not limited to change in occupancy, building, fire, and sanitation. Nightclub in the City is not permitted.
- (2) All applicable permits, licenses, inspections or change in use shall be obtained prior to use of the property for any PUD required uses other than SF-5 and agricultural permitted uses.
- (3) Currently the site has one access point, additional access points shall be determined at the time of platting unless the City’s Traffic Engineer approves additional access points prior to platting.
- (4) Non-single-family residential building setbacks shall be as follows: Meridian Avenue frontage-20 feet; South Bennett Circle frontage-50 feet and interior side yard-25 feet. Athletic field uses shall be located and conducted at least 50 feet from TF-3 or more restrictive zoning as measured at the closest point of the athletic field to the TF-3 or more restrictive zoning. SF-5 Single-family Residential district uses permitted by right shall follow SF-5 district standards.
- (5) Maximum non-residential building coverage is 30 percent or 192,622 square feet and maximum floor area ratio is 50 percent; maximum gross floor area is 321,037 square feet.
- (6) Maximum building height is 35 feet.

- (7) Signage shall comply with LC district standards except as follows. One illuminated on-site ground or pole sign up to 200 square feet is permitted. Maximum on-site ground or pole sign shall be 15 feet. Illuminated building signs that face Meridian, not exceeding 400 square feet or 20 percent of the building elevation are also proposed. No wall signs are permitted on the north, east or south facades except for small directional and regulatory signs allowed under Section 24.04.190. Off-site or portable signage is prohibited.
- (8) Gravel parking (as defined by Article II, Section II-B.1.p, All-Weather Surface) is permitted for outdoor recreational uses until the property is platted, except that American with Disabilities Act (ADA) required parking spaces are to be paved prior to commencing activities requiring such spaces. The parking surface for uses located within the existing building may be gravel until the property is platted.
- (9) The number of off-street parking spaces shall be provided per the UZC. For those uses requiring a parking study, the study shall be done within three months of final approval.
- (10) No string type of lighting or banners shall be permitted. Lighting of outdoor recreation and entertainment fields is permitted. Lighting of other facilities shall be per UZC standards.
- (11) The site shall be operated in compliance with the City's noise control ordinance.
- (12) The property shall be properly policed to ensure proper maintenance and removal of trash from the premises to eliminate problems to adjacent or public property.
- (13) The site shall be developed, maintained and operated in general conformance with the approved site plan.
- (14) If the Zoning Administrator finds that there is a violation of any of the conditions of approval, 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 particular use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: North of the application area is an unplatted .34 acre tract that contains a single-family residence; a platted 58.16-acre manufactured home park (Mobile Home Manor) and a platted reserve that appears to contain a 3.44-acre sewage lagoon. East of the application area is the platted 48.63-acre Silver Spur/Twin Oaks manufactured home park. South of the site is an unplatted .83-acre tract containing a single-family home and an unplatted 19.39-acre tract used for farming or ranching. West of the subject site, across South Meridian Avenue, is a SF-20 Single-family Residential (SF-20) zoned horse stable and a farm or ranch with a residence.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-5 and developed with a 100 by 120-foot metal building. As currently zoned, the site could reasonably be expected to have economic value, and therefore, could be developed as currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The conditions of approval and other code required development standards should minimize impact to nearby property.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request would provide additional sports

training opportunities in southwestern Wichita. Denial would leave the applicant with a 100 by 120-foot metal building that can only be used for agricultural and SF-5 uses.

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 “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. Elementary and middle school facilities, churches, playgrounds, parks and similar residential-serving uses may also be found in this category. Recreation activities portion of the request are consistent with the playground and park uses recommended by the Plan.
6. Impact of the proposed development on community facilities: The property owner will need to address the sanitary sewer solution. Existing facilities are in place to accommodate approved uses.

DALE MILLER, Planning Staff presented the Staff Report.

**MOTION:** To approve subject to staff recommendation.

**B. JOHNSON** moved, **MCKAY** seconded the motion, and it carried (9-0).

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6. **Case No.: CON2014-00018** - Michael Tracy (applicant) requests a County Conditional Use request for a temporary accessory apartment (for medical reasons) on SF-20 Single-family Residential zoned property.

**CHAIRMAN KLAUSMEYER** announced that they item has been deferred two weeks to the June 19, 2014 Planning Commission Meeting.

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The Metropolitan Area Planning Commission adjourned at 1:43 p.m.

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The Metropolitan Area Planning Commission reconvened at 1:44 p.m.

**MOTION:** To reopen the hearing on Item #2-2 SUB2014-00019: One-Step Final Plat – HORSCH TRAILER ADDITION.

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

**AMENDED MOTION:** To accept the recommendation of the County Engineer’s Office with regard to the location of the opening onto the property, in addition to the other recommendations of the Subdivision Committee and staff recommendations.

**MITCHELL** moved, **B. JOHNSON** seconded, and the motion carried (9-0)

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The Metropolitan Area Planning Commission adjourned at 1:46 p.m.

State of Kansas        )  
Sedgwick County     ) <sup>ss</sup>

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.

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

(SEAL)

DRAFT

**STAFF REPORT**

**CASE NUMBER:** VAC2014-00018 - City request to vacate a portion of platted street right-of-way, a platted setback and platted access control

**OWNER/APPLICANT:** David & Heather Smith Rusty & Lora Good (owners/applicants)

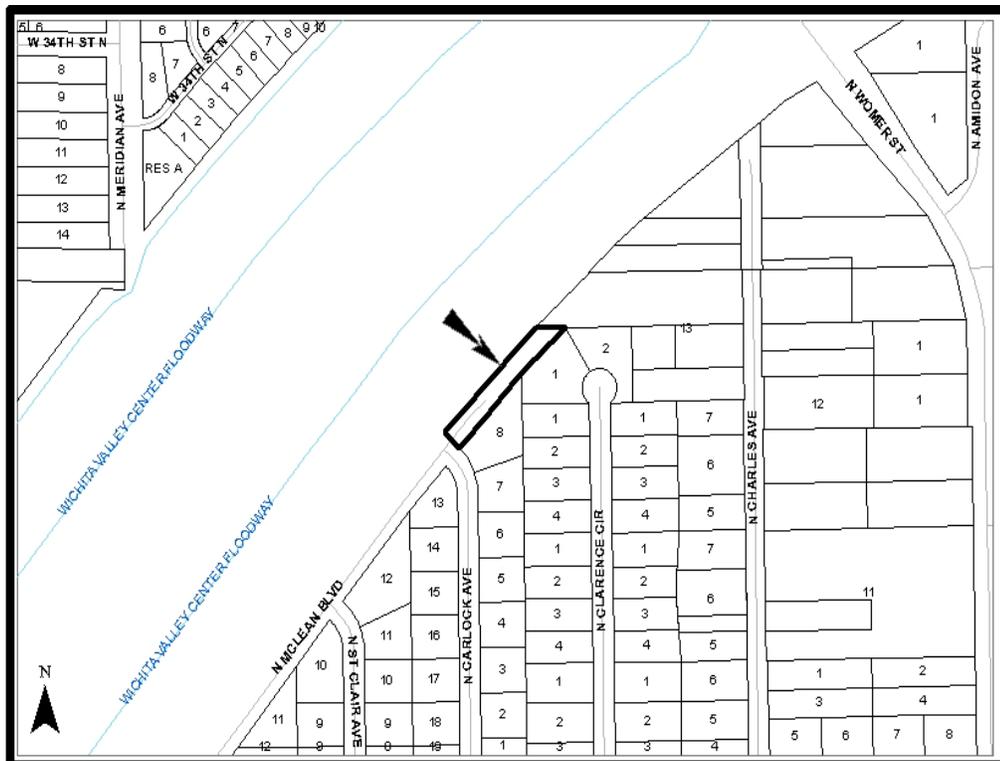
**LEGAL DESCRIPTION:** Generally described as vacating that portion of the platted McLean Avenue street right-of-way located between the northwest lot lines of Lot 8, Block 4, Pierpoint Acres Addition & Lot 1, Ladene Addition, the Wichita-Valley Center Floodway (Big Ditch), Chisholm Creek Diversion, north of its intersection with Carlock Avenue, and dead-ending at an unplatted tract on its north end, a platted 30-foot setback on Lot 8, Block 4, Pierpoint Acres Addition & the platted complete access control on Lot 1, Ladene Addition all in Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located south of 33rd Street North, west of Amidon Avenue, on the north side of the McLean – Carlock Avenues intersection (WCC #VI)

**REASON FOR REQUEST:** No plans to extend or improve this dead-end unimproved portion of McLean Avenue

**CURRENT ZONING:** The site is dead-end, unimproved street right-of-way. All abutting and adjacent southern, northern and eastern properties are zoned SF-5 Single-Family Residential (SF-5). The western property is the Big Ditch flood control.

**VICINITY MAP:**



The applicants propose to vacate: that portion of the platted McLean Avenue street right-of-way located between the northwest lot lines of Lot 8, Block 4, Pierpoint Acres Addition & Lot 1, Ladene Addition\*, the Wichita-Valley Center Floodway (Big Ditch), Chisholm Creek Diversion, north of its intersection with Carlock Avenue, and dead-ending at an unplatted tract on its north end, and; a platted 30-foot setback on Lot 8, Block 4, Pierpoint Acres Addition, and; the platted complete access control (to McLean Avenue) on Lot 1, Ladene Addition. There are no public utilities located in the described portion of McLean Avenue. Stormwater and Traffic have reviewed and approved the request. The applicants have provided a copy of a stamped survey of the right-of-way, as requested by the Subdivision Committee. Westar has a light pole in the area of the vacation, the southeast corner of McLean and Carlock Avenues. The Ladene Addition was recorded with the Register of Deeds August 26, 1975. The Pierpoint Acres Addition was recorded with the Register of Deeds December 7, 1953.

\*NOTE: At their May 13, 2014, meeting the City Council approved VAC2014-00002, a request to vacate a platted sanitary sewer easement and a platted setback located on Lot 1, Ladene Addition.

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 platted street right-of-way, the platted setback and platted complete access control.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
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 may 29, 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 platted street right-of-way, the platted setback and platted complete access control, 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 covenants binding and tying the vacated portions of McLean Boulevard to the abutting Lot 8, Block 4, Pierpoint Acres Addition & Lot 1, Ladene Addition. This covenant, with the applicants' original signatures shall be provided to the Planning Department prior to this case going to City Council for final action. These covenants will go with the Vacation Order to the Register of Deeds for recording.

- (2) 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. Westar has a street light on the southeast corner of McLean Boulevard and Carlock Street that may be in the area of the proposed vacation. Either retain that portion of the right-of-way or remove/relocate the street light at the applicants' expense. Marsha Jesse is the Area Rep and can be reached at 261-6734 about this request.
- (3) Provide any needed easements for relocated utilities, prior to this case going to City Council for final action.
- (4) Provide Planning with a legal description of the vacated portion of platted street right-of-way, the platted setback and platted access control on a Word document, via e-mail. These legal descriptions will be used on the Vacation Order. The legal descriptions must be provided to Planning prior to this 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 covenants binding and tying the vacated portions of McLean Boulevard to the abutting Lot 8, Block 4, Pierpoint Acres Addition & Lot 1, Ladene Addition. This covenant, with the applicants' original signatures shall be provided to the Planning Department prior to this case going to City Council for final action. These covenants will go with the Vacation Order to the Register of Deeds for recording.
- (2) 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. Westar has a street light on the northeast corner of McLean Boulevard and Carlock Street that may be in the area of the proposed vacation. Either retain that portion of the right-of-way or remove/relocate the street light at the applicants' expense. Marsha Jesse is the Area Rep and can be reached at 261-6734 about this request.
- (3) Provide any needed easements for relocated utilities, prior to this case going to City Council for final action.

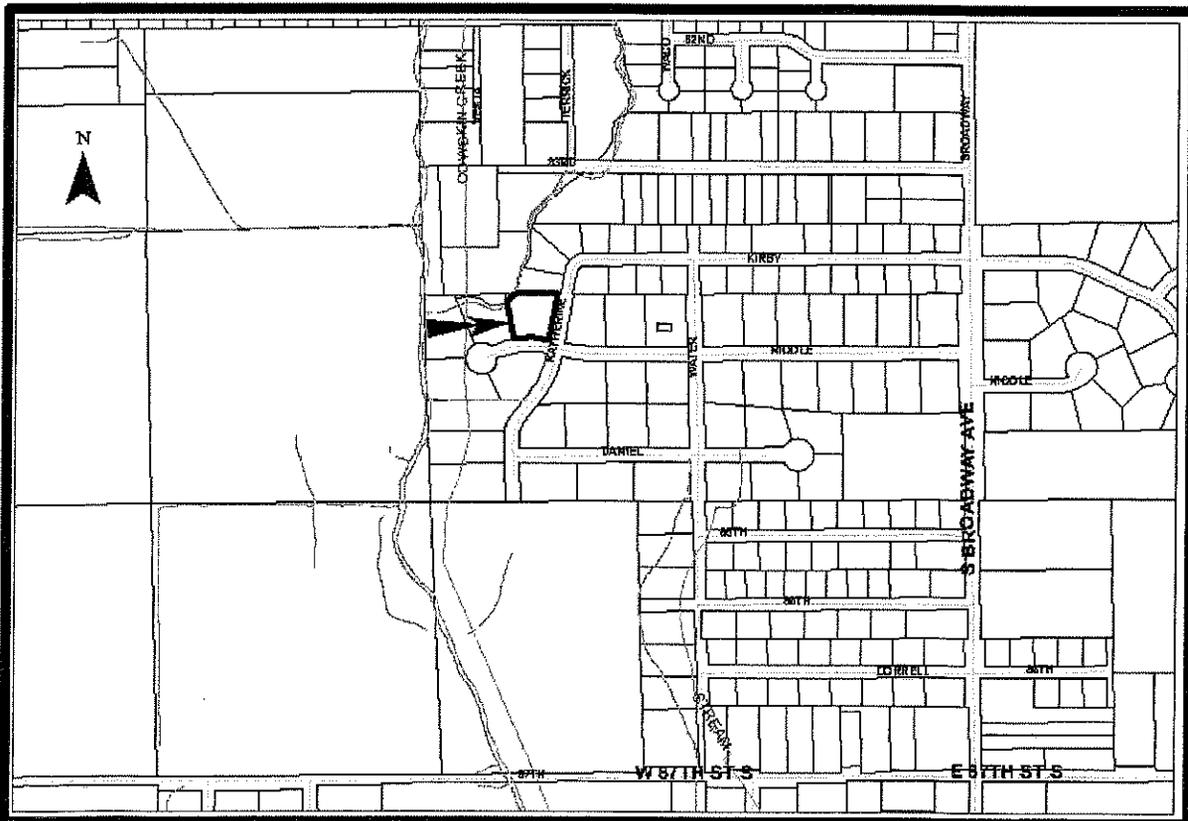
- (4) Provide Planning with a legal description of the vacated portion of platted street right-of-way, the platted setback and platted access control on a Word document, via e-mail. These legal descriptions will be used on the Vacation Order. The legal descriptions must be provided to Planning prior to this 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.



# STAFF REPORT

MAPC June 5, 2014  
Haysville May 22, 2014

- CASE NUMBER:** CON2014-00018
- APPLICANT/OWNER:** Michael Tracy (applicant/owner)
- REQUEST:** Conditional Use request for a temporary manufactured home/accessory apartment
- CURRENT ZONING:** SF-20 Single-Family Residential
- SITE SIZE:** Approximately 1.53-acres
- LOCATION:** Generally located two blocks west of Broadway Avenue, midway between 79th and 87th Streets South, on the northwest corner of Nicole and Katherine Streets (BoCC #2)
- PROPOSED USE:** Temporary accessory apartment for elderly family member with medical needs



**BACKGROUND:** The applicant is requesting a Conditional Use for a temporary manufactured home/accessory apartment (temporary accessory apartment), specifically a single-wide manufactured home, to assist with the care of elderly family members with medical needs. The applicant has provided an attached letter from a physician testifying to the medical needs of the applicant's brother who will be occupying the temporary accessory apartment; Exhibit A. The applicant has also provided an attached statement giving his reason for requesting the temporary accessory apartment in regards to the health of the brother ('disabled family member') and his mother; Exhibit B. The platted 1.53-acre SF-20 Single-Family Residential (SF-20) zoned subject site is located south of 83<sup>rd</sup> Street South, two blocks west of Broadway Avenue, on the northwest corner of Nicole and Katherine Streets. The Sedgwick County site is located within Haysville's Zoning Area of Influence.

Per the Unified Zoning Code (UZC, Sec.III-D.6.1.(3)), the placement of an accessory manufactured home on a residentially zoned lot located within the unincorporated portion of Sedgwick County may be permitted on a temporary basis, as a Conditional Use in accordance with the UZC, Sec.V-D (required review procedures for a Conditional Use), subject to the following conditions and requirements.

- (a) The location of the manufactured home shall conform to all Setback requirements of the zoning district in which located.
- (b) The lot area for the manufactured home need not comply with the area requirements of the zoning district, provided that the unit is connected to a public water supply and a municipal-type sewer system. If the property is not served by a public water supply and municipal type sewer system, the minimum lot area shall be determined by the County Health Department.
- (c) The unit shall comply with all of the standards of the UZC, Secs.III-D.6.1(1) and III-D.6.1(2); manufactured homes in the County, Standards and Exceptions.
- (d) The applicant shall show due cause that hardship exists and that the hardship cannot reasonably be alleviated without the granting of the Conditional Use.
- (e) The Planning Commission shall determine a reasonable time limit for each individual case. The manufactured home shall be removed from the property within 90 days after any change in the circumstances used as a basis for the Conditional Use.

The applicant owns the subject site as well as the abutting north property; Lot 1, Block F, Cain Orchard 2<sup>nd</sup> Addition and Lot 17, Kirby Addition. The applicant's mother lives on the abutting north property. In 2013 a garage was built on the subject site. Common ownership of the above abutting lots allowed the construction of the garage on the subject site as an accessory structure to the single-family residence located on the abutting north property. The common ownership allows the consideration of the Conditional Use request. The applicant's site plan is an aerial with the footprint of a 'single wide' manufactured home of undetermined size.

The County subject site is located in an SF-20 zoned single-family residential neighborhood with lots ranging from +/- a half-acre to an acre and a half. It is not unusual to see small stables with horses in the neighborhood. The immediate single-family residential neighborhood is developed with a mix of predominately residential designed manufactured homes and stick frame houses (built late 1940s-1960s). All the abutting and closest adjacent properties are developed with residential designed manufactured homes. RR Rural Residential zoned agricultural lands are located approximately 390 feet west and 2,000 feet east (across Broadway Avenue) of the subject site.

**CASE HISTORY:** The subject site, developed with a garage, is Lot 1, Block F, Cain Orchard 2<sup>nd</sup> Addition. The Cain Orchard 2<sup>nd</sup> Addition was recorded with the Sedgwick County Register of Deeds March 8, 1982. The abutting north property, developed with a residential designed manufactured home, is Lot 17, Kirby Addition. The Kirby Addition was recorded with the Sedgwick County Register of Deeds July 21, 1955.

This case was considered at the May 22, 2014, Haysville Planning Commission meeting and was approved with six conditions. There were no protests at the Haysville Planning Commission meeting.



the disabled uncle and/or the elderly mother resides in either the site (Lot 1, Block F, Cain Orchard 2<sup>nd</sup> Addition) and/or the abutting north property (Lot 17, Kirby Addition). The applicant shall report to the Metropolitan Area Building and Construction Department (MABCD) on a yearly basis, every January, the status of the occupancy of this temporary single-wide manufactured home. The temporary single-wide manufactured home shall be removed from the property within 90 days after any change in the circumstances used as a basis for the Conditional Use.

- (3) The water and sewer service provided to the temporary accessory apartment shall not be provided as separate services from the main dwelling. Electric, gas, telephone and cable television utility service may be provided as separate utility services. The applicant shall have the MABCD review the status of the existing sewer septic system (located on Lot 17, Kirby Addition) prior to the hook up of the proposed temporary accessory apartment (located on Lot 1, Block F, Cain Orchard 2<sup>nd</sup> Addition).
- (4) The applicant shall obtain all applicable permits including, but not limited to: building, health and zoning. This will include turning in plans for review and approval by the MABCD for the placing of the temporary accessory apartment within the FEMA Flood Zone.
- (5) Development and maintenance of the site shall be in conformance with the approved site plan.
- (6) If the temporary accessory apartment is not in place within six (6) months of approval, or 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 County subject site is located in an SF-20 zoned single-family residential neighborhood with lots ranging from +/- a half-acre to an acre and a half. It is not unusual to see small stables with horses in the neighborhood. The immediate single-family residential neighborhood is developed with a mix of predominately residential designed manufactured homes and stick frame houses (built late 1940s-1960s). All the abutting and closest adjacent properties are developed with residential designed manufactured homes. RR Rural Residential zoned agricultural lands are located approximately 390 feet west and 2,000 feet east (across Broadway Avenue) of the subject site.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The vacant subject site is currently zoned SF-20. The SF-20 zoning permits a single-family residence. The proposed temporary manufactured home/accessory apartment requires approval of a Conditional Use
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** This appears to be the first request for a temporary manufactured home/accessory apartment in this neighborhood. The proposed temporary manufactured home/accessory apartment is a single-wide manufactured home, of an undermined size. The proposed temporary manufactured home/accessory apartment will not be on the same lot as the principle residence, as required by the UZC; Lot 1, Block F, Cain Orchard 2<sup>nd</sup> Addition and Lot 17, Kirby Addition. However, County Law has opined that the applicant's ownership of both of the (abutting) lots, allows the consideration of the Conditional Use request. The UZC requires that water sewer for the proposed temporary manufactured home/accessory apartment on the same line as the principle residence, which makes it harder to sell the temporary manufactured home/accessory apartment as a separate unit. Staff's recommendation of the applicant providing a covenant, with original signatures, binding and tying Lot 1, Block F, Cain Orchard 2<sup>nd</sup> Addition and Lot 17, Kirby Addition until

they are replatted as one lot or the temporary manufactured home/accessory apartment is removed, further insures that the two living units remain under one ownership.

- (4) **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Denial of the request could impose a hardship on the owner of the properties in regards to helping provide medical care for elderly family members suffering from declining health.
- (5) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2030 Land Use Guide of the Comprehensive Plan” (Plan) identifies the SF-20 zoned site as being in the Haysville (Small City) 2030 Urban Growth Area. The Small City Urban Growth Area indicates the reasonable direction of the small cities’ growth. The site’s SF-20 zoning is a reflection of much of the existing single-family residential development that was in place prior to the 1984 establishment of County wide zoning. The SF-20 zoning district allows single-family residential use. A Conditional Use application/request is required for consideration of a temporary accessory apartment in the SF-20 zoning district. A Conditional Use for a temporary accessory apartment in the SF-20 zoning district has supplemental conditions that are required.

The August 2012, “Haysville Comprehensive Plan’s Land Use Plan Map” shows the site as “Residential.” There is no specific language defining Residential in the Haysville Comprehensive Plan, although there is a page identifying suburban development in Haysville’s Planning Area. Suburban development is referenced as platted lots or tracts ranging in size from one (1) to 20-acres and notes their potential impact on future urban growth patterns and the possibility of removing prime agricultural land. The proposed temporary accessory apartment would not seem to be in conflict with the Haysville’s Residential category. The site and the area around it are located within a FEMA Flood Zone. This requires review and approval by the MABCD for the placing of the temporary accessory apartment within the FEMA Flood Zone

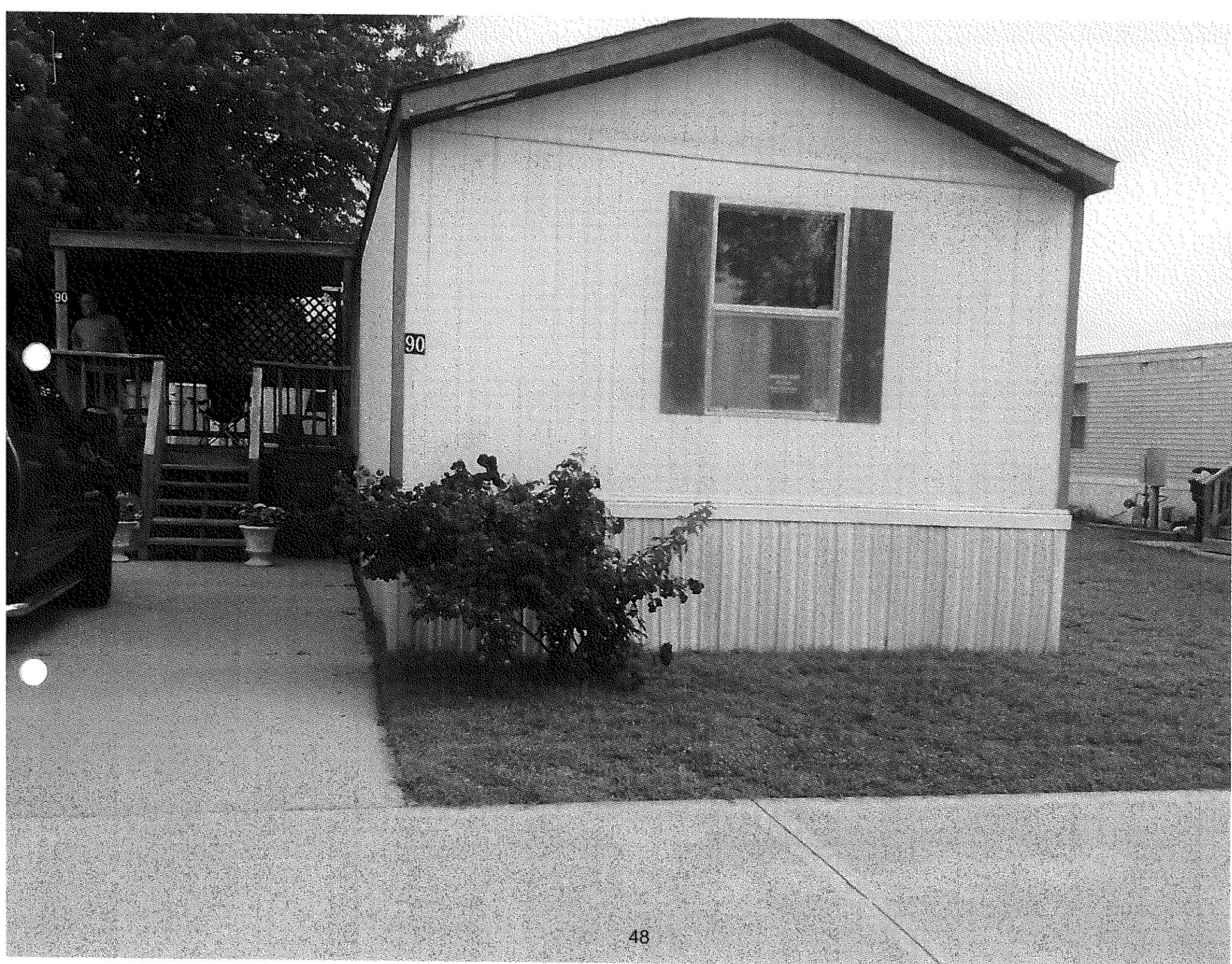
The site is located within the Haysville’s Zoning Area of Influence and as such the Haysville Planning Commission did consider CON2014-00018 prior to the June 5, 2014 MAPC meeting; UZC,Sec.V-B.4.d

- (6) **Impact of the proposed development on community facilities:** Community facilities are the public streets in the neighborhood, police and fire services, none of which will be noticeably impacted by another residence being built on the site. There is no public water or sewer service available to the neighborhood.



Google earth





March 12, 2014

Re: Charles Tracy  
DOB: 06-29-49

To Whom It May Concern:

Charles Tracy is a patient of Dr. Reys who was seen by me today. He has multiple disabilities including bilateral hand weakness after thumb amputations, coronary artery disease and poorly controlled diabetes.

Currently, he lives on the west side of town and does not have close access to his primary care physician. This I think does play a roll in his poorly controlled diabetes. The plan is to put a mobile home on his brother's property where he can live and be watched closely by his brother and hopefully get better healthcare by being a closer proximity to Dr. Del Rey. Please give some consideration to this housing permit to go through.

Respectfully,

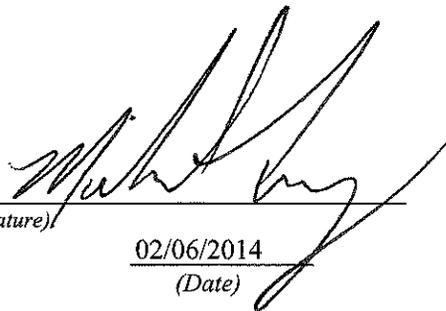


Craig R. Parman, MD



IV. I(WE), THE APPLICANT(S), ASKNOWLEDGE RECEIPT OF THE INSTRUCTION SHEET EXPLAINING THE METHOD OF SUBMITTING THIS APPLICATION. I (WE) REALIZE FILLED IN; IS ACCOMPANIED BY A CURRENT ABTRACTOR'S CERTIFICATED LIST AS REQUIRED IN THE INSTRUCTION SHEET; AND IS ACCOMPANIED BY THE APPROPRIATE FEE. I (WE) FURTHER CERTIFY THAT THE ABOVE AND FOREGOING INGORMATION IS TRUE AND CORRECT TO THE BEST OF MY (OUR) KNOWLEDGE. I (WE) ACKNOWLEDGE THAT THE GOVERNING BODY SHALL HAVE AUTHORITY TO IMPOSE SUCH CONDITIONS AS IT DEEMS NECESSARY IN ORDER TO SERVE THE PUBLIC INTEREST AND WELFARE.

**NOTE:** AT LEAST ONE OWNER MUST SIGN THIS APPLICATION. OTHER OWNERS MAY BE REPRESENTED BY AN AGENT OR AGENTS.

Applicant   
 (Signature)  
02/06/2014  
 (Date)

Applicant \_\_\_\_\_  
 (Signature) \_\_\_\_\_  
 (Date)

Agent \_\_\_\_\_  
 (Signature) \_\_\_\_\_  
 (Date)

Agent \_\_\_\_\_  
 (Signature) \_\_\_\_\_  
 (Date)

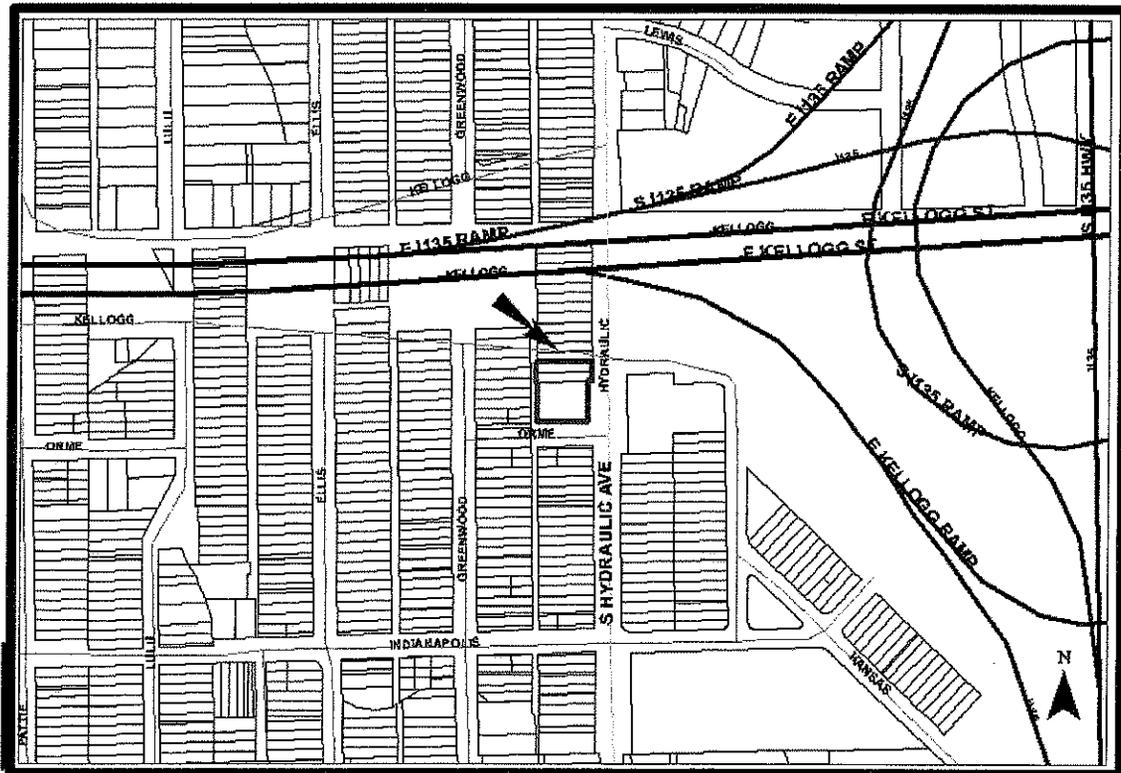
<b>Office Use Only:</b>	
This application was received at the office of the Planning Commission at _____ (am/pm) on _____, 20____. It has been checked and found to be correct and accompanied by required documents and the appropriate fee of \$275.00.	
Authorized Signature _____	Title _____

# STAFF REPORT

MAPC June 19, 2014

DAB I July 7, 2014

- CASE NUMBER:** ZON2014-00009
- APPLICANT/AGENT:** Digital Office Systems, LLC, c/o Kenneth Brasted (applicant/owner)  
Edward Murabito (agent)
- REQUEST:** OW Office-Warehouse
- CURRENT ZONING:** LC Limited Commercial
- SITE SIZE:** Approximately 0.47-acres
- LOCATION:** Generally located south of Kellogg Drive on the west side of Hydraulic Avenue



**BACKGROUND:** The applicant is requesting OW Office-Warehouse (OW) zoning on the platted approximately 0.47-acre LC Limited Commercial (LC) zoned site. The north portion of the site has a small office building (672-square feet) on it, with the rest of the site mostly developed as an unused parking lot. Per the attached letter, the applicant proposes to build a warehouse to receive and store shipments of equipment that they then deliver to different businesses in the area. The applicant's LC Limited Commercial (LC) and GO General Office (GO) zoned office is located east of the subject site, across Hydraulic Avenue. Currently the applicant stores their office equipment in rented storage units located five blocks north (across Kellogg Avenue/US Highway 54) of their office. The applicant has stated that the delivery of the office equipment to the subject site will be made by box trucks during normal business hours and that no machinery is needed. The OW zoning district allows warehousing activities for businesses with operating characteristics that do not require highly visible locations or the type of vehicular access needed for retail and high intensity office development.

With the exception of the applicant's LC and GO zoned office and LC zoned subject site, the surrounding neighborhood consist of B Multi-Family Residential (B) zoned single-family residences, scattered duplexes and small multi-family residences (built 1910-1940s). Kellogg Avenue/US Highway 54 separates the north side of the applicant's properties and the neighborhood from a neighborhood of GC General Commercial (GC) and LC zoned businesses.

**CASE HISTORY:** The site consist of Lots 193 and 195, Burr's 2nd Addition and Lot 1, Pennypower 2nd Addition. The Burr's 2nd Addition was recorded with the Sedgwick County Register of Deeds May 13, 1886. The Pennypower 2nd Addition was recorded with the Sedgwick County Register of Deeds January 11, 1979.

**ADJACENT ZONING AND LAND USE:**

NORTH: Kellogg/US 54, GC, LC	Kellogg Avenue/US Highway 54, office-warehouse, strip retail
SOUTH: B	Duplexes, single-family residences
WEST: B	Single-family residences, duplexes, vacant house
EAST: LC, GO, B	Office, single-family residences, duplexes, four-plex

**PUBLIC SERVICES:** The site has two drives onto Hydraulic Avenue, one off of the Burr's 2nd Addition, which is a pre-automobile plat (recorded 1886) with 25-foot wide lots and the other off of the Pennypower 2nd Addition. The site also has a drive onto Orme Street, a paved residential street, off of the Pennypower 2<sup>nd</sup> Addition. The Pennypower plat does not show or describe access control onto Orme Street. Hydraulic Avenue is a paved two-lane arterial road, with a center turn lane at this location. Hydraulic Avenue has 50 feet of half-street right-of-way, with the exception of the north end of the subject site, which has 40 feet of half-street right-of-way. All utilities are available to the site

**CONFORMANCE TO PLANS/POLICIES:** The "2013 Land Use Guide of the Comprehensive Plan" (2013-Plan) identifies the LC zoned subject site as "urban residential." The urban residential category encompasses areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality. The subject site's LC zoning and its proposed OW zoning are not compatible with the urban residential category. The OW District is generally compatible with the "employment/industry center" designation of the 2013-Plan.

**RECOMMENDATION:** The MAPC has considered the expansion of existing businesses on a site by site consideration. The proposed zoning will bring a critical operational component into close proximity of the applicant's headquarters and the scale, size and location of the operations fits into the neighborhood. Although the requested OW is less restrictive than the current LC zoning, the proposed Protective Overlay (PO) is crafted to ensure that subject site remains a compatible use in the residential neighborhood. Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**, subject to the following provisions of the PO:

- (1) Permitted uses are general office, warehousing, government services, library, parks and recreation, safety services, university or college, minor utilities, automated teller machine, bank or financial institution, broadcast-recording studio, funeral home, monument dales, personal care service, personal improvement service, limited printing and copying, general retail, vocational school and wholesale or business services.
- (2) Dedicate 10 feet of right-of-way off of the east lot lines of Lots 193 and 195, Burr's 2nd Addition.
- (3) Access shall be approved by the Traffic Engineer.
- (4) The site shall be come into compliance with the Unified Zoning Code's (UZC) screening, lighting and landscaping standards and other applicable development standards.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** With the exception of the applicant's LC and GO zoned office and LC zoned subject site, the surrounding neighborhood consist of B zoned single-family residences, scattered duplexes and small multi-family residences (built 1910-1940s). Kellogg Avenue/US Highway 54 separates the north side of the applicant's properties and the neighborhood from a neighborhood of GC and LC zoned businesses.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The current LC zoning allows the 0.47-acre site to be developed with a wide range of commercial and residential uses. The site's location along Hydraulic Avenue and the south side of Kellogg Avenue/ US Highway 54 lessens its appeal for single-family residential use.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The requested OW zoning with the proposed Protective Overlay allows many of the commercial uses permitted in the LC zoning district, plus the applicants desired use as a warehouse. However, unlike the LC zoning district the OW zoning district does not permit residential uses. The relatively small scale and size of the operations fits into the neighborhood. The location of the operations with direct access onto Hydraulic Avenue and close access onto Kellogg Avenue/US Highway 54, via IH 135, lessen the site's appeal for single-family residential. These considerations can be applied in regards to concerns about spot zoning.
- (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 requested OW zoning and the proposed PO will allow development on underutilized property and allow a critical operational component (receiving, warehousing and distribution) to be relocated into close proximity (directly across Harry Street) with the applicant's headquarters/office, which appears to be the newest development in the neighborhood. Denial of the request could impose a financial hardship on the owner.
- (5) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The "2013 Land Use Guide of the Comprehensive Plan" (2013-Plan) identifies the LC zoned subject site as "urban residential." The urban residential category encompasses areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality. The subject site's LC zoning and its proposed OW zoning are not compatible with the urban residential category. The OW District is generally compatible with the "employment/industry center" designation of the 2013-Plan.
- (6) **Impact of the proposed development on community facilities:** All services are in place and any increased demand on community facilities can be handled by current infrastructure.

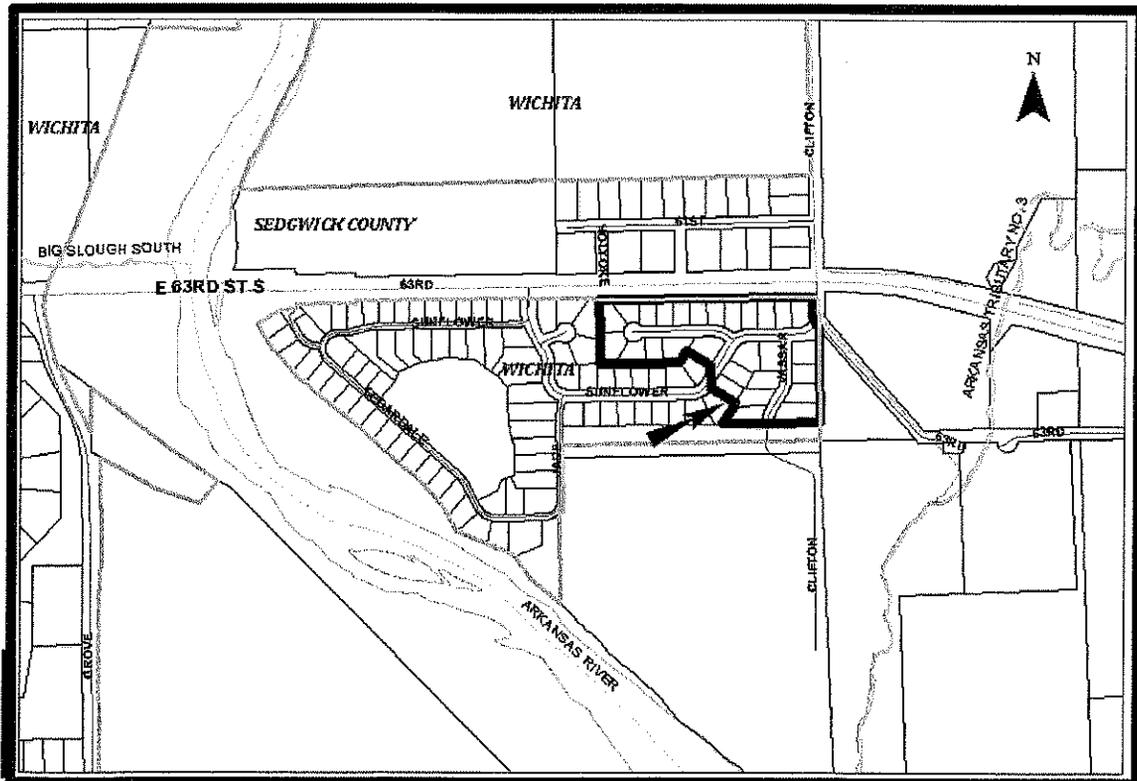


# STAFF REPORT

MAPC June 19, 2014

DAB III July 2, 2014

- CASE NUMBER:** ZON2014-00010
- APPLICANT/AGENT:** Caywood, LLC, c/o Jay Russell (applicant/owner) Baughman Company, PA, c/o Russ Ewy
- REQUEST:** TF-3 Two-Family Residential zoning
- CURRENT ZONING:** SF-5 Single-Family Residential
- SITE SIZE:** Approximately 11.6-acres
- LOCATION:** Generally located south of 63rd Street South and west of Clifton Avenue



**BACKGROUND:** The applicant is requesting TF-3 Two-Family Residential (TF-3) zoning on the platted approximately 11.6-acre SF-5 Single-Family Residential (SF-5) zoned site. The site consists of the 28 northeast-most lots of the undeveloped east portion of the Clifton Cove Addition, located on the south side of 63<sup>rd</sup> Street South between Clifton Avenue and the Arkansas River. The remaining partially developed 80 lots of the Clifton Cove Addition are zoned SF-5. The site is located within a mile of the south-most end of the central portion of the City of Wichita

Undeveloped SF-5 zoned lots of the Clifton Cove Addition abut the west and a portion of the south sides of the site. SF-5 zoned single-family residences (built 2007-2011) built around a sand pit lake and vacant SF-5 zoned lots, all of the Clifton Cove Addition, finish out development to the west, ending at the Arkansas River. The Arkansas River also marks the south end of the west side of the Clifton Cove Addition. A RR Rural residential (RR) zoned sand pit lake with a single-family residence (built 1920) is adjacent to the south of the site. RR zoned single-family residences (built 1920, 1946, 1988 and 2008) abut and are adjacent to the south and southeast of the site, as is RR zoned agricultural land. North of the site, across 63<sup>rd</sup> Street South, there is SF-20 Single-Family Residential (SF-20), RR and SF-5 zoned farm land. Directly north of the site, across 63<sup>rd</sup>, are two single-family residence (built 1954 and 1955) that are the only development on the SF-20 zoned 20 lots of the Woodvale Addition (recorded August 15, 1953). The subject site is located approximately ½-mile west of the McConnell Air Force Overlay District.

**CASE HISTORY:** The site consists of Lots 14 through 30, inclusive, Block A, Lots 10 through 16, inclusive, Block B, and Lots 1 through 4, inclusive, Block C, all in the Clifton Cove Addition, which was recorded with the Sedgwick County Register of Deeds December 7, 2005.

**ADJACENT ZONING AND LAND USE:**

NORTH: RR, SF-20, SF-5	Farmland, two single-family residences, vacant lots
SOUTH: RR	Single-family residence built around sand pit lake, farmland, Arkansas River
WEST: SF-5	Vacant lots, single-family residences, Arkansas River
EAST: RR	Single-family residences, farmland

**PUBLIC SERVICES:** The site will have access to 63<sup>rd</sup> Street South, a paved four-lane arterial road, through the Clifton Cove Addition's paved (or will be paved) residential streets and through Clifton Avenue, which is a dirt and gravel residential street. All utilities are available to the site, including Wichita water and sewer service.

**CONFORMANCE TO PLANS/POLICIES:** The "2013 Land Use Guide of the Comprehensive Plan" (2013-Plan) identifies the SF-5 zoned site as a "potential future park site." The site is shown as being close to or part of a "Proposed Park Target Area" in the "Wichita Parks and Open Space Plan;" adopted 2009. The Proposed Park Target Areas are identified as areas where new parks are needed to meet future community needs. The site's current SF-5 and proposed TF-3 zoning allows parks by right. The site's current SF-5 zoning allows single-family residential uses, but not duplexes, by right. The Clifton Cove Addition's (which the site is a part of) current single-family residential development and the proposed duplex development is compatible with the 2013-Plan's urban residential category.

**RECOMMENDATION:** If approved, the requested TF-3 zoning will permit the first duplexes into the area. However, this type of rezoning in partially developed single-family residential subdivisions is not unusual at a time when the purchasing of single-family homes is slow (the present and recent past) and the owner/developer is paying the fee for the placement of City water and sewer services and property tax in a subdivision that is only partially developed. Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED.**

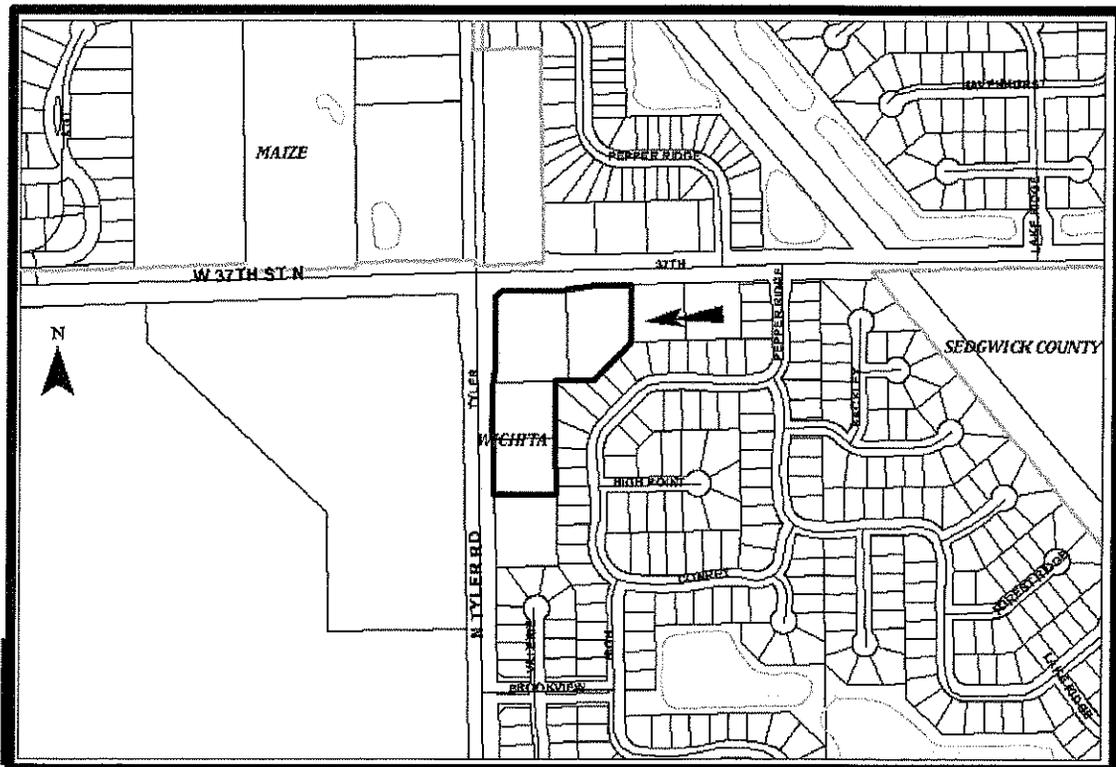
This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The area is a mix of City and County lands zoned SF-5, SF-20 and RR. Some of the SF-5 and SF-20 properties are partially developed urban scale single-family residential subdivisions. The subject site is located in one of these partially developed SF-5 zoned single-family residential subdivisions, the Clifton Cove Addition. The rest of the properties in the area are developed as large tract single-family residences and farmland. There are no other TF-3 zoned properties in the immediate area as well as in the larger area. The area is bordered by the Arkansas River on its west and a portion of its south sides, which impacts the area in the form of FEMA Floodways and Flood Zones.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site consists of 28 SF-5 zoned vacant lots, all in the Clifton Cove Addition. The SF-5 zoning permits single-family residences, which is how a portion of the Clifton Cove Addition is currently developed.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The requested TF-3 zoning allows duplexes as well as single-family residences by right. The request would introduce TF-3 zoning into the area. Common concerns raised in the rezoning of land from SF-5 to TF-3, include a lack of maintenance on what will probably be rental properties and a subsequent negative impact on neighboring property values. However, the ability and inclination of a property owner to maintain their property is not solely dependent on if the property in question is a rental property. In this situation these concerns could be addressed by a private contract between the developer/owner of the subdivision and those individuals buying lots in the subdivision.
- (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 limit development by right to single-family residential, duplex, and some (but not limited to) institutional uses such as a parks, schools and churches. Denial of the request could impose a financial hardship on the owner. This type of rezoning in partially developed single-family residential subdivisions is not unusual at a time when the purchasing of single-family homes is slow (the present and the recent past) and the owner/developer is paying the fee for the placement of City water and sewer services and property tax in a subdivision that is only partially developed.
- (5) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2013 Land Use Guide of the Comprehensive Plan” (2013-Plan) identifies the SF-5 zoned site as a “potential future park site.” The site is shown as being close to or part of a “Proposed Park Target Area” in the “Wichita Parks and Open Space Plan;” adopted 2009. The Proposed Park Target Areas are identified as areas where new parks are needed to meet future community needs. The site’s current SF-5 and proposed TF-3 zoning allows parks by right. The site’s current SF-5 zoning allows single-family residential uses, but not duplexes, by right. The Clifton Cove Addition’s (which the site is a part of) current single-family residential development and the proposed duplex development is compatible with the 2013-Plan’s “urban residential” category.
- (6) **Impact of the proposed development on community facilities:** All services are in place and any increased demand on community facilities can be handled by current infrastructure.



**STAFF REPORT**  
MAPC June 19, 2014  
DAB V June 16, 2014

- CASE NUMBER:** CUP2014-13
- APPLICANT/AGENT:** R & R Realty, LLC (owner); Baughman Company, PA c/o Russ Ewy (agent)
- REQUEST:** Amendment to Community Unit Plan (CUP) DP-267 to allow residential use with residential development standards
- CURRENT ZONING:** LC Limited Commercial
- SITE SIZE:** 6.45 acres
- LOCATION:** Generally located at the southeast corner of 37th Street North and Tyler Road
- PROPOSED USE:** Single and two-family residences



**BACKGROUND:** The subject site at the southeast corner of 37th Street North and Tyler Road was rezoned to LC Limited Commercial (LC) with DP-267, the Tyler Landing Commercial Plaza Community Unit Plan (CUP), in 2004. The CUP remains vacant since zoning, CUP approval and platting. LC zoning and the CUP permit residential development by right; however, the development standards of the CUP (such as access, architectural compatibility, setbacks, screening and landscaping) are for commercial development. The applicant desires the flexibility to develop single and/or two-family residences with development standards common to residential development on Parcels 2 through 5; therefore the applicant requests this amendment. Parcels 1, 6 and 7 at the furthest south and furthest east portions of the CUP are under a different ownership and would be unaffected by this CUP amendment. If the application area develops with single and/or two-family residences, the CUP would require replatting and therefore re-establishing setbacks and access controls. The applicant proposes a wood screening fence between residential development in the CUP and existing residential lots to the southeast; the Unified Zoning Code (UZC) would not typically require this screening between single-family or two-family residential developments. The applicant also proposes limiting the 6.45-acre site to 26 single-family or 52 two-family dwellings (see the attached CUP document). Under low-density residential zoning, the UZC would allow one single-family residence per 5,000 square feet or 1 duplex unit per 3,000 square feet for a total of 48 single-family units or over 80 two-family units on a site this size.

The entire DP-267 is undeveloped, the County Tax Assessor lists the current land use as “farming/ranch land with no improvements.” North of the site, across Central, is a single-family residence within the City of Maize, vacant LC property under Protective Overlay PO-129, and the Avalon Park 2<sup>nd</sup> Addition which is zoned TF-3 Two-family Residential (TF-3) and developed with duplexes. South of the site is the vacant, LC zoned Parcel 1 of DP-267; further south and southeast of the site is the SF-5 Single-family Residential (SF-5) zoned Tyler’s Landing 3<sup>rd</sup> Addition. Of the nine residential lots bordering the application area to the southeast, three are developed with residences. East of the site are the vacant, LC zoned Parcels 6 and 7 of DP-267; further east is the SF-5 zoned Tyler’s Landing 3<sup>rd</sup> and 4<sup>th</sup> Additions. West of the site, across Tyler Road is an SF-5 zoned high school.

**CASE HISTORY:** The site was rezoned to LC with DP 261 in 2004 and was platted as the Tyler’s Landing Commercial Addition in 2005. The site remains undeveloped.

**ADJACENT ZONING AND LAND USE:**

NORTH:	LC, TF-3, City of Maize	Single and two-family residences, vacant
SOUTH:	LC, SF-5	Vacant, single-family residences
EAST:	LC, SF-5	Vacant, single-family residences
WEST:	SF-5	High school

**PUBLIC SERVICES:** The CUP is currently platted with one right-in/out and two full movement access points to 37<sup>th</sup> Street North, and two right-in/out and one full movement access point to Tyler. The proposed CUP amendment would require replatting for residential development, and therefore re-establishing access controls. This portion Tyler is a 120-foot, two-lane arterial with additional turn lanes at the intersection. This portion of West 37<sup>th</sup> Street North

is a 120-foot, four-lane arterial with a central turn lane and additional turn lanes at the intersection. All typical urban services are available.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “local commercial.” The local commercial category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The UZC considers residential development less intense than commercial development.

**RECOMMENDATION:** The applicant’s request is based on a desire to develop the site with residences, a less intense land use than what the current zoning and CUP would permit. The proposed development should have significantly less impact on surrounding residences than uses currently permitted by right. Staff would note that a large duplex development exists nearby; the applicant proposes development standards for a land use that already exists in the immediate area. Bordering single-family residential lots southeast of the site are only one-third developed, and the applicant proposes screening and density limitations that would not be required by residential zoning under the UZC.

Based upon the information available prior to the public hearings, planning staff recommends that the request for an amendment to DP-267 to allow residential use with residential development standards be **APPROVED** subject to the following conditions:

- (1) The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days of approval or the request shall be considered denied and closed.
- (2) If the Zoning Administrator finds that there is a violation of any of the conditions of the CUP amendment, 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 CUP amendment null and void.

This recommendation is based on the following findings:

- (1) The zoning, uses and character of the neighborhood: The entire DP-267 is undeveloped, the County Tax Assessor lists the current land use as “farming/ranch land with no improvements.” North of the site, across Central, is a single-family residence within the City of Maize, vacant LC property under Protective Overlay PO-129, and the Avalon Park 2<sup>nd</sup> Addition which is zoned TF-3 and developed with duplexes. South of the site is the vacant, LC zoned Parcel 1 of DP-267; further south and southeast of the site is the SF-5 zoned Tyler’s Landing 3<sup>rd</sup> Addition. Of the nine residential lots bordering the application area to the southeast, three are developed with residences. East of the site are the vacant, LC zoned Parcels 6 and 7 of DP-267; further east are the SF-5 zoned Tyler’s Landing 3<sup>rd</sup> and 4<sup>th</sup> Additions. West of the site, across Tyler Road is an SF-5 zoned high school.

- (2) The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC with DP-267 use restrictions and development standards which accommodates a wide range of uses. The site could be developed with residences under the current CUP standards. However, the CUP would currently require that residences have commercial standards for access, architectural compatibility, setbacks, screening and landscaping.
- (3) Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed amendment would allow residences with residential development standards. The proposed development would have fewer impacts on nearby residences than commercial development allowed within the CUP.
- (4) Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “local commercial.” The local commercial category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The UZC considers residential development less intense than commercial development.
- (5) Impact of the proposed development on community facilities: The requested CUP amendment should have minimal impact on community facilities. Surrounding infrastructure was planned for and accommodates traffic for more intense uses than those proposed.

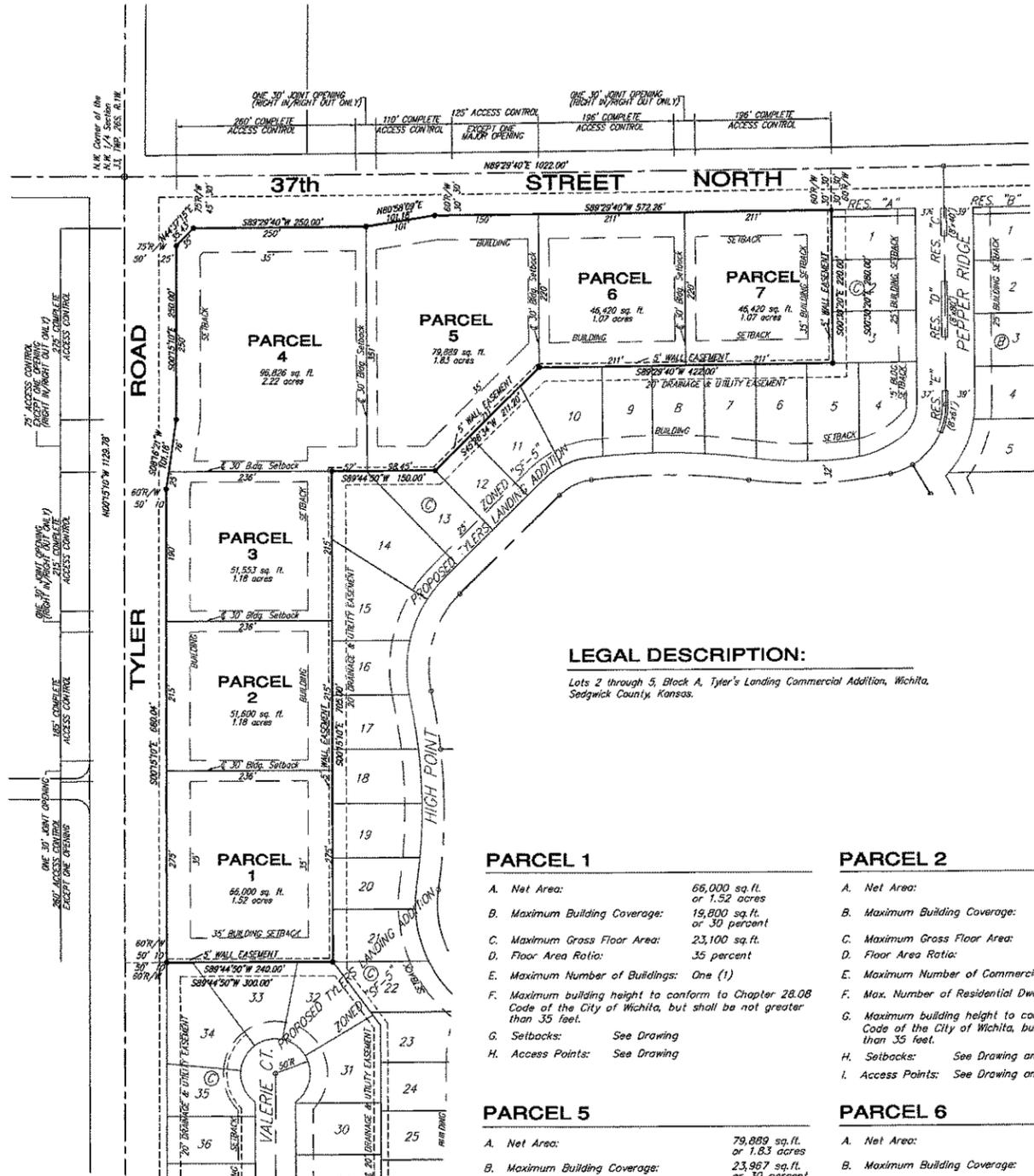
# TYLERS LANDING COMMERCIAL PLAZA

## COMMUNITY UNIT PLAN

### DP-267

#### GENERAL PROVISIONS:

- Total Land Area: 488,870 ± sq. ft. or 11.22 ± acres  
Net Land Area: 438,716 ± sq. ft. or 10.07 ± acres
- Total Gross Floor Area: 153,551 sq. ft.  
Total Floor Area Ratio: 35 percent
- Parking shall be provided in accordance with Section IV of the Unified Zoning Code, unless otherwise specified in the parcel description.
- Setbacks are as indicated on the C.U.P. drawing, or as specified in the parcel descriptions. If the site is developed for commercial uses, the C.U.P. shall have a 35-foot setback where the site abuts "S"-zoned property. If contiguous parcels are to be developed under the same ownership, setbacks between those parcels will not be required. See General Provision #26 regarding setbacks for residential development.
- A Drainage Plan shall be submitted to City Engineering for approval. Required guarantees for drainage shall be provided at the time of platting improvements.
- Guarantee for specific street improvements for Tyler Road and 37th St. North shall be further reviewed and determined at the time of platting.
- Signs shall be in accordance with the Sign Code of the City of Wichita with the following conditions:
  - Each parcel is permitted one sign per arterial frontage with the following area restrictions:  
Parcel 1: 170 sq. ft. of signage (total), no closer than 75' to south property line.  
Parcel 2: 170 sq. ft. of signage.  
Parcel 3: 170 sq. ft. of signage.  
Parcel 4: 150 sq. ft. of signage, on each frontage.  
Parcel 5: 150 sq. ft. of signage.  
Parcel 6: 150 sq. ft. of signage.  
Parcel 7: 150 sq. ft. of signage, no closer than 75' to east property line.
  - As the frontage develops along the arterial roadways, monument type signs shall be spaced a minimum of 150' apart, irrespective of how land is leased or sold.
  - Flashing signs (except for signs showing only time, temperature and other public service messages), rotating or moving signs, signs with moving lights or signs which create illusions of movement are not permitted.
  - Portable and off-site signs are not permitted.
  - Interior window display signs are limited to 25% of the window area.
  - No signs shall be allowed on the rear of any buildings.
  - All freestanding signs must be monument type and shall have a maximum height of 20 feet for Parcels 1-7.
- Access Controls shall be as shown on the final plat. See General Provision #26 regarding access control for residential development.
- All exterior lighting shall be shielded to direct light disbursement in a downward direction. This requirement does not apply to Parcels 2 through 5 in the event they are developed with residential uses.
- All parcels shall share similar or consistent parking lot lighting elements (i.e., fixtures, poles, and lamps, and etc.).
  - If the site is developed for commercial uses, the height of light poles and base shall be limited to 24 feet.
  - Extensive use of back lit canopies and neon or fluorescent tube lighting on buildings is not permitted.
- Utilities shall be installed underground on all parcels.
- Landscaping for this site shall be required as follows:
  - Development of all parcels within the C.U.P. shall comply with the Landscape Ordinance of the City of Wichita and share a similar landscape palette. The landscape buffer shall be provided at a rate of one tree per 30 feet. This requirement does not apply to Parcels 2 through 5 in the event they are developed with residential uses.
  - A landscape plan shall be prepared by a Kansas Landscape Architect for the above referenced landscaping, indicating the type, location, and specifications of all plant material. This plan shall be submitted to the Planning Department for their review and approval prior to issuance of a building permit. This requirement does not apply to Parcels 2 through 5 in the event they are developed with residential uses.
  - A financial guarantee for the plant material approved on the landscape plan for that portion of the C.U.P. hereby developed shall be required prior to issuance of any occupancy permit, if the required landscape has not been planted. This requirement does not apply to Parcels 2 through 5 in the event they are developed with residential uses.
- Screening:
  - Commercial Development: A six (6) foot high concrete/masonry wall shall be constructed along the south & east property lines of the C.U.P. where adjacent to residential zoning. This solid wall shall be constructed of a pattern and color that is consistent with the building walls.
  - Residential Development: Screening shall be provided in accordance with the Unified Zoning Code, and shall be constructed with a minimum 6-foot wood screening fence.
- Roof-top mechanical equipment shall be screened from ground level view per Unified Zoning Code. This requirement does not apply to Parcels 2 through 5 in the event they are developed with residential uses.
- Trash receptacles, loading docks, outdoor storage, and loading areas shall be appropriately screened to reasonably hide them from ground view from Tyler Road, 37th St. North, or rear of single-family lots to south and east. This requirement does not apply to Parcels 2 through 5 in the event they are developed with residential uses.
- All buildings in the C.U.P. shall share uniform architectural character, color, texture, and the same predominate exterior building material, as determined by the Director of Planning. Building walls and roofs must have predominately earth-tone colors, with vivid colors limited to incidental accents, and must employ materials similar to surrounding residential areas. No predominately metal facades shall be allowed. This requirement does not apply to Parcels 2 through 5 in the event they are developed with residential uses.
- Fire lanes shall be in accordance with the Fire Code of the City of Wichita. No parking shall be allowed in said fire lanes, although they may be used for passenger loading and unloading. The Fire Chief or his designated representative shall review and approve the location and design of all fire lanes. Fire hydrant installation and paved access to all building sites shall be provided for each phase of construction prior to building permits.



#### LEGAL DESCRIPTION:

Lots 2 through 5, Block A, Tyler's Landing Commercial Addition, Wichita, Sedgewick County, Kansas.

#### PARCEL 1

- Net Area: 66,000 sq. ft. or 1.52 acres
- Maximum Building Coverage: 19,800 sq. ft. or 30 percent
- Maximum Gross Floor Area: 23,100 sq. ft.
- Floor Area Ratio: 35 percent
- Maximum Number of Buildings: One (1)
- Maximum building height to conform to Chapter 28.08 Code of the City of Wichita, but shall be not greater than 35 feet.
- Setbacks: See Drawing
- Access Points: See Drawing

#### PARCEL 5

- Net Area: 79,889 sq. ft. or 1.83 acres
- Maximum Building Coverage: 23,967 sq. ft. or 30 percent
- Maximum Gross Floor Area: 27,961 sq. ft.
- Floor Area Ratio: 35 percent
- Maximum Number of Commercial Buildings: Two (2)
- Max. Number of Residential Dwelling Units: See G.P.#26
- Maximum building height to conform to Chapter 28.08 Code of the City of Wichita, but shall be not greater than 35 feet.
- Setbacks: See Drawing and General Provision #26
- Access Points: See Drawing and General Provision #26

#### PARCEL 2

- Net Area: 51,600 sq. ft. or 1.18 acres
- Maximum Building Coverage: 15,480 sq. ft. or 30 percent
- Maximum Gross Floor Area: 18,060 sq. ft.
- Floor Area Ratio: 35 percent
- Maximum Number of Commercial Buildings: One (1)
- Max. Number of Residential Dwelling Units: See G.P.#26
- Maximum building height to conform to Chapter 28.08 Code of the City of Wichita, but shall be not greater than 35 feet.
- Setbacks: See Drawing and General Provision #26
- Access Points: See Drawing and General Provision #26

#### PARCEL 6

- Net Area: 46,420 sq. ft. or 1.07 acres
- Maximum Building Coverage: 13,926 sq. ft. or 30 percent
- Maximum Gross Floor Area: 16,247 sq. ft.
- Floor Area Ratio: 35 percent
- Maximum Number of Buildings: One (1)
- Maximum building height to conform to Chapter 28.08 Code of the City of Wichita, but shall be not greater than 35 feet.
- Setbacks: See Drawing
- Access Points: See Drawing

#### PARCEL 3

- Net Area: 51,553 sq. ft. or 1.18 acres
- Maximum Building Coverage: 15,466 sq. ft. or 30 percent
- Maximum Gross Floor Area: 18,044 sq. ft.
- Floor Area Ratio: 35 percent
- Maximum Number of Commercial Buildings: One (1)
- Max. Number of Residential Dwelling Units: See G.P.#26
- Maximum building height to conform to Chapter 28.08 Code of the City of Wichita, but shall be not greater than 35 feet.
- Setbacks: See Drawing and General Provision #26
- Access Points: See Drawing and General Provision #26

#### PARCEL 7

- Net Area: 46,420 sq. ft. or 1.07 acres
- Maximum Building Coverage: 13,926 sq. ft. or 30 percent
- Maximum Gross Floor Area: 16,247 sq. ft.
- Floor Area Ratio: 35 percent
- Maximum Number of Buildings: One (1)
- Maximum building height to conform to Chapter 28.08 Code of the City of Wichita, but shall be not greater than 35 feet.
- Setbacks: See Drawing
- Access Points: See Drawing

#### PARCEL 4

- Net Area: 96,826 sq. ft. or 2.22 acres
- Maximum Building Coverage: 29,048 sq. ft. or 30 percent
- Maximum Gross Floor Area: 33,889 sq. ft.
- Floor Area Ratio: 35 percent
- Maximum Number of Commercial Buildings: Two (2)
- Max. Number of Residential Dwelling Units: See G.P.#26
- Maximum building height to conform to Chapter 28.08 Code of the City of Wichita, but shall be not greater than 35 feet.
- Setbacks: See Drawing and General Provision #26
- Access Points: See Drawing and General Provision #26

#### BENCHMARK:

CDM benchmark SE corner of intersection  
32.30' south of centerline  
30.00' east of centerline  
53.90' east of PP  
9.20' southeast of PP  
43.20' southeast of section corner iron  
Din = 178.04 City Datum (1365.44 NGVD29)

#### REVISIONS:

Amendment #1 Submitted: May 12, 2014  
Approved by City Council: June 4, 2014  
Resubmitted: March 17, 2014  
Drawn: July 23, 2005

- Parcels 1 & 7: Cannot face south or east  
Parcels 2 & 3: Cannot face east  
Parcel 4: Cannot face southeast  
Parcels 5 & 6: Cannot face south
- Cross-lot circulation agreements shall be required at the time of platting to assure internal vehicular movement between parcels within the C.U.P. This requirement does not apply to Parcels 2 through 5 in the event they are developed with residential uses.
- Amendments, adjustments or interpretations to this C.U.P. shall be done in accordance with the Unified Zoning Code.
- The Transfer of title of all or any portion of land included within the Community Unit Plan (or any amendments thereto) does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land and be binding upon present owners, their successors and assigns.
- The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
- Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
- A plan for a pedestrian walk system shall be submitted and approved by the Director of Planning prior to the issuance of building permits. Said walk system shall link sidewalks along Tyler Road and 37th Street North with the proposed buildings within the subject property.
- No development shall occur until such time as municipal water and sewer service are provided to the site.
- Transportation requirements:
  - A site plan shall be required for review and approval by the Planning Director prior to the issuance of any building permits; the site plan shall ensure internal circulation within the parcels and joint use of ingress/egress openings and that private drive openings are not impacted/blocked by the layout of parking stalls or landscaping.
  - The applicant shall provide a guarantee for right-turn accel/deceleration lanes along the perimeter of the property.
  - The applicant shall provide a guarantee for right-turn lane along 37th Street North and Tyler Road.
  - Location of the major entrance on Tyler Road shall be located across from the major entrance to Maize South Middle School.
  - Access points shall be in conformance with the Access Management Policy.
  - The developer shall guarantee 12-1/2 percent share of the cost for the intersection signalization at Tyler Road and 37th Street North.
  - Provision of a traffic impact study is not required if the applicant accepts the above recommendations.
- The development of Parcels 2 through 5 may allow for single-family and/or two-family residential development. In the event Parcels 2 through 5 are developed residentially, all requirements for commercial development shall not apply, and the four commercial lots shall be re-platted for residential purposes. Such issues as access control, building setbacks, and other improvements shall be established during the subdivision process. Parcels 2 through 5 shall, collectively, permit a maximum of 26 single-family (32 two-family) dwelling units.

## DP-267

TYLERS LANDING COMMERCIAL PLAZA COMMUNITY UNIT PLAN

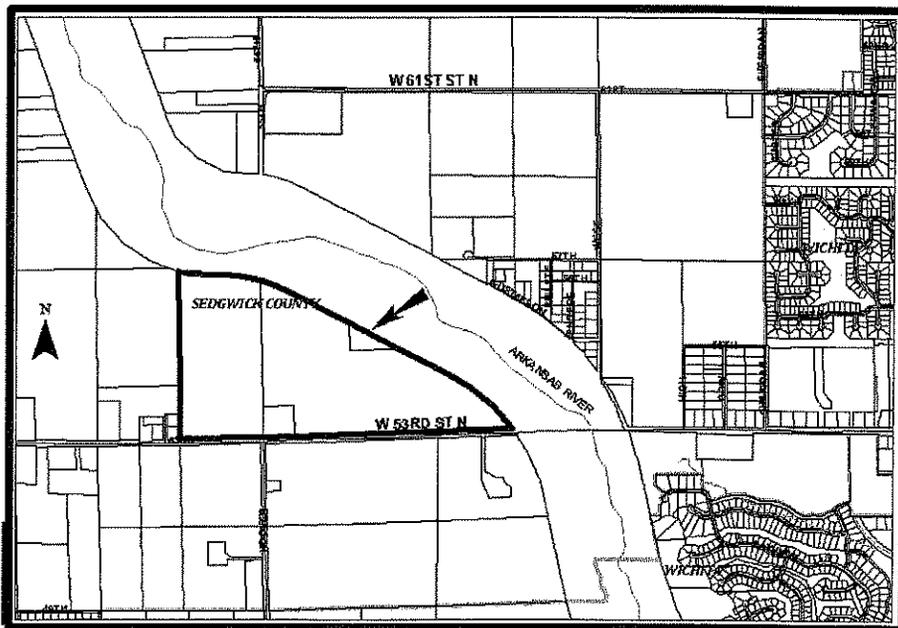


Baughman Company, P.A.  
115 E. 10th St., Wichita, KS 67211 P: 316-262-7271 F: 316-262-4119

SCALE: 1" = 100'

**STAFF REPORT**  
MAPC June 19, 2014

- CASE NUMBER:** CON2014-00019
- OWNER/AGENT:** Associated Material & Supply Co., Inc, c/o Nadine Stannard (owner) Ruggles and Bohm, PA, c/o Chris Bohm (agent)
- REQUEST:** Amend CU-346, a Conditional Use to permit “mining or quarrying,”/the extraction and removal of sand and gravel from the site, specifically by extending this operational period by 25-years
- CURRENT ZONING:** SF-20 Single-Family Residential
- SITE SIZE:** Approximately +/- 203-acres
- LOCATION:** Generally located on the north side of 53rd Street Norton, both sides of Hoover Road (ends at 53<sup>rd</sup> Street North) and on the west side of the Arkansas River (BoCC #4)
- PROPOSED USE:** Extraction and removal of sand and gravel from the site



**BACKGROUND:** The applicant is requesting an amendment to CU-346, a Conditional Use to permit “mining or quarrying,”/the extraction and removal of sand and gravel from the site. Condition “X” of CU-346 states that,” All sand and gravel extraction shall be completed within 25-years after approval of this conditional use permit by the Board of County Commissioners,” (BoCC). CU-346 was approved by the Board of County Commissioners October 23, 1991, thus its remaining operational time is approximately 26-months. Condition “X” also states that an extension of the operational time can be granted by the BoCC after a public hearing by the MAPC, thus the MAPC’s consideration of this request. The proposed amendment also includes: changing the operational plan, which will increase the size of the post operational sand pit lake (from 113.7-acres to 122.1-acres) in two phases, and; changing the post operation plan for the site, by reducing the number of single-family residential lots. Other conditions in CU-346 shall be updated in regards to zoning references, County departments, or in the form of referencing conditions to remain in effect.

The applicant has provided a letter outlining the need for the additional 25-years. Reasons given for the proposed extension include: the recent economic recession slowing the demands for the sand and gravel extracted from the site, thus not allowing the conditional use to be more fully realized, and; the owners studying the possibility of extracting more materials for from the site with additional equipment that they would then purchase.

The SF-20 Single-Family Residential (SF-20) zoned site is located on the north side of 53<sup>rd</sup> Street North, at the end of Hoover Road, where it intersects 53<sup>rd</sup> Street North. The site runs from the Arkansas River on its east side to about a ¼-mile past the Hoover Road – 53<sup>rd</sup> Street North intersection on its west side. The Arkansas River also abuts the north side of the site. SF-20 and RR Rural Residential (RR) zoned active sand/gravel extraction and removal operations, low density large tract and suburban scale single-family residences, single-family residences built around sand pits lakes, agricultural lands, and inactive sand pits either abut or are adjacent to the west, northwest, southeast, south and southwest sides of the site. The Arkansas River is the reason this area is dotted with so many active sand/gravel extraction and removal operations and single-family residential development built around sand pit lakes and inactive sand pit lakes. The site is also located over the Equus Beds.

**CASE HISTORY:** The unplatted property is zoned SF-20. At the time of the approval of Conditional Use CU-346 the site was zoned R-1 Suburban Residential (R-1). CU-346, a Conditional use for the extraction and removal of sand and gravel from the site was approved by the Board of County Commissioners October 23, 1991.

**ADJACENT ZONING AND LAND USE:**

NORTH: Arkansas River, RR	Agricultural land
SOUTH: SF-20	Agricultural land, single-family residences built around sand pit lakes
EAST: Arkansas River, SF-20	Agricultural lands, low density suburban and large tract single-family residences

WEST: SF-20, RR

Low density suburban and large tract single-family residences, single-family residence built around sand pit lakes, agricultural land

**PUBLIC SERVICES:** No public utilities are available to the site. Access to the site is off of 53<sup>rd</sup> Street North, a paved two-lane arterial road/County Highway, with 90 feet of full right-of-way. 53<sup>rd</sup> Street North is the first road that crosses the Arkansas River north of K-96/IH-235 crossing. Hoover Road can be accessed off of 53<sup>rd</sup> Street North. Hoover Road is a paved two-lane arterial road/County Highway, with 60 feet of full right-of-way.

**CONFORMANCE TO PLANS/POLICIES:** The “2013 Land Use Guide of the Comprehensive Plan” (2013-Plan) identifies the SF-20 zoned site as a “potential future park site.” The site is shown as being close to a “Proposed Park Target Area” in the “Wichita Parks and Open Space Plan;” adopted 2009. The Proposed Park Target Areas are identified as areas where new parks are needed to meet future community needs. The site’s current SF-20 zoning allows parks by right. The site’s current SF-20 zoning also allows single-family residential uses by right. 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-20. The UZC, allows consideration of mining or quarrying as a Conditional Use in the SF-20 zoning district; UZC, Sec-III-D.6.gg. Sec-III-D.6.gg. has 23 supplementary conditions for a mining and quarrying Conditional Use.

Since CU-346’s approval in 1991 there has been a substantial increase in sand and gravel extraction and removal operations and their subsequent sand pit lakes in the area. There has also been a slower, less significant increase in the low density, large tract single-family residential development in the area. This development trend does not prevent the subject site from being mostly in conformance with the Comprehensive Plan’s Land Use-Industrial Strategy IV.A.1, which 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 still has direct access onto has access onto 53<sup>rd</sup> Street North, a paved two lane arterial road/County Highway.
- (2) Industrial traffic not to feed directly into local streets in residential areas. There are no residential streets that truck traffic from the site needs to pass through to get to and out of the site.
- (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, active sand extraction operations, low density large tract single-

family residential and a few large tract single-family residential development built around sand pit lakes.

**RECOMMENDATION:** The requested amendment would permit other 25-years of industrial use (sand and gravel 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 larger area. Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**, subject to the following conditions:

1. If approved by the MAPC and the BoCC, the 25-year sand and gravel excavation and removal period will begin at the end of the current permitted 25-years off sand and gravel excavation and removal period, which ends October 23, 1991.
2. All other supplementary conditions of CU-346 shall remain in effect, unless updated in regards to the current supplemental use regulations for mining or quarrying, updating zoning references, or County departments.
3. Sand and gravel extraction will be in two phases, Phase 1 and Phase 2.
4. 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 SF-20 zoned subject site is located in an area of SF-20 and RR zoned active sand/gravel extraction and removal operations, low density large tract and suburban scale single-family residences, single-family residences built around sand pits lakes, agricultural lands, and inactive sand pits. The Arkansas River runs north – south through the area and is the reason this area is dotted with so many active sand/gravel extraction and removal operations and single-family residential development built around sand pit lakes and inactive sand pit lakes.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned SF-20, 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-20 zoning district on a site by site review.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** An increase in soil erosion and blowing dust are a given. However, the area is dominated by active sand and gravel extraction and removal 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. The current use is not out of character with the area. The proposed 25-year extension may mean that his operation could be one of the last in the immediate area.

However, because of the area's proximity to the Arkansas River there is also the possibility that more of the area's agricultural land could turn into sand and gravel extraction and removal operations, meaning the subject site would not be out of character with the area 25-years into the future. CON2014-12, a sand and gravel extraction and removal operation was approved June 19, 2014 for a period of 16 years.

4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The "2013 Land Use Guide of the Comprehensive Plan" (2013-Plan) identifies the SF-20 zoned site as a "potential future park site." The site is shown as being close to a "Proposed Park Target Area" in the "Wichita Parks and Open Space Plan;" adopted 2009. The Proposed Park Target Areas are identified as areas where new parks are needed to meet future community needs. The site's current SF-20 zoning allows parks by right. The site's current SF-20 zoning also allows single-family residential uses by right.

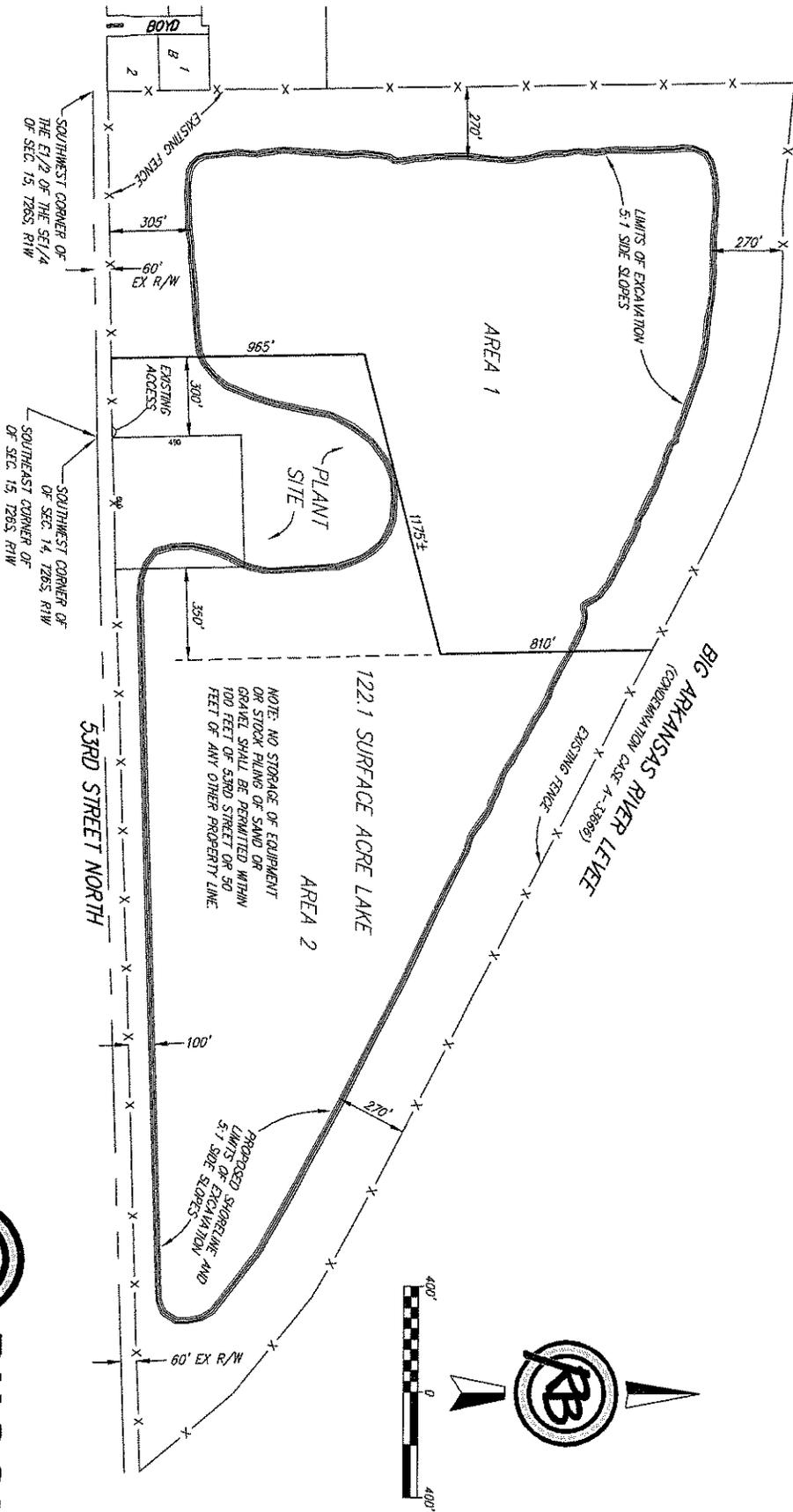
The proposed sand extraction operation (which the UZC classifies as an Industrial, Manufacturing, Extractive Use) and the proposed single-family residential development around the sand pit lake after the conclusion of the extraction operation both fit into the "urban development mix."

The site is zoned SF-20. The UZC, allows consideration of mining or quarrying as a Conditional Use in the SF-20 zoning district; UZC, Sec-III-D.6.gg. Sec-III-D.6.gg. has 23 supplementary conditions for a mining and quarrying Conditional Use.

Since CU-346's approval in 1991 there has been a substantial increase in sand and gravel extraction and removal operations and their subsequent sand pit lakes in the area. There has also been a slower, less significant increase in the low density, large tract single-family residential development in the area. This development trend does not prevent the subject site from being mostly in conformance with the Comprehensive Plan's Land Use-Industrial Strategy IV.A.1, which 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."

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.

# OPERATIONAL PLAN



Surface excavation exposing the ground water surface shall not occur in Area 2 until such excavation has been completed in Area 1. Once the excavation exposing the ground water surface and the adjacent bank stabilization is completed in an Area, the subsurface extraction of material may proceed as desired by the operator.

**CONDITIONAL USE**  
**CU - 346**



DWG FILE: OPERATIONAL PLAN ENGINEERING | SURVEYING | LANDSCAPE ARCHITECTURE | GOVERNMENT  
PROJECT NO. 4255P  
APRIL 23, 2014  
822 NORTH MAIN WICHITA, KANSAS 67203 P (316) 264-8008 F (316) 264-4821  
WWW.RBANSAS.COM



June 9, 2014

Wichita – Sedgwick County MAPD  
Mr. William Longnecker  
10<sup>th</sup> Floor – City Hall  
Wichita, KS 67203

Re: CON2014-00019 – Amendment for CU-346 – Justification of Extension of Time

Dear Mr. Longnecker,

As requested I am providing this letter on behalf of Associated Material, the owner of the subject property to explain the request to extend the period of time that the Conditional Use remains in effect for 25 years. Please consider the following:

- a) The existing facility with the current Conditional Use can be physically operated for a time period of 5 to 10 years to completion, based on marked demand for their products. The current CU expires in 2016 which already limits the ability for the original site to be developed as planned. The recent economic recession slowed the rate of material extraction due to lower demand.
- b) During this 5 to 10 year window to finish the original plan, the owners intend to investigate the ability to extract more material from the facility, by first having reconnaissance drilling conducted to determine the suitability and marketability of the aggregate lying below the existing pond bottom, and secondly, based on these results, make the determination to substantially invest in the necessary equipment and its installation to extract this material.
- c) Once sub-surface extraction begins, it is anticipated that these operations can continue for at least 15 years to fully utilize the deposits.

The request for the 25 year time extension allows Associated Material the ability to evaluate the viability of additional sub-surface extraction of material, invest and install the equipment to do so, and proceed with the full development potential of this site.

Should you require additional information, please do not hesitate to contact me.

Best regards,

Christopher Bohm, P.E.

To: Wichita-Sedgwick County Area Metropolitan Planning Commission

**Case: Amendment to Conditional Use Permit CU-346, Associated Material on 53<sup>rd</sup> Street North**

Please accept this petition in support of the proposed amendment to Conditional Use Permit CU-346. We purchase rock, sand and gravel from Associated Material and Supply Company. We support their request for sand and gravel extraction at 5600 W. 53<sup>rd</sup> St. North.

SIGNATURE	ADDRESS	DATE
<i>Michael Henry</i>	202 W. 109 <sup>th</sup> St. N.	5-27-2014
<i>Gabe</i>	1338 N Valley Ct Andover	5/27/14
<i>Aaron Br Capp</i>	1001 S. Elm Douglas ks	5-27-14
<i>Tom Bader</i>	218 N. High St Wichita	5-28-14
<i>Chris Campbell</i>	2274 Euclid Wichita ks	5-29-14
<i>John Jeter</i>	505 S. Fern Wichita	5-30-14
<i>Artis Hallen</i>	2520 Perry Wichita ks	6-7-14
<i>Samuel</i>	5461 South Mead ks	6/8/14
<i>Rob Bredme</i>	338 N Joann Wichita ks	6-9-14
<i>Randy Pates</i>	2546 S 135th St W Wichita ks	6-11-14



Plant Location  
53rd St. N. & Hoover  
Wichita, KS  
(316) 721-3848

**ASSOCIATED MATERIAL & SUPPLY CO., INC.**  
SAND · ROCK · GRAVEL · TOP SOIL  
P.O. Box 4476, Wichita, Kansas 67204-0476  
(316) 721-3848

Plant Location  
Hwy. 53, West of Big River  
Mulvane, KS  
(316) 777-1421

To: Wichita-Sedgwick County Area Metropolitan Planning Commission

From: George Messerschmidt Date: 6-3-2014

**Case: Amendment to Conditional Use Permit CU-346, Associated Materials on 53<sup>rd</sup> Street North**

Dear Planning Commissioners,

Please accept this letter in support of the proposed amendment to Conditional Use Permit CU-346. I have been in communication with Nadine Stannard, the owner of Associated Material, and understand and approve of the modifications she is requesting on this site.

Sincerely,

George Messerschmidt  
Name

5431 N. Boyd Wichita, KS  
Address  
67205



**ASSOCIATED MATERIAL & SUPPLY CO., INC.**

SAND • ROCK • GRAVEL • TOP SOIL

P.O. Box 4476, Wichita, Kansas 67204-0476  
(316) 721-3848

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Wichita, KS  
(316) 721-3848

Plant Location  
Hwy. 53, West of Big River  
Mulvane, KS  
(316) 777-1421

To: Wichita-Sedgwick County Area Metropolitan Planning Commission

From: \_\_\_\_\_ Date: \_\_\_\_\_

**Case: Amendment to Conditional Use Permit CU-346, Associated Materials on 53<sup>rd</sup> Street North**

Dear Planning Commissioners,

Please accept this letter in support of the proposed amendment to Conditional Use Permit CU-346. I have been in communication with Nadine Stannard, the owner of Associated Materials, and understand and approve of the modifications she is requesting on this site.

Sincerely,

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address



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 (316) 721-3848

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 Wichita, KS  
 (316) 721-3848

Plant Location  
 Hwy. 53, West of Big River  
 Mulvane, KS  
 (316) 777-1421

To: Wichita-Sedgwick County Area Metropolitan Planning Commission

From:     *Arleen Clark*     Date:     *5-28-14*    

**Case: Amendment to Conditional Use Permit CU-346, Associated Materials on 53<sup>rd</sup> Street North**

Dear Planning Commissioners,

Please accept this letter in support of the proposed amendment to Conditional Use Permit CU-346. I have been in communication with Nadine Stannard, the owner of Associated Material, and understand and approve of the modifications she is requesting on this site.

Sincerely,

    *Arleen Clark*      
 Name

    *5320 N. Hoover, Wichita, Ks. 67205*      
 Address



**ASSOCIATED MATERIAL & SUPPLY CO., INC.**  
 SAND · ROCK · GRAVEL · TOP SOIL  
 P.O. Box 4476, Wichita, Kansas 67204-0476  
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Plant Location  
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Plant Location  
 Hwy. 53, West of Big River  
 Mulvane, KS  
 (316) 777-1421

To: Wichita-Sedgwick County Area Metropolitan Planning Commission

From: \_\_\_\_\_ Date: \_\_\_\_\_

**Case: Amendment to Conditional Use Permit CU-346, Associated Materials on 53<sup>rd</sup> Street North**

Dear Planning Commissioners,

Please accept this letter in support of the proposed amendment to Conditional Use Permit CU-346. I have been in communication with Nadine Stannard, the owner of Associated Material, and understand and approve of the modifications she is requesting on this site.

Sincerely,

*Mike Clark*

\_\_\_\_\_  
 Name

*4435 W. 53<sup>rd</sup> St. N.*

\_\_\_\_\_  
 Address



**ASSOCIATED MATERIAL & SUPPLY CO., INC.**

SAND • ROCK • GRAVEL • TOP SOIL

P.O. Box 4476, Wichita, Kansas 67204-0476  
(316) 721-3848

Plant Location  
53rd St. N. & Hoover  
Wichita, KS  
(316) 721-3848

Plant Location  
Hwy. 53, West of Big River  
Mulvane, KS  
(316) 777-1421

May 12, 2014

Michael R. and Kathryn S. Clark  
4435 W. 53<sup>rd</sup> St North  
Wichita, KS 67205  
Associated Material amendment to Conditional Use Permit

Dear Mr. and Mrs. Clark,

I am writing to let you know that you will soon be receiving notice from the Metropolitan Area Planning Commission of a public hearing for an amendment to the Associated Material Conditional Use Permit. This amendment is being sought to extend the time frame of the original Conditional Use, which is in effect until 2016.

The original Conditional Use governs the size and shape of our operations. As you may know, we are almost finished with all of the excavation work to complete the shape of the open water, and the acreage of this is governed by permits granted by the State of Kansas. We have not yet had the time or demand to utilize all the aggregate resources of the pond, and because of this we are asking for the amendment to the Conditional Use. Also, new technologies allow us to extract aggregate more effectively from the bottom of the existing pond which allows us to continue production without having to enlarge the pond or the scope of our operations.

Specifically, we are asking for the following:

- A twenty five year extension of the Conditional Use Permit, and;
- A modification to the shape of the pond to match its current configuration.

All of the physical features of the site will remain as they exist at this time. Once the pond surface shape is finished, there will be no more major earth moving operations on site, only the sub-surface extraction of material from the pond area.

I wanted to provide you with this letter in advance of the public hearing so that you knew our intentions. If you are so inclined I would appreciate a letter of support from you as an adjacent land owner. An example of a simple letter of support is attached. Please call me if you would like to discuss: Nadine Stannard, Associated Material, 316-721-3848.

Sincerely,

Nadine Stannard, President

Published in The Daily Reporter on November 27, 1991

R E S O L U T I O N   N O . 246-1991

A RESOLUTION AUTHORIZING A CONDITIONAL USE PERMIT TO ESTABLISH A SAND AND GRAVEL EXTRACTION OPERATION IN THE "R-1" SUBURBAN RESIDENTIAL DISTRICT ON CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED IN SECTION 17.C OF THE ZONING REGULATIONS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, DECEMBER 12, 1984, AND SUBSEQUENTLY AMENDED.

BE IT RESOLVED BY THE GOVERNING BODY OF SEDGWICK COUNTY, KANSAS.

SECTION I. That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section 17.C of the Zoning Regulations, a conditional use permit to establish a sand and gravel extraction operation on property zoned "R-1" Suburban Residential District is hereby approved on lands legally described below:

Case No. CU-346

Conditional Use Permit to establish a sand and gravel extraction operation on property zoned the "R-1" Suburban Residential District

Government Lots 2, 3 and 6 and the south half of the Southwest Quarter of Section 14; Government Lot 2 and the east half of the Southeast Quarter of Section 15; all in Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, except the south 45 feet for road right-of-way and that part taken for Big Arkansas River Levee by Condemnation Case A-33666. Generally located on the northeast and northwest corners of Hoover and 53rd Street North.

SUBJECT TO THE FOLLOWING CONDITIONS:

- A. Since the proposed excavation is within 1,000 feet of a flood protection structure, the applicant shall obtain a permit from the County Engineer. This permit is required by K.S.A. 19-3309 and shall be obtained prior to this case being considered by the Board of County Commissioners.

11/27/91  
123

- B. The applicant shall submit a restrictive covenant to the Planning Department, approved as to content by the City-County Flood Control Office and as to form by the County Counselor. The covenant shall provide for the construction and/or maintenance of a loop levee on the premises at such a location as the Flood Control Office may direct in accordance with construction specifications, Sections 1 through 4, inclusive, and maintenance specifications, Sections 1 and 2 of Construction and Maintenance Specifications, as prepared by the City-County Flood Control Office. Said covenant shall run with the land and be binding on all owners, successors, or assigns.
- C. The extraction of sand on this site shall proceed in accordance with the operational plan approved by the MAPC. The perimeter of the lake excavation shall conform to the approximate size and shape indicated on the approved plan. Special care shall be exercised to assure that the perimeter of the lake does not encroach closer to the boundary of the application area than is depicted on the operational plan.
- D. Four copies of a revised operational plan shall be submitted for review and approval prior to this case being scheduled for review by the Board of County Commissioners. The revised plan shall indicate the division of the excavation area into a minimum of three (3) approximately equal areas. Each area shall be numbered, with the westernmost area being identified as Area 1, and a note shall be included on the operational plan that states that excavation will begin in the lowest-numbered area and that the excavation of any materials (i.e., sand, gravel, subsoil or topsoil) shall not occur in any higher-numbered area until excavation has been completed in all areas designated with a lower number. The boundary lines which define the numbered excavation areas shall be appropriately dimensioned.
- E. In order to assist in the enforcement of the operational plan for this extraction operation, the applicant shall have a copy of the approved operational plan posted in the plant office.
- F. Adjacent to the perimeter of the application area, a minimum 60-inch-high fence shall be constructed prior to the beginning of any extraction operation (topsoil, subsoil or sand) and shall be maintained at the locations depicted on the operational plan. Said fence shall be placed on steel posts which are not less than 7 feet tall. The posts shall not be set more than 16 feet apart. The fence shall be a minimum height of 60 inches and shall be of the following types of construction:
1. A 48-inch-high or higher chain link fence with 3 or more strands of barbed wire; or

2. A 48-inch-high or higher solid metal or solid masonry fence with 3 or more strands of barbed wire; or
3. A 48-inch-high or higher wood fence which may have cracks or openings not in excess of 5% of the area of such fence, with 3 or more strands of barbed wire.

The term "barbed wire" shall mean any twisted wire with barbs spaced a minimum of 4 inches apart and placed at the top of the fence and gate at an angle not to exceed 160° facing away from the excavation.

- G. The earth and sand shall be extracted to at least a minimum depth of 6 feet below the normal water table, as determined by the City-County Health Department.
- H. To provide for bank stabilization and safety of future uses, the side slope of the extraction shall be no more steep than 5 horizontal to 1 vertical.
- I. Sufficient overburden material shall be retained in the area of extraction to grade and construct the banks so they are formed with overburden material, rather than sand.
- J. A drainage and grading plan shall be submitted to and approved by the County Engineer prior to any excavation.
- K. The owner of the property shall be responsible for:
  1. Insuring that the loop levee elevation be maintained, if constructed.
  2. Maintaining all operational roads with sand and/or gravel in order to minimize blowing dust.
- L. The applicant shall submit a restrictive covenant satisfactory in form to the County Counselor providing that no foreign matter, such as non-operational equipment, rubbish, trees, car bodies, asphalt, building rubble, etc. shall be stockpiled on the application area or deposited within the excavation.
- M. The applicant shall submit a covenant satisfactory in form to the County Counselor, Sedgwick County Department of Public Works and the Wichita-Sedgwick County Health Department, which authorize the use of the extraction area as a detention storage facility for public drainage purposes, if determined to be necessary and appropriate.

- N. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand extraction plant.
- O. No commercial recreational activities, such as boating, fishing, skiing, etc. shall be permitted in the area, unless duly authorized under provisions of the County Zoning Resolution and amendments thereto.
- P. All slopes shall have vegetative covering consisting of a perennial drought-resistant grass or combination of grasses which will permit the establishment of sod cover to help prevent erosion.
- Q. To minimize blowing soil in this area, overburden shall not be removed more than one year in advance of the lake being expanded into an area, unless the ground is covered within the next planting season with a perennial drought-resistant grass or combination of grasses which will permit the establishment of sod cover to help prevent erosion.
- R. The storage of equipment or stockpiling of sand is not permitted closer than 100 feet to any public right-of-way or closer than 50 feet to any property line.
- S. Nothing in the approval of this request shall be construed to permit a contractor's material and equipment storage yard.
- T. The applicant shall dedicate, by separate instrument, the 60 feet of half-street right-of-way required for 53rd Street North adjacent to this property.
- U. All on-site water and sewerage facilities shall be approved by and constructed to the standards of the Wichita-Sedgwick County Health Department.
- V. The applicant shall allow the Wichita-Sedgwick County Health Department to enter the property to install groundwater monitoring wells at locations to be determined by the Department. The Health Department shall be responsible for testing and evaluating information provided by the monitoring wells. The Health Department will determine the effects of the extraction operation on surface and groundwater quality and verify if Kansas Department of Health and Environment water quality standards are being exceeded as a result of the extraction operation. Negative findings regarding pollution shall be cause for temporary suspension or permanent discontinuance of the extraction operation.
- W. Prior to the commencement of any excavation on this property, including topsoil and subsoil removal, the

applicant shall vacate Hoover Road, as noted on the operational plan. If the Board of County Commissioners should deny this street vacation request, the applicant shall submit new operational and redevelopment plans. These plans shall be submitted to the Planning Department within 45 days after the date that the County Commission denied the vacation case. The new plans shall be scheduled for review and approval by the Planning Commission at one of its regularly scheduled meetings.

- X. All sand and gravel extraction shall be completed within 25 years after approval of this conditional use permit by the Board of County Commissioners. This is the case as long as surface and groundwater monitoring does not verify that the existence of the extraction operation is a source of surface and groundwater pollution and should consequently be discontinued. Within 25 years after County Commission approval, the land surrounding the lake shall be properly graded and planted with a vegetative cover and all stockpiled sand, sand pumping and related equipment shall have been removed from the property. This conditional use permit shall expire 25 years from the date of County Commission approval, unless an extension is granted by that governing body after a public hearing is held by the MAPC to review the application for extension.
- Y. Prior to scheduling this conditional use request for County Commission consideration, conditions A, B, D, L, M and T shall be completed.
- Z. Any violation of conditions attached shall declare the conditional use permit null and void.

SECTION II. That upon the taking effect of this Resolution, the notation of such conditional use permit shall be entered in the official zoning atlas on file in the Office of the County Zoning Administrator and in the Office of the Wichita-Sedgwick County Metropolitan Area Planning Department.

SECTION III. That this Resolution shall take effect and be in force from and after its adoption and publication in the official county paper.

Commissioners present and voting were:

BETSY GWIN  
PAUL W. HANCOCK  
BERNARD A. HENTZEN  
BILLY Q. McCRAY  
MARK F. SCHROEDER

CU-346 Resolution  
Page 6

DATED this 23rd day of October, 1991.

BOARD OF COUNTY COMMISSIONERS OF  
SEDGWICK COUNTY, KANSAS



ATTEST:

Don Wright  
DON WRIGHT, County Clerk

APPROVED AS TO FORM ONLY:

Henry H. Buse  
County Counselor/Assistant

Billy Q. McCray  
BILLY Q. McCRAY, Chairman

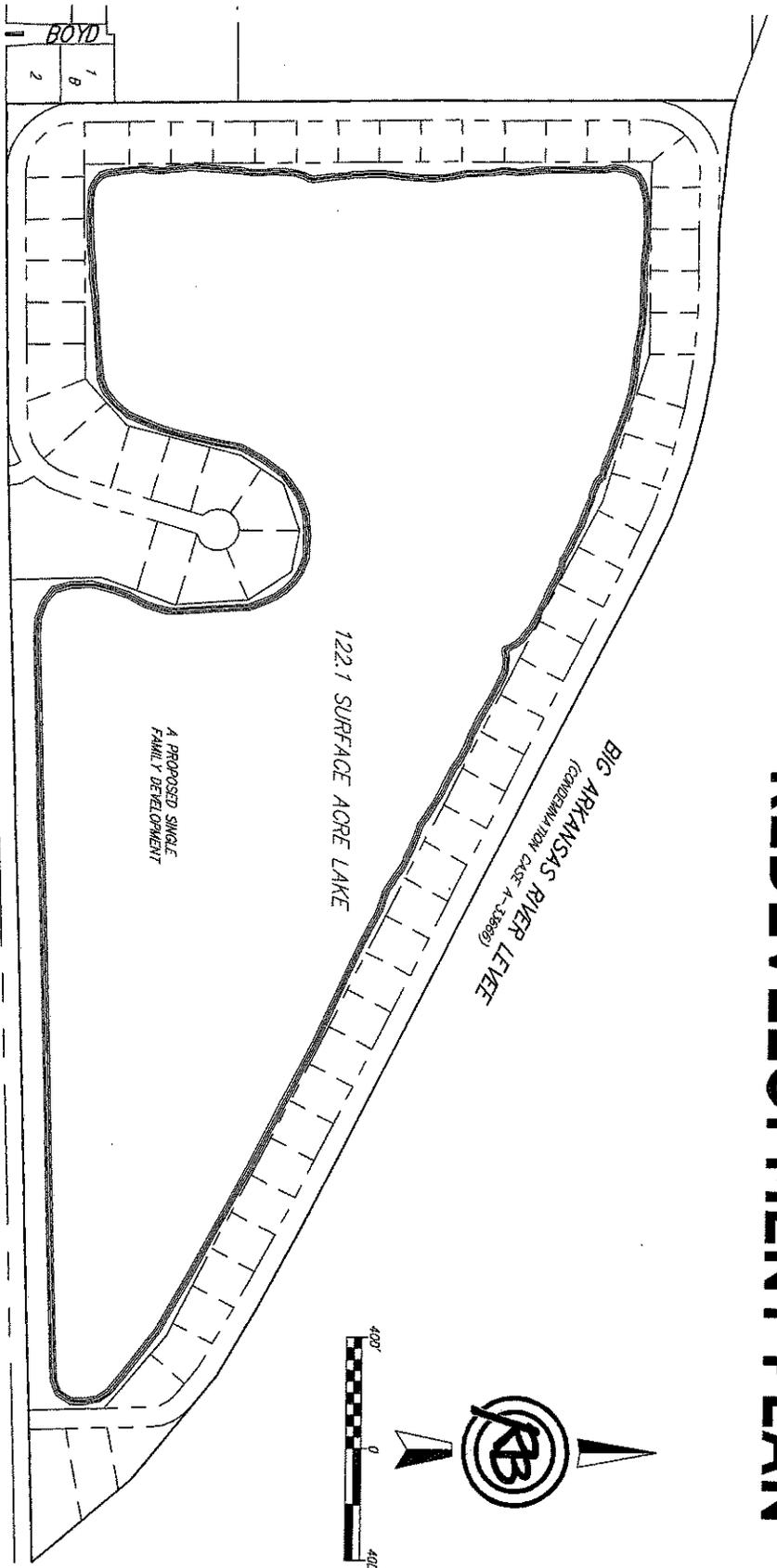
Betsy Gwin  
BETSY GWIN, Chair/Pro Tem

Paul W. Hancock  
PAUL W. HANCOCK, Commissioner

Bernard A. Hentzen  
BERNARD A. HENTZEN, Commissioner

Mark F. Schroeder  
MARK F. SCHROEDER, Commissioner

# REDEVELOPMENT PLAN

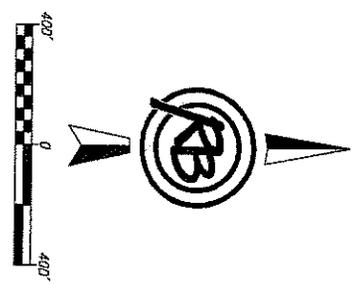


**CONDITIONAL USE**  
**CU - 346**

DWG FILE: REDEVELOPMENT PLAN  
PROJECT NO. 4259P  
APRIL 23, 2014



804 NORTH MAIN WICHITA, KANSAS 67203 P (316) 264-6808 F (316) 264-4821  
WWW.RUGGLESBOHM.COM



STAFF REPORT  
MAPC 6-19-2014

CASE NUMBER: CON2014-00020

APPLICANT/AGENT: Bob Bergkamp Construction Co., Inc. and Towanda Land Company, LLC (James K. and Chris Snook) / Milo M. Unruh, Jr.

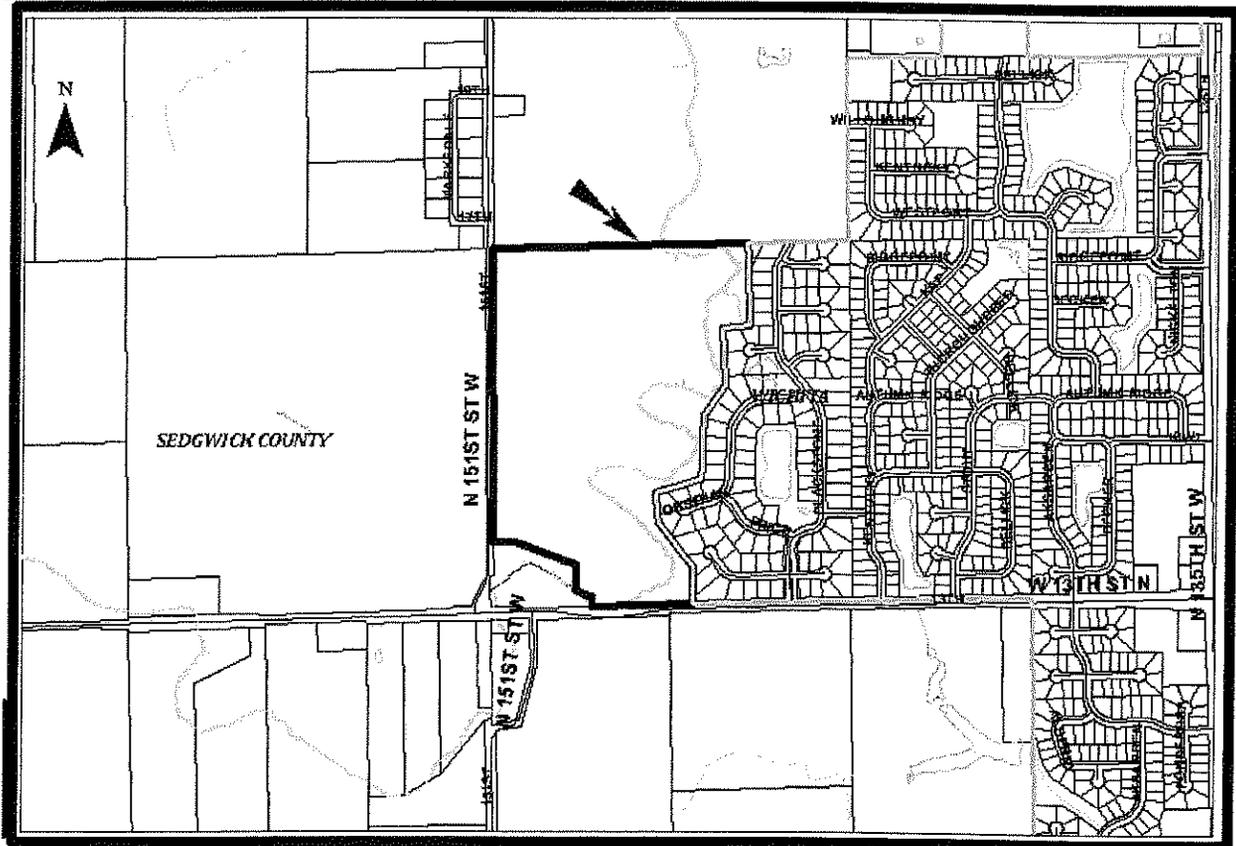
REQUEST: Conditional Use to permit mining and quarrying of soil

CURRENT ZONING: SF-20 Single-family Residential

SITE SIZE: 88.32 acres

LOCATION: 1,560 feet north of West 13<sup>th</sup> Street North, east of North 151<sup>st</sup> Street West

PROPOSED USE: Soil excavation



**BACKGROUND:** The applicant is seeking approval of a “conditional use” to permit the “mining and quarrying” of soil from 88.32 unplatted acres, zoned SF-20 Single-family Residential (SF-20) that are located 1,560 feet north of West 13<sup>th</sup> Street North, east of North 151<sup>st</sup> Street West. The application area has approximately 700 feet of frontage along West 13<sup>th</sup> Street North and 2,080 feet of frontage along North 151<sup>st</sup> Street West. The application area does not include the 6.06 acres located immediately on the northeast corner of the intersection of West 13<sup>th</sup> Street North and North 151<sup>st</sup> Street West.

The applicant proposes to initially excavate the topsoil from two areas (depicted on the attached site plan and described in the attached “summary of operations”) that total 7.40 acres, and which are located in the northeast corner and east central portions of the site. Eventually the two individual excavation sites will be combined into one larger excavation area that will contain 12.25 acres. A haul road is proposed to be installed in the northeastern corner of the site, and will parallel the north property line for half the width of the site and then turn south along the northern excavation area and terminate at the southern excavation area. The haul road will be maintained with motor grader and water truck. The excavation area is proposed to be enclosed with a barbed wire fence. (Note: The request to permit a barbed wire fence is a modification to the Wichita-Sedgwick County Unified Zoning Code (UZC) “supplementary use regulation” (Unified Zoning Code (UZC) Art. III, Sec. III-D.6.gg(4)) requirement for a four-foot tall chain link fence topped by three or more strands of barbed wire that requires MAPC or governing body approval.) Six trucks will be used to haul the dirt off-site to construction projects. From the site the trucks will travel north on North 151<sup>st</sup> Street West. The applicant has provided a maintenance agreement with Attica Township for North 151<sup>st</sup> Street West to: maintain the road with a motorgrader to prevent “wash boarding”; water the road to prevent dust and restore any damage caused by soil removal operation (attached). The applicant has requested 10 years to complete the project. Hours of operation are proposed to be Monday-Friday 7:00 a.m. to 5:00 p.m. Depth of excavation is proposed to be 15 feet from surface to the bottom of the excavation.

Most of the applicant’s property is located within the 100 year floodplain of North Dry Creek, which is heavily treed. The applicant has included a drainage plan with the application. The drainage plan has been approved by County Engineering subject to two conditions: a floodplain development permit is required from MABCD prior to any grading or excavation and a county stormwater permit will be required prior to any land disturbing activities.

Land to the north and south of the site is zoned SF-20, and is developed with large-lot residences (tracts of 2.52, 3.54 and 4.38 acres) or is farm land. Land to the east of the site is zoned SF-5 Single-family Residential (SF-5) and is platted as the Blackstone Addition containing 17,424 square-foot residential lots. Construction on lots located within the Blackstone Addition is in the beginning stages. Much of the Blackstone Addition is currently undeveloped. Land to the west of the site, across North 151<sup>st</sup> Street West, is zoned RR Rural Residential (RR), and is farm land. Northwest of the site is the Marksdale Addition that contains 14 lots containing approximately 26,136 square feet per lot that are developed with single-family residences.

Article III, Sec.III-D.6.gg of the UZC contains 23 development standards related to mining or quarrying, sand and gravel extraction. In summary, the “supplementary use regulations” require: 1) submission and development of the site in compliance with the site plan; 2) the depiction of the area to be excavated and the timing of the excavation; 3) a redevelopment plan for the site when excavation is completed; 4) perimeter fencing; 5) minimum excavation depth to be six feet below the water table; 6) dust control; 7) erosion control; 8 and 9) bank stabilization with topsoil; 10) platting when building or other non-excavation permits are required; 11) commercial recreation activities to be prohibited; 12) a restrictive covenant preventing use of the site as a landfill or dumping ground; 13) stockpiled material to be located 100 feet or more from public right-of-way or within 50 feet of a property line; 14) the prohibition of a

contractor's material and equipment storage yard; 15) the length of time excavation can occur to be established by the conditional use; 16) hours of operation to be between 6:00 a.m. to sunset; 17) approval of on-site water and sewer facilities; 18) any water wells required by the excavation to be approved; 19) the site to be open for inspection and installation of groundwater monitoring wells; 20) approval for the storage of fuel or chemicals; 21) approval of a drainage plan; 22) haul roads shall be sand or gravel condition and shall be maintained to minimize blowing dust and 23) the applicant to obtain all applicable permits.

**CASE HISTORY:** The property's current zoning was probably applied in 1985 when Sedgwick County adopted countywide zoning.

**ADJACENT ZONING AND LAND USE:**

North: SF-20; farm land  
South: SF-20; farm land  
East: SF-5; single-family residential  
West: RR; farm land with a residence

**PUBLIC SERVICES:** The use does not require public water or sanitary sewer service. North 151<sup>st</sup> Street West is an Attica Township maintained sand and gravel section line road with approximately 35 feet of half-street right-of-way. The applicant has submitted a maintenance agreement with Attica Township for 151<sup>st</sup> Street.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide indicates the site is located inside Wichita's 20130 Urban Growth Area, which is land that has the potential to be developed by the year 2030.

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

1. The extraction operation on the site shall proceed in accordance with an operational plan to be approved by the Planning Director. The perimeter of the excavation shall conform to the approximate size and shape indicated on the approved operational plan. To assist in the enforcement of the operational plan, a copy of the approved operational plan shall be posted on the site.
2. As directed by the Attica Township Trustee, the applicant shall maintain North 151<sup>st</sup> Street to prevent wash boarding and rutting; shall treat said road to prevent dust and shall restore any damage caused by activities permitted by this Conditional Use.
3. The operational plan shall illustrate which area is to be excavated and in what phase.
4. A redevelopment plan depicting uses for the property after the conclusion of the extraction operation, shall be submitted to the Planning Director for review and a recommendation to the Planning Commission as to whether or not the development plan is compatible with surrounding land uses, the Comprehensive Plan or other plans or policies being utilized by the City or County.
5. Equipment on the site shall not project noise and/or light onto any surrounding properties

which exceeds the noise and/or light spillage limits of existing County codes or compatibility standards.

6. The extraction shall be to at least a minimum depth of six feet below the normal water table, as determined by the Director of Sedgwick County Code Enforcement.
7. Sufficient overburden material shall be retained in the area of extraction to grade and construct the banks so they are formed with overburden material rather than sand.
8. The owner of the property shall be responsible for minimizing blowing dust from the site. To minimize blowing soil, overburden shall not be removed more than six months in advance of the excavation area being expanded, per the operational plan, unless the ground is covered within the next planting season with a perennial drought-resistant grass or combination of which will permit the establishment of sod cover to help prevent erosion. As part of the required operational plan, the site shall be divided into at least two distinct areas for the purpose of showing phased excavation over time.
9. All slopes shall have vegetative covering consisting of a perennial drought-resistant grass or combination of grasses that will permit the establishment of sod cover to help prevent erosion.
10. To provide for bank stabilization and safety of future uses, the side slopes of the extraction shall be no steeper than four horizontal to one vertical.
11. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the city or county legal counsel (as applicable), prior to the commencement of any extraction providing that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the application area or within the extraction area.
12. The storage of equipment or stockpiling of sand or overburden is not permitted closer than 100 feet to any public right of way, or closer than 50 feet to any property line.
13. Nothing in the approval of a Conditional Use shall be construed to permit a contractor's material and equipment storage yard. Within 12 months after completion of the extraction operation, the land surrounding the excavation pit shall be properly graded and planted with a vegetative cover. Also, all stockpiled material and related excavation equipment shall be removed from the subject site.
14. Hours of operation for extraction shall be limited to 6:00 a.m. to sunset, Monday through Friday.
15. The Conditional Use for the sand extraction operation shall be valid for a period of ten years. The applicant may apply to the Planning Director for additional time with an administrative adjustment.
16. All on-site water and sewage facilities shall be approved by and constructed to the

standards of the Department of Code Enforcement for the County or Department of Environmental Services for the City.

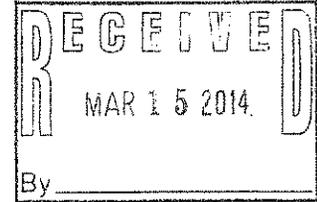
17. Any water wells needed to operate the facility must comply with the Water Well Construction Standards contained in Article 30 of the Kansas Department of Health and Environment rules and regulations.
18. The applicant shall make the site available to the Sedgwick County Department of Environmental Resources for the installation and management of groundwater monitoring wells.
19. Any on-site storage of fuels or chemicals must be approved by Sedgwick County Fire Department officials and any other appropriate parties.
20. A drainage plan shall be submitted to and approved by County Public Works prior to starting the extraction operation. All of the area included in the extraction operation shall be graded in accordance with the approved drainage plan. Additional requirements, such as a public drainage easement, a floodway reserve, or a covenant authorizing the area of the Site for use as a detention storage facility for public drainage purposes, may be required as a condition of approval for the drainage plan. As noted above the drainage plan has been approved provided: a floodplain development permit is obtained from MABCD prior to any grading or excavating and a county stormwater permit will be obtained prior to any land disturbing activities.
21. All operational roads shall be maintained in a sand or graveled condition and shall be treated with water or other acceptable dust retardant to minimize blowing dust.
22. All other applicable local, state, and federal permits necessary for the extraction operation and for flood plain development shall be obtained and maintained.
23. If operations have not begun within one year of approval, the Conditional Use shall be null and void.
24. 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.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Land to the north and south of the site is zoned SF-20, and is developed with large-lot residences (tracts of 2.52, 3.54 and 4.38 acres) or is farm land. Land to the east of the site is zoned SF-5 Single-family Residential (SF-5) and is platted as the Blackstone Addition containing residential lots of approximately 17,424 square feet. Construction on lots located within the Blackstone Addition is in the beginning stages, much of the subdivision is currently undeveloped. Land to the west of the site is zoned RR Rural Residential (RR) and is farm land. Northwest of the site is the Marksdale Addition that contains 14 lots containing approximately .6 acre per lot that are developed with single-family residences.

North 151<sup>st</sup> Street West is an unpaved section line road. The application area abuts the city limits of Wichita.

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 larger-lot single-family residences and a few civic and institutional uses, such as schools, parks or public schools. The site is heavily impacted by the 100-year floodplain of North Dry Creek, which, without modification, makes much of the site undesirable for intensive development.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request should not detrimentally impact nearby property owners. The conditions of approval address usual impacts of soil or sand extraction. The eastern property line is North Dry Creek and is heavily treed. The closest residence to the south is located approximately 1,000 feet away. The closest platted lot to the east is approximately 200 feet away.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Topsoil is required for construction projects, both public and private. The applicant owns a construction company that needs a supply of topsoil. Approval of the request will allow the applicant to secure a supply of topsoil. Denial would presumably represent a loss of economic opportunity to the applicant.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide indicates the site is located inside Wichita's 20130 Urban Growth Area, which is land that has the potential to be developed by the year 2030. Approval of the request is a temporary use of property that otherwise has significant development constraints. Less than 13 of the site's 88 acres will be permanently impacted by the proposed project.
6. Impact of the proposed development on community facilities: County Engineering has approved a drainage plan that preserves the floodway's ability to carry water. The applicant has provided a road maintenance agreement with Attica Township for North 151<sup>st</sup> Street West.



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March 10, 2014

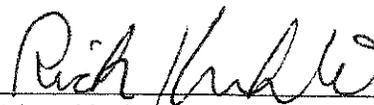
RE: 151<sup>st</sup> Maintenance Agreement

Mr. Krehbiel:

Bergkamp Construction is in the process of obtaining a conditional use permit to excavate soil from property located at 151<sup>st</sup> west and 13<sup>th</sup> street north, our trucks will utilize 151<sup>st</sup>. The borrow pit will not be in continuous operation. When we are excavating soil Bergkamp Construction agrees to the following:

- Maintain the road with a motorgrader to prevent "wash boarding" and rutting.
- Water the road to prevent dust.
- Restore any damage caused by our operations.

  
Chris Snook 3/11/14  
Bergkamp Construction

  
Rick Krehbiel  
Attica Township 3-11-14



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(316) 522-3471 • FAX # (316) 522-5296

### SUMMARY OF OPERATIONS

Application for Conditional Use Permit to Excavate Soil  
151<sup>st</sup> Street west and 13<sup>th</sup> Street North

#### Hours of Operation

- Monday-Friday 7AM-5:00PM

#### Duration

- 10 years

#### Pond Construction

- The location of excavation is the two proposed ponds shown on the site plan
- The topsoil will be stripped and stockpiled to respread at pond completion
- Pond excavation will be hauled offsite to build other construction projects
- Haul roads will be maintained with a motorgrader and water truck
- Equipment used will be one scraper to strip and stockpile topsoil, one backhoe to load the trucks, six trucks to haul the dirt off site, a motorgrader and a water truck to maintain the haul roads
- Barbed wire fence will be installed around the excavation

#### Finish Work

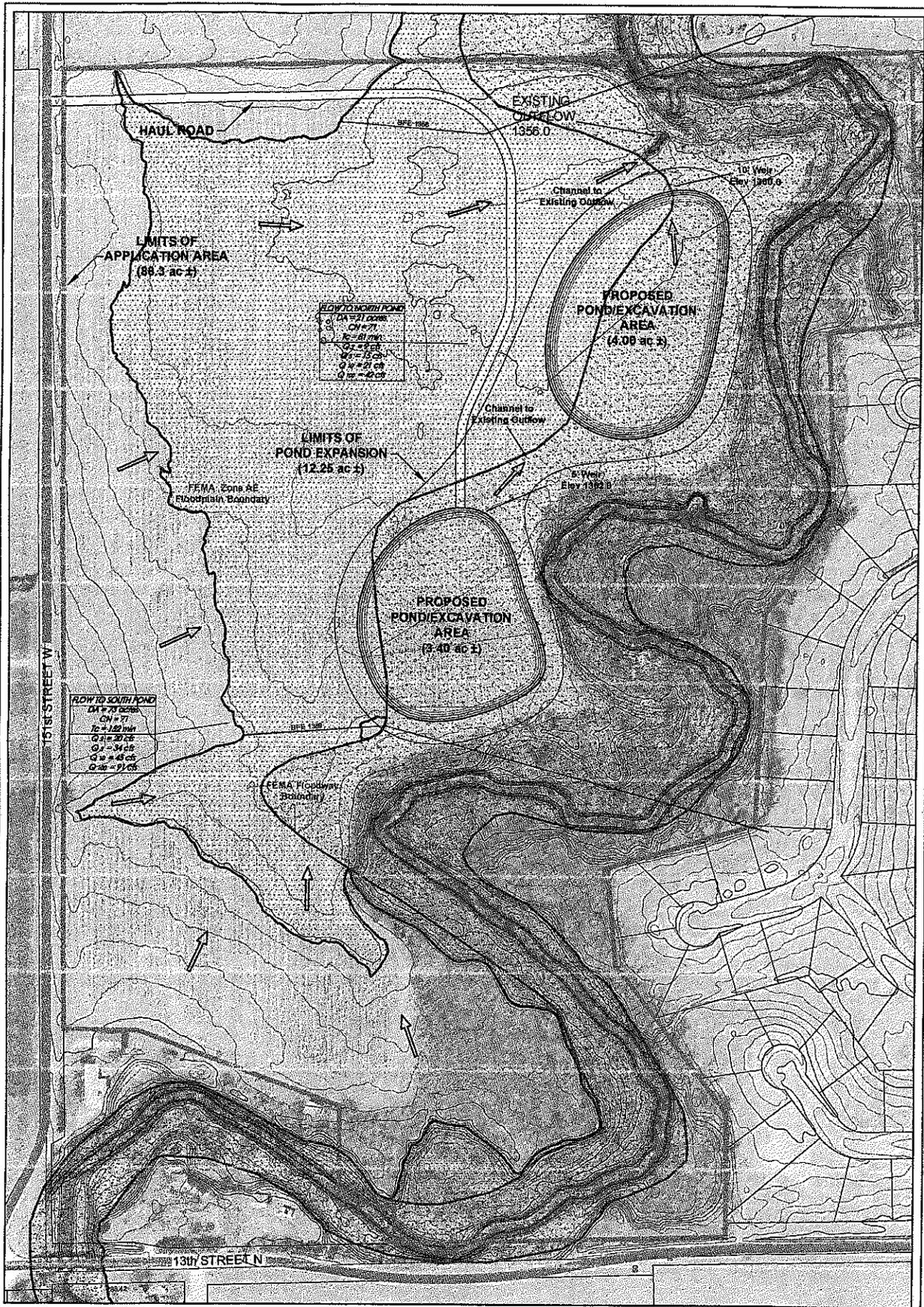
- Finished pond slope will be seeded to prevent erosion

#### Haul Roads

- Onsite haul road is shown on the site plan
- The trucks leave the property onto 151<sup>st</sup> and travel north.
- Both haul roads will be maintained by Bergkamp with a motorgrader and a water truck

#### Impact of Operation

- Noise from the excavation may impact some nearby resident, but no more than agricultural equipment
- Dust from the excavation will be less than agricultural activities because of the onsite water truck
- Truck traffic will increase on 151<sup>st</sup> when hauling dirt offsite. We will work to limit impact the impact of noise and dust by maintaining 151<sup>st</sup> with a motorgrader and water truck.



NOTE: The drainage flow pattern depicted herein assumes only a localized storm event. However, all drainage will flow to the east and northeast upon a flooding stage in Dry Creek. At this time, all flooding will presumably follow the FEMA Floodplain Boundary and inundate all surrounding properties. The base flood elevation on Dry Creek will inundate the pond(s) and site and will control the peak water surface elevation(s).

NORTH POND BASIN - 1956.D			
AREA	PERCENT	AREA	PERCENT
1.00	100.00	1.00	100.00
1.00	100.00	1.00	100.00
1.00	100.00	1.00	100.00

NORTH POND BASIN - 1956.D			
AREA	PERCENT	AREA	PERCENT
1.00	100.00	1.00	100.00
1.00	100.00	1.00	100.00
1.00	100.00	1.00	100.00

NORTH WEST BASIN	
AREA	PERCENT
1.00	100.00
1.00	100.00

NORTH WEST BASIN	
AREA	PERCENT
1.00	100.00
1.00	100.00

NOTE: Majority of the site lies within FEMA Zone AE & Floodway per FEMA FIRM Panel 309 of 700 for Sedgewick County, Kansas, effective May 2, 2012.

Any fill placed in the FEMA FPA will require a Kansas Division of Water Resources Floodplain IS permit prior to placement.

All drainage will be via sheet flow / shallow concentrated flow to the east, or existing, and into the proposed borrow pits. All flow currently and proposed will enter Dry Creek, via the opening near the north east corner of the site.



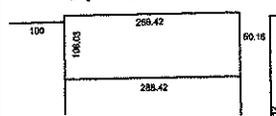
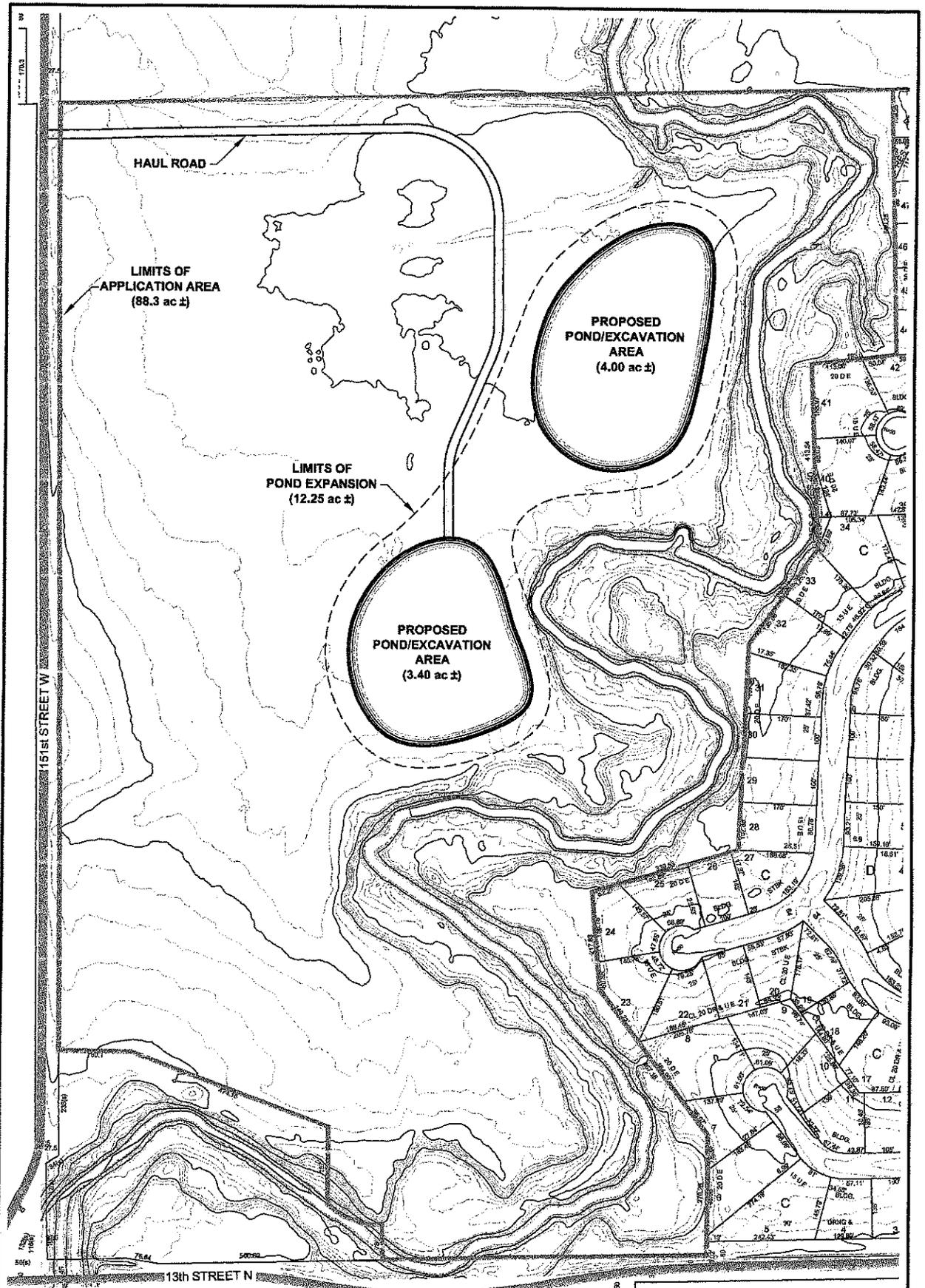
SCALE: 1" = 200'

# CONDITIONAL USE DRAINAGE PLAN

CON 2014-20  
MAPE 0-14-14

## SOIL EXTRACTION - 151st STREET W & 13th STREET N





SCALE: 1" = 200'

4-20  
**CON2018-29** MAR 26-14  
 SOIL EXTRACTION - 151st STREET W & 13th STREET N



CASE NUMBER: CON2014-00021

APPLICANT/AGENT: Wichita Children's Home / Sarah Robinson

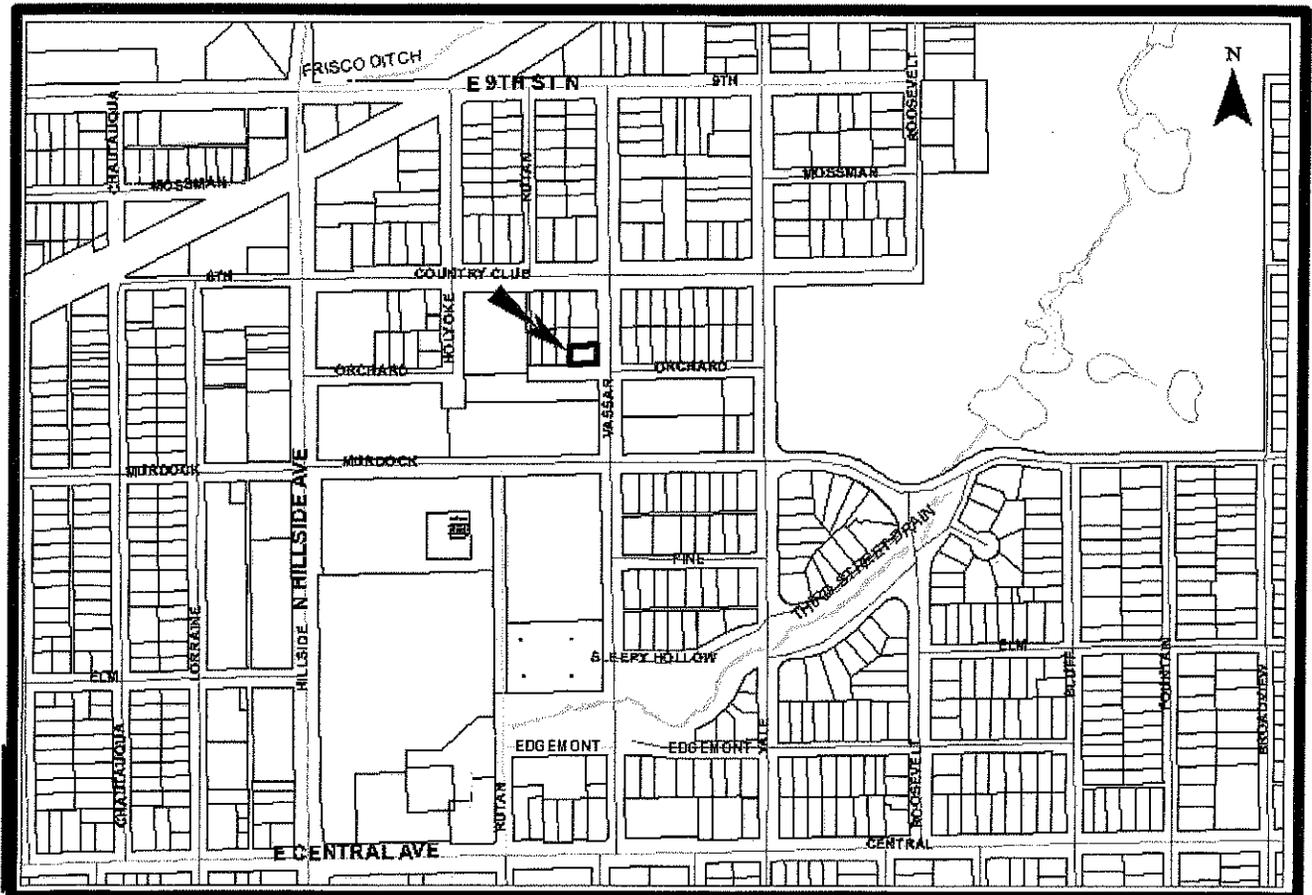
REQUEST: Conditional Use to permit a Day Care, General

CURRENT ZONING: TF-3 Two-family Residential

SITE SIZE: .25 acres

LOCATION: Generally located west of N. Vassar and north of Murdock (833 N. Vassar).

PROPOSED USE: Day Care, General



**BACKGROUND:** The application area is a TF-3 Two-family Residential (TF-3) zoned, .25 acre lot developed with a single-family house. The site is owned by the Wichita Children’s Home; the Children’s Home main campus is on contiguous property to the east and south. The applicant intends to provide a school age program for a total of 15 children 10 to 17 years old from 7:30 am to 7:30 pm daily with staff supervision at all times. The applicant has adequate outdoor play facilities and parking on their campus, therefore the applicant does not intend to make site improvements on the application area. The site has a driveway along the north property line and vacated Orchard Avenue along the south property line.

“Day care, general” is defined by the Unified Zoning Code as a day care center that “Provides care, protection and supervision for more than ten individuals at any one time, including those under the supervision or custody of the day care provider and those under the supervision or custody of employees, or a Day Care center for ten or fewer individuals at any one time that is not operated as a Home Occupation.” “Day care, general” is permitted with Conditional Use approval in the TF-3 district. “Day care, general” requires one parking space per teacher/employee, plus one space per vehicle used in the center, plus one per ten children based upon an enrollment above 12, and one off-street loading space per ten students for “day care centers” with 11 or more students. The site has limited parking on the existing driveway. However, the larger, contiguous Wichita Children’s Home site has additional parking, 72 off-street spaces, to support this use. Supplemental Use Regulation Article III, Section III-D.6.i requires that all day care centers comply with all applicable state regulations and outdoor play be limited to the hours of 7:30 a.m. to 6:30 p.m. if located within 100 feet of a lot containing a dwelling unit. The subject property is within 100 feet of several lots containing dwelling units.

A TF-3 zoned property north of the site is also owned by the applicant and is developed with a single-family residence. South and west of the site is the B Multi-family Residential (B) zoned Wichita Children’s home with residential buildings, accessory buildings, parking areas and outdoor play areas. Further south is a portion of the B zoned Wesley Medical complex. East of the site, across Vassar, are TF-3 zoned single-family residences and a TF-3 zoned former school redeveloped as an apartment building.

**CASE HISTORY:** The property is a portion of Lots 12 through 18 of the Sunrise Park Addition, platted in 1888. The single-family house on the site was built in 1928.

**ADJACENT ZONING AND LAND USE:**

North	TF-3	Single-family residences
South	B	Wichita Children’s Home, hospital
East	TF-3	Single-family and multi-family residences
West	B	Wichita Children’s Home

**PUBLIC SERVICES:** North Vassar is a paved local street with an 80-foot right-of-way at this location. All other municipal services are supplied at the site.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide depicts the site as appropriate for “urban residential” uses. The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category.

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

1. The Conditional Use permits a “day care, general,” as defined in the Wichita-Sedgwick County Unified Zoning Code. The “day care, general” shall be developed and operated in conformance with the approved site plan and all applicable local and state regulations.
2. The maximum number of children allowed to be cared for by the day care is 18. The hours of operation shall be 7:30 am to 7:30 pm daily.
3. If the Zoning Administrator finds that there is a violation of any of the conditions of approval, the Zoning Administrator, may, with the concurrence of the Director of the Metropolitan Area Building and Construction Department, 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: A TF-3 zoned property north of the site is also owned by the applicant and is developed with a single-family residence. South and west of the site is the B zoned Wichita Children’s home with residential buildings, accessory buildings, parking areas and outdoor play areas. Further south is a portion of the B zoned Wesley Medical complex. East of the site, across Vassar, are TF-3 zoned single-family residences and a TF-3 zoned former school redeveloped as an apartment building.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned TF-3, which accommodates single and two-family residential development. The property could continue to be used as a residence without the requested Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: A large, institutional use and associated outdoor play areas already exist on the applicant’s adjoining property. The proposed day care should have no greater impact on surrounding residences than the existing children’s home.
4. 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 “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. Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category.
5. Impact of the proposed development on community facilities: Existing community facilities will accommodate the proposed use.

