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WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION AGENDA

Thursday, July 24, 2014

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission will be held on **Thursday, July 24, 2014**, beginning at **1:30 PM** in the Planning Department Conference Room City Hall - 10th Floor, 455 N. Main Street, Wichita, Kansas. **If you have any questions regarding the meeting or items on this agenda, please call the Wichita-Sedgwick County Metropolitan Area Planning Department at 316.268.4421.**

1. Approval of the prior MAPC meeting minutes:

Meeting Date: June 19, 2014 and July 10, 2014

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

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

- 2-1. **SUB2013-00034: Final Plat – THE WATERFRONT SEVENTH ADDITION**, located North of 13th Street North, east of Webb Road.

Committee Action: APPROVED 3-0
Surveyor: Baughman Company, P.A.
Acreage: 33.38
Total Lots: 44

- 2-2. **SUB2014-00024: One-Step Final Plat – STOVER ESTATES ADDITION**, located on the North of 31st Street South, on the west side of 151st Street West. (COUNTY)

Committee Action: APPROVED 3-0
Surveyor: Baughman Company, P.A.
Acreage: 20.31
Total Lots: 2

- 2-3. **SUB2014-00025: (Deferred from 6.26.14) One-Step Final Plat – WICHITA DESTINATION DEVELOPMENT ADDITION**, located on the northeast corner of K-96 Highway and Greenwich Road.

Committee Action: APPROVED 3-0
Surveyor: K.E. Miller Engineering
Acreage: 104.70
Total Lots: 2

- 2-4. **SUB2014-00027: One-Step Final Plat – COSTCO WHOLESALE ADDITION**, located on the northeast corner of Kellogg and Webb Road.

Committee Action: APPROVED 3-0
Surveyor: Olsson Associates
Acreage: 17.18
Total Lots: 1

3. **PUBLIC HEARING – VACATION ITEMS**

ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 PM

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

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

- 3-1. **VAC2014-00020: City request to vacate a platted easement on property**, generally located southwest of the Pawnee Avenue – George Washington Boulevard intersection and northeast of the Cessna – Roseberry Streets intersection.

Committee Action: APPROVED 2-0-1 (C.Warren abstained)

- 3-2. **VAC2014-00021: City request to vacate a platted utility easement and an easement dedicated by separate on property**, generally located on the southeast corner of Oliver Avenue and Kellogg Drive.

Committee Action: APPROVED 3-0

PUBLIC HEARINGS

ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 PM

4. Case No.: ZON2014-00012
Request: City zone change from SF-5 Single-family Residential to TF-3 Two-family Residential.
General Location: The northeast side of the 127th Street East and Harry Street intersection.
Presenting Planner: Dale Miller
5. Case No.: ZON2014-00013
Request: City zone change from SF-5 Single-family Residential and LC Limited Commercial to LI Limited Industrial.
General Location: North of K-42 and east of Tyler Road.
Presenting Planner: Dale Miller
6. Case No.: ZON2014-00014 and CUP2014-00017
Request: City zone change from SF-5 Single family Residential and GO General Office to LC Limited Commercial and City CUP amendment to DP-282 to increase size of CUP, modify landscaping, screening, setback and signage.
General Location: At the northwest corner of Webb Road and 13th Street.
Presenting Planner: Dale Miller
7. Case No.: CON2014-00022
Request: County Conditional Use to permit oil drilling on RR Rural Residential zoned property.
General Location: Approximately 1/4 mile east of 127th Street East on the north side of Highway 254.
Presenting Planner: Bill Longnecker
8. Case No.: CON2014-00023
Request: County Conditional Use to permit oil drilling on RR Rural Residential zoned property.
General Location: Approximately 1/4 mile east of 127th Street East on the north side of Highway 254.
Presenting Planner: Bill Longnecker

NON-PUBLIC HEARING ITEMS

9. Other Matters/Adjournment

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

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

MINUTES

June 19, 2014

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, June 19, 2014 at 1:37 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Don Klausmeyer, Chair; Matt Goolsby; Vice Chair; David Foster (In @1:34 p.m.); Bill Johnson; Joe Johnson; John McKay Jr.; M.S. Mitchell; Bill Ramsey; Don Sherman and George Sherman. David Dennis; Carol Neugent; Debra Miller Stevens; and Chuck Warren were absent. Staff members present were: 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 May 22, 2014 MAPC meeting minutes.

MOTION: To approve the May 22, 2014 meeting minutes, as amended.

J. JOHNSON moved, **GOOLSBY** seconded the motion, and it carried (5-0-4).
MCKAY, MITCHELL, G. SHERMAN and **WARREN** - Abstained.

Approval of the June 5, 2014 MAPC meeting minutes.

MOTION: To approve the June 5, 2014 meeting minutes, as amended.

GOOLSBY moved, **G. SHERMAN** seconded the motion, and it carried (6-0-3).
J. JOHNSON, RAMSEY and **WARREN** - Abstained.

***FOSTER** (In @1:34 p.m.)

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

There were no Subdivision cases.

3. **PUBLIC HEARING – VACATION ITEMS**

- 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.

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.

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.

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

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

PUBLIC HEARINGS

4. **Case No.: CON2014-00018 (Deferred from 6-5-14)** - Michael Tracy (applicant/owner) requests a County Conditional Use request for a temporary accessory apartment (for medical reasons) on SF-20 Single-family Residential zoned property on property described as:

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 83rd 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.l.(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 2nd 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 2nd Addition. The Cain Orchard 2nd 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.

ADJACENT ZONING AND LAND USE:

NORTH: SF-20	Single-family residences
SOUTH: SF-20	Single-family residences
WEST: SF-20	Single-family residences
EAST: SF-20	Single-family residences

PUBLIC SERVICES: Nicole and Katherine Streets are dirt and gravel residential streets. The nearest access to a paved road is Broadway Avenue, located approximately 1,920 feet east of the subject site. Broadway Avenue is a two-lane arterial at this location. The single-family residence located on the abutting north property is served by a lagoon for sewage and a well for water; it is outside of all Rural Water Districts. All other utilities are available.

CONFORMANCE TO PLANS/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.

The site is located within the Haysville’s Zoning Area of Influence and as such the Haysville Planning Commission will consider CON2014-00018 at prior to the June 5, 2014 MAPC meeting; UZC, Sec. V-B.4.d. If the Haysville Planning Commission recommends denial before the June 5, 2014, MAPC meeting and the MAPC recommends approval, CON2014-00018 will proceed to the Sedgwick County Board of County Commissioners (BoCC/Governing Body) for final action; UZC, Sec. V-D.6. It takes a unanimous vote of all of the BoCC members to overturn the small city’s recommendation of denial; UZC, Sec. V-D.9. If the Haysville Planning Commission recommends approval and the MAPC recommends denial of the request, the applicant may appeal the MAPC’s denial to the BoCC. A two-thirds majority of the BoCC is required to overturn the MAPC’s recommendation.

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

- (1) The temporary accessory apartment (a single-wide manufactured home located on Lot 1, Block F, Cain Orchard 2nd Addition) shall remain accessory to and under the same ownership as the principal single-family residence (located on Lot 17, Kirby Addition) and the ownership shall not be divided or sold as a condominium. Provided a covenant, with original signatures, binding and tying Lot 1, Block F, Cain Orchard 2nd Addition and Lot 17, Kirby Addition until they are replatted as one lot or the temporary accessory apartment is removed. This must be provided to Planning for recording with the Sedgwick County Register of Deeds.
- (2) The temporary accessory apartment shall remain on the site (Lot 1, Block F, Cain Orchard 2nd Addition) as a temporary accessory dwelling for the (Charles Tracy) and/or the applicant’s elderly mother as long as the disabled uncle and/or the elderly mother resides in either the site

(Lot 1, Block F, Cain Orchard 2nd 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 2nd 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 2nd 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 2nd Addition and Lot 17, Kirby Addition until they are replatted as one lot or the temporary manufactured home/accessory apartment is removed, further insures the 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.

BILL LONGNECKER, Planning Staff presented the Staff Report. He reported that there were no protests on the case and conditions reflected what was approved by the City of Haysville.

MOTION: To approve subject to staff recommendation.

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

5. **Case No.: ZON2014-00009** – Digital Office Systems, LLC, c/o Kenneth Brasted (Applicant/owner) and Edward Murabito (agent) request a City zone change request from LC Limited Commercial to OW Office Warehouse on property described as:

Lots 193 and 195, Burr's 2nd Addition to Wichita, Sedgwick County, Kansas.

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 2nd 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 sales, 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:

- (7) **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.
- (8) **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.
- (9) **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.

- (10) **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.
- (11) **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.
- (12) **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.

MOTION: To approve subject to staff recommendation.

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

6. **Case No.: ZON2014-00010** - Caywood, LLC, c/o Jay Russell (applicant/owner) and Baughman Company, PA c/o Russ Ewy (agent) request a City zone change request from SF-5 Single-family Residential to TF-3 Two-family Residential on property described as:

Lots 14 through 30, inclusive, Block A, Lots 10 through 16, inclusive, Block B, and Lots 1 through 4, inclusive, Block C, all in Clifton Cove Addition, Sedgwick County, Kansas.

Staff announced that the applicant requested a deferral until the August 231, 2014 Planning Commission meeting.

MOTION: To defer the case until the August 21, 2014, Planning Commission Hearing.

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

7. **Case No.: CUP2014-00013** - R & R Realty, LLC (owner); Baughman Company, PA c/o Russ Ewy (agnt) request a City CUP amendment to DP-267, Tyler's Landing Commercial Plaza Community Unit Plan to allow residential use in LC Limited Commercial zoning on property described as:

Lots 2 3, 4 and 5, Block A, Tyler's Landing Commercial Addition to Wichita, Sedgwick County, Kansas.

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 2nd 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 3rd 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 3rd and 4th 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 37th 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 37th 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 2nd 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 3rd 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 3rd and 4th 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.

JESS MCNEELY, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

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

8. **Case No.: CON2014-00019** - Associated Material & Supply Co., Inc, c/o Nadine Stannard (owner) and Ruggles and Bohm, PA, c/o Chris Bohm (agent) request a 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 described as:

The East half of the Southeast Quarter EXCEPT 14 acres for floodway in Condemnation Case A-33666 and EXCEPT that part for roads on the South, all in Section 15, Township 26, Range 1 West of the 6th P.M., Sedgwick County, Kansas.

AND

Government lots 2 and 6 and the South half of the Southwest Quarter EXCEPT for 56.28 acres in Condemnation Case A-33666 and EXCEPT the West 500 feet of the South 550 feet thereof and EXCEPT part for road on the South, all in Section 14, Township 26, Range 1 West of the 6th P.M., Sedgwick County, Kansas.

AND

Government lot 3 EXCEPT 20 acres for floodway in Condemnation Case A-33666, all in Section 14, Township 26, Range 1 West of the 6th P.M., Sedgwick County, Kansas.

AND

That part of the Southwest Quarter beginning at the Southwest corner; thence East 500 feet; thence North 550 feet; thence West 500 feet; thence South 550 feet to the point of beginning EXCEPT roads on the South, all in Section 14, Township 26, Range 1 West of the 6th P.M., Sedgwick County, Kansas.

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 53rd Street North, at the end of Hoover Road, where it intersects 53rd Street North. The site runs from the Arkansas River on its east side to about a ¼-mile past the Hoover Road – 53rd 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 53rd Street North, a paved two-lane arterial road/County Highway, with 90 feet of full right-of-way. 53rd 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 53rd 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 53rd 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.

BILL LONGNECKER, Planning Staff presented the Staff Report.

J. JOHNSON clarified that the end date was 2041.

LONGNECKER said that was correct.

FOSTER noted that there was a typographical error in the location description.

CHRIS BOHM, RUGGLES & BOHM, PA, 924 NORTH MAIN, AGENT FOR THE APPLICANT Nadine Stannard who he said was present and would like to speak after he was done. He said the reason for the request was twofold; number one to allow between 5-10 years to finish the original intent of the conditional use, i.e., finish shaping the exposed water surface on the east side and continue the normal depth for extraction of the materials. He commented that the operation slowed during the recession so they need additional time to get that work completed. He said secondly, in the intervening time the applicant would like to do some investigation of subsurface below the bottom of the existing pond. He said with new modern extraction techniques, if it is viable, they may be able to extract materials from a lower depth. He said they need this additional time to finish up the original request and investigate whether deep extraction is possible to justify investment in the equipment that would be required to accomplish that. He said if the deep extraction is possible they envision a 15-year window to continue the operation. He said they believe it is a great opportunity to use the asset for a longer period of time and leave everything alone on the surface.

NADINE STANNARD, PO BOX 4476 said she has petitions from the neighbors who are in favor of the operation staying there. She indicated that the petitions were from three neighbors to the south, one to the west, one east of Hoover Road and one west of Hoover Road. She said she also put a petition on the counter for her customers to sign so there are additional signatures from other people. She said of the neighbors that she talked to none of them were opposed to the request but added that one neighbor did not sign the petition.

KEVIN CAMPBELL, 5938 WEST 53RD STREET NORTH said the property was located along the west side of this parcel across the lake from 53rd Street North to the corner that intersects with the river and to the west across the west of the lake. He said they purchased the property several months ago with the intention of developing high value residential homes. He commented that Black Hills Energy is extending gas lines to service this area. He said they have also been in discussion with Westar to provide service. He also mentioned possible annexation of the area by the City of Wichita. He said when they purchased the property they understood the operation was soon to expire. He said they are approximately a year away from developing the property which would coincide with the termination of the current mining operation. He said their biggest concern is vehicles using the road along the west side of the applicant's property. He said they see large dump trucks driven on that road on a regular basis. He also mentioned noise, traffic and dust which would not be conducive to the high value residential development they are proposing. He said those are their primary reasons for opposing the request. He said they are receptive to some type of negotiated agreement regarding the use of that side of the applicant's property because it would certainly devalue property to the west significantly if the operation is allowed to continue for an extensive period of time.

J. JOHNSON asked the applicant to verify the property he owns on the aerial map and the specific location of the upscale homes they plan to build.

CAMPBELL said they have a preliminary plat for houses around the lake. He said there are approximately one dozen "estate type home" sites. He also mentioned that property to the west of this location was for sale for potential residential development.

RAMSEY asked if there was some type of barrier between his property and the mining operation such as a tree row.

CAMPBELL said there are some cedar trees with intermittent gaps. He commented that he had not been notified about this application.

RAMSEY asked what information Mr. Campbell based his comment on that approval of this application will "significantly devalue his property". He mentioned the sand pits around the Emerald Bay development, which is very high value property.

CAMPBELL said they are concerned about trucks operating along the roadway on the west side of the applicant's property. He said since the operation has moved further to the east, the applicant is no longer operating trucks on the west side of the property and in fact, wheat has been planted in the area. He said if the operation is allowed to continue deeper, the applicant may start using trucks along the west side of their property, which is not conducive to million dollar home development. He said he did

not believe that was the situation at the other location Commissioner Ramsey mentioned. He mentioned documents provided by the applicant that depicted mapping of potential lots for houses in the future and public access along the roadway for future development.

FOSTER asked Mr. Campbell about the location of the drive and access on the east side of his proposed development.

CAMPBELL said they had two plans; one of which was putting the road entirely on their property west of the tree row on the east of their property which would become a private drive with no public access.

FOSTER mentioned that the plat for this application depicts installing the roadway along the west side of their property and asked if that will eliminate the tree buffer.

CAMPBELL said the tree row would come out and added that they had been considering relocating those trees closer to the lake to open up views of the lake for the residents.

BOHM briefly explained the "Operational Plan" included in the agenda packet. He said the plan has the work occurring in two phases. He said Area One is to the west with slopes finished at 5-1 and a vegetated area. He said Area Two will include finishing up the surface excavation of the pond, which was the original intent of the CUP. He said once that is done and the slopes are stabilized, the applicant is allowed to subsurface the aggregate from the lower depths. He said none of those operations will take place on the west side of the property. He said mowing and reseeded of the banks would be necessary on the west half of the site. He said they believe this proposal is a terrific use of an existing asset. He added that all the operations for the subsurface extraction will happen from the island or knoll in the middle of the property. He said the applicant will not need perimeter access with trucks to do the extraction in Area One.

FOSTER commented that 25 years is a pretty long extension. He asked if the full 25 years was needed. In addition, he voiced concern about losing the entire buffer of trees on the west side for a future roadway. He also asked about limiting or cutting off access to the roadway on the west.

BOHM said he would defer those questions to the applicant.

STANNARD said she hasn't considered the housing development. She mentioned that the trees along the road were not on her property so they wouldn't be taking them out. She said if they can go deep with extraction, 15 years is an absolute logical time considering the customers they have. She said it would take 7-10 years to finish up what they are currently doing and another 15 years in order to go deeper. She said they believe there is 15 years of material if their projections are accurate.

MCKAY asked where the tree line was in relationship to the fence on the west side.

STANNARD indicated the tree line was west of the fence on Mr. Campbells' property.

G. SHERMAN asked the applicant if they would consider an additional condition about eliminating trucks on the west side of the property.

STANNARD responded that excluding trucks entirely might pose a potential problem for them. She said there was quite a supply of dirt back there that they used for sloping; however, that is now gone. She said she understands Mr. Campbell's concern and added that there is no more dirt to take from that area and it is currently being farmed. She said they may need the road for equipment associated with the farming operation.

FOSTER asked staff to walk through the surrounding zoning and any buffer that is required, especially on the west side.

LONGNECKER said the property the application area has SF-20 zoning.

MILLER commented that the Supplemental Use Regulations regarding sand pits requires that stock piled materials need to be located at least 100 feet from any public right-of-way or 50 feet from the property line.

FOSTER said he didn't see any buffer requirement in the application paperwork.

MILLER said the buffer is the minimum distance from the property line required by the Supplemental Use Regulations.

MOTION: To approve subject to staff recommendation.

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

CHAIR KLAUSMEYER recused himself from the item and turned the meeting over to the **VICE CHAIR GOOLSBY**.

VICE CHAIR GOOLSBY in the Chair.

9. **Case No.: CON2014-00020** - Bob Bergkamp Construction Co., Inc. and Towanda Land Company, LLC (James K and Chris Snook)/ Millo M. Unruh, Jr. request a County Conditional Use request to permit mining and quarrying on property described as:

The Southwest Quarter of Section 11, Township 27 South, Range 2 West of the Sixth Principal Meridian, Sedgwick County, Kansas, EXCEPT a tract described as all that part of the west 750 feet of said Southwest Quarter lying south of the center line of Dry Creek, AND EXCEPT a tract described as beginning at a point on the West line of said Southwest Quarter, 467 feet north of the Southwest corner of said Southwest Quarter; thence east at right angles, 187.6 feet; thence southeasterly at an interior angle of 157°53'40", 474.15 feet; thence south at an interior angle of 112°06'20", 117 feet to the center of Dry Creek; thence northwesterly and southwesterly along the center line of said Dry Creek to a point on the West line of said Southwest Quarter, 151 feet north of the Southwest corner of said Southwest Quarter; thence north 316 feet to the point of beginning, AND EXCEPT a tract described as beginning at a point on the West line of said Southwest Quarter, 467 feet north of the Southwest corner of said Southwest Quarter; thence north 50 feet; thence east at right angles 187.6 feet; thence southeasterly at an interior angle of 157°53'40", 474.15 feet; thence south 50 feet; thence northwesterly, parallel to said

Southeasterly line, 474.15 feet; thence west 187.6 feet to the point of beginning; AND EXCEPT that part described as Blackstone Addition, Wichita, Sedgwick County, Kansas.

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 13th Street North, east of North 151st Street West. The application area has approximately 700 feet of frontage along West 13th Street North and 2,080 feet of frontage along North 151st Street West. The application area does not include the 6.06 acres located immediately on the northeast corner of the intersection of West 13th Street North and North 151st 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 151st Street West. The applicant has provided a maintenance agreement with Attica Township for North 151st 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 151st 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 151st 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 151st 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 151st 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 151st 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 151st Street West.

DALE MILLER, Planning Staff presented the Staff Report.

MILLER noted a housekeeping item with relationship to inquiries he received on how protest petitions work. He said the individual "Public Hearing Notices" that were mailed to the surrounding property owners on this case listed the City Clerk instead of the County Clerk as the place to turn in petitions. In addition, he noted that the notice also indicated that petitions would be accepted anytime from the time the application was submitted until the Planning Commission made a recommendation; however, with conditional use cases petitions are only valid after the Planning Commission has rendered a decision until the 14th day after. He said staff will check with both the City and County Clerks to insure that all protest petitions turned in will count.

MILLER referred to handouts regarding the application including correspondence from a concerned citizen and a portion of the mortgage agreement between the bank and the applicant. He said it is his understanding that some of the neighbors would like some of the conditions contained in that mortgage document to be included in the conditions of approval.

G. SHERMAN asked staff to clarify the proposed hours of operation (7:00 a.m. to 5:00 p.m. or 6:00 a.m. until sunset). He also asked about the clause regarding equipment on site not projecting noise or light onto any surrounding property. He commented that unless the applicant is going to dig the ponds by hand, noise levels will probably be exceeded. He mentioned trucks and other excavation equipment.

MILLER indicated the applicant had offered the hours 7:00 a.m. to 5:00 p.m. He said 6:00 a.m. until sunset is what is required in the Supplemental Use Regulations. He commented that the County does not have a "Noise Ordinance" like the City of Wichita. He asked if the Commission wanted to reword or eliminate that section of the staff recommendations.

G. SHERMAN said he did not have a suggestion for alternative language; however, he said he has spent time on sites where dirt is being moved and it is noisy. He noted how close the site was to a residential area.

J. JOHNSON asked staff to explain the parameters of the floodway and asked if that included the residential area.

MILLER briefly reviewed the boundaries of the flood plain on the aerial map. He said he believed the floodway was the darker area curving around the creek. He added that the entire site has some type of flood plain on it. He said when the plat was done; the residential area was either raised up/mitigated or kept out of the flood plain.

WARREN asked if the land to the east was higher in elevation than the application area. He also asked about future construction on the application area.

MILLER said he doesn't know the difference in elevation; however, he added that given the fact that the applicant received their permits to build, he assumed the land is higher in elevation. He said submission and approval of a drainage plan is part of the platting process. He said he believed it would take a monumental effort to bring the area up to construction standards.

COMMISSIONER MITCHELL commented there couldn't be construction at the location without major changes.

MILO UNRUH, JR., ATTORNEY, ARN, MULLINS, UNRUH, KUHN & WILSON, 300 WEST DOUGLAS, SUITE 330, AGENT FOR THE APPLICANTS explained that Towanda Land Company owns the land and Bob Bergkamp Construction Co., Inc. is the dirt contractor. He said Chris Snook, Vice President, Bob Bergkamp Construction Co. was present to answer any questions. He commented that this application is strictly for soil removal. He said this is not a rock quarry, rock crusher or landfill. He noted that most of the site was located within the 100-year flood plain so future development of the tract is somewhat limited. He said this application would permit use of the tract. He said the site has been tested and is specific in what is called "low-volume change soil" which is soil that is between 18-24 inches in depth used below building pads and building sites.

UNRUH said the applicant has a soil site at 151st Street and Pawnee; which is quite far away from the substantial construction activity and development in the northwest part of the City, especially the Maize Corridor and the New Market Square Area. He said the applicant is looking for a soil site for development in that area. He said this is not a ten-year continuous operation. He said the client has no construction site to haul dirt to at this time. He said this site is attractive because of the type of soil and location. He said the site may be idle for months at a time. He said his client indicated that on average there may be continuous activity at the site one month at a time. He mentioned an agreement with Attica Township regarding the dust on 151st Street and Sedgwick County's approval of the drainage plan for the area. He mentioned staff's recommendation of 24 conditions to protect the public, residents and nearby landowners. He said the conditions are substantive and specific and address concerns of people who have filed petitions. He said nothing is going to happen on the site without the approval of the appropriate government office. He said they are asking that the staff recommendation and conditions included in the CUP be approved. He said Mr. Snook was available to answer any operational questions.

J. JOHNSON asked if the conditions required by the mortgage were part of the approval.

UNRUH said no, that was an agreement between his client and the lender and the lender needs to decide if they will address those items.

ROBERT PARNACOTT, ASSISTANT COUNTY COUNSELOR indicated that the mortgage document was submitted to him yesterday by persons who live in the surrounding area, not the applicant. He said the request to include the mortgage provisions in the conditional use permit is from persons who are present to speak to the Commission regarding the application, not the applicant themselves.

FOSTER asked about future plans for development of the site.

UNRUH said anything that is permitted under SF-20 zoning would be considered; however, they have not looked at specific options for development of the area due to the flood plain issue. He said they will return the property to an agricultural state; however, they don't know what is going to happen in ten years.

B. JOHNSON noted dust has always been an issue in the area and asked for clarification of the agreement with Attica Township regarding the dust on 151st Street.

UNRUH said Mr. Snook could address that question.

CHRIS SNOOK, VICE PRESIDENT, BOB BERGKAMP COMPANY, INC. commented that the biggest concern in the area is the truck traffic on 151st Street. He said they are going to run a grader and a water truck on the County road and maintain it while they are using it.

DON GRIMM, 12 NORTH HOPPER COURT, GODDARD, KANSAS said he was representing the Shirley I. Martin Trust, Martin Family Farm, Mrs. Shirley I. Martin-Grimm as well as numerous concerned residential and agricultural neighbors. He said the property under the name of Shirley I. Martin Trust is located at 14505 West 21st Street North and is bordered on the North by 21st Street, on the East and South by residential properties and on the West by 151st Street, he said it is bisected by Dry Creek and is immediately adjacent to the application area.

GRIMM said we and other petitioners are vehemently opposed to any industrial activity including mining and/or quarrying in this area for the following reasons: 1) Adverse impact to existing roadways, i.e., 13th, 21st and 151st Streets. He said use of heavy trucks and equipment will deteriorate roads and impede access for residents and commerce; 2) Adverse impact to existing flood plain. He said any dredging, digging or mining will seriously alter the flood plain; 3) Adverse impact to the indigenous flora and fauna. He said removal of trees/brush will denude the area and remove natural habitat for deer, turkey, raccoons, squirrel, fox and endangered species such as the Eastern Spotted Skunk; 4) Adverse impact to Dry Creek including upstream flooding. He said removal of trees and/or alteration of this waterway in any way will cause redirection of water and or dam the waterway causing extensive flooding in severe rains; 5) Adverse impact to existing agricultural and residential areas. He said machine noise and pollutants will endanger/impact crops, livestock and residents.

GRIMM said the area is currently agricultural with residential to the east and is not suitable for mining or quarrying. He said some comments he received were: We don't want the noise and pollution in our area; We moved to this area to be close to the agricultural community and enjoy the peacefulness of country life; We have small children and don't want 5 ton trucks speeding down our roads; and We love this area for its peace and quiet and the clean air.

GRIMM said it is the opinion of those represented by the petition that authorizing this request will not enhance their current residential/agricultural mix but will only lead to extensive problems for all residents and seriously impact the environment which we are all bound to protect. He said if they are not successful in preventing this threat to their neighborhood, they would like to stipulate that specific and stringent limitations, as noted in Wichita/Sedgwick County zoning laws and in the recommendations set forth by the MAPC be enforced and include the following conditions: 1) No recycling of concrete, asphalt or building materials; 2) No rock or concrete crushing equipment be allowed; 3) No high speed/high pressure hoses used for excavation; and 4) No dredging, excavation, widening or alteration of Dry Creek. In addition, he mentioned compliance with any existing local and State water and environments requirements. He concluded by asking staff to notify them of any additional meetings/hearing on the permit request.

JASON SNEED, 1922 NORTH 151ST STREET WEST, GODDARD, KANSAS said his property was located north of the application site. He said since they use well water, he is concerned that this operation will affect the water table since they are excavating down 15 feet. He said he does not know how deep his well is but he does not want pollutants getting into his water.

BRETT ANDREWS, 1443 NORTH BLACKSTONE COURT, WICHITA, KANSAS said he appreciated staff's presentation and the restrictions proposed in the Staff Report. He said he would like to make a couple of additions to the proposed restrictions. He requested that the hours of operation

(7:00 a.m. to 5:00 p.m.) be changed on the application since the petitioner seems to agree with that. In addition, he requested that some statement be made regarding not removing the tree line between the Dry Creek and the Blackstone Addition, which is the only barrier between his home and the proposed application/excavation site. He requested that those two items be added to the conditions if the application is approved.

DARLENE BALL, 15201 WEST 17TH STREET NORTH, GODDARD, KANSAS said her property was located just north of the proposed site. She said the road the applicant is proposing to build to get into the site is directly across from her home. She asked how often the applicant proposed to “wet” the road to minimize dust. She asked what impact the proposed use will have on her property values in the future. She asked what the applicant was planning on doing with the acreage during the excavation, will it be planted with vegetation or just left open to create more dust. She asked how they plan to contain the dust from the excavation site. She said it is a dust bowl out there all the time and she can’t imagine that having trucks up and down the road will make the situation any better.

FOSTER mentioned the access road onto the application site being directly across from her residence and asked if she would prefer that the road be moved to the north or the south.

BALL commented that the applicant can’t go north because there is a corn field. She said if the entrance was further south she supposed it wouldn’t be as noisy. She said that might mess up the applicant’s operation if they were going to plant the rest of the land into some kind of crop because the access road would slice down the middle of the crop. She said it would be great if the access road onto the site was not in the current spot being proposed.

FOSTER said he is more concerned about the comings and goings on a daily basis which he feels will be quite an intrusion on her property.

RAMSEY asked which was more important to Ms. Ball; crops or moving the road.

BALL said the road being moved. She said she didn’t know if the applicant planned on putting crops in there when they were not working or if that has been addressed.

TONY BALL, 15201 WEST 17TH STREET NORTH, GODDARD, KANSAS said his fields all drain right where the applicant is proposing installing the road. He asked if there would be better drainage or if this would make it worse.

MILLER said the Township is responsible for drainage issues on the Township road; however, the applicant will be responsible for the road on their property.

CLARENCE SPONSEL, 10300 WEST CENTRAL, WICHITA, KANSAS commented that if an all weather road were installed to handle the truck traffic that would handle most of the issues with this request.

SHIRLEY GRIMM, 12 NORTH HOPPER COURT, GODDARD, KANSAS said she would like to have her husband use part of her time to speak again.

WARREN asked legal staff about that as a point of order.

PARNACOTT said it was up to the discretion of the Commission. He said Mrs. Grimm was yielding her time even though the other person has had time to speak. He said the Chair could entertain a motion to allow that.

It was moved to allow the speaker 2 additional minutes.

DON GRIMM mentioned that drainage has always been a problem in the area. He said the applicant will need to relieve some of that if they install a road or it will be under water. He said the area is just soil, there is no bedding for a road and it is a quagmire out there when it rains. He said the roads out there flood many times during the year.

SNOOK said he would try to answer some of the questions from surrounding property owners. He said they have no intention of disturbing the tree line between their property and the Blackstone Addition. He said road mitigation depends on how hot and dry it is while they are running trucks through the area. He said the minimum is 2-3 sprayings of water per day. He said they like to wet the road at the end of a shift so the water has time to soak in. He said the remainder of the land will stay as farm land like it is now; they have no intentions of doing anything different other than some of the land will be taken out of wheat production. He said they plan on mitigating dust during operations by using a water truck. He mentioned that one of the conditions of approval was obtaining a Sedgwick County Storm Water Permit which states that 14 days after an operation ceases the area has to be established with vegetation.

MCKAY asked about moving the access road 30-40 feet further south.

SNOOK said he did not think that would be a problem and that it might be better to move the road further south away from the telephone pole.

WARREN asked about water well contamination.

SNOOK said at 15 feet they do not intend to get into groundwater and added that he thought most of the wells in that area were 60-70 feet deep.

RAMSEY asked about the four additional conditions requested by Mr. Grimm and if the applicant had any problems adding them to the other conditions recommended by staff.

SNOOK said they had no problems adding the additional conditions; however, he said he was confused about the term "high speed/high pressure hoses for excavation". He said they use a backhoe.

RAMSEY clarified then the additional limitations requested were acceptable.

SNOOK said yes.

G. SHERMAN asked if the elevated road they are installing will block drainage.

SNOOK said he believed most of the drainage would fall to the east. He said the County or Township will have to install a pipe along 151st Street.

FOSTER clarified hours of operation being 7:00 a.m. to 5:00 p.m. He asked staff if shifting the proposed entrance drive further south would be within County Code or standards.

MILLER said either Attica Township or the County would determine the applicable standard when the applicant applies for a driveway permit.

FOSTER mentioned maintaining the current drainage and removal of vegetation. He suggested that the site plan be changed to move excavation further from Dry Creek. He asked if the applicant would mind having the areas that are not part of the excavation limited to agricultural use.

SNOOK said they have no problem with that.

FOSTER also mentioned the limitations requested by the Mr. Grimm being added as conditions.

GOOLSBY asked the applicant to clarify mitigation of the dust on the roads.

SNOOK said they will mitigate dust with water trucks and graders an average of 2-3 times a day during operations. He said if it is hot and the wind is blowing, they will spray more often. He added that equipment will be on site while they are working.

PARNACOTT reminded the Commissioners that if they have had any ex-parte communication on this application it should be disclosed. He said the key issue is if a Commissioner is going to use any of the information they received in an ex-parte communication that was not disclosed at this meeting, they need to share that with the rest of the Commission.

MOTION: To approve subject to staff recommendation including the amendments the applicant has agreed to including hours of operation; moving the eastern line of the northern end of the excavation so it is not located near the tree row; limiting unused land to agricultural uses only; and the four conditions listed in correspondence received on the application.

MCKAY moved, **RAMSEY** seconded the motion, and it carried (9-0-1).

KLAUSMEYER – Abstained.

CHAIR KLAUSMEYER back in the Chair.

PARNACOTT suggested explaining the process and procedure and what happens next with the application to the audience. He said the Planning Commission has made a recommendation. He said a two week protest period was available for anyone who was not happy with the Planning Commission's recommendation and those petitions can be filed with the County Clerk. He said a letter will go out to the people who signed up on the signup sheet notifying them when the item will go before the County Commission (approximately 35 days).

B. JOHNSON asked staff to explain the difference between a zoning change and a conditional use permit.

PARNACOTT said the conditional use permit does not change the underlying zoning of the property but it is limited to the conditions on the permit. He said the enforcement process begins with a complaint of non-compliance which generates an inspection. He said if it is determined that there is probable cause, a notice of non-compliance will be issued which could result in a fine or revocation of the conditional use permit.

- 10. **Case No.: CON2014-00021** - Wichita Children's Home / Sarah Robinson request a City Conditional Use request for a Day Care, General in TF-3 Two-family Residential zoning on property described as:

The South 69 feet of the East 16 feet of lot 12 AND the South 69 feet of lots 14, 16 and 18, Sunrise Park Addition to Wichita, Sedgwick County, Kansas.

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.

JESS MCNEELY, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

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

The Metropolitan Area Planning Commission adjourned at 3:06 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

July 10, 2014

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

1. There were no minutes to approve.

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

2-1. **SUB2014-00020: Final Plat – THE STEPPES AT ARK VALLEY ADDITION,**
located on the northeast corner of 127th Street East and Harry.

NOTE: This site has recently been annexed. The applicant proposes a zone change from SF-5 Single-family Residential to TF-3 Two-family Residential for Lots 1-9, Block 1 and for Lots 1-11, Block 2. The LC-zoned property will be used for residential purposes.

STAFF COMMENTS:

A. City of Wichita Public Works and Utilities Department requests the applicant extend water (distribution) and extend sewer (laterals) to serve all lots. In-lieu-of fees are due for water (transmission).

B. Due to the platting of a 32-foot residential street in a commercial zoning district, a restrictive covenant is needed limiting the site to residential uses.

C. City Stormwater Management has approved the drainage plan.

D. Traffic Engineering has approved the access controls. The plat proposes two street openings along 127th Street East.

E. The applicant shall guarantee the paving of the private street (Reserve C) to a public street paving standard. As private improvements, such guarantee shall not be provided through the use of a petition.

F. A restrictive covenant shall be submitted regarding the private street (Reserve C), which sets forth ownership and maintenance responsibilities.

G. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources

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

- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a restrictive covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. 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.
- J. Since this plat proposes the platting of narrow street right-of-way with adjacent 15-foot street, drainage and utility easements, a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- K. County Surveying would like to be contacted prior to submittal of the mylar.
- L. Lots 11 and 12, Block 1 do not conform to the 50-foot lot width standard for SF-5 lots which is measured at the building setback line. The Subdivision Committee recommends a modification of the design criteria in Article 7 of the Subdivision Regulations as it finds that the strict application of the design criteria will create an unwarranted hardship, the proposed modification is in harmony with the intended purpose of the Subdivision Regulations and the public safety and welfare will be protected.
- M. The vicinity map shall be labeled.
- N. The plat'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.
- O. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- Q. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery

without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.

- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Any relocation or removal of existing equipment of utility companies will be at the applicant's expense.
- V. 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).

NEIL STRAHL, Planning Staff presented the Staff Report. He said there will be a lake to the east which he believes a neighbor is present to discuss. In addition, he said the applicant has adjusted the drainage plan to address the neighbor's concerns.

WILL CLEVINGER, RUGGLES & BOHM, AGENT FOR THE APPLICANT said they are in agreement with staff recommendations. He indicated that Ken Lee from Ruggles & Bohm was also present to answer any drainage questions.

KEN LEE, RUGGLES & BOHM said the property owners on the east side of the pond in the Belle Chase Addition were concerned about the applicant's proposal to lower the water surface of the pond approximately one foot because the pond is currently shallow. He said the applicant has raised the surface up so it is only 6 inches lower to address the neighbor's concerns and minimize the impact on the pond. He said this plan also meets the City's drainage requirements. He said the proposed changes have been approved by the City Storm Water Engineer.

MICHELLE RICE, 1427 SOUTH SIERRA HILLS said she lives on the east side of the pond and she and about five other home owners are concerned about the applicant's proposal to lower the pond. She said it is only about a foot deep and that it was mostly dry last year. She said if the pond is lowered any more there will be a mosquito /cesspool at one end and an ugly pond at the other end. She said lowering the pond a foot was a lot.

LEE said the applicant does appreciate the neighbor's concerns about the shallowness of the pond; however, he said he failed to mention that this was originally a farm pond and has never been upgraded to the standard 7 feet deep. He said they don't want to increase the maximum water surface because that might put the housing in danger. He said they could change another inch or but they would rather err on the side of caution and that way they are less likely to have a hazard.

FOSTER asked if the pond was split between the reserves and if it serves as drainage for both subdivisions.

LEE responded that a portion of the pond is located in Reserve A. He said the property developer said he will maintain the pond abutting his property and the outflow that is being modified in the future.

MITCHELL asked if that commitment from the developer had been put into a written contract or agreement.

LEE said not at this time but they told staff they would get the maintenance agreement in place prior to construction. He said there is standard language in the covenants and agreements about maintenance.

STRAHL said the agreement could be incorporated into the standard covenants.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation and the revision to 6 inches.

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

2-2. SUB2014-00022: Final Plat – SIENA LAKES ADDITION, located on the south side of 37th Street North, West of Hoover Road.

NOTE: This unplatted site was recently annexed.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department requests the extension of sanitary sewer (laterals) to serve all lots. In-lieu-of-assessment fees for mains are needed. The applicant shall extend water (distribution) to serve all lots. In-lieu-of-assessment-fees for transmission are needed.
- 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 requests revisions to the drainage plan prior to City Council review.
- D. Traffic Engineering has approved the access controls. The plat proposes one street opening and one access opening along 37th Street North.

- E. City of Wichita Public Works has required a petition for the paving of 37th Street North from the plat's entrance at North Shore to the nearest paved segment along 37th Street North west of this property. This segment of 37th Street will be constructed with the City project and the applicant will be assessed his share.
- F. The Applicant shall guarantee the paving of the proposed internal streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- G. A temporary turnaround for Conrey Street has been denoted at the east line of the plat. The paving guarantee shall also provide for the installation of the temporary turnaround for Conrey.
- H. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineer (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- I. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a restrictive covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- J. 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.
- K. This property is within a zone identified by the City Engineer's office as likely to have groundwater at some or all times within ten feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineer's office.
- L. Approval of this plat will require a waiver of the lot depth-to-width ratio of the Subdivision Regulations for Lot 6, Block 1 and Lots 7 and 8, Block 4. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. The Subdivision Committee recommends a modification of the design criteria in Article 7 of the Subdivision Regulations as it finds that the strict application of the design criteria will create an unwarranted hardship, the proposed modification is in harmony with the intended purpose of the Subdivision Regulations and the public safety and welfare will be protected.
- M. GIS has approved the street names.
- N. The applicant shall correct Benchmark #1 description (Ridge Port and 37th Street North).

- O. The signature line for the mortgage certificate needs corrected.
- P. In the title block "An Addition to Wichita, Sedgwick County" needs to be referenced.
- Q. 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.
- R. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.
- S. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- T. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- U. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- V. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- W. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- X. Perimeter closure computations shall be submitted with the final plat tracing.
- Y. Westar Energy advises that any relocation or removal of existing equipment will be at the applicant's expense. The applicant needs to contact Heide Bryan, (261-6554) the representative for residential subdivisions about the existing equipment issues as soon as possible about this plat.

Z. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

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 (11-0).

2-3. **SUB2014-00026: One-Step Final Plat – JOST ADDITION**, located east of 111th Street East (Greenwich Road), South of 77th Street North.

NOTE: This site is located in the County in an area designated as “rural” by the Wichita-Sedgwick County Comprehensive Plan.

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. Lots 1 and 2 will need to be approved for advanced wastewater systems. A guarantee is needed for the abandonment of the existing lagoon north of the property.
- B. The site is currently located within the Sedgwick County Rural Water District No. 1. If service is available, feasible and the property is eligible for service, Metropolitan Area Building and Construction Department recommends connection.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. County Surveying advises that in accordance with K.S.A. 58-2003 and in the manner provided by K.S.A. 58-2011, section corner reference ties shall be filed with the Secretary of the State Historical Society and with the County Surveyor.
- E. County Public Works has approved the applicant’s drainage plan. If more than one acre is disturbed, applicant must apply for a Notice of Intent from the State and a stormwater permit.
- F. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.
- G. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineer (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.

- H. The plat denotes a structure encroaching Lots 1 and 2 into the required 3-foot side yard setback for accessory structures located in the rear half of lots. The applicant is advised that no enlargement of the building will be allowed and if removed, all subsequent rebuilding shall observe building setbacks.
- I. The signature block needs to specify whether the owner is single or married, since a married person needs to have the spouse's signature.
- J. The 17.7-foot dimension of the structure on the property line shall be labelled clearly.
- K. "Well/water spigot" shall be spelled correctly.
- L. County Surveying will need a copy of the Title Commitment prior to signing the mylar to verify ownership and all parties with interest in the property.
- M. The Owner's Certificate and Notary Certificate shall be corrected to reference the name of all owners of the property.
- N. 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.
- O. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- Q. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment

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

T. Perimeter closure computations shall be submitted with the final plat tracing.

U. Any removal or relocation of existing equipment made necessary by this plat will be at the applicant's expense. Becky Thompson at Westar Energy is the Construction Services Representative for the northeast area and can be contacted at (316) 261-6320. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.

V. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

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

J. JOHNSON moved, **B. JOHNSON** seconded the motion, and it carried (11-0).

3. PUBLIC HEARING – VACATION ITEMS

3-1. **VAC2014-00019: City request to vacate a platted easement on property**, generally located north of Wassall Street, east of Washington Avenue, on the north side of Larkin Drive (2626 S Larkin).

OWNER/APPLICANT: Tomas Limon & Leticia Ortiz (owners/applicants)

LEGAL DESCRIPTION: Generally described as vacating the platted 10-foot (x) 25-foot easement coming off of the rear (north) lot line (located approximately ¼ of the lot's width from the east, interior, lot line of the following described lot) of the southeast 66 feet of Lot 9, except the southeast 12 feet thereof, Block D, Lowery Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located north of Wassall Street, east of Washington Avenue, on the north side of Larkin Drive (2626 Larkin Drive - WCC #III)

REASON FOR REQUEST: Future building

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

The applicants propose to vacate a platted 10-foot wide (x) 25-foot long easement coming off of the rear (north) lot line of the subject lot. The easement is not located along any of the subject lot's lot lines, but is located approximately a quarter of the lot's width from the east, interior, lot line. The subject easement appears to be an extension of an abutting (north) 10-foot wide easement that runs between (and the length) of the common lot lines of Lots 6 and 7, Block D, Lowery Addition. There are no

utilities located within the subject easement. The subject easement intersects the south 8 feet of a 16-foot wide platted utility easement that runs parallel to the subject lots rear, south, lot line. There is a sewer line located in the 16-foot wide platted utility easement. Current Subdivision standards for a sanitary sewer easement require a width of 20 feet. The Lowery Addition was recorded with the Register of Deeds January 10, 1952.

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 June 19, 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 easement, and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Dedicate 2 feet of easement to run parallel to the south 8 feet of the 16-foot wide platted utility easement that runs parallel to the subject lots rear, south, lot line. The original dedication must be provided to Planning prior to the request goes to City Council for final action.
- (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.
- (3) If needed, as determined by franchised utilities, retain any needed portion of the subject easement. 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 platted easement on a Word document, via e-mail. This legal description 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) Dedicate 2 feet of easement to run parallel to the south 8 feet of the 16-foot wide platted utility easement that runs parallel to the subject lots rear, south, lot line. The original dedication must be provided to Planning prior to the request goes to City Council for final action.
- (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.
- (3) If needed, as determined by franchised utilities, retain any needed portion of the subject easement. 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 platted easement on a Word document, via e-mail. This 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.

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

B. JOHNSON moved, **MITCHELL** seconded the motion, and it carried (11-0).

PUBLIC HEARINGS

4. **Case No.: ZON2014-00011** - Jeff Pritchard (applicant/owner) and Ruggles & Bohm, c/o Will Clevenger (agent) request a City zone change from SF-5 Single-family Residential to TF-3 Two-family Residential on property described as:

Lot One (1) & Two (2), F. D. Sutton Addition to Sedgwick County, Kansas.

BACKGROUND: The applicant is requesting TF-3 Two-Family Residential (TF-3) zoning on the platted approximately 0.50-acre SF-5 Single-Family Residential (SF-5) zoned site. The site consists of Lots 1 and 2, FD Sutton Addition, located on the southeast corner of McComas Street and St Louis Avenue. Lot 1 is developed with a single-family residence (built 1920), with Lot 2 (the east, larger lot) having an accessory structure located on it. The site is large enough (with a lot split) for three duplexes. The applicant proposes to keep the existing single-family residence on Lot 1 and build two duplexes on Lot 2 with a future lot split.

The site is located in a predominately SF-5 zoned single-family residential neighborhood that runs from Central Avenue, (two-blocks north), to 2nd Street (two-blocks south) and between West Street (a block west) and Sheridan Avenue (five-blocks east). SF-5 zoned single-family residences (built mostly in the 1920s - 1998) are located north of the site across St Louis Avenue. SF-5 zoned single-family residences (built 1950s - 2002) and LC Limited Commercial (LC) zoned businesses are located west of the site across McComas Avenue to West Street. SF-5 zoned single-family residences (built mostly 1950s – 1980s) abut and are adjacent to the south of the site. SF-5 zoned single-family residences (built 1920 and late 1940s – 1950s) abut and are adjacent to the east side of the site. Two exceptions to the area’s predominate SF-5 zoning are the result of the most recent zoning activity in the area. ZON2013-00013 rezoned 0.95-acres of SF-5 zoned property to TF-3 zoning that is located one block east from the subject site on the north side of St Louis Avenue and east of Knight Street. ZON2011-00045 rezoned 0.92-acres of SF-5 zoned property to TF-3 zoning that is located three-blocks east of the site, on the southwest corner of St Louis Avenue and Joann Street.

CASE HISTORY: The site consists of Lots 1 and 2, FD Sutton Addition, which was recorded with the Sedgwick County Register of Deeds March 8, 1976. Staff has received calls expressing concerns about the proposed duplexes.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5	Single-family residences
SOUTH: SF-5	Single-family residences
WEST: SF-5, LC	Single-family residences, commercial
EAST: SF-5, TF-3	Single-family residences

PUBLIC SERVICES: The site has access to St Louis Avenue and McComas Street. Both are paved two-lane local roads. St Louis Avenue has 50 feet of right-of-way at this location. McComas Street has 60 feet of right-of-way at this location, except a portion of the west side of the subject site where there is a 27 feet long (x) five feet wide contingent dedication of McComas Street. This contingent dedication (as shown on FD Sutton Addition) appears to allow a portion of the site’s current single-family residence (built 1920) to remain out of the McComas Street right-of-way. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for “urban residential” uses. The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly. Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category. The TF-3 zoning district allows single-family residence, duplexes and some (but not limited to) institutional uses such as a parks, schools and churches by right. As such, the TF-3 zoning district conforms to the urban residential category.

RECOMMENDATION: The request is the area’s third rezoning, in the last four years, of SF-5 zoned properties to TF-3 zoning located within a three block area; ZON2011-00045 and ZON2013-00013. This request, as well the two previous request, provide fairly small (less than an acre) infill duplex/residential development opportunities that is not uncommon for the older neighborhoods in

Wichita. The requested TF-3 zoning is the fifth out of 15 zoning requests for this year. These requests for TF-3 zoning have been for either multiple (more than an acre) undeveloped lots of partially SF-5 zoned subdivisions located on the edges of the city or for smaller infill sites (such as this case) located in the older sections of the city. The infill lots have either been vacant, partially developed or developed with single-family residences that were proposed be remodeled as a duplex or torn down and replaced with a duplex or duplexes. 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 site is located in a predominately SF-5 zoned single-family residential neighborhood that runs from Central Avenue, (two-blocks north), to 2nd Street (two-blocks south) and between West Street (a block west) and Sheridan Avenue (five-blocks east). SF-5 zoned single-family residences (built mostly in the 1920s - 1998) are located north of the site across St Louis Avenue. SF-5 zoned single-family residences (built 1950s - 2002) and LC Limited Commercial (LC) zoned businesses are located west of the site across McComas Avenue to West Street. SF-5 zoned single-family residences (built mostly 1950s – 1980s) abut and are adjacent to the south of the site. SF-5 zoned single-family residences (built 1920 and late 1940s – 1950s) abut and are adjacent to the east side of the site. Two exceptions to the area's predominate SF-5 zoning are the result of the most recent zoning activity in the area. ZON2013-00013 rezoned 0.95-acres of SF-5 zoned property to TF-3 zoning, that is located one block east from the subject site on the north side of St Louis Avenue and east of Knight Street. ZON2011-00045 rezoned 0.92-acres of SF-5 zoned property to TF-3 zoning that is located three-blocks east of the site, on the southwest corner of St Louis Avenue and Joann Street.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The 0.50-acre SF-5 zoned site has a single-family residence with a large accessory structure located on it. The SF-5 zoning permits single-family residences, which, with a few exceptions, is the predominate zoning and development in the area.
- (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 there are two other recently zoned TF-3 sites located within three blocks of the site; ZON2011-00045 and ZON2013-00013. 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 perception of 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 or property that the owner lives on.
- (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 the older portions of Wichita is not unusual in that it allows for infill residential redevelopment opportunities. The infill lots have either been vacant, partially

developed or developed with single-family residences that were proposed be remodeled as a duplex or torn down and replaced with a duplex or duplexes.

(5) Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for “urban residential” uses. The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly. Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category. The TF-3 zoning district allows single-family residence, duplexes and some (but not limited to) institutional uses such as a parks, schools and churches by right. As such, the TF-3 zoning district conforms to the 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.

FOSTER asked staff to explain off street parking requirements per the Unified Zoning Code.

LONGNECKER said the parking requirement for multi-family zoning is one space per unit. He said the applicant has enough room at the site to meet the parking requirement. In addition, he noted that the DAB recommended approval of the application and that there was no one present at the DAB meeting to protest the application.

FOSTER asked with the lot split, was it possible to have two duplexes with 4 units or a single duplex.

LONGNECKER said there could be a total of 3 duplexes on the site.

MOTION: To approve subject to staff recommendation.

B. JOHNSON moved, **MILLER STEVENS** seconded the motion, and it carried (11-0).

FOSTER recused himself from the item.

5. **Case No.: CUP2014-00016** - Casey Voegeli (owner) / Icon Structures (Brandon Wilson) (applicant) request a City CUP Amendment to DP-89 Parcel 1 to add Accessory Apartment to the list of permitted uses on property described as:

Lot 26, Block 1, Country Place Estates Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant is seeking an amendment to Lot 26, Block 1, Country Place Estates Addition located in Parcel 1 of the Country Place Estates Community Unit Plan (CUP) DP-89 to permit an “accessory apartment.” The application area contains 1.51 acres, is zoned SF-5 Single-family

Residential (SF-5) subject to the development standards of Parcel 1 of DP-89, and is developed with a 5,357 square-foot single family residence. The applicant seeks approval of the proposed amendment in order to incorporate a second dwelling unit as the second story of a five-bay garage only on Lot 26, Block 1, Country Place Estates Addition. (See the attached Country Place Estates CUP, elevation drawing and site plan). The accessory apartment would only be for guests of the residents living in the principal structure. The application area is located in the extreme northwest corner of the CUP. The proposed garage/accessory apartment is to be located in the northeast corner of the application area. The garage portion of the proposed building may be built without benefit of an amendment. The CUP amendment is needed for the inclusion of fully functioning independent living space that also includes bathroom and kitchen facilities in the proposed garage.

Parcel 1 of DP-89 is zoned SF-5, contains 61 acres, permits only one-family dwellings at a maximum density of 1.54 dwelling units per net acre or a maximum of 75 dwelling units. Parcel 1 is platted (various Country Place Estates additions) and is developed with 61 single-family residential lots. The CUP permits a maximum building height of 35 feet.

Land located immediately north of the application is old railroad right-of-way that has been converted to a rails-to-trails path, and is not zoned. Property north of the rails-to-trails path is zoned SF-5, and is developed with single-family residences. Properties to the east, south and west are also zoned SF-5, and are developed with single-family residences.

Per the Wichita-Sedgwick County Unified Zoning Code (UZC), accessory apartments are permitted in the SF-5 district with “conditional use” approval. Since the application area is located within Parcel 1 of CUP DP-89 that only permits one-family dwellings, an amendment instead of a “conditional use” is required. Supplementary Use Regulations of the Unified Zoning Code permit accessory apartments subject to the following standards: a maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling; the appearance of the accessory apartment shall be compatible with the main dwelling and with the character of the neighborhood; the accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling unit, and the ownership shall not be divided or sold as a condominium and the water and sewer service provided to the accessory apartment shall not be provided as a separate service from the main dwelling.

CASE HISTORY: Country Place Estates plat was recorded in March of 1979.

ADJACENT ZONING AND LAND USE:

North: Unzoned and SF-5; rails-to-trails right-of-way and single-family residences
South: SF-5; single-family residential
East: SF-5; single-family residential
West: SF-5; single-family residential

PUBLIC SERVICES: The application area is located inside a fully developed residential subdivision that is served by all normal public and private utilities and services.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide indicates the site is appropriate for “urban residential” uses. The urban residential category reflects the full diversity of residential development densities and types typically found in a large urban municipality,

including single detached homes, semi-detached homes, patio homes, duplexes, townhomes and apartments.

RECOMMENDATION: Based upon the information available at the time the report was prepared it is recommended to approve the request subject to the following conditions:

- A. The amendment permits an accessory apartment that shall be constructed, maintained and operated in general conformance with the approved site plan and elevation drawings and shall comply with all the requirements of UZC Article III, Section III-D.6.a.
- B. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VII hereof, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Land located immediately north of the application is old railroad right-of-way that has been converted to a rails-to-trails path, and is not zoned. Property north of the rails-to-trails path is zoned SF-5, and is developed with single-family residences. Properties to the east, south and west are also zoned SF-5, and are developed with single-family residences.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-5, which is the most restrictive zoning district in the city, and is primarily intended for single-family dwellings and a few civic and institutional uses that may typically be used by the dwellings residents. The site could continue to be used and have economic value as currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The lot is heavily wooded and there are hedgerows and additional landscaping located offsite. The garage is an accessory structure that is allowed by-right. Installation of separate living quarters within the garage and on the 1.51-acre lot should not detrimentally impact nearby properties. The recommended conditions of approval should mitigate anticipated impacts.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The applicant indicates the accessory structure is to be used for guests. Approval would enhance the applicant's use and enjoyment of the property.
5. Length of time the property has been vacant as currently zoned. The property is developed with a single-family dwelling.
6. 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 appropriate for "urban residential" uses. The urban residential category reflects the full diversity of residential development densities and types typically found in a large urban municipality, including single detached homes, semi-detached homes, patio homes, duplexes, townhomes and apartments. The UZC permits "accessory apartments" subject to the conditions described above, and subject to

“conditional use” approval. The proposed accessory apartment complies with UZC Supplementary Use Regulation requirements.

- 7. Impact of the proposed development on community facilities: Existing community facilities sufficient to meet the demands of the proposed use are in place.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

J. JOHNSON moved, **D. DENNIS** seconded the motion, and it carried (10-0-1).

FOSTER – Abstained.

The Metropolitan Area Planning Commission adjourned at 1:47 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)

STAFF REPORT

CASE NUMBER: SUB2013-00034 – WATERFRONT 7TH ADDITION

OWNER/APPLICANT: Waterfront Holding Company, LLC, Attn: Charlie Stevens, P.O. Box 782257, Wichita, KS 67278

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

LOCATION: North of 13th Street North, East of Webb Road (District II)

SITE SIZE: 33.38 acres

NUMBER OF LOTS

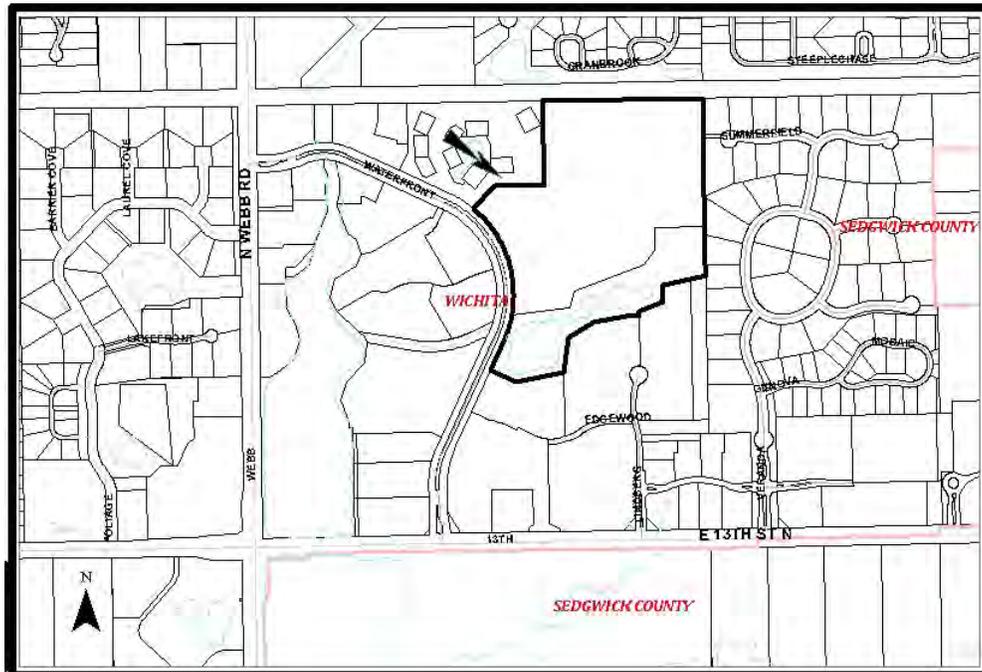
Residential:	
Office:	
Commercial:	44
Industrial:	—
Total:	44

MINIMUM LOT AREA: 9,250 square feet

CURRENT ZONING: LI Limited Industrial

PROPOSED ZONING: GO General Office

VICINITY MAP



**SUB2013-00034 – Final Plat of WATERFRONT 7TH ADDITION
July 24, 2014 - Page 2**

Note: This is a replat of a portion of Waterfront 6th Addition in addition to unplatted property. The site has been approved for a zone change (ZON2012-00015) from LI Limited Industrial to GO General Office. The 44 lots are intended for residential units.

This revised plat supercedes the previous 2-lot commercial plat.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department requests the extension of sanitary sewer (laterals) and the extension of water (distribution) to serve all lots being platted. A utility easement for sewer is needed between lots 29 and 30, Block A.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the drainage plan subject to submittal of a draft master grading plan prior to City Council consideration.
- D. Due to the platting of residential streets in a commercial zoning district, a restrictive covenant is needed limiting the site to residential uses.
- E. The Applicant shall guarantee the paving of the proposed streets.
- F. Since this plat proposes the platting of narrow street right-of-way with adjacent 15-foot street, drainage and utility easements, a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- G. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineer (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a restrictive covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. 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.
- J. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- K. GIS has approved the street names.

SUB2013-00034 – Final Plat of WATERFRONT 7TH ADDITION
July 24, 2014 - Page 3

- L. The platator'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.
- M. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- O. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- T. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disc. If a disc is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

STAFF REPORT

CASE NUMBER: SUB2014-00024 – STOVER ESTATES ADDITION

OWNER/APPLICANT: Phillip and Cyndi Stover, 7134 Clear Meadow Court, Wichita, KS 67205

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

LOCATION: North of 31st Street South, West side of 151st Street West (County District III)

SITE SIZE: 20.31 acres

NUMBER OF LOTS

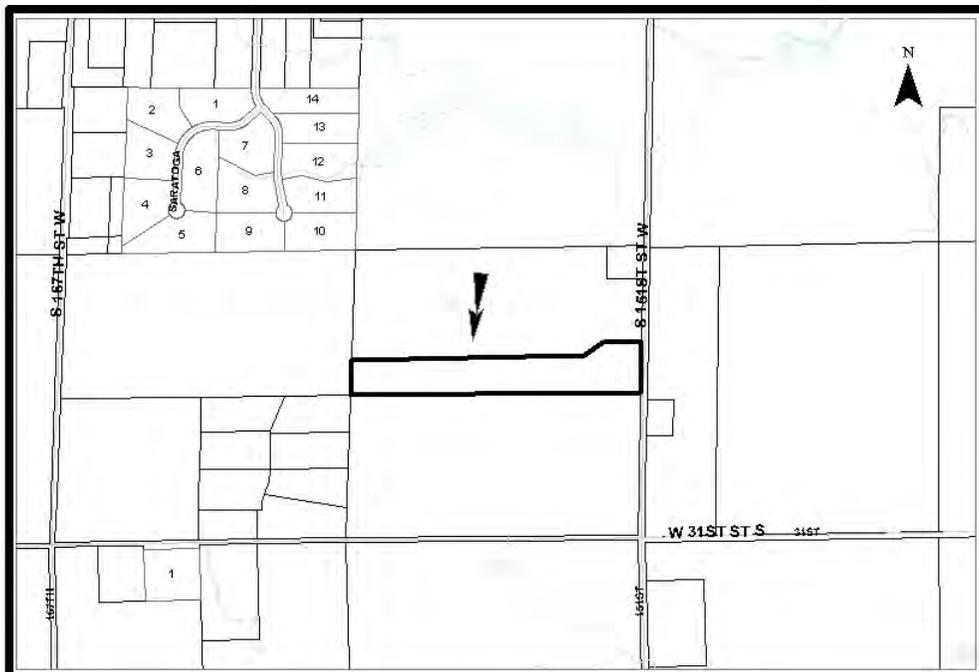
Residential:	2
Office:	
Commercial:	
Industrial:	
Total:	2

MINIMUM LOT AREA: 4.27 acres

CURRENT ZONING: RR Rural Residential

PROPOSED ZONING: Same

VICINITY MAP



SUB2014-00024 -- Final Plat of STOVER ESTATES ADDITION
July 24, 2014 - Page 2

NOTE: This is unplatted property located in the County within three miles of the City of Wichita. It is in an area designated as "Wichita 2030 Urban Growth Area" by the Wichita-Sedgwick County Comprehensive Plan. It is located in the Goddard Area of Influence.

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. City of Wichita Public Works and Utilities Department has requested a No Protest Agreement for future extension of sanitary sewer (mains and laterals).
- C. 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.
- D. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- E. County Public Works has approved the drainage plan. If more than one acre is disturbed, applicant must apply for a Notice of Intent from the State and a stormwater permit. A utility easement is needed to service Lot 2.
- F. County Public Works has approved the access controls. The plat denotes one opening along 151st Street West.
- G. The joint access opening shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- H. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.
- I. Approval of this plat will require a waiver of the lot depth-to-width ratio of the Subdivision Regulations for Lot 2. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. The Subdivision Committee recommends a modification of the design criteria in Article 7 of the Subdivision Regulations as it finds that the strict application of the design criteria will create an unwarranted hardship, the proposed modification is in harmony with the intended purpose of the Subdivision Regulations and the public safety and welfare will be protected.
- J. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineer (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.

SUB2014-00024 -- Final Plat of STOVER ESTATES ADDITION
July 24, 2014 - Page 3

- K. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- M. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Any removal or relocation of existing equipment made necessary by this plat will be at the applicant's expense.
- R. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

STAFF REPORT

CASE NUMBER: SUB2014-00025 – WICHITA DESTINATION DEVELOPMENT ADDITION

OWNER/APPLICANT: K-96 Destination Development, Inc., 1707 North Waterfront Parkway, Wichita, KS 67206; Medical Practice Association Properties, LLC, 1010 North Kansas, Suite 3049, Wichita, KS 67214

SURVEYOR: Renaissance Infrastructure Consulting, Attn: Michael Schmidtberger, 1138 West Cambridge Circle Drive, Kansas City, KS 66103

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

LOCATION: Northeast corner of K-96 Highway and Greenwich Road (District II)

SITE SIZE: 104.70 acres

NUMBER OF LOTS

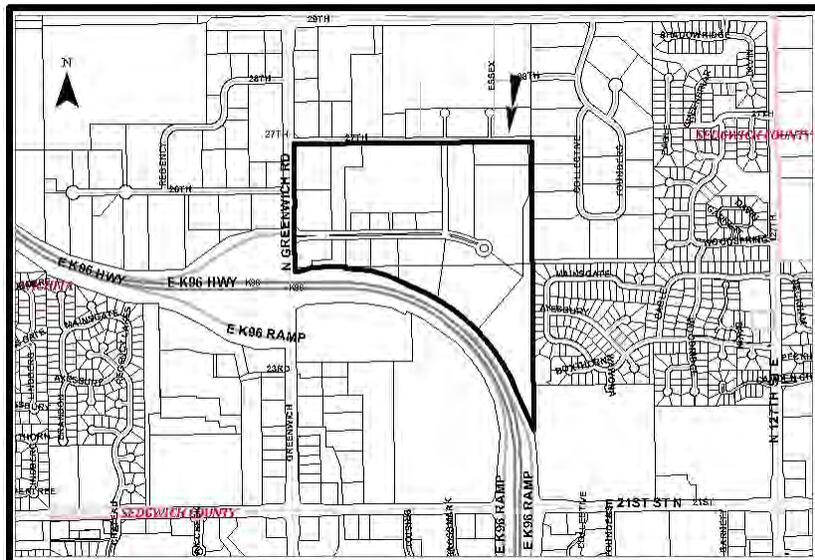
Residential:	
Office:	
Commercial:	
Industrial:	1
Total:	1

MINIMUM LOT AREA: 7 acres

CURRENT ZONING: LI Limited Industrial

PROPOSED ZONING: Same

VICINITY MAP



**SUB2014-00025 -- Plat of WICHITA DESTINATION DEVELOPMENT ADDITION
July 24, 2014 - Page 2**

NOTE: This is a replat of the K96 and Greenwich North Addition. The site is also subject to the K96 and Greenwich North Community Unit Plan DP-333.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department requests the extension of water (distribution) and sanitary sewer (laterals). In-lieu-of-assessment fees for mains and transmission are needed for Reserves B and C, and Lots 3, 4, 5, 6 and 7, Block 2, K96 and Greenwich North Addition. The applicant advises no petitions will be provided as streets and utilities will be constructed with a private project.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the drainage plan subject to a 30-foot drainage easement shown on the plat.
- D. County Surveying requests to view the revised plat prior to submitting the mylar.
- E. The plat proposes one access opening and one street opening along Greenwich Road in accordance with the CUP and has been approved by Traffic Engineering.
- F. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.
- G. The Applicant shall guarantee the paving of the proposed street to the business/industrial street standard.
- H. As the plat consists of commercial lots abutting a non-arterial street, the Subdivision Regulations require a sidewalk along the Greenwich Place frontage, which shall be included within the paving petition.
- I. County Surveying advises that the recording data for the pipeline easement shall be shown on the final plat or stated to be recorded by separate instrument. If the easement has not been re-confined and relocated, the existing easement shall also be shown on the final plat stating it will be relocated.
- J. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineer (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- K. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a restrictive covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.

SUB2014-00025 -- Plat of WICHITA DESTINATION DEVELOPMENT ADDITION
July 24, 2014 - Page 3

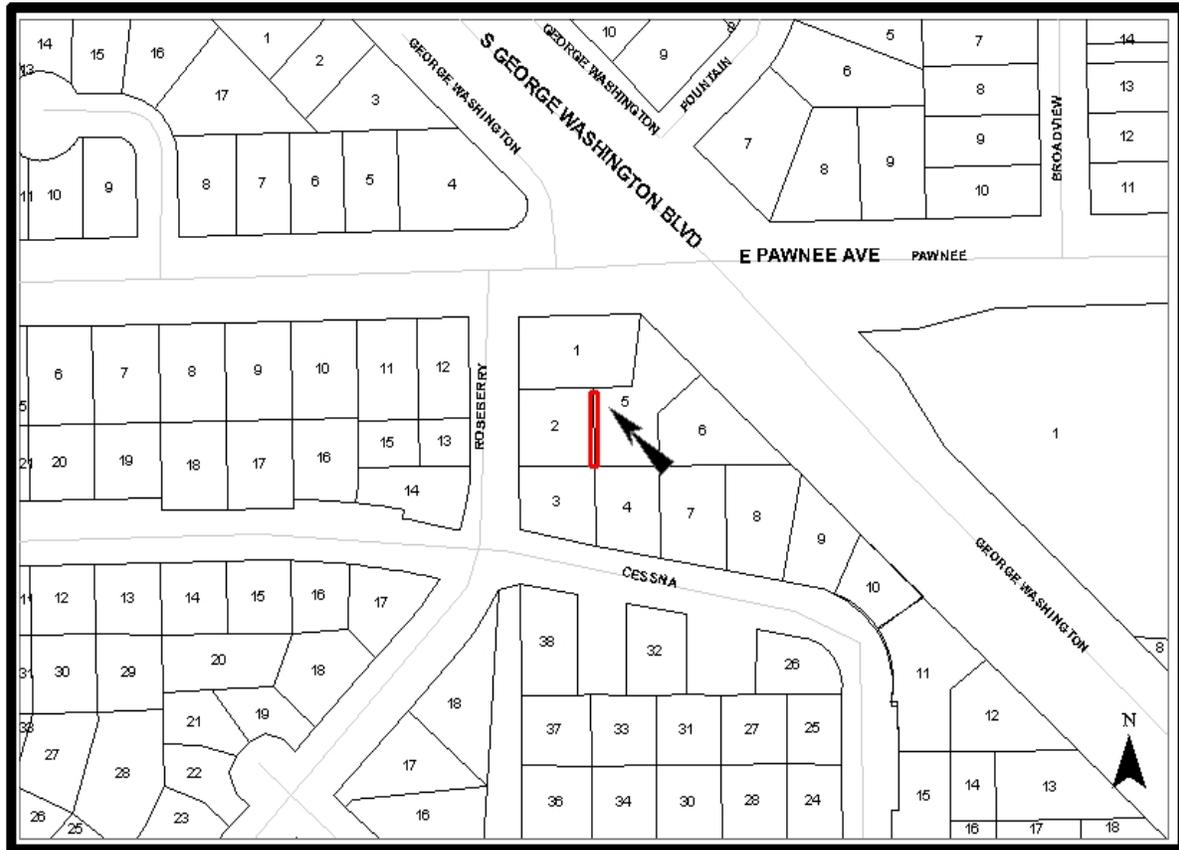
- L. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- M. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- N. The Applicant needs to request a CUP adjustment in order that the CUP parcel boundaries correspond with the area being platted.
- O. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- P. GIS has approved the street name.
- Q. 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.)
- R. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- S. 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.
- T. 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.
- U. 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.
- V. Perimeter closure computations shall be submitted with the final plat tracing.
- W. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense. Becky Thompson at Westar Energy is the Construction Services Representative for the northeast area and can be contacted at (316) 261-6320.

SUB2014-00025 -- Plat of WICHITA DESTINATION DEVELOPMENT ADDITION
July 24, 2014 - Page 4

- X. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

STAFF REPORT

- CASE NUMBER:** VAC2014-00020 - City request to vacate a platted easement
- OWNER/APPLICANT:** Central Plains Development, c/o Brian Flores Victor Torres (owners/applicants)
- LEGAL DESCRIPTION:** Generally described as vacating the platted 8-foot utility easement running parallel to the common lot line of Lots 2 & 5, Block D, Planeview Subdivision No.1, Wichita, Sedgwick County, Kansas.
- LOCATION:** Generally located southwest of the Pawnee Avenue – George Washington Boulevard intersection and northeast of the Cessna – Roseberry Streets intersection (WCC #III)
- REASON FOR REQUEST:** Future development
- CURRENT ZONING:** The site, all abutting and adjacent properties are zoned MF-29 Single-Family Residential (MF-29).
- VICINITY MAP:**



The applicants propose to vacate a platted 8-foot wide utility easement centered on and running parallel (north-south) to the common lot line of Lots 2 & 5, Block D, Planeview Subdivision No.1. There are no utilities located within the subject easement. The north end of the subject easement intersects with an east-west platted easement that runs parallel to a portion of the common lot lines of Lots 2 & 5 (south lots) and Lot 1, all in Block D, Planeview Subdivision No.1; this east-west platted easement will be retained. The Planeview Subdivision No.1 was recorded with the Register of Deeds August 29, 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 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 July 3, 2014, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described portion of the platted utility easement and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Provide Planning with a legal description of the vacated platted easement on a Word document, via e-mail. The legal description will be used on the Vacation Order. The legal description must be provided to Planning prior to this 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 Planning with a legal description of the vacated platted easement on a Word document, via e-mail. The legal description will be used on the Vacation Order. The legal description must be provided to Planning prior to this 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.

STAFF REPORT

CASE NUMBER: VAC2014-00021 - City request to vacate a platted utility easement and a temporary utility easement dedicated by separate instrument

OWNER/AGENT: Dillon Real Estate Company, Inc. (owner) PEC, c/o Charles Brown (agent)

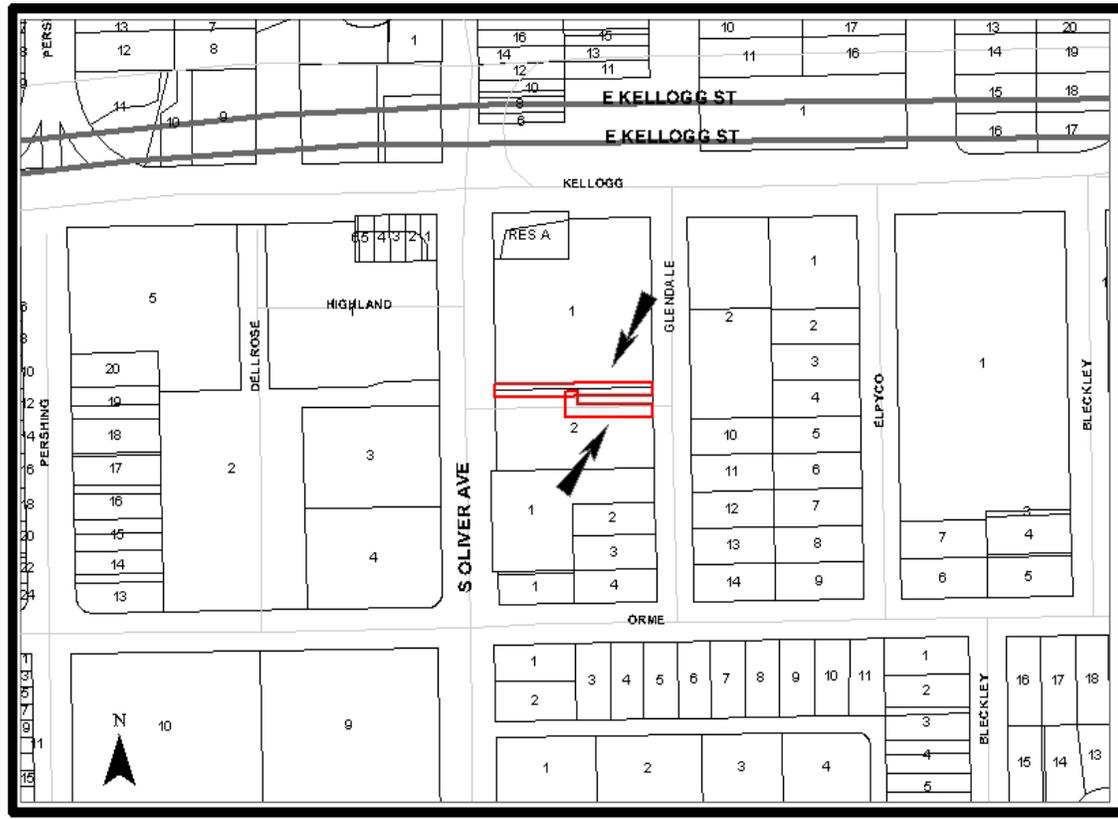
LEGAL DESCRIPTION: Generally described as vacating the platted 20-foot utility easement running parallel to the common lot line of Lots 1 & 2 and a 20-foot temporary utility easement dedicated by separate instrument (FILM 2907 – PAGE 6518) located on Lot 2, all in Block 2, Ann Walenta Commercial Addition Wichita, Sedgwick County, Kansas.

LOCATION: Generally located on the southeast corner of the Kellogg Drive – Oliver Avenue intersection (WCC #III)

REASON FOR REQUEST: Future Kwik Shop

CURRENT ZONING: The site is zoned LC Limited Commercial (LC), with overlay CUP 261. Abutting south properties are zoned LC and B Multi-Family Residential (B). Adjacent east properties are zoned LC, GO General Office (GO) and MF-29 Single-Family Residential (MF-29). Adjacent west properties are zoned LC. Adjacent north properties are zoned LC and B.

VICINITY MAP:



The applicant proposes to vacate a (east-west) platted 20-foot utility easement centered on and running parallel to the common lot line of Lots 1 & 2 and a (east-west, with a finger going north at its west end) 20-foot temporary utility easement dedicated by separate instrument (FILM 2907 – PAGE 6518, recorded July 15, 2009) located on Lot 2, all in Block 2, Ann Walenta Commercial Addition. There is a sewer line and manhole located in the temporary utility easement. The Ann Walenta Commercial Addition was recorded with the Register of Deeds July 15, 2009.

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 and the temporary utility easement 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 July 3, 2014, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described portion of the platted utility easement and the temporary utility easement 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) 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. Vacate the 20-foot wide temporary utility easement dedicated by separate instrument (FILM 2907 – PAGE 6518) and the platted 20-foot utility easement contingent on the approval (by Public Works/Water & Sewer) of a PPS for the abandonment and relocation of the existing sewer line and manhole. All improvements will be per City standards and at the applicant's expense. The approved PPS# must be provided to Planning prior to the case going to City Council for final approval.
- (2) If needed, as determined by public and franchised utilities, retain any needed portion of the subject easements. Provide Planning with any needed original easements dedicated by separate instruments for relocated utilities, prior to this case going to City Council for final action. The original easements will go from the City Council to the register of Deeds for recording with the original Vacation Order.

- (3) Provide Planning with a legal description of the vacated platted utility easement and the temporary utility easement dedicated by separate instrument on a Word document, via e-mail. The 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.
- (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. Vacate the 20-foot wide temporary utility easement dedicated by separate instrument (FILM 2907 – PAGE 6518) and the platted 20-foot utility easement contingent on the approval (by Public Works/Water & Sewer) of a PPS for the abandonment and relocation of the existing sewer line and manhole. All improvements will be per City standards and at the applicant’s expense. The approved PPS# must be provided to Planning prior to the case going to City Council for final approval.
- (2) If needed, as determined by public and franchised utilities, retain any needed portion of the subject easements. Provide Planning with any needed original easements dedicated by separate instruments for relocated utilities, prior to this case going to City Council for final action. The original easements will go from the City Council to the register of Deeds for recording with the original Vacation Order.
- (3) Provide Planning with a legal description of the vacated platted utility easement and the temporary utility easement dedicated by separate instrument on a Word document, via e-mail. The 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.
- (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.



STAFF REPORT

MAPC July 24, 2014
DAB II August 5, 2014

CASE NUMBER: ZON2014-00012

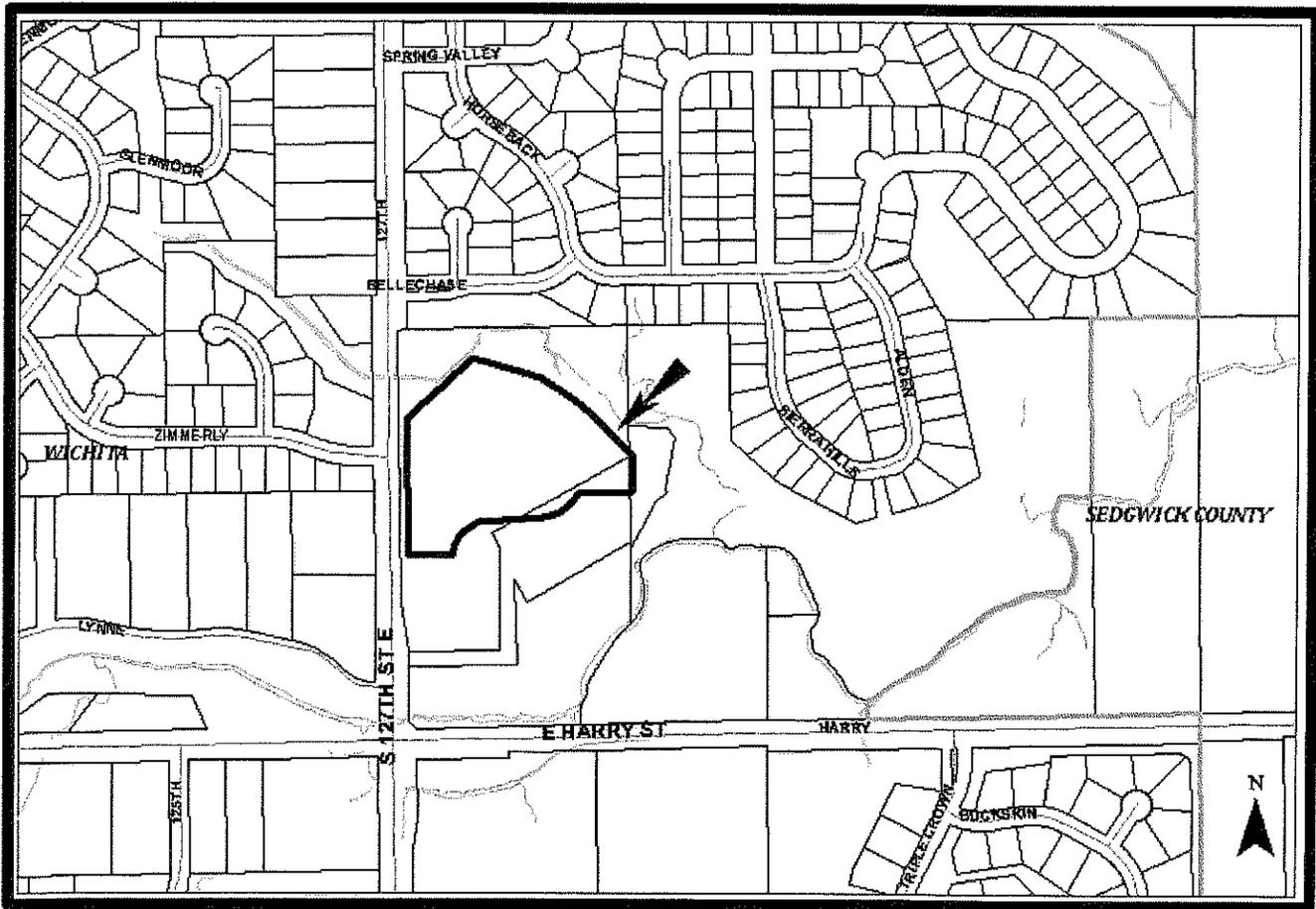
APPLICANT/OWNER: Ruggles and Boehm, LLC, c/o Craig Harms (applicant/owner)

REQUEST: TF-3 Two-Family Residential zoning

CURRENT ZONING: SF-5 Single-Family Residential

SITE SIZE: Approximately 6.98 acres

LOCATION: Generally located on the east side of South 127th Street East, north of Harry Street



BACKGROUND: The applicant is requesting 6.98 acres of a Single-Family Residential (SF-5) zoned site be rezoned to Two-Family Residential (TF-3). There is an agricultural building on the subject site that will be removed. Approximately 24 buildings are planned for this site.

The site is located approximately 600 feet north of Harry Street on the east side of South 127th Street East. The area is zoned predominately Single-Family Residential (SF-5) along both sides of the north-south arterial street, South 127th Street E., and Limited Commercial (LC) zoned property at the intersection of South 127th Street East and Harry Street. The subject site is located in one of these SF-5 zoned single-family residential neighborhoods. Development in the immediate area around the site include SF-5 zoned single-family residences abutting the north and east sides of the site and adjacent (across South 127th Street East) to the site's west side. LC zoning abuts the site's south side. Most of the single-family residences in this area appear to have been built within the last decade. The immediate area's oldest single-family residence appears to be the adjacent west single-family residence, built in 1959.

CASE HISTORY: The site is part of a 22.12-acre tract annexed into the City on June 18, 2014. In 2011 the intersection of South 127th Street East and East Harry Street was improved as part of a drainage improvement project on the north side of Harry Street.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5	Vacant, Single-family residences
SOUTH: LC	Vacant
WEST: SF-5	Single-family residences
EAST: SF-5	Single-family residences

PUBLIC SERVICES: South 127th Street East is an arterial street at this location. Approximately 600 feet south of the subject site, South 127th Street East intersects with Harry Street, an arterial at this location. Southbound South 127th Street East is one through lane and one left turn lane; northbound South 127th Street East is one through lane and one left turn lane at this intersection. Eastbound Harry Street is one through lane and one left turn lane; westbound Harry Street is one through lane, one left turn lane and one right turn lane. All utilities are available at this site.

CONFORMANCE TO PLANS/POLICIES: The "2013 Land Use Guide of the Comprehensive Plan" (Plan) identifies the SF-5 zoned site as "urban development mix." Urban Development Mix: This category encompasses areas of land that will likely be developed or redeveloped within the next 30 years with uses predominately found in the Urban Residential Use category. 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**, subject to platting within one year.

This recommendation is based on the following findings:

- (1) The zoning, uses and character of the neighborhood:** The area is zoned predominately Single-Family Residential (SF-5) along both sides of the north-south arterial street, South 127th Street East, and Limited Commercial (LC) zoned property at the intersection of South 127th Street East and Harry Street. The subject site is located in one of these SF-5 zoned single-family residential neighborhoods. Development in the immediate area around the site include SF-5 zoned single-family residences abutting the north and east sides of the site and adjacent (across South 127th Street East) to the site's west side. The SF-5 residential includes Bellchase Addition to the north, Bellchase 2nd Addition to the east and Timberlands Addition to the west. All three of these additions are in the building out process. LC zoning abuts the site's south side. Most of the single-family residences in this area appear to have been built within the last decade. The immediate area's oldest single-family residence appears to be the adjacent west single-

family residence, built in 1959.

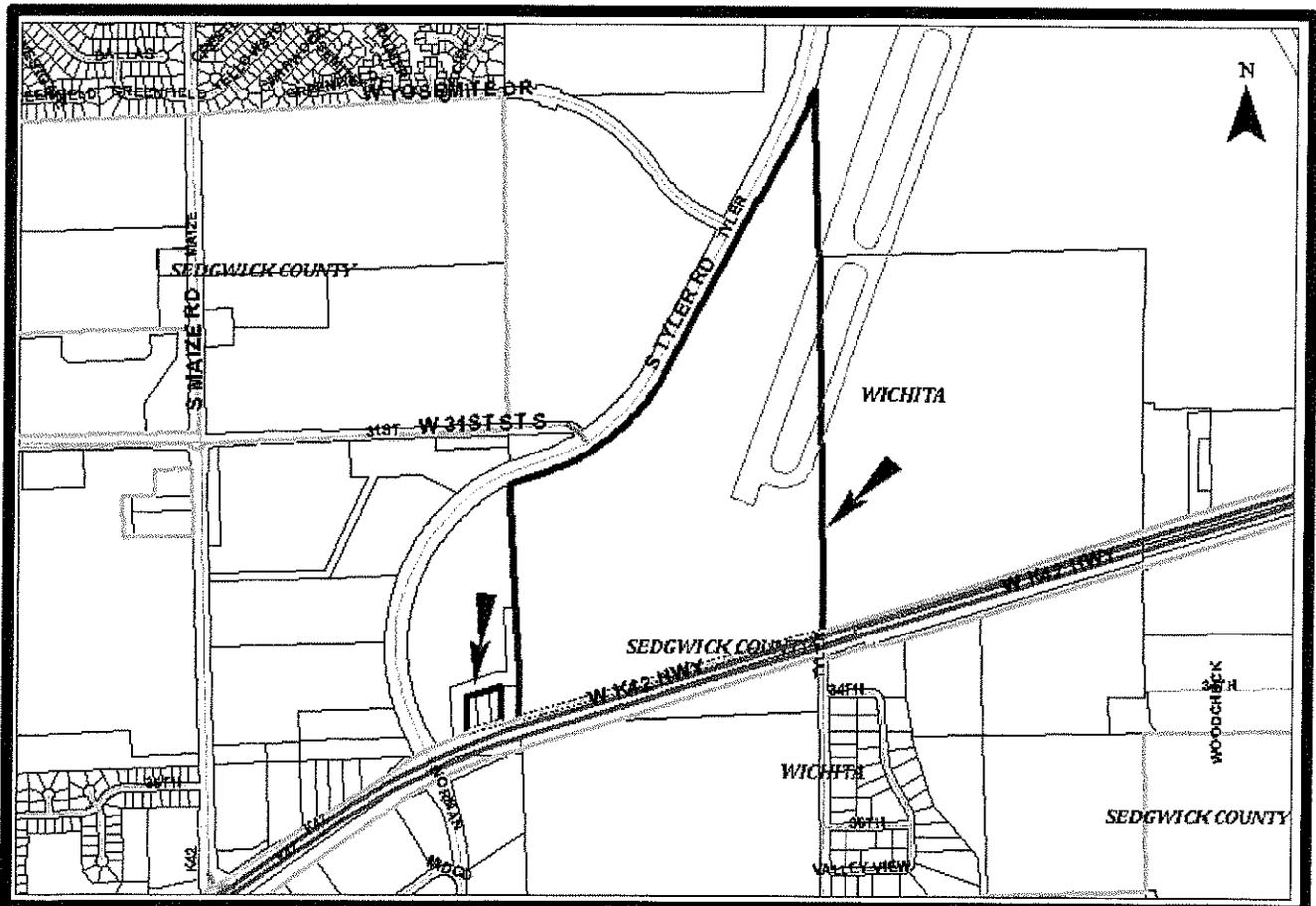
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned SF-5 and has an agricultural building located on it. The SF-5 zoning permits the site's current use as a single-family residence.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The requested TF-3 zoning allows duplexes as well as single-family residences by right. The request would introduce TF-3 zoning into the area.
- (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 development mix." The urban development mix 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.



STAFF REPORT

MAPC July 24, 2014
DAB IV August 4, 2014

- CASE NUMBER:** ZON2014-13
- APPLICANT/AGENT:** Wichita Airport Authority c/o John Oswald, P.E. (owner); Baughman Company, P.A. c/o Russ Ewy (agent)
- REQUEST:** LI Limited Industrial (LI) zoning
- CURRENT ZONING:** SF-5 Single-family Residential (SF-5) and LC Limited Commercial (LC) zoning
- SITE SIZE:** 160 acres
- LOCATION:** Generally located east of South Tyler Road and north of the K42 Highway
- PROPOSED USE:** Make the subject property zoning consistent with the area



BACKGROUND: The 160-acre application area is currently zoned SF-5 Single-Family Residential (SF-5) with a small portion of LC Limited Commercial (LC) zoning, it is owned by the Wichita Airport Authority and is contiguous with the remainder of the LI Limited Industrial (LI) zoned airport property. The application area includes the far south end of the paved runway system, and is otherwise open space under the Airport Hazard Zone Area A with a 25-foot height restriction. The Airport Authority also owns all surrounding property, to include property south of K42, with the exception of one SF-5 zoned residence on the north side of K42 and surrounded by the application area. Under LI zoning, the Unified Zoning Code (UZC) would permit numerous uses not permitted under the current SF-5 zoning. However, the Airport Authority intends to continue the current use – open space surrounding the paved runway system. The majority of the site is platted; the three small parcels in the southwest corner of the application area are un-platted.

Property north of the site, across Tyler Road, is zoned SF-5 and is used for an open space park and Airport Authority owned open space. Property south of the site, across K42, is zoned SF-5 and is used as Airport Authority zoned open space. Property east and west of the site is zoned LI and is used as Airport Authority owned open space, with the exception of one SF-5 zoned .95-acre site developed with a single-family residence.

CASE HISTORY: The majority of the site was platted as Lot 1, Block 1 of the Mid Continent Airport 6th Addition in 2001; three parcels in the southwest corner of the site are un-platted.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Park, open space
SOUTH:	SF-5	K42, open space
EAST:	LI	Open space
WEST:	LI, SF-5	Open space, single-family residence

PUBLIC SERVICES: Tyler Road is a paved, two-lane arterial street at this location with a 180-foot right-of-way (ROW). K42 is a paved two lane highway at this location with additional turn lanes at the Tyler intersection, and a 150-foot ROW. 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 “major utility/transportation.” The major utility/transportation category encompasses utility and transportation facilities and includes a range of such uses as airports, landing strips, landfills, waste transfer stations, water treatment and sanitary sewer plant facilities.

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

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** Property north of the site, across Tyler Road, is zoned SF-5 and is used for an open space park and Airport Authority owned open space. Property south of the site, across K42, is zoned SF-5 and is used as Airport Authority zoned open space. Property east and west of the site is zoned LI and is used as Airport Authority owned open space, with the exception of one SF-5 zoned .95-acre site developed with a single-family residence.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned SF-5, is within the Airport Hazard Zone Area A, and is used as Airport Authority open space surrounding the paved runway system. The application area could not be developed with typical SF-5 uses.

- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Because use of the property will not change as a result of the requested zone change, the one residence bordering the application area will not be impacted by the requested zone change.
- (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 “major utility/transportation.” The major utility/transportation category encompasses utility and transportation facilities and includes a range of such uses as airports, landing strips, landfills, waste transfer stations, water treatment and sanitary sewer plant facilities.
- (5) **Impact of the proposed development on community facilities:** The proposed zone change will not change the impact of this site on community facilities, and the use of this property will not change.



STAFF REPORT
MAPC 7-24-2014
DAB II 8-5-2014

CASE NUMBER: CUP2014-00017 and ZON2014-00014

APPLICANT/AGENT: Beech Lake Investment, LLC (Johnny Stevens) / MKEC (Brian Lindebak)

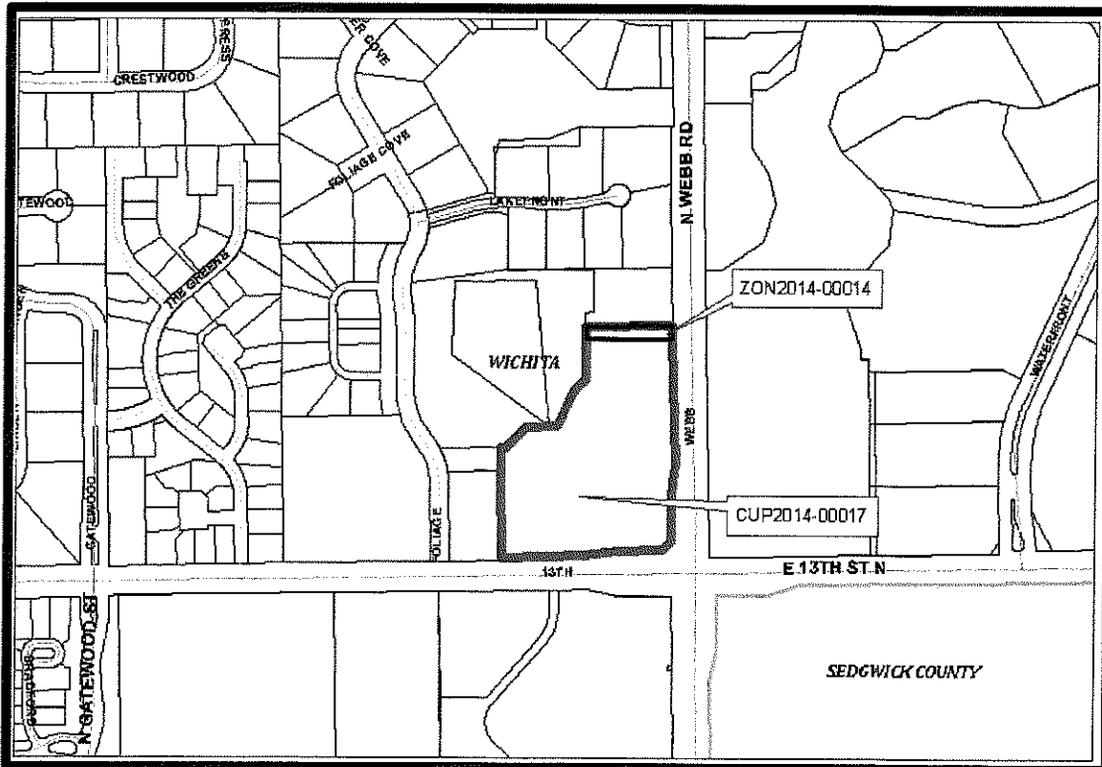
REQUEST: Add 11,972.06 square feet to the Community Unit Plan and rezone same from GO General Office to LC Limited Commercial; relocate and reduce the size of Parcel 2 to 15,060 square feet and amend various development standards of CUP DP-282 dealing with screening, setbacks, signage, lighting, use and access controls

CURRENT ZONING: LC Limited Commercial and GO General Office

SITE SIZE: Proposed CUP contains 7.43 acres; proposed zone change contains 11,972.06 square feet

LOCATION: Northwest corner of East 13th Street North and North Webb Road

PROPOSED USE: All uses permitted by-right in the LC district except those specified by General Provision 3



BACKGROUND: The applicant is requesting a number of amendments to the existing 7.13-acre LC Limited Commercial (LC) zoned Foliage Center Community Unit Plan (CUP) DP-282 located at the northwest corner of East 13th Street North and North Webb Road. The Foliage Center CUP permits all uses allowed by-right in the LC district except uses specified by General Provision 3 of DP-282, such as: adult entertainment, car wash, nightclub, tavern or drinking establishments. Building construction on the site began in the last few months is currently ongoing. The proposed amendments include:

- 1) Revised General Provision 1. Increase the overall area of DP-282 by adding 11,972.06 square feet to Parcel 1, resulting in a total CUP area of 7.43 acres.
- 2) Rezone the previously noted 11,972.06 square feet proposed to be added to Parcel 1 from its current GO General Office (GO) zoning to the LC district.
- 3) Move north and reduce in area the existing 1.15-acre Parcel 2 to .345 acre or 15,060 square feet and add the residual square footage to Parcel 1 which will increase the size of Parcel 1 an additional 35,096 square feet for an adjusted total area of 7.086 acres when the square-footage from item 1 is also added to Parcel 1's total area.
- 4) Maximum coverage and gross floor area for Parcel 2 is 50 percent.
- 5) Revised General Provision 3.A. For Parcels 1 and 2 all uses permitted within the LC zoning district. Additionally restaurants serving liquor are allowed, provided that food is the primary service of the establishment, and also restaurants having outdoor seating are allowed within 200 feet of residential zoning by right (CUP Amendment #1) Article III, Sec. III-D.6.w.
- 6) Revised General Provision 6.A. Landscape street yards, buffers and parking lot landscaping and screening shall be in accordance with the City of Wichita Landscape Ordinance, unless otherwise stated below.
- 7) Revised General Provision 6.B. A landscape plan shall be prepared by a Kansas licensed Landscape Architect for the above referenced landscaping, indicating the type, location, and specifications of all plant material. The plan shall be submitted to the Metropolitan Area Planning Department (MAPD) for its review and approval prior to issuance of any building permit(s). No landscaping shall be required adjacent to existing screen wall along the west boundary of Parcel 1. Berming and landscaping on top of the berm was installed by the CUP developer for the benefit and maintenance of the adjoining Homeowners Association as a condition of development. Staff recommends the additional language for General Provision 6.B to read: No landscaping shall be required adjacent to existing screen wall along the west boundary of Parcel 1 so long as there is code compliant screening and landscaping on the abutting property.
- 8) Revised General Provision 7.B. Trash receptacles, loading docks, outdoor storage and loading areas shall be appropriately screened to reasonably hide them from ground view, except, if not visible from public right-of-way. The screening material shall be consistent with materials and colors of the supported buildings. Trash enclosures shall be allowed within 20 feet of property line if not visible from public right-of-way and will not be closer than five feet from the westerly property line.
- 9) Revised General Provision 7.E. If the adjoining property north of Parcel 1 is zoned NO or greater no wall easement or masonry wall is required. Screening adjacent to existing SF-5 zoned property is to be provided by the existing concrete wall. No screening shall be required on or adjacent to Parcel 2 or along the north line of Parcel 1. No landscaping shall be required adjacent to existing screening wall per General Provision 6.B. Staff recommends: No landscaping shall be required adjacent to existing screening wall per General Provision 6.B so long as there is code compliant screening and landscaping on the abutting property.
- 10) Revised General Provision 8. Setbacks are as indicated on the C.U.P. drawing or as specified in Wichita-Sedgwick County Unified Zoning Code. If contiguous parcels are to be developed under the same ownership, setbacks between those parcels are not required. Parcel 2 has zero building setbacks, provided appropriate fire walls and /or separation are provided.
- 11) Revised General Provision 9.A. ~~Parcels 1 and 2 are subject to the requirements of the Sign Code for~~

the City of Wichita for the LC zoning district except as noted herewith. All parcels shall adhere to the requirements of the Sign Code for the City of Wichita for the LC zoning district, except as provided herewith:

12) Revised General Provision 9.B. No flashing, moving, portable, billboard, banner or pennant signs shall be permitted (except for signs showing time and temperature.); except one electronic message sign shall be permitted along Webb Road.

13) The existing CUP omitted 9.C. New General Provision 9.C is now the old 9.D. All signs along and adjacent to 13th and Webb streets shall be monument type signs with a maximum height of 20 feet. Seven monument signs are permitted: four along Webb Road and three along 13th Street. The sign areas shall be limited to a maximum of 150 square feet each along Webb Road and 145 square feet each along 13th Street.

14) Revised General Provision 9.D. All signs along and adjacent to 13th and Webb streets shall be monument type signs with a maximum height of 20 feet. Seven monument signs are permitted: four along Webb Road and three along 13th Street. The sign areas shall be limited to a maximum of 150 square feet each along Webb Road and 145 square feet along 13th Street. Standalone development identification signs shall count against the above total allowed seven monument signs. Development identification signs may also have tenant signage.

15) Revised General Provision 9.E. Three development signs will be permitted: two along Webb Road and one along 13th Street. Development signs may contain the development name only. They shall be limited to a maximum sign area of 100 square feet. The minimum distance between signs shall be 120 feet, except tenant use may be located a minimum of 50 feet when adjacent to a development identification only sign.

16) Revised General Provision 9.F. Two business use or name identification signs shall be allowed on Parcel 1 and two on Parcel 2. Business use or name identification signs shall be limited to a maximum sign area of 150 square feet. These signs may be used for tenants within the CUP. Building signage shall be permitted with the CUP. Building signage shall be limited to 20 percent of the wall area with no single tenant sign exceeding 400 square feet in area, and there shall be no more than three signs for each tenant (business) on each building elevation. There shall be no building signage along the westerly facades of any buildings on Parcel 1 abutting the western boundary of the CUP.

17) Revised General Provision 9.G. The minimum distance between signs shall be 150 feet, except business use or name identification may be located a minimum of 75 feet from an adjacent development sign. Accent lighting of monument signs shall be permitted.

18) Revised General Provision 9.H. Building signage shall be permitted within the cup. Building signage shall be limited to 20 percent of the wall area with a maximum size of 150 square feet per elevation for 1 sign or may be divided into a maximum of 3 signs, 70 sq. feet per sign elevation. Window signage shall be limited to 25 percent of window area.

19) Revised General Provision 9.I. Accent lighting of monument signs shall be permitted. Directional signs are permitted and shall not exceed 6 square feet in area each.

20) Revised General Provision 9.J. Window signage shall be limited to 25 percent of window area. One temporary sign of 70 square feet that will have its message replaced three times during a 90 day time period is allowed. The 90 day time period shall begin running from the time the sign permit is issued.

21) Revised General Provision 9.K. Directional signs not exceeding 6 square feet in area shall be permitted per Sign Code of the City of Wichita.

22) Revised General Provision 10.D. Light poles including ground base shall be limited to 25 feet tall. Light poles shall be reduced to 14 feet when within 100 feet of residential zoning. Light poles including above ground base shall be limited to 28 feet and no light poles shall be within 100 feet of residential zoning.

23) Revised General Provision 13.C. Access controls shall be as shown on the final plat and revised on the CUP. Access controls shall be per VAC2013-00008, or as amended.

The application area is located at the intersection of two arterial streets that carries between 14,700 and 20,700 average daily vehicle trips. Located immediately north of the application area is a GO zoned bank that is not part of the application area or the DP-282. North of the bank is the easternmost edge of SF-5 Single-family Residential (SF-5) zoned The Foliage neighborhood. East of the site, across North Webb Road is a lake associated with the LI zoned Waterfront commercial center. Southeast of the site is LI zoned land that was once a corporate private park and recreation area but is now privately owned. South of the site property is zoned GO and LC and is either developed with an office building or is undeveloped. Land to the west is developed with The Foliage single-family residential neighborhood. A significant berm and landscaping buffer is located along The Foliage's east property line.

CASE HISTORY: The City Council approved CUP 2005-00009 and ZON2005-00006 on May 3, 2005, which created the Foliage Center Addition CUP DP-282. The Foliage Center Addition was recorded in January 2009. On June 9, 2008, administrative adjustment CUP2008-00020 was approved which permits building height to 40 feet and the height of unoccupied architectural elements up to 55 feet. On April 28, 2014, administrative adjustment CUP2014-00010 was approved; this administrative adjustment permitted a 28-foot maximum pole height for lighting and prohibited the placement of light poles within 100 feet of residential zoning. On November 4, 2013, administrative adjustment CUP2013-00039 was approved, which permitted: a main entry sign of up to 149.5 square feet plus the "Whole Foods Market" sign; temporary sign of 64 square feet that will have its message replaced three times during an 86 day time period and five blade signs, 16.84 square feet each or a total of 84.2 square feet.

ADJACENT ZONING AND LAND USE:

North: GO; bank
South: GO and LC; office and undeveloped
East: LI; retail, banking and office center
West: SF-5; single-family residences

PUBLIC SERVICES: The site is served by all normally supplied public and private services and utilities. At the subject site Webb Road and 13th Street have 75 feet of right-of-way at the intersection tapering to 60 feet and are four-lane arterials with left turn lanes. The Webb Road-13th Street intersection carries between 14,700 and 20,700 average daily trips.

CONFORMANCE TO PLANS/POLICIES: The May 2005 "Wichita Land Use Guide" map identifies a majority of the site as appropriate for low density residential; a smaller portion is recommended for commercial development. However, with City Council approval of CUP2005-00009 and ZON2005-00006 that expanded LC zoning, subject to CUP DP-282, the entire application area is appropriate for commercial development.

RECOMMENDATION: Based upon the information available at the time the staff report was prepared, staff recommends approval of the request subject to the following conditions (only those provisions listed below are amended, all other provisions remain unchanged):

- 1) Revised General Provision 1. Area: The total development area contains 7.43 acres of land more or less.
- 2) Revised General Provision 2. Parcel 1 Gross Area = 7.086 acres or 308,677 square feet. Setbacks – 35 feet except on the north end of Parcel 1 and where adjacent to Parcel 2 which shall be zero. Parcel 2 Gross Area = 0.345 acre or 15,060 square feet. Maximum Gross Floor Area = 50%. Maximum Gross Floor Area = 50%.
- 2) Revised General Provision 3.A. ALLOWABLE USES: For Parcels 1 and 2 all uses permitted within

the LC Zoning District. Additionally, restaurants serving liquor are allowed, provided that food is the primary service of the establishment, and restaurants having outdoor seating are allowed within 200 feet of residential zoning per Article III, Section III-D.6.w.

3) Revised General Provision 6.B. No landscaping shall be required adjacent to existing screen wall along the westerly boundary of Parcel 1 so long as there is code compliant screening and landscaping on the abutting property.

4) Revised General Provision 7.B. Trash receptacles, loading docks, outdoor storage and loading areas shall be appropriately screened to reasonably hide them from ground view, except, if not visible from public right-of-way. The screening material shall be consistent with materials and colors of the supported buildings. Trash enclosures shall be allowed within 20 feet of property line if not visible from public right-of-way and will not be closer than five feet from the westerly property line.

5) Revised General Provision 7.E. Screening adjacent to existing SF-5 zoned property to be provided by existing concrete wall. No screening shall be required on or adjacent to existing screen wall so long as there is code compliant screening and landscaping on the abutting property (see G.P. 6.B).

6) Revised General Provision 8. Setbacks are as indicated on the CUP drawing or as specified in the Wichita-Sedgwick County Unified Zoning Code. If contiguous Parcels are to be developed under the same ownership, setbacks between those Parcels are not required. Along the northern boundary of Parcel 1 and Parcel 2 have zero building setbacks, provided appropriate fire walls and/or building separation is provided (see G.P. 2).

7) Revised General Provision 9. Signs. As permitted under the Sign Code of the City of Wichita, except as provided herewith.

8) Revised General Provision 9.A. All parcels shall adhere to the requirements of the Sign Code for the City of Wichita for the LC zoning district, except as provided herewith:

9) Revised General Provision 9.B. No flashing, moving, portable, billboard, banner or pennant signs shall be permitted (except for signs showing time and temperature), except one electronic message sign shall be permitted along Webb Road.

10) New General Provision 9.C. All signs along and adjacent to 13th and Webb streets shall be monument type signs with a maximum height of 20 feet.

11) New General Provision 9.D. Seven monument signs are permitted: four along Webb Road and three along 13th Street. The sign areas shall be limited to a maximum of 150 square feet each along Webb Road and 145 square feet each along 13th Street. Standalone development identification signs shall count against the above total allowed seven monument signs. Development identification signs may also have tenant signage.

12) Revised General Provision 9.E. The minimum distance between signs shall be 120 feet, except tenant use may be located a minimum of 50 feet when adjacent to a development identification only sign.

13) Revised General Provision 9.F. Building signage shall be permitted with the CUP. Building signage shall be limited to 20 percent of the wall area with no single tenant sign exceeding 400 square feet in area, and there shall be no more than three signs for each tenant (business) on each building elevation. There shall be no building signage along the westerly facades of any buildings on Parcel 1 abutting the western boundary of the CUP.

14) Revised General Provision 9.G. Accent lighting of monument signs shall be permitted.

15) Revised General Provision 9.H. Window signage shall be limited to 25 percent of window area.

16) Revised General Provision 9.I. Directional signs are permitted and shall not exceed 6 square feet in area each.

17) Revised General Provision 9.J. One temporary sign of 70 square feet that will have its message replaced three times during a 90 day time period is allowed. The 90 day time period shall begin running from the time the sign permit is issued.

18) Revised General Provision 10.D. Light poles including above ground base shall be limited to 28 feet and no light poles shall be within 100 feet of residential zoning.

- 20) Revised General Provision 10.D. Light poles including above ground base shall be limited to 28 feet and no light poles shall be within 100 feet of residential zoning.
- 21) Revised General Provision 13.C. Access controls shall be per VAC2013-00008, or as amended.
- 22) Rezone the previously noted 11,972.06 square feet proposed to be added to Parcel 1 from its current GO General Office (GO) zoning to the LC district.
- 23) Move north and reduce in area the existing 1.15-acre Parcel 2 to .345 acre or 15,060 square feet and add the residual square footage to Parcel 1 which will increase the size of Parcel 1 an additional 35,096 square feet for an adjusted total area of 7.086 acres.

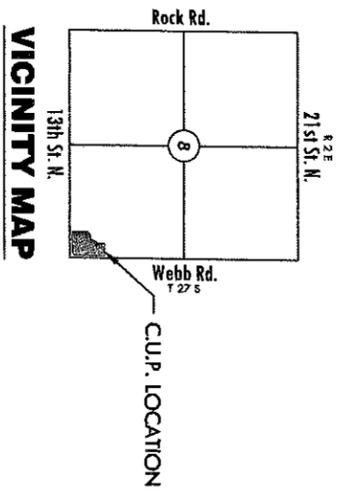
This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The application area is located at the intersection of two arterial streets that carries between 14,700 and 20,700 average daily vehicle trips. Located immediately north of the application area is a GO zoned bank that is not part of the application area or the DP-282. North of the bank is the easternmost edge of SF-5 Single-family Residential (SF-5) zoned The Foliage neighborhood. East of the site, across North Webb Road is a lake associated with the LI zoned Waterfront commercial center. Southeast of the site is LI zoned land that was once a corporate private park and recreation area but is now privately owned. South of the site property is zoned GO and LC and is either developed with an office building or is undeveloped. Land to the west is developed with The Foliage single-family residential neighborhood. A significant berm and landscaping buffer is located along The Foliage's east property line.
2. The suitability of the subject property for the uses to which it has been restricted: The land located within the original CUP is currently zoned LC subject to the development standards contained in CUP DP-282. The site could be developed and used as currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed zone change from GO to LC on .3 of an acre; increasing the size of the CUP by .3 of an acre and the other requested changes do not significantly increase the intensity of development already permitted on the site and are consistent with the development standards initially approved. The recommended conditions of approval minimize detrimental impacts to nearby properties.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Presumably denial would represent a loss of economic opportunity to the property owner. If approved, the CUP becomes flexible and potentially provides more choice to potential customers located in the neighborhoods in the general area.
5. Length of time the property has been vacant as currently zoned. Construction has begun on the site.
6. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The May 2005 "Wichita Land Use Guide" map identifies a majority of the site as appropriate for low density residential; a smaller portion is recommended for commercial development. However, with City Council approval of CUP2005-00009 and ZON2005-00006 that expanded LC zoning, subject to CUP DP-282, the entire application area is appropriate for commercial development.
7. Impact of the proposed development on community facilities: Existing or planned facilities are

adequate to serve programmed or anticipated demand.

DEVELOPMENT GUIDELINES

- Area: The total development contains 7.43 acres of land more or less.
- Parcel Descriptions
 - Parcel 1
 - Gross Area = 7,086 Ac or 308,677 sq. ft.
 - Maximum Height of Unoccupied Architectural Elements = 55 feet
 - Maximum Height of Occupied Space = 40 feet/2-story maximum
 - Maximum Coverage=30%
 - Max. Gross Floor Area=53%
 - Setbacks - 35' except on the north end of Parcel 1 and where adjacent to Parcel 2 which shall be 0 feet (C.P. 2.8)
 - Parcel 2
 - Gross Area = 0.345 Ac or 15,060 sq. ft.
 - Maximum Height of Unoccupied Architectural Elements = 55 feet
 - Maximum Height of Occupied Space = 40 feet/2-story maximum
 - Maximum Coverage=30%
 - Max. Gross Floor Area=50%
 - Setbacks - 0' adjacent to Parcel 1 (see C.P. 2.8)
- The following uses are permitted for all parcels within the CLUP:
 - A. ALLOWABLE USES: For Parcel 1 and 2 all uses permitted within the LC Zoning District. Additionally, restaurants serving liquor are allowed provided that food is the primary service of the establishment, and also restaurants having outdoor seating are allowed within 200 feet of residential zoning by right per CUP Amendment #17 (see C.P. 2.8).
 - B. EXCLUDED USES: All uses within the CLUP shall be excluded except: School K-12 College or university; Community assembly; Community care facility; Group health hospital; Recreational program center; Reverse vending machine; Power shop; Utility; Car wash; Construction site; and law, nightclubs, tavern and drinking establishment; Vehicle repair; Vocational school; Wireless communication facility; Airport or concrete plant; Storage.
 - C. The uses permitted by the CLUP are only those uses permitted by right and not by conditional use unless specifically identified.
- Architectural Controls:
 - A. All buildings within the CLUP shall have a uniform architectural character, color, and some predominant exterior building material, as approved by the Director of Planning. Building walls and roofs must have predominantly earth-tone colors, with vinyl colors limited to incidental accents, and must employ materials similar to surrounding residential areas.
- Utilities:
 - A. The promoter of the site on all or any portion of the land included in the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns. However, the Director of the MAPD, with the concurrence of the Zoning Administrator, may approve minor adjustments to the conditions in this category, consistent with the approved development plan, without filing a formal outdoor amendment.
- Landscaping for this site shall be required as follows:
 - A. Landscaped street yards, buffers, and parking lot landscaping and screening - shall be in accordance with the City of Wichita Landscape Ordinance, unless otherwise stated below.
 - B. No landscaping shall be required adjacent to existing screen wall along the westerly boundary of Parcel 1. Screening and landscaping on top of the berm was installed by the CLUP development for the benefit and maintenance of the adjoining Homeowners Association as a condition of development.
 - C. Landscaping plan shall be prepared by a Kansas Licensed Landscape Architect for the above referenced parcels, indicating the types, location, and specifications of all plant material. The plan shall be submitted to the Metropolitan Area Planning Department (MAPD) for review and approval prior to issuance of any building permit.
 - D. A financial guarantee for the plant material approved on the landscape plan for their portion of the CLUP, being developed shall be required prior to issuance of any occupancy permit, if the required landscape has not been planted.
 - E. Screening for this site shall be required as follows:
 - A. Existing mechanical equipment shall be screened from ground level view per Wichita-Sedgwick County Unified Zoning Code.
 - B. Trash receptacles, loading docks, outdoor storage, and loading areas shall be appropriately screened to reasonably hide them from ground view, except, if not visible from public right-of-way. The screening material shall be consistent with materials and colors of the proposed buildings. Trash enclosures shall be allowed within 20 feet of property line if not visible from public right-of-way and will not be closer than 5 feet from the westerly property line.
 - C. Unless otherwise noted screening shall be in accordance with the Wichita-Sedgwick County Unified Zoning Code, Section IV and Section III-C.2.8.
 - D. Outdoor display and storage shall be subject to all conditions of Article II, Sec. III.B.1.4.4 for Parcel 1 and 2.
 - F. Screening adjacent to existing SF-5 zoned property to be provided by existing concrete wall. No screening shall be required on or adjacent to Parcel 2 or along the north leg of Parcel 1. No landscaping shall be required adjacent to existing screen wall per C.P. 2.8.
- Setbacks:
 - A. Setbacks are indicated on the CLUP drawing or as specified in Wichita-Sedgwick County Unified Zoning Code. If contiguous parcels are to be developed under the same ownership, setbacks between those parcels are not required. Parcel 2 has zero building setback, provided appropriate walls and/or building separations are provided. Also see Parcel Description.
 - B. Signs: As permitted under the Sign Code of the City of Wichita, additionally, the following conditions apply:
 - A. All permits shall adhere to the requirements of the Sign Code for the City of Wichita for LC Zoning District, except as provided hereafter.
 - B. No flashing, moving, portable, billboard, banner, or permanent sign shall be permitted, except one directional message sign is allowed along Webb Road.
 - C. All signs along and adjacent to 13th and Webb streets shall be monument type sign with a maximum height of 20 feet.
 - D. Seasonal signs shall be permitted, four along Webb Road east from along 13th Street. The signs must be limited to a maximum of 150 square feet each along Webb Road and 145 square feet each along 13th Street. Standardized development identification signs shall conform to the above listed allowed sign monument signs. Development identification signs may also have neon signage.
 - E. The minimum distance between monument signs shall be 120 feet, except neon signs may be located a minimum distance of 50 feet when adjacent to a development identification only sign. Building signage shall be permitted within the CLUP. Building signage shall be limited to 20% of the wall area with no single tenant sign exceeding 400 square feet in area, and there shall be no more than six signs for each tenant (business) on each building elevation. There shall be no building signage along the westerly facade of any buildings on Parcel 1 abutting the western boundary of the CLUP.
 - F. Accent lighting of monument signs shall be permitted.
 - G. Window signage shall be limited to 25% of window area.
 - H. Directional signs are permitted and shall not exceed 6 square feet in size each.
 - I. One temporary sign of 70 square feet that will have its message replaced three times during a 90 day time period is allowed. The 90 day time period shall begin running from the time the sign permit is issued.
- Lighting:
 - A. Lighting shall be in accordance with the Wichita-Sedgwick County Unified Zoning Code, Section IV.
 - B. All outdoor lighting shall be shielded or contained within a fixture enclosure (i.e. fixtures, poles and lamps) and shall be approved by the Director of the MAPD.
 - C. All lighting shall be directed to street light dimensions in a downward direction and directed away from residential areas to other light dimensions in a downward direction and directed away from residential areas.
 - D. Light poles including above ground base shall be limited to 28 feet tall and no light poles shall be within 100 feet of residential zoning.
 - E. Extensive use of truck lit complete end neon or fluorescent tube lighting on buildings is not permitted.
- Perking:
 - A. All parcels shall be in accordance with the Wichita-Sedgwick County Unified Zoning Code, Section IV, unless otherwise specified.
 - B. No occupancy permits shall be issued for any development without services by municipal water and sewer services.
- The following transportation improvements and Parcel access shall be provided:
 - A. Circulational agreements shall be required at the time of platting to ensure internal vehicular movement between parcels within the CLUP, if platted as one lot and developed under one ownership.
 - B. Guidelines for specific street improvements for 13th and Webb road shall be determined at the time of platting by the Traffic Engineer.
 - C. Access controls shall be per VAC2013-0008, or as amended.
- Grading Plan:
 - A. A grading plan will be prepared in conformance with the Drainage Concept Plan for review prior to the issuance of a Building Permit. A drainage plan shall be submitted to the City Engineer for approval. Required quantities for drainage shall be provided on the time of platting.
- All new utilities shall be installed underground.
- Final determination of minimum pool elevations (at least 2 feet higher than the 100 year flood elevation), street right-of-way, easements, reserves, and pavement widths on public private streets shall be resolved at the time of platting.
- 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 within this Community Development Plan shall be submitted to the Planning Commission and the Governing Body for their consideration. Amendments, adjustments, or interpretations to the CLUP shall be done in accordance with the Unified Zoning Code.
- Mutic played outdoors between the hours of 10 PM and 9 AM shall be prohibited. Trash pickup/removed during these hours is also prohibited.
- A pedestrian circulation plan shall be approved by the Planning Director prior to the issuance of building permits. Said plan shall link all buildings in the development with the central sidewalks on Webb Road and 13th Street North.
- The lanes shall be in accordance with the Fire Code of the City of Wichita. No parking shall be allowed in the lanes, provided however, they may be used for emergency purposes. The location and design of all fire lanes. Fire by-product ventilation and paved access to all buildings shall be provided for each phase of construction prior to the issuance of building permits.



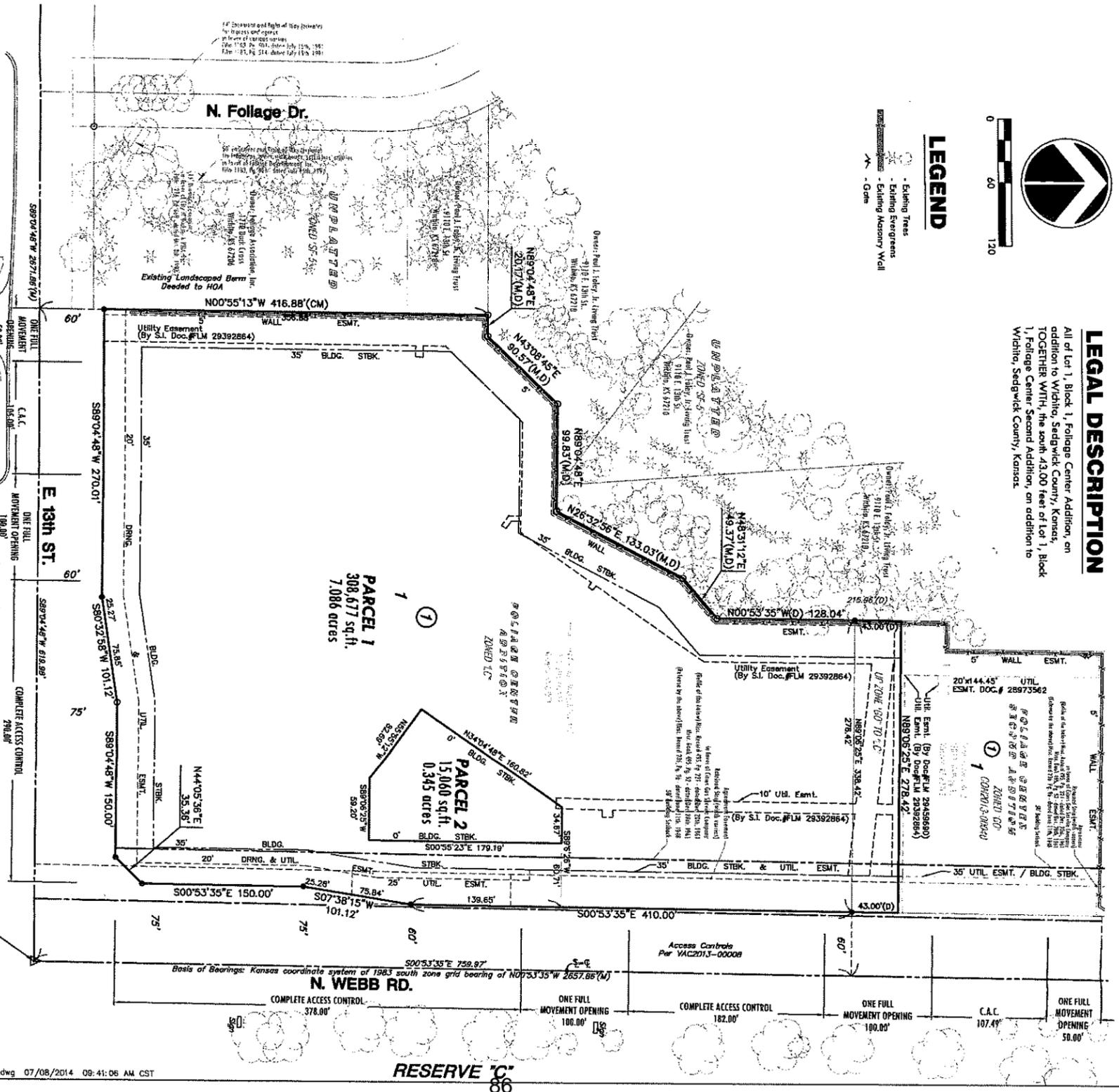
COMMUNITY UNIT PLAN DP-282

FOLIAGE CENTER

DEVELOPER / OWNER: Beech Lake Investments, LLC 1223 N. Rock Rd. Bldg H, Suite 200 Wichita, KS 67206 (316) 636-2100

LEGAL DESCRIPTION

All of Lot 1, Block 1, Foliage Center Addition, on addition to Wichita, Sedgwick County, Kansas, TOGETHER WITH the south 43.00 feet of Lot 1, Block 1, Foliage Center Second Addition, on addition to Wichita, Sedgwick County, Kansas.



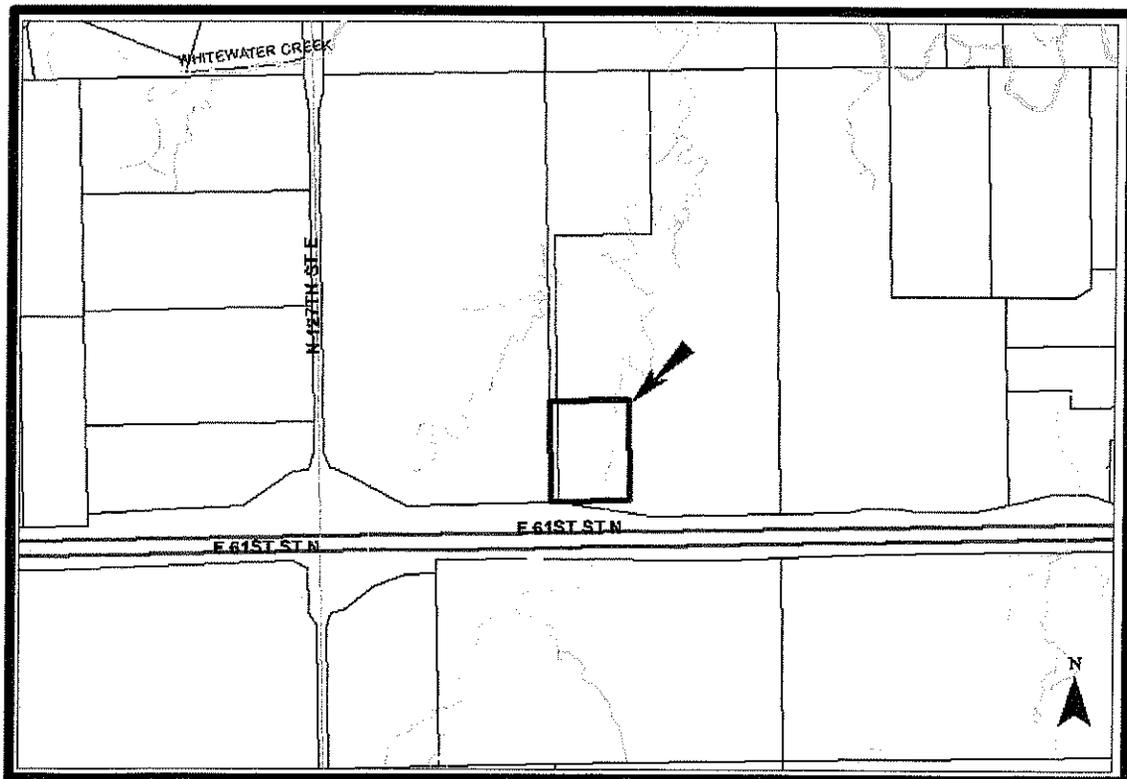
Amendment #1 CUP2014-17ZON2014-14
 A.A.#3 CUP2014-10 April 28 2014
 A.A.#2 CUP2013-99 Nov. 4, 2013
 A.A.#1 CUP2008-20 June 9, 2008
 CUP2005-09 / ZON2005-05

2014

Wichita, KS • 316.684.9800

STAFF REPORT
MAPC July 24, 2014

- CASE NUMBER:** CON2014-00022
- OWNER/APPLICANT:** M & M Land Co., LLC, c/o Marsha Meyersick - MWM Oil Co.,
c/o Benjamin M. Giles
- REQUEST:** Conditional Use to permit Oil and Gas Drilling
- CURRENT ZONING:** RR Rural Residential (“RR”)
- SITE SIZE:** 6-acres
- LOCATION:** Generally located a quarter-mile east of 127th Street East on the
north side of Kansas Highway 254-61st Street North (BoCC #1)
- PROPOSED USE:** Oil Drilling



BACKGROUND: The applicant, MWM Oil Company, has requested a Conditional Use for “oil and gas drilling,” specifically drilling for a new oil well on a leased 6-acre RR Rural Residential (“RR”) zoned unplatted tract; Wichita-Sedgwick County Unified Zoning Code (“UZC”) Article III, Section III-D.3. The new oil well on the subject site has been completed. However when the applicant applied for an electrical permit for the well through the Wichita-Sedgwick County Metropolitan Area Building and Construction Department (MABCD) the permit was denied. The applicant was directed by the MABCD and Sedgwick County Law to apply for a Conditional Use to come into compliance with the UZC. Besides the new well on the lease site (subject site), the applicant is proposing a wash down of three old, existing well to increase or restore production of this existing well. County Law has determined that the proposed wash down of the old, existing well has nonconforming use rights in that it does not increase the number of wells that have operated in the past at the subject site.

The rural Sedgwick County subject site is located on the north side of Kansas Highway 254-61st Street North (K-254) and a quarter-mile east of 127th Street East. The applicant also has another Conditional Use, CON2014-00023, for oil drilling on today’s agenda. The 2.5-acre RR zoned CON2014-00023 is located approximately 220-250 feet west of the subject site. Both sites are accessed by a sand and gravel frontage road off of 127th Street East.

The applicant has provided a copy of a Kansas Geological Survey map of the area around the intersection of K-254 and 127th Street East, which references (but is not limited to) active oil wells and plugged and abandoned wells. This map can be found at; <http://maps.kgs.ku.edu/oilgas/index.cfm>.

The RR zoned subject site is surrounded by RR zoned lands being used for agriculture, active oil wells or plugged and abandoned oil wells. Staff found no Conditional Uses for oil or gas drilling in this area. Both types of wells may have associated accessory structures and equipment, including but not limited to; oil storage tanks, water and oil separators, pumping unit, a water tank at the disposal well, and electric generators, until the electricity is run. There are very few single-family residences located in this area, with the nearest one located over a half-mile northeast of the subject site. Besides the new oil well the subject site appears to have two plugged and abandoned oil wells located on it. The subject site’s property owner, M & M Land Co., LLC, owns the abutting west and north agricultural land. These abutting lands also have plugged and abandoned oil wells located on them. As noted the applicant’s other oil well site (CON2014-00023) is located approximately 220-250 west of the subject site, as is more agricultural land. South of the site, across K-254, there is agricultural land, active oil wells, plugged and abandoned wells, (both with accessory structures and equipment) and a water well. West of the site, across 127th Street East, is agricultural land and plugged and abandoned oil wells with accessory structures and equipment.

The Kansas Geological Survey map shows the site to be located over the oil holding formation, the Greenwich Pool. The Greenwich Pool was first discovered around 1929-1930 and oil drilling and production began at that time. The applicant’s new well was produced using normal rotary drilling, using drilling mud to remove cuttings. There has not been any fracing done to the applicant’s existing wells or to any of the old wells on either of the applicant’s sites. The applicant does not propose, at this time, to do any fracing to either of the existing wells or any

future wells. Operation of the site includes a “pumper” who will check the wells each day. The pumper will be the only person on the applicant’s sites on a daily basis. If a well breaks down a pulling unit with a crew of three, with the applicant’s foreman there to supervise, would be there to repair it. The oil will be hauled off site by Maclaskey Oilfield Services with a semi-truck holding approximately 160 barrels of oil per load. The frequency will depend on how much the oil the site produces, but probably not more than 2 or 3 times per month. The pits used for drilling have been inspected and filled in accordance with Kansas Corporation Commission regulations. There was an emergency pit dug at the disposal well site in 1946; this pit still remains. There are no new pits proposed.

Existing equipment on the subject site includes: oil storage tanks, water and oil separators, pumping unit, a water tank at the disposal well, electric generators (until the electricity is run). These are all common oil production equipment. If additional wells are drilled or washed down, normal drilling equipment would be moved in temporarily to drill/wash down the well. This would include: drilling rig and platform, fuel and water storage tanks, engine houses, electric generators, pipe stands and racks, and other drilling and well servicing equipment. Any well washed down or drilled would probably take less than 30 days to complete. There is a disposal well already located on the property that will be used. It was originally drilled in the 1930’s and converted to a disposal well in 1946 in accordance with Kansas Corporation Commission regulations at that time. It was recently updated and repaired it in accordance with Kansas Corporation Commission regulations and the applicant had the permit transferred to him. The applicant is disposing into the Granite Wash formation which is below the Arbuckle formation. The bottom producing zone in this area is the Arbuckle. The applicant is not and does not propose producing this zone. The subject site will either produce from the Mississippi formation or the Hunton/Viola formation. Both zones are located above the Arbuckle formation.

The east third of the subject site is located in a FEMA Flood Zone. Oil drilling and production on the subject site will be required to meet FEMA standards.

CASE HISTORY: The property was zoned RR when the County adopted county-wide zoning in 1985. Oil drilling on the subject site may have begun in 1930-1932. A Conditional Use, CON2005-00043, for a wireless communication facility with a 195-foot tall tower was approved on the subject site, but was never built.

ADJACENT ZONING AND LAND USE:

- NORTH: RR Agriculture land, plugged and abandoned oil wells, oil wells
- SOUTH: RR Agriculture land, plugged and abandoned oil wells, oil wells
- EAST: RR Agriculture land, plugged and abandoned oil wells, oil wells, single-family residence
- WEST: RR Agriculture land, plugged and abandoned oil wells, oil well

PUBLIC SERVICES: K-254 (61st Street North) is a four-lane Kansas State Highway, with a wide grassy median separating the east-west lanes. 127th Street East is a two-lane unpaved Lincoln Township section-line road on the north side of K-254. The sand and gravel frontage road that connects the site to 127th is located approximately 270 feet north of K-254. The subject

site is located within the service area of Sedgwick County Rural Water District No. 1. There is no public sewer service available to the subject site. Other utilities, such as electricity are or may be available to the subject site.

CONFORMANCE TO PLANS/POLICIES: The “Wichita-Sedgwick County Unified Zoning Code” requires Conditional Use approval for “oil and gas drilling”; UZC Article III, Section III-D.3. The “2013 Wichita and Small Cities Urban Growth Areas Map” categorizes the site and the area around it as “rural.” The rural functional land use category includes land outside the 2030 urban growth areas for Wichita and the small cities, and is intended to accommodate agricultural uses and rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County, and predominately larger lot residential exurban subdivisions. Oil and gas drilling are activities that have occurred in rural Sedgwick County prior to County zoning in 1985 and prior to the 1996 UZC. Staff found no Conditional Uses for oil or gas drilling in this area.

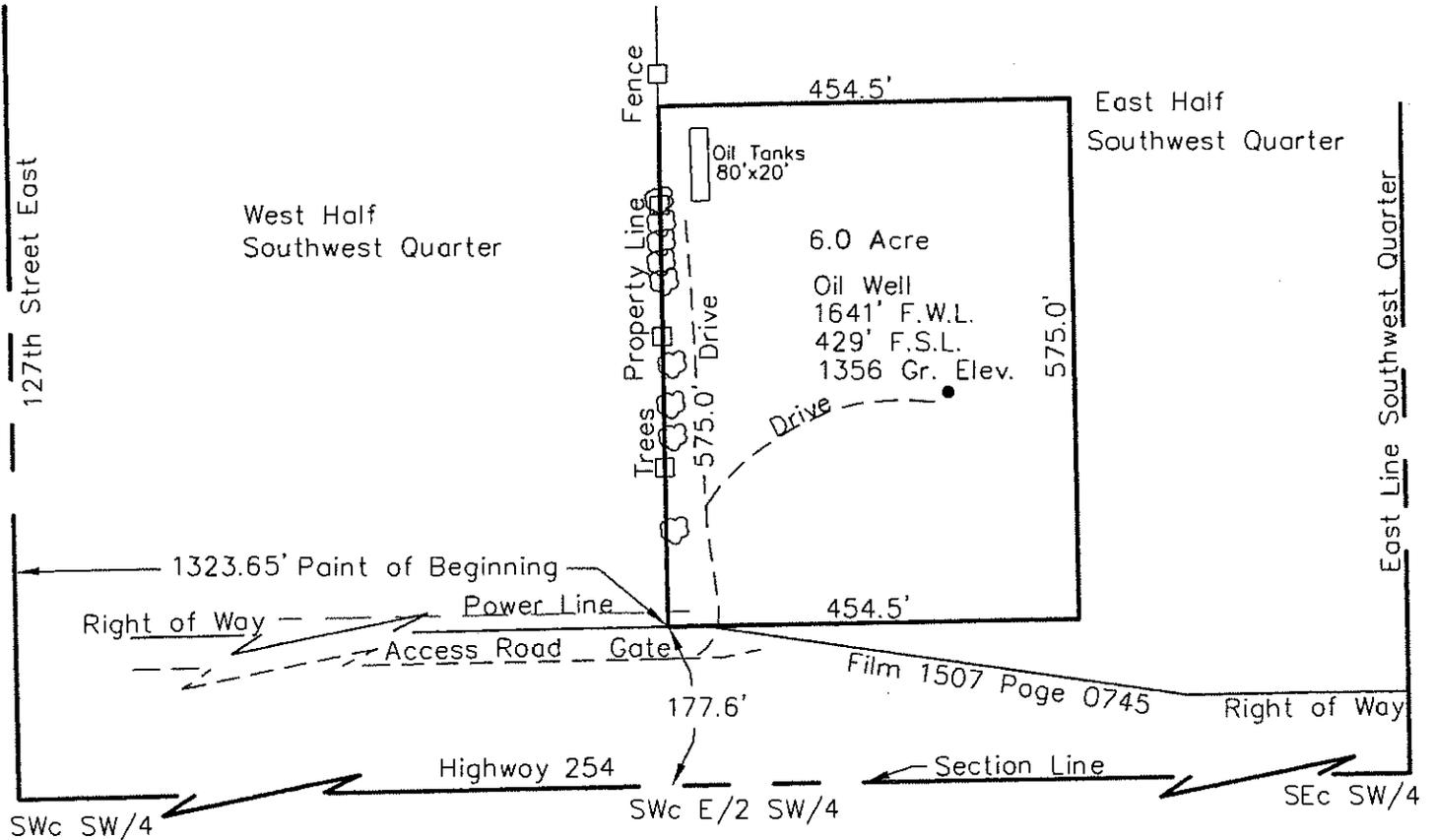
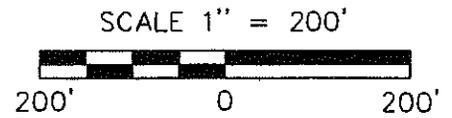
RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

- A. The Conditional Use permits “oil and gas drilling” that is developed and operated in substantial compliance with the approved site plan and any associated documents, licenses or permits detailing drilling and completion activities used to obtain Conditional Use approval. Approval does not limit new oil drilling/well sites on the subject property to the one currently under consideration.
- B. Provide a revised site plan showing the new oil well/drilling site, the oil production equipment and the plugged and abandoned oil drilling sites. This site plan may be revised with adjustments that show new drilling activity.
- C. Any new oil wells, disposal wells, oil storage tanks, water and oil separators, pumping units, a water tank at the disposal well, electric generators or other oil production equipment located on the site after the final approval by the MAPC or the governing body must conform to the setbacks per the Unified Zoning Code.
- D. The applicant shall obtain all applicable permits, licenses and/or inspections from Sedgwick County, the State of Kansas or the federal government, including but not limited to, the Wichita-Sedgwick County Metropolitan Area Building and Construction Department, Sedgwick County Environmental Resources, Sedgwick County Fire Department, Sedgwick County Public Works (including, but not limited to any required drainage plans), the Kansas Department of Health and Environment and the Kansas Corporation Commission. Prior to moving equipment into Sedgwick County, the applicant shall obtain any applicable permits required to move or transport oversized equipment on Sedgwick County public right-of-way.
- E. If the Zoning Administrator finds that there is a violation of any of the provisions or conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The RR zoned subject site is surrounded by RR zoned lands being used for agriculture, active oil wells or plugged and abandoned oil drilling sites and their associated accessory structures and equipment. There are very few single-family residence located in this area, with the nearest one located a half-mile northeast of the subject site.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned RR, which permits agricultural activities, larger lot residential uses and a limited set of nonresidential uses by right. A Kansas Geological Survey map shows the subject site to be located over the Greenwich Pool, an oil holding formation that was discovered 1929-1930. Oil production from the Greenwich Pool has continued to the present. The subject site/area has been used for oil well drilling and production prior to County zoning in 1985 and prior to the 1996 UZC. The current UZC permits consideration for approval of gas and oil drilling through the Conditional Use process in the RR zoning district.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The subject site and the area around it are located over the Greenwich Pool, an established oil producing formation. The Greenwich Pool was discovered 1929-1930 and has been an active oil producing site since then. The area is also actively used for agricultural. The proposed oil well is not out of character with the area.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval would bring the site into compliance with the UZC and provide the public with additional oil reserves. Denial would presumably be an economic loss to the mineral rights owners.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “Wichita-Sedgwick County Unified Zoning Code” requires Conditional Use approval for “oil and gas drilling”; UZC Article III, Section III-D.3. The “2013 Wichita and Small Cities Urban Growth Areas Map” categorizes the site and the area around it as “rural.” The rural functional land use category includes land outside the 2030 urban growth areas for Wichita and the small cities, and is intended to accommodate rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County, and predominately larger lot residential exurban subdivisions. Oil and gas drilling are activities that have occurred in rural Sedgwick County prior to County zoning in 1985 and prior to the 1996 UZC.
6. Impact of the proposed development on community facilities: The conditions of approval of this Conditional Use and other regulations should minimize impacts on community facilities.

Site Plan – Conditional Use Application
for
New Oil Well Development
MWM Oil Company
Stollei Lease E/2 SW/4 11-26S-2E



~LEGAL DESCRIPTION~

Beginning at the Southwest Corner of the East Half of the Southwest Quarter of Section 11, Township 26 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas. Thence North 177.6 feet along the West line of the East Half of the Southwest Quarter to the point of beginning. Thence continuing North along said West line of the East Half of the Southwest Quarter, a distance of 575.0 feet; thence East parallel with the South line of the East Half of the Southwest Quarter, a distance of 454.5 feet; thence South parallel with said West line of the East Half of the Southwest Quarter, a distance of 575.0 feet; thence West parallel with the South line of said East Half of the Southwest Quarter, a distance of 454.5 feet to the point of beginning. Said tract contains 6.0 acres.

06/20/14-22

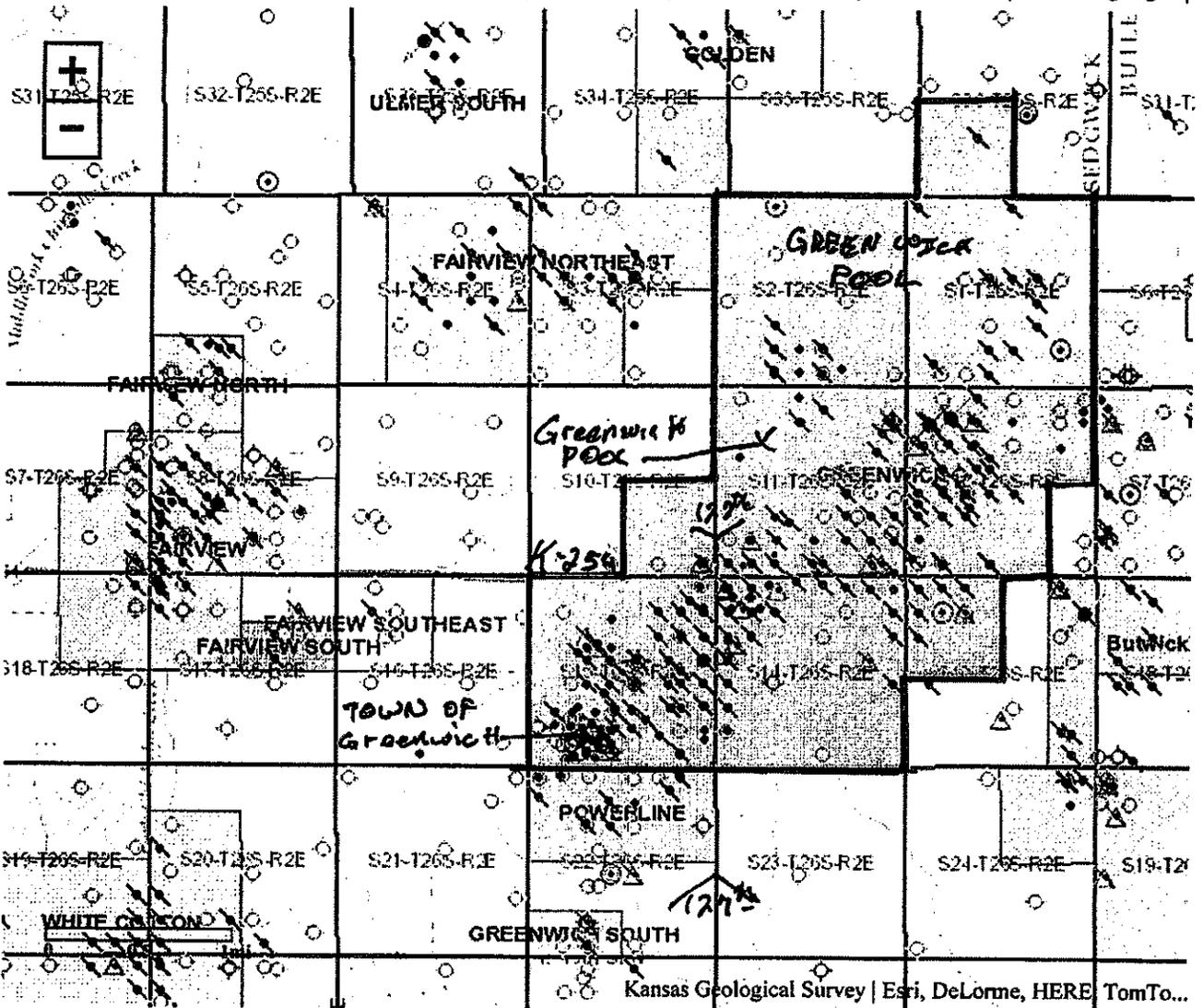


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Kansas Oil and Gas

Kansas Geological Survey

Statewide View | Zoom to Location | Filter Wells | Label Wells | Download Wells | Print to PDF | Clear Highlight |



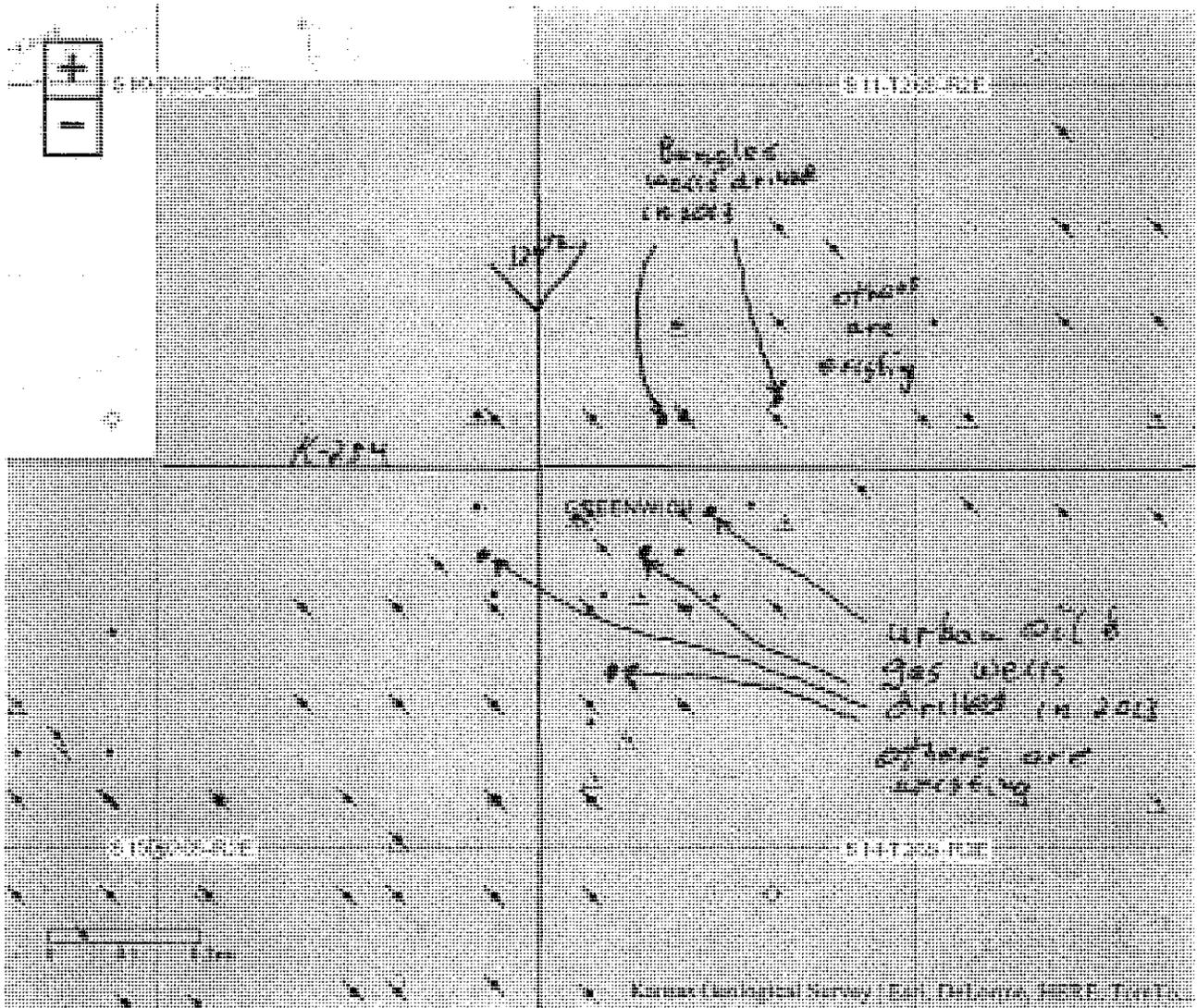
*Greenwich Pool
Sedgwick Co Ks*

Con 2014-20

Kansas Oil and Gas

Kansas Geological Survey

Statewide View | Zoom to Location | Filter Wells | Label Wells | Download Wells | Print to PDF | Clear Highlight |

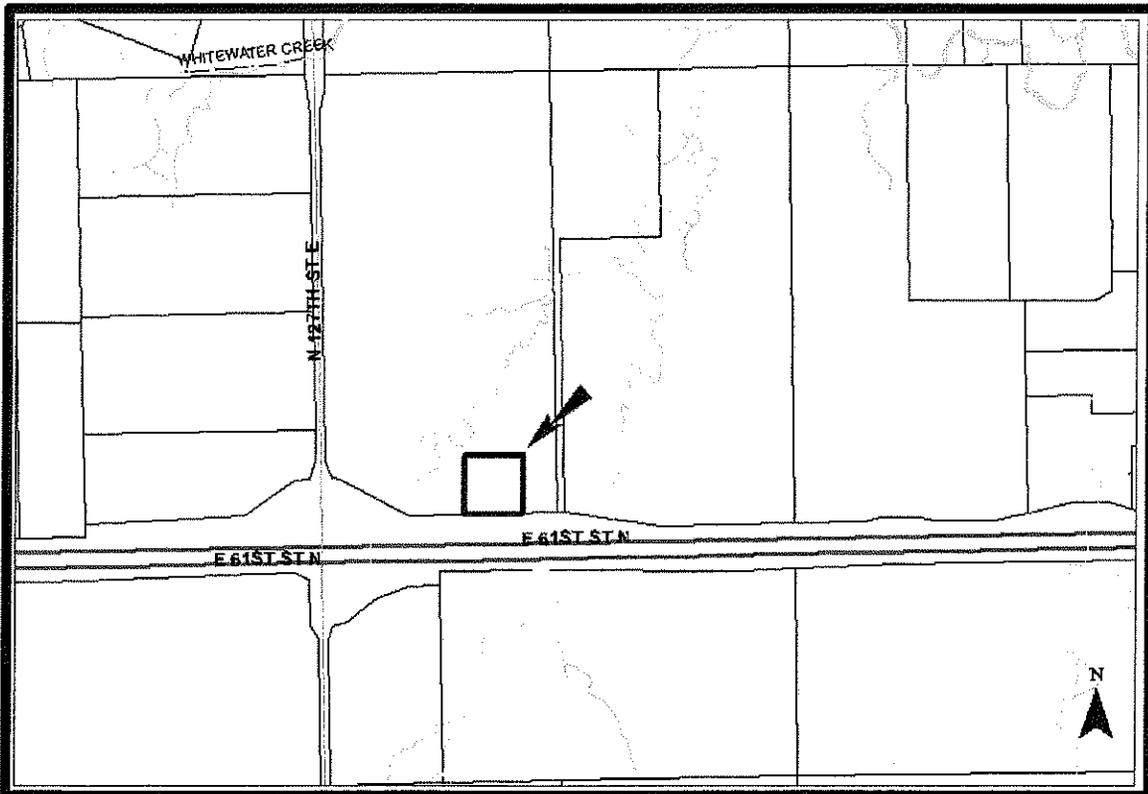


127th & 254 area
 Sedgwick County KS

Con 2014-22

STAFF REPORT
MAPC July 24, 2014

- CASE NUMBER:** CON2014-00023
- OWNER/APPLICANT:** Kyle L. Erdwein - Kermit L. & Nancy N. Erdwein - MWM Oil Co., c/o Benjamin M. Giles
- REQUEST:** Conditional Use to permit Oil and Gas Drilling
- CURRENT ZONING:** RR Rural Residential (“RR”)
- SITE SIZE:** 2.5-acres
- LOCATION:** Generally located less than a quarter-mile east of 127th Street East on the north side of Kansas Highway 254-61st Street North (BoCC #1)
- PROPOSED USE:** Oil Drilling



BACKGROUND: The applicant, MWM Oil Company, has requested a Conditional Use for “oil and gas drilling,” specifically drilling for a new oil well on a leased 2.5-acre RR Rural Residential (“RR”) zoned unplatted tract; Wichita-Sedgwick County Unified Zoning Code (“UZC”) Article III, Section III-D.3. The new oil well on the subject site has been completed. However, when the applicant applied for an electrical permit for the well through the Wichita-Sedgwick County Metropolitan Area Building and Construction Department (MABCD) the permit was denied. The applicant was directed by the MABCD and Sedgwick County Law to apply for a Conditional Use to come into compliance with the UZC. Besides the new well on the lease site (subject site), the applicant is proposing a wash down of an old, existing well to increase or restore production of this existing well. County Law has determined that the proposed wash down of the old, existing well has nonconforming use rights in that it does not increase the number of wells that have operated in the past at the subject site.

The rural Sedgwick County subject site is located on the north side of Kansas Highway 254-61st Street North (K-254) and less than a quarter-mile east of 127th Street East. The applicant also has another Conditional Use, CON2014-00022, for oil drilling on today’s agenda. The 6-acre RR zoned CON2014-00022 is located approximately 220-250 feet east of the subject site. Both sites are accessed by a sand and gravel frontage road off of 127th Street East.

The applicant has provided a copy of a Kansas Geological Survey map of the area around the intersection of K-254 and 127th Street East, which references (but is not limited to) active oil wells and plugged and abandoned wells. This map can be found at; <http://maps.kgs.ku.edu/oilgas/index.cfm>.

The RR zoned subject site is surrounded by RR zoned lands being used for agriculture, active oil wells or plugged and abandoned oil wells. Staff found no Conditional Uses for oil or gas drilling in this area. Both types of wells may have associated accessory structures and equipment, including but not limited to; oil storage tanks, water and oil separators, pumping unit, a water tank at the disposal well, and electric generators, until the electricity is run. There are very few single-family residences located in this area, with the nearest one located approximately a half-mile west of the subject site. Besides the new oil well the subject site appears to have two plugged and abandoned oil wells located on it. The subject site’s property owner, Kyle L. Erdwein, owns the abutting east, west and north agricultural land. These abutting lands also have plugged and abandoned oil wells and a possibly an active oil well located on them. As noted the applicant’s other oil well site (CON2014-00022) is located approximately 220-250 east of the subject site, as is more agricultural land. South of the site, across K-254, there is agricultural land, active oil wells, plugged and abandoned wells, (both with accessory structures and equipment) and a water well. West of the site, across 127th Street East, is agricultural land and plugged and abandoned oil wells with accessory structures and equipment.

The Kansas Geological Survey map shows the site to be located over the oil holding formation, the Greenwich Pool. The Greenwich Pool was first discovered around 1929-1930 and oil drilling and production began at that time. The applicant’s new well was produced using normal rotary drilling, using drilling mud to remove cuttings. There has not been any fracing done to the applicant’s existing wells or to any of the old wells on either of the applicant’s sites. The applicant does not propose, at this time, to do any fracing to either of the existing wells or any

future wells. Operation of the site includes a “pumper” who will check the wells each day. The pumper will be the only person on the applicant’s sites on a daily basis. If a well breaks down a pulling unit with a crew of three, with the applicant’s foreman there to supervise, would be there to repair it. The oil will be hauled off site by Maclaskey Oilfield Services with a semi-truck holding approximately 160 barrels of oil per load. The frequency will depend on how much the oil the site produces, but probably not more than 2 or 3 times per month. The pits used for drilling have been inspected and filled in accordance with Kansas Corporation Commission regulations. There was an emergency pit dug at the disposal well site in 1946; this pit still remains. There are no new pits proposed.

Existing equipment on the subject site includes: oil storage tanks, water and oil separators, pumping unit, a water tank at the disposal well, electric generators (until the electricity is run). These are all common oil production equipment. If additional wells are drilled or washed down, normal drilling equipment would be moved in temporarily to drill/wash down the well. This would include: drilling rig and platform, fuel and water storage tanks, engine houses, electric generators, pipe stands and racks, and other drilling and well servicing equipment. Any well washed down or drilled would probably take less than 30 days to complete. There is a disposal well already located on the property that will be used. It was originally drilled in the 1930’s and converted to a disposal well in 1946 in accordance with Kansas Corporation Commission regulations at that time. It was recently updated and repaired it in accordance with Kansas Corporation Commission regulations and the applicant had the permit transferred to him. The applicant is disposing into the Granite Wash formation which is below the Arbuckle formation. The bottom producing zone in this area is the Arbuckle. The applicant is not and does not propose producing this zone. The subject site will either produce from the Mississippi formation or the Hunton/Viola formation. Both zones are located above the Arbuckle formation.

CASE HISTORY: The property was zoned RR when the County adopted county-wide zoning in 1985. Oil drilling on the subject site may have begun in 1930-1932.

ADJACENT ZONING AND LAND USE:

NORTH: RR Agriculture land, plugged and abandoned wells, oil well
SOUTH: RR Agriculture land, plugged and abandoned oil wells, oil wells
EAST: RR Agriculture land, plugged and abandoned wells, oil wells
WEST: RR Agriculture land, plugged and abandoned wells, oil wells, single-family residence

PUBLIC SERVICES: K-254 (61st Street North) is a four-lane Kansas State Highway, with a wide grassy median separating the east-west lanes. 127th Street East is a two-lane unpaved Lincoln Township section-line road on the north side of K-254. The sand and gravel frontage road that connects the subject site to 127th is located approximately 270 feet north of K-254. The subject site is located within the service area of Sedgwick County Rural Water District No. 1. There is no public sewer service available to the subject site. Other utilities, such as electricity are or may be available to the subject site.

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

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This recommendation is based on the following findings:

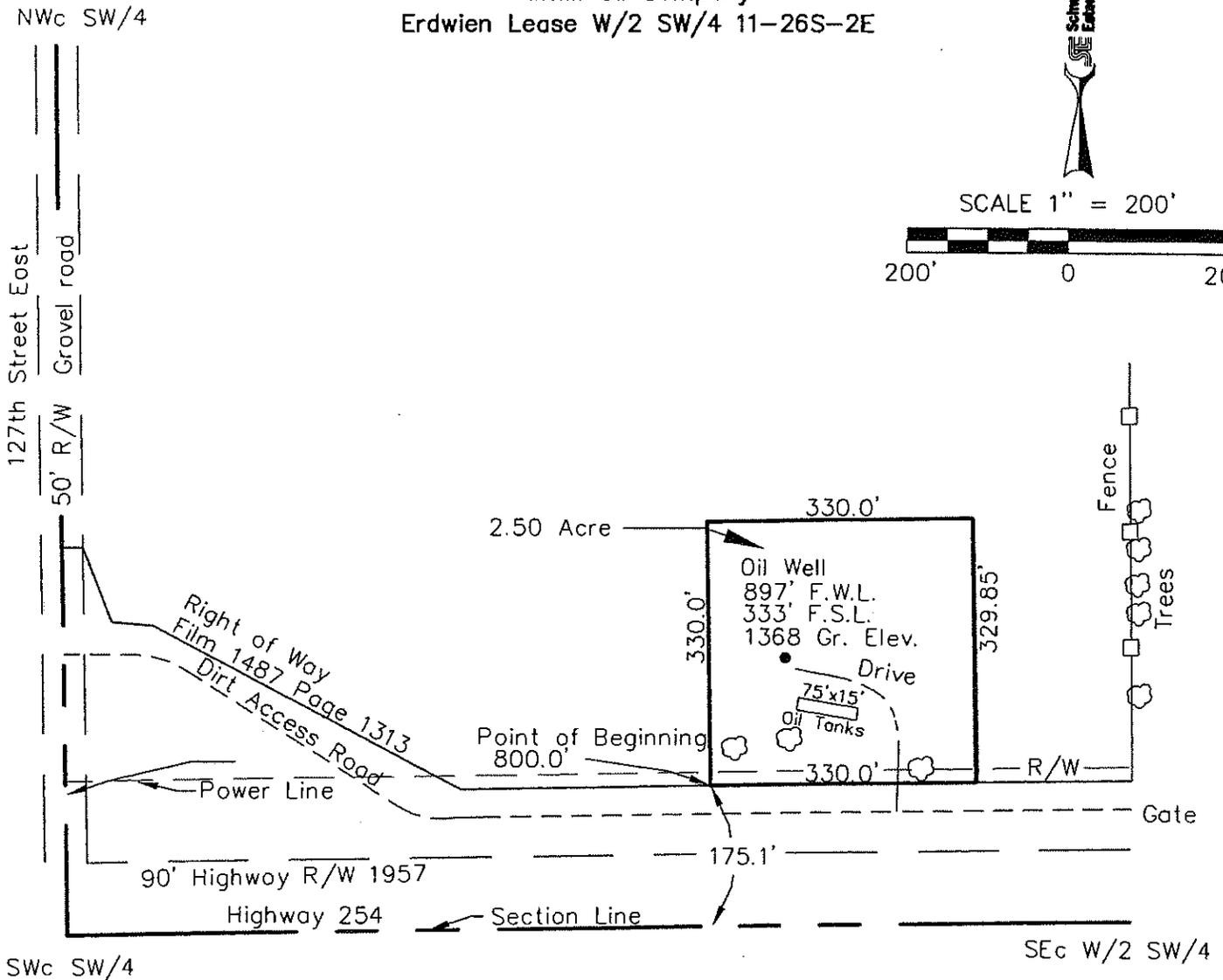
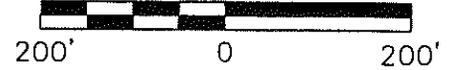
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Site Plan – Conditional Use Application
 for
 New Oil Well Development
 MWM Oil Company
 Erdwien Lease W/2 SW/4 11-26S-2E



SCALE 1" = 200'



~LEGAL DESCRIPTION~

Beginning at the Southwest Corner of the Southwest Quarter of Section 11, Township 26 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas. Thence 800 feet East along the South line of the Southwest Quarter; thence North parallel with the West line of said Southwest Quarter, a distance of 175.1 feet to a point on the North Right of Way of Highway 254 as described on Film 1487 Page 1313 at the Sedgwick County Register of Deeds which is the point of beginning. Thence continuing North parallel with said West line of the Southwest Quarter, a distance of 330 feet; thence East parallel with said South line of the Southwest Quarter, a distance of 330 feet; thence South parallel with said West line of the Southwest Quarter, a distance of 329.85 feet; thence West along the North Right of Way Highway 254, a distance of 330 feet to the point of beginning. Said tract contains 2.5 acres.

VAC2014-23

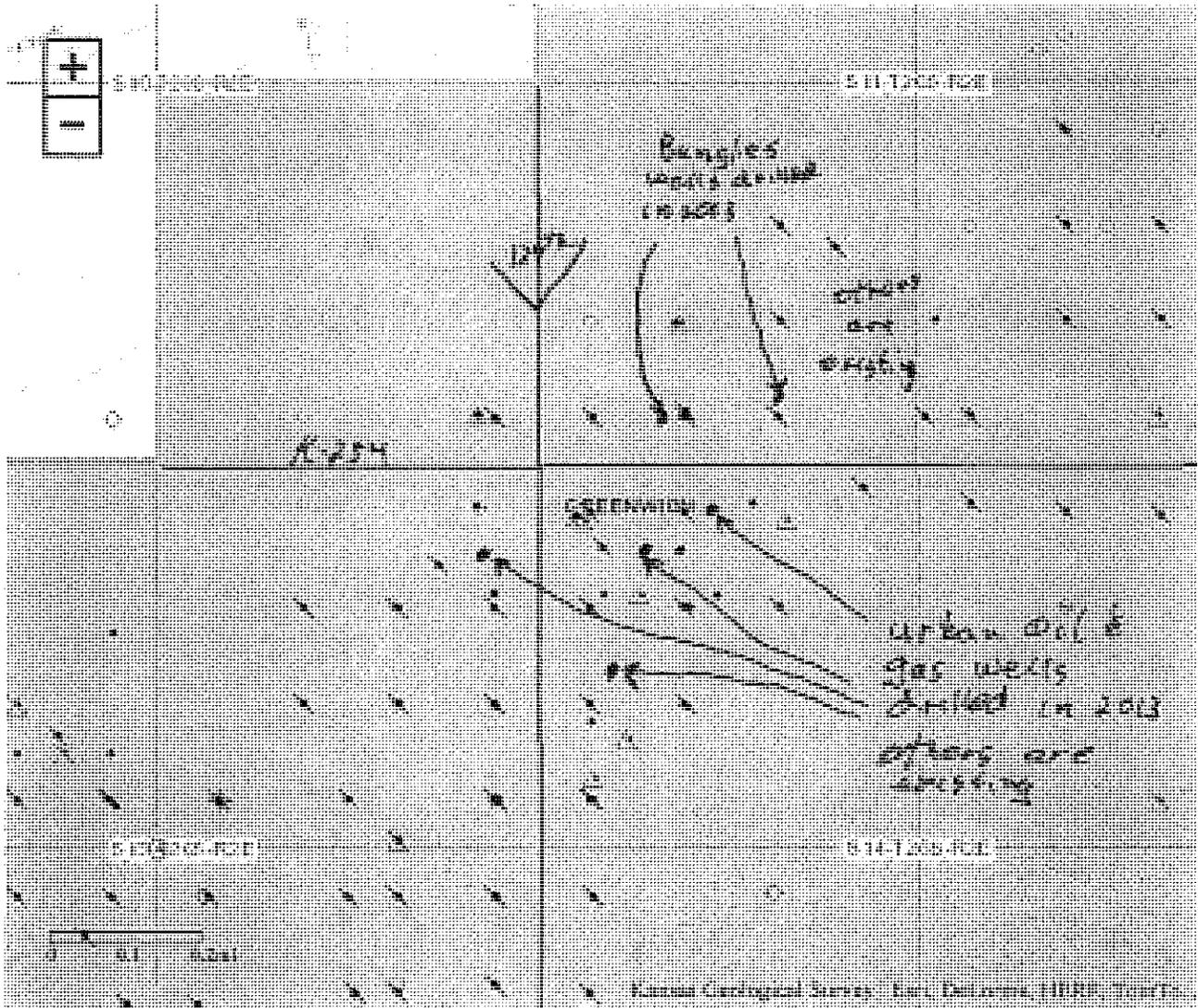


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VAC2014-23

127th & 254 area
Sedgwick County KS