

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

**Minutes**

**March 19, 2015**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, March 19, 2015 at 1:30 p.m., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: David Dennis, Chair Pro Tem; Carol Neugent; Vice Chair (In @ 1:35 p.m.); John Dailey; David Foster; Bill Johnson; Don Klausmeyer; Lowell E. Richardson; Debra Miller Stevens and Chuck Warren. Matt Goolsby; Joe Johnson; John McKay Jr; Bill Ramsey and Don Sherman were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Jeff Vanzandt, Assistant City Attorney and Robert Parnacott, Assistant County Counselor.

**DIRECTOR SCHLEGEL** called the meeting to order and asked for nominations for a Chair Pro Tem. **MILLER STEVENS** nominated **Commissioner David Dennis** as Chair, Pro Tem, **FOSTER** seconded the motion, and it carried (8-0).

Commissioner David Dennis in the Chair.

1. Approval of the February 29, 2015 meeting minutes.

**MOTION:** To approve the February 19, 2015 minutes.

**KLAUSMEYER** moved, **WARREN** seconded the motion, and it carried (8-0).

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2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

There were no Subdivision items.

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3. **PUBLIC HEARING – VACATION ITEMS**

- 3-1. **VAC2015-00004: City request to vacate a portion of a platted street side yard setback on property**, generally located west of Seneca Street on the southeast corner of 30th Street South and Fern Avenue.

**OWNER/APPLICANT:** Oscar Andrade (owner/applicant)

**LEGAL DESCRIPTION:** Generally described as vacating the platted (per the plattor's text) 30-foot street side yard setback located parallel to the west property line of the west 79 feet of Lots 1 & 2, Block H, Gene Douglas Matlock Addition & the east side of the Fern Avenue right-of-way, Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located west of Seneca Street on the southeast corner of 30th Street South and Fern Avenue (1428 W. 30th St. South - WCC #IV)

**REASON FOR REQUEST:** Build a detached garage

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

The applicants are requesting consideration for the vacation of a portion of the platted (per the plattor's text) 30-foot street side yard setback located parallel to the west property line of the west 79 feet of Lots 1 and 2, Block H, Gene Douglas Matlock Addition & the Fern Avenue right-of-way. The subject corner lot is zoned SF-5 Single-Family Residential. The Unified Zoning Code's (UZC) minimum street yard setback for the SF-5 zoning district is 15 feet. If the setback was not platted the applicants could have applied for an Administrative Adjustment to reduce the street side yard setback by 20%, resulting in a 3 foot reduction. To reduce the subject setback by more than 20% requires a variance, which is a separate public hearing process. There is a 5-foot wide platted easements located parallel to the applicant's south property line and extending into the subject setback. Water is located in the right-of-way. Public Works needs to confirm the location of the private sewer line coming to the subject site from the public sewer line located on the east side of Lot 1, Block H, Replat of Parts of Blocks I, J and H, Gene Douglas Matlock Addition; recorded September 17, 1956. Stormwater does not appear to be impacted. Comments from franchised utilities have not been received and are needed to determine if they have utilities located within the setback. The Gene Douglas Matlock Addition was recorded with the Register of Deeds June 11, 1953.

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

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time February 26, 2015, 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 street side yard setback and that the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Vacate only the east 18 feet of the platted (per the plattor's text) 30-foot street side yard setback located parallel to the west property line of the west 79 feet of Lots 1-2, Block H, Gene Douglas Matlock Addition & the Fern Avenue right-of-way.

- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer and franchised utilities/Westar with any needed plans for review for location of utilities. Provide a guarantee or approved plans for the relocation of any utilities. This must be provided to Planning prior going to City Council for final action
- (3) All improvements shall be according to City Standards.
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation 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) Vacate only the east 18 feet of the platted (per the plattor's text) 30-foot street side yard setback located parallel to the west property line of the west 79 feet of Lots 1-2, Block H, Gene Douglas Matlock Addition & the Fern Avenue right-of-way.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer and franchised utilities/Westar with any needed plans for review for location of utilities. Provide a guarantee or approved plans for the relocation of any utilities. This must be provided to Planning prior going to City Council for final action
- (3) All improvements shall be according to City Standards.
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation 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, **KLAUSMEYER** seconded the motion, and it carried (8-0).

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**3-2. VAC2015-00005: City request to vacate platted reserves and the plattor's text to amend the uses permitted in reserves on property, generally located north of Central Avenue - K-96 Highway, east of 127th Street East, north and south of Crest Ride Street.**

**OWNER/AGENT:** Crest Ridge HOA, c/o William Anderson (owner) MKEC, c/o Brian Lindebak (agent)

**LEGAL DESCRIPTION:** Generally described as vacating the plattor's text to amend the uses allowed in platted Reserves A and B, Crest Ridge Second Addition, which run parallel to the west, back yards of Lots 1-4 and Lots 28-31, Block 1, all in the Crest Ridge Second Addition and which run parallel to the west side of 127<sup>th</sup> Street East, Wichita, Sedgwick County, Kansas

**LOCATION:** Generally located north of Central Avenue - K-96 Highway, east of 127th Street East, and north and south of Crest Ridge Street (BoCC #1)

**REASON FOR REQUEST:** To allow for the use of a wall, fences, monuments, irrigation and utilities confined to easements

**CURRENT ZONING:** The site and the abutting east and south and adjacent west (across 127<sup>th</sup> Street east and K-96 Highway) properties are zoned SF-5 Single-Family Residential. The abutting north property is zoned SF-20 Single-Family Residential.

The applicant is requesting the vacation of the plattor's text to amend the uses allowed in platted Reserves A and B, Crest Ridge Second Addition. The Reserves run parallel to the west, back yards of Lots 1-4 and Lots 28-31, Block 1, all in the Crest Ridge Second Addition and which runs parallel to the west side of 127<sup>th</sup> Street East. Per the plattor's text Reserves A and B are for the construction and maintenance of pipeline, drainage, landscaping and open space. The vacation request will allow the construction of a wall, fences, monuments, irrigation and utilities confined to easements, while retaining those uses as described in the plattor's text.

Fire hydrants appear to be located in both Reserves A (abutting Lot 4) and B (abutting Lot 31). A water line (runs east to west) with a water valve and another water valve appear to be located in the south portion of Reserve A; all abutting Lot 4. These public utilities also appear to be located within a platted easement on Reserve A and Lot 4. There does not appear to be an easement protecting the hydrant on Lot 31. The east 75 feet of a 125-foot wide Continental and Apco Pipeline Easement (Film 137, Page 746, and shown on the plat) is located within Reserves A and B and the west, back yards of Lots 1-4 and Lots 28-31. The west 50 feet of the Pipeline easement is located within the 127<sup>th</sup> Street east right-of-way. This is a private easement, which the applicant must receive approval from the owners of the easement to allow the construction of the proposed walls, fences, monuments, irrigation and utilities confined to easements. It also appears that the already noted hydrants, water line and water valves appear to be located within the Pipeline easement. Per the agent's exhibit it appears there are existing fences and franchise utilities located within the Pipeline easement.

Per the plattor's text the reserves are owned by the Homeowners Association (HOA), specifically the Crest Ridge HOA. The Crest Ridge Second Addition was recorded June 6, 1995.

NOTE: Because the site is located in Sedgwick County, but within the City of Wichita's three-mile ring subdivision jurisdiction, consideration and recommendation by the Wichita City Council, and consideration and final action by the Sedgwick County Board of County Commissioners is required.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, Traffic, 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 plattor's text to amend the uses allowed in the described platted reserves.

- 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 February 26, 2015, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by vacating the plattor's text to amend the uses allowed in the described platted reserves and that the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Vacate the plattor's text to amend the uses allowed in Reserves A and B, Crest Ridge Second Addition. The uses permitted will be the construction and maintenance of pipeline, drainage, landscaping, open space, a wall, fences, monuments, irrigation and utilities confined to easements as approved by City/County Public Works, Water & Sewer, Stormwater, Traffic, Fire, and franchised utilities. Provide a letter from the owner of the Continental and Apco Pipeline Easement that allows the above uses to be located within the Pipeline. This must be provided to Planning prior to the case going to the City Council and BoCC for final action.
- (2) As needed provide easements for public utilities, including fire hydrants, a water line and water valves. These must be provided to Planning prior to the case going to the City Council and BoCC for final action and subsequent recording with the Register of Deeds.
- (3) As needed provide letters from franchised utility representatives stating that there utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council and BoCC for final action.
- (4) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council and BoCC for final action.

- (5) All improvements shall be according to City/County Standards and at the applicants' expense.
- (6) 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) Vacate the plattor's text to amend the uses allowed in Reserves A and B, Crest Ridge Second Addition. The uses permitted will be the construction and maintenance of pipeline, drainage, landscaping, open space, a wall, fences, monuments, irrigation and utilities confined to easements as approved by City/County Public Works, Water & Sewer, Stormwater, Traffic, Fire, and franchised utilities. Provide a letter from the owner of the Continental and Apco Pipeline Easement that allows the above uses to be located within the Pipeline. This must be provided to Planning prior to the case going to the City Council and BoCC for final action.
- (2) As needed provide easements for public utilities, including fire hydrants, a water line and water valves. These must be provided to Planning prior to the case going to the City Council and BoCC for final action and subsequent recording with the Register of Deeds.
- (3) As needed provide letters from franchised utility representatives stating that there utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council and BoCC for final action.
- (4) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council and BoCC for final action.
- (5) All improvements shall be according to City/County Standards and at the applicants' expense.
- (6) 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, **KLAUSMEYER** seconded the motion, and it carried (8-0).

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**3-3. VAC2015-00006: City request to vacate a portion of platted complete access control on property,** generally located east of Rock Road on the southwest corner of 37<sup>th</sup> Street North and Comotara Street.

**APPLICANT/AGENT:** 8626 LLC, c/o Dave Neal (applicant/owner) Baughman Company, PA, c/o Phil Meyer (agent)

**LEGAL DESCRIPTION:** Generally described as vacating a 40-foot wide portion of the platted complete access control to permit a drive onto 37<sup>th</sup> Street North off of the east 85 feet of Lot 19, Comotara Industrial Park Second Addition, Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located east of Rock Road on the southwest corner of 37<sup>th</sup> Street North and Comotara Street (WCC II)

**REASON FOR REQUEST:** To allow access/a drive onto 37<sup>th</sup> Street North

**CURRENT ZONING:** The site and all abutting and adjacent properties are zoned LI Limited Industrial.

The applicant proposes to vacate a 40-foot wide portion of the platted complete access control to permit a drive onto 37<sup>th</sup> Street North off of the east 85 feet of undeveloped Lot 19, Comotara Industrial Park Second Addition. 37<sup>th</sup> Street North is a paved four lane arterial at this location. There is no raised median or rollover median along the portion of 37<sup>th</sup> Street North where the vacation activity is proposed. The proposed drive would be located approximately 120 feet east of the closest existing drive located north from the site across 37<sup>th</sup> Street North. The proposed drive would be located approximately 300 feet west of the north side of the 37<sup>th</sup> Street North – Comotara Street intersection. The current Subdivision standard for a right-in – right-out drive is 200 feet between drives or arterial intersections and 400 feet between full movement drives or arterial intersections. Per the Subdivision Regulations, 10-104, Modification of Design Criteria, the MAPC may modify design criteria. In the past staff has recommended modified design criteria, which has been approved by the MAPC. There appears to be no public utilities located in the area of the vacation. There may be trees located in the right-of-way of the area of the Vacation. Comments from franchised utilities have not been received and are needed to determine if they have utilities located within the described area of the vacation request. The Comotara Industrial Park Second Addition was recorded with the Register of Deeds December 15, 1977.

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 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 February 26, 2015, 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 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) Per the approval of the Traffic Engineer, vacate the platted complete access control to allow one drive onto 37<sup>th</sup> Street North from Lot19, Comotara Industrial Park Second Addition. Provide a dedication of access control to establish the realign drives, with original signatures, to Planning Staff prior to the case going to Council for final action.
- (2) Provide Planning Staff with a legal description of the approved vacated portion of the platted complete access control on a Word document, via e-mail, to be used on the Vacation Order. This must be provided prior to VAC2015-00006 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide all needed plans for review and approval by utilities. Provide Planning with any plans as approved by the utilities. This must be provided to Planning prior to the case going to Council for final action.
- (4) Any removal of the City's right-of-way trees along 37<sup>th</sup> Street North caused by the construction of a new drive will be replaced within the closest planting season, but no longer than 6-months of final action by City Council.
- (5) All improvements shall be according to City Standards and at the applicant's expense.
- (6) 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) Per the approval of the Traffic Engineer, vacate the platted complete access control to allow one drive onto 37<sup>th</sup> Street North from Lot 19, Comotara Industrial Park Second Addition. Provide a dedication of access control to establish the realign drives, with original signatures, to Planning Staff prior to the case going to Council for final action.
- (2) Provide Planning Staff with a legal description of the approved vacated portion of the platted complete access control on a Word document, via e-mail, to be used on the Vacation Order. This must be provided prior to VAC2015-00006 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide all needed plans for review and approval by utilities. Provide Planning with any plans as approved by the utilities. This must be provided to Planning prior to the case going to Council for final action.
- (4) Any removal of the City's right-of-way trees along 37<sup>th</sup> Street North caused by the construction of a new drive will be replaced within the closest planting season, but no longer than 6-months of final action by City Council.
- (5) All improvements shall be according to City Standards and at the applicant's expense.
- (6) 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, **KLAUSMEYER** seconded the motion, and it carried (8-0).

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**NEUGENT** (In @ 1:35 p.m.)

**PUBLIC HEARINGS**

4. **Case No.: ZON2015-00008** - Abbott Land Survey/ Chad Abbott (agent) request a City zone change request from SF-5 Single-family Residential to GO General Office on property described as:

Commencing at the Southwest Corner of Lot 1, Knudtson Addition, Wichita, Kansas, thence N 19°07'42" E (Assumed) along the W line of said Lot 1, a distance of 207.54 feet (207.60 platted) to the Western point of intersection corner of said Lot 1, said point being the Point of Beginning, said point also being a point on the South line of lot 49, Park Vista Addition to Wichita, Kansas; thence N 88°47'42" W along said South line, a distance of 10.51 feet; thence N 01°07'51" E, a distance of 66.20 feet to a point on the North line of said lot 49; thence S 88°50'05" E along the

North line of said lot 49, a distance of 81.64 feet to the Northeast Corner of said Lot 49 and the Northwest corner of said Lot 1; thence S 19°11'04" W along the East line of said Lot 49 and the West line of said Lot 1 a distance of 69.60' to the Southeast Corner of said Lot 49 and the Eastern point of intersection corner of said Lot 1; thence N 88°51'56" W along the South line of said Lot 49 and the north line of said Lot 1 a distance of 49.56 feet to the Point of Beginning.

**BACKGROUND:** The application area is the eastern or rear 50 feet of Lot 49, Park Vista Addition that is addressed as 1016 North Edwards Avenue. Lot 49, Park Vista Addition is 300 feet deep, is zoned Single-Family Residential (SF-5) and its only street frontage is onto North Edwards Avenue. The western end of Lot 49, Park Vista Addition is developed with single-family residence. The owner of the property located immediately east of Lot 49, Park Vista Addition wishes to purchase the eastern or rear 50 feet of Lot 49, Park Vista Addition in order to provide more parking for his property (2604 West 9<sup>th</sup> Street) that fronts North McLean Boulevard and West 9<sup>th</sup> Street, is zoned General Office (GO) and is developed with a strip office center. If the zoning request is approved, the subject property – the rear 50 feet of Lot 49, Park Vista Addition – would be attached to Lot 1, Knudtson Addition (2604 West 9<sup>th</sup> Street) in order to provide additional parking for the strip office center.

The land located immediately west of the application area is developed with a single-family residence, and is the lot from which the subject property is proposed to be removed and rezoned. Land located to the south and east of the subject site is the property owned by the property owner that is attempting to obtain the zone change and is zoned GO. Land located north of the application area is zoned SF-5 and is developed with a single-family residence.

If the request is approved, the application will have to be screened from adjoining SF-5 zoned property, provide parking lot and buffer landscaping, limit any parking lot lighting standards to a maximum height of 15 feet and pave the surface.

**CASE HISTORY:** The Park Vista Addition was recorded in 1933. The Knudtson Addition was recorded in 1974.

**ADJACENT ZONING AND LAND USE:**

North: SF-5; single-family residences  
South: GO; strip office center  
East: GO; strip office center  
West: SF-5; single-family residence

**PUBLIC SERVICES:** The site is located in a part of town that has been developed for many years and is served by all usual municipal and private utilities and services.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide depicts the site as appropriate for “urban residential” use. The “urban residential” use category includes the full diversity of residential development and public/civic uses. GO zoning district allows the full complement of urban residential uses and public/civic uses and provides for local commercial development.

**RECOMMENDATION:** Based upon the information available at the time the staff report was completed, staff recommends approval of the request, with the provision that a drainage plan be filed for the site.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The land located immediately west of the site is zoned SF-5 and developed with a single-family house. Land east and south of the subject site, is zoned GO and is a strip office center. Land to the north is zoned SF-5 and 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 and is part of a single-family residential developed lot. The site could continue to be used as is currently zoned.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Approval of the GO zoning should not create an increased negative impact on nearby property and should relieve on-street parking along West 9<sup>th</sup> Street.
4. **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Approval would provide more on-site parking for existing office uses.
5. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The 2030 Wichita Functional Land Use Guide depicts the site as appropriate for “urban residential” use. The “urban residential” use category includes the full diversity of residential development and public/civic uses. GO zoning district allows the full complement of urban residential uses and public/civic uses and provides for local commercial development.
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.

DALE MILLER, Planning Staff presented the Staff Report.

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

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

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5. **Case No.: ZON2015-00009 and CON2015-00008** – PBP Real Estate, LLC, c/o Chris Lee (applicant/owner) Ruggles & Bohm, P.A., c/o Will Clevenger request a City zone change from SF-5 Single-family Residential to TF-3 Two-family Residential and City Conditional Use request for multi-family residential density on SF-5 Single-family Residential property on property described as:

Beg 990 FT S & 360 ft W NE Cor. SW ¼ S to Pt 1320 FT N of S LI SW ¼ W 301.5 FT N 387 FT M-L E TO BEG 32-26-1E

**BACKGROUND:** The applicant is requesting TF-3 Two-Family Residential zoning on the undeveloped, unplatted 2.53-acre SF-5 Single-Family Residential zoned tract, located west of Arkansas Avenue and north of the 31st Street North – Mascot Avenue intersection. The applicant is also requesting a Conditional Use to allow a mix of single-family and duplex development at a multi-family residential density on the tract. The Wichita-Sedgwick County Unified Zoning Code (UZC) allows a maximum density of 14.5 dwelling units per acre (a total of 36 dwelling units for the site) in the TF-3 zoning district with approval of a Conditional Use; UZC, Sec.III.B.6.c.(1). The TF-3 zoning district requires a minimum lot size of 3,500-square feet for single-family residential and 3,000-square feet per dwelling unit for duplex and multi-family. The applicant proposes to develop nine (9) single-family residences and seven (7) duplexes for a total of 23 living units on the 2.53-acre tract. These would be the first duplexes in area. The proposed density of 23 dwelling units does not exceed the 36 living units that the Conditional Use would allow. The proposed 23 dwelling units exceeds the 18 single-family dwelling units (minimum 6,000-sqaure foot lot) the current SF-5 zoning allows. The site will be required to provide, but not limited to, on-site drainage detention/retention, access, and easements.

The applicant’s site plan shows the nine single-family residences located on the east side of the site, separated from the seven duplexes by an access drive. The duplexes run east to west, with their kitchens abutting. The duplexes are separated from the west abutting SF-5 zoned property by another access drive. The development is separated from the north abutting SF-5 zoned property by another access drive. There are three (3) access drives shown on the site plan, which provide internal circulation and access onto 31<sup>st</sup> Street North. The site plan shows no garages, with parking on the driveway and on a slab in the front yard. The UZC requires one (1) on-site parking space per single-family residence and two (2) parking spaces per duplex. The applicant has stated that residences will be built on a slab with no basements. The site plan shows a detention pond.

SF-5 zoned urban scale and large tract single-family residences (built 1948-2003) and some scattered undeveloped properties abut and are adjacent to the SF-5 zoned site. A TF-3 zoned single-family residence (built 1942) is located south of the site, across 31<sup>st</sup> Street North. A MF-29 Multi-Family Residential zoned single-family residential development is located two and a half blocks east and a block north of the site; the Savina 5<sup>th</sup> Addition, recorded June 22, 2007. The Savina 5<sup>th</sup> Addition has a density that is closest to the site’s with 39 lots located within it’s roughly 6-acres of lots. The SF-5 Ortiz Elementary public school, located two blocks north of the site, off of Arkansas and 33<sup>rd</sup> Street North, is the largest development in the area. The Arkansas and 33<sup>rd</sup> Street intersection also has a mostly vacant LC Limited Commercial zoned commercial strip as well as undeveloped LC zoned land located on its northeast corner.

**CASE HISTORY:** The undeveloped SF-5 zoned subject site is not platted. The site and the area were annexed into the city between 1961-1970.

**ADJACENT ZONING AND LAND USE:**

NORTH:	SF-5, MF-29, LC	Single-family residences, undeveloped land, elementary school, mostly vacant commercial strip
SOUTH:	SF-5, TF-3	Single-family residences
WEST:	SF-5,	Single-family residences,
EAST:	SF-5, MF-29	Single-family residences

**PUBLIC SERVICES:** 31<sup>st</sup> Street North is a paved residential street with 60 feet of right-of-way at this location. All utilities are available to the site.

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

The purpose of the TF-3 zoning district is to accommodate moderate-density single-family and duplex residential development, as well as very limited density multi-family development and other complementary land uses. The TF-3 zoning district is generally compatible with the urban residential and “urban development mix” categories of the Plan.

The UZC allows consideration of a maximum density of 14.5 dwelling units per acre in the TF-3 zoning district as a Conditional Use. 14.5 dwelling units per acre is considered moderate-density residential development.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request for TF-3 zoning and the Conditional Use request be **APPROVED**, subject to platting within a year of the approval by the governing body and the following conditions:

- (1) The site will be developed with nine (9) single-family residences and seven (7) duplexes for a total of 23 living units on the approximately 2.53-acre site.
- (2) The site will be developed as shown on an approved site plan and in compliance with all the UZC’s development standards for multi-family residential development including, but not limited to, compatibility setbacks, parking, screening, lighting and landscaping.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The SF-5 zoned urban scale and large tract single-family residences (built 1948-2003) and some scattered undeveloped properties abut and are adjacent to the SF-5 zoned site. A TF-3 zoned single-family residence (built 1942) is located south of the site, across 31<sup>st</sup> Street North. A MF-29 Multi-Family Residential zoned single-family residential development is located two and a half blocks east and a block north of the site; the Savina 5<sup>th</sup> Addition, recorded June 22, 2007. The Savina 5<sup>th</sup> Addition has a density that is closest to the site’s with 39 lots located within its roughly 6-acres of lots. The SF-5 Ortiz Elementary public school, located two blocks north of the site, off of Arkansas and 33<sup>rd</sup> Street North, is the largest development in the area. The Arkansas and 33<sup>rd</sup> Street intersection also has a mostly vacant LC Limited Commercial zoned commercial strip as well as undeveloped LC zoned land located on its northeast corner.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned SF-5 and is not developed. The site could be platted to allow multiple single-family residences, with a minimum lot size of 6,000-square feet.

- (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. It also permits institutional uses such as parks, schools and churches by right. The requested Conditional Use allows for a maximum density of 14.5 dwelling units per acre in the TF-3 zoning district. The applicant proposes a mix of duplexes (seven) and single-family residences (nine). The request would not introduce TF-3 zoning into the area, but as proposed it would allow the first duplex development into the area. The impact of duplexes into the area, which are typically seen as rental units, as opposed to the site continuing to be undeveloped is uncertain. Ultimately maintenance of property, undeveloped or developed, depends on the ability and inclination of a property owner, which is an unstable dynamic.
- (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 allow the site to be developed with nine (9) single-family residences and seven (7) duplexes for a total of 23 living units on the approximately 2.53-acre site, as well as those uses permitted by right in the TF-3 zoning district. The proposed in-fill development is the second most recent for the area, with the last being the MF-29 zoned Savina 5<sup>th</sup> Addition's 39 single-family lots located within its roughly 6-acres of lots. The on slab built single-family residences with carports in the Savina 5<sup>th</sup> Addition were built in the late 2000s. Denial of the request could impose a financial hardship on the owner. Since 2007 single-family residential development has stalled out, leading to requests for TF-3 zoning and subsequent duplex development on undeveloped SF-5 zoned properties located in the older parts of the city, as in-fill, or in newer SF-5 zoned subdivisions located on the edges of the city. It can be presumed that the duplexes will be rental units, thus decreasing home ownership in the community but providing dwelling units for the community.
- (5) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The 2013 Land Use Guide of the Comprehensive Plan" (Plan) identifies the SF-5 zoned site as "urban residential." The urban residential category encompasses areas that reflect the full diversity of residential development densities and types 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 residences and institutional uses such as a parks, schools and churches, but not duplexes, by right.

The purpose of the TF-3 zoning district is to accommodate moderate-density single-family and duplex residential development, as well as very limited density multi-family development and other complementary land uses. The TF-3 zoning district is generally compatible with the urban residential and "urban development mix" categories of the Plan.

The UZC allows consideration of a maximum density of 14.5 dwelling units per acre in the TF-3 zoning district as a Conditional Use. 14.5 dwelling units per acre is considered moderate-density residential development.

- (6) **Impact of the proposed development on community facilities:** All services are in place, and any increased demand on community facilities can be handled by current infrastructure.

**BILL LONGNECKER**, Planning Staff presented the Staff Report. He reported that the District Advisory Board (DAB) VI voted 6-1 to deny the request. He also mentioned that staff has received quite a few protests on the application. He said concerns expressed include density of the project, drainage and traffic. He said he would let members of the audience give the Commission the particulars on the concerns that they have.

**FOSTER** asked who will be required to maintain the private streets. He also asked about the setbacks.

**LONGNECKER** responded that the property owner would provide private street maintenance. He said compatibility setbacks would start at 15 feet up to 25 feet.

**DAILEY** asked if the zoning is approved, could the proposed use change.

**LONGNECKER** responded yes, as long as the applicant does not exceed the maximum density of 23 total living units with a mixture of nine single-family residences and seven duplexes.

**RICHARDSON** asked if the reason for the conditional use was for higher density or other issues.

**LONGNECKER** said because of higher density. He said the maximum density is 14.5 units per acre.

**CHRIS BOHM, RUGGLES AND BOHM, 924 N. MAIN STREET, AGENT FOR THE APPLICANT** said this is an application to utilize property that has been vacant since 1995. He said the road was paved in 2000 and there is sanitary sewer in the area. He said drainage concerns were discussed at the DAB meeting because the neighborhood does not have much stormwater extension up into it. He said they will need to do some type of on-site stormwater retention and address the water quality issues. He commented that it was a platting issue; however, and that it comes into play during the design phase because they need to leave room to handle that. He said the site plan is a little flexible because there is a street right-of-way on the northwest corner that needs to be addressed at the time of platting. He said there is also a dead-end road to the northeast of the property, but that is not part of this property.

**BOHM** said the applicant would like to invest in the neighborhood and sees the need for this type of housing. He said Councilwoman Miller asked if the applicant would consider decreasing the density. He said using the SF-5 zoning that currently exists and minimizing the lot size the applicant could get about 18 single-family units on the site. He said the applicant was asking for 23 dwellings units with the current layout; however, he would be willing to back that down to 20 dwelling units. **BOHM** indicated that he is not sure what that mix would be as far as duplex and single-family units. He said 20 units is only two more than what is allowed by-right under the current SF-5 zoning. He continued by stating that they doubt they will construct a wet detention pond and that it could also be green, open space. He also mentioned play areas and landscaping.

**RICHARDSON** asked for clarification that two parking spaces would be provided at each duplex. He also asked about Fire access.

**BOHM** mentioned that although the Code only requires one space per unit, they will be providing approximately one and one half spaces. He indicated that Fire access would be addressed at platting. He mentioned the looped private road throughout the complex.

**DAILEY** asked if public parking would be allowed on the private road. He specifically mentioned visitors on holidays.

**BOHM** said that issue was discussed at the DAB and the owner would be willing to sign the road “No Public Parking;” however, that may become an enforcement issue since it would be up to the residents to enforce that since it is not a public street. He said they may need to increase the width of the roadway to allow parking on the streets. He said it is possible that parking could be developed on either side of the green space/detention area.

**PETER JANZEN, 3137 N. MASCOT** said he is opposed to the proposal. He said the entire neighborhood is large lots and this dense usage is a direct clash to the character of the neighborhood. He said he has concerns about parking. He said another multi-family project was proposed for this same track in the 70’s or 80’s that was defeated. He said Jeanette and Shelton are dirt roads and a lot of the traffic from the site will increase use of those roads. He said this will also increase the traffic along Mascot. He concluded by saying that those are the reasons he opposes this requested zoning change.

**RICHARDSON** asked which streets were paved.

**JANZEN** said Mascot and 31<sup>st</sup> are paved and Shelton and Jeanette are dirt. He added that those roads are not graded as often as they should be.

**CATHERINE LAUGHLIN, 3158 N. MASCOT** said her main concern is traffic. She mentioned children in the neighborhood riding their bikes on Mascot. She said the other drive from the property is right across from her garage.

**WILLIAM LAUGHLIN, 3158 N. MASCOT** said imagine buying a \$150,000 home and eight years later having basically a trailer park across the street from you. He said that is what is going to happen to this community. He mentioned that Habitat for Humanity was not located in their neighborhood and the concept of comparing that to this TF-3 at this location are alien to each other. He said he thinks this development will “tank” their property values. He said he thinks the drainage issue has been glossed over. He said right now when they have hard rains in the area the water stands on this vacant piece of land. He said a large pool of water also occurs on the southeast corner of 31<sup>st</sup> and Arkansas and he can’t imagine that getting any better. He said there are no storm drains in the area and this will not make things any better. He said he thinks the issue of on street parking is a good one because they currently have people parking all along Mascot. He said the developer talked about a 6-8 foot retaining wall on the west, north and east sides of the property and he thinks that will turn this into a ghetto. He said he doesn’t see how that will encourage people to reach out and see other neighbors in the area. He said dust from Jeanette and Shelton gets into their windows if the wind is blowing the right direction and he doesn’t see this making that situation any better. He concluded by mentioning traffic, time the land has been vacant, the Golden Rules in reference to public health and safety and his concern for his elderly chiropractic patients and how this will be a detriment to his business.

**JIM TOBEN, 902 W. 31<sup>ST</sup> STREET NORTH** said he lives on the northwest corner of Jeanette and 31<sup>st</sup> Street. He echoed concerns about traffic flow, safety of neighborhood children and degrading the area. He said he would like to see it left as single-family residential zoning.

**VICKIE LEIS, 3244 N. SHELTON AVENUE** said she is protesting the proposed rezoning. She mentioned that the proposed retention pond will end up being a danger to children and pets. She said there will be little open ground to soak up rainfall and snow because almost the entire tract will be paved or have a building on it. She said this will create a never ending presence of standing water, except in times of drought, which will attract mosquitoes and children who might be in danger of drowning. She said they bought their home because it was located on a cul-de-sac which is not paved, but maintained very well. She said when they bought their home they were told that the lot to the south had a restriction on it to prevent any development. She also mentioned the density and the potential for fire and asked where the fire hydrants will be located. She mentioned the increased pedestrian and bike traffic through the neighborhood. She also mentioned a decrease in their property values. She asked if the owners were present at this meeting and why they didn't come to the DAB meeting.

**CHAIR DENNIS** said the agent was present to represent the applicant.

**MOTION:** To give the speaker an additional minute.

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

**GENE KUHNS, 3245 N. ARKANSAS** said he had some issues about too many people in one area and the difficulty it might cause to get safety equipment such as Fire trucks and ambulances into the area. He asked if the roads were going to be big enough and suggested reducing the number of lots in order to make the road wider.

**CHAIR DENNIS** mentioned that the agent said the applicant would be willing to drop the number of units to 20. He asked if that would be more appealing.

**KUHNS** suggested 18 units so it wouldn't have to be rezoned.

**BOHM** said the owner is PPB Realestate, LLC, Chris Lee who has hired Ruggles & Bohm to be the agent on the case. He said the applicant's offer of 20 units affords him the flexibility of developing both single-family and duplex zoning which they feel is a reasonable request. He said there will be no specials for the neighbors as a result of the new development. He said water, sewer, drainage and any new road would be accessed directly to the property. He concluded by commenting that the Comprehensive Plan is calling for "in-fill" housing and the City is working to find pieces of property and develop them especially those that have sat vacant for some time. He said the City has made a large investment in sewer and streets to serve the community and the applicant is a developer willing to make a substantial investment into the neighborhood.

**WARREN** said he doesn't have a problem with the idea of mixed use but there is a design flaw if they think people are not going to park on the street.

**BOHM** said if they removed one of the duplexes north of the proposed pond location that could be used for green space and a row of parking or a single-family dwelling could be removed for the same purpose. He said they believe it will be relatively easy to provide additional parking and green space at the site, especially with the concession of less dwelling units. He said the platting may dictate what the final plat looks like with the easements and adjacent streets right-of way.

**KLAUSMEYER** asked the agent to clarify street widths.

**BOHM** said 25 foot curb to curb was standard for any apartment complex, in addition to insuring that Fire Department equipment can maneuver and make any turns within the complex. He said the “u” shaped street makes for easier access because people can approach from both directions. He reiterated that they don’t know what will happen with the half street at the northwest corner during the platting process. He said he believes the applicant will entertain a different parking ratio to insure that there was enough off-street parking for the units.

**RICHARDSON** asked if there was a way to allow the developer to develop the area with duplexes but leave it at a maximum density of 18 units.

**LONGNECKER** said the zoning needs to be changed to TF-3 for duplexes, but the density can be adjusted.

**FOSTER** asked for further clarification about off street parking.

**LONGNECKER** said the applicant has met the requirements of the UZC for both duplex and single-family zoning. He said the applicant has also agreed to reduce the number of units from 23 to 20 and create a reserve for additional parking and open green space. He said that will put them beyond the minimum parking spaces required by the UZC.

**B. JOHNSON** suggested making a small parking lot in the center of the complex so it doesn’t appear so dense.

**MOTION:** To approve subject to staff recommendation and reduction of the number of units from 23 to 20.

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

**FOSTER** referenced the Comprehensive Plan and said he can’t get past the character of the neighborhood.

**SUBSTITUTE MOTION:** To deny the application.

**FOSTER** moved, **NEUGENT** seconded the motion.

**DIRECTOR SCHLEGEL** asked for findings on the recommendation to deny the application.

**FOSTER** said he is familiar with the neighborhood and mentioned the character and density. He said he believes the density of the proposed development is too high for the neighborhood.

**RICHARDSON** said he agreed with **COMMISSIONER FOSTER** but he also agrees with the need for infill development. He said he could support a single-family density but allow the developer to develop duplexes with a total of a maximum of 18 units.

**WARREN** asked what happens next if the substitute motion passes.

**LONGNECKER** said he believes the applicant would have to wait six months to re-submit the application.

**JEFF VANZANDT, ASSISTANT CITY ATTORNEY** said if the substitute motion to deny passes that was the end of this application. He suggested modifying the original motion and withdrawing the substitute motion.

**NEUGENT** said she agrees with **COMMISSIONER FOSTER** and also recognizes the need for infill development; however, she said she gets concerned about infill development that changes the character of the neighborhood and she believes this project does that.

**B. JOHNSON** mentioned the neighborhood was probably developed in the 1950's. He said a developer friend of his is filling duplexes as fast as he can build them. He said he believes there has to be provisions for that type of housing.

**DAILEY** said he supports the idea of duplexes and infill development but he does not think it is appropriate in this area. He said he would support the substitute motion to deny the request.

**FOSTER** said he was confident in the applicant's ability to make this development work. He mentioned density, width of roadways and drainage. He said he would like to offer a modified motion.

**DENNIS** mentioned that this was a zoning case, not a platting case. He said items such as drainage and widths of streets are platting issues, not zoning issues that the Planning Commission is discussing. He clarified that 18 single-family units could be built on the property as it is currently zoned.

**LONGNECKER** responded yes.

**FOSTER** agreed to withdraw the **SUBSTITUTE** motion. The second **COMMISSIONER NEUGENT** also agreed to withdraw the motion.

The **SUBSTITUTE MOTION** was withdrawn.

**MILLER** suggested requiring the applicant to bring the revised site plan back to the Planning Commission for comment.

**B. JOHNSON** said he would revise his original motion to include 18 units instead of 20 in TF-3. **COMMISSIONER WARREN** agreed to the revised motion.

**DENNIS** asked if **COMMISSIONER JOHNSON** wanted the revised site plan reviewed by the Planning Commission.

**B. JOHNSON** said no.

**MILLER** commented that parking requirements are established in the zoning code as one space per unit. He said if the Planning Commission believes more parking is required they should address it in the motion.

**FOSTER** said he has observed some of the TF-3 zoning that has previously been approved by the Planning Commission and it never fails, especially in the morning hours, that there are too many vehicles on the street. He said he'd like the off street parking to go to two spaces instead of one.

**B. JOHNSON** asked the agent, didn't the applicant offer two parking spaces per unit.

**BOHM** said no, there are roughly one and one-half parking spaces per duplex and one for each single-family unit. He said he believes they can accommodate two parking spaces per unit and if that will tip the scales on application approval. He said he would be willing to go out on a limb and say the applicant is willing to do that.

**LONGNECKER** requested clarification that the Commission wants two parking spaces per dwelling unit regardless if they are duplex or single-family.

**B. JOHNSON** said one and one-half parking spaces is more than is required by the UZC, which should be enough.

**FOSTER** said they are private streets within the complex and not wide enough to accommodate on-street parking. He suggested staying with the two parking spaces per unit.

**B. JOHNSON** amended the motion to include two parking spaces per unit. **WARREN**, the second, agreed to the amended motion.

**MILLER STEVENS** asked for the motion to be read.

**DENNIS** said the amended motion was to approve the rezoning request to TF-3 zoning per staff recommendation and reduce the number of units to 18 with two parking spaces per unit.

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

6. **Case No.: ZON2015-00010 and CUP2015-00003** - RJ Reality, LLC (Roger Scholfield) / Baughman Company, P.A. (Russ Ewy) request a City zone change from SF-5 Single-family Residential to LC Limited Commercial and City request to amend CUP DP-305 to add additional property on property described as:

Lot 1, Block A, Scholfield Honda Commercial Addition to Wichita, Sedgwick County, Kansas.  
AND

Lots 1 and 2, Block 2 together with Lots 14 EXCEPT the South 1.5 feet and all of lot 15, Block 2, Eastridge Addition to Wichita, Sedgwick County, Kansas

**BACKGROUND:** The applicant is seeking Limited Commercial (LC) zoning and the inclusion in the Schofield Honda Commercial Community Unit Plan (CUP) DP-305 of 1.43 acres of land located south of East Kellogg, between South Mission Road and South Gouverneur Road; south of the existing

Schofield Honda auto dealership. Currently, the applicant owns and operates an auto dealership located on 9.19 acres that are zoned LC subject to CUP DP-305. Community Unit Plan DP-305 permits new and uses auto sales, leasing, service and all other associated uses, including parking areas for storage of vehicles for lease or sale, vehicles awaiting customer service and employee parking.

The land proposed to be added to DP-305 includes:

- 1) A 56-foot wide by 120-foot deep (6,720 square feet) Single-Family Residential (SF-5) zoned area that was formerly developed with a single-family residence addressed as 6932 East Orme that was located on the north side of vacated East Orme Street. The home has been demolished.
- 2) Existing East Orme Street right-of-way located between Drury Lane and Mission Road. The previously noted road segment is proposed to be vacated by plat if the current application is approved. If vacated, the vacated right-of-way is proposed to be incorporated into the dealership's campus and closed to public traffic.
- 3) Four platted SF-5 zoned lots (approximately 31,347.01 square feet) located south of Orme Street, between Mission Road and Drury Lane. The previously noted lots were developed with single-family residences; however, the homes have been demolished. The four lots are proposed to be replatted if this request is approved.
- 4) Approximately 116 feet of Drury Lane located just south of East Orme Street or that segment of Drury Lane located adjacent to the residential lots purchased and scraped by the applicant.

Once the single-family lots and street right-of-way are rezoned and replatted the properties will be incorporated into the auto dealership and into DP-305.

The portion of East Orme Street located between Drury Lane and Gouverneur Road was vacated by the Scholfield Honda Commercial Addition that was recorded on June 23, 2014. The eight platted lots that were formerly located south of vacated East Orme Street, between Drury Lane and Gouverneur Road were removed as part of the Scholfield Honda Commercial Addition. The Scholfield Honda Commercial Addition retained Orem Street as a 60-foot wide drainage and utility easement. A second 20-foot utility easement is located on the Scholfield Honda Commercial Addition approximately 100 feet north of the vacated East Orme right-of-way. The CUP drawing depicts the two easements as well as a proposed 55,000 square-foot building located astride both easements. Buildings are not typically allowed to encroach utility or drainage easements. The building encroachment across the two easements will need to be addressed at the time of replatting, with a vacation action or dedication to re-route the easements. A water line is shown in the Orme Street right-of-way.

The third sentence in General Provision 2 should be amended to read: *Lighted* building wall signage shall be prohibited on the south facades of all buildings facing the south 105 feet of Gouverneur Road, the south 12075 feet of Mission Road and ~~Orme Street~~ *the south property line* except for directional signs denoting parking spaces within the property.

Three access points are proposed on Mission Road; two access points are proposed on Gouverneur Road. The remnant portion of Drury Lane north of Gilbert Street is too long to be left as a dead-end and, at the time of replatting will require a cul-de-sac or hammerhead turn around. The closure of Drury Lane north of Gilbert Street and the closure of Orme west of Drury Lane will force some residents living south of the application area to drive south on Drury Lane to Watson Lane then west to Mission Road to reach points located north and west; or go east on Gilbert Street to Gouverneur Road. However, Gouverneur Road has a raised median that prevents northbound left turns at Gilbert Street and will require northbound traffic to travel three blocks (from Orme Street) south on South Gouverneur Road and make a U-turn at South Apache Drive in order to go north to Kellogg Drive. General Provision 4 should be amended to include the following language: "At the time of platting the applicant shall guarantee the installation of a cul-de-sac, hammerhead turnaround or similar traffic improvement terminus for Drury Lane north of Gilbert Street as required by the Traffic Engineer. At the time of platting the applicant shall guarantee the installation of an access point through the Gouverneur Road median at Gilbert Street. Said improvements shall be completed prior to the closure of Drury Lane at Orme Street and the closure of Orme Street west of Drury Lane."

A six-foot screening wall is shown along the entire southern property line and wraps around both the southeastern and southwestern corners of the CUP and run northward for varying distances. General Provision 20 gives the applicant up to 12 months from the date of final approval to defer the masonry wall requirement; at the end of the 12-month period the applicant may apply to have this condition reviewed by the City Council. It is recommended that General Provision 20 be amended to state: "The applicant may have up to 12 months from the date of final approval to install the required masonry wall; however, the applicant may be granted an additional 12 months delay by administrative adjustment provided the applicant has under contract or has purchased additional property abutting the CUP's southern property line. Regardless of the waiver of the masonry screening, a solid six-foot tall fence shall be installed prior to the issuance of an occupancy permit or final approval for a parking lot located along any property line abutting or across the street from SF-5 or TF-3 zoning."

Land located to the north of the property proposed to be added to DP-305 is currently zoned LC, subject to DP-305, is owned by the applicant and is developed with an automobile dealership. Land to the east is zoned LC and TF-3 and is developed with an auto dealership or single-family residences. Property to the south is developed with platted SF-5 zoned single-family residences. Land to the west is zoned SF-5 and Two-Family Residential (TF-3) and is developed with single-family residences.

**CASE HISTORY:** The following plats are associated with the property: Scholfield-Hatchett 3<sup>rd</sup> Addition, recorded March 18, 1993; Ripstra Addition, recorded June 14, 1956; McHugh Addition, recorded April 26, 1967; East Mission 2<sup>nd</sup> Addition, recorded September 21, 1994; Eastridge Addition, recorded December 3, 1949 and Eastridge 5<sup>th</sup> Addition, recorded in 1951. Zoning cases associated with the property include: Z-0854, A Single-family Residential to LC (McHugh Addition); Z-2667 and Z-3046, A to LC (southern 1/3 of the Scholfield-Hatchett 3<sup>rd</sup> Addition); Z-3129, A to LC and BB (Office) and ZON2007-00025, GO General Office (formerly B zoning) and TF-3 to LC and the creation of DP-305. BZA30-85 included a condition for use of the property as a car lot and is to be incorporated into the CUP provisions. Protective Overlay (PO) #124 associated with ZON 2003-09 rezoned a lot on Orme Street from TF-3 to LC with PO provisions, which also is to be incorporated in to the CUP

provisions. BZA2006-53 reduced spacing for a freestanding sign on Kellogg Drive from 150 to 120 feet. CUP2013-00031 and ZON2013-00023 rezoned nine lots from SF-5 to LC and attached the rezoned lots to DP-305. The Scholfield Honda Commercial Addition that was recorded on June 23, 2014.

**ADJACENT ZONING AND LAND USE:**

North: LC and DP-305; auto dealership

South: SF-5; single-family residences

East: LC and SF-5; auto dealership and single-family residences

West: LC, TF-3 and SF-5; auto dealership and single-family residences

**PUBLIC SERVICES:**

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide map did not anticipate the expansion of regional commercial uses south of East Orme Street. The 2030 Wichita Functional Land Use Guide map depicts “regional commercial” as being appropriate for property located north of East Orme Street. Land located south of East Orme Street is shown by the land use map previously referenced as appropriate for “urban residential” uses. The land use “vehicle and equipment sales” is considered to be a regional commercial use. The Comprehensive Plan’s commercial objective III.B encourages existing commercial areas to: develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses. The tract has reasonably good access to East Kellogg Drive, either through the Scholfield dealership or via South Gouverneur Road. Additionally, the proposed access controls, the proposed screening wall and the other proposed development standards minimize traffic conflict with the neighborhood and other potential impacts, such as noise and light pollution. Finally, the MAPC has an unofficial policy of supporting the expansion of existing businesses.

**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:

- A. Approve the zone change (ZON2015-00010) to LC Limited Commercial zoning and the amendments to Community Unit Plan DP-305 subject to the development standards contained therein, subject to replatting within one year.
- B. At the time of platting the applicant shall guarantee the installation of a cul-de-sac, hammerhead turnaround or similar traffic improvement terminus for Drury Lane north of Gilbert Street as required by the Traffic Engineer. At the time of platting the applicant shall guarantee the installation of an access point through the Gouverneur Road median at Gilbert Street. Said improvements shall be completed prior to the closure of Drury Lane at Orme Street and the closure of Orme Street west of Drury Lane.
- C. General Provision 14 shall be amended to state: “The ordinance establishing the zone change shall not be published until all conditions of approval have been met and the ordinance enacting the zone change has been published.

- D. General Provision 20 be amended to state: “The applicant may have up to 12 months from the date of final approval to install the required masonry wall; however, the applicant may be granted an additional 12 months delay by administrative adjustment provided the applicant has under contract or has purchased additional property abutting the CUP’s southern property line. Regardless of the waiver of the masonry screening, a solid six-foot tall fence shall be installed prior to the issuance of an occupancy permit or final approval for a parking lot located along any property line abutting or across the street from SF-5 or TF-3 zoning.”
- E. The building encroachment across the two utility easements will be addressed at the time of replatting, with a vacation action or the dedication of additional easement to re-route the utilities, as determined by Public Works.
- F. The replat of the site may require modifications to the approved CUP DP-305. CUP DP-30 shall be considered to be adjusted without further review so long as four copies of the revised CUP that are consistent with the approved plat are submitted to planning staff within 60 days of the recording of the plat.
- G. The applicant shall submit four copies of the approved CUP to the Metropolitan Area Planning Department within 60 days after approval of the application by the governing body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Land located to the north of the property proposed to be added to DP-305 is currently zoned LC, subject to DP-305, is owned by the applicant and is developed with an automobile dealership. Land to the east is zoned LC and TF-3 and is developed with an auto dealership or single-family residences. Property to the south is developed with platted SF-5 zoned single-family residences. Land to the west is zoned SF-5 and Two-Family Residential (TF-3) and is developed with single-family residences.
2. The suitability of the subject property for the uses to which it has been restricted: The portion of the property being rezoned is currently zoned SF-5 or is unzoned right-of-way. The homes that occupied the area being rezoned have been demolished. Single-family residential zoning does not permit vehicles sales; therefore, the current zoning is not suited for the intended expansion of the automobile dealership.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The automobile dealership has been steadily acquiring residential properties located south of the original dealership’s campus. The homes that once occupied the properties that are proposed to be rezoned have been razed, and it is unlikely that the residences would be rebuilt. The proposed development standards required by either the basic zoning code or the specific conditions contained in the proposed CUP address 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: Denial would presumably represent an economic loss to the auto dealership. Approval would allow an existing auto dealership to improve its campus and facilities and presumably enhance the car buying experience at this location.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide map did not anticipate the expansion of regional commercial uses south of East Orme Street. The 2030 Wichita Functional Land Use Guide map depicts “regional commercial” as being appropriate for property located north of East Orme Street. Land located south of East Orme Street is shown by the land use map previously referenced as appropriate for “urban residential” uses. The land use “vehicle and equipment sales” is considered to be a regional commercial use. The Comprehensive Plan’s commercial objective III.B encourages existing commercial areas to: develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses. The tract has reasonably good access to East Kellogg Drive, either through the Scholfield dealership or via South Gouverneur Road. Additionally, the proposed access controls, the proposed screening wall and the other proposed development standards minimize traffic conflict with the neighborhood and other potential impacts, such as noise and light pollution. Finally, the MAPC has an unofficial policy of supporting the expansion of existing businesses.
6. Impact of the proposed development on community facilities: Approval of the request will likely lead to the vacation of portions of Orme Street between Mission Road and Gouverneur Road and the truncation of Drury Lane, which will force area residents to alter traditional traffic circulation patterns. Traffic circulation and utility encroachment concerns can be addressed at the time of replatting.

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

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

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

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7. Case No.: CON2015-00006 – Darryl and Sara Wiesner request a County Conditional Use permit for an accessory apartment on RR Rural Residential zoned property on property described as:

A tract of land beginning 539.8 feet North of the Southeast corner of the Southeast Quarter; thence North 893 feet; thence Westerly 969.94 feet; thence Southerly 924.52 feet; thence East 949.02 feet to the point of beginning, all in Section 33, Township 28, Range 2 West of the 6<sup>th</sup> P.M., Sedgwick County, Kansas.

**BACKGROUND:** The applicants request a Conditional Use for an “accessory apartment” on unplatted property zoned Rural Residential (RR), the site is located on the west side of South 167<sup>th</sup> Street West, ¼ mile north of West 71<sup>st</sup> Street South. The property is currently developed with a 2,300 square-foot single-family residence on the 20-acre site. As shown on the site plan, the applicant proposes to construct the 1,550 square-foot accessory apartment north of the existing principal residential structure. The proposed accessory apartment would be located 98 feet south of the north property line and 285 feet west of the front (east) property line. The applicant proposes to keep the existing drive to the principal structure and add a drive on the northern end of the property to serve the proposed accessory apartment. The proposed drive is to be located 25 feet south of the north property line. The application area is enclosed on all sides by a significant hedgerow. The applicant has advised staff that the proposed

accessory apartment will be a ranch style site built residence with exterior appearance similar to the principal structure.

All properties abutting or adjoining the application area are zoned RR. The property immediately north (21 acres) of the site is farmland. A single-family residence is located on five acres farther to the north. Property east of the site, across South 167<sup>th</sup> Street West is 160 acres of farmland plus two residences. Land to the south (11.6 acres) is developed with a single-family residence. Land to the west is 85 acres of farmland.

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

The RR zoning district property development standards call for a minimum rear setback of 25 feet for principal structures; however, accessory structure rear building setback (Sec. III-D.7.e(1)) shall be at least ten feet from the centerline of any platted or dedicated alley, and if no alley exists, then five feet from the rear lot line. Accessory structures may not utilize more than one-half of any required rear yard, and shall not exceed 60 percent of the allowable height limit for the zoning district unless the accessory structure conforms to principal structure setback requirements. The RR district has a 20-foot interior side yard setback requirement; accessory structures may be located within three feet of a side lot line if located on the rear half of the property. The front yard setback is 30 feet. The UZC parking standards require one off-street parking space per single-family residence and one per accessory apartment. The submitted site plan appears to conform to UZC requirements. The plan depicts a 20-foot wide driveway, which meets fire department standards.

**CASE HISTORY:** The RR zoning was applied to the property when the County adopted countywide zoning in 1985.

**ADJACENT ZONING AND LAND USE:**

NORTH: RR farmland, single-family residence  
SOUTH: RR single-family residence  
EAST: RR farmland  
WEST: RR farmland

**PUBLIC SERVICES:** The property utilizes a lagoon and on-site water well. South 167<sup>th</sup> Street West is an unpaved section line road with 50 feet of full right-of-way.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide map depicts this site as a rural area. Rural areas are land located outside of urban growth areas and permits uses that are no more offensive than those agricultural uses commonly found in Sedgwick County.

**RECOMMENDATION:** The surrounding area is overwhelmingly rural with large tracts of farmland/farmsteads or large-lot single-family residences. The application area has 20 acres which is more than enough room to accommodate the accessory apartment and the existing principal structure. Existing tree growth on the site screens the accessory apartment from neighboring properties. Based on information available prior to the public hearings, planning staff recommends that the request be **APPROVED**, subject to the following conditions:

1. The Conditional Use permits one single-family accessory apartment on the site. The site shall be developed and maintained in general conformance with the approved site plan and in conformance with all applicable regulations, including but not limited to: local zoning, including Article III, Section III-D.6 .a.(1)-(4); building, fire and utility regulations or codes.
2. The applicant shall submit an elevation drawing to be approved by planning staff, demonstrating compliance with the requirement that the accessory apartment's exterior share architectural compatibility with the principal structure.
3. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VII hereof, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All properties abutting or adjoining the application area are zoned RR. The property immediately north (21 acres) of the site is farmland. A single-family residence is located five acres farther to the north. Property east of the site, across South 167<sup>th</sup> Street West is 160 acres of farmland plus two residences. Land to the south (11.6 acres) is developed with a single-family residence. Land to the west is 85 acres of farmland.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned RR which permits primarily agricultural uses and large-lot single-family residences. The property could continue to be used for one single-family residence; however, the size of the property easily accommodates an accessory apartment and the additional required parking space.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request should not detrimentally impact nearby properties. The accessory apartment site is well screened from neighboring lots. The conditions of approval should minimize any anticipated detrimental impacts.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide map depicts this site as a rural area. Rural areas are land located outside of urban growth areas and permits uses that are no more offensive than those agricultural uses commonly found in Sedgwick County.

5. Impact of the proposed development on community facilities: No significant impacts have been identified since the site will use on-site services and the addition of one home will not generate enough traffic to impact the section line road.

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

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

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

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8. **Case No.: CON2015-00007** - Duloherly Family Revocable Trust (owner) Abdallah Faleh Alashqar (applicant) Joe Allen Lang (agent) request a City Conditional Use permit for vehicle sales on LC Limited Commercial zoned property on property described as:

Lots 1 and 2, Duloherly Addition to Wichita, Sedgwick County, Kansas.

**BACKGROUND:** The applicant is requesting a Conditional Use to allow cars, light trucks and motor scooter/motorcycle sales on the LC Limited Commercial (LC) zoned Lots 1 and 2, Duloherly Addition. Per the Unified Zoning Code (UZC), outdoor vehicle and equipment sales may be permitted with a Conditional Use in the LC zoning district. The site is located at the southwest corner of Central Avenue and Hoover Road. The north half of the site (lot 1) is currently a vacant car repair shop (built 1957 and 1983) with a four-bay door garage/office. The south half of the site (Lot 2) is not developed. The applicant proposes to retain the site's limited vehicle repair garage (which is currently vacant), which is permitted by right.

Development located north and northeast of the site, across Hoover Road and Central Avenue, include a LC zoned small commercial strip containing a drinking and eating establishment (DER) and retail (built in 1969) and a small free-standing restaurant (built in 1969). There is also a GC General Commercial (GC) zoned car sales lot and auto repair garage (built in the early 1950s) located directly north of the site across Central Avenue; CON2006-00004, CON2006-00060, ZON2013-00030. A GC zoned vacant self-service car wash (BZA 26-81, use exception) abuts the north side of the car sales lot. East of the site, across Hoover Road, there are a LC zoned Goodwill store (built 1996), undeveloped land, and a small commercial strip (built 2000). Also located east of the site are LC and TF-3 Two-Family Residential (TF-3) zoned single-family residences (built 1940s – 1950s). A LC and TF-3 zoned Fire and Police station (built 1964 and 1991) is located two blocks east of the site. A LC zoned single-family residence (built 1945) abuts the south side of the site, with LC and TF-3 zoned duplexes (built 2009) and SF-5 Single-Family Residential (SF-5) zoned single-family residences (built 1940s) located further south. Abutting the west side of the site is the Central Avenue – I-235 interchange.

This portion of Central Avenue, from West Street to the Central Avenue - I-235 interchange, is almost striped out with LC zoning supporting a mixture of small free standing retail, small retail strips, a few offices, limited vehicle repair garages and some DERs and restaurants. All of these nonresidential developments are local commercial type of uses. There is one other car sale lots on this portion of Central Avenue and it is located across Central Avenue for the subject site. The other nearest car sales lots appears to be the Saturn dealership located at Central and Tyler Road, another two dealerships located on West Street between Douglas Avenue and 3<sup>rd</sup> Street and a recently approved car sales lot, CON2014-00034, located west of the Central Avenue – Zoo Boulevard intersection.

The applicant has provided a site plan that shows the existing garage/office, the two existing drives onto Central Avenue (proposed to be blocked off), two drives onto Hoover Road, and proposed parking (9-foot x 10-foot?) and display areas. All of the car sales use is contained on Lot 1. If approved, the applicant needs to provide a revised site plan giving more detail to show, but not limited to: that the site can meet the parking requirements for the garage and car sales business; railing for a barrier along the street right-of-ways and separating Lot 1 from the undeveloped Lot 2; show onsite vehicular circulation; show any other proposed lighting, and solid screening around any trash receptacles. Lot 1, where the car sales is initially proposed to be located is almost entirely paved and as such there appears to be little opportunity for landscaping. The applicant still needs to show existing plants/landscaping on Lot 1, which will probably be confined to City tree's located in the right-of-way. The applicant proposes to eventually expand onto the south undeveloped LC zoned Lot 2, where landscaping is possible and as such the applicant will need to submit a Phase II site plan showing, but not limited to landscaping per the "Landscape Ordinance."

**CASE HISTORY:** The site is platted as Lots 1 and 2, Dulohery Addition, which was recorded with the Register of Deeds March 24, 1983. The site was annexed into the city sometime between 1951–1960.

**ADJACENT ZONING AND LAND USE:**

NORTH: GC, LC	Car sales and car repair, vacant self-service car wash, commercial strip building, small free standing restaurant
SOUTH: LC, SF-5, TF-3	Single-family residences, duplexes
EAST: LC, TF-3	Goodwill store, commercial strip building, undeveloped land, single-family Residences, Police – Fire Station
WEST:	Public right-of-way Central Avenue – I-235 interchange

**PUBLIC SERVICES:** The subject property has access to Central Avenue, a five-lane arterial street and Hoover Street, a paved two-lane residential street. The west side of the site abuts the Central Avenue – I-235 interchange. I-235 is a four-lane freeway. The "2030 Transportation Plan" estimates that traffic volumes at this location will increase to approximately 45,000–46,000 vehicles per day. The "2030 Transportation Plan" indicates improvements for the Central Avenue – I-235 interchange and a KDOT concept study reaffirms this interchange as a candidate for improvements. Municipal water and sewer services and all other utilities are currently provided to the subject property.

**CONFORMANCE TO PLANS/POLICIES:** The "2030 Wichita Functional Land Use Guide of the Comprehensive Plan" identifies this site as appropriate for "local commercial" types of use. Medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants, personal service facilities and on a limited basis mini-storage warehouse and light manufacturing are examples of local commercial uses. All of these uses would be on a scale that would not have a significant regional draw. The UZC allows consideration of outdoor car sales on LC zoned lots as a Conditional Use on a site by site basis.

The "Commercial Locational Guidelines of the Comprehensive Plan" recommends that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The site has direct access onto Central Avenue, a five-lane arterial; however, the Traffic Engineer has advised that the two drives

onto Central should be closed. The conditions attached to a Conditional Use can address site design issues. The “Commercial Locational Guidelines” also recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg Avenue and Broadway Avenue, or other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities. As mentioned the closest car sales lot is located directly north of the subject site across Central Avenue.

In the past the MAPC has identified smaller car sales lots as being more of a local commercial establishment in their nature, as opposed to the cluster of larger car sales lots located primarily along Kellogg Avenue and Broadway Avenue, which are more regional in their clientele draw. The MAPC has also recommended that buildings that had in the past been used for automobile activities, such as vehicle repair garages, be considered as possible sites for car sales. The applicant’s proposal to continue to use the site/building for limited auto repair, while adding the car sales on the site conforms with what the MAPC has recommended for this type of site/use in the past.

**RECOMMENDATION:** The site conforms with the MAPC’s past recommendations of locating smaller car sales lots within sites that had previously been used or continue to be used for auto related businesses. In this case, the applicant proposes to retain the permitted by right limited vehicle repair garage, while operating a car sales lot on the same site. The proposed Conditional Use could bring improvements to the site that will include additional landscaping of the site and conforming to the current access control standards. The subject site and the other car sales/repair garage located north of the site, across Central Avenue, have unique locations for this portion of Central Avenue, in their immediate proximity to the I-235 – Central interchange and that they have other existing LC zoned development between them and the nearest residential development.

Based on the information available prior to the public hearing, MAPD staff recommends the application be **APPROVED**, with the following conditions:

1. In addition to uses permitted by right in the LC Limited Commercial district, the site shall be limited to the sales of cars, light trucks and motorcycles or scooters (car sales). No sale or rental of trailers, vehicles or trucks larger than pick ups are permitted.
2. The car sales lot is confined to Lot 1, Duloherly Addition. A parking barrier, such as a heavy rail type, shall be installed along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public right-of-way. The rail barrier shall also run along the including the south portion of Lot 1 where it abuts Lot 2, Duloherly Addition. The rail barrier must be put prior to the commencement of car sales.
3. No car sales or parking of vehicles on Lot 2, Duloherly Addition until it is paved and landscaping is install per an improved landscape plan and a site plan. Landscaping, per the “Landscape Ordinance,” shall be installed prior to any paving of Lot 2, Duloherly Addition.
4. Any automotive service or repair work conducted on the site shall be entirely within a building. No body or fender work shall be permitted without first obtaining GC General Commercial zoning.

5. The applicant shall submit a revised site plan for review and approval by the Planning Director, prior to the selling of any cars or light trucks, within 45 days of approval by the MAPC or the City Council. The site plan will include, but not be limited to, internal circulation that will remain open at all time and confirms the site meets the parking standards for both the approved car sales lot and the existing vehicle repair, limited garage. The site will be developed according to the revised site plan. No car sales until the revised site plan is approved.
6. No temporary display signs are permitted, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons. All other signage will be per the "LC" zoning district.
7. There shall be no use of elevated platforms for the display of vehicles. All parking areas, areas where vehicles are displayed for sale, or where vehicles are waiting for repair must be on a concrete, asphalt or an approved all weather surface.
8. No outdoor amplification system shall be permitted.
9. No outside storage of salvaged vehicles or vehicles waiting for repair shall be permitted in association with this use. Outside storage of parts, including tires, associated with the car repair, limited, operation shall be within a 6-foot solid screened area.
10. The lighting standards of Section IV-B.4 of the Unified Zoning Code shall be complied with. No string-type lighting shall be permitted. Outside pole lighting shall be no taller than 14-feet and directed onto the site and away from the residential development north and east of the site.
11. All trash receptacles, oil containers or any similar type of receptacles for new or used petroleum products or trash shall have solid 6-foot screening around it. The gate shall be of similar materials as the screening.
12. Dedication by separate instrument of access control closing the two entrances onto Central Avenue. The applicant shall guarantee the closure of all but the approved entrances according to City standards.
13. No selling of cars shall be allowed until all permits have been acquired and all improvements to the site have been made.
14. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
15. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

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

1. The zoning, uses and character of the neighborhood: Development located north and northeast of the site, across Hoover Road and Central Avenue, include a LC zoned small commercial strip containing a drinking and eating establishment (DER) and retail (built in 1969) and a small free-standing restaurant (built in 1969). There is also a GC General Commercial (GC) zoned car sales lot and auto repair garage (built in the early 1950s); CON2006-00004, CON2006-00060, ZON2013-00030. A GC zoned vacant self-service car wash (BZA 26-81, use exception) abuts the north side of the car sales lot. East of the site, across Hoover Road, there are a LC zoned Goodwill store (built 1996), undeveloped land, and a small commercial strip (built 2000). LC and TF-3 Two-Family Residential (TF-3) zoned single-family residences (built 1940s – 1950s) are also located east of the site. A LC and TF-3 zoned Fire and Police station (built 1964 and 1991) is located two blocks east of the site. A LC zoned single-family residence (built 1945) abuts the south side of the site, with LC and TF-3 zoned duplexes (built 2009) and SF-5 Single-Family Residential (SF-5) zoned single-family residences (built 1940s) located further south. Abutting the west side of the site is the Central Avenue – I-235 interchange.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned LC. The property is suitable for the commercial uses to which it has been restricted, including its current use as vehicle repair, limited.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Vehicle sales on a site this size when developed with the Conditional Use, will have a minimum of negative effect on the area and at best improve the property, with the application of additional access control, landscaping, screening and the other conditions on the site.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Commercial Locational Guidelines recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg, and other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities. There is a car sales lot with a vehicle repair garage located directly north of the site, across Central Avenue. A Conditional Use for a car sales lot on this site conforms to the MAPC's past recommendation in regards to locating small car sales lots on sites that had previously been used or are still being used for car related businesses. There is no adopted neighborhood plan that would specifically discourage a car sales lot on this site. The Conditional Use conditions do represent an opportunity for encouraging investment and upgrading the property while allowing the applicant the opportunity to expand his business opportunities.
5. Impact on Community Facilities: All public facilities are available. Existing road facilities are adequate. Additional access control onto Central Avenue is an improvement to the area.

**BILL LONGNECKER**, Planning Staff presented the Staff Report. He referred to the revised site plan as a handout. He said the DAB deferred the application until the April 6, 2015 meeting. He said a couple of changes were made to the conditions at the DAB meeting including page 4, condition 1 - to eliminate the last sentence of the condition; Condition 6 – the applicant asked if they can have balloons which staff is okay with; Condition 9 – no outside storage, eliminate vehicles awaiting repairs since the

site plan will address where vehicles awaiting repairs may be parked; Condition 2 – staff asked for a rail barrier but the applicant is asking for posts with a heavy wire to insure vehicles can't go in and out of the site from the undeveloped portion; Condition 3 – any expansion will require a site plan and since the site is totally concrete, there is no room for landscaping. He concluded by stating that he has had no protests on this application.

**MILLER** asked isn't the site too close to Mid-Continent to allow balloons that might break loose and get into the flight pattern.

**LONGNECKER** admitted that was not something he had thought about, he just used standard language. He said if the Planning Commission wants to eliminate that provision, he has no problem with that.

**JOE ALLEN LANG, 2513 GREEN MEADOW CIRCLE, WICHITA, KANSAS** agent for the applicant and attorney for **ADAM'S AUTO SALES, LLC** operators of the business. He also mentioned that the property owner was present to answer any questions. He said they are in agreement with staff's recommendations and do not see major problems with slight modifications. He said the applicants will be selling high quality used vehicles and are already doing vehicle repair on the site by right as LC.

**DENNIS** asked if balloons were eliminated would the applicant be okay with that.

**LANG** responded yes.

**DAILEY** asked about the size of the dumpster and whether it was a roller or if a truck needed to empty it.

**LANG** said the applicant has not decided on the size of the dumpster.

**AHDALLAH FALEH ALASHQAR, 8937 E. FUNSTON, APPLICANT** said they have not decided on the dumpster size but would follow what the Planning Commission required.

There was discussion regarding relocating the dumpster to make it more accessible to the trash company.

**DAILEY** said he had been by the site which was full of cars and asked about customer parking.

**ALASHQAR** said they are not selling cars yet but are repairing cars at the location. He said cars will be moved for customer parking once they are open for business. He said they have to transfer their dealer's license from the previous location.

**DENNIS** clarified that the applicant/agent agreed with all the changes to the conditions made by staff at the meeting.

**WARREN** asked about amending the motion to include use of balloons at the site.

The motion maker and second agreed to the amendment.

**LONGNECKER** pointed out that allowing balloons was part of the “Supplemental Use Regulations” and would require City Council approval.

**LANG** said if balloons are an issue they don’t need to go to Council.

**MOTION:** To approve subject to staff recommendation as amended at this meeting.

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

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Other Matters/Adjournment

The Metropolitan Area Planning Commission adjourned at 3:00 p.m.

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

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

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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

(SEAL)