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

**Thursday, May 7, 2015**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission will be held on **Thursday, May 7, 2015**, beginning at **1:30 PM** in the Planning Department Conference Room City Hall - 10<sup>th</sup> Floor, 455 N. Main Street, Wichita, Kansas. **If you have any questions regarding the meeting or items on this agenda, please call the Wichita-Sedgwick County Metropolitan Area Planning Department at 316.268.4421.**

1. Approval of the prior MAPC meeting minutes:

*Meeting Date: March 19, 2015 and April 2, 2015*

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

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

- 2-1. **SUB2014-00022: Final Plat – SIENA LAKES ADDITION**, located on the south side of 37th Street North, west of Hoover.

*Committee Action: APPROVED 3-0*  
*Surveyor: Ruggles & Bohm, P.A.*  
*Acreage: 37.3*  
*Total Lots: 119*

- 2-2. **SUB2015-00004: Final Plat – SUPERIOR SELF STORAGE ADDITION**, located west of Hoover Road, North of 21st Street North.

*Committee Action: APPROVED 3-0*  
*Surveyor: Ruggles & Bohm, P.A.*  
*Acreage: 5.04*  
*Total Lots: 1*

- 2-3. **SUB2015-00009: One-Step Final Plat – FARMERS OIL ADDITION**, located on the east side of Broadway, South of 117th Street North.

*Committee Action: APPROVED 5-0*  
*Surveyor: Abbott Land Survey, P.A.*  
*Acreage: 11.1*  
*Total Lots: 1*

- 2-4. **SUB2015-00012: One-Step Final Plat – FALCON FALLS 6TH ADDITION**, located on the north side of 45th Street North, on the west side of Hillside.

*Committee Action: APPROVED 3-0*  
*Surveyor: Baughman Company, P.A.*  
*Acreage: 16.70*  
*Total Lots: 43*

- 2-5. **SUB2015-00014: One-Step Final Plat – WASINGER ADDITION**, located on the west side of Webb Road, South of Harry.

*Committee Action: APPROVED 3-0*  
*Surveyor: Savoy Company, P.A.*  
*Acreage: .88*  
*Total Lots: 1*

**3. PUBLIC HEARING – VACATION ITEMS**

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

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

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

- 3-1. VAC2015-00010: City request to vacate a portion of a platted front setbacks on properties,** generally located west of the Big Ditch, south of Central Avenue and west of the Wayside Lane intersections of Newell Street and Frazier Avenue.

*Committee Action:       APPROVED 2-0*

- 3-2. VAC2015-00011: City request to vacate a platted utility easement on property,** generally located on the east side of Hydraulic Avenue and north of Central Avenue.

*Committee Action:       APPROVED 2-0*

- 3-3. VAC2015-00012: City request to vacate platted complete access control on property,** generally located southwest of Sheridan and Central Avenues and east of the intersection of Westridge Drive and Donna Avenue.

*Committee Action:       APPROVED 2-0*

- 3-4. VAC2015-00014: City request to vacate the south half of the Mead Avenue public street right-of-way,** generally located between Barwise and Mosley Avenues and north of 13th Street North.

*Committee Action:       APPROVED 3-0*

**PUBLIC HEARINGS**

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

- 4.** Case No.:               ZON2015-00016  
Request:                County request for rezoning from RR Rural Residential to LI Limited Industrial.  
General Location:    One-third mile south of 117th Street North on the east side of Broadway Avenue (11402 N. Broadway Ave.).  
Presenting Planner:  Kathy Morgan
- 5.** Case No.:               CON2015-00014  
Request:                City Conditional Use request to allow alcohol sales within 300 feet of a park (Naftzger Park).  
General Location:    East of St. Francis Street on the north side of East Douglas Avenue (630 E. Douglas Ave.).  
Presenting Planner:  Bill Longnecker
- 6.** Case No.:               PUD2015-00003  
Request:                City zone change request to consolidate the zoning on the subject property and to permit the expansion of the principle use.  
General Location:    One-half mile north of Harry Street and one-quarter mile east of Hillside Street (between Clifton Street and Bluff Street, and Morris Street and Zimmerly Street).  
Presenting Planner:  Dale Miller

**NON-PUBLIC HEARING ITEMS**

7. Other Matters/Adjournment

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

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

### **SUBDIVISION COMMITTEE'S RECOMMENDED ACTION**

The Subdivision Committee recommends approval subject to the following conditions:

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

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

**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 127<sup>th</sup> 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 127<sup>th</sup> 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 Home Owners 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 their 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 platlor'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).

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 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.

#### **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 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.

**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).

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.
7. **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).

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-square 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 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.

**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 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.
- (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 car ports 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.

**DALE MILLER**, 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 storm water extension up into it. He said they will need to do some type of on-site storm water 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 dwelling 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 **COMMISSION 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).

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 located 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).

8. **Case No.: CON2015-00007** - Dulohery 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, Dulohery 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, Dulohery 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 client 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, Dulohery 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, Dulohery 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, Dulohery 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, Dulohery 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 hand out. 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)

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

**MINUTES**

**April 2, 2015**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, April 2, 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: Matt Goolsby, Chair (Out @3:00 p.m.); Carol Neugent, Vice Chair; John Dailey; David Foster; Bill Johnson; Joe Johnson; Don Klausmeyer; John McKay Jr. (Out @2:55 p.m.); Bill Ramsey; Lowell E. Richardson; Debra Miller Stevens and Chuck Warren. David Dennis and Don Sherman were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Jeff Vanzandt, Assistant City Attorney; Robert Parnacott, Assistant County Counselor and Maryann Crockett, Recording Secretary

1. There were no minutes to approve.

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

2-1. **SUB2015-00007: One Step Final Plat – RUSTIC TIMBERS ADDITION**, located on the south side of 63rd Street South, West of 247th Street West.

NOTE: This site is located in the County in an area designated as “rural” by the Wichita-Sedgwick County Comprehensive Plan. The site has been approved for a zone change (PUD2014-00003) from RR Rural Residential to PUD Planned Unit Development.

STAFF COMMENTS:

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact Metropolitan Area Building and Construction Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval. A restrictive covenant is required that prohibits non-domestic wastes on the site until public sewer is available.
- B. The site is currently located within the Sedgwick County Rural Water District No. 4. If service is available, feasible and the property is eligible for service, Metropolitan Area Building and Construction Department recommends connection.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. County Public Works has approved the drainage plan. The applicant is advised that any development that disturbs more than one acre will require a Notice of Intent from the state and a Stormwater Permit. New structures built after March 31, 2015 shall meet a minimum pad elevation of 1314.
- E. County Surveying advises that the plat needs to show an onsite benchmark.
- F. Metropolitan Area Building and Construction Department requests the Floodzone “A” be labelled as “Floodway Reserve”. A base flood elevation is needed.

- G. Provisions shall be made for ownership and maintenance of the proposed floodway reserve. A restrictive covenant shall be submitted regarding ownership and maintenance responsibilities. The covenant shall grant to the appropriate governing body the authority to maintain the floodway reserve in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- H. The standard floodway language is needed in the plat's text: "FEMA floodplain and regulatory floodway boundaries are subject to periodic change and such change may affect the intended land use within the subdivision.
- I. Access controls needs to be platted along 63<sup>rd</sup> Street South. County Public Works has approved one opening along 63<sup>rd</sup> Street South. The final plat tracing shall reference the dedication of access controls in the plat's text.
- J. The solid bold line should encompass only the plat boundaries.
- K. The landscape barrier line shall be relabeled as a "landscape buffer" and encompass the entire perimeter of the site.
- L. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineers (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- M. A PUD Certificate shall be submitted to MAPD prior to the Board of County Commissioners meeting, identifying the approved PUD and its special conditions for development on this property.
- N. County Surveying advises that she is working with the plat surveyor on the plat boundary. The Subdivision Committee has required submittal of a revised plat showing new property boundaries prior to MAPC consideration.
- O. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.
- P. The platting binder indicates a party holding a mortgage on the site. This party's name must be included as a signatory on the plat, or else documentation provided indicating that such mortgage has been released.
- Q. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to [tricia.robello@sedgwick.gov](mailto:tricia.robello@sedgwick.gov) and [nstrahl@wichita.gov](mailto:nstrahl@wichita.gov).

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

**NEIL STRAHL**, Planning Staff presented the Staff Report. He reported that there were two issues discussed at plat review, one was a boundary line dispute on the west property line and the other was the landscape buffer. He referred Commissioners to Item N. in the Staff Report which referred to the boundary line issue. He explained that the property owners and the neighbor to the west both have deeds with an overlapping portion of land approximately 10 feet wide. He said the applicant's agent said the land would be platted to exclude the land in dispute. He said staff has received a revised plat with the disputed land excluded from it. He said the County Surveyor has also reviewed the revised plat and verified that the legal description is accurate. He said in reference to Item K. in the Staff Report

regarding the landscape buffer around property, he said the PUD zone change was approved with a 50-foot buffer around the perimeter of the property. He said the plat has also been revised to show the 50-foot buffer around the property, with the exception of the right-of-way in accordance with the approved PUD. He said staff feels the items have been addressed with the revised plat.

**DAILEY** clarified that it was okay to leave the rock driveway in the landscape buffer.

**STRAHL** said yes, that will be allowed.

**CHAD ABBOTT, 520 SOUTH HOLLAND, ABBOTT LAND SURVEY, AGENT FOR THE APPLICANT** said they are in agreement with staff comments. He said the plat was revised to exclude the disputed 10 feet of property to the west that overlaps. He briefly reviewed the land in dispute on the aerial photograph.

**AARON PAULY, 25717 WEST 63<sup>RD</sup> STREET SOUTH** said he wanted to thank the Planning Commission for taking their time and doing their due diligence on this matter especially the part regarding the rules and regulations that were put in place to protect property owners were being followed. He said because of the property line shift the landscape buffer now incorporates the driveway. He asked what is the point of a buffer if you have a road running through it. He said the buffer also includes some of the parking lot. He sees nothing on the new plat that addresses additional parking or a new driveway. He said they have received no clarification on the size and type of trees to be planted. He said he should be able to enjoy every square inch of his property because he is the senior deed holder. He said the trees are all located on his side and he should have a buffer shielding him from any activities that go on next door. He asked who is going to enforce this. He said they continue to get the "run around" and he feels someone needs to stand up and be accountable to see that the rules and regulations set up by the governing bodies are followed. He said he hopes the stink that the neighbors have caused about this project will protect some citizen down the road so that checks and balances are put in place to protect them. He said this is their home and some of them have been there 40 years. He thanked the Commission for what they have done and taking the neighbors seriously.

**ABBOTT** acknowledged that the landscape buffer moved the entrance and the parking over a little. He said the driveway was existing so it is a PUD issue and no language prohibited the driveway from being located within the landscape buffer.

**FOSTER** commented that he feels the landscape buffer has been compromised. He asked if the existing vegetation meets the intent to provide landscape buffering between the use and the neighbors.

**ABBOTT** said no requirement for additional plantings was imposed on the applicant during the PUD process. He said the landscape buffer's purpose is twofold because it is acting like a secondary building setback because the applicant cannot build in that area and it is also meant to protect the existing trees and provide insulation between the neighbor's property and this one.

**FOSTER** suggested that if the applicant wanted to be a good neighbor they could plant Taylor Junipers or Upright English Oaks and fill in any gaps in the landscape buffer.

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

MCKAY moved, B. JOHNSON seconded the motion, and it carried (12-0).

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**3. PUBLIC HEARING – VACATION ITEMS**

There were no vacation items.

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**PUBLIC HEARING**

4. **Case No.: ZON2015-00012 and CON2015-00010** – Estate of Verna E. Cornwell, Kenneth E. Cornwell and David Cornwell co-executors (owners) and Ruggles & Bohm, PA (agent) request a City zone change from SF-5 Single-family Residential to LC Limited Commercial and City request for a Conditional Use for a self-storage warehouse on SF-5 Single-family Residential zoning on property described as:

A tract beginning 545 feet West of the Southeast corner of the Southeast Quarter; thence North 425 feet; thence West 600 feet; thence South 425 feet; thence East to the point of beginning Section 34, Township 26, Range 1 West of the 6<sup>th</sup> P.M., Sedgwick County, Kansas.

**BACKGROUND:** The applicants are requesting a zone change from SF-5 Single-Family Residential to LC Limited Commercial for 4.94 acres of a 5.5 acre unplatted parcel, located west of North Hover Road on the north side of West 29<sup>th</sup> Street North. In 1958, Sedgwick County zoned the four corners of the intersection to LC in anticipation of commercial development. The east portion of the parcel, approximately 0.45 acres, currently zoned LC, was part of that rezoning. In addition to the requested zone change to LC, the applicants have submitted a request for a conditional use to allow warehouse/self-storage on the site (CON2015-10).

The applicants have submitted a site plan of the proposed building layout, internal vehicle circulation and the access onto West 29<sup>th</sup> Street North will be reviewed and approved during platting should ZON2015-00012 and CON2015-00010 be approved. Upon approval of ZON2015-12 and the subsequent CON2015-10, the applicants will be required to file and perfect a plat within one year and provide a revised site plan giving more detail including, but not limited to, landscaping, any proposed light poles and identification of customer and employee parking.

Property north of the site is currently going through the process of rezoning to LI Limited Industrial and re-platting for use as wrecking and salvage (ZON2014-03, CON2014-001 and SUB2014-42). The Metropolitan Area Planning Commission (MAPC) has approved the zone changes subject to final platting. SUB2014-00042 is scheduled for Wichita City Council on March 24, 2015. Property east of the site is zoned LC and currently has a single family residence. The SF-20 zoned property west of the site with a condition use to allow for sand and gravel extraction (CU-242). South of the site is Barefoot Bay Subdivision, which is developed with single-family residences.

**CASE HISTORY:** This zone change application has been filed to change current zoning (SF-5) to LC. LC zoning allows warehouse/self-storage facilities with approval of CON2015-10. The land is currently undeveloped.

**ADJACENT ZONING AND LAND USE:**

NORTH: SF-5 Single-Family Residential; currently being re-platted to LI for wrecking and salvage use.  
SOUTH: SF-5 Single-family residences  
EAST: LC Limited Commercial; currently developed with single-family residence  
WEST: SF-20 County single-family; has a conditional use to allow warehousing CU-242

**PUBLIC SERVICES:** The subject property has immediate access to West 29<sup>th</sup> Street North and North Hoover Road is approximately 600 feet east of the subject site. Both streets are two-lane arterial streets. 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 “Urban Residential;” however, the abutting properties are zoned LC and recently rezoned LI. 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 conditions attached to a Conditional Use can address site design issues. The proposed use would be a low traffic generator at this location.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the proposed zone change and conditional use for warehouse/self-storage be **APPROVED**, subject to Sec. III-D.6.y and the following conditions:

- 1) The zone change and conditional use will not be final until the property is platted according to the Subdivision Regulations of the UZC.
- 2) Obtain all permits and inspection as required by the Metropolitan Area Building and Construction Department. All development will subject to platting and be per City Code including landscaping, code compliance and any other applicable standards.
- 3) The applicant shall submit a revised site plan for review and approval by the Planning Director, prior to the issuance of a building permit, per City Standards, within one year of approval by the MAPC or the City Council. The site will be developed according to the revised site plan.
- 4) All improvements shall be completed within one year of the approval of the Conditional Use by the MAPC or the City Council.
- 5) The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- 6) 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:** Property north of the site is awaiting final plat approval by the City Council for LI wrecking and salvage use. Property south of the site is zoned LC Limited Commercial ("LC") and developed with a warehouse/retail use. Property east of the site is zoned LI Limited Industrial ("LI") and is developed with a miscellaneous manufacturing use. West of the site, the property is zoned SF-20 and has a conditional use (CU-242) for warehouse use.
2. **The suitability of the subject property for the uses to which it has been restricted:** The east  $\pm$  0.45 acres of the subject property is already zoned LC. The owners of the subject property have submitted a conditional use application for the warehouse/self-storage commercial use. The property would be suitable for the commercial uses to which it has been restricted.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Warehouse/self-storage developed with the Conditional Use, will have a minimum negative effect on the area and at best improve the property, with the application of 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 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 conditions attached to a Conditional Use can address site design issues and should mitigate any potential negative effects on surrounding properties.
5. **Impact on Community Facilities:** All public facilities are available and existing road facilities are adequate. Any increased demand on community facilities can be handled by current infrastructure

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

**CHRIS BOHM, RUGGLES & BOHM, 924 N. MAIN STREET, AGENT FOR THE APPLICANT** reported that the architect, Jim Albertson, was also present to speak on the application. He explained that this was an application for self-storage or mini-storage where people would rent a garage space for personal storage. He referred to the site plan which they feel gives good circulation. He mentioned the north boundary line which will serve as a fence between this use and the future LI salvage operation to the north. He said the idea of establishing a PUD was discussed with staff; however, requesting LC with a conditional use provides a whole set of rules for the self-storage that already exists with the conditional use. He said there will also be landscape buffers along 29<sup>th</sup> Street to help buffer the use from residential uses to the south. He said given the locations close proximity to the industrial use to the north, they felt this was a good transitional use in the area, particularly because the corner is already zoned LC and additional LC could be developed further to the east of the location. He referred to Jim Albertson to discuss the lay out plan.

**J. JOHNSON** asked about use on the right side of the property.

**BOHM** said that is reserved for future development of additional storage units.

**FOSTER** asked about the southeast corner of the property and the zoning to the east.

**BOHM** said the southeast corner is a platted reserve for storm water retention. He said the area to the east of the site is zoned LC but is being used as residential.

**FOSTER** commented so technically no buffer is required along the east side of the property.

**BOHM** replied technically no.

**DAILEY** asked what was the buffer between the buildings and 29<sup>th</sup> Street.

**BOHM** suggested that the architect Jim Albertson answer that question.

**JIM ALBERTSON, ALBERTSON AND ASSOCIATES ARCHITECTS** said the buffer is intended to be a bermed area of grass, trees and shrubbery not unlike a golf course entrance. He said on the north side there will be brick/stone pillars with wrought iron fencing. He said the intent is to blend the architecture with homes to the south side of the street and provide a visual barrier for cars to minimize the views of the self-storage.

**JOSEPH POGGI, 6011 WEST 29<sup>TH</sup> STREET NORTH** indicated he lived south of 29<sup>th</sup> Street. He said this used to be a dirt road, there were abandoned properties with cars on them in the area and they were told when they built in this location that they knew what they were getting into. He said there used to be a small home on the property in question with a garden that he used to help till. He said this was a nice, residential street with no businesses on it. He said he believes the zoning practice in 1958 of zoning 600 feet of all arterial intersections as LC was done when there were no houses in this area at all. He said the property owner has been trying to sell the property since the house burned down at over ten times fair market value for residential property. He said the Zillow Web site talks about the property being worth \$300,000 for five acres because it is across the street from \$1,000,000 homes. He said he doesn't think there are many \$1,000,000 homes across the street from a storage unit. He said regardless of the price of the homes, there are not many self-storage units in the middle of a residential street. He said there are no other businesses on the street and there are quite a few self-storage units nearby, one less than two miles away. He asked if there is a need for another self-storage business. He said if anyone wants to see what a self-storage unit can look like, drive by the one on Hoover Road. He said it is a car lot where people park their cars and trailers; there is garbage in the lot and trees that have never grown in the buffer. He said once this property is rezoned, it opens the floodgates for further devaluation of their property. He requested that the property be left residential. He mentioned that nine of the fourteen people who were mailed notices have signed protest petitions against the proposed zoning change. He mentioned another storage unit business close by. He said there is no shortage of areas that are already zoned industrial and commercial, but it seems property becomes cheaper because it is zoned residential. He asked about changing the zoning on a property to accommodate an individual's desire verses many individual's desires to keep their homes looking beautiful. He concluded by saying that there are plenty of other properties close by that are already zoned for commercial and industrial use.

**ANGIE BOWMAN, 2987 NORTH HOOVER ROAD** said she lives on the corner of 29<sup>th</sup> Street and Hoover Road. She said she has been collecting petitions. She mentioned the other storage businesses very close to the neighborhood. She said although the corner lots are already rezoned for limited commercial, she has a signed petition from the property owner who said they are not planning on moving and that their kids will live in the house after they are gone. She indicated that other surrounding property owners don't want the storage units and mentioned a conflict of interest in that the person selling the property is renting a home from one of the people she asked to sign a petition. She said she also got a petition from the owners of the junk yard to the north of the property. She said they have a problem with unmanned self-storage units. She mentioned break-ins in the area and people coming into the community to steal. She said this would be a whole bunch of buildings with "stuff" in them which would be an open invitation to thieves. She said that is one reason not to rezone the property. She concluded by asking the Commission to consider the homeowners that live around this property.

**DAILEY** asked if there were any units available in the storage businesses located nearby.

**BOWMAN** said she checked and there were units available for rent.

**DAVE CHAMPLEY, 2760 NORTH NORTH SHORE COURT, BAREFOOT BAY HOMEOWNERS ASSOCIATION, CHAIRMAN OF THE LAKE COMMITTEE** said Barefoot Bay is a 120-acre private lake surrounded by 52 homes. He said the impact of the Commission's decision is not just on the properties located immediately adjacent to the application site. He also mentioned possible environmental impact on the lake due to increased water runoff because of increased buildings and pavement. He said the lake has flooded twice in the last ten years and caused property damage. He said he is also concerned about potential pollutants in the water runoff. He said the terrain is such that any runoff will go into the lake. He said if they do not have the lake for recreational purposes that will kill their property values. He said he might go so far as to say that the loss in property values and property taxes on 52 homes might be greater than the property tax increases from commercial use.

**BRET GRIZZEL, 5937 WEST 29<sup>TH</sup> STREET** said he lives directly across the street from the location. He mentioned that his property taxes increased 40% last year. He said he visited with the owners on how to split up the land. He mentioned that he also signed a petition to protect this property from the proposed salvage yard to the north. He said the owners know this is not good for the local community. He said although he is uncomfortable speaking against what his friends want for financial reasons, he has no doubt in his heart that this is not what they would want if they were sitting in any of the adjoining lots.

**DAVID CORNWELL, 5618 WEST 29<sup>TH</sup> STREET NORTH, APPLICANT** said he wished that the neighbors that have spoken here today had been present for the salvage proposal on the north side of his property. He said there is approximately 15-20 acres of salvage yard next to the property and no one is going to put a new home next to a salvage yard. He said if this doesn't pass, no one is going to build on this land so they may as well make a dirt bike track out of it.

**FOSTER** asked Mr. Cornwell if any other items were brought up as potential uses.

**CORNWELL** said no, if this doesn't go he said he'll contact the dirt bike people and let them use 6 acres to play on.

**RAMSEY** asked if the property line with the salvage yard has been resolved.

**CORNWELL** said yes and explained that the mile sections are measured 425 feet from the center of 29<sup>th</sup> Street. He said they are talking about less than five acres.

**BROOK GRIZZEL, 5937 WEST 29<sup>TH</sup> STREET NORTH** said they know and have spoken with the neighbors and that they are very nice people. She said she and her husband work very hard, long hours to pay for their nice home on a lake and they would like to keep it that way. She said this property is zoned residential and there was a home on it. She referenced the Golden Rules which talks about the suitability of the property for uses to which it has been restricted and the relative gain to public health, safety and welfare compared to loss in value or hardship imposed on the applicant. She said the just under five acres is way over priced for what it is worth and that the neighbors have actually offered to buy the property to protect all of the property owners along this residential road as well as the 52 homeowners along the lake.

**FOSTER** mentioned transitional uses and asked Mrs. Grizzel if she would prefer multi-family or the proposed use.

**GRIZZEL** said she wouldn't prefer either of those uses. She mentioned the number of storage units nearby and also the storage units along Hoover Road and what an eyesore they are. She said the property can be used as a single home site just as it is now.

**LINDA STEPHEN, 6111 WEST 29<sup>TH</sup> STREET NORTH** said the city just paved the road and landscaped it with trees and it is just beautiful. She said she believes this will have an adverse effect on their properties. She said she doesn't think any of the Commissioners would want a storage unit located on a residential street. She also mentioned security and traffic and asked the Commission to take all that into consideration.

**DENNIS GRIZZEL, 6461 WEST 29<sup>TH</sup> STREET NORTH** said when someone purchases residential property they expect it to remain residential property. He said the neighbors watch out for each other in Barefoot Bay and across the street in Ridgeport. He said several petitions have been signed and he believes a lot more will be signed. He said his major concern is increased traffic and the hazard it will cause pulling out of his driveway; the safety of his grandchildren; and pollution in the area. He also mentioned that the storage units will bring more pollutants and more thievery into the area. He said this use brings non-residents into the area and it is already a problem with other storage units. He asked if the "protective berm" might become a fire hazard and who will maintain that. He said some storage units look like unused parking lots where people store things they don't want to store in front of their houses. He said he feels strongly that this will deteriorate property values and bring in people that they don't want hanging around the area.

**NANCY POGGI, 6011 WEST 29<sup>TH</sup> STREET NORTH** said she lives on the south side of 29<sup>th</sup> Street. She said when they moved into the area it was a sleepy little dirt road. She said she has four children all under the age of 11 and there are numerous other school age children and grandchildren living in the area. She mentioned that the school bus picks up children along Hoover Road. She said when the City

paved the road; they put the sidewalk on the north side of the street so children in the neighborhood have to cross the road without a designated cross walk. She said she is concerned that increased traffic will put the children at risk along with the unknown entities coming into this residential area. She said 86% of this property is zoned as residential. She asked the Commission to protect the interest that they have when they moved their children and families into the neighborhood. She said the neighbors don't want LC in this region. She said even the gentleman on the north property has signed the petition because he is concerned about theft in the area. She also mentioned a home being built/expanded in the northeast corner of the property. She said her primary concerns are the safety of her children and her neighbor's children, maintaining her home value and keeping the area residential.

**MCKAY** asked how far her home was from 29<sup>th</sup> Street.

**POGGI** indicated on the aerial the location of her home on the lot, closer to the water than 29<sup>th</sup> Street. She said her children play in the front yard and they are "faunching" at the bit to cross the street and use the sidewalk to visit their friends in Ridgeport.

**DAILEY** commented that she is worried about her children but has managed to keep them out of the lake, which he believes offers as much danger as the road.

**POGGI** said she disagreed that the lake was as dangerous as the road. She mentioned training the children receive regarding the lake, swimming lessons and parental supervision while they are at the lake. She said they can control the lake area; they cannot control the traffic on 29<sup>th</sup> Street.

**DAILEY** responded but you can control your kids.

**BOHM** mentioned environmental concerns expressed by the neighbors and said although drainage is not a zoning issue, it seems to come up at every zoning hearing. He said the storm sewer system along 29<sup>th</sup> Street drains all the way to the west and bypasses the pond. He said City of Wichita storm water regulations require detention of peak flow and water quality treatment of the storm sewer before it leaves the site. He said that issue will be resolved at platting. He said as far as traffic is concerned this is an arterial street that has a new interchange to the north at K-96 and is part of the City transportation system. He said it is a three-lane arterial road meant to handle traffic and was rebuilt for that very purpose. He said as far as landscaping and the berm he is having a hard time seeing where you could get a better use tucked into the area that is as low a traffic generator and quiet and fits into the neighborhood and gives a further buffer to the neighborhood from the industrial use to the north. He concluded by stating that infrastructure put into the City is for the purposes of development. He said this is considered in-fill and has been a single-family residence for some time next to LC zoning. He reminded the Commission that the owners on the corner could sell tomorrow and without any action from this body put in a commercial use.

**FOSTER** asked about traffic generation from this use and if it was below multi-family zoning.

**BOHM** referred the question to Mr. Albertson.

**ALBERTSON** said he had been involved in approximately 15 similar type projects across the west, southwest and Midwest. He said they look for in-fill type properties where they can become a buffer between whatever elements might be at a location and existing residential. He said he appreciates the viewpoints of the neighbors and would welcome the opportunity to visit with them.

**CHAIR GOOLSBY** said time has been exhausted and asked Mr. Albertson if he needed more time or was he going to answer Commissioner Foster's question.

**ALBERTSON** requested an additional minute.

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

**MCKAY** moved, **J. JOHNSON** seconded the motion, and it carried.

**ALBERTSON** said traffic generation is about 6-8 cars per day.

**FOSTER** asked about the type of fencing on the east, west and north sides of the property.

**ALBERTSON** said there is solid fencing on the north at this time. He said they would put up wrought iron fences between the buildings to the east area.

**FOSTER** asked if they would be averse to solid screen fencing.

**ALBERTSON** responded no, they would not be averse to solid screen fencing.

**RAMSEY** asked about the berm on the south side.

**ALBERTSON** said the berm will be between 0-3-5-6 feet with evergreen trees and shrubbery.

**RICHARDSON** asked if the facility was manned or unmanned.

**ALBERTSON** he said there will be a full security system with cameras all around the property. He said the conditional use provides that the facility be manned. He commented that he was surprised that the salvage yard objected to their usage. He said he does not believe there is a better buffer use, that this was a difficult site to develop because it had no sewer, it will be on a septic system.

**DAILEY** clarified that this will all be inside storage so there will be no cars or other vehicles outside. He also asked if each unit were alarmed.

**ALBERTSON** said each unit will not be alarmed, but it is all inside storage. He said there is a full security system and someone will be living on-site. He said this will not look like the storage units near Zoo Boulevard.

**MCKAY** recommended requiring a 4-6 foot berm.

**FOSTER** commented as a point of clarification with a 3-1 foot slope you can get a 5-foot berm.

**RICHARDSON** clarified that the land owner would not be able to use this conditional use for other purposes without reapplying and coming back to this body. He also asked about outside storage.

**MILLER** responded that if the base zoning is changed, the uses permitted by right in the LC district would be allowed. He said the conditional use for the self-storage would run with the land. He said the LC district does not allow any outside storage.

**RICHARDSON** asked if there was a summary on the number of petitions received and the percentage of landowners opposed to the zone change.

**MILLER** said no and indicated that owners within 350 feet of the property perimeter were notified of the zone change.

**DIRECTOR SCHLEGEL** clarified that protest petitions are due in after action by the Planning Commission and are not required for the public hearing.

**FOSTER** said he is concerned about other permitted uses in the LC zoning district. He said he doesn't have the zoning book with the permitted uses but believes there would be some that are more detrimental to the surrounding area.

**MILLER** mentioned multi-family, offices and most retail commercial activities. He said bars and taverns would require a conditional use approval and a public hearing and would not allowed by right in the LC zoning.

**MCKAY** (Out @2:55 p.m.)

**J. JOHNSON** said he didn't know how he was going to vote but mentioned the Comprehensive Plan indicating the area as being residential. He said when someone buys into a nice development it seems like they should be able to have some reliance on the Comprehensive Plan that it will be residential.

**RICHARDSON** asked about a PO that limits commercial uses to the storage facility.

**MILLER** said the Commission could add a condition under the conditional use or exclude whatever uses they didn't want.

**RICHARDSON** said he believes this is a valid transitional use.

**MILLER** said the Commission could have a condition that states that even though the property is zoned LC, the only use permitted is a self-service storage warehouse and uses in the SF-5 district.

**ALBERTSON** said he would need to confer with the owners but he believes they can accept that yes.

**RAMSEY** said he lives in Ridgeport and drives 29<sup>th</sup> Street every day and he is the only car on the road. He said he didn't know how he was going to vote on this issue. He said he agreed that the storage units on Hoover Road look bad because of the outside storage. He said with staff recommendations and other recommendations he doesn't see where the Commission has any other choice. He said he feels their pain and does not know if he wants this use.

**FOSTER** asked the agent if they prefer that the item be deferred until clarification can be made regarding limiting uses in the LC zoning.

**ALBERTSON** said he would prefer that the Commission vote today.

**FOSTER** said as long as the uses can be clarified because he feels that some type of restrictions is appropriate.

**ALBERTSON** said if the request will be defeated he would prefer deferral. He said he believes they have agreed to a condition for self-storage only which he believes solves the problem.

**MOTION:** To approve subject to staff recommendation with the requirement of a 4-5 foot berm on 29<sup>th</sup> Street; limit use to inside storage only and limit use to self-storage only.

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

**FOSTER** asked the agent if they were comfortable with the restrictions.

**ALBERTSON** replied yes.

The **MOTION** carried (11-0)

5. **Case No.: ZON2015-00013 and CUP2015-00005** - Cadillac Lake, LLC (applicant/owner) and PEC, c/o Charles Brown (agent) request a City zone change request from SF-20 Single-family Residential to LC Limited Commercial and City request for a commercial Community Unit Plan on property described as:

**COMMENCING** at the Northwest corner of the Northwest Quarter of Section 5, Township 27 South, Range 1 West of the 6<sup>th</sup> P.M.; Thence Bearing S89°43'05"E, along the North line of said Northwest Quarter, a distance of 152.50 feet; Thence Bearing S00°16'55"W, a distance of 75.00 feet to the **POINT OF BEGINNING**; Thence Bearing S46°30'50"W, a distance of 36.11 feet; Thence Bearing S02°44'45"W, a distance of 1,213.26 feet to a point on the South line of the North half of said Northwest Quarter, also being a point on the North line of Pearson Commercial Addition to Wichita, Sedgwick County, Kansas; Thence Bearing S89°51'03"E, along the South line of said North half, a distance of 353.24 feet; Thence Bearing N00°16'55"E, a distance of 76.00 feet; Thence Bearing N67°24'00"E, a distance of 87.74 feet; Thence Bearing S89°43'05"E, a distance of 170.00 feet; Thence Bearing N13°05'15"E, a distance of 181.00 feet; Thence Bearing N41°50'33"E, a distance of 285.00 feet; Thence Bearing S89°43'05"E, a distance of 66.00 feet; Thence Bearing N71°43'05"E, a distance of 120.00 feet; Thence Bearing N28°42'50"E, a distance of 238.00 feet; Thence Bearing N41°30'08"E, a distance of 200.00 feet; Thence Bearing N81°34'23"E, a distance of 523.89 feet; Thence Bearing N23°58'40"E, a distance of 197.00 feet; Thence Bearing N44°06'36"E, a distance of 130.00 feet; Thence Bearing N89°43'05"W, parallel with and 60.00 feet South of the North line of said Northwest Quarter a distance of 1,541.92 feet; Thence Bearing S81°45'05"W, a distance of 101.12 feet; Thence Bearing

N89°43'05"W, parallel with and 75.00 feet South of the North line of said Northwest Quarter, a distance of 225.00 feet to the **POINT OF BEGINNING**. (said tract of land containing 30.656 acres, more or less)

**CHAIR GOOLSBY** announced that the item has been deferred until the April 16, 2015 Planning Commission Hearing.

**GOOLSBY** (Out @3:00 p.m.)

Carol Neugent in the Chair.

6. **Case No.: CON2015-00009** – Thomas Deiling, owner/Adam and Nicole Pracht, agents request a County request for a Conditional Use for an Accessory Apartment on RR Rural Residential zoned property on property described as:

A tract of land described as the East 300 feet of the South 726 feet of the South half of the Southeast Quarter EXCEPT the South 40 feet for road, in Section 11, Township 28, Range 2 West of the 6<sup>th</sup> P.M., Sedgwick County, Kansas.

**BACKGROUND:** The applicant is requesting a Conditional Use for an accessory apartment to be built on the 2<sup>nd</sup> floor of an accessory structure. The unplatted property is zoned RR Rural Residential and is approximately 4.25 acres. It is currently developed with a single-family residence, shed, above-ground pool with deck and a lagoon for the septic. The subject site is located at the northwest corner of South 135<sup>th</sup> Street West and West MacArthur Road. The Sedgwick County site is not located within any Zoning Area of Influence. Hedge rows provide screening on all sides of the property.

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 surrounding properties to the north, west and south are large tracts zoned RR. The uses include single-family residences, agriculture fields and farming/ranch operations with improvements. The property to the east is zoned SF-20 with single-family residential development, but is platted for a Manufactured Home subdivision, Trinkle Addition.

The applicant submitted an existing site plan showing the location of existing structures and the 30-foot X 50 lagoon. The applicant also submitted a proposed site plan which identifies the location of the new 56-foot X 88-foot accessory structure, extension of the existing driveway and a new 50-foot X 50-foot lagoon.

**CASE HISTORY:** The subject property is located in the Future Southwest Interceptor Basin is not platted;

**ADJACENT ZONING AND LAND USE:**

NORTH: RR Large tract, Farming/Ranch Operations with associated farm buildings  
SOUTH: RR Large tract, agricultural fields  
WEST: RR Single-family residences on lots ranging from 3 to 8 acres  
EAST: SF-20 Large tract, CU 337 (4 parcels: single-family residence, vacant, manufactured home and single-family residence) to allow a Manufactured Home subdivision, platted October 1991.

**PUBLIC SERVICES:** MacArthur Road and W. 135<sup>th</sup> Street South are both arterial paved streets. The subject site has access to MacArthur. The property is served by a lagoon for sewage and is located in Sedgwick County Rural Water District #04; however, the site is served by an on-site water well.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Land Use Guide of the Comprehensive Plan” (Plan) identifies the subject site as being in the Wichita 2030 Urban Growth Area. This category identifies Wichita’s urban fringe areas that are presently undeveloped but have the potential to be developed by the year 2030, based upon Wichita population growth projections and current market trends. Determination of growth direction and amount is based upon municipal political considerations, anticipated municipal population growth, efficient patterns of municipal growth, current infrastructure limitations, cost effective delivery of future municipal services and environmental factors.

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

- (1) The accessory apartment shall remain accessory to and under the same ownership as the principal single-family residence (located at 13616 W. MacArthur Road) and the ownership shall not be divided or sold as a condominium. The appearance of the accessory structure shall be compatible with the main dwelling.
- (2) The water and sewer service provided to the accessory apartment shall not be provided as separate services from the main dwelling. Electric, gas, telephone and cable television utility service may be provided as separate utility services. The applicant shall have the MABCD review the status of the existing sewer septic system.
- (3) The applicant shall obtain all applicable permits including, but not limited to: building, health and zoning. This will include turning in plans for review and approval by the MABCD for the placing of the accessory apartment.
- (4) Development and maintenance of the site shall be in conformance with the approved site plan.

- (5) If the accessory apartment is not in place within 12 months after final approval, or if the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The County subject site is located in an RR and SF-20 zoned area with lots ranging from +/- 2 acres to 39 acres. Development is a mix of large lot single-family residential and farming/ranching operations. Located east of 135<sup>th</sup> Street is a SF-20 zoned manufactured home subdivision: CU-337.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The subject site is currently zoned RR which permits the existing single-family residence. The property could continue to be used for one single-family residence; the depth of the property easily accommodates an accessory apartment and the additional required parking space.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** This appears to be the first request for an accessory apartment in this neighborhood. Approval of the request should not detrimentally impact nearby properties. 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 Land Use Guide of the Comprehensive Plan" (Plan) identifies the subject site as being in the Wichita 2030 Urban Growth Area. This category identifies Wichita's urban fringe areas that are presently undeveloped but have the potential to be developed by the year 2030, based upon Wichita population growth projections and current market trends. Determination of growth direction and amount is based upon municipal political considerations, anticipated municipal population growth, efficient patterns of municipal growth, current infrastructure limitations, cost effective delivery of future municipal services and environmental factors. The RR zoning district allows single-family residential use. A Conditional Use application/request is required for consideration of an accessory apartment in the RR zoning district.
- (5) **Impact of the proposed development on community facilities:** Community facilities are the public streets in the neighborhood, police and fire services, none of which will be noticeably impacted by another residence being built on the site. There is no public water or sewer service available to the neighborhood.

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

**HELEN VEATCH, 3811 SOUTH 135<sup>TH</sup> STREET WEST** said she lives north of the site. She asked if a survey would be required since they are moving the lagoon.

**MILLER** said he is not aware of any requirement for a survey. He said when the applicant applies for a permit they will need a legal description of their property and it is up to the applicant to know where the property boundaries are. He said if there is a concern she can talk with the applicant, or the Commission could make it a condition of approval.

**VEATCH** said they had their property surveyed back in 1986 but the post has fallen down.

**KLAUSMEYER** asked the speaker if they were concerned about the location of the lagoon.

**VEATCH** said the Staff Report indicates the lagoon will be located 60 feet away from the property line. She said she just wants to make sure the property line is right.

**TOM VEATCH, 3811 SOUTH 135<sup>TH</sup> STREET WEST** said today is the first time they have seen the proposed site plan. He said if the property is developed according to the site plan, he has no objections whatsoever.

**MOTION:** To approve subject to staff recommendation and a survey to locate the property line before the lagoon is located.

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

7. **Case No.: CON2015-00011** – Joshua Price requests a County Conditional Use to permit an accessory apartment on RR Rural Residential zoned property on property described as:

Beginning 629.45 feet South of the Northwest corner of the Northwest Quarter; thence Northeasterly 1956.01 feet; thence Southeasterly 50 feet; thence South 365.46 feet; thence West 1941.42 feet; thence North 96.8 feet to beginning except the West 50 feet for road Section 11, Township 28 South, Range 4 West of the 6<sup>th</sup> P.M., Sedgwick County, Kansas

**BACKGROUND:** The applicant requests a Conditional Use for an “accessory apartment” on unplatted property zoned Rural Residential (RR). The site is located on the northeast corner of South 343<sup>rd</sup> Street and West 32<sup>nd</sup> Street South (3300 South 343<sup>rd</sup> Street West). The property is currently developed with a single-family residence, a number of accessory buildings and a variety of animal enclosures located on 11.55 acres. The applicant proposes to convert an existing structure, shown on the eastern side of the applicant’s site plan that is attached to a structure identified as the “garden store kitchen” into an accessory apartment. Access to the site is via South 343<sup>rd</sup> Street West, which is unpaved. Based upon the submitted site plan, the site’s existing driveway has been or can be extended to provide vehicular access to the proposed apartment. The principal structure located on the site appears to be a single-wide manufactured home with cream or beige colored vinyl or metal siding. The exterior of the proposed accessory apartment is unpainted galvanized metal or aluminum. The site utilizes on-site sanitary sewer and water well. The application area has an existing hedgerow located on a small portion of the southern property line abutting West 32<sup>nd</sup> Street South, which is also unpaved.

The applicant’s site plan is not drawn to scale and does not provide any dimension control relative to the proposed accessory apartment’s specific location. A comparison of a 2011 aerial (the latest to which staff has access) indicates the structure proposed to house the accessory apartment was built after 2011.

All properties abutting or adjoining the application area are zoned RR. The property located immediately north of the site contains railroad tracks. North of the railroad tracks is a 16-acre pasture. North of the pasture is a single-family residence. Property (7.3 acres) located to the east is developed with a site-built single-family residence. Property (multiple lots containing between eight and 9.9-acres) located to the south of the site, across West 32<sup>nd</sup> Street South, are developed with a mix of manufactured and site-built single-family residences. Some of the homes located south of the site front to the east onto South 339<sup>th</sup> Street West while some front west onto South 343<sup>rd</sup> Street West. Land (7.4 acres) located west of the site, across South 343<sup>rd</sup> Street West, is developed with a manufactured home.

The Wichita-Sedgwick County Unified Zoning Code (“UZC”) defines an “accessory apartment” (Article II, Section 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 Article III, Section 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.

With respect to the applicant’s current proposal, the existing structure is not in compliance with Supplementary Use Regulations Article III, Section III-D.6.a(2) and (4). Section III-D.6.a(2) requires the appearance of the accessory apartment to be compatible with the main dwelling unit and with the character of the neighborhood. As noted above, the exterior of the proposed accessory structure is unfinished metal or aluminum while the exterior of the principal structure is cream or beige vinyl. Staff has been advised that because the proposed accessory apartment is attached to the “garden store kitchen” in which food is proposed to be prepared, including the processing of chicken, the “garden store kitchen” and the accessory apartment will need to be connected to a separate on-site sanitary sewer system. Article V, Section V-D.6 allows modifications to the Supplementary Use Regulation requirements by the governing body. Waivers for these two requirements will be needed.

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 fire department requires a 20-foot wide rock or paved driveway; however, there is not requirement that the parking space be next to the apartment or that there be a driveway to the proposed apartment.

**CASE HISTORY:** The RR zoning was applied in 1985 when the county adopted county wide zoning.

**ADJACENT ZONING AND LAND USE:**

North: RR; railroad track, farmland and single-family residence  
South: RR; site-built and manufactured homes on large lots  
East: RR; site-built single-family residence on a large lot  
West: RR; a manufactured home on a large lot

**PUBLIC SERVICES:** The site utilizes on-site water and sanitary sewer services. South 343<sup>rd</sup> Street West is unpaved and has approximately 98 feet of right-of-way. West 32<sup>nd</sup> Street South is unpaved and has approximately 70 feet of 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 11.5 acres which is more than enough room to accommodate the accessory apartment and the existing principal structure. 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) and (3); building, fire and utility regulations or codes. Article III, Section III-D.6.a(2) and (4) are waived.
2. The applicant shall submit a revised site plan that includes dimension control and abutting roadways. The applicant shall also submit a photograph or elevation drawing of the approved accessory apartment. The appearance of the accessory apartment shall be maintained in substantial compliance with that approved by the planning commission or governing body. Modifications to the accessory apartment may be made with the concurrence of the Zoning Administrator provided the improvements are consistent with the spirit and intent of the accessory apartment regulations.
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 located immediately north of the site contains railroad tracks. North of the railroad tracks is a 16-acre pasture. North of the pasture is a single-family residence. Property (7.3 acres) located to the east is developed with a site-built single-family residence. Property (multiple lots containing between eight and 9.9-acres) located to the

south of the site, across West 32<sup>nd</sup> Street South, are developed with a mix of manufactured and site-built single-family residences. Some of the homes located south of the site front to the east onto South 339<sup>th</sup> Street West while some front west onto South 343<sup>rd</sup> Street West. Land (7.4 acres) located west of the site, across South 343<sup>rd</sup> Street West, is developed with a manufactured home.

2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned RR that primarily permits large-lot single-family residences and agriculture. The site could continue to be used as a single-family residential site and have economic value without approval of the application.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The recommended conditions of approval should minimize anticipated impacts.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial would presumably represent a hardship upon the property owner with respect to providing additional housing on the property.
5. 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.
6. Impact of the proposed development on community facilities: None identified.

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

**FOSTER** said he can't determine the parking requirement from the site plan. He also asked if rendering chickens on site would require different zoning.

**MILLER** commented that the applicant is required to provide one parking space for the accessory apartment which can be located at the main house or at another location. He said they site has plenty of room to do that. He said he understands that the applicant raises chickens on site and processes and sells them. He said County Code is requiring the applicant to have a separate sewer solution because the accessory apartment is attached to the kitchen. He said the apartment will be connected to a separate system rather than the one that serves the house. He added that the accessory apartment has a metal exterior and Code also requires that the exterior be the same as the principle structure. He said this application will need to go to the County Commission to have those two items waived; namely, the separate sewer solution and having a exterior that is different from the principle structure.

**FOSTER** clarified that the application can proceed as Rural Residential zoning.

**MILLER** replied yes, this is considered an agricultural use.

**LARRY OXINDINE, 3341 SOUTH 339<sup>TH</sup> STREET WEST** said he lives two properties to the south of this location. He said he understood that you had to have a minimum of 4.5 acres for private sewage (lagoon). He said this will be two private lagoons within that same amount of acreage.

**MILLER** said he understands that you need 4.5 acres for a lagoon; however, if you are using a septic system the minimum lot size is based on the length of the lateral field that it takes to serve the facility.

**OXINDINE** said he understands that no permits or inspections have been pulled on this property and all the outbuildings have been built without permits or inspections. He said the Commission is considering allowing several variances on a condition that is only this far along because no permits were pulled properly. He said it is like awarding someone usage without proper process. He referred to the Supplementary Use Regulations for an accessory apartment, which says that permits will not be issued unless the applicant is in compliance with the Regulations. He said this would be a variance against two of the requirements under those Regulations. He asked the Commission to follow the rules and regulations and not allow the variance. He said there have been all kinds of additions built on the property without any permitting and he questions whether any of those structures meet Code. He added that the storm drainage across the property has also been changed; he's sure without permit or design. He concluded by asking that the application be looked at a lot closer. He said a good aerial view of this location would reveal that it is an eyesore. He said the site is a mess with structures and building materials scattered across the property.

**BARNEY E. WALSH, 3342 SOUTH 339<sup>TH</sup> STREET WEST** said he also lives two houses down from this location. He said he would like a definition of "accessory apartment".

**MILLER** said the UZC allows an accessory apartment with the approval of a conditional use on a site that only allows one principle structure. He said with a conditional use permit, an applicant can have an additional structure that is referred to as an "accessory apartment".

**WALSH** said commercial or industrial use of this property is totally inappropriate because it is located in the middle of nowhere. He said he feels this type of use should be located in the town of Cheney itself rather than a residential area. He said when they received the public hearing notice they thought it was for an apartment complex so they had numerous concerns about traffic and other items.

**BERNADETTE WALSH, 3342 SOUTH 339<sup>TH</sup> STREET WEST** commented that the first gentleman who spoke is correct in that the applicant has been building on the property and they have not seen any inspectors or appraisers monitoring construction. She said there are all kinds of animals out there also; it is an eyesore and the lot smells because the applicant is using animal droppings for fertilizer. She said when they received the public hearing notice they thought it was for multi-family housing. She said they are worried about their property values. She said she also believes that the location needs to be looked at. She said this area is mostly scrub land and there are no street lights, sewers, curbs or fire hydrants.

**J. JOHNSON** asked if the Planning Commission had control over any of the issues brought up by the three speakers.

**MILLER** responded that the Planning Department doesn't have any control over items such as building permits and any Code violations, which is governed by MABCD. He clarified that the Code does allow for waiver of the two items covered by the Supplemental Use Regulations. He added that the Cheney Planning Commission recommended approval of the application. He said at that meeting the applicant indicated that this accessory apartment was for his parents to live in.

**TERRY CHARD, 227 MARSHALL** said he and his wife would be moving into the accessory structure as soon as it was ready that his son wanted to take care of them in their old age.

**FOSTER** asked about any non-conforming uses on the site and if staff comments were enough to cover possible future improvements. He also said he felt the site plan should address drainage.

**KELLY DIXON, MABCD STAFF** said he had not reviewed staff comments but added that this is an agricultural use and drainage issues are usually handled through the platting process. He said for a lot this small and for agricultural usage they don't usually look at drainage. He said they would review drainage if this was located in or near the Flood Plain.

**FOSTER** asked what assurances the Planning Commission has that the accessory structure will be built up to Code.

**DIXON** commented that staff has conducted a preliminary inspection and is awaiting the outcome of this hearing. He added that several structures on the site have been permitted and inspected "after the fact."

**RICHARDSON** clarified that the two issues requiring County Commission approval were the sewage and building exterior. He asked staff if the Planning Commission had any say on those issues.

**MILLER** said the Planning Commission can make any recommendation they feel is appropriate.

**MOTION:** To send the application to the County Commission with no recommendation.

**J. JOHNSON** moved, **B. JOHNSON** seconded the motion and later withdrew his second. **DAILEY** seconded the motion.

**ROBERT PARNACOTT, ASSISTANT COUNTY COUNSELOR** said the Unified Zoning Code provides that the Planning Commission will hold a public hearing and approve, approve with modifications or deny applications for conditional uses. He said doing nothing really wasn't a choice and added that no recommendation by the Planning Commission would be treated more or less as a denial and could be appealed to the County Commission. He said the Commission should choose one of the three actions he listed.

**J. JOHNSON** withdrew his motion.

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

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

**KLAUSMEYER** said there were two separate issues. One was the conditional use for an accessory apartment and the other sounded like an issue for the health department. He said having been raised on a farm that sold turkeys and having a brother who owns a dairy farm, he knows there are a lot of health inspections. He said he wanted to assure the audience that the Planning Commission was voting on the accessory apartment, not on what has already occurred at the location.

**FOSTER** clarified that the motion and staff comments did not include the requested waivers.

**MILLER** indicated staff recommendation did include the requested waivers on sewage and the building exterior.

The **MOTION** carried (8-1). **FOSTER** – No.

8. **Case No.: PUD2015-00002** - Greg and Deb Boen (owners/applicants) and Ruggles & Bohm, PA c/o Chris Bohm (agent) request a County zoning change request from RR Rural Residential to PUD Planned Unit Development for an event center on property described as:

The North half of the North half of the Southwest Quarter EXCEPT roads, all in Section 13, Township 25, Range 1 East of the 6<sup>th</sup> P.M., Sedgwick County, Kansas.

**CHAIR GOOLSBY** announced that the item has been deferred until the April 16, 2015 Planning Commission Hearing.

Other Matters/Adjournment

**DIRECTOR SCHLEGEL** reported that the Board of County Commissioners passed a resolution to set up a separate County Board of Zoning Appeals which will necessitate that the City do likewise. He said the change should take place effective July 1, 2015 so the Board's consolidated status as the Wichita-Sedgwick County Board of Zoning Appeals will end July 1, 2015.

**ROBERT PARNACOTT, ASSISTANT COUNTY COUNSELOR** added that the change will necessitate a slight change to the UZC which will need to be placed on the agenda and acted on

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

State of Kansas )  
Sedgwick County ) SS

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

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

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

(SEAL)

DRAFT

STAFF REPORT

**CASE NUMBER:** SUB2014-00022 – SIENA LAKES ADDITION

**OWNER/APPLICANT:** Siena Lakes, LLC, P.O. Box 75337, Wichita, KS 67275

**SURVEYOR:** Ruggles and Bohm, P.A., Attn: Will Clevenger, 924 North Main, Wichita, KS 67203

**LOCATION:** South side of 37<sup>th</sup> Street North, West of Hoover (District V)

**SITE SIZE:** 37.3 acres

**NUMBER OF LOTS**

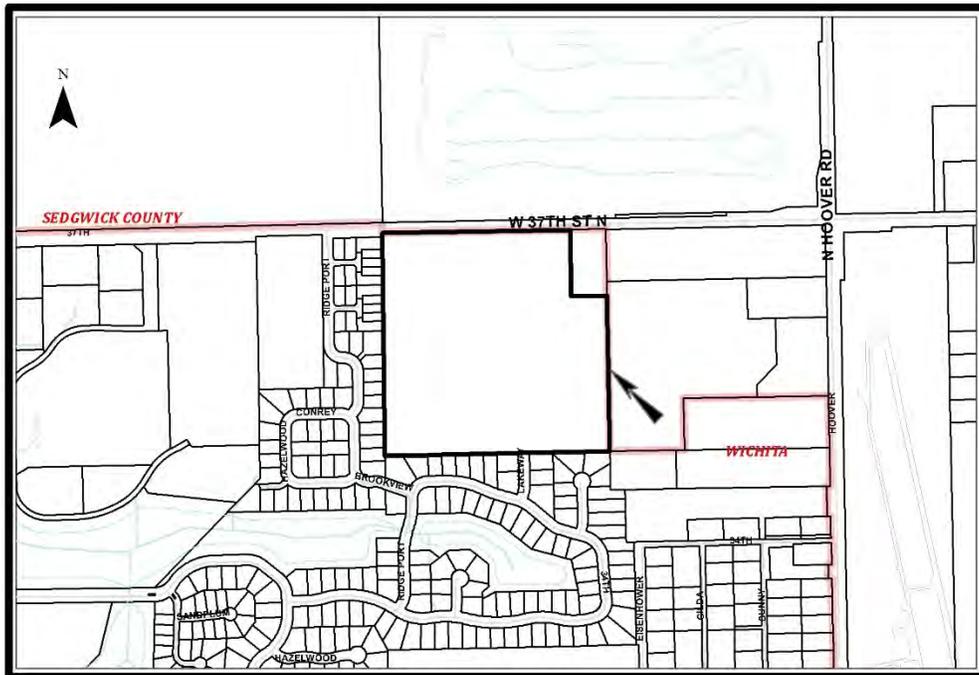
Residential:	119
Office:	
Commercial:	
Industrial:	
Total:	119

**MINIMUM LOT AREA:** 6,900 square feet

**CURRENT ZONING:** SF-5 Single-Family Residential

**PROPOSED ZONING:** Same

**VICINITY MAP**



**SUB2014-00022 – Plat of SIENA LAKES ADDITION**  
**May 7, 2015 - Page 2**

**NOTE:** This is an unplatted site in the City of Wichita.

**STAFF COMMENTS:**

- A. City of Wichita Public Works and Utilities Department requests the extension of sanitary sewer (laterals) to serve all lots. In-lieu-of-assessment fees for sewer mains are needed. The applicant shall extend water (distribution) to serve all lots. In-lieu-of-assessment-fees for water transmission are needed.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the drainage plan.
- D. Traffic Engineering has approved the access controls. The plat proposes one street opening along 37<sup>th</sup> Street North.
- E. The Applicant shall guarantee the paving of the proposed internal streets. The guarantee shall also provide for sidewalks. The applicant proposes an alternate sidewalk plan located within the reserves which will be provided to City Public Works with the street plans. All public sidewalks shall be included within the paving petition.
- F. Since this plat proposes the platting of narrow street right-of-way with adjacent 15-foot street, drainage and utility easements, a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- G. City Fire Department requests 38-foot paved radius cul-de-sacs on Siena Lakes Circle and Venice Court, which need shown on the final plat as a 40-foot right-of-way radius. The Subdivision Committee approved the plat with a 40-ft right-of-way radius required per the Fire Department.
- H. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineer (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- I. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a restrictive covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- J. For those reserves being platted for public sidewalk purposes, the required covenant, which provides for ownership and maintenance of the reserves, shall establish that the homeowners' association shall maintain the sidewalk system planned for construction outside of the street right-of-way. This covenant shall grant to the City the authority to maintain the sidewalks outside of street right-of-way in the same manner as if they were in street right-of-way in the event the owners fail to do so.

**SUB2014-00022 – Plat of SIENA LAKES ADDITION**  
**May 7, 2015 - Page 3**

- K. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- L. This property is within a zone identified by the City Engineer's office as likely to have groundwater at some or all times within ten feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineer's office.
- M. The plat includes Lakeway Court, a street with a hammerhead turnaround which exceeds the maximum length of 150 feet per the Subdivision Regulations. The Subdivision Committee recommends a modification of the design criteria in Article 7 of the Subdivision Regulations as it finds that the strict application of the design criteria will create an unwarranted hardship, the proposed modification is in harmony with the intended purpose of the Subdivision Regulations and the public safety and welfare will be protected.
- N. GIS has approved the street names.
- O. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted and inspected.
- P. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- R. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- T. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

**SUB2014-00022 – Plat of SIENA LAKES ADDITION**  
**May 7, 2015 - Page 4**

- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. The Subdivision Committee approved the preliminary plat with the exception of the utility easements and advised the applicant to work with Westar Energy to resolve this issue. Westar Energy advises that at the previous Subdivision Meeting, the preliminary plat showed some easements that were front-lot 15-foot drainage and utility easements which are shown on the final plat as 15-foot drainage, sidewalk and utility easements. If sidewalks are constructed in the narrow street then a guarantee is needed that Westar facilities are put in before any others to confirm room is available. Heide Bryan, the developer representative is the contact for this plat (316-261-6554). She contacted the agent about these easements and was advised this may not be a problem. Any and all relocation and removal of any existing equipment made necessary by this plat will be at the applicant's expense.
- W. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: [kwilson@wichita.gov](mailto:kwilson@wichita.gov)).
- X. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to [tricia.robello@sedgwick.gov](mailto:tricia.robello@sedgwick.gov) and [nstrahl@wichita.gov](mailto:nstrahl@wichita.gov).

**STAFF REPORT**

**CASE NUMBER:** SUB2015-00004 – SUPERIOR SELF STORAGE ADDITION

**OWNER/APPLICANT:** Superior Self Storage of Wichita, LLC, Attn: Francis Hitschmann,  
5825 West 23<sup>rd</sup> Street North, Wichita, KS 67205

**SURVEYOR/AGENT:** Ruggles & Bohm, P.A., Attn: Will Clevenger, 924 North Main,  
Wichita, KS 67203

**LOCATION:** North of 21<sup>st</sup> Street North, West of Hoover Road (District VI)

**SITE SIZE:** 5.04 acres

**NUMBER OF LOTS**

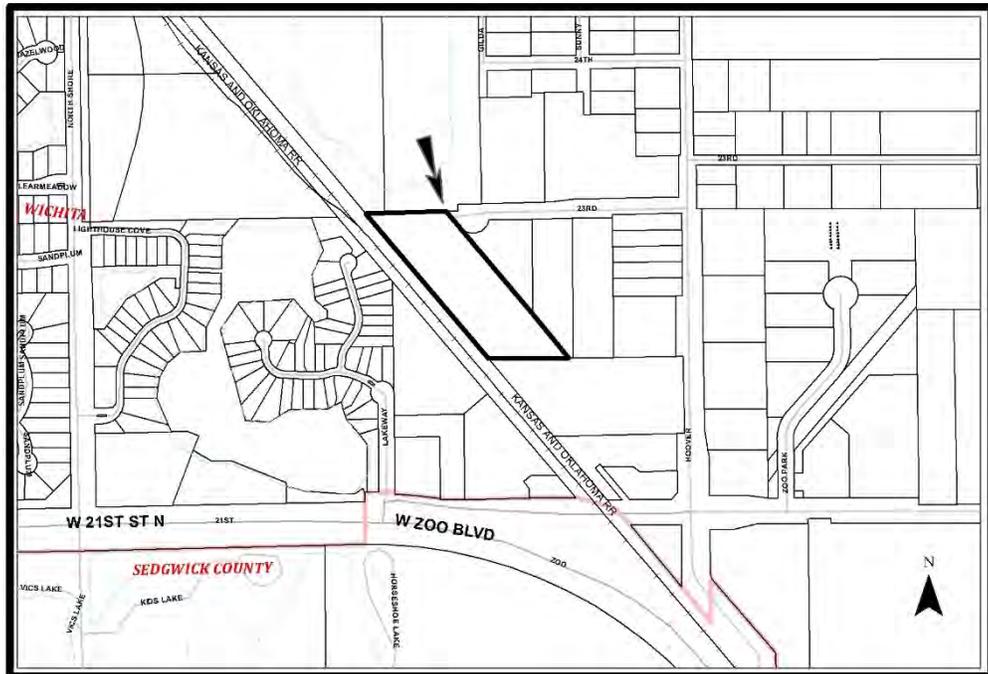
Residential:	
Office:	
Commercial:	
Industrial:	1
Total:	1

**MINIMUM LOT AREA:** 4.99 acres

**CURRENT ZONING:** SF-5 Single-Family Residential, LI Limited Industrial

**PROPOSED ZONING:** Same

**VICINITY MAP**



**SUB2015-00004 – Plat of SUPERIOR SELF STORAGE ADDITION**  
**May 7, 2015 - Page 2**

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

**STAFF COMMENTS:**

- A. The applicant shall contact City of Wichita Environmental Health to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water facilities. A memorandum shall be obtained specifying approval.
- B. City of Wichita Public Works and Utilities Department has requested a No Protest Agreement for future extension of sanitary sewer, water and paving of 23<sup>rd</sup> Street North.
- C. City Stormwater Management has approved the drainage plan.
- D. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineers (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- E. This property is within a zone identified by the City Engineer's office as likely to have groundwater at some or all times within ten feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineer's office.
- F. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to [tricia.robello@sedgwick.gov](mailto:tricia.robello@sedgwick.gov) and nstrahl@wichita.gov.
- G. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- H. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- I. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- J. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- K. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas

**SUB2015-00004 – Plat of SUPERIOR SELF STORAGE ADDITION**  
**May 7, 2015 - Page 3**

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

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

M. Westar Energy advises that Becky Thompson is the Area Construction Service Representative filling in until Marsha Jesse's replacement is in place. She can be reached at 316-261-6320. Any and all relocation and removal of any existing equipment made necessary by this plat will be at the applicant's expense.

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

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

**STAFF REPORT**

**CASE NUMBER:** SUB2015-00009 – FARMERS OIL ADDITION

**OWNER/APPLICANT:** Farmer's Oil, Inc., 11402 North Broadway, Valley Center, KS 67147

**SURVEYOR/AGENT:** Abbott Land Survey, 520 South Holland, Suite 103, Wichita, KS 67209

**LOCATION:** East side of Broadway, South of 117<sup>th</sup> Street North (County District IV)

**SITE SIZE:** 11.1 acres

**NUMBER OF LOTS**

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

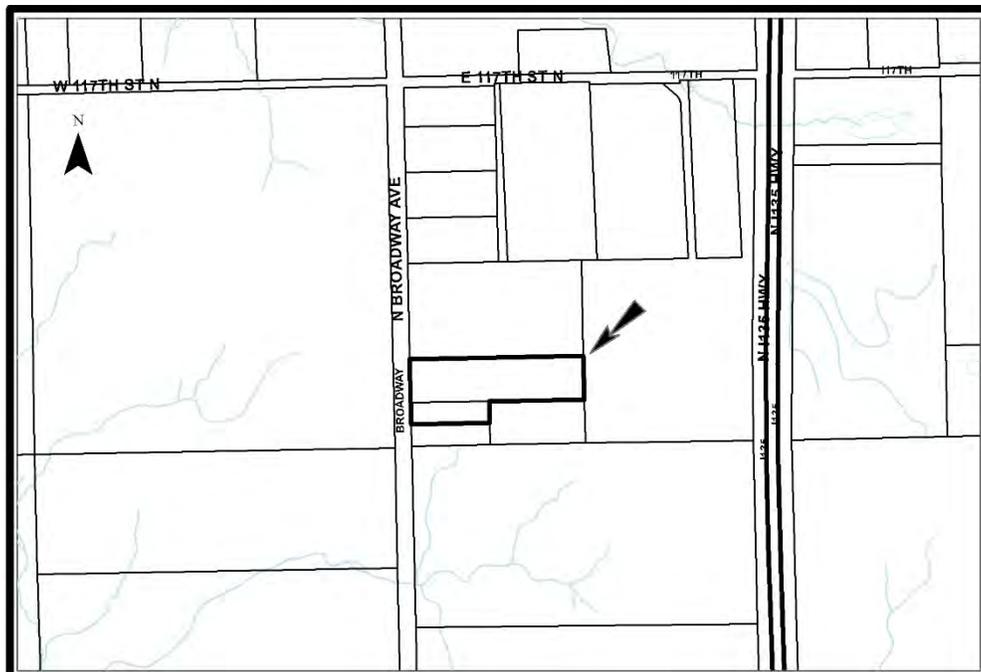
**MINIMUM LOT AREA:** 11.1 acres

**CURRENT ZONING:** RR Rural Residential

**PROPOSED ZONING:** LI Limited Industrial

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**VICINITY MAP**



**SUB2015-00009 – Plat of FARMERS OIL ADDITION**  
**May 7, 2015 - Page 2**

**NOTE:** This is unplatted property located in the County in an area designated as “rural” by the Wichita-Sedgwick County Comprehensive Plan. The applicant requests a zone change (ZON2015-00016) from RR Rural Residential to LI Limited Industrial.

**STAFF COMMENTS:**

- A. Since sanitary sewer is not available to serve this property, the applicant shall contact Metropolitan Area Building and Construction Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A restrictive covenant is required that prohibits non-domestic wastes on the site until public sewer is available.
- B. The site is currently located within the Harvey County Rural Water District No. 1. If service is available, feasible and the property is eligible for service, Metropolitan Area Building and Construction Department recommends connection.
- C. County Public Works has approved the drainage plan. A drainage reserve will be needed. Any development over one acre requires a Notice of Intent and stormwater permit prior to development.
- D. For those reserves being platted for drainage purposes, a covenant is needed that provides for ownership and maintenance of the reserves, which shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- E. County Surveying requests to be contacted regarding Parcel 1 legal description.
- F. Access controls need to be platted. County Public Works approval is needed for the two existing openings prior to development. Dimensions are needed for access controls. Access control needs to be noted in the platting text.
- G. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.
- H. The Applicant is advised that if platted, the building setbacks must be 85 feet from the centerline of perimeter streets to conform with the Zoning setback standard for County section line roads.
- I. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to [tricia.robello@sedgwick.gov](mailto:tricia.robello@sedgwick.gov) and [nstrahl@wichita.gov](mailto:nstrahl@wichita.gov).
- J. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- K. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.

**SUB2015-00009 – Plat of FARMERS OIL ADDITION**  
**May 7, 2015 - Page 3**

- L. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- N. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Westar Energy requests additional easements. Tracy Wood in the Newton Serving office will be the contact for this plat and she can be reached at 316-284-5709. Any and all relocation and removal of any existing equipment made necessary by this plat will be at the applicant's expense.
- S. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: [kwilson@wichita.gov](mailto:kwilson@wichita.gov)).

STAFF REPORT

**CASE NUMBER:** SUB 2015-00012 – FALCON FALLS 6th ADDITION

**OWNER/APPLICANT:** Heights LLC, Attn: Jay Russell, PO Box 75337, Wichita, KS 67275

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

**LOCATION:** North side of 45<sup>th</sup> Street North, west side of Hillside (District I)

**SITE SIZE:** 16.70 acres

**NUMBER OF LOTS**

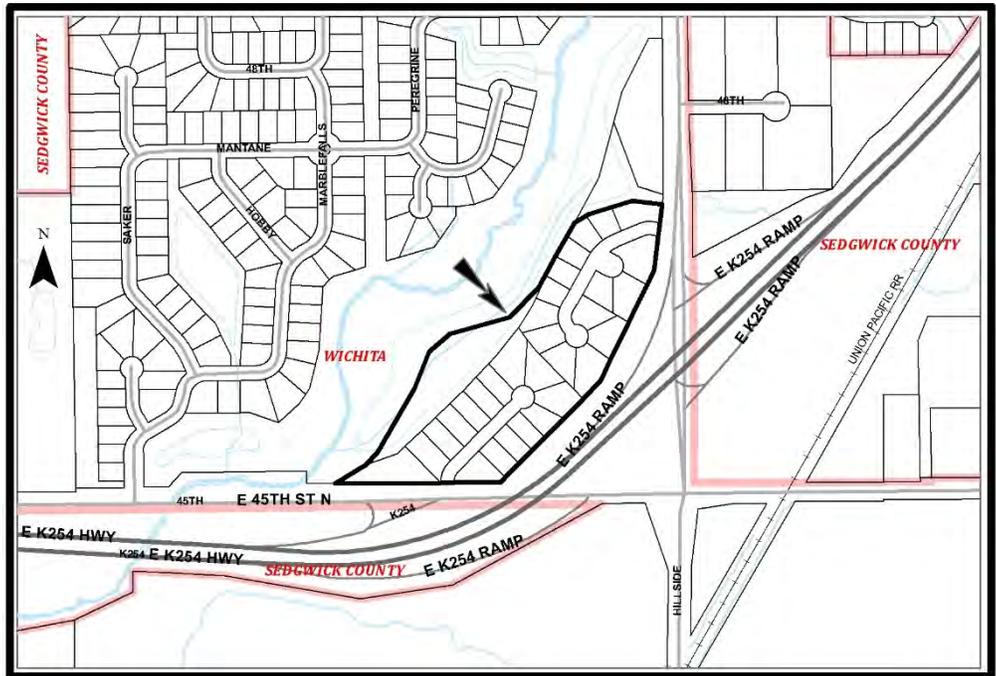
Residential:	42
Office:	
Commercial:	1
Industrial:	—
Total:	43

**MINIMUM LOT AREA:** 6,998 square feet

**CURRENT ZONING:** LC Limited Commercial, TF-3 Two-Family Residential

**PROPOSED ZONING:** Same

**VICINITY MAP**



**SUB2015-00012 – Plat of FALCON FALLS 6th ADDITION**  
**May 7, 2015 - Page 2**

**NOTE:** This is a replat of the Falcon Falls 5<sup>th</sup> Addition which increases the residential lots from 29 to 42 lots. The property is zoned TF-3 Two-Family Residential and LC Limited Commercial (Lot 43, Block A).

**STAFF COMMENTS:**

- A. City of Wichita Public Works and Utilities Department advises that water is under construction. Revised petitions for sewer, water and paving are requested that reflect the new lot count.
- B. City Stormwater Management has approved the drainage plan.
- C. Traffic Engineering has approved the access controls. The plat proposes one street opening along both Hillside and 45<sup>th</sup> Street North and one access opening along 45<sup>th</sup> Street North.
- D. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a restrictive covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- E. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- F. Since this is a replat of a previous Addition involved with the ownership and maintenance of reserves for that Addition, but not being replatted by this Addition, a restrictive covenant shall be provided which provides for this Addition to continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.
- G. This property is within a zone identified by the City Engineer's office as likely to have groundwater at some or all times within ten feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineer's office.
- H. The Applicant has platted a 15-foot rear setback for Lot 2, Block A and a 10-foot rear setback for Lot 1, Block A which represents an adjustment of the Zoning Code standard of 20 feet for the TF-3 Two-Family District. The Subdivision Committee recommends a modification of the design criteria in Article 7 of the Subdivision Regulations as it finds that the strict application of the design criteria will create an unwarranted hardship, the proposed modification is in harmony with the intended purpose of the Subdivision Regulations and the public safety and welfare will be protected.
- I. Approval of this plat will require a waiver of the lot depth-to-width ratio of the Subdivision Regulations for Lots 31, 33-38, 41, 42, Block A. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. The Subdivision Committee recommends a modification of the design criteria in Article 7 of the Subdivision Regulations as it finds that the strict application of the design criteria will create an

**SUB2015-00012 – Plat of FALCON FALLS 6th ADDITION**  
**May 7, 2015 - Page 3**

unwarranted hardship, the proposed modification is in harmony with the intended purpose of the Subdivision Regulations and the public safety and welfare will be protected.

- J. The platting shall be revised to reference "Lots, a block, streets and a reserve".
- K. The City Council certification needs to be revised to reference Jeff Longwell, Mayor.
- L. County Surveying advises the benchmark descriptions need to be revised to describe the location relative to this plat.
- M. County Surveying advises the dimension on the north line of Lot 24, Block A of 66.03 feet needs corrected.
- N. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- O. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.
- P. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- R. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- T. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- U. Perimeter closure computations shall be submitted with the final plat tracing.

**SUB2015-00012 – Plat of FALCON FALLS 6th ADDITION**  
**May 7, 2015 - Page 4**

- V. Westar Energy advises that Heide Bryan is the Developer Representative and can be reached at 316-261-6554. Any and all relocation and removal of any existing equipment made necessary by this plat will be at the applicant's expense.
- W. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: [kwilson@wichita.gov](mailto:kwilson@wichita.gov)).

**STAFF REPORT**

**CASE NUMBER:** SUB2015-00014 – WASINGER ADDITION

**OWNER/APPLICANT:** Alan D. Lefore and Linda Turley, 517 East Douglas, #205, Wichita, KS 67202; (contract purchaser) Fugate Enterprises, Attn: Karen Perrill, 208 South Maize Road, Wichita, KS 67209

**SURVEYOR/AGENT:** Savoy Company, 433 South Hydraulic, Wichita, KS 67211

**LOCATION:** West side of Webb Road, South of Harry (District II)

**SITE SIZE:** .88 acres

**NUMBER OF LOTS**

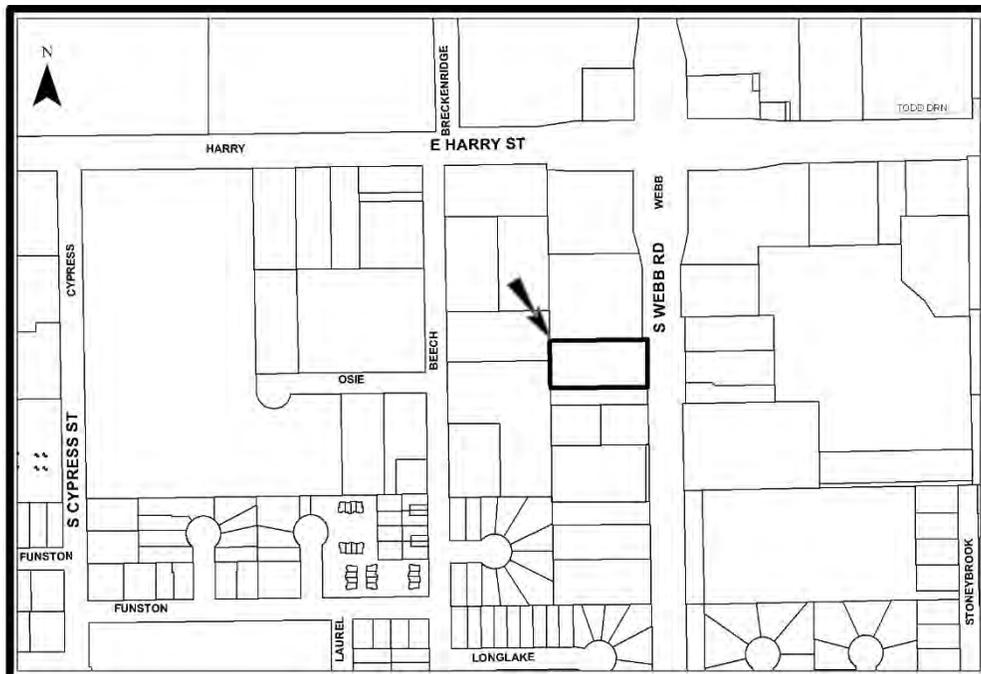
Residential:	
Office:	
Commercial:	1
Industrial:	—
Total:	1

**MINIMUM LOT AREA:** 37,094 square feet

**CURRENT ZONING:** SF-5 Single-Family Residential

**PROPOSED ZONING:** Limited Commercial

**VICINITY MAP**



**SUB2015-00014 -- Plat of WASINGER ADDITION**  
**May 7, 2015 - Page 2**

**NOTE:** The applicant requests a zone change (ZON2015-00017) from SF-5 Single-Family Residential to LC Limited Commercial.

**STAFF COMMENTS:**

- A. City of Wichita Public Works and Utilities Department advises that water and sewer services are available to serve the site.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the drainage plan.
- D. Access controls need to be denoted on the face of the plat. Traffic Engineering has approved one opening as shown on the site plan.
- E. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.
- F. The applicant shall submit a copy of the instrument, which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the appropriate governing body.
- G. County Surveying advises the legal description will need to match the deed as shown on the title work.
- H. County Surveying advises the exception for the east 60 feet from the legal description will need to show the recording data or it should be removed from the legal description.
- I. County Surveying advises the recording data will need to be shown for the easement along the west line.
- J. County Surveying advises all the monuments along the plat boundary will need to be shown as set or found, including the monument symbols at the corners of the plat boundary.
- K. County Surveying advises measured and described distances should be shown.
- L. County Surveying advises the label for 630 feet north of the north half of the southeast corner of the section needs corrected to include "of the northeast quarter".
- M. County Surveying advises the label for the southeast corner of the north half of the section needs corrected to include "of the northeast quarter".
- N. The Notary Certificate for J. Larry Fugate should reference "Trustee".
- O. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to [tricia.robello@sedgwick.gov](mailto:tricia.robello@sedgwick.gov) and [nstrahl@wichita.gov](mailto:nstrahl@wichita.gov).

**SUB2015-00014 -- Plat of WASINGER ADDITION**  
**May 7, 2015 - Page 3**

- P. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted and inspected.
- Q. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- R. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- S. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- T. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- U. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- V. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- W. Perimeter closure computations shall be submitted with the final plat tracing.
- X. Westar Energy advises that LaDonna Vanderford is the Area Construction Services Rep for this plat and can be reached at 316-261-6490. Any and all relocation and removal of any existing equipment made necessary by this plat will be at the applicant's expense.
- Y. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: [kwilson@wichita.gov](mailto:kwilson@wichita.gov)).

**STAFF REPORT**

**CASE NUMBER:** VAC2015-00010 - Request to vacate a portion of platted front setbacks on multiple lots

**APPLICANT/AGENT:** BATC LLC (owner) Armstrong Land Survey, PA, c/o Donn Armstrong (agent)

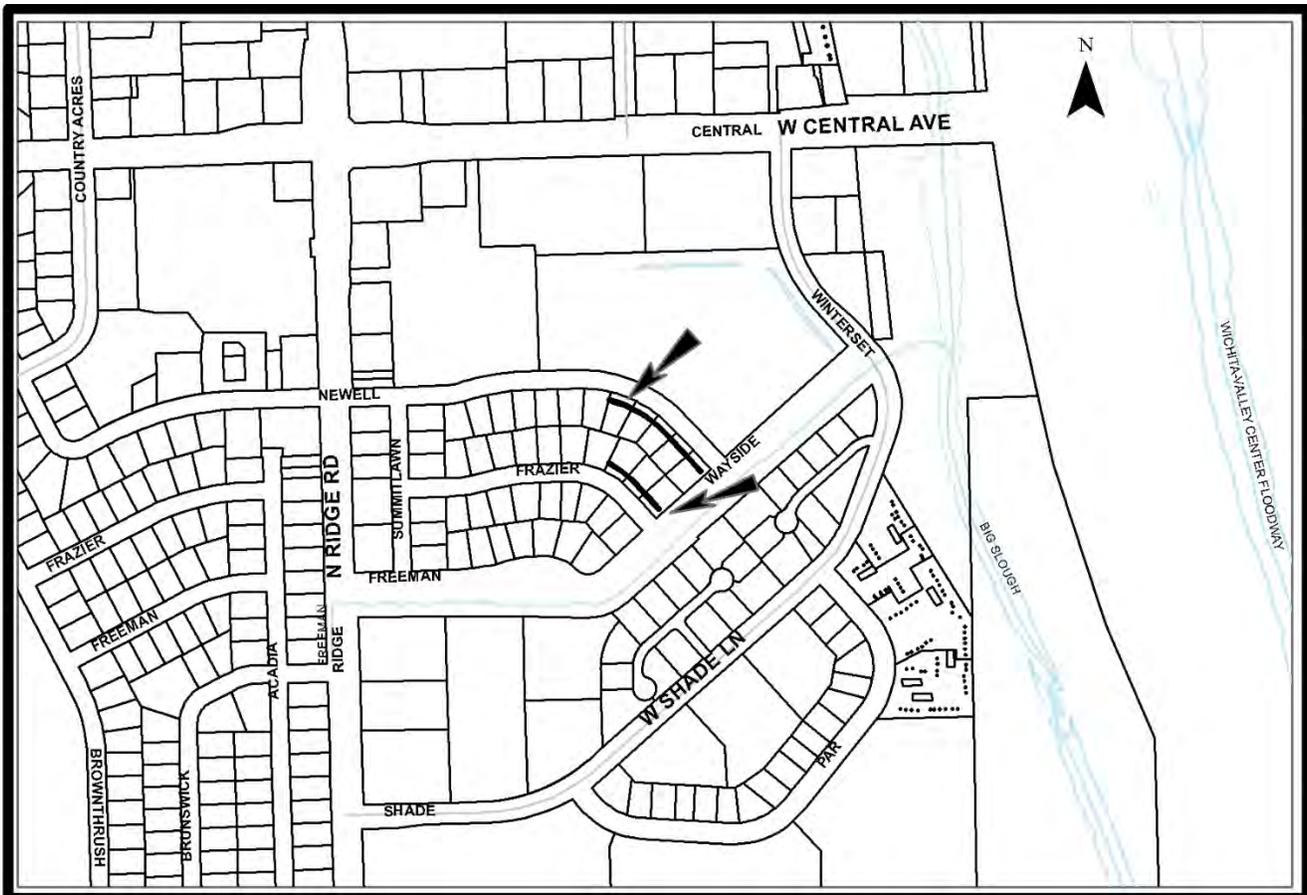
**LEGAL DESCRIPTION:** Generally described as the inside 5 feet of the platted 30-foot front yard setback of Lots 1, 2, 3, 4, 5, 23, 24 and 25, Block E, County Acres 6<sup>th</sup> Addition, Wichita, Sedgwick County, Kansas

**LOCATION:** Generally located west of the Big Ditch, south of Central Avenue and west of the Wayside Lane intersections of Newell Street and Frazier Avenue (WCC #V)

**REASON FOR REQUEST:** More room to build

**CURRENT ZONING:** Subject property is zoned TF-3 Two-Family Residential. Abutting west and adjacent south properties are zoned SF-5 Single-Family Residential. Adjacent north property is zoned LC Limited Commercial. Adjacent east property is zoned MF-18 Multi-Family Residential.

**VICINITY MAP:**



The applicant proposes to vacate the inside 5 feet of the platted 30-foot front yard setback on Lots 1, 2, 3, 4, 5, 23, 24 and 25, Block E, County Acres 6<sup>th</sup> Addition. All of the subject lots are zoned TF-3 Two-Family Residential; ZON2014-00033. The Unified Zoning Code's (UZC) minimum front yard setback standard for the TF-3 zoning district is 25 feet. If the setbacks were not platted the applicant could have applied for an Administrative Adjustment that would have reduced the SF-5 zoning district's 25-foot front yard setback by 20% resulting in a 20-foot setback. The applicant's request does not exceed what is permitted by an Administrative Adjustment. There are no platted easements in the described portion of the platted front yard setback. There appears to be no public utilities within the described portion of the platted front yard setback. Comments from franchised utilities have not been received and are needed to determine if they have utilities located within the described setback. The County Acres 6<sup>th</sup> Addition was recorded with the Register of Deeds February 8, 1960.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from Public Works, Storm Water, Water and Sewer, 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 described portion of platted front setbacks on multiple lots.

- 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 April 16, 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 front setbacks 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 inside 5 feet of the platted 30-foot front yard setback on Lots, 2, 3, 4, 5, 23, 24 and 25, Block E, County Acres 6<sup>th</sup> Addition. Provide Planning Staff with a legal description of the approved vacated portion of the setback on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. This must be provided to Planning prior to the case going to Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide any needed easements prior to the case going to Council for final action.
- (3) All improvements shall be according to City Standards and at the applicant's expense.
- (4) Per MAPC Policy Statement #7, all conditions shall 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 inside 5 feet of the platted 30-foot front yard setback on Lots, 2, 3, 4, 5, 23, 24 and 25, Block E, County Acres 6<sup>th</sup> Addition. Provide Planning Staff with a legal description of the approved vacated portion of the setback on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. This must be provided to Planning prior to the case going to Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide any needed easements prior to the case going to Council for final action.
- (3) All improvements shall be according to City Standards and at the applicant’s expense.
- (4) Per MAPC Policy Statement #7, all conditions shall 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.

This is a placeholder document for the report "VAC2015 11 -MAPC STAFF RPT". There was an error in the publishing process and it could not be converted to PDF.

**STAFF REPORT**

**CASE NUMBER:** VAC2015-00012 - City request to vacate a portion of platted complete access control

**APPLICANT/AGENT:** Michael Joel Mast (applicant/owner)

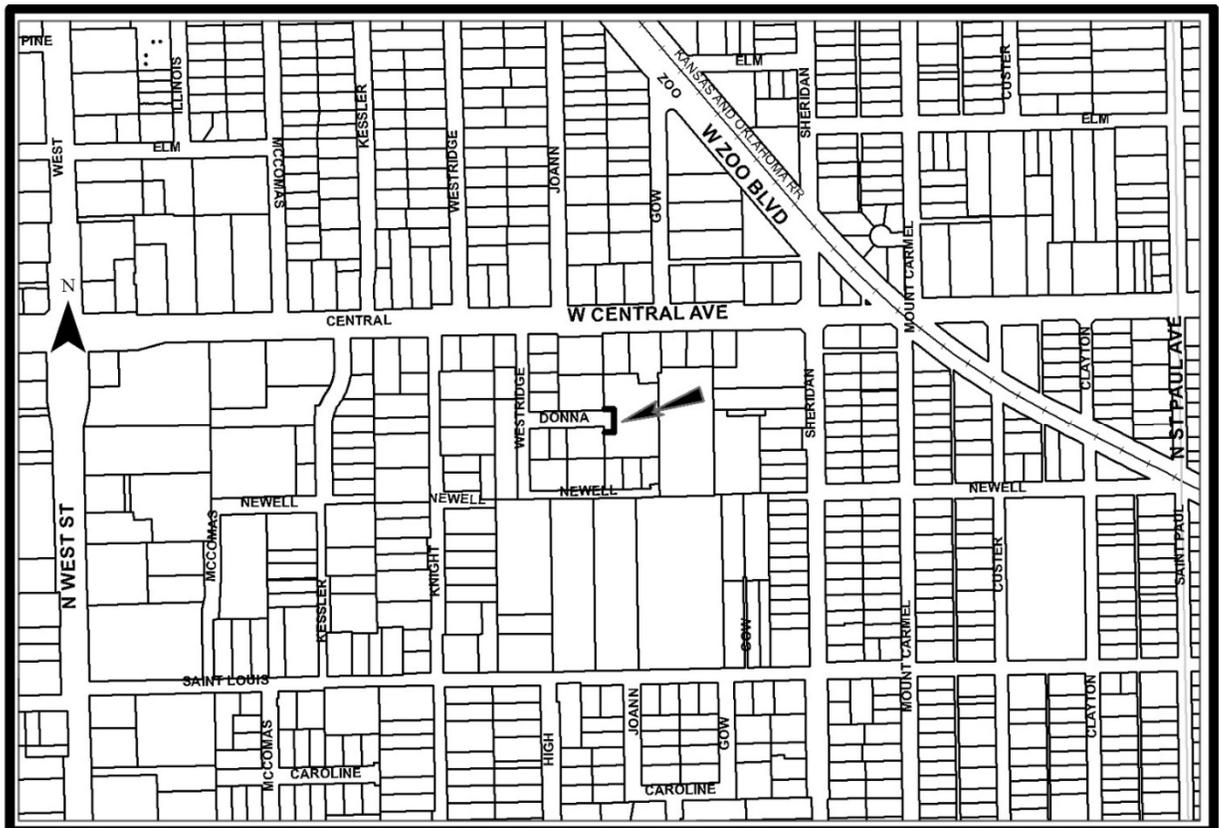
**LEGAL DESCRIPTION:** Generally described as vacating the platted complete access control to permit a drive onto Donna Avenue off of the west side of Lot 3, Galyardts 7<sup>th</sup> Addition, Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located southwest of Sheridan and Central Avenues and east of the intersection of Westridge Drive and Donna Avenue (WCC VI)

**REASON FOR REQUEST:** To allow a drive onto Donna Avenue

**CURRENT ZONING:** The site is zoned MF-29 Multi-Family Residential. Abutting north and east properties are zoned NR Neighborhood Retail, LC Limited Commercial and SF-5 Single-Family Residential. Abutting south and west properties are zoned and TF-3 Two-Family Residential and B Multi-Family Residential.

**VICINITY MAP:**



The applicant proposes to vacate a portion of the platted complete access control to permit a drive onto Donna Avenue off of the west side of Lot 3, Galyardts 7<sup>th</sup> Addition. Donna Avenue is a short, sand and gravel residential street that ends in a hammerhead on the applicant's MF-29 Multi-Family Residential zoned site, Lot 3, Galyardts 7<sup>th</sup> Addition. As platted the undeveloped subject site is allowed access only onto Central Avenue, via a platted 30-foot wide (x) 145-foot long joint access easement located on its north end going between Lots 1 and 2, Galyardts 7<sup>th</sup> Addition. The platted joint access easement provides the site with direct access to the arterial street Central Avenue, thus providing compliance with the locational criteria of multi-family residential having direct access to arterial roads. The request would allow access onto the residential street, Donna Avenue. There is a sewer line, a manhole, a water line and water valve located in Donna Avenue in the area of the vacation. The Galyardts 7<sup>th</sup> Addition was recorded with the Register of Deeds January 11, 1980.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water & Sewer/Stormwater, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described 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 April 16, 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 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 Donna Avenue from Lot 3, Galyardts 7<sup>th</sup> Addition.
- (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 VAC2015-00012 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (3) Provide Planning Staff with a restrictive covenant, with original signatures, limiting development on the site to single-family residential. This must be provided prior to VAC2015-00012 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (4) 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.

- (5) Agree to a no protest petition in regards to future improvements to Donna Avenue.
- (6) All improvements shall be according to City Standards and at the applicant's expense.
- (7) 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 Donna Avenue from Lot 3, Galyardts 7<sup>th</sup> Addition.
- (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 VAC2015-00012 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (3) Provide Planning Staff with a restrictive covenant, with original signatures, limiting development on the site to single-family residential. This must be provided prior to VAC2015-00012 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (4) 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.
- (5) Agree to a no protest petition in regards to future improvements to Donna Avenue.
- (6) All improvements shall be according to City Standards and at the applicant's expense.
- (7) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**STAFF REPORT**

**CASE NUMBER:** VAC2015-00014 - City request to vacate platted public street right-of-way

**APPLICANT:** Cargill Incorporated, c/o Jim Reiff (applicant) Baughman Company, PA, c/o Phil Meyer (agent)

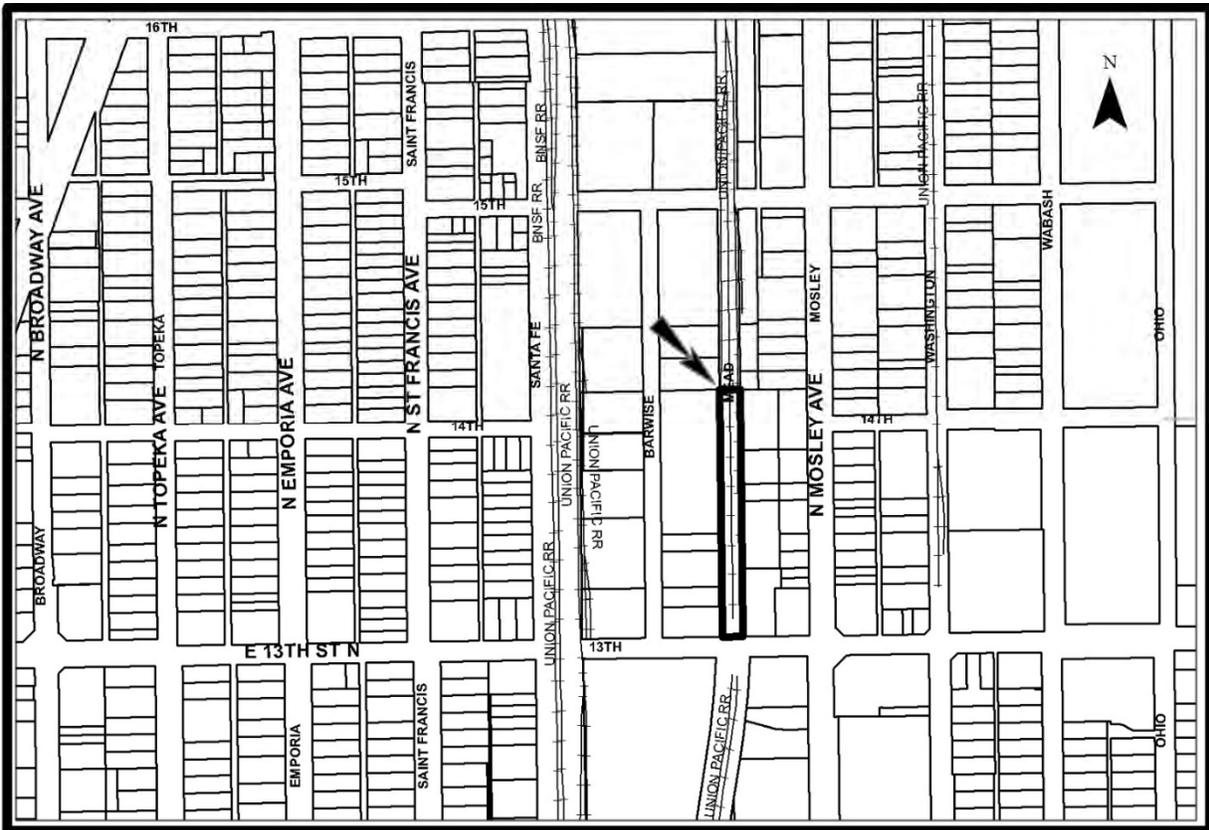
**LEGAL DESCRIPTION:** Generally described as vacating the south approximately 730-feet of the 60-foot wide Mead Avenue public street right-of-way, between 13<sup>th</sup> Street North (south end) and the south sides of Lot 2, Glaze Addition and Reserve A, Glaze and Jocelyn's Second Addition (north end), Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located between Barwise and Mosley Avenues and north of 13th Street North (WCC #VI)

**REASON FOR REQUEST:** Applicant owns all abutting properties and wants to control traffic to these properties

**CURRENT ZONING:** The sites are public street right-of-ways. All abutting and adjacent properties are zoned LI Limited Industrial

**VICINITY MAP:**



The applicants propose to vacate the south approximately 730-feet of the 60-foot wide, two-lane Mead Avenue public street right-of-way, located between 13<sup>th</sup> Street North (south end) and the south sides of Lot 2, Glaze Addition and Reserve A, Glaze and Jocelyn’s Second Addition (north end). This portion of Mead Avenue is a sand and gravel road with a private railroad spur (track) located in the right-of-way. This portion of Mead Avenue connects 13<sup>th</sup> Street North to 15<sup>th</sup> Street North. 13<sup>th</sup> Street North is a paved, four-lane arterial. 15<sup>th</sup> Street North is a paved two-lane local street that dead-ends as a hammerhead against (two-blocks west) railroad tracks and the elevated railroad tracks. The applicant owns all of the abutting properties. The proposed vacation does not deny access to public streets for any abutting or adjacent properties. There appears to be a sewer lines, a manhole, stormwater equipment and Westar equipment located in the described right-of-way. This portion of Mead Avenue was referenced as Glaze Avenue on the Parmenters 2<sup>nd</sup> Addition (recorded December 10, 1886), but referred to as Mead Avenue on the Mills Second Addition (recorded March 3, 1911).

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from 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 described portion of the platted Mead Avenue street right-of-way.

- 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 April 16, 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 platted street right-of-way and that the public will suffer no loss or inconvenience thereby.
  - 3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Dedicate any needed easements for utilities. These original dedications must be provided to Planning prior to the case going to the City Council and subsequent recording with the Vacation Order at the Register of Deeds
- (2) Any relocation or reconstruction of all utilities made necessary by this vacation shall be the responsibility of the applicants, at the applicants’ expense and shall be to City Standards. Provide any needed plans for review and approval to all utilities as needed. If needed provide a private project for relocation of utilities. The approved private project number must be provided to Planning prior to the case going to the City Council and subsequent recording with the Vacation Order at the Register of Deeds. Approval of plans by franchised utilities must be provided to staff prior to the case going to City Council for final action.
- (3) Provide access, as needed and approved, for utilities, Fire and Police to the vacated portion of Mead Avenue, in the form of a dedication of emergency access by separate instrument. Provide gates on both ends of the vacated right-of-way that can be accessed by utilities, Fire, Police and other EMS vehicles. The original

dedications must be provided to Planning prior to the case going to the City Council and subsequent recording with the Vacation Order at the Register of Deeds.

- (4) Provide original restrictive covenant binding and tying the vacated portion of the vacated street right-of-way to applicants' abutting property. These must be provided to Planning prior to the case going to the City Council and subsequent recording with the Vacation Order at the Register of Deeds.
- (5) Provide Planning with Stormwater approval for the stormwater equipment being a private system.
- (6) Provide Planning with a legal description of the vacated street on a Word document, via e-mail. This must be provided to Planning prior to the case going to City Council for final action.
- (7) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

#### **SUBDIVISION COMMITTEE'S RECOMMENDED ACTION**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Dedicate any needed easements for utilities. These original dedications must be provided to Planning prior to the case going to the City Council and subsequent recording with the Vacation Order at the Register of Deeds.
- (2) Any relocation or reconstruction of all utilities made necessary by this vacation shall be the responsibility of the applicants, at the applicants' expense and shall be to City Standards. Provide any needed plans for review and approval to all utilities as needed. If needed provide a private project for relocation of utilities. The approved private project number must be provided to Planning prior to the case going to the City Council and subsequent recording with the Vacation Order at the Register of Deeds. Approval of plans by franchised utilities must be provided to staff prior to the case going to City Council for final action.
- (3) Provide access, as needed and approved, for utilities, Fire and Police to the vacated portion of Mead Avenue, in the form of a dedication of emergency access by separate instrument. Provide gates on both ends of the vacated right-of-way that can be accessed by utilities, Fire, Police and other EMS vehicles. The original dedications must be provided to Planning prior to the case going to the City Council and subsequent recording with the Vacation Order at the Register of Deeds.
- (4) Provide original restrictive covenant binding and tying the vacated portion of the vacated street right-of-way to applicants' abutting property. These must be provided to Planning prior to the case going to the City Council and subsequent recording with the Vacation Order at the Register of Deeds.
- (5) Provide Planning with Stormwater approval for the stormwater equipment being a private system.

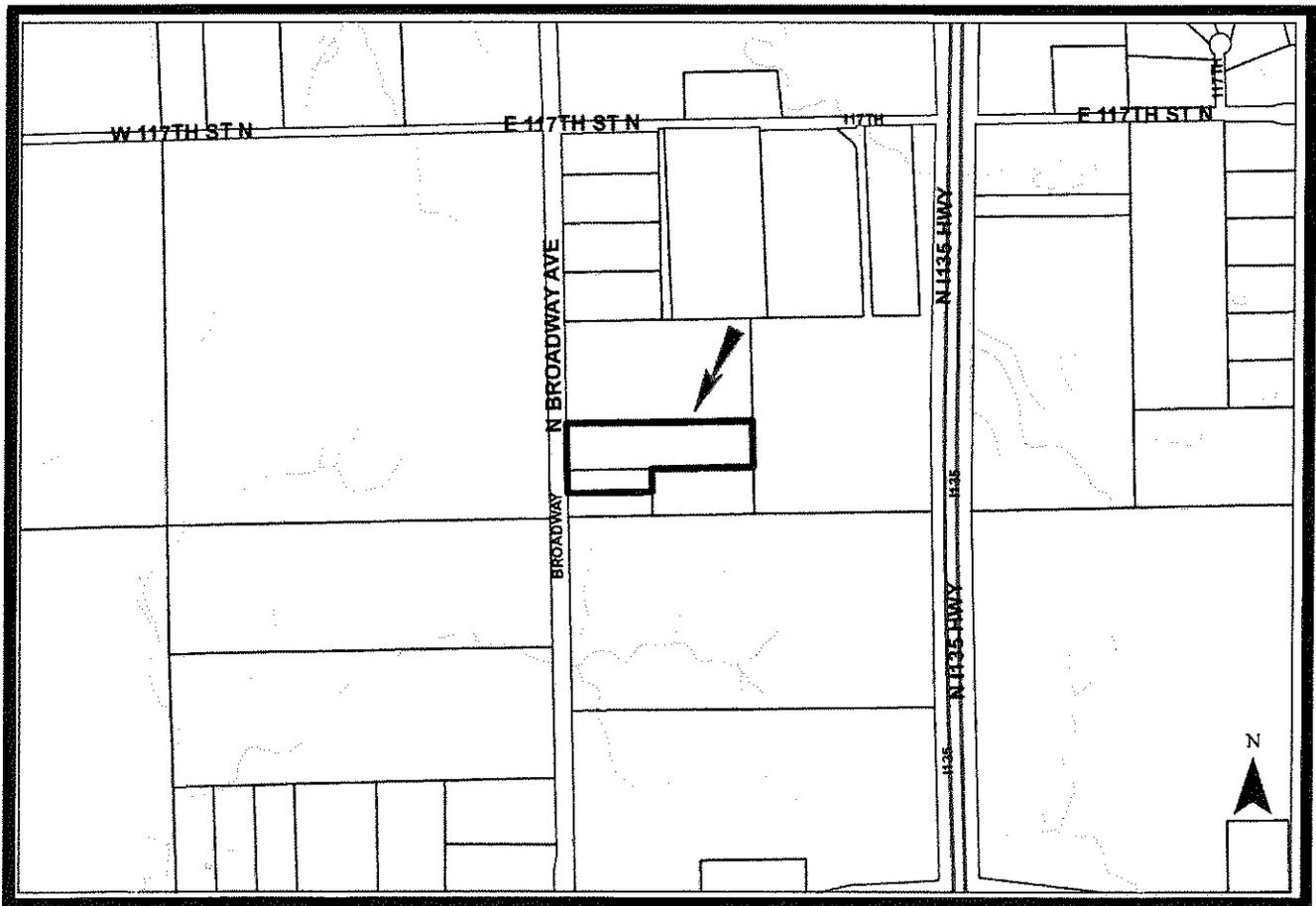
- (6) Provide Planning with a legal description of the vacated street on a Word document, via e-mail. This must be provided to Planning prior to the case going to City Council for final action.
- (7) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.



# STAFF REPORT

MAPC May 7, 2015

- 
- CASE NUMBER:** ZON2015-00016
- APPLICANT/OWNER:** Farmer's Oil Inc. (Owner); Chad Abbott (Agent), Abbott Land Survey
- REQUEST:** LI Limited Industrial zoning
- CURRENT ZONING:** RR Rural-Family Residential
- SITE SIZE:** Approximately 11.15 acres
- LOCATION:** Generally located 1/3 mile south of 117<sup>th</sup> Street North on the east side of N. Broadway Avenue



**BACKGROUND:** The applicant is requesting 11.15 acres in the unincorporated area of Sedgwick County zoned RR Rural Residential be re-zoned to LI Limited Industrial. The Sedgwick County Appraiser's records indicate that the facility was built in 1965 and has had a non-conforming use since that time. There is an existing metal building on the subject site that and the owner intends to construct a 50 X 120-foot addition and a covered pad for minor equipment maintenance.

The site is located approximately 2800 feet north of 109th Street North on the east side of North Broadway. The parcel immediately north of the subject site is zoned LI and is used for recycling of wood pallets. All other properties surrounding the subject site are zoned RR and are used for agriculture.

**CASE HISTORY:** The subject site was the location of Ditch Witch and has recently been acquired by Farmer's Oil Inc. The owner has submitted a One-Step Final Plat application SUB2015-00009.

**ADJACENT ZONING AND LAND USE:**

NORTH: LI, RR Industrial use, Recycling of wood pallets; agricultural, unimproved

SOUTH: RR Single-family residence; Agricultural, unimproved

WEST: RR Agricultural, unimproved

EAST: RR Agricultural, unimproved

**PUBLIC SERVICES:** North Broadway is a four-lane arterial street at this location. East 109<sup>th</sup> Street North is designated an arterial, but is currently a two-lane gravel road, is located south of the subject site. East 117<sup>th</sup> Street North in a designated arterial, but is currently a two-lane gravel road, is located north of the subject site. The property has a lagoon and water well.

**CONFORMANCE TO PLANS/POLICIES:** The "2013 Land Use Guide of the Comprehensive Plan" (Plan) identifies the SF-5 zoned site as "Rural Functional Land Use." This category encompasses areas of land outside the 2030 urban growth areas for Wichita and the small cities. This category is intended to accommodate agricultural uses, rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County, and predominately larger lot residential exurban subdivisions (normally with lot sizes of 2 acres or more) with provisions for individual, or community water and sewer services.

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

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The area is zoned predominately RR on the east and west sides of N. Broadway between E. 109<sup>th</sup> Street N. and E. 117<sup>th</sup> Street N., with the exception of the LI zoned parcel immediately north of the subject site. The subject site has had a non-conforming industrial use since at least 1965. Other than the industrial use immediately north of the site, the surrounding RR agricultural use for pasture and cash crops.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The change of zoning to LI would remove the non-conforming use and would not affect the surrounding agricultural uses. The zone change would eliminate and residential uses.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The non-conforming LI use has not generated any complaints from the surrounding property owners and the Planning Department has not received any calls regarding the zone change.
- (4) **Relative gain to the public health, safety and welfare as compared to the loss in value or the**

**hardship imposed upon the applicant:** Approval of the request would limit development by right to manufacturing and industrial uses. No residential uses would be allowed on this site. Denial of the request could impose a financial hardship on the owner because the non-conformity prevents the full use of the site.

- (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 subject site as Rural Functional Land Use to promote agribusiness and large lot development.
- (6) **Impact of the proposed development on community facilities:** The site is served by a lagoon and water well. Any increased demand can be handled by enlarging the current capacity of the lagoon and water well as the site is over 11 acres.

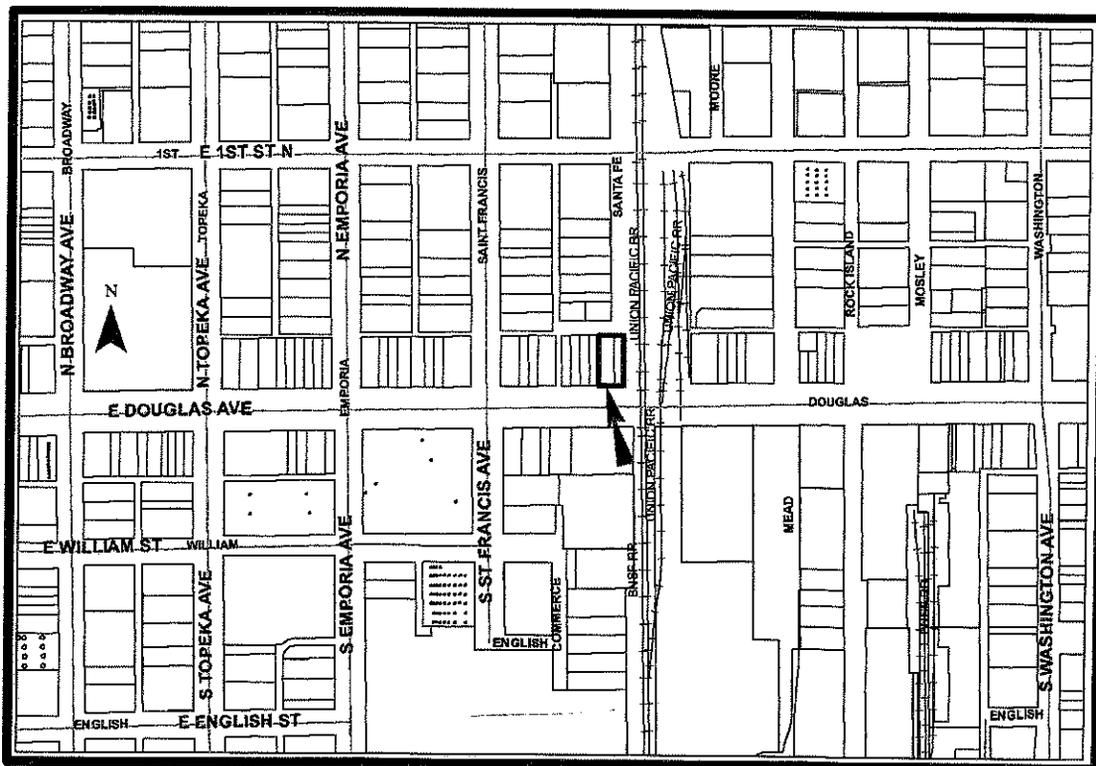


# STAFF REPORT

MAPC May 7, 2015

DAB VI May 5, 2015

- CASE NUMBER:** CON2015-00014
- APPLICANT/OWNER:** Kindel Investments, LLC (applicant/owner)
- REQUEST:** Conditional Use to allow a tavern/drinking establishment
- CURRENT ZONING:** Central Business District (CBD)
- SITE SIZE:** Approximately 0.23-acres
- LOCATION:** Generally located east of St. Francis Avenue on the north side of Douglas Avenue (630 E. Douglas Avenue – WCC #VI)
- PROPOSED USE:** On-site microbrewery and tavern



**BACKGROUND:** The Central Business District (CBD) zoned site is located in a vacant three-story building (built 1922) located on the north side of Douglas Avenue, east of St Francis and west of a raised railroad track. The applicants propose to establish an on-site microbrewery and tavern/drinking establishment. A microbrewery is permitted by right in the CBD zoning district. When a tavern, drinking establishment or nightclub is located within 300 feet of a church or place of worship, public park, public or parochial school or residential zoning district, approval of a Conditional Use is required; Unified Zoning Code (UZC), Sec.III-D6.w. Naftzger Public Park is located approximately 190 feet southwest, across Douglas Avenue, of the site.

The area to the north, west and south of the site is zoned CBD. The dominate development in this area of CBD zoning is the recently completed (2009) Intrust Bank Arena, located two-blocks south of the site. Intrust Bank Arena hosts concerts, hockey games, basketball games and other events that require a large venue. The national and state registered historic five story, brick Eaton Apartments is located southwest of the site across Douglas Avenue. Most buildings in the immediate area are similar to the site's building; one to three stories, mostly brick buildings, built from 1902-1930. The buildings located closest to the site contain, but are not limited to, a coffee shop, several restaurants, apartments, retail, office, and legal office. There is at least one building with a street level vacancy. A building located 235 feet west of the site appears to be undergoing some remodeling, but it had been the Blue Lounge tavern/drinking establishment/nightclub and may still be occupied by (John Barleycorns) a tavern/drinking establishment/nightclub. The applicant's request would not introduce a new use into the immediate area. The site is located west of the Old Town Overlay District (OT-O), separated by a raised railroad tracks and the sand and gravel Santa Fe Avenue. The OT-O district is a unique planned entertainment area containing restaurants, nightclubs, a multi-screen movie theater, hotels, apartments and retail. The site's close proximity to the Intrust Bank Arena and the OT-O district places the applicants requested on-site microbrewery and tavern close to similar venues.

**CASE HISTORY:** The site is located on Lots 2, 4, 6, 8 and 10, JR Meads Addition, which was recorded with the Register of Deeds September 9, 1870. The site also includes a portion of vacated Santa Fa Avenue; VAC2014-00051.

**ADJACENT ZONING AND LAND USE:**

NORTH:	CBD	Parking lots, warehouse-office
SOUTH:	CBD	Public park, parking lot, vacant building, apartments, sports arena, arts district
EAST:	LI, OT-O	Retail, nightclubs, hotels, restaurants, parking lots, retail, multi-screen movie theater, apartments
WEST:	CBD	Coffee shop, restaurants, office, law office, retail, tavern, drinking establishment or nightclub

**PUBLIC SERVICES:** The site has access off of the sand and gravel Santa Fa Avenue, a local street at this location. All utilities are available to the site.

**CONFORMANCE TO PLANS/POLICIES:** The purpose of the CBD Central Business District is to accommodate retail, commercial, office and other complementary land uses within

the downtown core area of the City of Wichita. The CBD District is generally compatible with the ‘Downtown Regional Center’ designation of the “Wichita-Sedgwick County Comprehensive Plan.” It is intended for application only within the City of Wichita and only within the downtown core area and certain nearby areas being redeveloped with similar patterns of uses and site development standards such as but not limited to zero Lot Setbacks, shared Parking, public streetscapes as landscaping and urban design elements and mixed uses within a Building. There is no minimum parking requirement for the CBD zoning district.

The UZC requires a Conditional Use for a nightclub or a drinking establishment/tavern when there are located within 300 feet of a Church or Place of Worship, public Park, public or parochial School or residential zoning District. Naftzger Public Park is located approximately 190 feet southwest, across Douglas Avenue, of the site, thus the Conditional Use request.

**RECOMMENDATION:** Based upon the information available prior to the public hearings, planning staff recommends that the request for a Conditional Use for a microbrewery with a tavern/drinking establishment/nightclub be **APPROVED**, with the following conditions:

- (1) The site will developed with an approved revised site plan, showing, but not limited to, any outdoor extension of the indoor venue and public access from Santa Fa Avenue to Douglas Avenue, as required on vacation case VAC2014-00051. The outdoor venue shall be subject to Art.III, Sec.III-D.6.w of the UZC. The site plan must be submitted for review within 60-days of approval by the appropriate governing body.
- (2) The applicant shall obtain all required state, local and other applicable permits and inspections.
- (3) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The site and the area to the north, west and south of the site is zoned CBD. The dominate development in this area of CBD zoning is the recently completed (2009) Intrust Bank Arena, located two-blocks south of the site. Intrust Bank Arena hosts concerts, hockey games, basketball games and other events that require a large venue. The national and state registered historic five story, brick Eaton Apartments is located southwest of the site across Douglas Avenue. Most buildings in the immediate area are similar to the site’s building; one to three stories, mostly brick buildings, built from 1902-1930. The buildings located closest to the site contain, but are not limited to, a coffee shop, several restaurants, apartments, retail, office, and legal office. There is at least one building with a street level vacancy. A building located 235 feet west of the site appears to be undergoing some remodeling, but it had been the Blue Lounge tavern/drinking establishment/nightclub and may still be

occupied by (John Barleycorns) a tavern/drinking establishment/nightclub. The applicant's request would not introduce a new use into the immediate area. The site is located west of the Old Town Overlay District (OT-O), separated by a raised railroad tracks and the sand and gravel Santa Fe Avenue. The OT-O district is a unique planned entertainment area containing restaurants, a microbrewery, nightclubs, a multi-screen movie theater, hotels and retail. The site's close proximity to the Intrust Bank Arena and the OT-O district places the applicants requested on-site microbrewery and tavern close to similar venues.

(2) **The suitability of the subject property for the uses to which it has been restricted:**

The site is zoned the CBD, which is meant to accommodate a mix of residential, retail, commercial, office and other complementary land uses within the downtown core area of the City of Wichita. Approval of a Conditional Use would permit the site to become a microbrewery with a tavern/drinking establishment/nightclub. The request does not introduce a new use to the area, as there is or was a tavern/drinking establishment/nightclub located approximately 235 feet west of the site, as well as other tavern/drinking establishment/nightclub located in this area. The site could continue to be used as permitted by right, such as a microbrewery, in the CBD zoning district.

(3) **Extent to which removal of the restrictions will detrimentally affect nearby**

**property:** Typical concerns about tavern/drinking establishment/nightclub include bad behavior resulting from unlimited liquor sales, the noise from music and dancing, and the hours of the nightclub having a detrimental impact on the neighborhood. The site is located within the City's core high energy entertainment area, where similar development already exists. Denial of the request could have a negative financial impact on the applicants.

(4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:**

The purpose of the CBD Central Business District is to accommodate retail, commercial, office and other complementary land uses within the downtown core area of the City of Wichita. The CBD District is generally compatible with the 'Downtown Regional Center' designation of the "Wichita-Sedgwick County Comprehensive Plan." It is intended for application only within the City of Wichita and only within the downtown core area and certain nearby areas being redeveloped with similar patterns of uses and site development standards such as but not limited to zero Lot Setbacks, shared Parking, public streetscapes as landscaping and urban design elements and mixed uses within a Building.

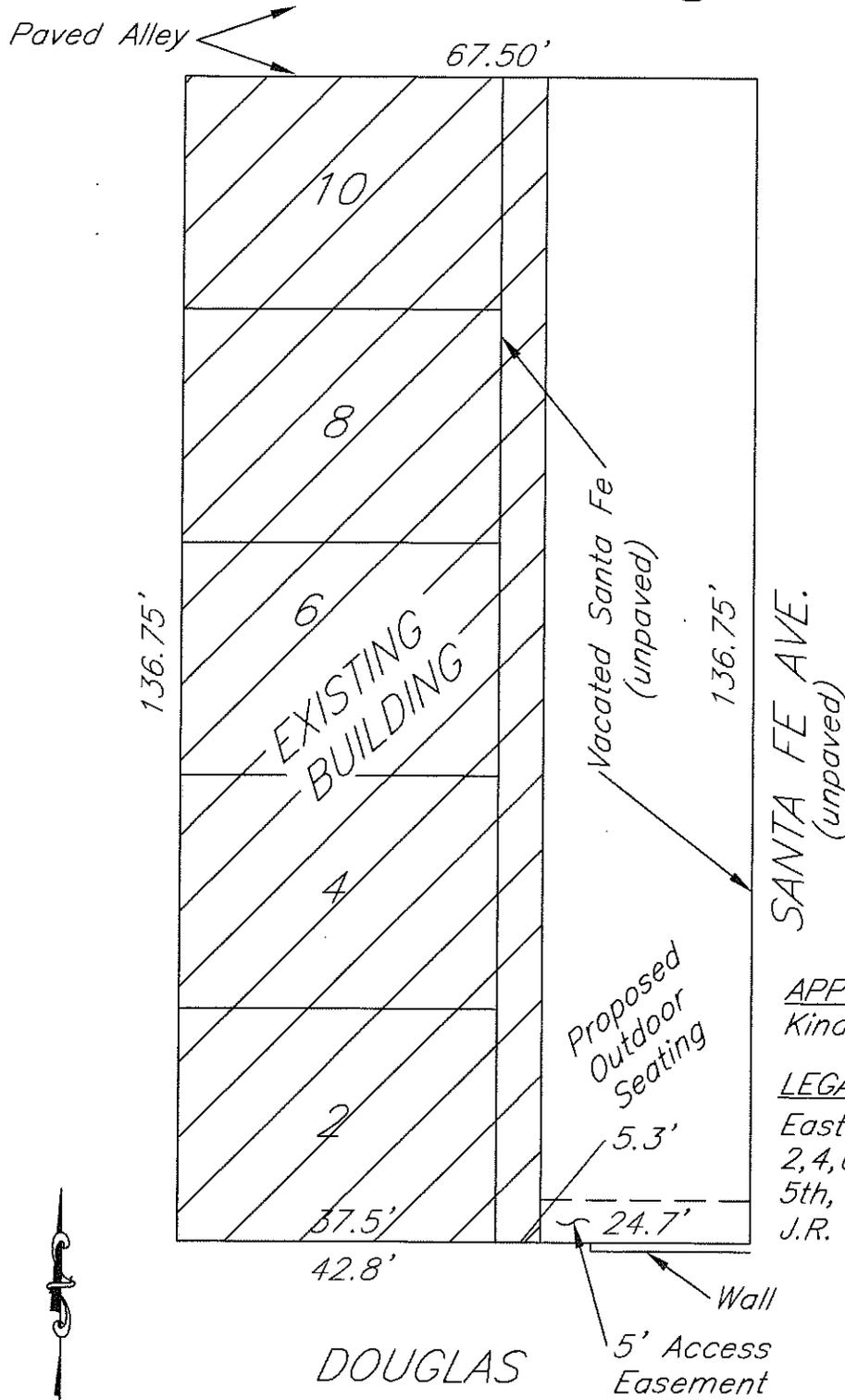
The UZC requires a Conditional Use for a nightclub or a drinking establishment/tavern when there are located within 300 feet of a Church or Place of Worship, public Park, public or parochial School or residential zoning District. Naftzger Public Park is located approximately 190 feet southwest, across Douglas Avenue, of the site, thus the Conditional Use request.

(5) **Impact of the proposed development on community facilities:** It is possible that

approval of this request could result in an increased demand for police services.

CON2015-14

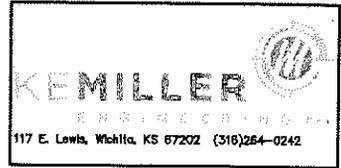
# Conditional Use to allow alcohol sales 630 E. Douglas



APPLICANT:  
Kindel Investments, LLC

LEGAL:  
East 37 1/2 feet of Lots  
2, 4, 6, 8, 10 and 30 on E.  
5th, now Santa Fe Ave.,  
J.R. Mead's Addition.

SCALE: 1"=20'



**STAFF REPORT**  
 DAB III 5-6-2015  
 MAPC 5-7-2015

**CASE NUMBER:** PUD2015-00003

**APPLICANT/AGENT:** Sisters of St. Joseph (Sr. Pam Young) / Baughman Company, P.A. (Russ Ewy) and Congregation of St. Joseph (Edward Sutoris)

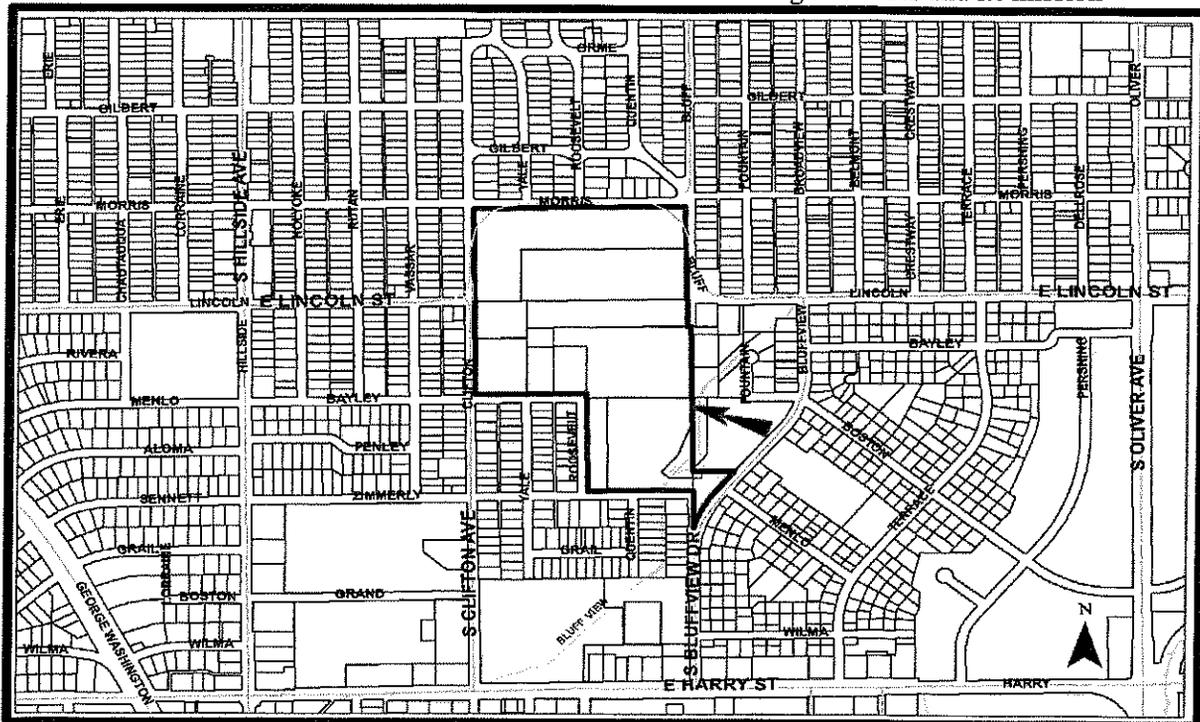
**REQUEST:** Creation of the Sisters of St. Joseph Planned Unit Development to permit a multi-use facility that supports the mission and activities of church, place of worship or religious order

**CURRENT ZONING:** B Multi-Family Residential, TF-3 Two-Family Residential, GO General Office and GC General Commercial

**SITE SIZE:** 50 acres

**LOCATION:** South of East Morris Street, east of South Clifton Avenue and South Roosevelt Avenue, north of East Bayley Street and East Zimmerly Street and west of Bluffview Drive (one-half mile north of East Harry Street and one-quarter mile east of South Hillside Avenue)

**PROPOSED USE:** Residential, office, religious, heliport, cemetery, hospital, medical service and retail uses associated with a religious order and its mission



**BACKGROUND:** The application area is generally located south of East Morris Street, east of South Clifton Avenue and South Roosevelt Avenue, north of East Bayley Street and East Zimmerly Street and west of Bluffview Drive and Bluff Avenue (one-half mile north of East Harry Street and one-quarter mile east of South Hillside Avenue). The application area is currently zoned B Multi-Family Residential (B), Two-Family Residential (TF-3), General Office (GO) and General Commercial (GC), and is developed with facilities associated with the Sisters of St. Joseph religious order, such as: chapel, group living quarters, cemetery helipad, and offices. It is believed the first structures located on the site were built circa 1915 and the site has been used by the Sisters of St. Joseph from the beginning. The site contains 49.3 acres, some of which is platted.

The applicant is requesting a zone change to the Planned Unit Development (PUD) #45 which would permit the following uses on Parcel 1: Single-family, two-family, multi-family, general group residence, assisted living, nursing facility, church/place of worship, community assembly, general day care, hospital, medical service, general office, heliport, second hand store as an accessory use to a church/place of worship, vocational school, private cemetery, mausoleum or columbarium, retail sales limited to the sale of products principally produced on-site, sales of religious merchandise accessory the church/place of worship, and other uses customarily associated with a religious institution. The proposed PUD has only one parcel.

The applicant is proposing the following development standards: 1) a total gross floor area of 751,628 square feet (35 percent). 2) Parking per code except parking for multi-family use shall be one space per unit, group residence one space per bedroom and non-residential uses at one space per 500 square feet of building area. 3) Setbacks vary from 35 feet to 20 feet. 4) A drainage plan shall be submitted for review and approval and guarantees shall be provided at the time of platting. 5) Sign standards are to be per the GO district of the Sign Code except that individual signs may be up to 100 square feet. No LED, billboard or off-site signs shall be permitted. 6) Uses are as described in the preceding paragraph. 7) Access shall be as platted or as indicated on the PUD. 8) Landscaping shall be per Unified Zoning Code for institutional uses (Article IV, Section IV-B.3.d(2)). Existing landscaping shall be considered to count towards the interior side and rear yard screening requirements. Screening around the perimeter shall not be required.

Surrounding properties are principally zoned Two-Family Residential (TF-3). Land to the east is also zoned B Multi-Family Residential (B). Most of the surrounding properties are developed with single-family homes, however, some may be two-family. Land to the east of Bluffview Drive is also a park.

**CASE HISTORY:** Case number ZON2002-00008 granted B zoning. SUB2002-00054 was the Sisters of St. Joseph 5<sup>th</sup> Addition. ZON2004-00008 granted GO zoning and was perfected by SUB2004-00030, the Sisters of St. Joseph 6<sup>th</sup> Addition.

**ADJACENT ZONING AND LAND USE:**

North: TF-3; single-family residential  
South: TF-3; single-family residential  
East: TF-3 and B; single-family residential, park  
West: TF-3; single-family residential

**PUBLIC SERVICES:** The site is served by all the usual municipal services or they are available for extension. Comments concerning the following streets apply only to those portions of the streets that abut the application area. Roosevelt Avenue is a two-lane sand and gravel street with 60 feet of full right-of-way. East Bayley Street is a two-lane paved street with 60 feet of full right-of-way. East Zimmerly

Street is a two-lane paved street with 60 feet of full right-of-way. East Zimmerly Street has not been installed for the segment located between South Bluff Avenue and Quentin Avenue. Bluffview Drive has 70 feet of full right-of-way and is permitted one driveway. South Clifton Avenue located south of Lincoln is a paved two-lane street with 60 feet of full right-of-way; north of Lincoln Street Clifton Avenue is a paved four-lane facility. The formal entrance to the existing site located where Lincoln Street and Clifton Avenue intersect. Other access points are located on Bluffview Drive, Zimmerly Street, Bayley Street and Lincoln Street/Bluff Avenue. Morris Street is a four-lane paved street with 60 feet of right-of-way. Bluff Avenue is also a four-lane paved street with 60 feet of right-of-way. Two citizens mentioned that the public streets bordering the application area probably needed resurfacing and that there should be a review of the area's drainage facilities.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide depicts this site as appropriate for "major institutional." This category includes facilities of a significant size and scale or operation and could include a range of such uses as government facilities, military bases, libraries, schools, cemeteries, churches, hospitals and medical treatment facilities.

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

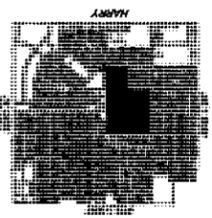
1. Subject to platting the unplatted portions of the application area prior to the issuance of building permits.
2. Uses are those permitted by the approved PUD, and are subject to the development standards contained in the approved PUD.
3. All applicable permits, licenses, inspections or change in use shall be obtained prior to occupancy.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Surrounding properties are principally zoned Two-Family Residential (TF-3). Land to the east is also zoned B Multi-Family Residential (B). Most of the surrounding properties are developed with single-family homes, however, some may be two-family. Land to the east of Bluffview Drive is also a park. The character of the larger area is a long established residential area containing a long established religious order's facilities.
2. The suitability of the subject property for the uses to which it has been restricted: The application area is currently zoned B Multi-Family Residential (B), Two-Family Residential (TF-3), General Office (GO) and General Commercial (GC), and currently is developed with facilities associated with the Sisters of St. Joseph religious order, such as: chapel, group living quarters, cemetery helipad, and offices. The site could continue to be used as currently zoned; however, the proposed PUD consolidates the site's four zoning districts into one zoning district, the PUD. The proposed PUD allows primarily for the expansion or improvement of existing uses and services provided by, or for, the Sisters. The proposed PUD is a more suitable zoning than the site's current four districts.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed PUD should not detrimentally impact nearby property owners. The proposed restrictions and development standards are designed to provide compatible land uses on the application area and within the larger neighborhood. Essentially the proposed PUD does not significantly change or add new uses to the site but facilitates the delivery of improved or

enhanced services to and by the Sisters.

4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request will allow the applicant to enhance and expand the services provided to and by the Sisters.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide depicts this site as appropriate for “major institutional.” This category includes facilities of a significant size and scale or operation and could include a range of such uses as government facilities, military bases, libraries, schools, cemeteries, churches, hospitals and medical treatment facilities.
6. Impact of the proposed development on community facilities: None identified.



VICINITY MAP

**REVISIONS:**

Planned Unit Development (PUD-2015-03) Filed March 20, 2015  
 Forwarded for staff comments  
 Approved by MAPD  
 Approved by City Council

**PARCEL 1**

A. Net Area: 2,147,508.5 sq. ft. or 49.3 acres ±  
 B. Maximum Building Coverage: 644,252.5 sq. ft. or 14.6 percent  
 C. Maximum Floor Area: 751,628 sq. ft. or 35 percent  
 D. Floor Area Ratio: 35 percent  
 E. Maximum building height: 50 feet, except for any other structures exempt by the ULC.  
 F. Setbacks: See Drawing  
 G. Access Point: See Drawing  
 H. Permitted Uses: See General Provisions #5

**LEGAL DESCRIPTION:**

The Southeast Quarter of the Northwest Quarter of Section 26, Township 27 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, except that portion platted as Longview Terrace, an addition to Wichita, Sedgwick County, Kansas, and except that portion platted as Brown - Limited Single-Family Duplex, Multi-Family Group Residence (General), Assisted Living, Family Child Care, Family Community Assembly, Assembly, Day Care (General), Hospital, Medical Service, Office (General), Hospital, Place of Worship, Vocational School, Physical Therapy, Church, Place of Worship, Vocational School, Physical Therapy, Hospital, Second Hand Store as on occasion used to aid the poor, or Community, and Place of Worship, and other uses necessary to said Church/Place of Worship, and subject to the development standards contained in the approved PUD.

1. Total Land Area: 2,147,508.5 sq. ft. or 49.3 acres ±  
 Total Gross Floor Area: 751,628 sq. ft. or 35 percent  
 Total Floor Area Ratio: 35 percent

2. Parking requirements shall be per the Wichita-Sedgwick County Unified Zoning Code, unless otherwise dictated by the City of Wichita. Parking for multi-family use shall be provided on one parking space per unit, and Group Residence users shall be provided one parking space per bedroom. Parking for all non-residential uses shall be provided on a parking space per 500 square feet of building area.

3. Setbacks are as indicated on the P.U.D. drawing.

4. A drainage plan shall be submitted to the City of Wichita's Stormwater Management for approval. Required improvements for drainage shall be provided at the time of grading improvements.

5. Signs shall be in accordance with City Sign Code for the City of Wichita. General Office zoning district, except an individual sign may be permitted up to 100 square feet in area. No LED, billboard, or off-site signs shall be permitted.

6. Food 1 shall be limited to the following uses: Single-family Duplex, Multi-family Group Residence (General), Assisted Living, Family Child Care, Family Community Assembly, Assembly, Day Care (General), Hospital, Medical Service, Office (General), Hospital, Place of Worship, Vocational School, Physical Therapy, Church, Place of Worship, Vocational School, Physical Therapy, Hospital, Second Hand Store as on occasion used to aid the poor, or Community, and Place of Worship, and other uses necessary to said Church/Place of Worship, and subject to the development standards contained in the approved PUD.

7. Access shall be as indicated on the Plan, and/or as approved during the pitting process.

8. Landscaping requirements shall be per the Wichita-Sedgwick County Unified Zoning Code for residential uses. Existing landscaping shall be maintained on the PUD and shall not be removed.

9. The design layout shown on the plan illustrates only one development concept. Modification to the location of improvements, building layout, and/or access locations may be permitted provided they meet all requirements of this plan.

10. All applicable permits, licenses, inspections or change in use shall be obtained prior to occupancy.

11. Amendments, adjustments or interpretations to this P.U.D. shall be done in accordance with the Unified Zoning Code.

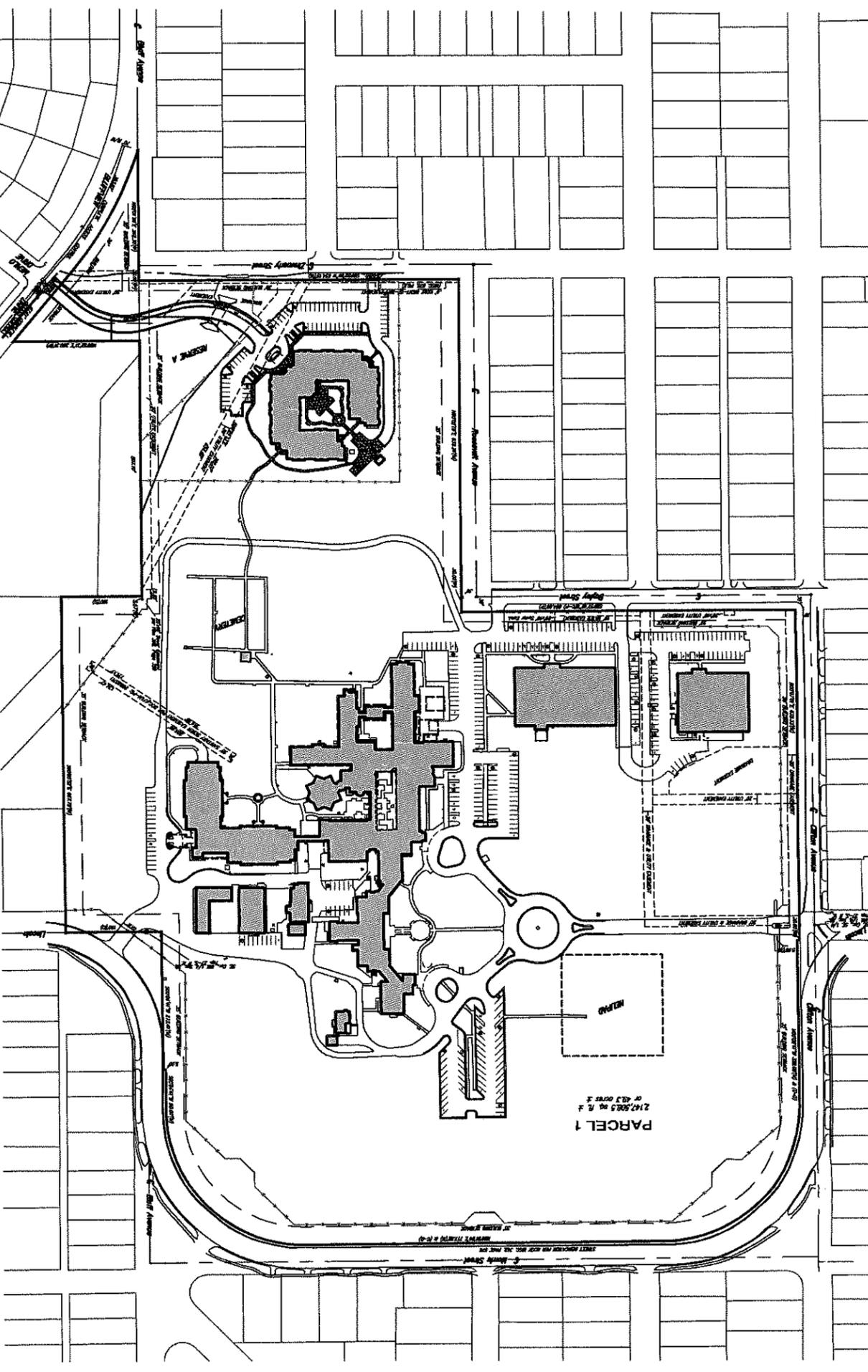
12. The transfer of this lot or any portion of land included within the Planned Unit Development (or any amendments thereto) does not constitute a termination of the plan or any portion thereof but shall run with the land and be binding upon present owners, their successors and assigns.

13. The development of this property shall proceed in accordance with the development plan and approved by the governing authority and approved by the governing body, and any amendments or changes to the plan, as determined by the zoning administrator or the Director of Planning and Zoning, shall be subject to the approval of the governing authority.

14. The development of this property shall proceed in accordance with the development plan and approved by the governing authority and approved by the governing body, and any amendments or changes to the plan, as determined by the zoning administrator or the Director of Planning and Zoning, shall be subject to the approval of the governing authority.

15. The developer in this development plan shall be permitted to the Planning Commission and to the governing body for their consideration.

16. Subject to the issuance of building permits, one prior to the issuance of building permits.



**SISTERS OF ST. JOSEPH**  
**PLANNED UNIT DEVELOPMENT**  
**PUD-45**