

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

MINUTES

July 9, 2015

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, July 9, 2015 at 1:30 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Matt Goolsby; Chair; Carol Neugent, Vice Chair; John Dailey; David Dennis; David Foster (Out @3:12 p.m.); Bill Johnson; Joe Johnson; Don Klausmeyer; Debra Miller Stevens; M.S. Mitchell; Bill Ramsey; Lowell E. Richardson and Chuck Warren. John McKay Jr. was 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. Approval of the May 21, 2015 meeting minutes.

MOTION: To approve the May 21, 2015 Planning Commission minutes.

DENNIS moved, **RAMSEY** seconded the motion, and it carried (11-0-2).

J. JOHNSON and **MILLER STEVENS** – Abstained

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB2015-00005: One-Sept Final Plat - SLADE'S SECOND ADDITION,** located south of 55th Street South, east of Meridian.

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

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department has requested the applicant extend sanitary sewer (laterals). In-lieu-of-assessment fees are due on water transmission and sewer main. A No Protest Agreement for future extension of water is needed.
- B. 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 water. A memorandum shall be obtained specifying approval.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. County Surveying advises the benchmark description for the Site "SBM-1" needs a more defined location with respect to the proposed plat. Said benchmark should also be shown graphically on the final plat.

- E. County Surveying recommends adding a reference to the west line of the east half of the northeast quarter of the northwest quarter of Section 30, Township 28 South, Range 1 east on the face of the plat.
- F. County Surveying recommends revising the legend on the final plat to match what is shown.
- G. County Surveying advises the recording data for the contingent street dedication over Lots 2 and 3, Block A, "Slade's First Subdivision", Sedgwick County, Kansas (Film 442, Page 213) needs to be shown on the final plat.
- H. The applicant has platted a joint driveway easement and contingent street dedication which shall be relabeled as a "joint access easement and contingent dedication" and referenced in the plattor's text as follows: "The contingent dedication shall become effective if the City of Wichita determines a need for such dedication."
- I. The joint access easement and contingent dedication shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- J. Language in the plattor's text regarding the proposed joint driveway and contingent street dedication benefiting Lots 2 and 3, Block A of Slade's First Subdivision should be removed, as future developments would also benefit from a future public street.
- K. City Stormwater Management has approved the drainage plan.
- L. Access controls need denoted on the face of the plat as referenced in the plattor's text.
- M. 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.
- N. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- O. The plattor's text shall include reference to "a lot and a block" in the owner's certificate.
- P. The plattor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.
- Q. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

- R. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- S. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- U. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- V. Perimeter closure computations shall be submitted with the final plat tracing.
- W. Westar Energy advises that Brian Ward, the Southwest Area Construction Services Representative, will be the contact for this project. He can be reached at 316-261-6859 with questions and information or to start this project when the time comes. Any and all relocation and removal of any existing equipment made necessary by this plat will be at the applicant's expense.
- X. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

There were no public comments.

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

RAMSEY moved, **B. JOHNSON** seconded the motion, and it carried (13-0).

2-2. SUB2015-00017: Final Plat – CADILLAC LAKE ADDITION, located on the southeast corner of Maize Road and 29th Street North.

NOTE: This is an unplatted site located within the City of Wichita. A portion of the site has been approved for a zone change (ZON2015-00013) from SF-5 Single-Family Residential to LC Limited Commercial. The Cadillac Lake Community Unit Plan (CUP2015-00005, DP-336) was also approved.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that a sewer extension is required to serve Lots 1-9. Lot 10 owes sewer lateral fees. A sewer main fee is due for all lots and reserves. A water extension is needed for Lot 1. Water distribution (all lots) and transmission (all lots and reserves) fees are due. Sewer easements will be required.
- 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 requested a guarantee for right-turn deceleration lanes on Maize Road and for left turn lanes on 29th Street North, including the extension of drainage structures as needed for safety on Maize Road.
- E. Traffic Engineering has approved the access controls. The plat denotes two openings along Maize Road and seven openings along 29th Street North including one rights-in/out opening.
- F. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.
- G. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a restrictive covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- H. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- I. In accordance with the CUP approval, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- J. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted and inspected.
- K. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- L. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.

- M. 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.
- N. 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.
- O. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- Q. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Westar Energy advises that Richard Aitken is the Area Construction Services Rep for this plat and can be reached at 316-261-6734. Any and all relocation and removal of any existing equipment made necessary by this plat will be at the applicant's expense.
- V. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

There were no public comments.

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

RAMSEY moved, **B. JOHNSON** seconded the motion, and it carried (13-0).

3. PUBLIC HEARING – VACATION ITEMS

3-1. VAC2015-00022: City request to vacate a platted alley, located between Lincoln and Morris Streets, Santa Fe Avenue and railroad right-of-way.

APPLICANT/AGENT: Wichita Material Recovery LLC, Michaelis Real Estate 3 LLC, KCM & O RY Co., AT & SF Railway Company, H & D Real Estate LLC, James Wyatt (applicants)

LEGAL DESCRIPTION: Generally described as vacating the platted 16-foot wide alley abutting Lots 37-73 (odd, rail road side), Lots 38-74 (even, Santa Fe Avenue side), the north side of Lincoln Street, and the south side of Morris Street, all in the Elliott Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located between Lincoln and Morris Streets, Santa Fe Avenue and railroad right-of-way (WCC III)

REASON FOR REQUEST: Future development

CURRENT ZONING: The subject site is platted alley right-of-way. All abutting and adjacent properties are zoned LI Limited Industrial

The applicant is requesting the vacation of the gravel, platted 16-foot wide alley right-of-way (ROW), abutting Lots 37-73 (odd, rail road side), Lots 38-74 (even, Santa Fe Avenue side), the north side of Lincoln Street, and the south side of Morris Street, all in the Elliott Addition. There is a sewer line and manholes, power poles and lines located in the alley. Westar has equipment in the platted alley. Conditions #1 and #5 covers Westar. Shane Price, Supervisor, Construction Services is the representative for this area and can be contacted at 261-6315. No property will be denied access to public street right-of-way if the vacation is approved. All of the abutting property owners have signed the application/petition to vacate the alley. The Elliott Addition was recorded with the Register of Deeds February 1, 1887.

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

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time June 18, 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 platted alley 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 a 20-foot wide utility-drainage easement by separate instrument (with original signatures) for the length of the platted vacated alley, prior to the case going to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (2) Provide restrictive covenants (with original signatures) binding and tying the vacated described alley right-of-way to the abutting properties. These will go with the Vacation Order to City Council for final action and subsequent recording with the Register of Deeds and the Appraiser's Office.
- (3) Provide a legal description of the vacated alley ROW, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action and subsequent recording with the Register of Deeds.
- (4) All improvements shall be according to City Standards and at the applicant's expense. If needed, provide required guarantees or approved projects to ensure relocation and/or relocation of utilities, including, but not limited to, sewer lines and manholes, stormwater equipment, all and franchise utilities. All provided prior to the vacation case going to City Council for final action.
- (5) Any relocation or reconstruction of utilities, made necessary by this vacation shall be the responsibility of the applicants 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) Dedicate a 20-foot wide utility-drainage easement by separate instrument (with original signatures) for the length of the platted vacated alley, prior to the case going to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.

- (2) Provide restrictive covenants (with original signatures) binding and tying the vacated described alley right-of-way to the abutting properties. These will go with the Vacation Order to City Council for final action and subsequent recording with the Register of Deeds and the Appraiser's Office.
- (3) Provide a legal description of the vacated alley ROW, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action and subsequent recording with the Register of Deeds.
- (4) All improvements shall be according to City Standards and at the applicant's expense. If needed, provide required guarantees or approved projects to ensure relocation and/or relocation of utilities, including, but not limited to, sewer lines and manholes, stormwater equipment, all and franchise utilities. All provided prior to the vacation case going to City Council for final action.
- (5) Any relocation or reconstruction of utilities, made necessary by this vacation shall be the responsibility of the applicants 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.

There were no public comments.

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

J. JOHNSON moved, **RAMSEY** seconded the motion, and it carried (13-0).

3-2. VAC2015-00023: County request to vacate a subdivision, located on the northwest corner of 63rd Street South and Clifton Avenue.

OWNER/AGENT: Karen A. & Bradley C. Hawthorne, Larry L. & Deborah D. Justice (owners/applicants), Baughman Co, PA, c/o Phil Meyer (agent)

LEGAL DESCRIPTION: Generally described as vacating all of the Woodvale Addition, Sedgwick County, Kansas, except Lot 1, Block B & Lot 11, Block A

LOCATION: Generally located on the northwest corner of 63rd Street South and Clifton Avenue (BoCC #V)

REASON FOR REQUEST: Future development

CURRENT ZONING:

The site is zoned SF-20 Single-Family Residential. Abutting north and west properties are zoned SF-5 Single-Family Residential and RR Rural Residential. Adjacent east properties (across Clifton) are zoned RR and SF-20. Adjacent south properties (across 63rd) are zoned SF-5 and TF-3 Two-Family Residential.

The applicant is requesting the vacation of all of the undeveloped 9.5-acre Woodvale Addition plat, except for Lot 1, Block B & Lot 11, Block A; both of these lots have single-family residence located on them. The current Woodvale Addition is a remnant of the original plat, which was recorded with the Register of Deeds August 15, 1953. Approximately $\frac{3}{4}$ of the south portion of the plat was vacated in 1996; D-1996-1, Film 1592, Page 256,

The proposed vacation will not impact Clifton Avenue and 63rd Street South. There are no public utilities located in the plat. Westar has equipment in the platted area. The applicant will need to dedicate an easement or relocate/remove at their expense; Conditions #1 and #2 covers Westar. Richard Aitken, Subdivision Representative for Construction Services is the contact for this item and can be contacted at 261-6734.

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 are required.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from County and 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 described plat.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time June 18, 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 plat and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Provide 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 County/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 County Commission for final action.

- (2) Provide, as needed, dedication of easements by separate instrument with original signature(s) to be recorded with the Vacation Order, prior to the request going to County Commission for final action.
- (3) Provide a legal description of the vacated plat, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action and subsequent recording with the Register of Deeds.
- (4) All improvements shall be according to County and City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide 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 County/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 County Commission for final action.
- (2) Provide, as needed, dedication of easements by separate instrument with original signature(s) to be recorded with the Vacation Order, prior to the request going to County Commission for final action.
- (3) Provide a legal description of the vacated plat, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action and subsequent recording with the Register of Deeds.
- (4) All improvements shall be according to County and City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

There were no public comments.

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

J. JOHNSON moved, **RAMSEY** seconded the motion, and it carried (13-0).

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- 3-3. VAC2015-00024: City request to vacate the plattor's text to amend the uses allowed within platted reserves,** on property general location west of Maize Road on the north side of 29th Street North.

OWNER/APPLICANT: Newmarket Office, LLC, c/o David Hambrick (owner)

LEGAL DESCRIPTION: Generally described as vacating the plattor's text to amend the uses allowed in platted Reserves A and B, New Market Office 2nd Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located west of Maize Road on the north side of 29th Street North, on the east and west sides of North Parkdale Circle (WCC #V)

REASON FOR REQUEST: To allow for the use of open space, recreation and signage

CURRENT ZONING: The site and the abutting north and south properties are zoned GO General Office. Adjacent south (across 29th Street North) and abutting east and west properties are zoned SF-5 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, New Market Office 2nd Addition. Per the plattor's text Reserves A and B are for the construction and maintenance of drainage, lakes, landscaping, sidewalks and utilities confined to easements. The vacation request will allow open space, recreation and signage, while retaining those uses as described in the plattor's text. Stormwater has inlets, conduit, outfalls, detention basins and other equipment located in both of these reserves. There are no franchised utilities located within the platted reserves outside of the easements located with said reserves. Per the plattor's text the reserves are owned and maintained by an owners association; this will not change. The New Market Office 2nd Addition was recorded May 19, 2011.

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 June 18, 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, New Market Office 2nd Addition. The uses permitted will be for the construction and maintenance of drainage, lakes, landscaping, sidewalks, utilities confined to easements, open space, recreation and signage as approved by City Public Works, Water & Sewer, Stormwater, Traffic, Fire, and franchised utilities.
- (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 for final action and subsequent recording with the Register of Deeds.
- (3) 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 for final action.
- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the plattor's text to amend the uses allowed in Reserves A and B, New Market Office 2nd Addition. The uses permitted will be for the construction and maintenance of drainage, lakes, landscaping, sidewalks, utilities confined to easements, open space, recreation and signage as approved by City Public Works, Water & Sewer, Stormwater, Traffic, Fire, and franchised utilities.
- (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 for final action and subsequent recording with the Register of Deeds.

- (3) 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 for final action.
- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

There were no public comments.

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

J. JOHNSON moved, **RAMSEY** seconded the motion, and it carried (13-0).

3-4. VAC2015-00025: City request to vacate a platted sidewalk easement, on property generally located west of Washington Avenue on the south side of Douglas Avenue.

OWNER/APPLICANT: UST, LLC, c/o Gary Oborny (owner/applicant)

LEGAL DESCRIPTION: Generally described as vacating the east-west platted sidewalk easement running parallel to the north property line of Lot 1, Union Station Addition, Sedgwick County, Kansas.

LOCATION: Generally located west of Washington Avenue on the south side of Douglas Avenue (WCC #I)

REASON FOR REQUEST: Future development; associated with CON2015-00017

CURRENT ZONING: The site and all abutting and adjacent properties are zoned CBD Central Business District.

The applicant proposes to vacate the east-west platted sidewalk easement running parallel to most of the north property line of Lot 1, Union Station Addition. It appears that the north most portion of the original Union Station Addition became part of the Douglas Avenue right-of-way, which reduced the size of the sidewalk easement. There is sidewalk located within the Douglas Avenue right-of-way that runs parallel to the subject easement; the vacation request will not impact the existing sidewalk. The vacation is associated with CON2015-00017, a Conditional Use for an outdoor nightclub in the city.

Public Works has water and stormwater lines, valves, nodes and conduit (running north-south) located in a north-south platted utility easement located within the subject easement. Westar has utilities in the Douglas Avenue right-of-way; Shane Price, Supervisor, Construction Services is the representative for this area and can be contacted at 261-6315. The Union Station Addition was recorded with the Register of Deeds March 2, 1982.

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

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

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time June 18, 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 sidewalk easement and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Abandonment or relocation/reconstruction of any/all utilities, made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. As needed provide an approved private project plan number for the abandonment /relocation of public utilities. As needed provide approval from franchised utilities for the relocation of franchised utilities. All to be provided to the Planning Department prior to this case going to City Council for final action.
- (2) Provide to Planning any needed easements, with original signatures, for relocated utilities, prior to this case going to City Council for final action and subsequent recording with the Vacation Order at the register of Deeds.
- (3) Provide a legal description of the vacated sidewalk easement, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action and subsequent recording with the Register of Deeds.

- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Abandonment or relocation/reconstruction of any/all utilities, made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. As needed provide an approved private project plan number for the abandonment /relocation of public utilities. As needed provide approval from franchised utilities for the relocation of franchised utilities. All to be provided to the Planning Department prior to this case going to City Council for final action.
- (2) Provide to Planning any needed easements, with original signatures, for relocated utilities, prior to this case going to City Council for final action and subsequent recording with the Vacation Order at the register of Deeds.
- (3) Provide a legal description of the vacated side walk easement, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action and subsequent recording with the Register of Deeds.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

There were no public comments.

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

J. JOHNSON moved, **RAMSEY** seconded the motion, and it carried (13-0).

PUBLIC HEARINGS

4. **Case No.:** **CON2015-00015** (deferred from 5-21-15) - Armando Michel (applicant/owner) Ted Knopp (agent) request a City Conditional Use request for a nightclub on LI Limited Industrial zoned property on property described as:

2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 32, 34 and 36, on Cleveland Avenue, Corwin's Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant proposes a nightclub in the city and an as needed event center for weddings, anniversaries, graduations, company celebrations, art shows, concerts and similar events on the LI Limited Industrial zoned site; see Exhibit B. These events could have the serving of food and cereal malt beverage or alcoholic liquor. The possibility of the on-site serving and consumption of cereal malt beverage or alcoholic liquor and music and dancing defines the request as a nightclub in the city. Nightclubs are a permitted use in the LI zoning district. However, if a nightclub is located within 300 feet of a church or place of worship, public park, public or parochial school or residential zoning district the Unified Zoning Code (UZC) requires consideration of a Conditional Use. A LI zoned church abuts the northwest side of the site and B Multi-Family Residential zoned single-family residences are located 65 feet east of the site, across Cleveland Avenue, thus the Conditional Use request. Approval of a nightclub would allow the applicant unlimited liquor sales. Approval of a nightclub would appear to allow the first nightclub along this section of Central Avenue, as defined by Hydraulic Avenue on the east side to the raised railroad tracks and Santa Fe Avenue on the west side.

The one-acre plus site is located on the north side of Central Avenue and on the west side of Cleveland Avenue. The character of the surrounding area is a mixture of GC General Commercial and LI zoned small commercial uses located along Central Avenue, with LI and GC zoned limited industrial uses located behind the commercial. LI zoning is the dominant zoning in the area. Development in the area includes, but is not limited to, a used car sales lot, offices, office-warehouses, small restaurants, auto repair, auto paint and body, a bike seller, etc. A LI zoned steel products facility and storage yard is located north and northwest of the site, across Elm Street, and is the largest development in the area. Older (built 1910-1920) B, GC and LI zoned wood frame single-family residences are also located behind the commercial development along Central Avenue and to the west, east and north of the site. The residences in this area show significant decline. There are also vacant lots and vacant buildings located in the area. A cluster of B zoned brick duplexes (built 1940) are located a half-block south of the site. Three blocks west of the site, on the southeast side of Central and Pennsylvania Avenues, is the B and GC zoned Washington Elementary School with a significant recent, 2003, addition and improvements.

The applicant's site plan shows 103 parking spaces. An on-site inspection found paved parking of maybe 24 spaces. The rest of the proposed parking area is vacant except for markers separating the applicant's proposed parking from another property owner's vacant property, which splits/separates the applicant's proposed parking. This separation means that the north most parking area will not have direct access to an arterial road, Central Avenue, but will access off of the residential streets, Cleveland Avenue and Elm Street. The UZC requires all parking areas, loading areas and driveways on all developments other than low-density residential developments to be surfaced with concrete, asphaltic concrete, asphalt or other comparable surfacing and shall be maintained in good condition and free of all weeds, dust, trash and other debris; a variance is required to waive this standard. The applicant does not give an occupancy limit for the proposed nightclub nor does the site plan give the size of the proposed nightclub. The UZC requires one parking space per two occupants for a nightclub; as presented the determination of required parking cannot be made at this time. The applicant owns several other buildings located on the east side of the proposed nightclub. These businesses or future businesses will need to share the parking that the applicant is proposing, which further complicates the determination of the final parking requirement.

CASE HISTORY: The Conditional Use application area, Lots 2-26 (even), and Lots 32, 34 and 36, all on Cleveland Avenue, Corwins Addition, was recorded with the Register of Deeds on April 29, 1886. The proposed nightclub building was built in 1955. CON2004-00042 was a Conditional Use request to allow a nightclub within 200 feet (the standard at the time) of a residential zoning. Planning recommended denial of the request and the MAPC denied the request at the January 27, 2005 meeting. At the time of the CON2004-00042 request, the application area was permitted for a dance hall/cabaret, but could not sell or serve alcohol. The current UZC (July 9, 2009) does not define a dance hall or cabaret.

Staff has received calls protesting the use. The applicant has provided a list of 16 businesses/individuals that support the applicant's 'Request to support improvements on 1320 E Central' form letter; Exhibit A. 14 of those supporters are not listed on the ownership/notification list of those property owners located within 350 feet of the subject property.

ADJACENT ZONING AND LAND USE:

NORTH:	LI, GC, B	Steel products facility and storage, vacant land, single-family residences, vacant residences
SOUTH:	LI, GC, B	Vacant building, small restaurants, auto repair, auto body and paint, small offices, office-warehouse, small retail, duplexes
EAST:	B, GC, LC	Single-family residences, vacant land and buildings, church, vehicle sales, small offices, small retail
WEST:	LI	Office-warehouse, single-family residences, church, vacant land, public school

PUBLIC SERVICES: The subject property fronts Central Avenue, which is a five-lane arterial street with an 80-foot right-of-way at this location. Cleveland and Mathewson Avenues are local streets with a 60-foot right-of-way. The 2030 Transportation Plan designates that Central will remain a five-lane arterial. The subject property has all other public utilities.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Map of the Comprehensive Plan" identifies the portion of the site where the building is located as appropriate for "local commercial" development and most of the parking area as appropriate for "employment/industrial" development. Local commercial development does not have a significant regional draw that generates a high volume traffic. The range of uses include medical or insurance offices, auto repair and service stations, grocery stores, restaurants and personal service facilities. Employment/industrial development has concentrations of employment of an industrial, manufacturing, service or non-institutional nature. The range of uses include manufacturing and fabrication facilities, warehousing and shipping centers, call centers and corporate offices. The site's LI zoning is appropriate for employment/industrial category, but it is not appropriate for local commercial development, which is what the building site is categorized. Because the proposed nightclub is located within 300 feet of a church and B zoned single-family residences a Conditional Use is required.

The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The Comprehensive Plan Objective II.B. is to “Minimize the detrimental impacts of higher intensity land uses and transportation facilities located near residential living environments.” Most of the site will have direct access onto the arterial street Central Avenue. However another property owner’s vacant property, splits/separates the applicant’s proposed parking. This separation means that the north most parking area will not have direct access to an arterial road, Central Avenue, but will access off of the residential streets, Cleveland Avenue and Elm Street.

The site is located within the “McAdams Neighborhood Revitalization Plan,” which shows the portion of the site fronting Central Avenue as suitable for ‘general retail’ and the parking area as ‘general industrial/warehousing.’ The site’s LI zoning is less restrictive the Plan’s general retail designation but is a match for the Plan’s general industrial/warehousing designation. The proposed nightclub fits into either of the Plan’s use designations with consideration of a Conditional Use.

RECOMMENDATION: Protesters have contacted the MAPD in opposition to the requested Conditional Use for nightclub. Opposition cites concerns regarding the potential for illegal and dangerous activity from the proposed nightclub and associated parking. Since the previous request for a nightclub at this site, CON2004-00042, the most recent development in the area appears to remain the 2003 investment into Washington Elementary School. Improvements in the surrounding housing appears to be minimal resulting in a B, GC and LI zoned deteriorating residential neighborhood that could be absorbed by surrounding commercial and industrial uses in the future. Based upon information available prior to the public hearings, planning staff recommends that the request for a Conditional Use for a nightclub in the city be APPROVED, with the following conditions:

- A. The site for a nightclub shall be developed in conformance with an approved site plan. A site plan must be approved within 90 days of approval by the appropriate governing body or the Conditional Use shall be declared null and void. The site plan shall include, but not limited to, the occupancy of the nightclub (and the size), as posted by the Fire Marshall (see condition E), landscaping, internal circulation and access as approved by Fire, and showing how much parking is required and provided for the nightclub and the applicant’s other buildings and businesses.
- B. No outdoor entertainment, music, no outdoor speakers, recreation, food or drink services are permitted on the site.
- C. Activities for the nightclub shall not be permitted until all required permits and inspections for the facility are finished including the paving and marking of the parking lot. Plans for the paving of the parking lot will include a drainage plan reviewed and approved by Public Works/Stormwater. All improvements for the nightclub shall be completed within one year of approval by the appropriate governing body or the Conditional Use shall be declared null and void.
- D. The applicants shall comply with all applicable development standards of the UZC, including but not limited to parking, screening, and landscaping.
- E. Occupancy for the nightclub hall shall not exceed the required parking for the nightclub and the applicant’s other buildings and businesses.
- F. The applicant shall obtain, maintain, and comply with all applicable permits and licenses necessary for the operation of a nightclub in the City.

- G. 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 character of the surrounding area is a mix of LI, GC, and B zoned commercial, limited industrial and residential (mostly single-family) uses. A LI zoned steel products facility and storage yard is located north and northwest of the site, across Elm Street, and is the largest development in the area. Since the previous request for a nightclub at this site, CON2004-00042, the most recent development in the area appears to remain the 2003 investment into Washington Elementary School. Improvements in the surrounding housing (built 1910-1920) appears to be minimal resulting in a small B, GC and LI zoned deteriorating residential neighborhood that could be absorbed by surrounding commercial and industrial uses in the future.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently vacant and zoned LI which can accommodate office, retail, commercial and industrial land uses. Because the proposed nightclub is located within 300 feet of a church and B zoned single-family residences consideration of a Conditional Use is required.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Currently the sale of alcoholic beverages is prohibited on this site. Approval of this request would allow for unlimited liquor sales, which could have detrimental impacts on the surrounding residences, considering their proximity to the proposed nightclub and associated parking.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide Map of the Comprehensive Plan” identifies the portion of the site where the building is located as appropriate for “local commercial” development and most of the parking area as appropriate for “employment/industrial” development. Local commercial development does not have a significant regional draw that generates a high volume traffic. The range of uses include medical or insurance offices, auto repair and service stations, grocery stores, restaurants and personal service facilities.

Employment/industrial development has concentrations of employment of an industrial, manufacturing, service or non-institutional nature. The range of uses include manufacturing and fabrication facilities, warehousing and shipping centers, call centers and corporate offices. The site’s LI zoning is appropriate for employment/industrial category, but it is not appropriate for local commercial development, which is what the building site is categorized. Because the proposed nightclub is located within 300 feet of a church and B zoned single-family residences a Conditional Use is required.

The site is located within the “McAdams Neighborhood Revitalization Plan,” which shows the portion of the site fronting Central Avenue as suitable for ‘general retail’ and the parking area as ‘general industrial/warehousing.’ The site’s LI zoning is less restrictive the Plan’s general retail

designation but is a match for the Plan's general industrial/warehousing designation. The proposed nightclub fits into either of the Plan's use designations with consideration of a Conditional Use.

A consideration for the denial of CON2004-00042 was that a portion of the site was designated as appropriate for 'low density residential' development on the "2001 Wichita Land Use Guide of the Comprehensive Plan." The "2030 Wichita Functional Land Use Guide Map of the Comprehensive Plan" has changed that designation as appropriate for "employment/industrial" development. This change is reflecting the "McAdams Neighborhood Revitalization Plan's" designation of general industrial/warehousing uses. This change may also be in recognition that because of the area being zoned predominately LI, low density residential development is unlikely because of close proximity to industrial zoning and uses.

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.

BILL LONGNECKER, Planning Staff presented the Staff Report. He reported that at the July 6, 2015 DAB I meeting there was quite a bit of dialogue regarding impact of a nightclub in the City and a special events center serving alcohol and food with live entertainment and music. The DAB concluded that the event center would be more of a nuisance than benefit in the neighborhood and recommended denial of the application by a vote of 6-3.

RICHARDSON said there was some confusion regarding a part of the building on Central being or not being part of the nightclub (the address was 1322 Central). He also requested clarification that none of the parking has access to an arterial street.

LONGNECKER said that was true about the parking not having access to an arterial street. He referred to the aerial and mentioned that the applicant owned other spaces in the strip; however, the nightclub will only occupy some of the area. He said parking will have to address not only the nightclub but also some type of retail space. He said staff was unable to determine the exact number of parking spaces required at this time and will be working with the applicant to nail that down. He said the Fire Department did not want to put an occupancy number on the nightclub until the use was determined and the occupancy will dictate parking requirements.

RICHARDSON asked then the case as presented would allow all of the building to be used as a nightclub if there was sufficient parking.

LONGNECKER said the nightclub would only include those buildings on the site plan, but it could include all of the buildings.

RICHARDSON clarified that parking for a nightclub was one space for every two people. He also asked about any screening requirements for the parking.

LONGNECKER said that calculation on the parking was correct. He added that occupancy will be limited to what parking the site could support. He mentioned the case history and the problems with the previous conditional use at this site. He said the neighbors and DAB expressed the same concerns regarding parking. He said the applicant will have to provide solid screening and landscaping between the parking and SF-5 zoning to the west. He said there is no screening requirement where the property abuts LI.

RICHARDSON asked about the calls received by staff on the application.

LONGNECKER commented that only two of the support letters provided by the applicant were from property owners located within the area. He said one protest was from a property owner who owned multiple properties in the area. He said a neighborhood association, church and surrounding neighbors protested the application at the DAB meeting. He said until formal (written) protests are received, staff will not be able to determine if the protests are within or outside the designated protest area.

TED KNOPP, 7117 E. CHELSEA, AGENT FOR THE APPLICANT, EL VAQUERO FAMILY AND FRIENDS, LLC, (ARMANDO MICHEL, JUANA GILLIS AND JORGE ROJAS) said they are looking at having an event center with broader capabilities. He mentioned that one of the applicants wants to gather with other Mexicans to enjoy food and music and said there is usually alcohol involved at these gatherings. He said the event center will host staged events on the weekends and evenings including quinceaneras, weddings, graduations, family reunions, etc. He said they would also like to have a Mexican luncheon buffet during the noon hour. He said on the nights where there are no reservations, they would like to have live music of some sort.

KNOPP said there are mixed uses in the neighborhood and mentioned a former beauty shop along Cleveland. He said there is also a tee shirt shop that is made available to local artists and students from WSU to learn graphic design and tee shirt production. He said the applicant tried to run a tee shirt shop that was not very successful, so the space has been made available as a community resource for local artists. He said the applicant is willing to agree to any restrictions that are consistent with the intended use as a community center. He said they agree to limit the use to the part of the building shown on the site plan and cut off alcohol sales at midnight.

KNOPP mentioned the letters of support obtained by the applicant from members of the Hispanic community and others. He said the applicant has secured additional land for parking and referred to the aerial of the area where the applicant has purchased additional land. He said the applicant was surprised at the opposition received at the DAB meeting. He said one of the objections was noise and that the north door was open and music was spilling out onto the parking lot. He said they are working on an entrance on the Central side of the building and that they intend to close off the north door other than for emergency access. He said other neighbors and the neighborhood association said as long as alcohol is involved they didn't want anything to do with the application. He said one DAB members asked about the new BYOB law effective July 1, 2015 and whether that would impact the application. He referred to a copy of the Senate House Bill 2223 provided to the Planning Commission as a handout. He said his response to the neighbors concern is with the passage of this bill, there can probably be alcohol at any event. He said with the full regulations of a nightclub and the need for a liquor license, the applicant can control consumption of alcohol on the premises much better. He said by obtaining a liquor license, the applicant consents to the WPD entering the premises at any time.

KNOPP requested an additional three minutes to finish his presentation.

WARREN suggested that if the applicant needed an additional three minutes, that the Commission hear from the audience and then extend the applicant's rebuttal time. It was the general consensus of the Commission that was acceptable.

PASTOR JOHN REDDICK, 1510 E. 9TH STREET said he is Pastor of the church located at 956 N. Mathewson. He said parking is an issue and a pedestrian has been hit at the location crossing the street. He said the parking lots, that are grass and dirt, get filled up. He said the neighborhood has had problems in the past with private nightclubs and mentioned that a woman was murdered in the area. He said they do not support alcohol period and they do not want nightclubs in their neighborhood. He said he believes a lot of the information provided is misleading and referred to page 3 of the Staff Report where he said it mentions baptisms, weddings, etc. but there is no mention of a nightclub. He said the tee shirt shop is never open. He said they are trying to change the neighborhood to a nice livable place and a nightclub is not suitable.

JANET REDDICK, 1510 E. 9TH STREET, PRESIDENT, MCADAMS NEIGHBORHOOD ASSOCIATION said they are fighting a battle to get clubs out of their neighborhood. She said the tee shirt shop has never been open. She said when she informed the owner about the woman being hit by a car, he told her she was a black lady and she didn't belong there. She said the woman couldn't see to cross the street because the cars are lined up along the street. She said this location is not suitable for a nightclub. She said they are trying to turn this into a decent neighborhood and they need things like commercial stores and restaurants. She said they want clubs out of their neighborhood.

ALLISON SHELLMAN, 624 N. CLEVELAND said she has lived in the area for 24 years and owns another house at 530 N. Indiana that directly abuts the club's parking lot that she and her family are getting ready to move into. She said they have issues with people parking on their lot. She also mentioned that the woman who was hit was not African American but was a lady that was attending an event at the club. She said the parking is horrendous and the noise, which they hear on a regular basis even on the next block, is obnoxious. She said there also seems to be a lot of young children at these events that no one seems to be monitoring because they are running all over the neighborhood. She said she is surprised they haven't been hit by a car. She said the support letters provided say nothing about a nightclub, and all the support letters come from business owners, she didn't see any letters from residential property owners who will be there after 5:00 p.m. She said the applicant already holds events there; there is already alcohol there so it is already a nuisance for the people living nearby. She said adding a nightclub will only make matters worse. She mentioned other clubs that used to be in the neighborhood and what a nightmare it was for the neighbors with drunken people knocking on their door at midnight on a regular basis. In addition, she said WPD was out there all the time. She said she doesn't see where this is going to be any different. She requested that they take this nightclub to Old Town instead of where she lives.

MATTHEW CLAGG, 427 N. OLIVER said he was present to represent the arts and creative community and, in particular, the all ages music community. He said access to live music for anyone under 21 is severely limited because the bars and clubs downtown have an age restriction. He mentioned hosting ICT Fest starting in 2004 to serve younger bands including high school level and below. He said hearing a broad diversity of music at an early age helps children develop their artistic

and creative abilities. He said the applicant has opened up the space to them. He said previously they have had to use parking lots, warehouses, art studios, etc., but they would like to hold the festival at this location this year. He said bands would get to play at this venue that would not be able to play anywhere else and get exposure to large crowds.

CLAGG concluded by mentioning that any screen printing shop doesn't normally operate as a storefront. He said they take orders, manufacture the tee shirts and deliver them. He said the screen printing and embroidery equipment is another huge asset to the creative community. He said artists and bands can make their own merchandise. He said he does not believe this will be a downtown nightclub where people will be drinking until 2:00 a.m., but a place for the community to gather and celebrate events with music and creative arts. He asked the Commission to support that.

 3020 N. FAIRVIEW said she lives across the street from Cortez Mexican Restaurant. She said since that was turned into a nightclub, none of the residents have had any incidents. She said there is a little noise when her windows are open. She said she also represents a community of resident artists from local high schools and WSU who use the tee shirt shop space for workshops where they create all kinds of art. She said the applicant has allowed them to use the building for that. She said this building looked really bad and the applicant did an amazing job fixing it up inside. She said if he fixes the building the way he intends to, it will beautify the neighborhood. She concluded by saying that the applicant lets artists use this venue who could not afford to go anywhere else.

RAYMOND SHELLMAN, 624 N. CLEVELAND asked that the Commission deny the applicants request for a nightclub in a residential neighborhood. He said this neighborhood is predominantly residential; there is an elementary school three blocks away. He said there are some businesses to the west; however, they are closed at 5:00 or 6:00 p.m. and are not open during the hours the applicant wants to be open so he doesn't feel like this impacts them, but it will impact the residents in the area. He said traffic is a problem along Cleveland and this will aggravate that. He said they don't feel comfortable with their children and others playing in their own front yards. He said when they have events at the venue; traffic comes down the street in a procession. He mentioned crime statistics and that nightclubs and bars increase crime and violent crime. He said they don't believe fencing or screening will help that. He said noise is currently a problem and they get woken up at 1:00 – 2:00 a.m. on a regular basis. He said he and his wife own property adjacent to the parking lot and said statistics show that most of the problems at bars and nightclubs happens in the parking lot. He said he would rather not have that directly behind the house he is going to move into. He asked if the applicant would want a nightclub or bar across from his residence. He mentioned problems they have had with clubs in the area in the past and how the WPD canvassed the neighborhood to try to get people to complain so the clubs would be shut down. He said if the applicant moved 4-5 blocks to the southwest, they would be in Old Town which would be a perfect environment for what he wants to do.

CHAIR GOOLSBY asked staff for clarification that in order to have live music, the applicant has to apply for a conditional use permit for a nightclub.

MILLER said also if alcohol is being served, that is correct.

MOTION: To give the applicant five minutes rebuttal time.

WARREN moved, **B. JOHNSON** seconded the motion, and it carried (13-0).

FOSTER explained that the applicant can speak within the rebuttal period.

KNOPP commented that four people spoke in opposition. He said two of them were married and two of them objected to alcohol of any kind. He said they have moved into a house that is zoned LI and then are asking the Commission to protect the quality of their neighborhood. He said the applicant has lots of support from people who would like to see this happen. He said this is a commercial building that has struggled to find a productive use located on Central Avenue not Elm or Indiana. He said there is no limitation on the number of cars that can park on a public street. He said this can be a vibrant development that enhances and creates opportunities for that block. He said he sees very limited opposition but great public support for the project. He said submitting to the full regulations as a nightclub allows for this operation to be supervised and monitored; and, if there is a problem, to be shut down just as the former clubs in the area. He said if this is subject to lower regulation, it may be harder to address concerns of the neighborhood. He said Mr. Michel and his partners want this to be a nice, family-oriented venture and would be open to any reasonable restrictions to implement their plans. He concluded by saying that in an LI area, fronting Central with lots of parking it seems unreasonable to deny a proposed use that is consistent with the UZC.

ARMANDO MICHEL, 6014 W. 34TH STREET said the person who hit the lady crossing the street had nothing to do with any event at the location. He said as far as the noise is concerned, once they have the door open in the front, they will close the back door to reduce noise.

MICHEL mentioned that he was an electrical engineer from Mexico who came to the United States in 1997 and worked as a gasoline engineer, traveling all over the county and living in San Antonio for nine years. He said Hispanics work hard and they like big getting together. He said he believes they deserve a place to get together. He said he bought the property in 2010 and has made improvements over the last five years working with his own money. He said this will be a family oriented business.

RICHARDSON asked if the applicant planned on using the southeast corner of Elm and Cleveland for parking to increase the size of the club.

KNOPP responded no, that there were practical limitations against doing that including that it is not zoned properly.

RICHARDSON asked staff if the property could be used for parking for the club.

LONGNECKER said it would require a conditional use permit because it is currently zoned B Multi-family Residential.

RICHARDSON asked about alcohol sales stopping at midnight and how the new law impacts that.

KNOPP said all alcohol will have to stop being served at midnight.

JEFF VANZANDT, ASSISTANT CITY ATTORNEY said House Bill 2223 does not preempt the City Ordinance regarding this issue. He said currently no BYOB is allowed under City Ordinance. He added that a revised Ordinance is being prepared to go to the City Council in early August. He said the language in the bill is a bit vague. He said this State Statute currently is not effective within the City limits of Wichita.

KNOPP apologized and said he didn't mean to misrepresent anything. He said one of the ways to avoid that liberalization was to put the applicant under the complete control of the City rules and regulations that apply to nightclubs.

DENNIS asked if the applicant was willing to add a stipulation to stop serving alcohol at midnight or earlier on week days.

KNOPP said he didn't have a response to that.

DENNIS commented that the conditional use permit goes with the property, and he is concerned that if for some reason this enterprise goes out of business and someone else takes it over, then it is officially a nightclub. He said he was thinking about how they could make this happen, but put limitations on it so it is not as attractive to someone else to run as a nightclub.

KNOPP asked if he could confer with his client.

Responding to a question, **MILLER** clarified that a conditional use permit runs with the land.

RICHARDSON asked for clarification that they would close at midnight or limit alcohol sales until midnight.

KNOPP said they plan on cessation of alcohol sales at midnight.

WARREN clarified that the applicant would be willing to put the condition of closing the back entrance and using it only for emergencies as a way to reduce noise in writing as part of the conditions of approval.

KNOPP responded yes.

WARREN asked about limiting hours of operation. He said he likes that idea.

J. JOHNSON asked about required parking on site and the capacity of the building.

KNOPP explained that they don't have that number yet. He said Mr. Michel has bought property in the area to accommodate parking.

RICHARDSON asked how occupancy was determined.

LONGNECKER explained that building occupancy is established by the Fire Marshall and parking requirements will be determined by that occupancy. In addition, he mentioned that there are two other storefronts that hopefully at some point will be occupied. He said on-site parking will have to accommodate those storefronts also.

J. JOHNSON asked about leasing parking.

LONGNECKER said you can lease parking within 600 feet of the establishment.

RICHARDSON asked if the Fire Department says the building has a larger capacity than there is parking, does that limit the capacity of the nightclub to whatever the parking will support. He said from what staff is saying, this sounds like a circular argument.

LONGNECKER said the applicant could remedy the parking issue with a variance or administrative adjustment.

DAILEY asked about City laws regarding noise and loud music.

MILLER said the City has a Noise Ordinance that prescribes various decibel levels based on the zoning district and uses. He said someone would have to complain and then City staff would go out and check the ambient noise level.

DENNIS asked for clarification of the site plan. He asked what happens if the applicant wants to expand.

LONGNECKER said they would have to come back to this body and DAB and request an amendment to the site plan.

RICHARDSON asked about closing at 11:00 p.m. during the week and midnight on weekends.

KNOPP said the applicant will agree to stop serving alcohol at 11:00 p.m. Monday – Thursday and midnight on weekends.

RICHARDSON asked about closing the building at midnight on the weekends.

KNOPP said if they close the building at midnight, they will have to stop serving alcohol earlier.

RICHARDSON said you can also order three drinks at midnight and stay for another two hours. He said the only way to limit this, in his opinion, was to close the doors at midnight and disburse the crowd. Otherwise people will be there until 2:00 a.m. in the morning.

KNOPP said the applicant is willing to close the doors at midnight even though it might be problematic.

VANZANDT mentioned that the applicant will have to obtain a license and the license states that they can operate until 2:00 a.m. in the morning. He said he does not know if the conditional use limitation will override the provision provided by the City license.

GOOLSBY said it has worked with other venues and the Planning Commission has done this before.

MOTION: To approve subject to staff recommendation, abating noise by creating an emergency exit only on the back of the property, hours of operation to 11:00 p.m. Sunday – Thursday and 12:30 p.m. on Friday and Saturday and stopping all alcohol sales at midnight on the weekends.

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

FOSTER clarified that there is no access to arterials from the parking lot. He asked staff to briefly review the parking issue.

LONGNECKER briefly explained that none of parking lot has access to an arterial. He said the Fire Marshall was not willing to give an occupancy number until definition of the use has been established. The way the Staff Report is worded, occupancy will determine how much parking is going to be needed. He said if occupancy exceeds available parking, the applicant can acquire other parking spaces on other properties or request an administrative adjustment or variance to reduce the parking requirement.

MILLER STEVENS clarified that without the conditional use the applicant can continue to operate as a restaurant and event center; the conditional use allows the sale of alcohol.

LONGNECKER said the conditional use for the event center would allow alcohol sales, music and dancing.

GOOLSBY clarified and that is what makes it a nightclub. He said just because it is defined as a nightclub; doesn't necessarily make it a nightclub.

LONGNECKER mentioned that the applicant did not offer any restrictions on the hours and days it was going to operate. He said the applicant was asked about closing at midnight at the DAB meeting, but declined to do that at that time.

The **MOTION** carried (11-2). **FOSTER** and **MILLER STEVENS** – No.

5. **Case No.: ZON2015-00021** – Carillo Cearapio (owner) requests a City zone change request from B Multi-family Residential to LI Limited Industrial on property described as:

Lots 37-39 North Park Addition

BACKGROUND: The applicant is requesting Limited Industrial (LI) zoning for lots 37-39 North Park Addition, approximately 0.16-acre, which is currently zoned B Multi-Family residential. The site is located 100 feet south of 15th Street North on the west side of North Santa Fe and is undeveloped.

The North Park Addition was platted in February 1886 with 15-foot wide alley and 25-foot by 142-foot lots. Originally developed with single family residences, by 1968 the properties in the 1400, 1500 and 1600 blocks on North Santa Fe were beginning to transition to industrial/manufacturing uses. There are only six single-family residences that remain in this three-block area. The TF-3 residential use to the west of the subject property still retains residential uses, but there has been demolition leaving only eight residential structures in the 1500 block of North St. Francis.

CASE HISTORY: The site consists of Lots 37-39, North Park Addition, which was recorded with the Sedgwick County Register of Deeds in February 1886.

ADJACENT ZONING AND LAND USE:

NORTH: LI storage of construction materials
SOUTH: LI steel fabrication
WEST: TF-3 Single-family residential
EAST: LI BNSF elevated railroad, active tracks

PUBLIC SERVICES: The site has access to North Santa Fe Avenue, a paved local street. Santa Fe Avenue varies in width from 30-feet to 43-feet and is 40-feet wide at this location. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide map depicts the site as “Employment/Industry Center.” This category encompasses areas with uses that constitute centers or concentrations of employment of an industrial, manufacturing, service or non-institutional nature. The range of uses includes manufacturing and fabrication facilities, warehousing and shipping centers, call centers and corporate offices.

RECOMMENDATION: This request provides the ability of the current property owner to redevelop the lots. Leaving the property zoned as B-Multi-Family significantly limits the economic benefit to the owners. Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED.**

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The property to the north and south of the subject site is zoned LI and is being used for steel fabrication and construction warehousing. There is no other residential use in the 1500 block of North Santa Fe.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The B-Multi-Family zoning district is an obsolete use for this location. The 1400, 1500 and 1600 blocks along North Santa Fe are more than 50% transitioned to industrial/warehousing.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The request would not significantly impact the immediate area, as LI uses already abut the residential sites located to the west of the site along the entire block.
- (4) **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** The approval of the zone change to LI would not allow the property to be used for residential purposes. The current B Multi-Family zoning does not allow for any use other than residential to be redeveloped. Approval of the request would limit development by right to those enumerated in the Unified Zoning Code (UZC) which includes commercial, manufacturing, fabrication, outdoor storage and some institutional uses such as a parks, schools and churches.
- (5) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The zone change to LI conforms to the identified land use in the 2030 Comprehensive Plan.
- (6) **Impact of the proposed development on community facilities:** All services are in place and any increased demand on community facilities can be handled by current infrastructure.

KATHY MORGAN, Planning Staff presented the Staff Report.

There were no public comments.

MOTION: To approve subject to staff recommendation.

B. JOHNSON moved, **KLAUSMEYER** seconded the motion, and it carried (13-0).

6. **Case No.: ZON2015-00022** - Basem Krichati (owner and Craig Harms (Agent) request a City zone change request from SF-5 Single-family Residential to TF-3 Two-family Residential on property described as:

PARCEL 1: A tract of land in the E/2 of the NE/4 of Section 29, Township 26 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning at a point on the West line of said E/2 of the NE/4, distant thereon 1323.75 feet South of the North line of Government Lot 1; thence East 659.25 feet for the true point of beginning, running thence East 659.25 feet, more or less, to the East line of said NE/4; thence North 330.25 feet; thence West 658.69 feet; thence South to beginning; Except the North 30 feet for road.

PARCEL 2: A tract in the NE/4 of Section 29, Township 26 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning at the Southwest corner of Government Lot 3 of the NE/4 of Section 29, said point of beginning being on the West line of the E/2 of said NE/4; thence North along said West line 330.655 feet; thence East parallel to the North line of said NE/4 658.69 feet; thence South parallel to said West line 330.655 feet, more or less, to the South line of said Government Lot 3; thence West along said South line 659.25 feet, more or less, to the point of beginning, except the North 30 feet thereof for road purposes.

BACKGROUND: The applicant is requesting a zone change from Single-Family Residential (SF-5) to Two-Family Residential (TF-3) zoning on approximately 8.71 acres of unplatted land. The applicant has submitted a plat for the Edge Water 2nd Addition (SUB2015-00021) and proposes building a maximum of 38 duplexes on the property.

South of the subject site is the SF-5 zoned Sand Plum Addition with houses built between 2005 and 2012. West of the subject site is the Sunair Estates single-family residential neighborhood. North of the subject site is undeveloped and unplatted SF-5 zoned property. East of the site is a 43-acre SF-5 zoned tract of land developed with a single family house and farm outbuildings.

CASE HISTORY: The site is located within the city limits of Wichita and consists of 8.71 acres on the west side of North Webb Road south of 45th Street North. Staff has received no calls expressing concerns about the proposed duplexes.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5	Single-family residential, undeveloped
SOUTH: SF-5	Single-family residential, Sand Plum Estates
WEST: SF-5	Single-family residence and vacant lot, Sunair Estates
EAST: SF-5	Single-family residence

PUBLIC SERVICES: The site has access to North Webb Road, a four-lane arterial. All utilities are available to the site.

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

RECOMMENDATION: This request provides a residential development opportunity that is not uncommon for multiple (more than an acre) undeveloped lots of SF-5 zoned subdivisions located on the edges of the city. Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED.**

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The site is located in a predominately SF-5 zoned single-family residential neighborhood. SF-5 zoned single-family residences (built in the late 1950s and 2005-2012) surround the site.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** TF-3 zoning would allow single-family residences and duplexes to be built which is an appropriate use for urban residential development.
- (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. There is TF-3 zoning within one mile of the subject site.
- (4) **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Approval of the request would limit development by right to single-family residential, duplex, and some (but not limited to) institutional uses such as a parks, schools and churches.
- (5) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for “urban residential” uses. The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly. Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category. The TF-3 zoning district allows single-family residence, duplexes and some (but not limited to) institutional uses such as a parks, schools and churches by right. As such, the TF-3 zoning district conforms to the urban residential category.

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

KATHY MORGAN, Planning Staff presented the Staff Report.

There were no public comments.

MOTION: To approve subject to staff recommendation.

B. JOHNSON moved, **KLAUSMEYER** seconded the motion, and it carried (13-0).

7. **Case No.: ZON2015-00023** - Carl Hebert (owner/applicant) request a City zone change request from LC Limited Commercial to CBD Central Business District on property described as:

Lot 20, Chicago now Douglas Avenue, West Wichita Addition, Sedgwick County, Kansas.

BACKGROUND: The applicant is requesting a zone change from LC Limited Commercial to CBD Central Business District on the subject site located on the southwest corner of Douglas Avenue and Walnut Street; Lot 20, Chicago now Douglas Avenue, West Wichita Addition. The site is located in (and subject to) the Delano Overlay Neighborhood District (D-O). The brick two-story downtown row store (built 1900) currently is occupied by a retail motorcycle parts sales store. The property owner is anticipating the retirement of the owner of the motorcycle parts store and a possible change in business. The CBD zoning district more effectively resolves such issues as parking and setbacks that could be triggered by a change in occupancy. This is the third application for CBD zoning in the D-O along Douglas Avenue. Previously ZON2014-00030 and ZON2013-00038 were approved by the MAPC. In the previous two zoning cases and the current request a lack of on-site parking was an issue.

The Delano District was initially developed in the 1870's and then redeveloped in the early 1900's when there were no requirements for property owners to provide on-site parking. Therefore, many of the uses in the Delano District do not have on-site parking, but have relied on parking located on public street right-of-way to support their businesses. Some of the business owners in the district have purchased additional property that provide on-site parking for their businesses; this does not appear to be an option for this site.

A Metropolitan Area Planning Department (MAPD) parking study of West Douglas Avenue between Sycamore Street and Seneca Street reveals that most of the businesses fronting this described portion of Douglas Avenue do not provide the current code required number of off-street parking spaces. The MAPD analysis estimates that 5,373 off-street spaces are required, but an estimated 3,989 spaces have been provided.

This section of Douglas Avenue is characterized by the prevalence of brick one to two-story downtown row stores mostly built in the early 1900s. All buildings along this section of Douglas Avenue were built up to the property lines, with no setbacks. LC and LI Limited Industrial zoned restaurants, a dance studio, retail, and offices abut and are adjacent to the west side of the subject site. A LI zoned parking lot abuts the south side of the subject site. LI zoned business adjacent to the southwest and southeast side of the site include a barber supply business, a single-family residence, an office and the Regional Historic site Engine House #4. East of the site, across Walnut Street, there are LI and LC zoned tattoo business, a pool hall, a restaurant, a bakery, a parking lot and offices. North of the site, across Douglas Avenue, are LI and LC zoned restaurants, vacant buildings, office, a bike shop, and a convenience store are located. A CBD zoned (ZON2004-00030) vacant building is also located north of the site, across Douglas Avenue. It is not uncommon to have apartments located in the second story of these buildings, with the commercial uses located on the ground floor.

CASE HISTORY: The site, Lot 20, Chicago now Douglas Avenue, West Wichita Addition, which was recorded with the Register of Deeds on August 5, 1872. Wichita was platted in 1870 and incorporated in 1871.

ADJACENT ZONING AND LAND USE:

NORTH: LI, LC, CBD	Restaurants, vacant buildings, office, bike shop, convenience store
SOUTH: LI	Parking lot, barber supply business, single-family residence, office, Regional Historic site Engine #4
EAST: LI, LC	Tattoo business, a pool hall, a restaurant, a bakery, parking lot, offices, second story apartments
WEST: LI, LC	Restaurants, dance studio, retail, offices, second story apartments

PUBLIC SERVICES: The site is served by all normally supplied municipal services. The site has access to the arterial street, Douglas Avenue, which has 100 feet of right-of-way and the local street, Walnut Street, which has 80 feet of right-of-way.

CONFORMANCE TO PLANS/POLICIES: The purpose of the LC zoning district is to accommodate retail, commercial, office and other complementary land uses. LC zoning is generally compatible with the "local commercial" designation of the "Wichita-Sedgwick County Comprehensive Plan." It is intended for application primarily within the City of Wichita, although it may be appropriate for application in areas of unincorporated Sedgwick County that have been designated as "Wichita 2030 Urban Growth Area."

The purpose of the CBD zoning 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 Delano Neighborhood Plan indicates the site is appropriate for commercial mixed uses. The intent of the commercial mixed use designation is to encourage true mixed-use facilities wherein there is commercial and/or offices on the ground floor, and residential above.

The requested CBD zoning is the appropriate zoning for this site, which is located west (across the Arkansas River) of the original CBD zoned core of downtown Wichita. The area the site is located in shares some similar patterns of uses as the original CBD core area. This is the third application for CBD zoning in the D-O along Douglas Avenue. Previously ZON2014-00030 and ZON2013-00038 were approved by the MAPC.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request for CBD zoning be **APPROVED.**

This recommendation is based on the following findings:

(1) The zoning, uses and character of the neighborhood: This section of Douglas Avenue is characterized by the prevalence of brick one to two-story downtown row stores mostly built in the early 1900s. All buildings along this section of Douglas Avenue were built up to the property lines. LC and LI Limited Industrial zoned restaurants, a dance studio, retail, and offices abut and are adjacent to the west side of the subject site. A LI zoned parking lot abuts the south side of the subject site. LI zoned business adjacent to the southwest and southeast side of the site include a barber supply business, a single-family residence, an office and the Regional Historic site Engine House #4. East of the site, across Walnut Street, there are LI and LC zoned tattoo business, a pool hall, a restaurant, a bakery, a parking lot and offices. North of the site, across Douglas Avenue, are LI and LC zoned restaurants, vacant buildings, office, a bike shop, and a convenience store are located. A CBD zoned (ZON2004-00030) vacant building is also located north of the site, across Douglas Avenue. It is not uncommon to have apartments located in the second story of these buildings, with the commercial uses located on the ground floor.

(2) The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC, subject to the D-O Overlay, which permits a wide range of uses – single-family, multi-family, office and retail sales. Surrounding property is zoned similarly as the subject site. As currently zoned, the site could likely be put to economic use.

(3) Extent to which removal of the restrictions will detrimentally affect nearby property: The CBD district permits a broader range of commercial uses; however, the D-O district prohibits a significant range of uses regardless of a site's base zoning. The D-O district also requires a substantial number of uses to obtain "conditional use" approval even though the use may be a permitted use by the base zoning district: car wash, manufacturing, warehousing or wholesale or business services. Because of the overlay zoning district, approval of the request should not negatively impact nearby uses.

(4) Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The purpose of the LC zoning district is to accommodate retail, commercial, office and other complementary land uses. LC zoning is generally compatible with the "local commercial" designation of the "Wichita-Sedgwick County Comprehensive Plan." It is intended for application primarily within the City of Wichita, although it may be appropriate for application in areas of unincorporated Sedgwick County that have been designated as "Wichita 2030 Urban Growth Area."

The purpose of the CBD zoning 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 Delano Neighborhood Plan indicates the site is appropriate for commercial mixed uses. The intent of the commercial mixed use designation is to encourage true mixed-use facilities wherein there is commercial and/or offices on the ground floor, and residential above.

The requested CBD zoning is the appropriate zoning for this site, which is located west (across the Arkansas River) of the original CBD zoned core of downtown Wichita. The area the site is located in shares some similar patterns of uses as the original CBD core area. This is the third application for CBD zoning in the D-O along Douglas Avenue. Previously ZON2014-00030 and ZON2013-00038 were approved by the MAPC.

(5) Impact of the proposed development on community facilities: There will be minimal impact on community facilities.

BILL LONGNECKER, Planning Staff presented the Staff Report.

RICHARDSON said he doesn't know what the Delano Overlay calls for in terms of parking. He asked where the CBD zoning was located.

LONGNECKER briefly reviewed CBD zoning in the area. He said the Delano Overlay District did not address the lack of parking in the area. He said lack of parking for previous CBD cases for redevelopment were handled as variances.

RICHARDSON clarified that this was triggered by a change in use.

LONGNECKER said the applicant didn't want to get caught out on parking if the types of businesses changed.

RICHARDSON asked if staff has looked at the issue because it appears to him that everyone up and down the street has the same problem; lack of parking. He asked shouldn't that be addressed proactively instead of one case at a time. He said eventually won't everything become CBD zoned.

MILLER said at the time the Delano Overlay Plan was approved there was no interest in setting up a parking district like Old Town where property owners pay in and the City provides the parking.

DIRECTOR SCHLEGEL said that probably won't change until business owners in Delano want to discuss that. He said there doesn't seem to be a demand for that discussion at this time.

MOTION: To approve subject to staff recommendation.

WARREN moved, **RAMSEY** seconded the motion, and it carried (13-0).

8. **Case No.: CON2015-00021** - City of Wichita (owner/applicant), Brad Teeter, SPT Architecture (agent) request a City Conditional Use to permit a government service on property described as:

A tract of land beginning 40 feet South of the Northwest corner of the Southeast quarter of the Southwest quarter of Section 24, Township 27, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence South 225 feet; thence East 385 feet; thence North 225 feet; thence West 385 feet to the point of beginning.

BACKGROUND: The applicant is requesting a Conditional Use to allow Government Services in Single-Family (SF-5) residential zoning. The City of Wichita recently purchased the armory building and wishes to relocate the Public Works Facility Maintenance operation from 500 South Topeka to 3535 West Douglas.

The subject site is an un-platted 2-acre tract to the west of West Douglas Park. The property north of the site is zoned General Commercial (GC) and is developed with warehouse/office and mini-storage/self-storage. The property to the west is GC and is developed with a strip office center. Properties to the east and south are zoned SF-5 residential and has been dedicated park land since 1955.

CASE HISTORY: The subject site, currently developed with a 22,314 square foot building constructed in 1945 for the Kansas National Guard and used by the National Guard until the early years of the 21st Century. The legal description is as follows: A tract of land beginning 40 feet South of the Northwest corner of the Southeast quarter of the Southwest quarter of Section 24, Township 27, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence South 225 feet; thence East 385 feet; thence North 225 feet; thence West 385 feet to the point of beginning.

ADJACENT ZONING AND LAND USE:

NORTH: GC	Warehouse/office; Mini-storage/self-storage
SOUTH: SF-5	Parkland
WEST: GC	Strip Office Center
EAST: SF-5	Parkland

PUBLIC SERVICES: West Douglas Avenue is a four-lane arterial section line road with 90 feet of right-of-way. Knight Street is a local street and has 30-foot right-of-way. City water and sewer is located along the north property line.

CONFORMANCE TO PLANS/POLICIES: The “2030 Functional Land Use Guide of the Comprehensive Plan” (Plan) identifies the SF-5 zoned site as lying within the Park and Open Space functional category. The Park and Open Space category includes parks, golf courses, public open space, and recreational facilities.

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

- (1) The applicant shall obtain all applicable permits including, but not limited to: building, health and zoning in compliance with an approved site plan.
- (2) Development and maintenance of the site shall be in conformance with the approved site plan.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The City subject site is surrounded by GC and open space. The architecture of the existing 1945 building is compatible with surrounding structures.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned SF-5. The site would continue to have economic value with the Conditional Use. SF-5 zoning permits governmental services with the approval of a Conditional Use by the Metropolitan Area Planning Commission.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Use as a facilities maintenance operational location will not impact the nearby properties any more than the operations of the National Guard Armory did while in use.
- (4) **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Denial of the request could impose a hardship to the City in regard to providing sufficient space for the Department of Public Works Facilities Maintenance.
- (5) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The Park and Open Space category is compatible with Government Services use.
- (6) **Impact of the proposed development on community facilities:** The public streets in the neighborhood, police and fire services, will not be noticeably impacted by the Government Services use.

KATHY MORGAN, Planning Staff presented the Staff Report.

There were no public comments.

MOTION: To approve subject to staff recommendation.

B. JOHNSON moved, **KLAUSMEYER** seconded the motion, and it carried (13-0).

NON-PUBLIC HEARING ITEMS

9. **Case No.: Capital Improvement Program (CIP)** - Conformity of the proposed 2015-2024 City of Wichita Capital Improvement Program with the Wichita-Sedgwick County Comprehensive Plan.

Background: On April 16, 2015 and July 2, 2015, the Advance Plans Committee of the Metropolitan Area Planning Commission received presentations on the proposed *2015-2024 City of Wichita Capital Improvement Program (C.I.P.)* from the City's Budget Office.

Analysis: Section 12-748 of Kansas statutes requires a planning commission to review the capital improvement program (C.I.P.) of its municipality to make a finding as to whether the proposed public improvements, public facilities or public utilities conform with the adopted comprehensive plan. If the planning commission finds that any such proposed public improvement does not conform to the plan, the commission shall submit in writing to the governing body, the manner in which such improvement does not conform.

Staff has reviewed the proposed *2015-2024 City of Wichita Capital Improvement Program* and has determined that the public improvements proposed therein conform with the currently adopted Wichita-Sedgwick County Comprehensive Plan. The proposed C.I.P. also conforms in several important ways with the five plan guiding principles contained in the new proposed *Community Investments Plan 2015-2035*, which is intended to replace the currently adopted Comprehensive Plan later this year.

Recommended Action:

That the Metropolitan Area Planning Commission find the proposed *2015-2024 City of Wichita Capital Improvement Program* to be in conformity with the adopted Wichita-Sedgwick County Comprehensive Plan as amended.

Attachment: Proposed *2015-2024 City of Wichita Capital Improvement Program*

SCOTT KNEBEL, Planning Staff presented the Staff Report. He said Planning Staff has reviewed the CIP and compared it to both the current CIP and the proposed Community Investments Plan and believes the proposed CIP is consistent with both of those comprehensive planning documents. He said staff is recommending that the Planning Commission make that finding.

MARK MANNING, FINANCE DEPARTMENT provided a PowerPoint presentation overview of the 2014-2024 Proposed Capital Improvements Program (CIP) as follows. He referred to a pie chart indicating funding sources for the \$1,875,009,493 for the ten-year program including Federal Funds, State of Kansas, Special Assessments, Water Utility, Sewer Utility, Airport, Local Sales Tax and GO at-large.

RICHARDSON asked how the County Sales Tax is split.

MANNING said based on State Statute, 50% of the Sales Tax is split by population of each City within the County and the other 50% is split based on the taxing effort of every City in the County. He said the City of Wichita is about 75% of the County; however, because they do not levy that much in taxes it is a lot lower percentage at 58%.

The next pie chart depicted where City of Wichita CIP Dollars are spent including Freeways, Water, Arterials, Airport, Bridges, Park, Public Facilities Stormwater and Transit.

MANNING gave a brief rundown of the community engagement process including meetings with various advisory boards, DABs, Advance Plans Committee and a workshop presented to the City on

March 24, 2015 that was available on streaming on the City WEB page. He said they plan on returning to City Council within the next month.

MANNING explained that the CIP was developed based on current City Council principles including keeping the current revenue structure (mill levy, ERU rate and water and sewer rates), conformance to comprehensive plan principles, priority areas and maintaining debt within benchmark levels, which he said was very important to our governing body.

MANNING focused on three themes from the Comprehensive Plan which were investment in quality of community life; take better care of what we have and provide for balanced growth, but focus on established areas.

MANNING reviewed funding areas including arterials, residential streets (existing streets and growth areas), freeways (Kellogg completion), downtown (street and building projects), public safety (equipment and buildings), economic development (WSU Innovation Campus and west street corridor) and park projects (playgrounds, paths, parks, new parks and aquatics improvements).

GOOLSBY asked if there was any funding allocated for the train at Watson Park.

MANNING responded yes.

MANNING said GO, LST and Water and Sewer debt levels will increase; however, they will still be within the benchmarks, which is very important to the governing body. He referred to a chart of GO at-large debt service/GO debt service capacity which showed the City was significantly below the benchmark. He referred to the policy questions slide which showed what the debt funding benchmark would if \$20,000,000 more in projects was added. He said other policy questions staff asked the Council were was the balance right between growth and existing streets, did the Council want to reaffirm the schedule on the Advanced Learning Center, and what would branch libraries look like; and should funding be raised or lowered for bike/pedestrian and park improvements.

MANNING concluded by asking if there were any questions.

FOSTER mentioned updates and typographical errors on pages 34, 66, and 88.

RICHARDSON asked for clarification on the sales tax.

MANNING said there is a one cent County-wide sales tax but there is no City tax.

RICHARDSON asked if a portion was designated for highways.

MANNING said the City has designated 50% of their share of the sales tax for road, street and freeway improvements (50% of 58% or approximately 29%).

FOSTER (Out @3:12 p.m.)

J. JOHNSON asked how staff reconciles the \$9 billion gap in the Comprehensive Plan with this CIP.

DIRECTOR SCHLEGEL said the principals set out in the Comprehensive Plan is how the gap will be closed. He explained that if staff were to compare the cost to try to satisfy all the demands for infrastructure, community facilities, costs to maintain what the city already has, and new projects over next 20 years to revenues that can reasonably be projected for capital costs over that same time period, you wind up with a \$9 billion gap. He said it boils down to people are not willing to pay for those things they demand be built and kept in good repair. He said one of the reasons for the Comprehensive Plan is to identify that is an issue that the community has to face and figure out some ways to close that gap. He said this CIP is not going to solve that issue, but by trying to adhere to some of the guiding principles in the Comprehensive Plan, that will help close the gap over time.

MILLER STEVENS clarified that in conjunction with the Comprehensive Plan there will be an Annual Report. She said will that report attempt to demonstrate impact on that deficit.

DIRECTOR SCHLEGEL said staff has not settled on how the annual monitoring will be done. He added that the annual monitoring will help this Commission, as well as the City Council and County Commission better understand what is happening in terms of bringing the expectations of the community into better alignment with the resources the community is willing to provide for capital facilities.

MITCHELL remarked that 50% for services and debt is a better ratio than the City has had in the past.

MOTION: That the proposed *2015-2024 City of Wichita Capital Improvement Program* is in conformity with the adopted Wichita-Sedgwick County Comprehensive Plan as amended.

DENNIS moved, **MITCHELL** seconded the motion, and it carried (12-0).

DIRECTOR SCHLEGEL announced that this was his last Planning Commission meeting and that he will be retiring July 17. He said he would let City Manager Bob Layton make the announcement on who will be the Interim Director of Planning. He said he wanted to express his appreciation to the volunteer citizens of the community for the time and effort they put into their jobs as Planning Commissioners. He said this is a really important job the Planning Commissioners do in serving the community and he wanted to applaud them for that. He said he would put in a recommendation to both the City Council and County Commission that they double their pay. He said he hoped he had served them well as Secretary of the Planning Commission.

CHAIR GOOLSBY thanked Director Schlegel for all his years of service.

The Metropolitan Area Planning Commission adjourned at 3:17 p.m.

State of Kansas)
Sedgwick County) ^{SS}

I, W. David Barber, Interim 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.

W. David Barber, Interim Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)