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

**MINUTES**

**July 23, 2015**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, July 23, 2015 at 1:41 p.m., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Matt Goolsby; Chair (Out @3:59 p.m.); Carol Neugent, Vice Chair; John Dailey; David Foster; Bill Johnson; Don Klausmeyer; John McKay Jr.; Debra Miller Stevens; M.S. Mitchell; Bill Ramsey; Lowell E. Richardson and Chuck Warren. David Dennis and Joe Johnson were absent. Staff members present were: W. David Barber, Interim Director; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Kathy Morgan, Senior Planner; Derrick Slocum, Planning Staff; Jeff Vanzandt, Assistant City Attorney; and Robert Parnacott, Assistant County Counselor.

1. Approval of the June 4 and June 18, 2015, MAPC meeting minutes.

**MOTION:** To approve the June 4, 2015 Planning Commission minutes.

**WARREN** moved, **B. JOHNSON** seconded the motion, and it carried (10-0-2).  
**KLAUSMEYER** and **MCKAY** – Abstained

**MOTION:** To approve the June 18, 2015 Planning Commission minutes.

**MCKAY** moved, **WARREN** seconded the motion, and it carried (11-0-1).  
**KLAUSMEYER** – Abstained.

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2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB2015-00020: One-Step Final Plat – MARINITA ADDITION**, located west of 127th Street East, South of Central.

NOTE: This is a replat of a portion of Gilder's Gardens Addition.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department requests the applicant extend water (distribution) to serve all lots, extend sewer (lateral) to Lots 5-8 and remove the existing water meter by City of Wichita.
- 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. The platlor's text should accurately reference the drainage and pedestrian easement.
- D. The standard language regarding vacation statutes need to reference "K.S.A. 12-512b, as amended".
- E. City Stormwater Management has approved the drainage plan. A portion of the project site is within the effective floodplain per FEMA Panel No. 20173C0379E. The Base Flood Elevation (BFE) is

approximately 1343.50. Minimum building pads shall be at elevation 1345.50. The project will be removed from the FEMA floodplain when new maps become effective in late 2016.

- F. County Surveying advises the legal description needs corrected from "Gilder's Gardens Addition" to "Gilder's Gardens", Sedgwick County, Kansas.
- G. County Surveying advises on the title block "Gilder's Gardens Addition" needs changed to "Gilder's Gardens".
- H. County Surveying advises the 30-foot utility easement along the east line of Lots 4 and 5, Block A needs located east-west.
- I. County Surveying advises the label "PC Lot 5, Gilder's Gardens" is not the PC of said Lot 5.
- J. County Surveying would like to be contacted regarding plat boundary, bearings and distances.
- K. County Surveying advises monuments will need to be set on Jackson Heights Court right-of-way.
- L. The Owner's certificate should reference "Lots, Block, Street and Reserve".
- M. The Applicant shall guarantee the paving of the proposed street, which includes the sidewalk.
- N. Provisions shall be made for ownership and maintenance of the proposed reserves. A restrictive covenant shall be submitted regarding ownership and maintenance responsibilities.
- O. 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.
- P. GIS has approved the plat's street names.
- Q. The dedicated right-of-way which coincides with the west property lines of Lots 1 and 8 should be denoted with a bold line. A bold line is not needed for the current right-of-way. A bold line is also needed for the Jackson Heights Cir right-of-way and the solid vertical line adjoining "58.00" deleted.
- R. "Wichita, Sedgwick County, Kansas" should be referenced in the plat title.
- S. The Applicant has platted a 20-foot building setback along Jackson Heights Ct which represents an adjustment of the Zoning Code standard of 25 feet for the Single-Family District (SF-5). The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission.
- T. 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.
- U. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted and inspected.

V. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to [tricia.robello@sedgwick.gov](mailto:tricia.robello@sedgwick.gov) and [nstrahl@wichita.gov](mailto:nstrahl@wichita.gov).

W. 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.)

X. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.

Y. 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.

Z. 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.

AA. 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.

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

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

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

There were no public comments.

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

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

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**PUBLIC HEARING – VACATION ITEMS**

- 3-1. **VAC2015-00026: City request to vacate the plattor's text to amend the uses permitted in a platted reserve on property**, generally located mid-way between Greenwich Road and 127th Street East, south of Central Avenue, at the end of Herrington Circle.

**OWNER/APPLICANT:** Frontgate Homeowners Association, c/o Ben Hutton (owner) Baughman Co. PA, c/o Russ Ewy

**LEGAL DESCRIPTION:** Generally described as vacating the plattor's text to amend the uses allowed in platted Reserve D, located between Lots 8 & 9, Block A, and at the south end of Herrington Circle, all in the Frontgate Addition, Wichita, Sedgwick County, Kansas

**LOCATION:** Generally located mid-way between Greenwich Road and 127th Street East, south of Central Avenue, at the end of Herrington Circle (WCC #II)

**REASON FOR REQUEST:** To allow access onto Reserve D from Lots 8 & 9, Block A, Frontgate Addition

**CURRENT ZONING:** The site and the abutting and adjacent east, west and north properties are zoned GO General Office. The abutting south property is zoned SF-5 Single-Family Residential.

The applicant is requesting the vacation of the plattor's text to amend the uses allowed in the platted Reserve D, Frontgate Addition. Per the plattor's text Reserve D is reserved for open space, landscaping, drainage purposes, utilities confined to easements and walls confined to easements. The vacation request will allow private driveways and/or access serving Lots 8 and 9, Block A, Frontgate Addition, while retaining those uses as described in the plattor's text. The reserve is located between Lots 8 and 9, along their south half, and at the south end of the Herrington Circle public street right-of-way. Stormwater has an inlet and conduit located in a 20-foot wide, east-west platted drainage and utility easement located in the reserve. Per the plattor's text the reserves are owned and maintained by an owners association; this will not change. The Frontgate Homeowners Association has signed the vacation application. The Frontgate Addition was recorded June 1, 2002.

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 reserve.

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

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time July 2, 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 reserve 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 Reserve D, Frontgate Addition. The uses permitted are; open space, landscaping, drainage purposes, utilities confined to easements, walls confined to easements and private driveways/access serving Lots 8 and 9, Block A, Frontgate Addition, as approved by City Public Works, Water & Sewer, Stormwater, Traffic, Fire, and franchised utilities.
- (2) As needed provide letters from franchised utility representatives stating that there utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council for final action.
- (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 Reserve D, Frontgate Addition. The uses permitted are; open space, landscaping, drainage purposes, utilities confined to easements, walls confined to easements and private driveways/access serving Lots 8 and 9, Block A, Frontgate Addition, as approved by City Public Works, Water & Sewer, Stormwater, Traffic, Fire, and franchised utilities.

- (2) As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council for final action.
- (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.

**MILLER STEVENS** moved, **KLAUSMEYER** seconded the motion, and it carried (12-0).

- 3-2. **VAC2015-00027: City request to vacate a portion of an easement dedicated by separate instrument on property,** generally located midway between 42nd and 51st Streets North, west of Meridian Avenue, north of Keywest Street, at the west end of Portwest Circle.

**OWNER/AGENT:** Raymond W Grundmeyer III (owner) Baughman Co. PA c/o Phil Meyer (agent)

**LEGAL DESCRIPTION:** Generally described as vacating approximately 224 feet of the west portion of the public utility easement dedicated by separate instrument (Film 1454, Page 63) located on Lot 5, Block 1, Moorings 5<sup>th</sup> Addition, Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located midway between 42nd and 51st Streets North, west of Meridian Avenue, north of Keywest Street, at the west end of Portwest Circle (WCC #VI)

**REASON FOR REQUEST:** Garage addition to the existing single-family residence

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

The applicant propose to vacate approximately 224 feet of the west portion of the public utility easement dedicated by separate instrument (Film 1454, Page. 63) located on Lot 5, Block 1, Moorings 5<sup>th</sup> Addition. There is a sewer line and a manhole in the easement. The sewer line continues east, beyond the vacation area and is covered by the remainder of the subject easement as well as a platted 20-foot utility abutting the north side of the subject easement. The agent for the applicant needs to provide Public Works/Water and Sewer plans to make that sewer line a private service line or relocate it. Westar has equipment in the easement that appears to serve the applicant. The applicant can maintain a portion as easement or can relocate at their own expense. Heide Hancock, is the Subdivision Representative for Construction Services for this area and can be contacted at 261-6554. Kansas Gas Service has a gas main in the portion of the subject easement. The applicant is working with Kansas Gas to resolve this issue. The Moorings 5<sup>th</sup> Addition was recorded with the Register of Deeds August 7, 1990.

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 public utility easement dedicated by separate instrument.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time July 2, 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 public utility easement dedicated by separate instrument and that the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Abandonment or relocation/reconstruction of any/all utilities, made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. As needed provide an approved private project plan number for the abandonment /relocation of public utilities. All to be provided to the Planning prior to this case going to City Council for final action.
- (2) Approval from Westar and Kansas Gas Service is required in regards to relocation of their equipment or retaining a portion of the easement or providing an easement for their equipment. All to be provided to the Planning prior to this case going to City Council for final action.
- (3) If the sewer line and manhole located in the vacated portion of the public utility easement dedicated by separate instrument is approved to become a private sewer line the applicant/property owner will take over ownership and maintenance of the sewer line and manhole. As needed provide an approved private project plan number for the abandonment

/relocation of public utilities. To be provided to the Planning prior to this case going to City Council for final action.

- (4) Provide Planning with 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.
- (5) Provide Planning with a legal description of the vacated portion of the public utility easement dedicated by separate instrument on a Word document via E-mail that can be used on the Vacation Order. This must be provided to the Planning Department prior to this case going to City Council for final action.
- (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) 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. All to be provided to the Planning prior to this case going to City Council for final action.
- (2) Approval from Westar and Kansas Gas Service is required in regards to relocation of their equipment or retaining a portion of the easement or providing an easement for their equipment. All to be provided to the Planning prior to this case going to City Council for final action.
- (3) If the sewer line and manhole located in the vacated portion of the public utility easement dedicated by separate instrument is approved to become a private sewer line the applicant/property owner will take over ownership and maintenance of the sewer line and manhole. As needed provide an approved private project plan number for the abandonment /relocation of public utilities. To be provided to the Planning prior to this case going to City Council for final action.
- (4) Provide Planning with 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.
- (5) Provide Planning with a legal description of the vacated portion of the public utility easement dedicated by separate instrument on a Word document via E-mail that can be used on the Vacation Order. This must be provided to the Planning Department prior to this case going to City Council for final action.

- (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.

**MILLER STEVENS** moved, **KLAUSMEYER** seconded the motion, and it carried (12-0).

**PUBLIC HEARINGS**

3. **Case No.: ZON2015-00026** – Siena Lakes, LLC (owner) and Chris Bohm, Ruggles & Bohm (Agent) request a City zone change request from SF-5 Single family Residential to TF-3 Two family Residential on property described as:

That part of the NW1/4 of the NE1/4 of Sec. 34, T26S, R1W of the 6th P.M., Sedgwick County, Kansas, described as commencing at the northeast corner of the NW1/4 of said NE1/4; thence S00°59'20"E along the east line of the NW1/4 of said NE1/4, 417.42 feet to the place of beginning; thence continuing S00°59'20"E along said east line, 900.93 feet to the southeast corner of the NW1/4 of said NE1/4; thence S88°52'18"W along the south line of the NW1/4 of said NE1/4, 466.63 feet to the east right of line of Lakeway Street as platted in Ridge Port North 4th Addition, Wichita, Sedgwick County, Kansas; thence N01°07'42"W, 11.33 feet to point of curvature of a curve to the right, said curve having a radius of 118.00 feet and a central angle of 26°33'46"; thence northeasterly along said curve, 148.54 feet to a point of reverse curve of a curve to the left, said curve having a radius of 150.00 feet and a central angle of 26°33'46"; thence northeasterly along said curve 66.19 feet; thence southeasterly along a curve to the left, said curve having a radius of 112.82 feet, an arc length of 80.35 feet, chord bearing of S70°48'47"E, 78.67 feet to a point of tangency; thence N88°47'05"E, 86.88 feet to a point of curvature of a curve to the right, said curve having a radius of 19.00 feet and a central angle 90°00'00"; thence southeasterly along said curve 29.85 feet to a point of tangency; thence S01°12'55"E, 25.00 feet; thence N88°47'05"E, 32.00 feet; thence N01°12'55"W, 120.00 feet; thence S88°47'05"W, 32.00 feet; thence S01°12'55"E, 25.00 feet to a point of curvature of a curve to the right, said curve having a radius of 19.00 feet and a central angle 90°00'00"; thence southwesterly along said curve 29.85 feet to a point of tangency; thence S88°47'05"W, 86.88 feet to a point of curvature of a curve to the right, said curve having a radius of 80.82 feet and a central angle of 40°48'21"; thence northwesterly along said curve, 57.56 feet; thence northeasterly along a curve to the left, said curve having a radius of 150.00 feet, an arc length of 90.80 feet, chord bearing of N16°07'33"E, 89.42 feet to a point of tangency; thence N01°12'55"W, 111.00 feet to a point of curvature of a curve to the right, said curve having a radius of 19.00 feet and a central angle of 90°00'00"; thence northeasterly along said curve, 29.85 feet to a point of tangency; N88°47'05"E, 102.00 feet to a point of curvature of a curve to

the right, said curve having a radius of 19.00 feet and a central angle 90°00'00"; thence southeasterly along said curve 29.85 feet to a point of tangency; thence S01°12'55"E, 25.00 feet; thence N88°47'05"E, 32.00 feet; thence N01°12'55"W, 120.00 feet; thence S88°47'05"W, 32.00 feet; thence S01°12'55"E, 25.00 feet to a point of curvature of a curve to the right, said curve having a radius of 19.00 feet and a central angle 90°00'00"; thence southwesterly along said curve 29.85 feet to a point of tangency; thence S88°47'05"W, 102.00 feet to a point of curvature of a curve to the right, said curve having a radius of 19.00 feet and a central angle of 90°00'00"; thence northwesterly along said curve, 29.85 feet to a point of tangency; thence N01°12'55"W, 276.88 feet to a point of curvature of a curve to the right, said curve having a radius of 19.00 feet and a central angle of 90°00'00"; thence northeasterly along said curve, 29.85 feet to a point of tangency; N88°47'05"E, 102.00 feet to a point of curvature of a curve to the right, said curve having a radius of 19.00 feet and a central angle 90°00'00"; thence southeasterly along said curve 29.85 feet to a point of tangency; thence S01°12'55"E, 25.00 feet; thence N88°47'05"E, 32.00 feet; thence N01°12'55"W, 120.00 feet; thence S88°47'05"W, 32.00 feet; thence S01°12'55"E, 25.00 feet to a point of curvature of a curve to the right, said curve having a radius of 19.00 feet and a central angle 90°00'00"; thence southwesterly along said curve 29.85 feet to a point of tangency; thence S88°47'05"W, 102.01 feet to a point of curvature of a curve to the right, said curve having a radius of 19.00 feet and a central angle of 89°32'55"; thence northwesterly along said curve, 29.70 feet to a point of reverse curve of a curve to the left, said curve having a radius of 182.00 feet and a central angle of 35°47'06"; thence along said curve, 113.67 feet; thence N88°47'05"E, 319.25 feet to the place of beginning.

**MILLER** reported that the applicant requested that the case be deferred until the August 20, 2015 meeting.

**MOTION:** To defer the application to the August 20, 2015 Planning meeting.

**MCKAY** moved, **RAMSEY** seconded the motion, and it carried (12-0).

4. **Case No.: ZON2015-00027** – Larry Breshears (owner) and Logan Pajunen (applicant) request a City zone change request from PUD Planned Unit Development to GO General Office on property described as:

That part of College Park beginning 150 feet East of the Northwest corner; thence East 46 feet; thence South 106 ¾ feet; thence West 46 feet; thence North to the point of beginning, College Hill Addition to Wichita, Sedgwick County, Kansas.

**BACKGROUND:** The applicant is requesting a zone change from PUD Planned Unit Development to GO General Office on the platted 46 foot (x) 106.75 foot (0.11-acres) subject site located east of Rutan Avenue on the south side of Victor Place. The subject site is located on Parcel 3 of the 6.1-acre Parkstone Planned Unit Development, PUD-26, and is currently the eastern portion of a parking lot. A zone change from PUD-26 to GO would remove the subject site from PUD-26 and its development standards. A zone change would also impact the current parking layout of Parcel 3.

The applicant owns the abutting south GO zoned property, located along Douglas Avenue and if the zoning is approved will purchase the subject site. The applicant's abutting property is developed with a parking lot and a brick three-story (per the appraiser's link) single-family residence, built in 1910. There is a retention wall separating the subject site from the applicant's south, abutting property.

Because of the retention wall there is no access from the applicant's property to the subject site. Access to the subject site is from Victor Avenue. The applicant had mentioned using the site for parking as well as possibly building a garage on the site. If a garage was built on the site it would be an accessory structure to the applicant's south abutting residence and could not be sold separately from the applicant's south abutting residence. If a garage was built it could not be rented out to another entity as storage, unless a Conditional Use is approved; Unified Zoning Code (UZC), Sec.III-B.12.c.3 & Sec. III-D.6.y.

PUD-26 consists of four parcels for a mixed use urban village development that is to include commercial, office and a range of housing types of brownstones (three-story row housing), a high rise apartment tower and apartment flats on second stories above commercial uses at the street level, with surface parking. Current development consists of two, three story, stone and wood frame row housing and a paved parking lot, which the subject site is part of; the predominate character of PUD-26 is undeveloped land. PUD-26 restricted the use of Parcel 3 to parking, the proposed GO zoning would allow commercial parking subject to Sec.III-D.6.cc., of the UZC; the overnight parking of Commercial Vehicles exceeding 26,000 pounds gross vehicle weight rating shall not be permitted. Vehicle storage is not a permitted use in the GO zoning district. At the time of the writing of this report the applicant had a semi-truck trailer parked or stored on his GO zoned property. The proposed GO zoning would also allow additional residential, public and civic uses and commercial uses (not including retail) by right on the subject site not permitted on Parcel 3 of PUD-26; Sec.III-B.12. An approved amendment to PUD-26 could have allowed similar uses plus retail on the subject site.

The area is part of the western edge of the College Hill neighborhood; Central Avenue – Kellogg Avenue – Oliver Avenue – Hillside Avenue. The mostly undeveloped PUD-26 zoned properties are the dominant feature of the immediate area and are out of character with the vital College Hill neighborhood. Properties located east of the site are zone MF-29 and are developed with wood frame, one-two story mostly single-family residences with a few of them converted into duplex and small apartments (most built 1910-1920). Properties located north of the site, across Victor Avenue, are zoned TF-3 Two-Family Residential and PUD-26. These properties are developed as one-two story, wood frame single-family residences (most built 1910-1920) and most recently, two, three story, stone and wood frame apartments (built 2009). There is also undeveloped PUD-26 zoned land. Properties located west of the site are developed as PUD-26, Parcel 3 parking lot (the subject site is east portion the parking lot) that ends at Rutan Avenue. West of the parking lot, across Rutan Avenue, there is PUD-26 zoned undeveloped land and the vacant brick two-story PUD-26 leasing/information building (built 1960) and B Multi-Family Residential zoned undeveloped land and a maybe vacant one story residential building. Properties located south of the site (including the applicant's property) are zoned GO and are developed as two-three story, brick, stucco or wood frame apartments, offices, a duplex or single-family residences (built 1910-1920). These properties all have Douglas Avenue frontage.

Douglas Avenue in this vicinity was known as the "Uptown" area historically and still maintains a strong mix of LC Limited Commercial retail/commercial uses including the Uptown Theater, furniture stores, offices, various retail businesses, and restaurants. The Dockum Drug Store building (1927) is significant due to the presence of the Carthalite detailing on the façade. The Hillcrest is a premiere apartment tower owned by its residents as a co-op. It is ten stories in height and located one block southwest of the subject site. The Hillcrest (built 1927) has long served as the landmark and focal point for the Uptown retail area and edge of College Hill neighborhood.

**CASE HISTORY:** The site is described as that part of College Park beginning 150 feet east of the northwest corner; thence east 46 feet; thence south 106 ¾ feet; thence west 46 feet; thence north to the point of beginning, College Hill Addition. The College Hill Addition was recorded with the Register of Deeds on September 30, 1884.

Zoning case PUD2008-00004 changed the zoning on the subject site (0.11-acres) and the abutting west property (0.13-acres) from MF-29 and B zoning to PUD-26. PUD2008-00004 was the first amendment to PUD-26. The zone change increased PUD-26's Parcel 3 by 0.24-acres and used the subject site and the abutting west property to increase the parking for PUD-26.

PUD-26 was earlier established by zoning case PUD2007-00003. PUD-26, as established by PUD2007-00003, is part of the Douglas & Hillside Redevelopment District (TIF). The subject site is not part of the Douglas & Hillside Redevelopment District (TIF).

**ADJACENT ZONING AND LAND USE:**

|                  |   |
|------------------|---|
| NORTH: TF-3, PUD | Single-family residences, apartments, undeveloped land  |
| SOUTH: GO        | Apartments, offices, a duplex, single-family residences |
| EAST: MF-29      | Single-family residences, triplex, quadplex             |
| WEST: PUD, B     | Parking lot, undeveloped land, two vacant buildings     |

**PUBLIC SERVICES:** The site is served by all normally supplied municipal services. The site has access to Victor Avenue, a local street which intersects with Rutan Avenue, a local street, and a block west to Hillside Avenue. Victor does not go east beyond the site, ending at the subject site by recent design, construction and barriers.

**CONFORMANCE TO PLANS/POLICIES:** The "2030 Wichita Functional Land Use Guide Map" categorizes this site as "local commercial". The purpose of the GO zoning district is to accommodate office development and other complementary land uses. The GO zoning district is generally compatible with the "local commercial" or "regional commercial" designation of the "Wichita-Sedgwick County Comprehensive Plan." It is intended for application 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 requested GO zoning is the appropriate zoning for this site. The current PUD-26 zoning of the site is appropriate.

**RECOMMENDATION:** If approved the GO zoning request would remove the subject site from PUD-26. Removing the subject site would disrupt the existing parking lot layout of PUD-26's Parcel 3, by reducing parking by the nine parking spaces located on the subject site. Removing the subject site could also reduce the available parking located on the abutting west parking, due to a possible lack of space needed to use the existing west abutting four parking spaces. The lack of development progress on the 6.1-acre PUD-26 since its approval in 2007, may be a reflection of the lack of a market for this type of mixed use development and a still slow economic recovery for Wichita from the previous decade's economic slowdown. Whatever the reasons, the largely undeveloped site is out of character with the vital College Hill neighborhood. The existing parking available to PUD-26 is more than enough for the existing development for the two, three story stone and simulated wood row houses located on approximately 0.66-acres. The rezoning would allow the applicant to expand his property, although access would currently be off of Victor Avenue, rather than Douglas Avenue, where the applicant's residence has access.

Based upon the information available prior to the public hearings, planning staff recommends that the request for GO zoning be **APPROVED**, subject to the following provisions of a protective overlay:

- (1) Permitted uses are single-family residential, duplex, multi-family residential, general office, and commercial parking subject to Sec.III-D.6.cc.of the UZC.
- (2) The applicant shall provide direct access onto the subject site from the applicant's south abutting property, within a year of approval by the appropriate governing body.
- (3) The applicant shall construct a 6-8 foot solid wooden fence along the east property line of the subject site where it abuts residential properties within 90 days of approval by the appropriate governing body.

This recommendation is based on the following findings:

(1) The zoning, uses and character of the neighborhood: The area is part of the western edge of the College Hill neighborhood; Central Avenue – Kellogg Avenue – Oliver Avenue – Hillside Avenue. The mostly undeveloped PUD-26 zoned properties are the dominant feature of the immediate area and are out of character with the vital College Hill neighborhood. Properties located east of the site are zone MF-29 and are developed with wood frame, one-two story mostly single-family residences with a few of them converted into duplex and small apartments (most built 1910-1920). Properties located north of the site, across Victor Avenue, are zoned TF-3 Two-Family Residential and PUD-26. These properties are developed as one-two story, wood frame single-family residences (most built 1910-1920) and most recently, two, three story, stone and wood frame apartments (built 2009). There is also undeveloped PUD-26 zoned land. Properties located west of the site are developed as PUD-26, Parcel 3 parking lot (the subject site is east portion the parking lot) that ends at Rutan Avenue. West of the parking lot, across Rutan Avenue, there is PUD-26 zoned undeveloped land and the vacant brick two-story PUD-26 leasing/information building (built 1960) and B Multi-Family Residential zoned undeveloped land and a maybe vacant one story residential building. Properties located south of the site (including the applicant's property) are zoned GO and are developed as two-three story, brick, stucco or wood frame apartments, offices, a duplex or single-family residences (built 1910-1920). These properties all have Douglas Avenue frontage.

(2) The suitability of the subject property for the uses to which it has been restricted: The site is zoned PUD, subject to PUD-26. PUD-26 is intended to be a mixed use urban village development including commercial, office and a range of housing types of brownstones (three-story row housing), a high rise apartment tower and apartment flats on second stories above commercial uses at the street level. 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: If approved the GO zoning request would remove the subject site from PUD-26. Removing the subject site would disrupt the existing parking lot layout of PUD-26's Parcel 3, by reducing parking by the nine parking spaces located on the subject site. Removing the subject site could also reduce the available parking located on the abutting west parking, due to a possible lack of space needed to use the existing west abutting four parking spaces. The lack of development progress on the 6.1-acre PUD-26 since its approval in 2007, may be a reflection of the lack of a market for this type of mixed use development and a still slow economic recovery for Wichita from the previous decade's economic slowdown. Whatever the reasons, the largely undeveloped

PUD-26 site is out of character with the vital College Hill neighborhood. The provisions of the proposed protective overlay are intended to minimize any negative impacts on the neighborhood.

(4) Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide Map" categorizes this site as a "local commercial". The purpose of the GO zoning district is to accommodate office development and other complementary land uses. The GO zoning district is generally compatible with the "local commercial" or "regional commercial" designation of the "Wichita-Sedgwick County Comprehensive Plan." It is intended for application 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 requested GO zoning is the appropriate zoning for this site. The current PUD-26 zoning of the site is appropriate.

(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** asked if the site was left in the PUD couldn't the applicant use it for parking? He mentioned that it also looks like the adjoining property owner will have to redo his four parking spaces if he wants to use them in some fashion. He requested clarification that this site was accessed across someone else's property and asked if the landscaping would have to be removed to access the property from Victor.

**LONGNECKER** said yes this site can be used for parking and also mentioned other permitted uses listed in the Staff Report. He said the applicant has mentioned building a garage on the site. He said this whole area was laid out in two separate phases as noted in the Staff Report. He mentioned a possible "cross lot agreement;" however, he said he had nothing definitive on that and it would be a private agreement and not be part of the PUD. He said the Staff Report requires the applicant to provide direct access from his property onto this site from Douglas. He agreed that it appeared that the abutting property owner would have to reconfigure the parking spaces on his lot. He said he did not believe the applicant would have to remove any landscaping along Victor, but added that could be confirmed by a survey if the Commission would like to make that one of the conditions of approval.

**LOGAN PAJUNEN, 3420 EAST DOUGLAS, APPLICANT** said he was in negotiations to buy the subject property at 3319 East Victor Court. He said the intended use for the property and the reason for the rezoning request is so that he can build a garage at a future date. He said he would like to have access from Douglas so that he can keep his side yard.

**PAJUNEN** said he agreed to all the stipulations in the Staff Report and briefly listed them. He mentioned the four parking spaces on the abutting property and asked about the possibility of removing the curb stop blocks as a solution. He said he observes the comings and goings in the neighborhood and the lot currently has one inoperative vehicle parked there. He mentioned that the owner of that lot also has another lot that has 60 spaces and he has never observed it more than one third full so he doesn't believe the owner will be impacted negatively.

**FOSTER** asked if he needed access to Victor.

**PAJUNEN** said he would like that to have access from Victor. He said the goal is to access the garage from the north and exit to the south. He said there currently is a common access but he would prefer to have his own private access from the public right-of-way.

**LARRY BRESHEARS, 3102 SOUTH MT. CARMEL, PROPERTY OWNER** said he purchased the property two years ago. He said he asked the surrounding neighbors about purchasing the property from him and Mr. Pajunen was the only one who responded to his request. He said he spoke to the abutting property owner with the four parking stalls and was told his lot was only good for parking, and Mr. Rhodes had all the parking he needed. He said he also delivered a sales request to Legacy Bank. He mentioned that this site was not part of the Tax Increment Financing (TIF) District. He concluded by saying that this rezoning request should not impact the surrounding property owners.

**KIM EDGINGTON, 2532 NORTH CARDINAL DRIVE** said she was representing Parkstone Development, LLC. She gave a brief background stating that this lot was one of many associated with the Parkstone Development Plan and, unfortunately, slipped through the cracks and went to tax sale. She mentioned access, drainage and circulation and that the parking on this site was to serve the townhomes and proposed apartments and commercial development. She said building plans have been submitted to the City for additional apartments and commercial development along Douglas. She referred to an aerial of the area. She said the lot is needed to provide adequate parking for that development. She said there would be considerable expense to the adjoining neighbor if this request is approved because they would have to reconfigure their lot and possibly make some lighting changes. She said development of this as a garage or office is somewhat out of character with the neighborhood given that there is residential to the north and east. She said removing this piece of property from the PUD also removes the site restrictions put in place through the PUD which were done very intentionally so there would be a buffer to the properties to the east. She said once the development is complete, which she said is taking longer than was originally anticipated; there will be a need for this area for parking. She concluded by saying that the highest and best use for this property has already been established as part of the PUD to provide parking for the larger development now in process.

**RICHARDSON** clarified that the two properties to the west were privately owned and not part of the PUD. He also clarified that in order for this site to be used for parking for the new development, it will need to be reacquired.

**EDGINGTON** responded that some of those lots have been turned back over to Legacy Bank. She agreed that the subject property will need to be reacquired.

**FOSTER** asked about a development timetable.

**EDGINGTON** said building plans were submitted to the City last June. But bids were higher than hoped for so the developers went back to the drawing board. She said negotiations with an equity partner were finalized this June. She said at this point in time they have acquired the necessary financing and plans are in process for building permit applications. She added that there will be approximately 8,000 square feet of commercial development along Douglas so the parking is essential to serve the needs of that commercial and also residential development.

**MILLER STEVENS** asked if the financing included acquisition of the properties to the west.

**EDGINGTON** said financing did not include acquisition of this particular site.

**GOOLSBY** asked if Parkstone has tried to repurchase the property.

**EDGINGTON** said this zoning request has stalled that negotiation. She said these are required parking stalls for the overall development so they will have to negotiate that process.

**DAILEY** asked for clarification of the lots owned by Parkstone Development.

**EDGINGTON** said Legacy Bank owns the lots.

**DAILEY** clarified that the subject lot and the lot to the east are currently privately owned. He commented that Parkstone doesn't want anyone to do anything with those lots so Parkstone can have them.

**EDGINGTON** said the lot was part of an overall comprehensive development plan and unfortunately this is one of the properties that slipped through the cracks and went to a tax sale.

**DAILEY** commented that that misfortune doesn't mean Parkstone gets to take the property back unless the property owner wants to sell it. He said they may not be willing to sell at all.

**EDGINGTON** said any property sale would be privately negotiated.

**BRIAN RHODES, 3067 SOUTH CLIFTON** said he was owner of the property adjacent to the property under consideration for a zoning change. He said he takes great exception to this and added that this is just kind of a big mess. He said he retained ownership of parking behind his building because he was concerned that there might be some unraveling of the PUD. He said there was intent to make an investment and real improvements in the area and the parking lot that was installed is beautiful with asphalt, curbing and lighting. He said he has a cross leasing agreement with Parkstone for parking. He said he thought the current owner probably knew the restrictions when he bought it and bought it for an investment, but this request is going to mess up the entire parking area. He said Victor was a through street before the Parkstone development but not now. He asked how the change of zoning and through street will affect the emergency fire lane that has been established along Victor. He said there have been a lot of tax payer funded improvements and that this was a TIF property through the City of Wichita. He commented that his neighbor (the applicant) has a large lot but does not want to mess up his yard. He mentioned the pods and semi trailer parked on the lot and his neighbor's attempts to improve the property with limited resources. He said the neighbors are trying to support his efforts to make improvements to the old building. He said Mr. Pajunen's suggestion to build a garage on the lot is questionable, in his estimation. He referred to an aerial of the area and asked about the fire lane and access to his property and his neighbor's access to their property.

**RICHARDSON** clarified that Mr. Rhodes still has access to Victor and asked if he has a cross lot access agreement with the bank which appears to be the only way he can access his property.

**RHODES** responded he does not have access to Victor but out to Rutan, which is across the bank's property. He added that he does not have a cross lot agreement with the bank.

**RICHARDSON** agreed that the situation was a mess.

**DAILEY** asked about the previous access to Douglas and if that was an actual street.

**RHODES** said no, it was a driveway beside his building. He said the improvements cut that off because a wall was built, with his permission and agreement.

**DAILEY** clarified that what the applicant wants to do does not change Mr. Rhodes' access.

**RHODES** responded no. He asked about the applicant's access to Victor. He said the applicant will still need a cross lot access agreement with them to get in and out of his property because Victor stops with the fire lane.

**DAILEY** asked staff to respond to the situation about Victor.

**LONGNECKER** said Victor dead ends into a cul-de-sac.

**RICHARDSON** asked if Victor has been vacated.

**LONGNECKER** responded no, Victor is still a public right-of-way.

**RHODES** commented but Victor is not a through street.

**LONGNECKER** responded no, but it is still a public right-of-way.

**DAILEY** clarified then the applicant would still have access to Victor which is his right.

**RICHARDSON** commented that the access point is in the parking lot south of the Victor right-of-way (Mr. Rhodes' property). He mentioned that he got his information from the Google map.

There was considerable discussion about where Victor dead ends, pavement and emergency access.

**LONGNECKER** commented that according to the Zoning Map and vicinity map, the area is still public right-of-way. He mentioned that he would double check the information.

**GOOLSBY** clarified that the paving north of the parking island is not the Victor right-of-way. He said the Victor right-of-way from just west of this lot is all grass to the intersection of Rutan.

**LONGNECKER** suggested getting a survey to verify the applicant's and Mr. Rhodes' access.

**RICHARDSON** said he did not think that was germane to the zoning change request.

**GOOLSBY** said the applicant will not have access to Victor; he will have to cross someone else's property.

**GREG FERRIS, AGENT** said he was present to represent the owner of several pieces of property in the area (he referred to the properties on the aerial map). He said his client actually owned this property but it was given to the City as part of the overall development plan. He said his client is strongly

opposed to this zoning request and will be filing a Protest Petition for all of his properties. He mentioned the proposed curb cut and that it may still be part of his client's property which would have to be determined by a survey. He said this request makes no sense and should be rejected. He said adjacent property owners have spoken against it and there is no benefit to the City to rezone this property. He said there are higher and better uses for this property than a garage for one property owner. He said there was an overall planning goal for this property for the benefit of the City.

**DAILEY** clarified that the City was "given" the property.

**FERRIS** clarified that the City was given a strip of the property which was given to Parkstone as a part of the PUD.

**RICHARDSON** asked if the TIF or Parkstone paid for paving the area.

**LONGNECKER** said according to the information he received from the City Property Management Office, this area is outside of the TIF.

**FERRIS** commented then Parkstone must have paid for the paving and apologized for any misinformation.

**DAILEY** commented if Parkstone lost it, it doesn't make any sense.

**FERRIS** commented that Commissioner Dailey is right; Parkstone screwed up and lost the property. He said the zoning request is still a detriment to his client. He mentioned the Golden Rules and issues like impact on the community/neighbors and public good. He said there are so many questions that are up in the air on this request.

**DAILEY** said neither Mr. Ferris's client nor the City owns the property but they are trying to tell the current owner not to use it.

**FRANK \_\_\_\_\_, LEGACY BANK, 3711 NORTH RIDGE ROAD** said they own the lots to the west of the site and the nine developed units to the north. He said a lot of points have been made as to why the request should be denied. He said building a garage on the site would be a detriment to the property owner to the west because he would have to change his lot at his cost. He also said he believes it will also have a detrimental impact to the nine residential units to the north not knowing what the garage will look like, what's its use will be and how it will be accessed. He said when Parkstone finishes being developed there will be a need for this lot for parking for the commercial development. He requested that the application be denied.

**PAJUNEN** said everyone has made some interesting points. He said he would be willing to purchase the property without access to Rutan or Victor and just access through his property to Douglas. He said saying this is going to be used for some future development is the same "broken record" that the neighbors have heard over and over on the Parkstone project for many years. He said he has not seen any active development and Parkstone has let the properties become derelict and abandoned. He said there are tall weeds and non-functioning parking lot lights. He said the property has been left to

languish and used by other property owners in the area. He said GO is in character for the area. He said his proposed use is minimally intensive and would be a house type garage in keeping with the character of the neighborhood. He said the owner was very thorough in notifying surrounding property owners as it was in his interest to find a buyer. He said the bank let this property slip through the cracks and lost it at tax auction but he feels it was up to them to repurchase the property when they had the opportunity.

**DAILEY** clarified that the applicant was building a residential garage, not a commercial garage, where he would store building materials that he has had out in the open in the trailer and pods on his property.

**PAJUNEN** said the garage would be the same style as his house with an apartment on top of it. He said he would use it for storage of building materials also. He said with the garage he could remove the pavement he has been using for storage and beautify it with landscaping.

**B. JOHNSON** asked how long the applicant has been remodeling the home and what was the timeline. He also asked about the time frame for building the garage.

**PAJUNEN** said the home has been in the family for three years and they are currently doing a refinance which he believes will help him speed up the remodeling process. He said he would not feel comfortable projecting a date for the interior, but for the exterior he thought might be completed by the end of August. He said he had no immediate plans to build the garage. He said if he purchases the property, it will be several years down the road before he can build the garage. In addition, he said as a good will gesture to his neighbors he would be willing to let them use the parking lot.

**RICHARDSON** said this boils down to a zoning case and whether the Commission wants to allow office zoning in residential in College Hill. He said he does not feel this is an appropriate use and moved to deny the application.

**MOTION:** To deny the application.

**RICHARDSON** moved, **MITCHELL** seconded the motion.

**WARREN** said highest, best use in this case seems to be in the eyes of the beholder. He said there is a PUD some would like to see remain the same, but they don't own the property. He said highest, best use for the property owner is something other than what was designed in the PUD. He said he thinks this change should be allowed.

**MCKAY** clarified that the property is currently in the PUD and the applicant can use this as parking but he cannot build a garage.

**LONGNECKER** said the property is part of the PUD and is restricted for parking only. He said GO zoning would allow the applicant to build the garage as part of the principle structure, which is a residence.

**MARK ELDER, OFFICE OF URBAN DEVELOPMENT** said the project was designed with commercial development along Douglas, so this lot was originally purchased by Parkstone to provide additional parking for the rest of the development. He said he didn't have the numbers on the required parking for the proposed development.

**EDGINGTON** said the parking requirements for the overall development to include commercial, retail and apartment space required them to acquire additional lots and that is what this lot was intended for.

**SUBSTITUTE MOTION:** To approve subject to Staff recommendation.

**WARREN** moved, **DAILEY** seconded the motion, and it failed (2-10).

The **ORIGINAL MOTION** to deny carried (10-2). **WARREN** and **DAILEY** – No.

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**FOSTER** announced that he needed to recuse himself from the item.

5. **Case No.: ZON2015-00029 and CUP2015-00015** - Tier 1, LLC (Mary Schellenberg) and MKEC Engineering, Inc. (Brian Lindebak) request Creation of a new CUP Community Unit Plan to allow for organized development and a rezone from SF-20 Single-family Residential and LC Limited Commercial to LC Limited Commercial, GC General Commercial and SF-5 Single-family Residential on property described as:

COMMENCING at the southwest corner of said Southwest Quarter; thence along the west line of said Southwest Quarter on a Kansas coordinate system of 1983 south zone bearing of N01°35'09"W, 99.52 feet; thence N88°24'51"E, 71.72 feet to a point on the east right of way of Ridge Road dedicated on Film 1735, Page 2074, said point also being the POINT OF BEGINNING; thence along said east right of way for the next five courses, N04°15'57"W, 250.76 feet; thence parallel with and 60 feet east of said west line, N01°35'09"W, 1251.00 feet; thence N01°59'11"E, 401.23 feet; thence N01°35'12"W, 147.74 feet; thence N06°44'51"E, 300.30 feet to a point on the south right of way line of K-96 Highway; thence along said south right of way line for the next five courses, N76°07'51"E, 666.00 feet; thence N88°44'57"E, 542.24 feet; thence N88°42'31"E, 506.95 feet; thence N84°51'10"E, 501.10 feet to a point on the north line of said Southwest Quarter; thence along said north line, N88°55'10"E, 314.60 feet to the northeast corner of said Southwest Quarter; thence along the east line of said Southwest Quarter, S01°20'41"E, 888.70 feet; thence S88°55'10"W, 902.34 feet to a point on the east line of exception tract described on Film 1696, Page 457; thence along the boundary of said exception tract for the next three courses, N01°27'56"W, 208.71 feet; thence S88°55'10"W, 417.42 feet; thence S01°27'56"E, 208.71 feet; thence S88°55'10"W, 249.73 feet to a point 1070 feet east of said west line of said Southwest Quarter; thence parallel with and 1070 feet east of the said west line, S01°35'09"E, 465.00 feet; thence S88°55'10"W, 602.02 feet to a point 468 feet east of said west line; thence parallel with and 468 feet east of said west line, S01°35'09"E, 1218.97 feet to a point 60 feet north of the south line of said Southwest Quarter; thence parallel with and 60 feet north of said south line, S88°46'20"W, 42.82 feet; thence N82°41'49"W, 101.12 feet to a point 75 feet north of said south line; thence parallel with and 75 feet north of said south line, S88°46'20"W, 227.39 feet; thence N47°44'48"W, 36.28 feet to the POINT OF BEGINNING.

**BACKGROUND:** The applicant is requesting Limited Commercial (LC), General Commercial (GC) and SF-5 Single-Family Residential (SF-5) zoning subject to the development standards contained in the proposed Valencia Commercial Community Unit Plan (CUP) DP-337. The subject site is currently zoned LC and SF-20 Single-Family Residential (SF-20), and is located in Sedgwick County. A request for annexation by the City of Wichita has been submitted and is expected to be completed prior to consideration by the governing body. The application area is 69.11 acres shaped like an upside-down "L" that abuts the east side of North Ridge Road north of West 37<sup>th</sup> Street North, and the land abutting

the south side of Highway K-96, one-half mile east of North Ridge Road. It is proposed that all uses in the LC and GC district be permitted except for a list of specifically excepted uses, such as: manufactured home, correctional placement residence, night club, animal kennel, sexually oriented business, rock crushing and vehicle and equipment sales outdoor. The complete list of excepted uses can be found in the proposed CUP, General Provision 3.

A total of 13 CUP parcels are proposed. Parcels 1-10 abut the eastern side of North Ridge Road, south of the proposed eastward extension of West Village Circle. Parcels 12 and 13 abut the south side of Highway K-96, north of the proposed extension of West Village Circle. Parcel 14 is surrounded by Parcels 12 and 13 and contain an existing "wireless communications facility." Parcel 11 is located east of Parcels 8, 9 and 10 and south of Parcel 12, and does not have frontage along North Ridge Road or Highway K-96. Parcel 11 has frontage on the proposed extension of West Village Circle and proposed Summitlawn Avenue. Reserve C is located east Parcels 1-7 and 11, and is also located south of Parcels 11 and 12. All of Reserve C is proposed to be zoned SF-5, including the southern 540 feet of Reserve C is currently zoned LC. Located to the east of the southern portion of Reserve C is a 132-foot by 540-foot rectangle that is currently zoned LC but is proposed to be down-zoned to SF-5, and is not to be included in the final boundary of the proposed CUP. Reserves A and B are islands located within the proposed eastward extension of West Village Circle. Proposed uses for all reserves, Parcels 1-11 and Parcel 13 are LC uses except for those uses specifically excepted by the CUP, as described in General Provision 3A. Proposed uses for Parcels 12 and 14 are GC uses except for those uses specifically excepted by the CUP, as described in General Provision 3B.

The proposed CUP also requires:

- 1) Architectural consistency between parcels.
- 2) Landscaping per City ordinance.
- 3) Lighting per City code with all parcels sharing similar or consistent parking lot lighting elements. Maximum height of light poles is 27 feet except when located within 100 feet of residential zoning, which shall be 15 feet.
- 4) Rooftop mechanical equipment, trash receptacles, outdoor work areas and loading docks are to be screened from ground level view.
- 5) Setbacks of 15 feet are shown along North Ridge Road for Parcels 1-7. The setback for Parcel 7's North Ridge Road should be 35 feet to allow for adequate line of sight for traffic exiting Palmetto Street.
- 6) Parking is to be per code.
- 7) Signs are to be per code, except as specified differently by the CUP. Initially the applicant proposed (General Provision 12B) to permit flashing, moving, portable, banner or pennant signage along Highway K-96 and at the northeast corner of North Ridge Road and West 37<sup>th</sup> Street North. However, after discussion with staff the request has been withdrawn. Small tenant monument signs are limited to 150 square and a maximum height of 14 feet. Three large development signs are proposed along Ridge Road and two along K-96. Large development signs have a maximum height of 35 feet and a maximum sign area of 300 square feet. Three off-site signs are proposed, two along K-96 and one at the intersection of North Ridge Road and West 37<sup>th</sup> Street.
- 8) Access controls shall be determined at the time of platting. Cross-lot circulation agreements are required at the time of platting to assure internal traffic between parcels.

As noted above, the site is located at the southeast corner of Highway K-96, a divided four-lane freeway, and North Ridge Road, a four-lane arterial. Land located to the north of the subject property, across

Highway K-96 is zoned SF-20 or SF-5 and is farmland or single-family residential. Land located to the east and south of the application area is zoned SF-20. A large-lot single-family residence nearly surrounded by a berm and a private lake is located to the east. South of Parcel 13 is a SF-20 zoned 2.012-acre tract that contains a single-family residence, addressed as 4104 North Ridge Road that is not included in the subject application and is not included in the proposed plat noted below in the case history section. Currently a private drive provides access from North Ridge Road to the residence and to the wireless communication facility. If the subject application is approved, access to the residence would switch from a private drive to West Village Circle. Other land located south and east of the application area is currently undeveloped and is currently zoned SF-20; however, it is owned by the current applicant and is proposed to be annexed. Upon annexation the adjoining property will become zoned SF-5. Land located to the south of West 37<sup>th</sup> Street is zoned LC and GO General Office (GO) subject to CUP DP-239, and developed with a convenience store, strip office center, church and assisted living. Land to the west is zoned LC subject to three different CUP's, and is vacant or is developed with a bank or medical offices.

**CASE HISTORY:** A preliminary plat, The Valencia Addition (SUB2015-00022), has been submitted for consideration by the Subdivision Committee on July 16, 2015. The proposed preliminary plat includes the property that is the subject of this application in addition to the remainder of the quarter-section except for the 2.012-acre SF-20 zoned residence noted above. With exception of the 2.012-acre tract, a request for annexation of the entire quarter-section has been requested.

**ADJACENT ZONING AND LAND USE:**

North: SF-20 and SF-5; farmland or single-family residential  
South: SF-20, LC and GO; single-family residence, vacant, convenience store, strip office center, church and assisted living  
East: SF-20; single-family residence, vacant  
West: LC; vacant, bank, medical offices

**PUBLIC SERVICES:** Usual municipal services are either available or can be extended to serve the site. At the time the property is platted specific utility and transportation needs will be identified, and guarantees for the provision of needed services can be guaranteed. The CUP drawing depicts 75-feet of half-street right-of-way at the northeast corner of the intersection of North Ridge Road and West 37<sup>th</sup> Street North. Sixty feet of half-street right-of-way is shown farther east on West 37<sup>th</sup> Street North. Sixty feet of half-street right-of-way is shown on the east side of North Ridge Road widening to 85 feet at the intersection with K-96.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for "regional commercial" uses. The regional commercial category encompasses major destination area containing concentrations of commercial, office and personal service uses that have predominately regional market areas and high volumes of retail traffic.

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

- 1) Approve the zone change and the Community Unit Plan DP-337 subject to the development standards contained therein, subject to platting within one year.

- 2) At the time of platting the applicant shall guarantee the installation of all required improvements, including but not limited to, stormwater, sanitary sewer, water, access controls and traffic circulation.
- 3) If the plat requires modification of CUP DP-337, CUP DP-337 shall be considered to be adjusted without further review so long as four copies of the revised CUP that are consistent with the approved plat are submitted to planning staff.
- 4) Proof shall be provided to planning staff that notice of the development standards contained in CUP DP-37 has been filed on the application area with the register of deeds.
- 5) The applicant shall submit four copies of the approved CUP to planning staff within 60 days after approval by the governing body, or the request shall be considered null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site is located at the southeast corner of Highway K-96, a divided four-lane freeway, and North Ridge Road, a four-lane arterial. Land located to the north of the subject property, across Highway K-96 is zoned SF-20 or SF-5 and is farmland or single-family residential. Land located to the east and south of the application area is zoned SF-20. A large-lot single-family residence nearly surrounded by a berm and a private lake is located to the east. South of Parcel 13 is a SF-20 zoned 2.012-acre tract that contains a single-family residence, addressed as 4104 North Ridge Road that is not included in the subject application and is not included in the proposed plat noted below in the case history section. Currently a private drive provides access from North Ridge Road to the residence and to the wireless communication facility. If the subject application is approved, access to the residence would switch from a private drive to West Village Circle. Other land located south and east of the application area is currently undeveloped and is currently zoned SF-20; however, it is owned by the current applicant and is proposed to be annexed. Upon annexation the adjoining property will become zoned SF-5. Land located to the south of West 37<sup>th</sup> Street is zoned LC and GO General Office (GO) subject to CUP DP-239, and developed with a convenience store, strip office center, church and assisted living. Land to the west is zoned LC subject to three different CUP's, and is vacant or is developed with a bank or medical offices.
2. The suitability of the subject property for the uses to which it has been restricted: The majority of the property is currently zoned SF-20 that primarily permits single-family residential and a few civic and institutional uses, such as, church, school or park, by right. A small portion (approximately 5 acres) located in the southwestern corner of the application area is zoned LC, which permits a wide range of residential, office and commercial uses, by right. Given the site's location at the intersection of a Highway K-96 and North Ridge Road the property's SF-20 zoning is not suitable. Other property similarly situated is zoned LC.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The development standards associated with the CUP and the zoning code will minimize detrimental impacts of the proposed zone change. Code requirements include solid screening, landscape buffers, maximum building heights below base zoning standards and maximum gross floor area limitations. Platting will address street access, stormwater and the extension of utilities.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request will add to the community's inventory of commercially zoned land and provide additional shopping and personal service

offerings for the larger neighborhood. Denial would presumably represent a loss of economic opportunity to the applicant.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for “regional commercial” uses. The regional commercial category encompasses major destination area containing concentrations of commercial, office and personal service uses that have predominately regional market areas and high volumes of retail traffic.
6. Impact of the proposed development on community facilities: The development standards contained in the CUP and those required by platting will ensure that required community facilities are in place or are installed.

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

**BRIAN LINDEBAK, MKEC ENGINEERING, INC., 411 NORTH WEBB ROAD, AGENT FOR THE APPLICANT AND OWNER** said they are in agreement with staff recommendations but have a minor change to the CUP. He said the reserve was developed for offsite detention as well as screening. He said they would like to delete the wall requirement along the edge that abuts commercial zoning and allow landscaping and a berm. He referred to the revised CUP.

**GREG FERRIS, AGENT** said he was present to represent the property owner to the east of the proposed rezoning. He said his client does not have any strong objections; however, they do have several concerns that they wanted to express at this meeting. He mentioned a solid, masonry screening wall along the east side of the development where it abuts his client’s property; they wanted to make sure that was included in the CUP. He said with regard to the height limit of 65 feet, most LC zoning does not allow structures that high so they would like that to be considered. He said the applicant has plenty of room to build on. He said they also feel this property is being overbuilt, but that is not the discussion today, that discussion will occur during the platting process.

**B. JOHNSON** asked about the elevation of K-96.

**FERRIS** said the elevation is probably 20-30 feet above grade. He said there is a 20-25 foot berm that screens K-96.

**LINDEBAK** indicated the applicant planned on building the required masonry wall on the east edge of the property where it abuts Mr. Ferris’ client’s property. He said the only waiver of the wall requirement they are requesting is within the development itself adjacent to property the applicant owns. He mentioned the berm and said they had reduced the building height from 80 feet, which is allowed by the UZC, down to 65 feet. He commented that the cell tower located in the area is about 165 feet tall.

**MCKAY** asked the agent to discuss the proposed building height.

**LINDEBAK** said there is a compatibility setback on the site where commercial abuts residential zoning. He said the site could accommodate any number of uses such as apartments or office buildings. He said his client wants to maximize the potential of the site. He added that the residence to the east is located approximately one quarter of a mile away, which is already a pretty good setback.

**MCKAY** said the further away the residence is, the more they are going to be able to see a 65-foot tall building as opposed to being located closer. He mentioned line of sight. He asked the agent if the applicant would consider building only to the height of the medical center located across the street on the west side of Ridge Road.

**LINDEBAK** said he was not prepared to answer that question. He said they have reduced the building height from 80 to 65 feet and there is already a 165 foot tower in the area. He said he would like to defer some of the rebuttal time to the applicant to answer questions.

**MCKAY** asked what the applicant had planned on the site.

**MARVIN SCHELLENBERG, TIER 1, LLC, APPLICANT, 7926 WEST 21<sup>ST</sup> STREET** said at this point they do not have anything set but they feel it is a good location for an office building. He said when you have a large investment like this you don't want to limit how tall the office building can be. He said they want to keep their options open.

**MILLER** clarified that typically CUP's have a height limit of 35 feet, but the LC district has an 80 foot height restriction. He said usually compatibility setbacks are not applied to CUP's because those development standards are approved by the Planning Commission and the governing bodies. He said the Planning Commission will have to establish a setback from the east property line or say the building height can be 60 feet, subject to the existing compatibility setback standards.

**MCKAY** asked didn't the agent say there was a 200 foot setback in his presentation.

**LINDEBAK** said he did not say 200 feet in his presentation.

**MILLER** said the existing CUP on parcel 13 proposes that within 200 feet, the building height would be 35 feet and past that it would be 60 feet.

**LINDEBAK** said they are trying to be a good neighbor.

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

**WARREN** moved, **RAMSEY** seconded the motion, and it carried (10-0-2).

**FOSTER** and **NEUGENT** – Abstained.

6. **Case No.: CON2015-00022** - Albert and Shannon Austin (applicants/owners) and Southwestern Remodeling (agent) request a County Conditional Use permit for an accessory apartment on property described as:

A tract of land beginning 495.66 feet West of the Northeast corner of the Northwest quarter; thence West 570 feet; thence South 196.45 feet; thence Southeasterly along a curve 290.07 feet; thence Southeasterly 35.89 feet; thence East 448.27 feet; thence North 490.18 feet to the point of beginning EXCEPT for roads, all in Section 27, Township 28, Range 2 East of the 6<sup>th</sup> P.M., Sedgwick County, Kansas.

**BACKGROUND:** The applicants are requesting a Conditional Use for an “accessory apartment” on the 5.14-acre, unplatted RR Rural Residential zoned subject site located on the southeast corner of 55<sup>th</sup> Street South and 116<sup>th</sup> Street East. The Wichita-Sedgwick County Unified Zoning Code (UZC) defines an accessory apartment (Art.II., Sec.II-B.1.b) as: a dwelling unit that may be wholly within, or may be detached from a principal single-family dwelling unit.

The applicant’s site plan and a review of the site by staff reveals a one-story, brick and lap siding single-family residence (3,985 square-foot, built 1996) with an attached brick and lap siding garage, a detached brick and lap siding garage, a detached metal accessory building and a tennis court. Approximately 1,090-square feet of the 2,660-square foot detached metal accessory building is proposed to be converted into an accessory apartment. The site plan also shows a sewage lagoon, a pond and two existing drives, one to the primary residence off of 116<sup>th</sup> Street East and the other to the accessory apartment off of 55<sup>th</sup> Street South.

Accessory apartments are also subject to supplementary use regulation Art. III.Sec.III-D.6.a:

(1) A maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling unit that may be within the main building, within an accessory building or constructed as an accessory apartment. *The applicant proposes to convert approximately 1,040-square feet of the 2,660-square foot detached metal accessory building into an accessory apartment.*

(2) The appearance of an accessory apartment shall be compatible with the main dwelling unit and with the character of the neighborhood. *The interior conversion of a portion of the detached metal building into an accessory apartment will not alter the exterior appearance (with the exception additional windows and a doors being installed) of the detached metal building. The proposed conversion will not change the character of the subject site, nor will it alter the existing character of the area.*

(3) The accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling unit, and the ownership shall not be divided or sold as a condominium. *A covenant will be filed with the Register of Deeds stating that the accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling unit, and the ownership shall not be divided or sold as a condominium.*

(4) The water and sewer service provided to the accessory apartment shall not be provided as separate service from the main dwelling. Electric, gas, telephone and cable television utility service may be provided as separate utility services. *An existing sewage lagoon will serve both the principle residence as well as the proposed accessory apartment. Water will be provided by a well.*

The site and the surrounding area is zoned RR and developed as large tract single-family residences (most built in the 1990s) served by sewage lagoons and farmland. Most of the large tract single-family residences are located between the subject site, west (and beyond) to Greenwich Road. Greenwich Road is a north-south County Highway that is paved its entire length from Sumner County to Harvey County. Spring Creek runs north to south through the area and separates the subject site from its east neighbor.

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

**ADJACENT ZONING AND LAND USE:**

NORTH: RR Farmland, large tract single-family residences  
SOUTH: RR Large tract single-family residences  
EAST: RR Farmland, large tract single-family residences  
WEST: RR Large tract single-family residences

**PUBLIC SERVICES:** The property utilizes a lagoon and on-site water well. 116<sup>th</sup> Street East is a sand and gravel residential road with 70 feet of full right-of-way. 55<sup>th</sup> Street South a sand and gravel section line road with 100 feet of full right-of-way.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide Map” categorizes this site as a “rural area.” Rural areas are located outside of the urban growth areas and permits uses that are no more offensive than those agricultural uses commonly found in Sedgwick County. The RR zoning district is appropriate for the rural category. A Conditional Use is required for consideration and action on an accessory apartment in the RR zoning district.

The site is located within the City of Derby’s Zoning Area of Influence. The planning commission (Derby Planning Commission) of a second or third class city shall have the authority to review and recommend to the Metropolitan Area Planning Commission (MAPC) approval, approval with conditions or modifications, or denial of applications to amend the Official Zoning Map if such application involves property within the subject city’s area of influence. The recommendation must be transmitted to the MAPC on or before the scheduled date of the public hearing before the MAPC. The lack of a recommendation by the second or third class city’s planning commission on or before the scheduled date of the hearing before the MAPC shall be construed as a recommendation for approval of the application or proposal; Art.VI, SecVI-D.2. The request will be considered by the Derby Planning Commission on July 16, 2015, a week before the July 23, 2015, MAPC meeting.

If a proposed Conditional Use involves property within the Zoning Area of Influence of a second or third class city in Sedgwick County, and if the planning commission of that city has recommended against the Conditional Use on or before the scheduled date of the hearing before the MAPC, approval of such Conditional Use by the Governing Body shall require a unanimous vote of all members; Art.V, SecV-D.9.

**RECOMMENDATION:** The surrounding area is developed as large tract single-family residences (most built in the 1990s) served by sewage lagoons and farmland. The application area has 5.14-acres which is more than enough room to accommodate the accessory apartment and the existing principal structure. Existing trees on the subject site and along Spring Creek, on the site’s east side, provides screening from neighboring properties. Based on information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The Conditional Use permits one single-family accessory apartment on the site. The site shall be developed and maintained in general conformance with the approved site plan and in conformance with all applicable regulations, including but not limited to building, fire, environmental, and utility regulations or codes.
2. The applicant shall conform to Art. III.Sec.III-D.6.a.1-4, with the exception that: (a) the exterior appearance of the detached metal building will remain as it is a result of the conversion of 1,040-square feet of the 2,660-square foot detached metal accessory building into an accessory apartment, with exception of additional windows and doors, and; (b) if the proposed accessory apartment’s water is supplied by RWD #3, a separate meter may be provided for the proposed accessory apartment.
3. A covenant will be filed with the Register of Deeds stating that the accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling unit, and the ownership shall not be divided or sold as a condominium.

4. The accessory apartment will be completed within one year of approval by the applicable governing body or it will be declared null and void.
5. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VII hereof, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site and the surrounding area is zoned RR and developed as large tract single-family residences (most built in the 1990s) served by sewage lagoons and farmland. Most of the large tract single-family residences are located between the subject site, west (and beyond) to Greenwich Road.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned RR which permits primarily agricultural uses and large-tract/lot single-family residences. The property could continue to be used for one single-family residence; however, the size of the property easily accommodates an accessory apartment and the additional required parking space.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request should not detrimentally impact nearby properties. The internal conversion of a portion of the detached metal accessory building into an accessory apartment will not change the appearance of the subject site (except for additional windows and doors), nor will it have a negative impact on the character of the neighborhood. The conditions of approval should minimize any anticipated detrimental impacts.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide Map" categorizes this site as a "rural area." Rural areas are located outside of the urban growth areas and permits uses that are no more offensive than those agricultural uses commonly found in Sedgwick County. The RR zoning district is appropriate for the rural category. A Conditional Use is required for consideration and action on an accessory apartment in the RR zoning district.

The site is located within the City of Derby's Zoning Area of Influence. The planning commission (Derby Planning Commission) of a second or third class city shall have the authority to review and recommend to the Metropolitan Area Planning Commission (MAPC) approval, approval with conditions or modifications, or denial of applications to amend the Official Zoning Map if such application involves property within the subject city's area of influence. The recommendation must be transmitted to the MAPC on or before the scheduled date of the public hearing before the MAPC. The lack of a recommendation by the second or third class city's planning commission on or before the scheduled date of the hearing before the MAPC shall be construed as a recommendation for approval of the application or proposal; Art.VI, Sec.VI-D.2. The request will be considered by the Derby Planning Commission on July 16, 2015, a week before the July 23, 2015, MAPC meeting.

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

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

There were no public comments.

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

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

- 7. **Case No.: CON2015-00023** - Calvin Opp (Applicant/Owner) and Clear Channel Outdoor, c/o: David Mollhagen (Agent) request a City Conditional Use to permit a billboard within 300 feet of residential zoning on property described as:

Lot 2, Pearl May Jones Addition to Wichita, Sedgwick County, Kansas.

**BACKGROUND:** The applicant’s existing off-site advertising billboard sign is legal non-conforming because it is within 300 feet of residential zoning and development. The applicant’s current sign location will be taken for right-of-way accommodating the I-235/US-54 (Kellogg) Interchange improvement. To re-build the applicant’s off-site sign 23 feet east of the present location requires MAPC approval. The Sign Code Section 24.04.225(a) states that “An application for a permit for installation of a new or enlarged (size or height) off-site billboard sign located closer to a residentially-zoned lot or use than allowed by Section 24.04.222.4d of this code (300 feet) shall require a public hearing and approval by the Planning Commission or, if forwarded to the Wichita City Council for final action, shall require approval by the Wichita City Council.”

The application area is zoned LI Limited Industrial (“LI”) and is developed with a construction company in a building located east of the subject sign. According to the applicant, the off-site sign was built in 1976.

Property north and east of the site is zoned LI Limited Industrial (“LI”) and is developed with a steel fabrication facility and other manufacturing use. Property south of the site is zoned LI and SF-5 Single-family Residential (“SF-5”) and is developed with a warehouse and single-family residence respectively, with I-235 located to the west. The nearest residences to the sign are located approximately 170 feet due south of the sign. Some mixed multi-family and two-family residential zoning with single-family residential development exists further south of the site.

**CASE HISTORY:** The property was platted as the Pearl May Jones Addition to Wichita, KS in 1970.

**ADJACENT ZONING AND LAND USE:**

|       |          |  |
|-------|----------|--|
| LI    |          | Steel fabrication facility               |
| SOUTH | SF-5 and | Single-family residences and warehousing |
| EAST  | LI       | Manufacturing                            |
| WEST  | I-235    | I-235                                    |

**PUBLIC SERVICES:** The site has direct access to Walker, a two-lane unpaved local street at this location. All normal public services are available to the site.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide, as amended in May 2005, of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* designates this site as “Employment/Industry Center.” The existing LI zoning, manufacturing use, wireless communication tower, and off-site sign on this site are consistent with this designation.

**RECOMMENDATION:** The existing off-site sign, on this site since 1976, has no apparent impact on surrounding residential properties. Re-building the sign 23 feet to the east, to accommodate the I-235/US-54 Interchange expansion, should have no increased impact on the surrounding properties. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The site shall be developed and maintained in accordance with the approved site plan and elevation drawing, and shall be located 23 feet from the present location.
2. The applicant shall obtain all permits necessary to construct the sign and the sign shall be erected within one year of approval, unless such time period is extended by the MAPC.
3. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property north and east of the site is zoned LI Limited Industrial (“LI”) and is developed with a steel fabrication facility and other manufacturing use. Property south of the site is zoned LI and SF-5 Single-family Residential (“SF-5”) and is developed with a warehouse and single-family residence respectively, with I-235 located to the west.
2. The suitability of the subject property for the uses to which it has been restricted: The existing site could be used for a wide variety of uses allowed by the current LI zoning. Without MAPC approval, the existing off-site sign cannot be re-built as proposed.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The existing off-site sign, on this site since 1976, has no apparent impact on surrounding residential properties. Re-building the sign 23 feet to the east, to accommodate the I-235/US-54 Interchange expansion, should have no increased impact on the surrounding properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide, as amended in May 2005, of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* designates this site as “Employment/Industry Center.” The existing LI zoning, manufacturing use, wireless communication tower, and off-site sign on this site are consistent with this designation.
5. Impact of the proposed development on community facilities: Relocating the off-site sign 23 feet to the east of its present location should have no additional impact on community facilities.

**DERRICK SLOCUM**, Planning Staff presented the Staff Report.

There were no public comments.

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

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

8. **Case No.: DER2015-00005** – Robert Parnacott, Assistant county Counselor, agent for the applicant Board of County Commissioners of Sedgwick County, Kansas request an Amendment to the Wichita Sedgwick County Unified Zoning Code sections dealing with zoning area of influence.

**BACKGROUND:** On Wednesday June 10, 2015, at its regularly scheduled meeting the Board of Sedgwick County Commissioners (BoCC) directed staff to process an amendment to the Wichita-Sedgwick County Unified Zoning Code (UZC) that would, if approved, eliminate “zoning area of influence” (ZAOI) review authority.

The Wichita-Sedgwick County Unified Zoning Code (UZC) contains provisions that require certain development applications on properties located within specific geographic areas surrounding 17 of Sedgwick County’s cities are to be presented to the specified cities’ planning commissions prior the applications being presented for consideration by the Metropolitan Area Planning Commission (MAPC) and/or the BoCC. The defined geographic area surrounding the 17 cities that trigger review by a city’s planning commission is known as the “zoning area of influence” (ZAOI). Seventeen of the County’s cities have ZAOI authority. The cities of Viola, Wichita and Eastborough do not have ZAOI authority. A map of the current ZAOI boundaries is attached. Only zoning, conditional use, community unit plan and planned unit development applications fall under ZAOI review requirements. Other development applications such as: plats, dedications, administrative adjustments or lot splits are not subject to ZAOI review requirements. The UZC specifies that applications requiring ZAOI review must be presented to the city’s planning commission having ZAOI authority prior to review by the MAPC or the BoCC. If the planning commission having ZAOI authority recommends denial the application can only be approved by a unanimous vote of the BoCC. The unanimous vote requirement to override a recommendation of denial by a city having ZAOI review authority is unique to ZAOI procedure. Applications not subject to ZAOI review can be approved with either a simple majority, two-thirds or three-fourths majority vote.

“Zoning area of influence” review was established in 1985 when Sedgwick County adopted county-wide zoning. Presumably the concept of ZAOI was intended as a substitute for those jurisdictions that had enacted “extra-territorial zoning authority.” K.S.A. 12-715b allows cities to adopt zoning regulations affecting all or any designated portion of the land located outside the city but within three miles thereof under certain conditions, except that for floodplain regulations in areas designated as a floodplain. K.S.A. 12-715b.(a) states a city may establish three mile ring zoning if: the city has established a planning commission per K.S.A. 12-702, and which provides for the appointment of two commission members who reside outside the city but within the area subject to the zoning regulations of the city or the city has a joint, metropolitan or regional planning commission in cooperation with the county in which the city is located; (b) the land outside the city has been included within a comprehensive plan recommended by either of such planning commissions and has been approved by the city governing

body or the board of county commissioners and (c) the county has specifically excluded the land from county zoning regulations or the county does not have in effect zoning regulations for such area. The city wishing to initiate three mile ring zoning must notify the county commissioners in writing 60 days before initiating zoning regulations.

It is also likely that ZAOI was included in the County zoning code as a vehicle to assure cities that county-wide zoning would not be detrimental to the cities' growth and development interests since it is likely that development located on the borders of a city will ultimately be annexed by a city. Once annexed, the city will have to deal with any residual issues associated with the development, such as, nonconforming uses created by different zoning, building or fire codes, or the conversion from on-site sewer or water services to municipal services. Attached is a summary of County applications from June 2010 to present, prepared by the County Counselor's office. The summary notes that there were a total of 86 County cases filed; 34 of which were in a ZAOI. Since October 1991, only four applications have received a recommendation of denial from one of the cities, and then overridden by a unanimous vote of the BoCC.

Since the 1990's there have been three or four reviews of the ZAOI requirements. Most of the reviews have been triggered by requests from one or more of the cities that have ZAOI authority to expand the area covered by a specific city's ZAOI. Some of the requests to enlarge a city's ZAOI have been approved; others have been denied.

Positions against having ZAOI review have traditionally been one of the following: 1) State law grants counties the senior authority to exercise zoning jurisdiction on unincorporated lands, and only provides cities the authority to establish extra-territorial zoning when the county has not established zoning in the area surrounding the city. 2) The unanimous vote requirement of the BoCC to override a recommendation of denial by a city with ZAOI authority is overly onerous. There are not any other development applications that require a unanimous vote to gain approval; therefore, development applications with a ZAOI have more risk than similar applications located outside of ZAOI territory. 3) The ZAOI review process can delay the final disposition of a development application because of the requirement that the cities ZAOI meeting occur before the MAPC can hear the request. Fifteen of the 17 cities with ZAOI authority meet only once a month; while the MAPC meets twice a month. Depending on when an application is filed relative to the meeting dates of the city with ZAOI review authority, an application can be delayed from a typical time frame. The delay can vary from one to three weeks. 4) Property owners living inside a ZAOI do not have an opportunity to vote for or against city council members who make appointments to a city's planning commissions that has ZAOI authority. 5) Courtesy notices could be provided to cities and a representative from a city could appear before the MAPC and/or the BoCC and provide comments.

In the past, the following suggestions to change the existing ZAOI process short of eliminating the procedure completely have been presented (not presented in any order of preference): 1) Modify the unanimous vote requirement to override a recommendation of denial to a simple majority or a two-thirds or three-fourths super majority vote. 2) Reduce the geographic area included in some or all ZAOI territory. 3) Eliminate the requirement that applications are required to go to the planning commission of a city with ZAOI jurisdiction prior to the MAPC hearing. Change the process to allow the case to be presented to the city after MAPC's hearing but before BoCC consideration, or if BoCC consideration is not required, before final approval.

Those opposed to eliminating ZAOI authority have indicated: 1) The process promotes collaboration on development applications between the County's less populace cities and County departments that will be responsible for issuing permits or conducting inspections. 2) The requirement for a hearing before a city's planning commission grants an opportunity for the city to provide an official, voted upon, response, instead of an opinion offered by an individual city representative. 3) All of the planning commissions with ZAOI meet at night, which makes it more convenient for county residents to attend the planning commission meeting. 4) Compared to downtown Wichita, the cities with ZAOI are generally more centrally located to the citizens most impacted by an application and would wish to attend the zoning hearing.

The following UZC sections are proposed to be deleted.

#### Article I, Section I-G. ZONING AREAS OF INFLUENCE

In order to provide for review of zoning map amendment requests by the planning commissions in the second and third class cities of Sedgwick County, the Governing Body of the County has adopted and hereby maintains Zoning Areas of Influence around such communities.

1. Map adopted. The "Zoning Areas of Influence Map," originally adopted January 1, 1985, and amended from time to time, is hereby adopted as part of this Code.
2. Interpretation of boundaries. The rules for interpreting the boundaries of the Zoning Areas of Influence shall be the same as for interpreting the boundaries of zoning districts, as set forth in Sec. III-A.5.
3. Amendments. The procedures for changing Zoning Area of Influence boundaries are set out in Sec. V-K.

Article II, Section II-B.14.u. Zoning Areas of Influence means the area surrounding second and third class cities in Sedgwick County, as shown on a map originally adopted January 1, 1985, as amended from time to time. See Sec. I-G.

#### Article V, Section V-K. AMENDMENTS TO AREA OF INFLUENCE BOUNDARIES

1. Initiation of amendment request. Proposed changes to the boundaries of the areas of influence may be initiated through application filed with the Planning Director by any planning commission of a city of the second or third class within the County, by the Metropolitan Area Planning Commission or by the Board of County Commissioners.
2. Planning Commission hearing. The Planning Director will establish a time and date for a hearing before the Metropolitan Area Planning Commission and will notify the mayor and planning commission of any affected city, the Metropolitan Area Planning Commission and the Board of County Commissioners of the date, time and place of said hearing. After consideration of the evidence and arguments presented at the hearing, the Metropolitan Area Planning Commission shall recommend approval, approval with conditions or modifications, or disapproval of the proposed change.
3. Board of County Commissioners' hearing. The Planning Director shall forward the Planning Commission's recommendation to the Board of County Commissioners. The Board of County Commissioners may accept, modify or reject the recommendation of the Planning Commission. The action of the Board of County Commissioners on any proposed change to an area of influence

boundary shall be final.

Article VI, Section VI-B.6. Amendments to Area of Influence boundaries. The Governing Body of Sedgwick County shall have the authority to approve, approve with conditions or modifications, or deny applications for amendments to Zoning Area of Influence boundaries. The Governing Body's decision shall be the final local action on such an application.

Article VI, Section VI-C.6. Amendments to Area of Influence boundaries. The Planning Commission shall have the authority to review and recommend to the Governing Body approval, approval with conditions or modifications, or denial of applications to amend Area of Influence boundaries.

Article VI, Section VI-D.4. Amendments to Area of Influence boundaries. The planning commission of a second or third class city shall have the authority to initiate an application to amend the subject city's area of influence boundary.

**CASE HISTORY:** Prior to 1985 Sedgwick County did not have county-wide zoning regulations. Some of the cities in Sedgwick County had been granted Sedgwick County three mile ring extraterritorial zoning - Valley Center (1-17-69), Mulvane (3-16-67), Derby (11-15-63), Haysville (9-8-61), Cheney (11-8-73), Goddard (11-12-69) and Wichita (3-3-58). Grandriver Township was granted zoning authority on September 12, 1963. (The dates of adoption of Sedgwick County extraterritorial zoning previously noted were found in March 11, 1971 and July 28, 1987, memos from Jack Galbraith, Chief Planner, Current Plans.)

In an October 13, 1983, memo from Robert Lakin, Director of Planning, stated in January 1981, the County Commission had received several requests from second and third class cities for extraterritorial subdivision and zoning jurisdiction. Lakin noted in his memo that "at that time County zoning existed around ten cities (including Wichita) and there were four cities with zoning jurisdiction in their own three mile ring with four more cities considering their own three mile ring extraterritorial zoning. It was pointed out that there was a possibility of having eleven or more sets of zoning regulations, five sets of subdivision regulations and one building code regulating development in the unincorporated county." Lakin's memo notes that subdivision regulations cover the entire county, while one-third of the county is unzoned. Metropolitan Area Planning Department staff held meetings with representatives of cities of the second and third class to discuss zoning and subdivision jurisdiction.

The MAPC held public hearings on October 22, 1981, regarding zoning and subdivision authority. Lakin's memo further states "Generally the representatives [from the cities] felt that there was a need to zone the unzoned areas. Representatives from the cities with existing City extraterritorial zoning felt that they should be allowed to keep their zoning. The discussion of subdivision regulations indicated that the existing jurisdictions should be retained." A second public hearing was held on April 22, 1982, at which time the MAPC voted to recommend that the subdivision jurisdictions remain the same; that the entire unincorporated area of Sedgwick County be included under County zoning regulations; and in order to give a stronger voice to the second and third class cities, that areas of influence be established and incorporated into the zoning regulations. Use of the area of influence would mean that when a City Planning Commission recommended denial of a rezoning request in their area of influence, it would require a unanimous vote of the County Commission to approve the change. On June 2, 1982, the County Commission concurred with the recommendation of the MAPC and directed staff to prepare the necessary text changes to incorporate the "area of influence."

Lakin's memo further states that MAPD staff prepared zoning area of influence maps with boundaries that "represent our understanding of the boundaries requested by each city at the meetings." Lakin also notes that "Most of the comments staff has heard have been from those cities that will lose their extraterritorial zoning jurisdictions. They desire to retain their zoning areas and feel that they are better suited to act on development in their area." "Cities currently surrounded by County zoning have not made many comments about the concept of county wide zoning but do not seem to have objections to county wide zoning."

By March, 1984, the cities of Mt. Hope, Andale, Colwich, Maize Sedgwick, Garden Plain and Clearwater had local city three mile ring zoning. Countywide zoning was adopted January 1, 1985.

Prior to 1985, builders, developers and citizens in Sedgwick County had 15 different sets of zoning regulations dealing with land use in force. Therefore, it was desirable to substitute a single set of uniform zoning regulations that applied county wide in place of the multi-jurisdictional situation then in effect. As noted above, state law allows the County to establish zoning regulations in the county that supersede a city's extra-territorial zoning jurisdiction. To make countywide zoning attractive to all the cities in the County, the 1985 Zoning Regulations for the Unincorporated Area of Sedgwick County, Kansas, established the "zoning area of influence" concept and procedures.

Section 1.C.1 of the 1985 County Zoning Code stated that in order to provide for consideration by the City Planning Commissions of the second and third class cities in Sedgwick County of certain rezoning requests, Zoning Areas of Influence, as shown on the Zoning Areas of Influence Map dated January 1, 1985 is hereby established. Section 17.C.4 stated that for changes in zoning classification or district boundaries or for conditional use or special permit use requests for property located within the zoning area of influence for any city of the second and third class within Sedgwick County, the planning commission of that city may hold a public hearing and make a recommendation to the Commission. In making its recommendation, the city's planning commission shall consider the factors listed in Section 17.C.5 (the Golden factors). The MAPC shall hold a public hearing for the zone change request or conditional use or special use request and consider the recommendation of the city's planning commission before issuing its recommendation to the Governing Body. The Governing Body shall not approve the request, except by unanimous vote, when the city's planning commission recommends against the request.

The 1985 County Zoning Code contained a map defining each city's ZAOI boundary. It can be noted that the area covered by each city's individual ZAOI varied considerably. Maize and Bentley had the smallest areas covering approximately one mile around the city. Several of the other cities, Garden Plain, Goddard and Andale, have approximately three miles around the city.

**PUBLIC SERVICES:** "Zoning area of influence" review potentially provides an early notice to a city that development is planned in an area that the city may currently serve or is likely to serve, and may serve to facilitate the planning for, and the delivery of services where multiple jurisdictions may be involved. Methods other than current ZAOI procedures can be implemented to accomplish the same result.

**CONFORMANCE TO PLANS/POLICIES:** As noted above, the authority for ZAOI review is contained within the UZC, and there is not any statutory requirement that a county has to grant a city zoning review authority in areas where a county has established county zoning.

**RECOMMENDATION:** The staff report outlines the history of and the arguments for and against the ZAOI arrangement. The MAPD see little value to be gained by its elimination, but little harm if it is eliminated. Based upon the information available at the time the staff report was prepared the following options are offered (in no order of preference):

- 1) Do nothing, leave the process unchanged.
- 2) Eliminate ZAOI review in its entirety.
- 3) Retain ZAOI review but: a) substitute the unanimous vote override requirement with a two-thirds supermajority requirement; b) reduce the land area included within a city's ZAOI territory to one mile beyond its city limits, or to the future growth area as shown on the County's adopted comprehensive plan land use map; or c) allow the city ZAOI meeting to occur after MAPC hearing but before BoCC hearing or final approval.

(To pass a motion amending the UZC eight positive votes are required.)

**Zoning Areas Of Influence (ZAOI) Cases June 2010 – Present**  
**(Prepared by County Counselor's office by review of MAPC Agendas)**

Summary

|   |    |
|---|----|
| Total zoning / conditional use cases in unincorporated area | 86 |
| In ZAOI   | 34 |

Breakdown by type

|   |    |
|---|----|
| Lesser intensity  | 19 |
| Accessory apartments                                    | 11 |
| Utilities   | 7  |
| Institutional (church)                                  | 1  |
| Higher intensity  | 15 |
| (E.g. extraction, commercial, limited industrial, etc.) |    |

By City – total cases

|               |    |
|---------------|----|
| Andale        | 2  |
| Bel Aire      | 1  |
| Bentley       | 3  |
| Cheney        | 3  |
| Clearwater    | 1  |
| Colwich       | 3  |
| Derby         | 4  |
| Garden Plain  | 5  |
| Goddard       | 3  |
| Haysville     | 5  |
| Kechi         | 2  |
| Sedgwick      | 1  |
| Valley Center | 1  |
| ---           |    |
|               | 34 |

By BoCC District and City

|                 |   |
|-----------------|---|
| First District  |   |
| Bel Aire        | 1 |
| Kechi           | 2 |
| Second District |   |
| Clearwater      | 1 |
| Haysville       | 5 |
| Third District  |   |
| Andale          | 2 |
| Bentley         | 3 |
| Cheney          | 3 |
| Colwich         | 3 |
| Garden Plain    | 5 |
| Goddard         | 3 |
| Fourth District |   |
| Sedgwick        | 1 |

Valley Center 1  
Fifth District  
Derby 4

Cities with no cases in ZAOI: Maize, Mount Hope; Park City, Mulvane  
Cities that do not have ZAOI: Eastborough, Viola, Wichita

**ROBERT PARNACOTT, ASSISTANT COUNTY COUNSELOR, AGENT FOR THE APPLICANT SEDGWICK COUNTY BOARD OF COUNTY COMMISSIONERS** briefly reviewed the Staff Report prepared by Planning Staff regarding the proposed amendment to the UZC to eliminate Zoning Areas of Influence (ZAI's). He discussed current requirements which he said go back about 30 years when County-wide zoning was initiated. He said this is a policy issue that boils down to looking at property rights of an individual landowner or developer and balancing that against the interests of cities who want to have some say on development close to their areas of growth and city limits. He said this proposal would do nothing to stop cities from weighing in on appropriate zoning cases. He said he believes the County Commission sees ZAI's as a regulatory burden on landowners and an additional layer of activity. He said the Commission would like to streamline the zoning process and provide more flexibility; right now the process is very rigid. He said this also puts a burden on staff to attend an additional meeting and with budgetary constraints; governments are trying to do more with less and less. He said he does not know if the benefits of the ZAI's to cities outweigh the burdens placed on landowners and staff. He said the circumstances that were present when this process was created may not be present now.

**PARNACOTT** referred to a handout of suggested motions. He said the first motion is the requested action suggested by the County Commission which was amendment of the UZC to eliminate ZAI's. He said the second motion concerns amending the UZC, but not eliminating the ZAI's. He said there has been discussion regarding eliminating the unanimous vote requirement, reducing the ZAI's to be the same area as the City's Urban Growth Areas under the Comprehensive Plan; moving the date that any negative recommendation has to be submitted; and limiting the ZAI to specified zoning applications (e.g. commercial/industrial applications). He concluded by saying that the final motion was to disapprove the application. He reminded the Planning Commission that they would need at least eight (8) votes to send this forward with any kind of recommendation because it was an amendment to the UZC.

**PARNACOTT** briefly reviewed arguments that have been made against the proposed change as follows: That ZAI's are another opportunity for citizens to weigh in on zoning cases. He said citizens already have an opportunity to weigh in at Planning Commission hearings. He said there has been discussion about how these small city meetings create enhanced communication between Planning staff and small cities. He said cities would like early notice of any cases. He suggested that perhaps cities could receive the "Early Warning Notice" (a listing of all cases by projected Planning Commission and Subdivision Committee hearing dates) that is circulated to staff internally. He suggested that perhaps that notice could be posted on the WEB page. He said cities have raised the concern that ZAI hearings are a good opportunity for cities to be heard by both the Planning Commission and the County Commission. He said city representatives can come to the Planning Commission and Board of County Commission meetings and speak because they are open to the public. He said the County Commission also hears public comment on zoning cases. He said it has been stated that ZAI's give opportunity for interaction between developers and small city officials; however, County staff feels that interaction already occurs because any developer who wants city services is going to be communicating with that

city. He said there has been some mention of “if it’s not broke; why try to fix it”; he said he will not say that ZAI’s are broken, but that it has not necessarily worked perfectly over the last 30 years. He concluded by stating that his client would like to see ZAI’s removed from the UZC. He referred to minutes of the County Commission hearing where this item was discussed provided with the agenda packet where it states that the proposal is a starting point for discussion. He pointed out that two of the County Commissioners at that meeting were interested in possible modification of the ZAI’s as opposed to complete elimination.

**RICHARDSON** asked how the ZAI’s and future growth areas are established. He asked what the standards were for those, who makes the decision, and how often are they updated.

**MILLER** said to answer the first question, he understood (this was before he came to work for the City) that ZAI’s were part of the discussion when County-wide zoning was established. He said Planning Staff met with the small cities and agreements were jointly reached between the cities and the governing body. He said over the years some of the ZAI’s boundaries have changed, all on a case-by-case basis. He said he would let Advance Plans Staff respond to how Urban Growth Areas are established.

**DAVE BARBER, INTERIM DIRECTOR** said Small City Urban Growth Areas are part of the Comprehensive Plan process. He said the areas were updated in 1999, 2002 and 2005. He said those updates were done through discussion and negotiations with the various cities located in Sedgwick County. He said the areas were revised again during the latest now on-going Comprehensive Plan revision.

**RICHARDSON** clarified that the growth areas are generally smaller than the ZAI’s.

**PARNACOTT** responded yes and referred to a map that compared the ZAI’s and the City Urban Growth Areas for each city in Sedgwick County. He said the dark blue lines around each city represent the ZAI, which in most cases is a 3-mile boundary around the city limits. He said the red areas are the City Urban Growth Areas from the last update of the Comprehensive Plan. He said ZAI’s have a tendency to stay fixed, whereas Urban Growth Areas expand as each city grows.

**RICHARDSON** clarified that there was no dynamic process to change the ZAI’s and Urban Growth Areas are only updated when the Comprehensive Plan is updated.

**BARBER** said the intent going forward is to update the Comprehensive Plan annually.

**RICHARDSON** clarified that the Comprehensive Plan is approved by both the City Council and County Commission.

**BARBER** explained that any adjustments could be adopted by an amendment to the Plan and it is adopted by both governing bodies.

**PARNACOTT** explained that Urban Growth Areas are not part of the UZC. The County Commission is requesting elimination of ZAI’s only.

**RICHARDSON** asked if ZAI’s are eliminated and a case comes up that is in a City’s Urban Growth Area, what are the rules on that.

**MILLER** said currently there are none. He said the only mechanism in the UZC is the ZAI's.

**PARNACOTT** clarified that the County Commission was seeking elimination of the process that requires a city Planning Commission to weigh in on every single zoning case that occurs within their ZAI. He said this suggested action would not eliminate the City's ability to express their viewpoint on any zoning case.

**RICHARDSON** said cities would lose the ability to vote on zoning cases unless they were located within their city limits.

**PARNACOTT** said this would remove the requirement of forcing a unanimous vote of the County Commission which is a significant burden on a developer.

**RICHARDSON** asked staff to further clarify how Urban Growth Areas are established. Is it done by a certain percentage, arbitrarily, or by what is happening within the City, etc.

**BARBER** responded that the growth areas are established by what is happening within the cities and added that many cities have their own Comprehensive Plans that provide them guidance in terms of their future economic and population growth. He said most of the decision making is based on infrastructure and delivery of services.

**MCKAY** commented that Sedgwick County is the only county in Kansas that has ZAI's.

**FOSTER** asked about population and mentioned the 2010 Census. He said less than 7% of the population of Sedgwick County is being represented by this discussion. He said approximately 500,000 people pay County taxes. He wanted to know who the County Commission was representing with this proposal. He asked staff if he was correct in his analysis of the numbers.

**MILLER** said staff doesn't have any basis to refute the numbers Commission Foster mentioned.

**STEPHEN BANKS, PLANNING STAFF, ADVANCE PLANS DIVISION** said the unincorporated population of Sedgwick County is approximately 27,000-28,000 people which is not the biggest share of Sedgwick County population (Commissioner Foster interjected or taxpayers). He noted that a lot of the unincorporated area is rural and is taxed differently.

**RANDALL OLIVER, CITY ADMINISTRATOR, CITY OF CHENEY, KANSAS** requested that ZAI's not be eliminated entirely and said Cheney would be willing to agree with the alternative action #2 which was to change the designation of the ZAI'S to be the same as the City's Urban Growth Areas under the Comprehensive Plan.

**RICHARDSON** clarified that Cheney would still support the unanimous vote requirement by the County Commission.

**OLIVER** said they do not believe a unanimous vote is necessary. He said they would also like early notice of any zoning cases near Cheney if the ZAI's are eliminated.

**CHARLES PHEASTER, 9453 NORTH 135<sup>th</sup> STREET WEST** said he lives within the Bentley ZAI because he lives two (2) miles outside of Bentley. He said everything between his home and Bentley is

farm ground and anything over 21 acres can be annexed by Bentley without the landowner's approval. He said if he wants to do something on his property, which is a little under one acre, he has to have the approval of the City of Bentley. He mentioned development of a housing area east of Bentley where the developer went bankrupt that has gone to tax sale several times because no one wants to buy the property because there is a \$1 million Bond Issue on it.

**GEORGE DICK, MOUNT HOPE, CITY CLERK** said there have been comments made about only representing 28,000 people, but if you get within one (1) mile of Mt. Hope you are within the City Limits and people out there know what is going on better than the Planning Commission or Sedgwick County Commission. He said he does not believe they should lose the right to have their voices heard.

**JUSTIN GIVENS, 2209 WEST AUTUMN BLAZE, GODDARD, KANSAS** said he was present to represent the City of Clearwater, Clearwater Governing Body and the Clearwater Planning Commission. He said he wanted to read a letter that the Clearwater Governing Body approved as follows: "In June, 2015 the Sedgwick County Board of County Commissioners directed County Staff to process an amendment to the Wichita-Sedgwick County Unified Zoning Code (UZC) that would eliminate Zoning Areas of Influence (ZAI) authority. Ironically, this action was taken almost three (3) years to the day that the Wichita-Sedgwick Metropolitan Area Planning Commission faced a full audience of representatives from the cities these ZAI's are meant to protect. Since that day in 2012 and since its inception in 1985 until today, the ZAI's have and will continue to work protecting growth patterns for cities that are not represented by the UZC. These areas have been established to protect, not hinder growth in the present and future. If as Commissioner Ranzau stated he wants to streamline the development process, perhaps it is the County that should forego its zoning authority in the ZAI's and allow the cities to have complete extra-territorial zoning jurisdiction as allowed by Kansas Law. And, as Commissioner Peterjohn stated, that he has heard residents wonder how a nearby city can tell property owners what they can and cannot do with their properties, perhaps it would be better to work closely with the members of their own community as opposed to the members of the Metropolitan Area Planning Commission. The Clearwater Planning Commission is made up of seven (7) individuals from the community, five (5) from the City and two (2) who reside in the ZAI. A member of this Metropolitan Area Planning Commission lives approximately five (5) miles from Clearwater and outside of current ZAI. Of the fourteen (14) members of the Planning Commission, we believe only three (3) live in unincorporated areas. He said their representative lives inside the City of Haysville. The ZAI's were created to safeguard communities in the County from development that would hinder the growth patterns of the cities it was initially intended to protect. We the undersigned would concur with Commissioner Howell who stated he would like this action to serve as a dialogue between the communities and the County. It is, however, unfortunate that the Board of County Commissioners chose to initiate a formal action that created an adversarial situation between the Board of County Commissioners and the cities this action threatens. Reviewing boundaries and growth patterns on a regular basis is smart government. To eliminate the ZAI's and review authority they provide only serve to centralize the power and create long-term issues affecting cities and the County alike. We the undersigned would like to encourage the MAPC to table any action on this item until a full and deliberate discussion between the County and those cities affected by this action can be completed and an agreeable arrangement between the parties can be achieved. Respectfully submitted, the Clearwater Governing Body (named individually) and the Clearwater Planning Commission."

**GIVENS** said regarding the comments that have been made earlier, this is a formal action, this is not a discussion. He said the only way there can be a "discussion" is not to take any formal action on this

request. He said they really just want to stop this train and sit down, convene a meeting and have a discussion.

**DAILEY** asked if the Clearwater Planning Commission and Governing Body understood that they can come to meetings (in person, send someone or send a letter) like this one and have input.

**GIVENS** said they realize that and are aware that they can take off work and come down to a Planning Commission Hearing. He said the process as it stands today gives them input into that process. Without that, they are just another voice to be either be listened to or disregarded. He said ZAI's give cities the ability to affect the vote in some manner by making a positive or negative recommendation. He asked should Clearwater have a say on zoning that occurs in certain areas where they provide service and mentioned city services such as Fire and Water. He said there are a lot of moving parts that are going on here that they do not believe anyone has even asked the question of the small cities such as what they feel their ZAI's should be, what services the cities provide in some of these areas already and have the opportunity to have some sort of say and some sort of actionable influence on these decisions.

**DAILEY** said if they come to a meeting, what they have to say will be taken into consideration during the decision making process. He said the Planning Commission doesn't have anything to do with what Fire Departments so don't intermix the two.

**GIVENS** said but the Planning Commission does has something to do with that. If the Commission approves a high intensity zoning use outside of Clearwater City Limits, it will be the Clearwater Fire Department that responds to any calls. He said doesn't Commissioner Dailey think it's fair that the Fire Department should have some say as to what will go in a certain area.

**DAILEY** asked staff if they had any input on what the Fire Departments do among themselves to make these kinds of agreements.

**MILLER** said he understands some cities have first responder agreements with the Sedgwick County Fire Department and themselves that whichever one is the closest responds, but that is secondhand knowledge. He said he believes what Mr. Givens is saying is that if Clearwater is the closest to the call, their Fire Department will respond.

**GIVENS** commented that these are discussions that they need to be having outside of a formal meeting at staff level with the governing body and small cities. He said this formal action is accelerating the process. He said he believes this action needs to be tabled. That everyone needs to step back and allow the cities and the County to work together and try to determine an agreeable solution. He said having motions to consider handed out before the meeting is not enough.

**GOOLSBY** asked Mr. Givens if any of the County Commissioners have reached out to anyone who signed the letter.

**GIVENS** mentioned that Clearwater's representative on the County Commission did not vote for this action. He said no, he is not aware of anyone reaching out to have a discussion.

**GOOLSBY** announced that he had to leave the meeting; however, he wanted it made clear that he is against the Planning Commission taking any action on this item today. He said while the ZAI's potentially create some impediments, it is within that community's right to weigh in as they will be impacted.

**PARNACOTT** said he knows of one County Commissioner who has reached out and mentioned that Commissioner Howell has communicated with representatives from the Derby Planning Commission.

**GOOLSBY** (Out @3:59 p.m.)

**CAROL NEUGENT**, Vice Chair, in the Chair.

**WILL BLACK, 210 SOUTH BALLARD DRIVE, HAYSVILLE, KANSAS, CHIEF ADMINISTRATIVE OFFICER FOR THE CITY OF HAYSVILLE** said if it is determined that the current ZAI's need to be modified, the City of Haysville would not be opposed to using the Urban Growth Areas as the new ZAI's. He said Haysville would also not be opposed to reducing the unanimous County Commission vote to override negative recommendations to a super majority. In addition, he said to help streamline the process for an applicant, having the Haysville Planning Commission meeting and the Metropolitan Area Planning Commission meeting in whatever order they come first makes the most sense. He said as far as the extra burden on staff, these meetings with small cities don't come up very often so the burden on staff would be minimal. He said it only takes one undesirable element on the outskirts of a city to negatively impact it so they believe it is very important for the city's to still have a say. He referred to the map and noted that some of the current ZAI's extend past some of the growth areas.

**RICHARDSON** asked when was the last time Haysville revised its Urban Growth Area.

**BLACK** said City Staff came down he believed in August, 2014 to discuss what would be included in the current Comprehensive Plan revision.

**CODY BYRD, PLANNER, CITY OF DERBY** began his presentation by recognizing members of the Derby City Council and Planning Commission that were present at the meeting. He said Derby feels it is very important to maintain the ZAI's. He said they do not want to lose a voice in the original decision making processes. He said he doesn't want to repeat what has already been said because they agree with many of the points already discussed, but he would like to bring up some of the discussion had by the MAPC Advance Plans Committee regarding this issue. He said Wes Galyon from the Wichita Area Building Association (WABA) pointed out that there is a misconception that ZAI's are driven by slowing down the development process; however, that is not the case. He said Galyon expressed that WABA is not supporting the proposed change in the ZAI's but are looking at ways to cooperate with the communities to make sure that reasonable development is occurring. He said the City of Derby agrees with that. He said if additional information is considered on this issue they would like the small cities to be a part of that discussion. He said they were interested in combining the ZAI's with the Urban Growth Areas and lessening the requirement for the unanimous vote by the County Commission. He suggested that any formal action by the Planning Commission to eliminate the ZAI's at this meeting would be improper and strongly urged the Commission to continue the discussion with the County Commission.

**KIM EDGINGTON, PLANNING ADMINISTRATOR FOR THE CITY OF MAIZE, KANSAS** said the City of Maize respectfully requests that the Planning Commission consider the alternative action provided by Mr. Parnacott including at the very least, the first three (3) provisions; however, if there is going to be an on-going discussion then the City of Maize does appreciate being involved in that process.

**DIANA BROOKS, CITY OF COLWICH, CITY CLERK AND ZONING ADMINISTRATOR** respectfully asked that the Planning Commission delay any decision on this action until the cities have time to sit down with the County Commission. She said it is extremely important that there be transparency in this action. She said although there is only one representative of the City of Colwich appearing before the Planning Commission today there were many opinions in and around the community that the County Commission is not aware of. She said the County Commission is not aware of the City of Colwich Fire and Water issues or other services they can provide and would be burdened to provide if the Planning Commission allowed something to be constructed near some of the small communities. She asked that the Planning Commission not take action on this issue until there has been a better, informal dialogue with their County Commissioner.

**JAY PATTERSON, PLANNING COMMISSION CHAIRMAN, CITY OF MULVANE, KANSAS** said he invited Commissioner Howell to speak with them and his major issue seemed to be consolidating and narrowing down the government process. He said Mulvane is a unique City because they are located in two counties – Sumner and Sedgwick County. He said the south end of Mulvane is located in Sumner County where they have extra-territorial jurisdiction. He said if the County Commission wants to streamline the process, he agreed with the representative from Clearwater to give each small city extra-territorial jurisdiction with a range. He said 47% of Mulvane is located just outside Sedgwick County and they can put anything they want out there and it can have a profound effect on Mulvane. He mentioned that seven (7) members of the Planning Commission are appointed by the City Council but they feel they are qualified to make decisions about the County, he didn't get that. He asked the Planning Commission to table this item and get an open, honest dialogue going about it and not approach it in such an aggressive manner. He said 55 of the Counties in Kansas have County-wide zoning and all of them have different methods of handling cities. He said it was suggested that Mulvane could annex anything they wanted control over, but that is not practical because of the expense of annexation and the fact that you have to provide services. He concluded by requesting that the item be tabled.

**PARNACOTT** indicated that Commissioner Howell has had discussion with Derby officials as reflected in the County Commission Minutes attached to the Staff Report on the item. He acknowledged (as Commissioner Foster pointed out) that the County Commissioners represents the entire County and unincorporated areas; however, they wear several different hats and sometimes they function more as a division of State government. He said the other hat they wear, which is what they are wearing in this instance is when they sit as a zoning body; they sit only with jurisdiction over the unincorporated areas. He said the County Commission does not hear zoning cases that are located within city limits, so in that situation the County Commission is speaking on behalf of that small group of people who live in the unincorporated areas.

**PARNACOTT** said there has been a lot of discussion about that the need for an open discussion and he doesn't know how you get any more open than having an open meeting and having this discussion. He said the County Commissioners are always open to having a meeting.

**MOTION:** To extend the speaker 30 seconds.

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

He said several meetings were mentioned and there is an opportunity between now (if the Planning Commission makes a recommendation) and when the item comes before the County Commission to meet with County Staff and County Commissioners and discuss the issue.

**RICHARDSON** asked who had the final authority on the issue.

**PARNACOTT** said ultimately it is the County Commission who will hear the recommendation made by the Planning Commission. He said any recommendation made by the Planning Commission will require a super majority vote (four {4} votes) of the County Commission to override. He said the Commission could also send the item back to the Planning Commission for further discussion. Responding to a question from Commissioner Foster, he said right now jurisdiction on this matter is in the hands of the Planning Commission. He said the Commission could defer this to a definite period in time, but not indefinitely, that would be a problem. He said he would also oppose any lengthy deferral. He said the County Commission will not vote on the issue until they receive a recommendation from the Planning Commission. He said if the Planning Commission ends up taking no action, it becomes a motion to disapprove and the County Commission will act on that.

**MITCHELL** asked if the Planning Commission took action 1 and 2 under the alternative action would that satisfy the request.

**PARNACOTT** said he is not recommending that. He said those alternatives were mentioned at the County Commission meeting not as recommendations but suggestions for discussion purposes. He said the request from the County Commission was to eliminate the ZAI's. He said recommendation of any combination of the alternatives provided is within the purview of the Planning Commission.

**WARREN** announced that he has had ex-parte discussion on the item with some Derby Planning Commissioners, City Council members, the City Manager and Derby citizens. He said the problem with eliminating the ZAI is that although City staff can give testimony before the Planning and County Commissions, that does not give communities the opportunity to engage applicants and ask questions, which he believes is vital. He said he is the only member of the Planning Commission who knows what is going on in Derby, but he could miss a meeting, plus not everyone agrees with him. He said there has been very limited, brief discussion on this issue. He said Urban Growth Areas seems to meet some level of approval in his community, along with changing the required County Commission vote from unanimous to a super majority. He said he could support those two items, but he was also in favor of tabling the item to give County Commissioners more time to engage communities.

**NEUGENT** mentioned ex-parte discussion which she believes most of the Planning Commissioners have had on this item and asked Mr. Parnacott (as the Planning Commissioner's legal counsel) if they needed to disclose that or not.

**PARNACOTT** said ex-parte communication becomes a real issue in quasi-judicial cases like zoning applications where there is a "due process" concern. He said this is more of a legislative matter. He said if Commissioners want to disclose that they have had ex-parte communication about this issue that is fine; however, he did not feel it was necessary.

**RICHARDSON** asked if there was a way for the surrounding communities to arrive at a consensus jointly. He asked if there was an umbrella organization of some kind. He said he would like to table

this issue with a purpose; that the communities come back to the Planning Commission with a recommendation. He asked if there was a mechanism to do that.

**WARREN** suggested the possibility of contacting members of the Regional Economic Area Partnership (REAP).

**NEUGENT** suggested that Sedgwick County Association of Cities (SCAC) might be a more appropriate group to contact. Responding to a question from Commissioner Richardson, she said she didn't know if all of the surrounding communities were paying members, but they could attend a meeting.

**RICHARDSON** commented that currently there is disparity in the ZAI's. He said he would like to see some uniform process so developers know what they have to deal with. He said if there is a way for the communities to come back with a recommendation say within 60 days he would be open to that. He said that way they could take responsibility for holding any necessary meetings to discuss the issue.

**WARREN** said he would agree to that but it brings up the diversity of the cities and their different needs. He said one size does not fit all in this case.

**RICHARDSON** suggested that maybe the cities can come up with a methodology.

**FOSTER** said with respect to the decision that was made on this issue in 1985, input received at this meeting and the fact that the communities know best, he said he was going to make a motion that the item be tabled for a minimum of 60 days to sort out the issues and have meaningful input from the communities that would allow the Planning Commission to take appropriate action on this matter.

**MOTION:** To defer the item for a minimum of 60 days.

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

**PARNACOTT** said he objected to 60 days.

**FOSTER** said 45 days is fine, but to try to do something within a month he doesn't think will work. He said any date that allows the Planning Commission to get proper input is fine with him.

**WARREN** asked what the Planning Commission was looking for? Dialogue between the cities and the County Commission or the Planning Commission.

**FOSTER** said to have a discussion from all levels.

**MILLER STEVENS** said she heard Mr. Parnacott say the people this is trying to protect are those citizens in the unincorporated areas of the County that live outside the cities so if the Commission is going to have all this discussion she does not feel that input should be neglected. She said she does not want to lose sight of that population.

**FOSTER** amended his motion to defer the item until the September 17, 2015, Planning Commission meeting, and **WARREN** amended his second.

**DAILEY** said he preferred the requested action. He said he lives in the County and is within a ZAI of a smaller city. He said he hated to see this tabled and put off because it will probably come out the same anyway.

**MILLER** said he needed to know what the Commission is expecting staff to do as a result of the motion. Do they need to call meetings, obtain ownership lists of people that live outside the small cities and send them individual notice. He said this could become a very time consuming, expensive and potentially non-productive exercise. He said staff needed direction on how to proceed.

**BARBER** also mentioned what was expected of the applicant in this regard.

**FOSTER** said he wanted to address the issue of input and mentioned that there are multiple layers of input and the rural population is important in this discussion. He asked if it would be appropriate to use the County organization as a mechanism for the cities to provide the input needed for the Planning Commission to make a decision. He asked the representative from Clearwater to approach the podium to answer that question.

**GIVENS** said he can't speak for SCAC, but felt that would be a good forum for discussion on the item. He said the organization brings Mayors and City staff together; however, he said he does not believe they meet during the summer. He said he thinks that would be the best venue. He said they could also invite the County Commission to attend one of the meetings so they could have some discussion in an informal manner and then each City Council could make a recommendation to the Planning Commission.

**FOSTER** asked if the City Councils and Planning Commissions should communicate directly with Staff.

**GIVENS** said he doesn't know if SCAC can take an official action on this issue. He said he believed input should come from each governing body. He also mentioned the possibility of a workshop with staff and County Commissioners.

**FOSTER** said it would be incumbent among small cities to come up with their own recommendation and communicate it to Planning Staff. He asked if someone from staff should be involved in any meetings.

**MILLER** clarified that the Commission wants staff to attend 17 different meetings in the next 45 days. He said he did not believe that is what the County Commission had in mind when they directed this process. He asked if it would be appropriate to ask each city to provide a letter as a formal position statement to the Planning Department by a certain date. He said staff could then present those to the Planning Commission.

**FOSTER** said he believed that would be very appropriate.

**RICHARDSON** said if SCAC can't provide a consensus, then he doesn't think they are any farther away than what staff suggested. He said dealing with 17 different entities doesn't make any sense to him so the Commission might as well go ahead and decide today.

**NEUGENT** suggested that Mr. Parnacott be invited to come back to the podium.

**DAILEY** asked what were the pitfalls of tabling the item and weren't there State Statutes that allow the County Commission to take action anyway.

**PARNACOTT** said there is no State Statute to his knowledge. He said he had no statements unless the Commission had questions for him.

**MCKAY** said the Advance Plans Committee went through this exact same process. He said this is frustrating for him. He said if this is such a vital issue, maybe SCAC can call a special meeting. He said he feels like the small cities need to get together and come up with a recommendation for the Planning Commission to consider. He added that the makeup of the Planning Commission could change at the end of August.

**FOSTER** asked Mr. Parnacott how best to get input from people in the unincorporated areas of the County, through the County Commission or is there another mechanism.

**PARNACOTT** responded that he didn't know how they would effectively provide notice to 28,000 people in order to give them an opportunity to weigh in on this issue. He said the County POST County Commission Agendas on the WEB site and this issue has been on the County Agenda. He said those citizens that are interested in the process will have an opportunity to speak at the County Commission meeting when the item goes back to them.

**MILLER STEVENS** asked what precipitated the idea to move forward on this action. She asked if citizens located in the unincorporated area of the County came forward and requested this, did one person have a bee in their bonnet or what. She said what she heard Mr. Parnacott say is that the County had a responsibility to represent those in the unincorporated areas of the County.

**PARNACOTT** said, as the County Commission Minutes will reflect, this action was initiated by a request to County Commission Chairman Ranzau which started with a discussion at a staff meeting. He said this staff meeting is usually attended by staff and media but not members of the public. He said the Chairman or any County Commissioner can request that an item be put on the agenda for the full Commission to consider. He said he was approached to start the process. He said he believed Chairman Ranzau alluded to hearing from at least one developer or landowner if not several, who wanted to do something with his property where this process did not serve his purpose very well. He said that was an incident that Chairman Ranzau mentioned, but there may be others.

**WARREN** said he would like Staff to send a letter out to Sedgwick County cities informing them of the action taken by the Planning Commission and asking them for a formal response as to what they would like. He said if the cities want to meet and come up with a consensus; that is up to them, he does not feel it is the responsibility of staff or the Planning Commission to coordinate that.

**DAILEY** announced that he was one of the people who talked to his County representative about this. He also mentioned that he was on the Valley Center Planning Commission and had to deal with several cases as a result of this issue. He concluded by saying that the County Commission giveth back in 1985 and they can take away at any time.

**NEUGENT** said she is very passionate about this issue and was working for the City of Haysville back in 1985 when this was going on. She said in response to the comment about "giveth and taketh away,"

she said the reason this all got started was because the County Commission “taketh away” the cities extra-territorial jurisdiction back in 1985.

The **MOTION** carried (9-0-1). **DAILEY** – No.

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**NON-PUBLIC HEARING ITEMS**

9. **Case No.: DER2015-00001** - Proposed Adoption of the Final Draft Community Investments Plan 2015-2035 as the New Comprehensive Plan for Wichita-Sedgwick County.

**Background:** In 2011, the City of Wichita and Sedgwick County initiated a process to develop the Community Investments Plan to replace the current joint City and County Comprehensive Plan which dates back to 1993. A more current and relevant plan is needed to provide a policy framework and set priorities to guide future public investments out to the year 2035 in municipal buildings and infrastructure (e.g. libraries, public safety buildings, streets, bridges, parks, water supply, sanitary and storm sewer, culture, and recreation, etc.).

In 2012, the City and County partnered with WSU to undertake a comprehensive assessment of all City and County infrastructure and facilities. A Plan Steering Committee was also jointly appointed by the Wichita and Sedgwick County Managers in late 2012 to begin the development of a new comprehensive plan. Seven of the 18-member Steering Committee are also members of the MAPC. Over the last year and a half, the Steering Committee developed and evaluated three possible long-term growth scenarios for Wichita. Following an extensive community engagement process in 2014, a preferred growth scenario was selected by the Committee to serve as the basis for the development of the plan policies.

On January 22, 2015, the MAPC received a briefing and update on the development of the working draft plan. In March 2015, the Steering Committee released the draft *Community Investments Plan 2015-2035* for public review and feedback. The Planning Department organized four public open house events and provided over 40 presentations (April through June) to receive public comment on the draft Plan. Feedback was also received through the *Activate Wichita* website. The Steering Committee met on June 24, 2015 to finalize changes to the draft Plan based upon feedback received from the community engagement process and three workshops held with the Wichita City Council.

The final draft *Community Investments Plan 2015-2035* dated July 1, 2015 is recommended to the MAPC by the Plan Steering Committee for adoption as the new joint comprehensive plan for Wichita-Sedgwick County. It is a high-level policy plan that provides guidance for future Wichita growth, sets overall community investment priorities, and provides a decision-making framework to guide future public infrastructure investment decisions.

On July 16<sup>th</sup>, the Advance Plans Committee passed a motion recommending that the MAPC set a public hearing date to consider the proposed adoption of the final draft *Community Investments Plan 2015-2035* as the new Comprehensive Plan for Wichita-Sedgwick County.

**Recommended Action:** Set a public hearing date for August 20, 2015 to consider the proposed adoption of the final draft Community Investments Plan 2015-2035 as the new Comprehensive Plan for Wichita-Sedgwick County.

**Attachments:** This link will provide electronic access to the attachments listed below:

<http://www.wichita.gov/Government/Departments/Planning/Pages/Comprehensive.aspx>

1. Final Draft *Community Investments Plan 2015-2035* dated July 1, 2015
2. *Community Investments Plan Appendix* dated July 1, 2015

**DAVE BARBER**, Planning Staff presented the Staff Report.

There were no public comments.

**MOTION:** To set a public hearing for the August 20, 2015 meeting.

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

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The Metropolitan Area Planning Commission adjourned at 4:49 p.m.

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

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)



**STAFF REPORT**

**CASE NUMBER:** SUB2015-00011 – SILVER SPRINGS 2<sup>ND</sup> ADDITION

**OWNER/APPLICANT:** Builder's Inc., Attn: Brad Smisor, 1081 South Glendale, Wichita, KS 67218

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

**LOCATION:** East of Ridge, North side of Central (District V)

**SITE SIZE:** 34.29 acres

**NUMBER OF LOTS**

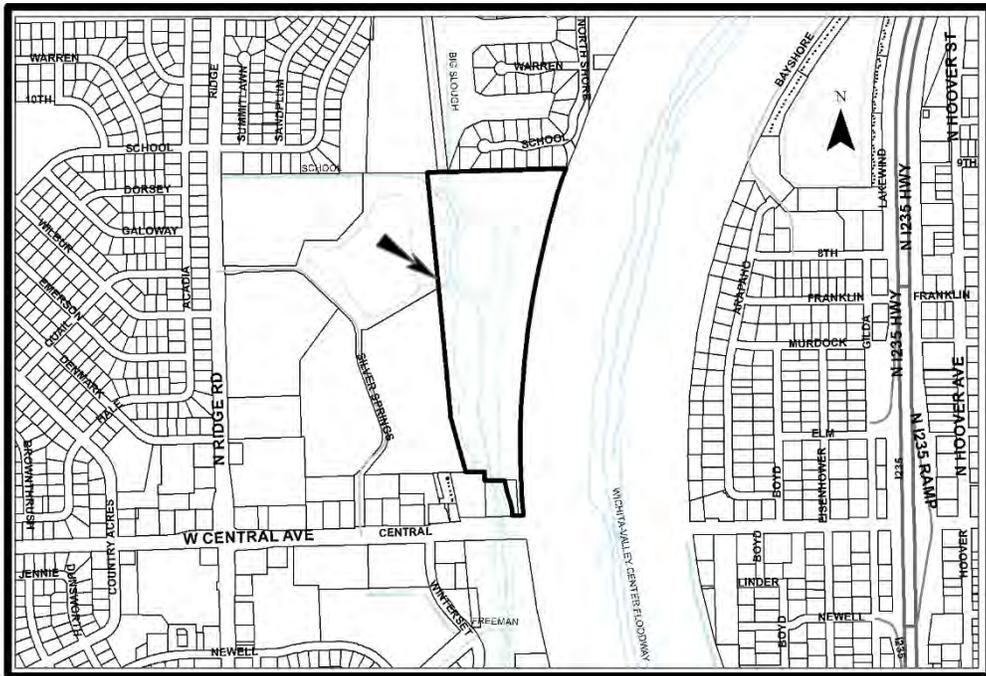
|              |   |
|--------------|---|
| Residential: | 1 |
| Office:      |   |
| Commercial:  |   |
| Industrial:  |   |
| Total:       | 1 |

**MINIMUM LOT AREA:** 14.21 acres

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

**PROPOSED ZONING:** Multi-Family Residential (MF-29)

**VICINITY MAP**



**SUB2015-00011 – Plat of SILVER SPRINGS 2<sup>ND</sup> ADDITION**  
**September 3, 2015 - Page 2**

**NOTE:** This is an unplatted site located within the City. The site (with the exception of the north 110 feet) has been approved for a zone change (ZON2008-00033) from Single-Family Residential (SF-5) to Multi-Family Residential (MF-29).

**STAFF COMMENTS:**

- A. City of Wichita Public Works and Utilities Department requests the applicant extend water (distribution) and extend sewer (laterals) to serve the lots. In-lieu-of-assessment fees are due for sewer mains and water transmission.
- B. The plat's text references utility easements and drainage easements which are not shown on the face of the plat.
- C. The plat's text shall reference "a Lot, a Block and Reserves".
- D. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- E. City Stormwater Management has approved the drainage plan.
- F. The plat denotes an existing off-site ingress/egress easement along Central within the adjoining flood control right-of-way. An access easement by separate instrument has also been denoted along the adjoining flood control right-of-way. A copy of the easements shall be provided. The final plat tracing shall denote complete access control along the flood control right-of-way line except for one opening per the ingress/egress easement.
- 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. 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.
- J. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.

**SUB2015-00011 – Plat of SILVER SPRINGS 2<sup>ND</sup> ADDITION**  
**September 3, 2015 - Page 3**

- K. The 2013 Wichita Bicycle Master Plan recommends a shared use path along the west, east, and north property lines of this property. The plat's text states that Reserve B – along the west line of the plat - will be dedicated to the City upon the need for construction of a bike path.
- L. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted and inspected.
- M. Approval of this plat will require a waiver of the lot depth-to-width ratio of the Subdivision Regulations. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. The Subdivision Committee recommends a modification of the design criteria in Article 7 of the Subdivision Regulations as it finds that the strict application of the design criteria will create an unwarranted hardship, the proposed modification is in harmony with the intended purpose of the Subdivision Regulations and the public safety and welfare will be protected.
- N. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- O. County Surveying advises that a minimum pad should also be shown on the face of the plat.
- P. County Surveying advises that a site benchmark is needed.
- Q. County Surveying advises that a dimension needs added on the north line of Reserve A.
- R. County Surveying advises that dimension needs added on the north line of Reserve B.
- S. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to [tricia.robello@sedgwick.gov](mailto:tricia.robello@sedgwick.gov) and [nstrahl@wichita.gov](mailto:nstrahl@wichita.gov).
- T. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.
- U. 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.)
- V. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- W. 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.

**SUB2015-00011 – Plat of SILVER SPRINGS 2<sup>ND</sup> ADDITION**  
**September 3, 2015 - Page 4**

- X. 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.
  
- Y. 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.
  
- Z. Perimeter closure computations shall be submitted with the final plat tracing.
  
- AA. Any and all relocation and removal of any existing equipment made necessary by this plat will be at the applicant's expense.
  
- BB. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: [kwilson@wichita.gov](mailto:kwilson@wichita.gov)).



**BACKGROUND:** The applicant is requesting TF-3 Two-Family Residential (TF-3) zoning on the platted approximately 75-foot (x) 100-foot SF-5 Single-Family Residential (SF-5) zoned site. The subject site, Lot 15, Block 11, Downtains 1<sup>st</sup> Addition, is located 220 feet east of Sheridan Avenue on the north side of May Street.

Extensive LI limited Industrial (LI) zoned land, active railroad tracks and Kansas Highway K-42 define the boundaries of the subject site's small single-family residential neighborhood. SF-5 zoned single-family residences (built mid and late 1950s and 1970) abut and are adjacent to the east, west and north sides of the subject site. A TF-3 zoned duplex (built 1977) is located the next block northeast of the subject site. LI zoned vacant land and railroad tracks are located three blocks east of the site. The LI zoned Metal Fab steel fabrication facility (built 1972-2007) is located south of the site, across May Street. More LI zoned manufacturing facilities, office-warehousing and similar uses, with some undeveloped lands are located a half a block west of the site, across Sheridan Avenue, and a half block south of the site, across May Street and active railroad tracks.

**CASE HISTORY:** The site is platted as Lot 15, Block 11, Downtains 1<sup>st</sup> Addition, which was recorded with the Register of Deeds on May 11, 1955.

**ADJACENT ZONING AND LAND USE:**

NORTH: SF-5, LI Single-family residences, two duplexes, railroad tracks  
SOUTH: LI Steel fabrication building, railroad tracks, manufacturing, office-warehousing, vacant land  
WEST: SF-5, LI Single-family residences, office-warehousing  
EAST: SF-5, LI Single-family residences, railroad tracks

**PUBLIC SERVICES:** The site has access to May Street, a paved two-lane local street. May Street intersects with K-42 Highway two-blocks west of the site. All utilities are available to the site.

**CONFORMANCE TO PLANS/POLICIES:** The "2013 Land Use Guide of the Comprehensive Plan" identifies the SF-5 zoned site as "urban residential." The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in 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 site's current SF-5 zoning allows single-family residential, as well as some institutional uses, but not duplexes, by right. The proposed TF-3 zoning allows a duplex, as well as single-family residential and some institutional uses by right. Both the current SF-5 zoning and the requested TF-3 zoning conform to the urban residential category. If approved, the requested TF-3 zoning will permit the second duplex into the neighborhood.

**RECOMMENDATION:** 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:** Extensive LI zoned land, active railroad tracks and Kansas Highway K-42 define the boundaries of the subject site's small single-family residential neighborhood. SF-5 zoned single-family residences (built mid and late 1950s and 1970) abut and are adjacent to the east, west and north sides of the subject site. A TF-3 zoned duplex (built 1977) is located the next block northeast of the subject site. LI zoned vacant land and railroad tracks are located three blocks east of the site. The LI zoned Metal Fab steel fabrication facility (built 1972-2007) is located south of the site, across May Street. More LI zoned manufacturing facilities, office-warehousing and similar uses, with some undeveloped lands are located a half a block west of the site, across Sheridan Avenue, and a half block south of the site, across May Street and active railroad tracks.

- (2) **The suitability of the subject property for the uses to which it has been restricted:** The SF-5 zoned property faces a two-block long, LI zoned metal steel fabrication facility and its parking lot. The site's SF-5 zoned neighborhood is located against the east edge of an extensive area of LI zoned lands, beginning at Kellogg Street (north) to 47<sup>th</sup> Street South, extending to the Big Ditch on its west side and at points to Meridian Avenue on its east side. The site and the neighborhood are located over the All Hollows groundwater contamination plume, which reflects the industrial nature of the surrounding area. The site's location makes it less desirable for any 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 and some institutional uses by right. The request would not introduce TF-3 zoning into the area.
- (4) **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Approval of the request would limit development by right to single-family residential, duplex, and some (but not limited to) institutional uses such as a parks, schools and churches. If approved a duplex would be the first residence built in the neighborhood since 1977, when the only other duplex was built. Denial of the request could impose a financial hardship on the owner.
- (5) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The "2013 Land Use Guide of the Comprehensive Plan" identifies the SF-5 zoned site as "urban residential." The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in 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 site's current SF-5 zoning allows single-family residential, as well as some institutional uses, but not duplexes, by right. The proposed TF-3 zoning allows a duplex, as well as single-family residential and some institutional uses by right. Both the current SF-5 zoning and the requested TF-3 zoning conform to the urban residential category. If approved, the requested TF-3 zoning will permit the second duplex into the neighborhood.
- (6) **Impact of the proposed development on community facilities:** All services are in place and any increased demand on community facilities, as a result of the proposed TF-3 zoning, can be handled by current infrastructure.