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

**Thursday, September 17, 2015**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission will be held on **Thursday, September 17, 2015**, beginning at **1:30 PM** in the Planning Department Conference Room City Hall - 10<sup>th</sup> Floor, 455 N. Main Street, Wichita, Kansas. **If you have any questions regarding the meeting or items on this agenda, please call the Wichita-Sedgwick County Metropolitan Area Planning Department at 316.268.4421.**

1. Approval of the prior MAPC meeting minutes. No Minutes.

**Election of Chair and Vice Chair.**

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

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

**SUBDIVISION CASE DETAILS**

- 2-1. **SUB2015-00019: Final Plat – SISTERS OF ST JOSEPH 7TH ADDITION**, located north of Harry, east of Hillside.

*Committee Action:* FINAL PLAT APPROVED 3-0  
*Surveyor:* Baughman Company, P.A.  
*Acreage:* 49.3  
*Total Lots:* 1

- 2-2. **SUB2015-00021: Final Plat – EDGE WATER 2ND ADDITION**, located on the west side of Hoover Road, South of 45th Street North.

*Committee Action:* FINAL PLAT APPROVED 3-0  
*Surveyor:* Baughman Company, P.A.  
*Acreage:* 11.06  
*Total Lots:* 12

3. **PUBLIC HEARING – VACATION ITEMS**

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

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

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

- 3-1. **VAC2015-00033: City request to vacate a platted interior side yard setback on property**, generally located east of Grove Avenue on the southwest corner of 21st Street North and Erie Avenue.

*Committee Action:* APPROVED 3-0

- 3-2. **VAC2015-00034: City request to vacate a portion of platted Morris Street right-of-way**, located north of Lincoln Street between Santa Fe Avenue and rail road right-of-way.

*Committee Action:* APPROVED 3-0

**PUBLIC HEARINGS**

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

- 4.** Case No.: CON2015-00015 (Referred back from City Council)  
Request: City Conditional Use request for a nightclub on LI Limited Industrial zoned property.  
General Location: West of Hydraulic Avenue, between Indiana and Cleveland Avenues on the north side of Central Avenue (1320 E. Central Ave.)  
Presenting Planner: Bill Longnecker
- 5.** Case No.: ZON2015-00024 (**Deferred Indefinitely**)  
Request: City zone change from SF-5 Single-family Residential to MF-18 Multi-family Residential.  
General Location: South of E. Kellogg and east of E. 127th Street (north of Gilbert Street).  
Presenting Planner: Dale Miller
- 6.** Case No.: ZON2015-00025 and CUP2015-00011(**Deferred Indefinitely**)  
Request: City zone change from SF-5 Single family Residential and LC Limited Commercial to GC General Commercial and creation of a CUP Community Unit Plan.  
General Location: East of E. 127th and south of E. Kellogg (north of Gilbert Street).  
Presenting Planner: Dale Miller
- 7.** Case No.: ZON2015-00032 (Deferred from the 9-3-15 Hearing)  
Request: City request for a zone change from SF-5 Single-family Residential to TF-3 Two-family Residential on property.  
General Location: Midway between Harry Street and Pawnee Avenue, east of Sheridan Avenue on the north side of May Street.  
Presenting Planner: Bill Longnecker
- 8.** Case No.: ZON2015-00033  
Request: City zone change request from SF-5 Single-family Residential to TF-3 Two-family Residential.  
General Location: South of Central Avenue on the southeast corner of Hoover Road and Newell Street.  
Presenting Planner: Bill Longnecker
- 9.** Case No.: ZON2015-00034  
Request: City zone change from LC Limited Commercial to CBD Central Business District.  
General Location: West of McLean Boulevard, east of Oak Street on the south side of Douglas Avenue.  
Presenting Planner: Bill Longnecker
- 10.** Case No.: DER2015-00005 (Deferred from 7-23-15 Hearing)  
Request: Amendment to the Wichita Sedgwick County Unified Zoning Code sections dealing with zoning area of influence.  
General Location: County-wide  
Presenting Planner: Dale Miller

## **NON-PUBLIC HEARING ITEMS**

### **11. Other Matters/Adjournment**

- 11-1.** Appointment of MAPC representative (a County appointee) to attend the Quad-County Planning Forum (Reno, Harvey, Sedgwick and Butler Counties): This forum is comprised of county planning commissioners and administrators who meet quarterly to discuss co-ordination of planning issues of mutual interest. Meetings are held at noon on the third Monday in March, June, September and December. Next meeting is at the Eisenhower National Airport on September 21st at 11:45 AM.

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

**STAFF REPORT**

**CASE NUMBER:** SUB2015-00019 – SISTERS OF ST. JOSEPH 7<sup>TH</sup> ADDITION

**OWNER/APPLICANT:** The Sisters of St. Joseph, Wichita, Kansas, Attn: Sr. Pam Young, 3700 East Lincoln, Wichita, KS 67218-2008

**AGENT:** Congregation of St. Joseph, Attn: Ed Sutoris, 1515 West Ogden, LaGrange Park, IL 60526

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

**LOCATION:** North of Harry, East of Hillside (District III)

**SITE SIZE:** 49.3 acres

**NUMBER OF LOTS**

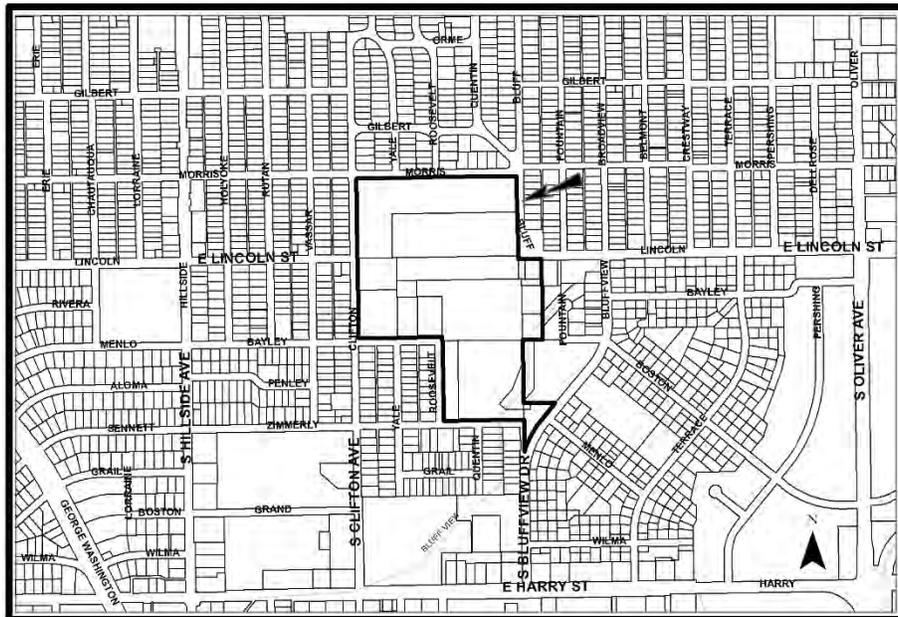
Residential:	
Office:	
Commercial:	1
Industrial:	—
Total:	1

**MINIMUM LOT AREA:** 49.3 acres

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

**PROPOSED ZONING:** PUD Planned Unit Development

**VICINITY MAP**



**SUB2015-00019 – Plat of SISTERS OF ST. JOSEPH 7<sup>TH</sup> ADDITION**  
**September 17, 2015 - Page 2**

**NOTE:** This is a replat of the University Hill Addition, University Hill 2<sup>nd</sup> Addition, Sisters of St Joseph 2<sup>nd</sup> Addition, Sisters of St. Joseph 4<sup>th</sup> Addition, Sisters of St. Joseph 5<sup>th</sup> Addition and Sisters of St. Joseph 6<sup>th</sup> Addition in addition to unplatted property. The site has been approved for a zone change (PUD2015-00003) from Multi-Family Residential (B), Two-Family Residential (TF-3), General Office (GO) and General Commercial (GC) to Planned Unit Development (PUD).

**STAFF COMMENTS:**

- A. City of Wichita Public Works and Utilities Department advises that the site is currently being served by water and sewer.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the drainage plan.
- D. Provisions shall be made for ownership and maintenance of the proposed reserves. A restrictive covenant shall be submitted regarding ownership and maintenance responsibilities.
- E. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- F. The plat denotes one opening along Clifton, complete access control along Morris, complete access control along Bluff, one opening along Lincoln, one opening along Bluffview, one opening along Zimmerly, and complete access control along Roosevelt. Traffic Engineering has approved the access controls. City Fire Department advises that the existing opening on Zimmerly is gated and only open during business hours.
- G. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted and inspected.
- H. County Surveying requests to be contacted regarding dimensions on the plat boundary.
- I. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to [tricia.robello@sedgwick.gov](mailto:tricia.robello@sedgwick.gov) and nstrahl@wichita.gov.
- J. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- K. The platlor'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.

**SUB2015-00019 – Plat of SISTERS OF ST. JOSEPH 7<sup>TH</sup> ADDITION**  
**September 17, 2015 - Page 3**

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

STAFF REPORT

**CASE NUMBER:** SUB2015-00021 – EDGE WATER 2<sup>ND</sup> ADDITION

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

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

**LOCATION:** West side of Hoover, South of 45<sup>th</sup> Street North (District VI)

**SITE SIZE:** 11.06 acres

**NUMBER OF LOTS**

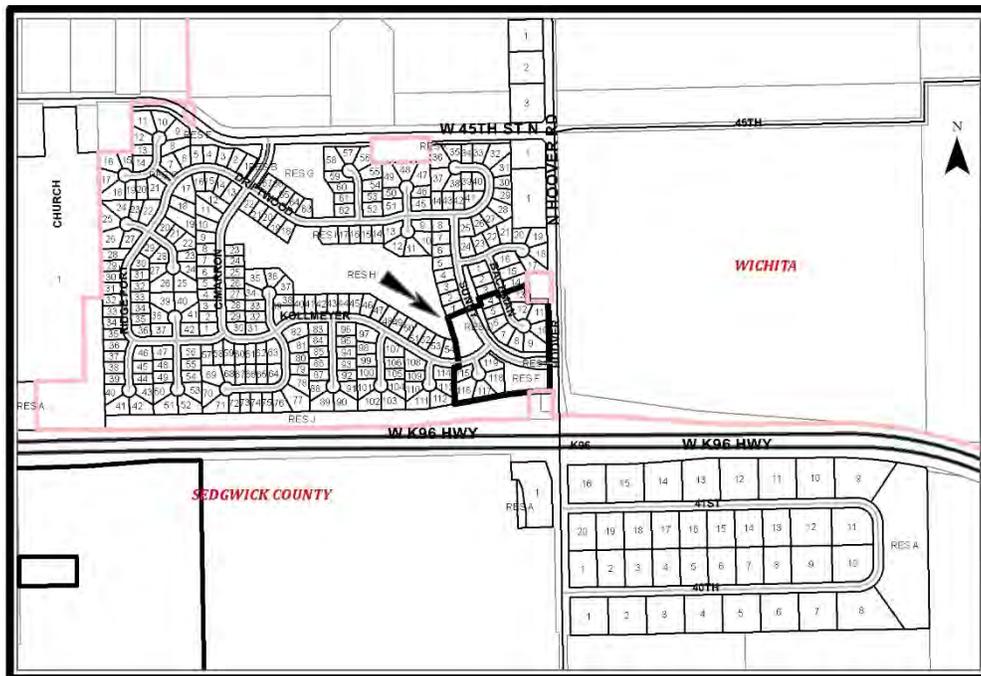
Residential:	12
Office:	
Commercial:	
Industrial:	
Total:	12

**MINIMUM LOT AREA:** 14,409 square feet

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

**PROPOSED ZONING:** Same

**VICINITY MAP**



**SUB2015-00021 – Plat of EDGE WATER 2<sup>ND</sup> ADDITION**  
**September 17, 2015 - Page 2**

**NOTE:** This is a replat of a portion of the Edge Water Addition. The street layout was revised as Kollmeyer was moved to the north.

**STAFF COMMENTS:**

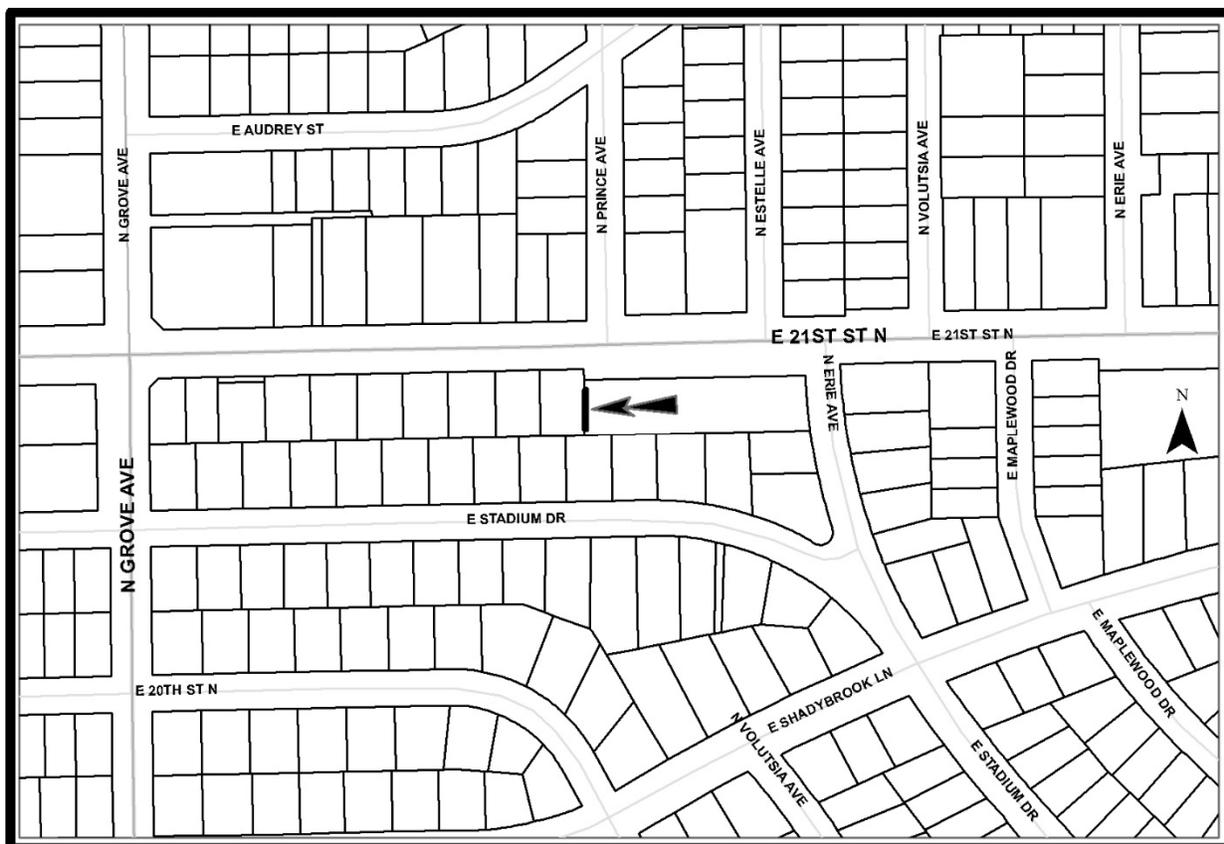
- A. City of Wichita Public Works and Utilities Department requests the extension of water (distribution) to serve all lots and the extension of sewer (laterals) to serve all lots. Petitions (sewer, water, paving and drainage) have been submitted previously for Edge Water Addition. Revised petitions are requested to include the replatted lots in Edgewater 2nd Addition.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the drainage plan.
- D. The plat proposes complete access control along the Hoover Road street frontage except for one street opening. Traffic Engineering has approved the access controls.
- E. Since this is a replat of a previous Addition involved with the ownership and maintenance of reserves for that Addition, but not being replatted by this Addition, a restrictive covenant shall be provided which provides for this Addition to continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.
- F. 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.
- G. 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.
- H. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted and inspected.
- I. County Surveying requests to be contacted regarding dimensions on the plat boundary.
- J. 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).
- K. This property is within a zone identified by the City Engineer's office as likely to have groundwater at some or all times within ten feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineer's office.

**SUB2015-00021 – Plat of EDGE WATER 2<sup>ND</sup> ADDITION**  
**September 17, 2015 - Page 3**

- L. 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.
- M. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.
- N. 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.)
- O. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- P. 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.
- Q. 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.
- R. 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.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- U. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: [kwilson@wichita.gov](mailto:kwilson@wichita.gov)).

**STAFF REPORT**

- CASE NUMBER:** VAC2015-00033 - Request to vacate a platted interior side yard setback
- APPLICANT/AGENT:** Center for Health & Wellness Inc., c/o Teresa Lovelady (owner) Savoy Company, P.A, c/o Mark Savoy (agent)
- LEGAL DESCRIPTION:** Generally described as the platted 5-foot interior side yard setback located on the west 5 feet of Lot 1, Block 1, Center for Health & Wellness Addition, Wichita, Sedgwick County, Kansas
- LOCATION:** Generally located east of Grove Avenue on the southwest corner of 21st Street North and Erie Avenue (WCC #I)
- REASON FOR REQUEST:** Expansion of facility
- CURRENT ZONING:** Subject property is zoned GO General Office. Abutting west property is zoned LC Limited Commercial. Abutting south properties are zoned TF-3 Two-Family Residential and NR Neighborhood Retail. Adjacent east properties are zoned TF-3. Adjacent north properties are zoned LC, GO, NR and SF-5 Single-Family Residential.
- VICINITY MAP:**



The applicant proposes to vacate the platted 5-foot interior side yard setback located on the west 5 feet of Lot 1, Block 1, Center for Health & Wellness Addition. The subject lot is zoned GO General Office. The Unified Zoning Code's (UZC) minimum interior side yard setback standard for the GO zoning district is zero feet, but if an interior side yard setback is provided it shall be at least five feet in width. If the setback were not platted the applicant could have applied for an Administrative Adjustment that would have reduced the GO zoning district's 5-foot interior side yard setback to zero. The applicant's request does not exceed what is permitted by an Administrative Adjustment. There are no platted easements in the described portion of the platted side yard setback. There appears to be no public utilities within the described portion of the platted side yard setback. Westar has equipment in the northwest corner of this lot near the area they are requesting to vacate. Becky Thompson is the Construction Services Area Representative and is working with the applicant on this project. She can be reached at 316/261-6320. The Center for Health & Wellness Addition was recorded with the Register of Deeds April 10, 1998.

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

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time August 27, 2015, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by vacating the described platted interior side yard setback and that the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Vacate the platted 5-foot interior side yard setback located on the west 5 feet of Lot 1, Block 1, Center for Health & Wellness Addition. The new interior side yard setback will be zero.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide any needed easements prior to the case going to Council for final action. Westar has equipment in the northwest corner of this lot near the area they are requesting to vacate. Becky Thompson is the Construction Services Area Representative and is working with the applicant on this project.
- (3) All improvements shall be according to City Standards and at the applicant's expense.

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

#### **SUBDIVISION COMMITTEE’S RECOMMENDED ACTION**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the platted 5-foot interior side yard setback located on the west 5 feet of Lot 1, Block 1, Center for Health & Wellness Addition. The new interior side yard setback will be zero.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide any needed easements prior to the case going to Council for final action. Westar has equipment in the northwest corner of this lot near the area they are requesting to vacate. Becky Thompson is the Construction Services Area Representative and is working with the applicant on this project.
- (3) All improvements shall be according to City Standards and at the applicant’s expense.
- (4) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**STAFF REPORT**

**CASE NUMBER:** VAC2015-00034 - City request to vacate a portion of platted Morris Street right-of-way

**APPLICANT/AGENT:** Wichita Material Recovery LLC, c/o Jennifer Jones, AT & SF Railway Company, W Winter Enterprises, LLC, c/o Wayne Winter Jr. (applicants)

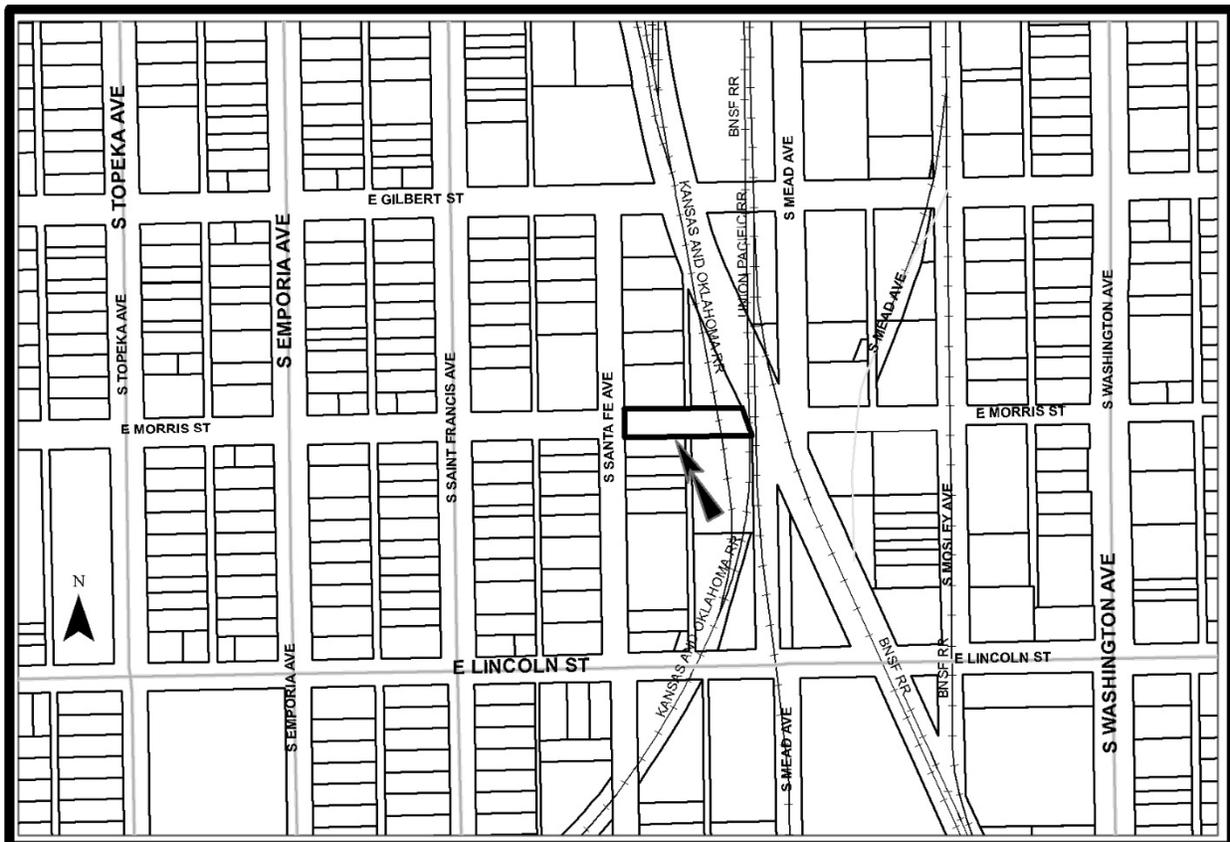
**LEGAL DESCRIPTION:** Generally described as vacating the platted 70-foot wide Morris Street public right-of-way abutting Reserve B, a platted 16-foot wide alley and Lot 36, all in the Elliott Addition, on the north side, Santa Fe Avenue on the west side, Lots 37 & 38, and an alley, all in the Elliott Addition, and railroad right-of-way on its east side, Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located north of Lincoln Street between Santa Fe Avenue and rail road right-of-way (WCC III)

**REASON FOR REQUEST:** Control traffic and dumping in the area

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

**VICINITY MAP:**



The applicant is requesting the vacation of the portion of the gravel, platted 70-foot wide Morris Street public right-of-way that abuts: Reserve B, a platted 16-foot wide alley and Lot 36, all in the Elliott Addition, on the north side of Morris Street; Santa Fe Avenue on the west side of Morris Street; Lots 37 & 38, and an alley\*, all in the Elliott Addition, on the south side of Morris Street, and; railroad right-of-way on the east side of Morris Street. Morris Street does not cross the east abutting railroad right-of-way. Westar has power poles located in this portion of Morris Street. There appears to be no public utilities locate in this portion of Morris Street. LaDonna Vanderford is the Construction Services Area Representative and can be reached at 316/261-6490. No property will be denied access to public street right-of-way if the vacation is approved. If approved the vacation could create a dead end alley on the north side of Morris Street and a dead end alley\* on the south side of Morris Street. The owners of the properties on the north side of Morris Street own all of the properties abutting the east and west side of the platted 16-foot alley that could dead end at Morris Street. This alley currently merges with rail road right-of-way on its north end. All of the abutting property owners have signed the application/petition to vacate the public street right-of-way. The Elliott Addition was recorded with the Register of Deeds February 1, 1887.

\*NOTE: VAC2015-00022 was an approved petition to vacate the platted alley abutting the south side of Morris Street, however VAC2015-00022 has not been completed, thus the abutting south alley remains public right-of-way.

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

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time August 27, 2015, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by vacating the described platted street right-of-way and that the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Dedicate the north 20 feet of Morris Street as a utility-access easement by separate instrument (with original signatures)prior to the case going to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (2) Dedicate an easement for Westar equipment as a utility easement by separate instrument (with original signatures)prior to the case going to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.

- (3) Provide restrictive covenants (with original signatures) binding and tying the vacated described Morris Street right-of-way to the abutting properties. These will go with the Vacation Order to City Council for final action and subsequent recording with the Register of Deeds and the Appraiser's Office.
- (4) Provide a legal description of the vacated street right-of-way, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action and subsequent recording with the Register of Deeds.
- (5) VAC2015-34 will not proceed to City Council for final action until VAC2015-00022 has been to City Council for final action and subsequent recording with the Sedgwick County Register of Deeds.
- (6) All improvements shall be according to City Standards and at the applicant's expense. If needed, provide required guarantees or approved projects to ensure relocation and/or relocation of utilities, including, but not limited to, sewer lines and manholes, stormwater equipment, all and franchise utilities. All provided prior to the vacation case going to City Council for final action.
- (7) Any relocation or reconstruction of utilities, including Westar equipment, made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (8) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Dedicate the north 20 feet of Morris Street as a utility-access easement by separate instrument (with original signatures) prior to the case going to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (2) Dedicate an easement for Westar equipment as a utility easement by separate instrument (with original signatures) prior to the case going to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (3) Provide restrictive covenants (with original signatures) binding and tying the vacated described Morris Street right-of-way to the abutting properties. These will go with the Vacation Order to City Council for final action and subsequent recording with the Register of Deeds and the Appraiser's Office.
- (4) Provide a legal description of the vacated street right-of-way, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action and subsequent recording with the Register of Deeds.
- (5) VAC2015-34 will not proceed to City Council for final action until VAC2015-00022 has been to City Council for final action and subsequent recording with the Sedgwick County Register of Deeds.

- (6) All improvements shall be according to City Standards and at the applicant's expense. If needed, provide required guarantees or approved projects to ensure relocation and/or relocation of utilities, including, but not limited to, sewer lines and manholes, stormwater equipment, all and franchise utilities. All provided prior to the vacation case going to City Council for final action.
- (7) Any relocation or reconstruction of utilities, including Westar equipment, made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (8) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.



## STAFF REPORT

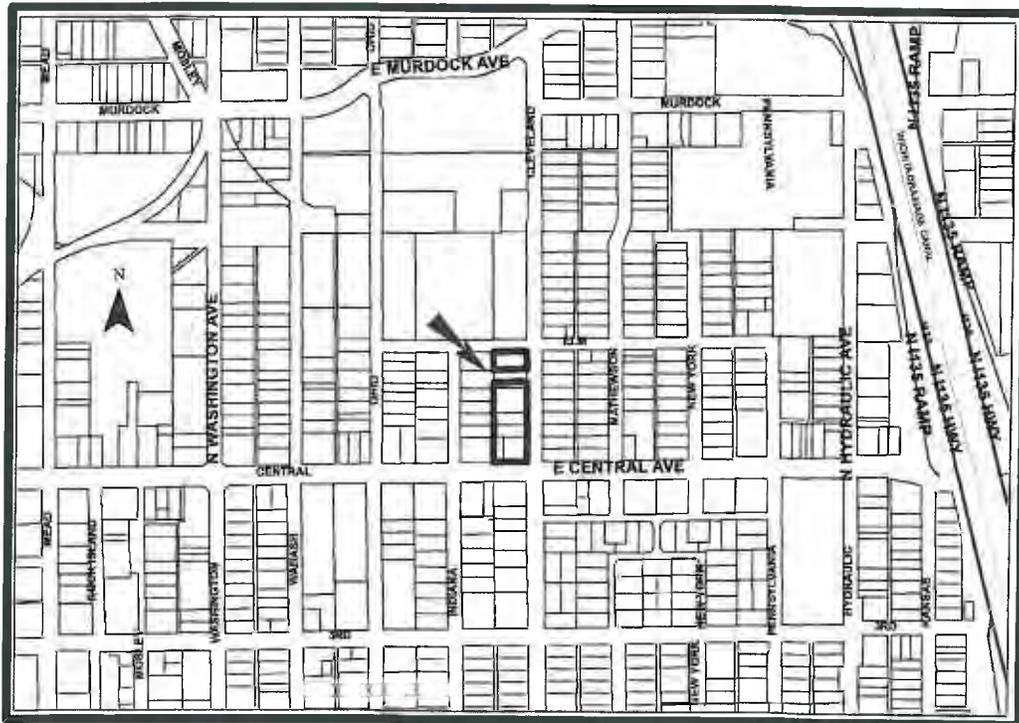
DAB I July 6, 2015

MAPC July 9, 2015

Wichita City Council, August 11, 2015

MAPC September 17, 2015

- CASE NUMBER:** CON2015-00015
- APPLICANT/AGENT:** Armando Michel (applicant/owner) Ted Knopp (agent)
- REQUEST:** Conditional Use to allow a nightclub within 300 feet of a residential zoning district
- CURRENT ZONING:** LI Limited Industrial
- SITE SIZE:** One-acre plus
- LOCATION:** Generally located west of Hydraulic Avenue, between Indiana and Cleveland Avenues on the north side of Central Avenue
- PROPOSED USE:** Nightclub within 300 feet of residential



**BACKGROUND:** (NOTE: *text in italics indicates updated information made at or after July 9, 2015, MAPC meeting*)

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

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

The applicant's site plan shows 103 parking spaces. An on-site inspection found paved parking of maybe 24 spaces. The rest of the proposed parking area is vacant except for markers separating the applicant's proposed parking from another property owner's vacant property, which splits/separates the applicant's proposed parking. The UZC requires all parking areas, loading areas and driveways on all developments other than low-density residential developments to be surfaced with concrete, asphaltic concrete, asphalt or other comparable surfacing and shall be maintained in good condition and free of all weeds, dust, trash and other debris; a variance is required to waive this standard. The applicant does not give an occupancy limit for the proposed night club nor does the site plan give the size of the proposed nightclub. The UZC requires one parking space per two occupants for a nightclub; as presented the determination of required parking cannot be made at this time. The applicant owns several other buildings located on the east side of the proposed nightclub. These businesses or future

businesses will need to share the parking that the applicant is proposing, which further complicates the determination of the final parking requirement.

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

Staff has received calls protesting the use. The applicant has provided a list of 16 businesses/individuals that support the applicant's 'Request to support improvements on 1320 E Central' form letter; Exhibit A. 14 of those supporters are not listed on the ownership/notification list of those property owners located within 350 feet of the subject property. *Two of the former supporters, both located within the 20-foot protest area have withdrawn their support and have turned in valid protest.*

At the July 6, 2015, DAB I meeting both protestors and supporters spoke. Concerns of the neighborhood included: a lack of adequate parking; increased traffic in the residential area; speeding; unattended children; loud noise; trash, drunk individuals wandering the neighborhood; bad experience with other neighborhood nightclubs including two homicides, and; pedestrians being struck by vehicles at this location.

Also noted was that even if this owner has good intentions, he could sell to anyone at any time and the Conditional Use would still be valid. In an attempt to address the concerns of the residential neighbors the DAB asked the applicant to consider limits on the availability of the facility, including time limits such as closing at midnight. The applicant declined any restrictions on hours of operations.

*The following, under **CASE HISTORY**, reflects the recommendation by the MAPC at their July 9, 2015, meeting and new/updated information for the MAPC to consider.*

*At the July 9, 2015, MAPC meeting the MAPC got the applicant to agree to the additional conditions of restrictions on the nightclub's hours of operation and a condition to further minimize noise from the nightclub:*

- *The nightclub shall close at 11:00 P.M., Sunday-Thursday. The nightclub shall stop selling and serving cereal malt beverage and alcoholic liquor at 12:00 A.M. and close at 12:30 A.M., Friday and Saturday.*
- *The nightclub's door located nearest to residential development shall be marked and used as an emergency exit and shall remained closed, except for emergencies, at all times with the intent being to minimize the intrusion of noise, including music, on those residences located closest to the night club.*

The MAPC approved, 11-2, the request per staff's conditions and the above additional conditions; see **RECOMMENDATION**, pages 5 and 6 of this report. There were protesters as well as supporters of the request at the MAPC meeting.

At the August 11, 2015, City Council meeting the Council voted 4-3 to return the request back to the MAPC for reconsideration. Council members voting to return the request noted that they were struggling with approving it and not approving it without the applicant knowing the seriousness of the concerns of the MAPC and neighbors. Council members voting to deny it noted that DAB I has recommended denial and that the applicant had been unwilling to address the concerns of the area's residences at the DAB meeting, but did so only at the recommendation by the MAPC. Those concerns are shown in the attached minutes from the August 11, 2015, City Council meeting. Valid protests to the request have been received that total 25.70 per cent of the of the land area located within 200 feet of the perimeter of the application area and appeals against the request from outside 200 feet.

On August 20, 2015, 10:43 AM, Planning Staff E-Mailed the following to the agent, Ted Knopp:  
Mr Knopp

We have CON2015-15 scheduled for the September 17, 2015, MAPC meeting...if you have any revisions to the request (including site plans, days and hours of operation for the event center/night club, etc) I will need them by Friday September 4, 2015...the letters going out for the September 17, 2015 MAPC meeting will be going out Friday August 21, 2015, or Monday, August 24, 2015...

On August 20, 2015, 10:54 AM, Mr Knopp replied:  
Thank you.

As of 9 AM, Thursday, September 10, 2015, MAPD staff has received no other communication or information from the applicant or the agent, thus staff has no new information to provide to the MAPC for your review and reconsideration of the case, with the exceptions as noted. MAPD staff has received complaints that the site has had activities occurring on it; MAPD has forwarded these complaints to the Code Compliance division of the Metropolitan Area Building and Construction Department.

**ADJACENT ZONING AND LAND USE:**

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

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

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

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

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

**RECOMMENDATION:** Protesters have contacted the MAPD in opposition to the requested Conditional Use for nightclub. Opposition sites concerns regarding the potential for illegal and dangerous activity from the proposed nightclub and associated parking. Since the previous request for a nightclub at this site, CON2004-00042, the most recent development in the area appears to remain the 2003 investment into Washington Elementary School. Improvements in the surrounding housing appears to be minimal resulting in a B, GC and LI zoned deteriorating residential neighborhood that could be absorbed by surrounding commercial and industrial uses in the future. Based upon information available prior to the public hearings, planning staff recommends that the request for a Conditional Use for a night club in the city be APPROVED, with the following conditions (*with the additional conditions as recommended by the July 9, 2015, MAPC*):

- A. The site for a nightclub shall be developed in conformance with an approved site plan. A site plan must be approved within 90 days of approval by the appropriate governing body for

review or the conditional use shall be declared null and void. The site plan shall include, but not limited to, the occupancy of the nightclub (and the size), as posted by the Fire Marshall (see condition E), landscaping, internal circulation and access as approved by the Fire Department, and showing how much parking is required and provided for the night club and the applicant's other buildings and businesses.

- B. No outdoor entertainment, music, no outdoor speakers, recreation, food or drink services are permitted on the site.
- C. Activities for the nightclub shall not be permitted until all required permits and inspections for the facility are finished including the paving and marking of the parking lot. Plans for the paving of the parking lot will include a drainage plan reviewed and approved by the Department of Public Works-Stormwater. All improvements for the night club shall be completed within one year of approval by the appropriate governing body or the conditional use shall be declared null and void.
- D. The applicants shall comply with all applicable development standards of the Unified Zoning Code, including but not limited to parking, screening, and landscaping.
- E. Occupancy for the nightclub hall shall not exceed the required parking for the nightclub and the applicant's other buildings and businesses.
- F. *The nightclub shall close at 11:00 P.M., Sunday-Thursday. The nightclub shall stop selling and serving cereal malt beverage and alcoholic liquor at 12:00 A.M. and close at 12:30 A.M., Friday and Saturday.*
- G. *The nightclub's door located nearest to residential development shall be marked and used as an emergency exit and shall remained closed, except for emergencies, at all times with the intent being to minimize the intrusion of noise, including music, on those residences located closest to the night club.*
- H. The applicant shall obtain, maintain, and comply with all applicable permits and licenses necessary for the operation of a nightclub in the City.
- I. If the Zoning Administrator finds that there is a violation of any of the conditions of the conditional use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is a mix of LI, GC, and B zoned commercial, limited industrial and residential (mostly single-family) uses. A LI zoned steel products facility and storage yard is located north and northwest of the site, across Elm Street, and is the largest development in the area. Since the previous request for a nightclub at this site, CON2004-00042, the most recent development in the area appears to remain the 2003 investment into Washington Elementary School. Improvements in the surrounding housing (built 1910-1920) appears to be minimal resulting in a small B, GC and LI zoned deteriorating residential neighborhood that could be absorbed by surrounding commercial and industrial uses in the future.
2. The suitability of the subject property for the uses to which it has been restricted: The

site is currently vacant and zoned LI which can accommodate office, retail, commercial and industrial land uses. Because the proposed night club is located within 300 feet of a church and B zoned single-family residences consideration of a Conditional Use is required.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Currently the sale of alcoholic beverages is prohibited on this site. Approval of this request would allow for unlimited liquor sales, which could have detrimental impacts on the surrounding residences, considering their proximity to the proposed nightclub and associated parking.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide Map of the Comprehensive Plan” identifies the portion of the site where the building is located as appropriate for “local commercial” development and most of the parking area as appropriate for “employment/industrial” development. Local commercial development does not have a significant regional draw that generates a high volume traffic. The range of uses include medical or insurance offices, auto repair and service stations, grocery stores, restaurants and personal service facilities.

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

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

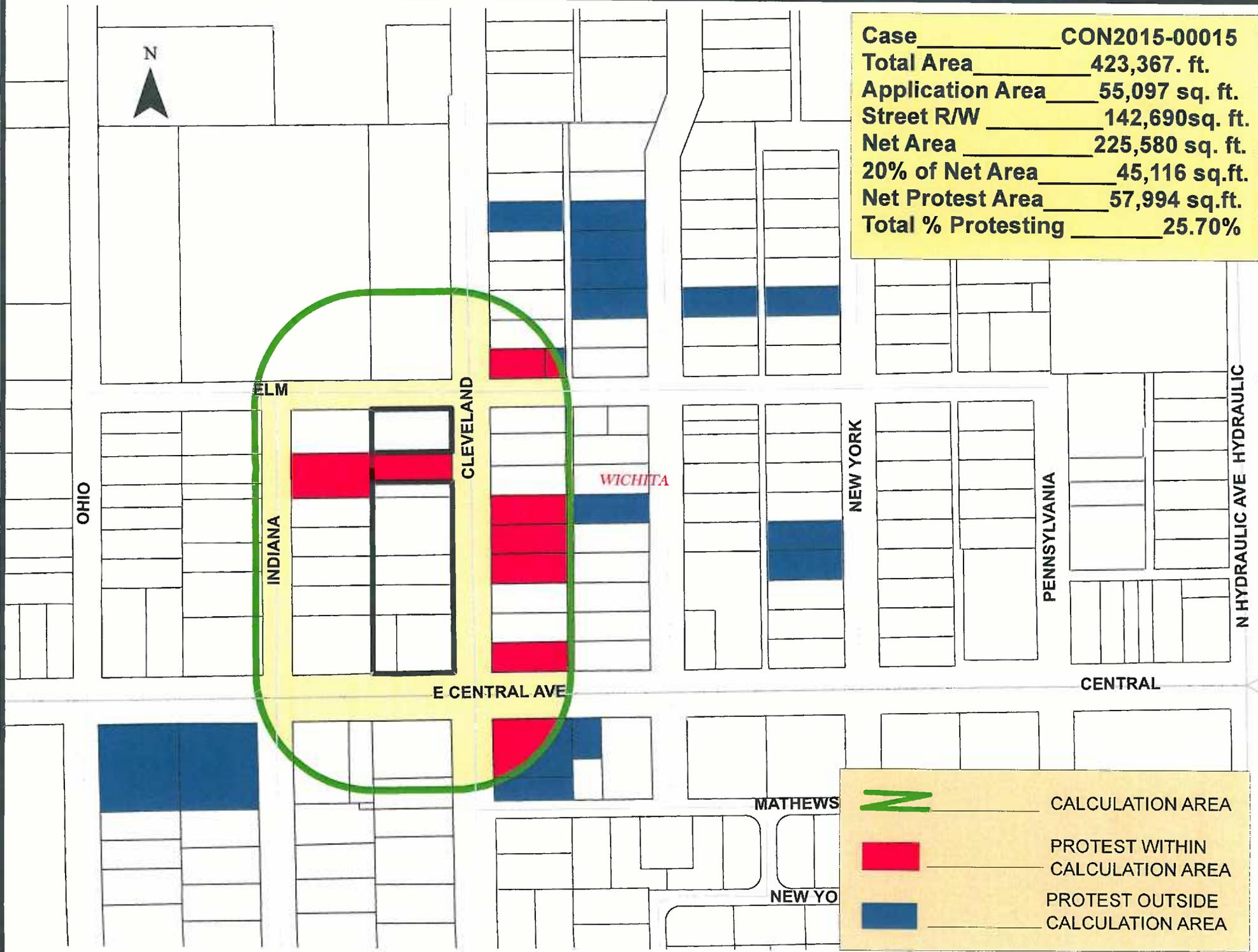
A consideration for the denial of CON2004-00042 was that a portion of the site was designated as appropriate for ‘low density residential’ development on the “2001 Wichita Land Use Guide of the Comprehensive Plan.” The “2030 Wichita Functional Land Use Guide Map of the Comprehensive Plan” has changed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

5. Impact of the proposed development on community facilities: It is possible that approval of this request could result in an increased demand for police services.

N



Case	CON2015-00015
Total Area	423,367. ft.
Application Area	55,097 sq. ft.
Street R/W	142,690sq. ft.
Net Area	225,580 sq. ft.
20% of Net Area	45,116 sq.ft.
Net Protest Area	57,994 sq.ft.
Total % Protesting	25.70%



	CALCULATION AREA
	PROTEST WITHIN CALCULATION AREA
	PROTEST OUTSIDE CALCULATION AREA

## Longnecker, William

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**From:** Ted E Knopp <tknopp@knopplaw.com>  
**Sent:** Thursday, August 20, 2015 10:54 AM  
**To:** Longnecker, William  
**Cc:** armando@micheldrywall.kscoxmail.com; juana.gillis@att.net  
**Subject:** RE: con2015-15

Thank you.

-----  
Ted E Knopp  
Ted E Knopp, Chartered  
310 W Central Ave, Suite 203  
Wichita, KS 67202-1004  
316.265.5882 (voice)  
316.265.5892 (fax)  
tknopp@knopplaw.com

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**From:** Longnecker, William [mailto:WLongnecker@wichita.gov]  
**Sent:** Thursday, August 20, 2015 10:43 AM  
**To:** Ted Knopp  
**Cc:** Crockett, Maryann; Miller, Dale  
**Subject:** con2015-15

Mr Knopp

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Respectfully

Bill Longnecker

Sr Planner, Current Plans

**EXCERPT MINUTES OF THE JULY 9, 2015 WICHITA-SEDGWICK COUNTY  
METROPOLITAN AREA PLANNING COMMISSION HEARING**

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

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

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

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The applicant's site plan shows 103 parking spaces. An on-site inspection found paved parking of maybe 24 spaces. The rest of the proposed parking area is vacant except for markers separating the applicant's proposed parking from another property owner's vacant property, which splits/separates the applicant's proposed parking. This separation means that the north most parking area will not have direct access to an arterial road, Central Avenue, but will access off of the residential streets, Cleveland Avenue and Elm Street. The UZO requires all parking

areas, loading areas and driveways on all developments other than low-density residential developments to be surfaced with concrete, asphaltic concrete, asphalt or other comparable surfacing and shall be maintained in good condition and free of all weeds, dust, trash and other debris; a variance is required to waive this standard. The applicant does not give an occupancy limit for the proposed night club nor does the site plan give the size of the proposed nightclub. The UZC requires one parking space per two occupants for a nightclub; as presented the determination of required parking cannot be made at this time. The applicant owns several other buildings located on the east side of the proposed nightclub. These businesses or future businesses will need to share the parking that the applicant is proposing, which further complicates the determination of the final parking requirement.

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

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**ADJACENT ZONING AND LAND USE:**

NORTH:	LI, GC, B	Steel products facility and storage, vacant land, single-family residences, vacant residences
SOUTH:	LI, GC, B	Vacant building, small restaurants, auto repair, auto body and paint, small offices, office-warehouse, small retail, duplexes
EAST:	B, GC, LC	Single-family residences, vacant land and buildings, church, vehicle sales, small offices, small retail
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**PUBLIC SERVICES:** The subject property fronts Central Avenue, which is a five-lane arterial street with an 80-foot right-of-way at this location. Cleveland and Mathewson Avenues are local streets with a 60-foot right-of-way. The 2030 Transportation Plan designates that Central will remain a five-lane arterial. The subject property has all other public utilities.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Map of the Comprehensive Plan” identifies the portion of the site where the building is located as appropriate for “local commercial” development and most of the parking area as appropriate for “employment/industrial” development. Local commercial development does not have a significant regional draw that generates a high volume traffic. The range of uses include medical

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

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

- A. The site for a nightclub shall be developed in conformance with an approved site plan. A site plan must be approved within 90 days of approval by the appropriate governing body for review of the Conditional Use shall be declared null and void. The site plan shall include, but not limited to, the occupancy of the nightclub (and the size), as posted by the Fire Marshall (see condition E), landscaping, internal circulation and access as approved by Fire, and showing how much parking is required and provided for the night club and the applicant's other buildings and businesses.
- B. No outdoor entertainment, music, no outdoor speakers, recreation, food or drink services are permitted on the site.

- C. Activities for the nightclub shall not be permitted until all required permits and inspections for the facility are finished including the paving and marking of the parking lot. Plans for the paving of the parking lot will include a drainage plan reviewed and approved by Public Works/Stormwater. All improvements for the night club shall be completed within one year of approval by the appropriate governing body or the Conditional Use shall be declared null and void.
- D. The applicants shall comply with all applicable development standards of the UZC, including but not limited to parking, screening, and landscaping.
- E. Occupancy for the nightclub hall shall not exceed the required parking for the night club and the applicant's other buildings and businesses.
- F. The applicant shall obtain, maintain, and comply with all applicable permits and licenses necessary for the operation of a nightclub in the City.
- G. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is a mix of LI, GC, and B zoned commercial, limited industrial and residential (mostly single-family) uses. A LI zoned steel products facility and storage yard is located north and northwest of the site, across Elm Street, and is the largest development in the area. Since the previous request for a nightclub at this site, CON2004-00042, the most recent development in the area appears to remain the 2003 investment into Washington Elementary School. Improvements in the surrounding housing (built 1910-1920) appears to be minimal resulting in a small B, GC and LI zoned deteriorating residential neighborhood that could be absorbed by surrounding commercial and industrial uses in the future.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently vacant and zoned LI which can accommodate office, retail, commercial and industrial land uses. Because the proposed night club is located within 300 feet of a church and B zoned single-family residences consideration of a Conditional Use is required.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Currently the sale of alcoholic beverages is prohibited on this site. Approval of this request would allow for unlimited liquor sales, which could have detrimental impacts on the surrounding residences, considering their proximity to the proposed nightclub and associated parking.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide Map of the Comprehensive Plan" identifies the portion of the site where the building is located as appropriate for "local commercial" development and most of the parking area as appropriate for

“employment/industrial” development. Local commercial development does not have a significant regional draw that generates a high volume traffic. The range of uses include medical or insurance offices, auto repair and service stations, grocery stores, restaurants and personal service facilities.

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

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

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

5. Impact of the proposed development on community facilities: It is possible that approval of this request could result in an increased demand for police services.

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

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

**LONGNECKER** said that was true about the parking not having access to an arterial street. He referred to the aerial and mentioned that the applicant owned other spaces in the strip; however, the nightclub will only occupy some of the area. He said parking will have to address not only the nightclub but also some type of retail space. He said staff was unable to determine the exact

number of parking spaces required at this time and will be working with the applicant to nail that down. He said the Fire Department did not want to put an occupancy number on the nightclub until the use was determined and the occupancy will dictate parking requirements.

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

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

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

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

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

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

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

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

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

**KNOPP** requested an additional three minutes to finish his presentation.

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

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

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

**ALLISON SHELLMAN, 624 N. CLEVELAND** said she has lived in the area for 24 years and owns another house at 530 N. Indiana that directly abuts the club's parking lot that she and her family are getting ready to move into. She said they have issues with people parking on their lot. She also mentioned that the woman who was hit was not African American but was a lady that was attending an event at the club. She said the parking is horrendous and the noise, which they hear on a regular basis even on the next block is obnoxious. She said at these events there also

seems to be a lot of young children that no one seems to be monitoring because they are running all over the neighborhood. She said she is surprised they haven't been hit by a car. She said the support letters provided say nothing about a nightclub, and all the support letters come from business owners, she didn't see any letters from residential property owners who will be there after 5:00 p.m. She said the applicant already holds events there; there is already alcohol there so it is already a nuisance for the people living nearby. She said adding a nightclub will only make matters worse. She mentioned other clubs that used to be in the neighborhood and what a nightmare it was for the neighbors with drunken people knocking on their door at midnight on a regular basis. In addition, she said WPD was out there all the time. She said she doesn't see where this is going to be any different. She requested that they take this nightclub to Old Town instead of where she lives.

**MATTHEW CLAGG, 427 N. OLIVER** said he was present to represent the arts and creative community and, in particular, the all ages music community. He said access to live music for anyone under 21 is severely limited because the bars and clubs downtown have an age restriction. He mentioned hosting ICT Fest starting in 2004 to serve younger bands including high school level and below. He said hearing a broad diversity of music at an early age helps children develop their artistic and creative abilities. He said the applicant has opened up the space to them. He said previously they have had to use parking lots, warehouses, art studios, etc., but they would like to hold the festival at this location this year. He said bands would get to play at this venue that would not be able to play anywhere else and get exposure to large crowds.

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

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

**RAYMOND SHELLMAN, 624 N. CLEVELAND** asked that the Commission deny the applicant's request for a nightclub in a residential neighborhood. He said this neighborhood is predominantly residential; there is an elementary school three blocks away. He said there are some businesses to the west; however, they are closed at 5:00 or 6:00 p.m. and are not open during the hours the applicant wants to be open so he doesn't feel like this impacts them, but it will impact the residents in the area. He said traffic is a problem along Cleveland and this will

aggravate that. He said they don't feel comfortable with their children and others playing in their own front yards. He said when they have events at the venue; traffic comes down the street in a procession. He mentioned crime statistics and that nightclubs and bars increase crime and violent crime. He said they don't believe fencing or screening will help that. He said noise is currently a problem and they get woken up at 1:00 – 2:00 a.m. on a regular basis. He said he and his wife own property adjacent to the parking lot and said statistics show that most of the problems at bars and nightclubs happens in the parking lot. He said he would rather not have that directly behind the house he is going to move into. He asked if the applicant would want a nightclub or bar across from his residence. He mentioned problems they have had with clubs in the area in the past and how the WPD canvassed the neighborhood to try to get people to complain so the clubs would be shut down. He said if the applicant moved 4-5 blocks to the southwest, they would be in Old Town which would be a perfect environment for what he wants to do.

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

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

**MOTION:** To give the applicant five minutes rebuttal time.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**KNOPP** asked if he could confer with his client.

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

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

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

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

**KNOPP** responded yes.

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

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

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

**RICHARDSON** asked how occupancy was determined.

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

**J. JOHNSON** asked about leasing parking.

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

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

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

**DAILEY** asked about City laws regarding noise and loud music.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



**INTEROFFICE  
MEMORANDUM**

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**TO:** MAPC  
**FROM:** Janet Johnson, Office of Community Engagement  
**SUBJECT:** CON 2015-00015 Conditional Use to allow a nightclub within 300 feet of a residential zoning district  
**DATE:** July 7, 2015

On Monday, July 6, the District I Advisory Board considered a request for a Conditional Use to allow a nightclub within 300 feet of a residential zoning district generally located west of Hydraulic Avenue, between Indiana and Cleveland Avenues on the north side of Central Avenue

A number of neighborhood residents attended the meeting to express concerns which included:

- Lack of adequate parking
- Increased traffic in the residential area
- Speeding
- Unattended children
- Loud noise
- Trash
- Drunk individuals wandering the neighborhood
- Bad experience with other neighborhood nightclubs including two homicides
- One person has already been struck by a vehicle at this location

DAB members had similar concerns and additionally:

- Even if this owner has good intentions, he could sell to anyone at any time and the Conditional Use would still be valid
- Would the applicant consider a time limit such as midnight?

**Action Taken: Wilson/Wynne made a motion to recommend denial of the Conditional Use request. Motion carried 6-3.**

Copied from the August 11, 2015 City Council minutes.

V. NON-CONSENT PLANNING AGENDA

1. CON2015-00015 - City Conditional Use Request for a Nightclub on LI Limited Industrial Zoned Property Generally Located West of Hydraulic Avenue, between Indiana and Cleveland Avenues on the North Side of Central Avenue. (District I)

Attachment: Agenda Report No. V-1

Attachment: Resolution No 15-233

Attachment: CON2015-15 DAB I memo

Attachment: CON2015-00015 Protest Map

Attachment: CON2015-00015 Site Drawing

Attachment: CON2015-00015 7-9-15 MAPC MIN EXCERPT

Dale Miller Planning Department reviewed the item.

Vice Mayor Clendenin asked staff if there is anything operating there now.

Dale Miller Planning Department stated it is his understanding that he has been operating as a type of a venue where people can bring in food and meet, which is what has created the need for the conditional use.

Vice Mayor Clendenin asked if he is currently selling cereal malt beverages.

Dale Miller Planning Department stated not that he is aware of.

Vice Mayor Clendenin asked if it is legal for him to do that now.

Dale Miller Planning Department stated he could legally as he is currently zoned, run a drinking establishment restaurant (DER), where this is more food sold than there is alcohol but if they had to reverse, then he would need a conditional use either for a drinking establishment tavern, or with the service of alcohol, dancing, or live entertainment, it would move him up to a nightclub category, which he would need a conditional use for. Stated he is requesting this particular conditional use because that would give him the most options.

Vice Mayor Clendenin stated his options are open right now but does he have a plan?

Dale Miller Planning Department stated the testimony at the Planning Commission is that the building is open and that people bring potluck and they share the food and operate like an event center. Stated based on the testimony the neighbors are saying they have had issues with drunk people in their yards, increased traffic, and some of the things that might occur with a nightclub.

Vice Mayor Clendenin asked if there was testimony about activity currently going on at the property.

Dale Miller Planning Department stated specifically at District I, the summary was a lack of adequate parking, increased traffic in residential areas, speeding, unattended children, loud noise, trash, and drunk individuals wondering the neighborhood.

Council Member Blubaugh asked staff if he reported that this was denied by the district advisory board.

Dale Miller Planning Department stated yes.

Council Member Blubaugh asked about the number of parking spaces.

Dale Miller Planning Department stated the staff report indicates their plan shows 103 parking spaces but when staff went to the site, they found 24 paved spaces.

Council Member Blubaugh asked what the approximate capacity is.

Dale Miller Planning Department stated that is a little vague because it depends on the fire code and how many people they were actually setting up to account for. Stated the parking requirement varies if they operate as a nightclub, it is one to two occupants, if they operate as a restaurant it is one to three. Stated if approved, the Fire Department building staff would have to meet with the applicant to determine what his occupancy level is and then determine the parking based on his actual activity.

Council Member Blubaugh asked if we are assuming that it is going to be at least 100 people.

Dale Miller Planning Department stated that is what they have submitted with their site plan.

Mayor Longwell asked staff to go back to the protest area slide and asked if they were talking about expanding parking because when he looked at an aerial it appeared to him that everything north of this building was empty field, which is part of the parking they were talking about. Stated there is one rectangle piece of protest in-between and that is an empty field.

Dale Miller Planning Department stated yes it is a grass field and is his understanding that the property owner immediately to the west of that tract owns both the tracts to the west and the area that is not included in the application area. Stated for the protest to count they verified that they owned it.

Mayor Longwell stated the property to the west is not part of the protest petition.

Council Member Meitzner stated this project started out as an event center?

Dale Miller Planning Department stated he understands that it has been functioning as an event center where the space was offered up for people to use and if you are within 200 feet, which they have residential zoning to the east, you also need a conditional use for that and that is why they are going for a nightclub in the City because that will give them the widest range of choice if it is approved.

Council Member Meitzner stated if it is not approved can they still do what they are doing today?

Dale Miller Planning Department stated not legally, they would have to operate as a drinking establishment restaurant where they sell more food than they do alcohol and would have to operate like a restaurant but not be a space that is just available for rent on an as needed basis.

Council Member Meitzner asked if MAPC or anyone else come back and to we need screening to protect the property and screening it from the neighbors.

Dale Miller Planning Department stated to the west they will be required to put up fencing and standard landscaping and screening and to the east they are required to do landscaping but not required to do fencing.

Council Member Meitzner stated he is struggling with approving it and not approving it without the applicant knowing the seriousness of the concerns of the Planning Commission and neighbors. Stated he would like to see if they could go back to the MAPC.

Council Member Williams stated as the DAB was listening to the applicant and his lawyer, the DAB did ask about different hours and there was a straight denial about changing the hours. Stated when it came before the MAPC and the same question was asked, then the hours were submitted for shorter hours. Stated the DAB did try and work with them. Stated she appreciates the things that the applicant has done to improve the surroundings of the building and appreciates the business that is going in and all that they are doing and would like to consider that as an event center but you are looking at a community that is already suffered at least two deaths due to nightclub ordinances. Stated we had a total of three deaths in 2014 pertaining to nightclub activity and have three deaths already in 2015. Stated she understands we are looking at parking but also gave the Council a picture which showed the bare property and tried to show the Council how it abuts to the back fence of the three residents on Indiana. Stated there has been no talk of how we buffer that situation and on the corner there is a church that sits within that 300 yard description. Stated she realizes this neighborhood is not completely filled in with residents but that is because this is one of the oldest neighborhoods in the City with many senior citizens who are concerned about the parking because we just shut down a club right across the street. Stated these issues are very concerning to her because all of our neighborhoods

matter. Stated the applicant's information was too vague for her with too many unknowns in the site plan and does not know why we do not have an occupancy number and the parking is to be determined. Stated she needs specifics as to what is going to happen and what is going on. Stated she wished that the applicant had tried harder to talk to the neighborhood or to the DAB rather than just tell them no that they are not willing to look at an hour comprise. Stated as she looks at all of these things, she has to deny this project because it is within 300 feet of a residential area; there are homes across the street that abut the nightclub parking area; and we know that a high percentage of our problems in nightclubs occur outside as did the killing at 9th Street and Cleveland.

Lavonta Williams moved to deny the conditional use request because of her findings and override the MAPC's recommendation.

Motion failed to

Council Member Meitzner stated he is still not clear enough to vote either way on this and would like to make a substitute motion to return this conditional use back to the MAPC for reconsideration.

Pete Meitzner moved to return this conditional use back to the MAPC for reconsideration. Motion carried 4 to 3 (Nay: James Clendenin, Lavonta Williams, Janet Miller).

Council Member Williams stated she would ask that the Council take into consideration the neighbors that are present and the neighborhood association.

Sully Roberts  
SCALE 1/8" = 20'-0"

325'-0"

Path

CON 2015-15

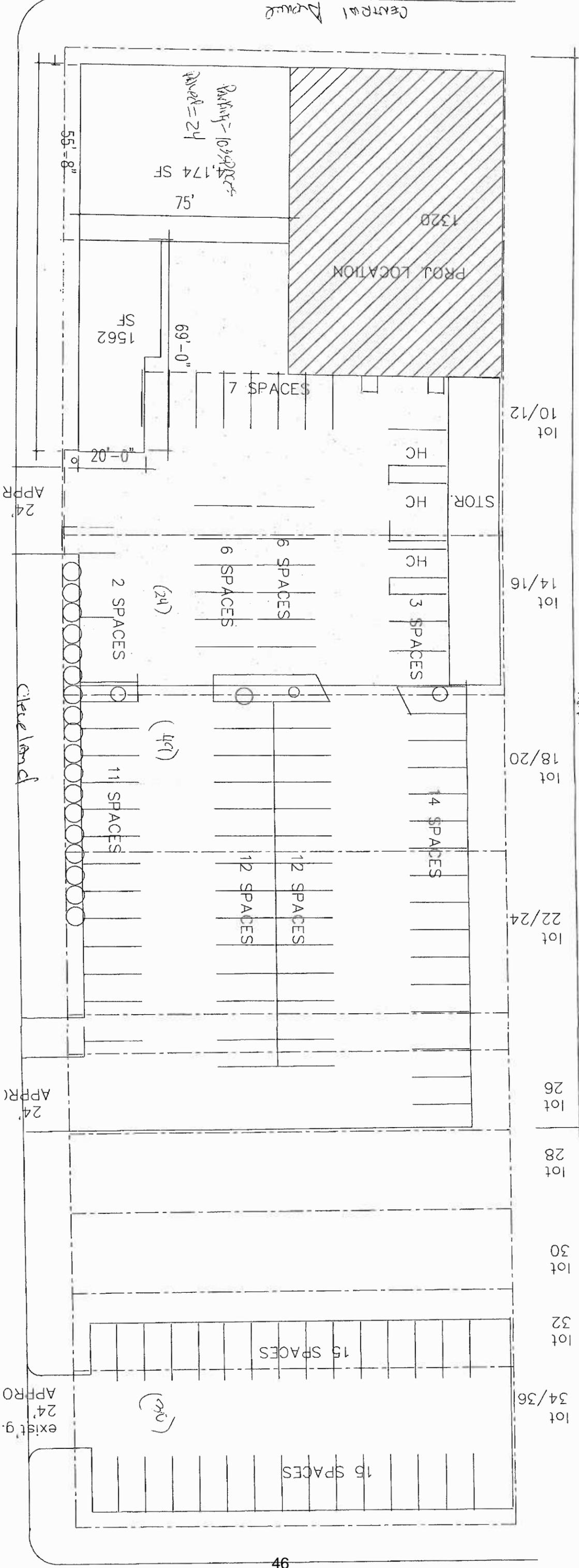


Exhibit B

**BUSINESS PLAN AND JUSTIFICATION  
FOR CONDITIONAL USE PERMIT OF  
ARMANDO MICHEL  
FOR OPERATION OF NIGHTCLUB AT 1320 EAST CENTRAL AVENUE  
WITHIN 200 FEET OF RESIDENTIAL ZONE  
BY EL VAQUERO FAMILY & FRIENDS, LLC**

The Applicant, Armando Michel, intends to lease the subject property to El Vaquero Family & Friends, LLC ("El Vaquero"). El Vaquero means "The Cowboy." El Vaquero is a business venture of Juana Gillis, Jorge Rojas, and Armando Michel. The building is located at 1320 E. Central Avenue. The Applicant owns an existing event center, dance hall, and banquet space in 1320 E Central Ave. Also located on the subject property, *but not a part of the application*, are the following separate premises:

- 1322 E Central Ave.
- 1324 E Central Ave.
- 1326 E Central Ave.
- 509 N Cleveland Ave.
- 511 N Cleveland Ave

These premises are configured for small commercial users and will not be part of the night club use covered by this conditional use permit.

1320 E Central Ave is configured as an event center, banquet hall, or dance hall, currently without food or alcohol. El Vaquero will commence full service night club and banquet services in stages. In the first phase, the building will be used as an event center for birthdays, graduation parties, weddings, Quinceañeras and community events. The building already has hosted an art exhibition by *ICT Army of Artists*. The group recently held an art exhibition in the building that was both well-attended and well-received. The building will offer live or DJ music for private events and is intended to be a family-friendly place.

Initially, the kitchen will not be open, but food can be catered or brought into the facility. Similarly, initially alcohol will not be provided by the proprietors.

When the business is fully operational, perhaps by Summer 2015, the business will offer a Mexican buffet during daytime hours Monday through Friday from 11:00 O'clock a.m. to 2:30 p.m., and Saturday 11:00 O'clock a.m. to 3:00 O'clock p.m. In the evenings, the facility will remain available for special events reserved by others and for special events hosted by El Vaquero, such as live dance music or an art shows of ICT Army of Artists. The center also may host weekend musical performances.

Previously, a request was made for night club use in Case no. 2004-00042. The application was not fully developed, created concerns among the neighbors, and was denied Times have changed. The

EX B

Old Town and Mid-Town areas have become a vibrant and valued part of the community. The North Market (“NoMar”) district surrounding 21<sup>st</sup> and Market has brought additional Hispanic culture, identity and interest to the area. A small event center and night club serving the area is a valued addition to East Central Avenue. The Applicant has made great efforts to explain his plans and to enlist community support. Submitted with the Application are numerous Requests to Support Improvements on 1320 E. Central, signed by neighbors, patrons, and customers in the vicinity. Many of these neighbors previously were *opponents* of the prior conditional use permit, but now *support* the plans of the Applicant. The Applicant has gone to great length to reach out to the community, to explain his plans, to satisfy the community as to Applicant’s plans and commitments, and to generate support for revitalizing this building.

An event center such as is planned by Applicant would contribute to the revitalization of the East Central Ave. corridor and provide a community resource for the Midtown and NoMar districts of Wichita.

Planning staff previously has noted that surrounding housing has been deteriorating and could be converted to commercial or industrial uses in the future. However, the proposed use also may provide a needed community service, employment opportunities, and reinvestment and revitalization for the neighborhood, thereby supporting and even enhancing property values both for housing and commercial uses. Because the Applicant is providing abundant on-site parking, and auxiliary parking, neighbors appear convinced there will be no detrimental impacts on the neighborhood from the use. Furthermore, because the intended use is for special events with a family focus, in-filling unused weekend dates with traditional dance hall (nightclub) and special events, there should be no deleterious impact from granting the night club permit.

In addition to the subject property, Applicant has contracted to purchase the following property:

Lot 26, 32, 34 and 36 on Cleveland, Corwin’s Addition, Wichita,  
Sedgwick County, Kansas

commonly known as 529 and 535 N. Cleveland, Wichita, Kansas.;

and

Lots 16, 17, 18 & 19 Shirks Addition, Wichita, Sedgwick County,  
Kansas,

located at the southeast corner of Elm and Cleveland.

These properties are located on the Southwest and Southeast corners of Cleveland Avenue and Elm Street and will be available for use as auxiliary parking, thereby eliminating adverse effects of on-street

Ex B

parking extending into surrounding neighborhood.

Furthermore, Applicant is negotiating to purchase the last remaining lots on the west side of Cleveland between Central Avenue and Elm Street:

Lots 28 and 30 on Cleveland, Corwin Addition, Wichita, Sedgwick County, Kansas.

commonly known as 533 N. Cleveland Avenue, Wichita, Kansas;

If successful, Applicant will have available for future auxiliary parking use all of the land lying between Elm Street and Central Avenue on the West side of Cleveland Avenue, plus land on the Southeast corner of Cleveland Avenue and Elm Street.

Applicant has invested heavily in avoiding and mitigating adverse impacts on the community, and in cultivating support for Applicant's plans for the subject property.

Attached are a proposed parking plan by Sandy Roberts, architect, configured to provide 85 parking spaces on the subject property.

Also attached is a Site Plan prepared by Armstrong Land Surveying. It incorrectly shows parking on Lot 26, on Cleveland, Corwin's Addition as part of the parking plan, while the subject property does not include Lot 26. While Lot 26 and Lots 32, 34, & 36, on Cleveland, Corwin's Addition, are available for auxiliary parking, they are *NOT* initially included in the application for Conditional Use Permit.

Applicant reserves a decision on the configuration of parking until occupancy load for the building is established.

ATTACHMENTS  
TO  
BUSINESS PLAN OF EL VAQUERO FRIENDS & FAMILY, LLC

1. Ownership List
2. Parking Plan of Sandy Roberts, Architect
3. Site Plan of Armstrong Land Survey, P.A.
4. Requests to Support Improvements on 1320 E. Central, 67214  
Dated March 23, 2015, signed by:
  - a. Donald Barnes, Tenant at 516 N. Cleveland;
  - ~~AA~~ b. Curtis Brewer, Owner, World Wide Transmissions 1407 E. Central;
  - c. Luis Castaneda, Owner Tacos don Pepe, 1475 E. Central;
  - d. Matthew Clagg, Owner, Rojidae Productions and Media/ICT Festival - Organizer, 427 N. Oliver;
  - e. Amy Curiel, Manager C. Centauro, 1423 E. Central;
  - f. Leah Danner-Garcia, Owner, The Nib: Freelance Technical Writing & Editing, 15615 E. 21<sup>st</sup>;
  - g. Laura Y. Dungan, Owner, Creative Change Consulting, 1440 Park Place;
  - h. Harry Funke, President, Morgan-Bulleigh, Inc. Upholstery, 1305 E. Central;
  - i. Thurman Jacques, TJ Detail Shop, 614 N. Cleveland;
  - j. Jennifer Loveland, Manager, KCNR, LLC, (Kansas Construction News Report) 230 S. Laura, Ste. 101;
  - ~~\*~~ k. Curtiss Marlowe, Senior Pastor, Immanuel House of Faith, 542 N. Indiana;
  - l. Armando Minjarez, Co-Founder, Resident Artist, ICT Army of Artists/The Seed House-La Casa de la Semilla, 1407 N. Topeka;
  - m. Veronica Miranda, Director, North and Urban Arts Festival, 1104 W. 13<sup>th</sup>
  - ~~\*~~ ~~\*~~ n. Billingsley Motor Company, LLC, 1406 E. Central
  - o. Bernestine Williams, Founder, Community Sewing Connection, 222 E. 14<sup>th</sup> N.
  - p. Bertha C. Zhao, Owner, Lara's Bookkeeping, 3042 N. Hood Ave.

~~\*~~ = Listed on ownership/notification list  
for property owners within 350-Ft  
of subject property

~~AA~~ → withdrew support & are now protesting  
the CON request

## REQUEST TO SUPPORT IMPROVEMENTS ON

1320 E. CENTRAL WICHITA, KS 67214

3/23/2015

I, Armando Michel the owner of the commercial building located on the northwest corner of intersection of street Central and Cleveland, Wichita, KS would like to have your point of view on the Improvements I have done on the northwest corner of Central and Cleveland Street since the 2010.

Address: 509 Cleveland St. Wichita, KS 67214. Replace broken glasses, repair canopy, painted. Clean.

Address: 511 Cleveland St. Wichita, KS 67214. Replace broken glasses, repair canopy, painted. Clean.

Address: 1326 E Central Ave. Wichita, KS 67214. Replace broken glasses, repair interior and prepare  
business to do screen printing on T-Shirts  
Maintain Clean.

Address: 1324 E Central Ave. Wichita, KS 67214 Replace broken glasses, painted. Maintain Clean.

Address: 1322 E Central Ave. Wichita, KS 67214 Replace broken glasses, painted. Maintain Clean.

Address: 1320 E Central Ave. Wichita, KS 67214 Paint and repair interior of building.

The parking lot on the building has been cleaned, trash, removed and parking lines repainted.

The Concrete behind the building removed and new installed. Concrete installed on walkway where dirt and grass use to be.

In general, the building look has improved and gives a better look for the people doing business, passing by and living around the area.

On 2010, when I bought the building I had in mind to fix it and rent for new businesses to come to work on this area, but enough money to fix it has not been available to do it.

I am looking for your support and signature to be presented to the City of Wichita to have the approval to re-start the initial business that used to be on 1320 E. Central, Wichita, KS 67214

The sign shows: Selah, Restaurant and Family Entertainment.

Why is it important and critical for the area:

1. Will improve the quality of the businesses and neighbors around the area.
2. Will generate jobs.
3. Will generate businesses that will bring taxes to City of Wichita, KS
4. It is located on a critical street and thousands of people pass that street on a daily basis. Improvements or damage are very visible to general public.
5. More people who work in Down Town will have access to a Mexican Restaurant during lunch rush hour.
6. A lot of building in Wichita area being remodeled at this time and this one will support that growth and path to have a better Wichita Downtown look.
7. Will give a better experience to City of Wichita visitors.
8. Wichita does not have enough event centers for family parties like Weddings, Graduations, Anniversaries, people need to reserve one year ahead, in most cases.

The plan is to:

1.- Open a Mexican Buffet Restaurant during weekdays. It used to be a restaurant, since all the installation and layout for the kitchen is there, a buffet will make more sense because of the population and activities happening during the weekdays. Most people are business men and permission to serve liquor will bring a more attractive restaurant to enjoy and discuss business during lunch hours.

2.- During the weekend, use the place as an event center for family parties like Weddings, Graduations, Anniversaries, Graduations, Company celebrations where people can bring their own food or we can prepare and serve. We are requesting to have the license to serve liquor on a very, very controlled manner, since the events we are planning to bring are the ones that improve the family and community values:

1.- For families: Weddings, Anniversaries, Graduations, Baptism celebrations, Baby Shower,  
XV years Anniversaries, very common on Hispanic culture.

2.- For Businesses: Company events, celebrations.

3.- For Culture Grow in Wichita: Art and Music

Provide a place to show and promote Art and Music. We support the group:  
ICT Army of Artist, they use Nomar last year, and would like to use El Vaquero  
Family and Friends this year.

Do you support the improvements presented and planned on this letter:

Name: Luis Barron Luis Barron

Business Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: 1058 N Mathewson

Signature: Luis Barron

I really appreciate your support, because together we can build a better business area in Cleveland /  
Central area. Wichita, KS

Armando Michel

Cellular: 316-617-5812

Owner

Ex A

## REQUEST TO SUPPORT IMPROVEMENTS ON

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business to do screen printing on T-Shirts

Maintain Clean.

Address: 1324 E Central Ave. Wichita, KS 67214 Replace broken glasses, painted. Maintain Clean.

Address: 1322 E Central Ave. Wichita, KS 67214 Replace broken glasses, painted. Maintain Clean.

Address: 1320 E Central Ave. Wichita, KS 67214 Paint and repair interior of building.

The parking lot on the building has been cleaned, trash, removed and parking lines repainted.

The Concrete behind the building removed and new installed. Concrete installed on walkway where dirt and grass use to be.

In general, the building look has improved and gives a better look for the people doing business, passing by and living around the area.

On 2010, when I bought the building I had in mind to fix it and rent for new businesses to come to work on this area, but enough money to fix it has not been available to do it.

EX A

I am looking for your support and signature to be presented to the City of Wichita to have the approval to re-start the initial business that used to be on 1320 E. Central. Wichita, KS 6721

The sign shows: Selah, Restaurant and Family Entertainment.

Why is it important and critical for the area:

1. Will improve the quality of the businesses and neighbors around the area.
2. Will generate jobs.
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8. Wichita does not have enough event centers for family parties like weddings, graduations, anniversaries, people need to reserve one year ahead, in most cases.

The plan is to:

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2.- During the weekend, use the place as an event center for family parties like weddings, graduations, anniversaries, graduations, company celebrations where people can bring their own food or we can prepare and serve. We are requesting to have the license to serve liquor on a very, very controlled manner, since the events we are planning to bring are the ones that improve the family and community values:

EX A

1.- For families: Weddings, Anniversaries, Graduations, Baptism celebrations, Baby Shower,  
XV years Anniversaries, very common on Hispanic culture.

2.- For Businesses: Company events, celebrations.

3.- For Culture Grow in Wichita: Art and Music

Provide a place to show and promote Art and Music. We support the group:  
ICT Army of Artist, they use Nomar last year, and would like to use El Vaquero  
Family and Friends this year.

Do you support the improvements presented and planned on this letter:

Name: Curtis Marlowe

Business Name: Immanuel House of Faith

Title: Senior Pastor

Address: 542 N Indiana St Wichita KS 67214

Signature: Curtis Marlowe

I really appreciate your support, because together we can build a better business area in Cleveland /  
Central area. Wichita, KS

Armando Michel

Cellular: 316-617-5812

Owner

## REQUEST TO SUPPORT IMPROVEMENTS ON

**1320 E. CENTRAL WICHITA, KS 67214**

**3/23/2015**

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Maintain Clean.

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Provide a place to show and promote Art and Music. We support the group:  
ICT Army of Artist, they use Nomar last year, and would like to use El Vaquero  
Family and Friends this year.

Do you support the improvements presented and planned on this letter:

Name: Donald Barnes

Business Name: \_\_\_\_\_

Title: Homeowner at home

Address: 516 N Cleveland #A Homeowner

Signature: Donald Barnes

I really appreciate your support, because together we can build a better business area in Cleveland /  
Central area. Wichita, KS

Armando Michel

Cellular: 316-617-5812

Owner

## REQUEST TO SUPPORT IMPROVEMENTS ON

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ICT Army of Artist, they use Nomar last year, and would like to use El Vaquero

Family and Friends this year.

Do you support the improvements presented and planned on this letter

Name: Luis Castañeda

Business Name: Tacos Don Pepe

Title: Owner

Address: 1425 E Central

Signature: 

I really appreciate your support. Because together we can build a better business area in Cleveland /  
Central area. Wichita, KS

Armando Michel

Cellular: 316-617-5812

Owner

## **REQUEST TO SUPPORT IMPROVEMENTS ON**

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Family and Friends this year.

Do you support the improvements presented and planned on this letter

Name: Matthew Clagg

Business Name: Rajidse Productions/ICT Fest - Organizer

Title: Owner

Address: 427 N Oliver Wichita, KS 67208

Signature: 

I really appreciate your support. Because together we can build a better business area in Cleveland /  
Central area. Wichita, KS

Armando Michel

Cellular: 316-617-5812

Owner

**REQUEST TO SUPPORT IMPROVEMENTS ON  
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Family and Friends this year.

Do you support the improvements presented and planned on this letter

Name: Amy Curiel

Business Name: C. Centauro

Title: manager

Address: 1423 E Central Wichita KS 67214

Signature: Amy S Curiel

I really appreciate your support. Because together we can build a better business area in Cleveland /  
Central area. Wichita, KS

Armando Michel

Cellular: 316-617-5812

Owner

## **REQUEST TO SUPPORT IMPROVEMENTS ON**

**1320 E. CENTRAL WICHITA, KS 67214**

**3/23/2015**

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Maintain Clean.

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Do you support the improvements presented and planned on this letter

Name: Leah Danner-Garcia

Business Name: The Nib: Freelance Technical Writing & Editing

Title: Owner

Address: 15615 E. 24<sup>th</sup> St. N., Wichita, KS 67230

Signature: Leah Danner-Garcia

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Armando Michel

Cellular: 316-617-5812

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Do you support the improvements presented and planned on this letter

Name: LAURA Y. DWNGAN

Business Name: CREATIVE CHANGE CONSULTING

Title: OWNER

Address: 1440 Park Place, Wichita, KS. 67214

Signature: 

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Central area. Wichita, KS

Armando Michel

Cellular: 316-617-5812

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Do you support the improvements presented and planned on this letter

Name: Harry Funke

Business Name: Morgan-Belleigh, Inc.

Title: President

Address: 1305 E. Central

Signature: Harry Funke

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Armando Michel

Cellular: 316-617-5812

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Do you support the improvements presented and planned on this letter:

Name: THURMAN JACQUES

Business Name: T-J DETAIL SHOP

Title: DETAILING ON CAR & TRUCK

Address: 614 N CLEVELAND

Signature: 

I really appreciate your support, because together we can build a better business area in Cleveland /  
Central area. Wichita, KS

Armando Michel

Cellular: 316-617-5812

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## REQUEST TO SUPPORT IMPROVEMENTS ON

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Do you support the improvements presented and planned on this letter

Name: Jennifer Loveland

Business Name: KCNB, LLC

Title: manager

Address: 230 S Laura, Suite 101

Signature: Jennifer Loveland

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Armando Michel

Cellular: 316-617-5812

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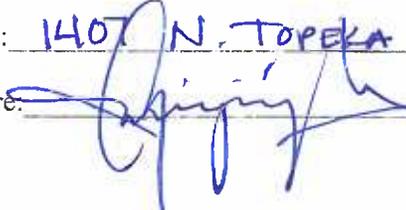
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Name: ARMANDO MINJAREZ

Business Name: ICT ARMY OF ARTISTS / THE SEED HOUSE LA CASA DE LA SEMILLA

Title: CO-FOUNDER, RESIDENT ARTIST

Address: 1407 N. TOPEKA

Signature: 

I really appreciate your support. Because together we can build a better business area in Cleveland /  
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Armando Michel

Cellular: 316-617-5812

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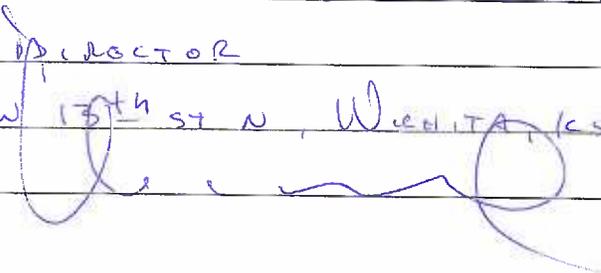
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Name: VERONICA MIRANDA

Business Name: NORTH AND URBAN ARTS FESTIVAL

Title: DIRECTOR

Address: 1104 W 13<sup>th</sup> ST N, WICHITA, KS 67203

Signature: 

I really appreciate your support. Because together we can build a better business area in Cleveland / Central area. Wichita, KS

Armando Michel

Cellular: 316-617-5812

Owner

**REQUEST TO SUPPORT IMPROVEMENTS ON  
1320 E. CENTRAL WICHITA, KS 67214**

**3/23/2015**

I, Armando Michel the owner of commercial building located on the northwest corner of intersection of street Central and Cleveland, Wichita, KS would like to have your point of view on the Improvements I have done on the northwest corner of Central and Cleveland Street since the 2010.

Address: 509 Cleveland St. Wichita, KS 67214. Replace broken glasses, repair canopy, painted. Clean.

Address: 511 Cleveland St. Wichita, KS 67214. Replace broken glasses, repair canopy, painted. Clean.

Address: 1326 E Central Ave. Wichita, KS 67214. Replace broken glasses, repair interior and prepare  
business to do screen printing on T-Shirts

Maintain Clean.

Address: 1324 E Central Ave. Wichita, KS 67214 Replace broken glasses, painted. Maintain Clean.

Address: 1322 E Central Ave. Wichita, KS 67214 Replace broken glasses, painted. Maintain Clean.

Address: 1320 E Central Ave. Wichita, KS 67214 Paint and repair interior of building.

The parking lot on the building has been cleaned, trash, removed and parking lines repainted.

The Concrete behind the building removed and new installed. Concrete installed on walkway where dirt and grass use to be.

In general, the building look has improved and give a better look for the people doing business, passing by and living around the area.

On 2010, when I bought the building I had in mind to fix it and rent for new businesses to come to work on this area, but enough money to fix it has not been available to do it.

I am looking for your support and signature to be presented to the City of Wichita to have the approval to re-start the initial business that use to be on 1320 E. Central. Wichita, KS 67214

The sign shows: Selah, Restaurant and Family Entertainment.

Why is important and critical for the area:

1. Will Improve the quality of the businesses and Neighbors around the area.
2. Will generate Jobs.
3. Will generate businesses that will bring taxes to City of Wichita, KS
4. It is located on a critical street and thousands of people pass that street on a daily Basis. Improvements or damage are very visible to general public.
5. More people who work in Down Town will have a access to a Mexican Restaurant during lunch rush hour.
6. A lot of building in Wichita area being remodeled at this time and this one will support that grow and path to have a better Wichita Downtown look.
7. Will give a better experience to City of Wichita Visitors.
8. Wichita do not have enough event centers for Family parties like Weddings, Graduations, Anniversaries, people needs to reserve one year ahead, is most cases.

The plan is to:

1.- Open a Mexican Buffet Restaurant during weekdays. It used to be a restaurant, since all the Installation and layout for the kitchen is there, a buffet will make more sense because of the population and activities happening during the weekdays. Most people are business men and permission to serve liquor will bring a more attractive restaurant to enjoy and discuss business during lunch hours.

2.- During the weekend, use the place as an event center for Family parties like Weddings, Graduations, Anniversaries, Graduations, Company celebrations where people can bring their own food or we can prepare and serve. We are requesting to have the license the serve liquor on a very, very controlled manners, since the events we are planning to bring are the ones the improve the Family and Community values:

1.- For families: Weddings, Anniversaries, Graduations, Baptism celebrations, Baby Shower,  
XV years Anniversaries, very common on Hispanic culture.

2.- For Businesses: Company events, celebrations.

3.- For Culture Grow in Wichita: Art and Music

Provide a place to show and promote Art and Music. We support the group:

ICT Army of Artist, they use Nomar last year, and would like to use El Vaquero

Family and Friends this year.

Do you support the improvements presented and planned on this letter

Name: Bernestine Williams

Business Name: Community Sewing Connection

Title: Founder

Address: 222 E. 14<sup>th</sup> N.

Signature: Bernestine Williams

I really appreciate your support. Because together we can build a better business area in Cleveland /  
Central area. Wichita, KS

Armando Michel

Cellular: 316-617-5812

Owner

**REQUEST TO SUPPORT IMPROVEMENTS ON  
1320 E. CENTRAL WICHITA, KS 67214**

**3/23/2015**

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The sign shows: Selah, Restaurant and Family Entertainment.

Why is it important and critical for the area:

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XV years Anniversaries, very common on Hispanic culture.

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Provide a place to show and promote Art and Music. We support the group:

ICT Army of Artist, they use Nomar last year, and would like to use El Vaquero

Family and Friends this year.

Do you support the improvements presented and planned on this letter

Name: BERTHA G. ZHAO

Business Name: LARA'S BOOKEEPING,

Title: OWNER. (316) 494-1412

Address: 3042 N. Hood Ave. Wichita, ks 67201.

Signature: BERTHA G. ZHAO

I really appreciate your support. Because together we can build a better business area in Cleveland /  
Central area. Wichita, KS

Armando Michel

Cellular: 316-617-5812

Owner

**AGENDA ITEM #5**

5. Case No.: **ZON2015-00024 (Deferred Indefinitely)**  
Request: City zone change from SF-5 Single-family Residential to MF-18 Multi-family Residential.
- General Location: South of E. Kellogg and east of E. 127th Street (north of Gilbert Street).
- Presenting Planner: Dale Miller

**AGENDA ITEM #6**

6. Case No.: **ZON2015-00025 and CUP2015-00011(Deferred Indefinitely)**  
Request: City zone change from SF-5 Single family Residential and LC Limited Commercial to GC General Commercial and creation of a CUP Community Unit Plan.
- General Location: East of E. 127th and south of E. Kellogg (north of Gilbert Street).
- Presenting Planner: Dale Miller



# STAFF REPORT

MAPC September 17, 2015  
DAB IV September 14, 2015

**CASE NUMBER:** ZON2015-00032

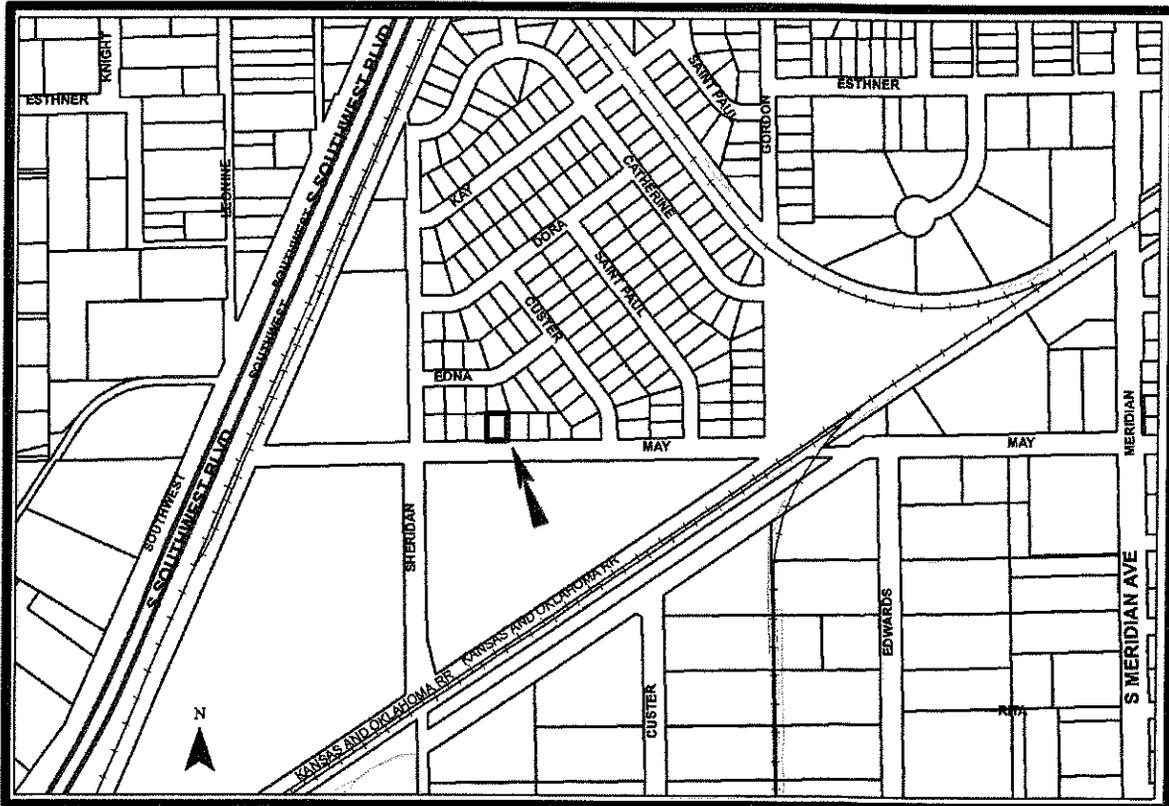
**APPLICANT/AGENT:** K & A Holdings, LLC, c/o Rodney Ketzner and Isaiah Ast

**REQUEST:** TF-3 Two-Family Residential zoning

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

**SITE SIZE:** Approximately 7,500-square feet

**LOCATION:** Generally located midway between Harry Street and Pawnee Avenue, east of Sheridan Avenue on the north side of May Street



**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.



**STAFF REPORT**  
MAPC September 17, 2015  
DAB VI September 16, 2015

**CASE NUMBER:** ZON2015-00033

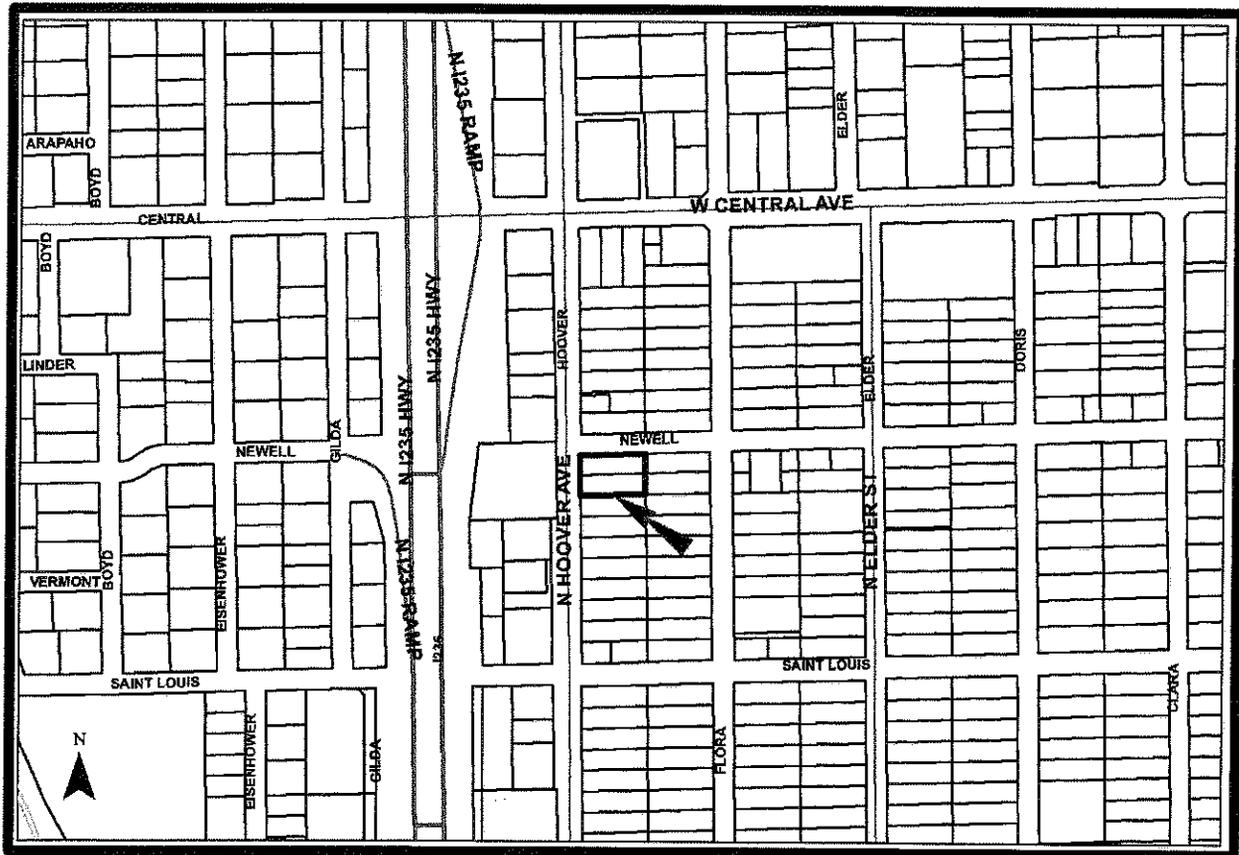
**APPLICANT/OWNER:** KW Developments, LLC (applicant/owner)

**REQUEST:** TF-3 Two-Family Residential zoning

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

**SITE SIZE:** Approximately 0.25-acres (23,022-square feet)

**LOCATION:** Generally located south of Central Avenue on the southeast corner of Hoover Avenue and Newell Street



**BACKGROUND:** The applicant is requesting TF-3 Two-Family Residential (TF-3) zoning on the platted approximately 120-foot (x) 191.85-foot (23,022-square foot) SF-5 Single-Family Residential (SF-5) zoned site. The subject site, Lots 19 and 20, Block 17, Fruitvale Park Addition, is located a block south of Central Avenue on the southeast corner of Hoover Avenue and Newell Street. The site is also located approximately 300 feet east of Interstate Highway I-235. The site could be developed with three duplexes.

The subject site has SF-5 zoned single-family residences abutting its south and east sides; built 1970, 1931, 1950 and 1954. The site and these abutting properties are part of a mostly SF-5 zoned, single-family residential neighborhood that is located south, east and west of the site. Most of the residences in the neighborhood are small (+/- 1,000-square feet), wood framed homes, having been built in the 1940s. A SF-5 zoned civic organization, the Serenity Club of Wichita, is located directly west of the site, across Hoover Avenue. TF-3 zoned single-family residences (most built in the 1940s) and a few duplexes (built 1970s or later) are located north and northwest of the site, across Newell Street. It appears that the most recent residential development in the area are two duplexes built in 2009, located northwest of the site. The residential development located north of the site eventually ends up against LC Limited Commercial zoned older, small scale commercial development located along the arterial Central Avenue. The immediate area north, west and east of the site, also has some SF-5 zoned properties that appear to have been split by sale, resulting in small properties that are less than 5,000-square feet in area.

**CASE HISTORY:** The site is platted as Lots 19 and 20, Block 17, Fruitvale Park Addition, which was recorded with the Register of Deeds on October 30, 1929.

**ADJACENT ZONING AND LAND USE:**

NORTH: TF-3	Single-family residences, few and scattered duplexes
SOUTH: SF-5, TF-3	Single-family residences, few and scattered duplexes
WEST: SF-5, TF-3, LC	Single-family residences, a civic club, two duplexes, I-235
EAST: SF-5, TF-3	Single-family residences, a duplex

**PUBLIC SERVICES:** The site has access to Newell Street, a sand and gravel local street and Hoover Avenue, a paved and curbed, two-lane collector street. 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 another 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:** The subject site has SF-5 zoned single-family residences abutting its south and east sides; built 1970, 1931, 1950 and 1954. The site and these abutting properties are part of a mostly SF-5 zoned, single-family residential neighborhood that is located south, east and west of the site. Most of the residences in the neighborhood are small (+/- 1,000-square feet), wood framed homes, having been built in the 1940s. A SF-5 zoned civic organization, the Serenity Club of Wichita, is located directly west of the site, across Hoover Avenue. TF-3 zoned single-family residences (most built in the 1940s) and a few duplexes (built 1970s or later) are located north and northwest of the site, across Newell Street. It appears that the most recent residential development in the area are two duplexes built in 2009, located northwest of the site. The residential development located north of the site eventually ends up against LC Limited Commercial zoned older, small scale commercial development located along the arterial Central Avenue. The immediate area north, west and east of the site, also has some SF-5 zoned properties that appear to have been split by sale, resulting in small properties that are less than 5,000-square feet in area.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The SF-5 zoned property is located within a mostly SF-5 zoned neighborhood of small (+/- 1,000-square feet) single-family residences, with most of them built in the 1940s. The site could be developed as a single-family residence, like the abutting south property which was built in 1970.
- (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 or duplexes 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 the duplexes would be the first residence built in the neighborhood since 2009, when the two duplexes were built, northwest of the site, across Hoover Avenue and Newell Street. 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 another 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.



**BACKGROUND:** The applicant is requesting a zone change from LC Limited Commercial to CBD Central Business District on the subject site located west of McLean Boulevard, east of Oak Street on the south side of Douglas Avenue; Lots 84, 86, 92 and 94, Chicago now Douglas Avenue; West Wichita Addition. The site is located in (and subject to) the Delano Overlay Neighborhood District (D-O). The site's brick or fake stucco one and two-story downtown row stores (built 1928, 1930 and 1950) are currently occupied by several restaurants and retail. An expansion of the site's pizza restaurant triggered conformance to parking standards for the restaurant. The CBD zoning district more effectively resolves such issues as parking (no minimum parking standards) and setbacks that could be triggered by a change in occupancy. This is the latest application for CBD zoning in the D-O along Douglas Avenue and in the future there will be more applications for CBD zoning along Douglas Avenue within the D-O for the MAPC to consider. In the previous zoning cases a lack of on-site parking was the issue.

The Delano District was initially developed in the 1870's and then redeveloped in the early 1900's when there were no requirements for property owners to provide on-site parking. Therefore, many of the uses in the Delano District do not have on-site parking, but have relied on parking located on public street right-of-way to support their businesses. The applicant does own undeveloped property located south of the site across a platted alley that, with improvements, could provide on-site parking for their properties.

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

This section of Douglas Avenue is characterized by the prevalence of brick one to two-story downtown row stores mostly built in the early 1900s. All buildings along this section of Douglas Avenue were built up to the property lines, with no setbacks. It is not uncommon to have apartments located in the second story of these buildings, with the commercial uses located on the ground floor.

As previously noted the LC zoned site is occupied by a several restaurants and assorted retail. More LC zoned retail, offices, restaurants and a bar abut and are adjacent to the east side of the site. Development located north of the site, across Douglas Avenue, include LC zoned coffee shop/bar, luggage sales, office furniture sales, offices, restaurants and retail. Development abutting the west side of the site is a LC zoned design studio. West across Oak Street is a GC General Commercial zoned savings and loans. Properties located south of the site, across a paved 15-foot wide platted alley, include undeveloped GC zoned land, a car parts store, a plumbing contractor's business and a LI Limited Industrial zoned vacant building that appears to be undergoing renovation. GC and LC zoned Lawrence-Dumont baseball stadium and a church (with relatively large parking lots for this part of the D-O) are located southeast of the site and the Douglas Avenue round-about, across Sycamore Street.

**CASE HISTORY:** The site, Lots 84, 86, 92 and 94, Chicago now Douglas Avenue; West Wichita Addition, which was recorded with the Register of Deeds on August 5, 1872. Wichita was platted in 1870 and incorporated in 1871.

**ADJACENT ZONING AND LAND USE:**

NORTH: LC	Coffee shop/bar, luggage sales, furniture store, offices, restaurants, retail
SOUTH: GC, LI	Car parts sales, undeveloped land, plumbing contractor, vacant building
EAST: LC	Retail, offices, restaurants, a bar, church, ballpark
WEST: GC	Design studio, savings and loans

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

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

The purpose of the CBD zoning district is to accommodate retail, commercial, office and other complementary land uses within the downtown core area of the City of Wichita. The CBD district is generally compatible with the "Downtown Regional Center" designation of the "Wichita-Sedgwick County Comprehensive Plan." It is intended for application only within the City of Wichita and only within the downtown core area and certain nearby areas being redeveloped with similar patterns of uses and site development standards such as but not limited to zero lot setbacks, shared parking, public streetscapes as landscaping and urban design elements and mixed uses within a building. The requested CBD zoning is the appropriate zoning for this site, which is located west (across the Arkansas River) of the original CBD zoned core of downtown Wichita. The area the site is located in shares some similar patterns of uses as the original CBD core area. Previous request for CBD zoning in the D-O along Douglas Avenue have been approved by the MAPC.

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

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

This recommendation is based on the following findings:

- (1)The zoning, uses and character of the neighborhood: This section of Douglas Avenue is characterized by the prevalence of brick one to two-story downtown row stores mostly

built in the early 1900s. The LC zoned site is occupied by a several restaurants and assorted retail. More LC zoned retail, offices, restaurants and a bar abut and are adjacent to the east side of the site. Development located north of the site, across Douglas Avenue, include LC zoned coffee shop/bar, luggage sales, furniture store, offices, restaurants and retail. Development abutting the west side of the site is an LC zoned design studio. West across Oak Street is a GC General Commercial zoned savings and loans. Properties located south of the site, across a paved 15-foot wide platted alley, include undeveloped GC zoned land, a car parts store, a plumbing contractor's business and a LI Limited Industrial zoned vacant building that appears to be undergoing renovation. GC and LC zoned Lawrence-Dumont baseball stadium and a church (with relatively large parking lots for this part of the D-O) are located southeast of the site and the Douglas Avenue round-about, across Sycamore Street.

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

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

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

The purpose of the CBD zoning district is to accommodate retail, commercial, office and other complementary land uses within the downtown core area of the City of Wichita. The CBD district is generally compatible with the "Downtown Regional Center" designation of the "Wichita-Sedgwick County Comprehensive Plan." It is intended for application only within the City of Wichita and only within the downtown core area and certain nearby areas being redeveloped with similar patterns of uses and site development standards such as but not limited to zero lot setbacks, shared parking, public streetscapes as landscaping and urban design elements and mixed uses within a building. The requested CBD zoning is the appropriate zoning for this site, which is located west (across the Arkansas River) of the original CBD zoned core of downtown Wichita. The

area the site is located in shares some similar patterns of uses as the original CBD core area.

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

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



**STAFF REPORT**  
Advanced Plans 7-9-2015  
MAPC 7-23-2015  
MAPC 9-17-2015

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CASE NUMBER: DER2015-00005

APPLICANT/AGENT: Robert Parnacott

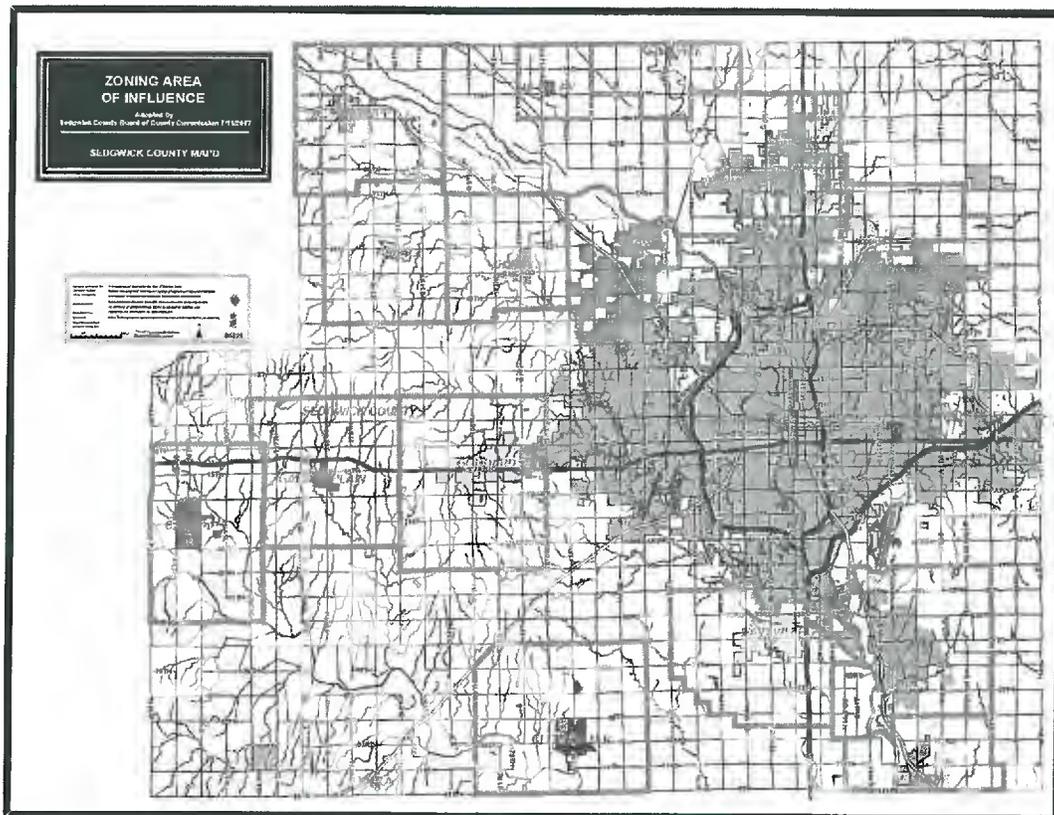
REQUEST: Amendment to the Wichita-Sedgwick County Unified Zoning Code to eliminate Zoning Area of Influence authority

CURRENT ZONING: N/A

SITE SIZE: N/A

LOCATION: County-wide

PROPOSED USE: N/A



**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 Metropolitan Area Planning Commission (MAPC) held a hearing on July 23, 2015. Minutes of the meeting are attached. Comments made by speakers at the July 23, 2015, meeting are summarized in the following eight paragraphs.

Cheney requested that the ZAOI not be eliminated entirely, and noted that Cheney would agree to change the designation of the ZAOI to be the same as the city’s “urban growth area” as shown on the comprehensive plan and would be willing to change the unanimous vote requirement associated with a recommendation of denial. If the existing procedure were to be changed Cheney would like to receive advanced notice.

Mount Hope indicated it opposed to the proposed amendment.

Goddard requested that the MAPC table the item in order to allow for more time to discuss the proposal.

Haysville indicated that it would be willing to use the “urban growth area” as the new ZAOI boundary, would not be opposed to changing the unanimous vote requirement to super majority vote, and is willing to allow the applications to be presented to the city after the MAPC hearing if that prevents a delay in obtaining a final answer.

Derby prefers for the ZAOI to remain. The cities need to be involved in development decisions that impact them and would like to have more time to discuss the proposal.

Maize was opposed to the proposal would be willing to substitute the unanimous vote requirement with a two-thirds super majority requirement; reduce the land area included within a city’s 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; and allow the city ZAOI meeting to occur after the MAPC hearing but before BoCC hearing or final approval.

Colwich wanted the MAPC to delay any decision to provide more time to discuss the issue.

Mulvane noted that it has extra-territorial jurisdiction in Sumner County and would like to retain the same authority in Sedgwick County, and asked for the request to be tabled.

At the end of the July 23, 2015, public hearing, the MAPC deferred final action on the request to September 17, 2015, and requested that the cities submit comments in writing. Written comments have been received from the following cities: Haysville, Clearwater, Mount Hope, Bel Aire, Valley Center, Park City, Mulvane, Colwich and Derby. (The comments are attached.) In general, the comments express opposition to the proposal.

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

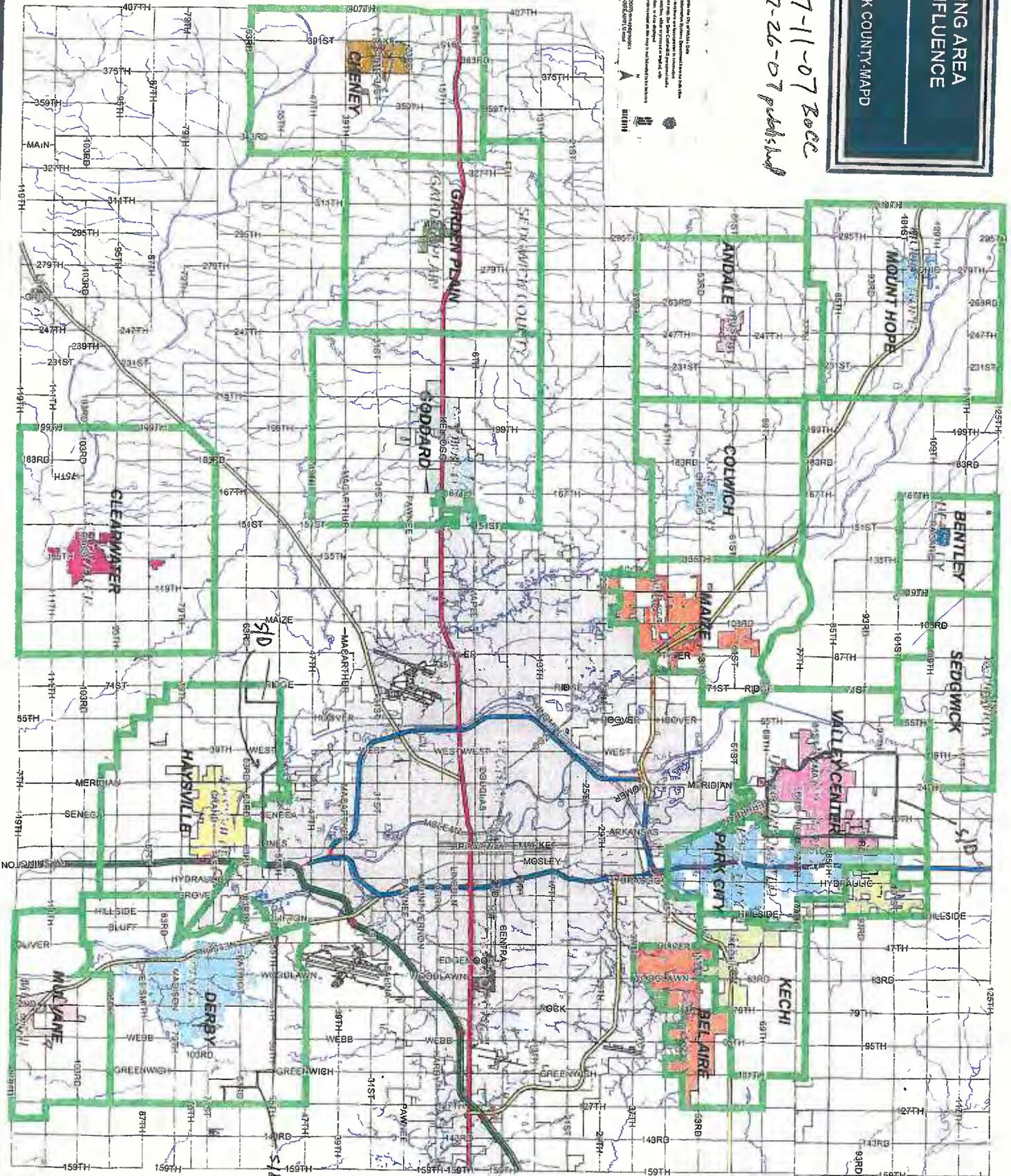
Cities with no cases in ZAOI: Maize, Mount Hope; Park City, Mulvane  
 Cities that do not have ZAOI: Eastborough, Viola, Wichita

**ZONING AREA  
OF INFLUENCE**

**SEDGWICK COUNTY MAPD**

*Adopted 7-11-07 Booc  
7-26-07 pub:slf*

Map of Sedgwick County, Kansas, showing the Zoning Area of Influence. The map is based on the 2000 Census of Population and Housing, Census Tracts, and is subject to change. The map is not to be used for any other purpose. The map is the property of Sedgwick County, Kansas, and is loaned to you for your use only. It is to be returned to the County Office when you are finished with it. The map is not to be used for any other purpose. The map is the property of Sedgwick County, Kansas, and is loaned to you for your use only. It is to be returned to the County Office when you are finished with it.



**EXCERPT MINUTES OF THE JULY 23, 2015 WICHITA-SEDGWICK COUNTY  
METROPOLITAN AREA PLANNING COMMISSION HEARING**

**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 to 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.

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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.

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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

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 (ZAOI’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 ZAOI’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 ZAOI’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 ZAOI’s. He said the second motion concerns amending the UZC, but not eliminating the ZAOI’s. He said there has been discussion regarding eliminating the unanimous vote requirement, reducing the ZAOI’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 ZAOI 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 ZAOI’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 ZAOI 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 ZAOI'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 ZAOI'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 ZAOI'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 ZAOI's as opposed to complete elimination.

**RICHARDSON** asked how the ZAOI'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 ZAOI'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 ZAOI'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 ZAOI's.

**PARNACOTT** responded yes and referred to a map that compared the ZAOI's and the City Urban Growth Areas for each city in Sedgwick County. He said the dark blue lines around each city represent the ZAOI, 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 ZAOI'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 ZAOI'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 ZAOI's only.

**RICHARDSON** asked if ZAOI'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 ZAOI'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 ZAOI. 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 ZAOI'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 Commissioner 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 ZAOI'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 ZAOI'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 ZAOI's are eliminated.

**CHARLES PHEASTER, 9453 NORTH 135<sup>th</sup> STREET WEST** said he lives within the Bentley ZAOI 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 (ZAOI) 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 ZAOI's are meant to protect. Since that day in 2012 and since its inception in 1985 until today, the ZAOI'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 ZAOI'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 ZAOI. A member of this Metropolitan Area Planning Commission lives approximately five (5) miles from Clearwater and outside of current ZAOI. 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 ZAOI'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 ZAOI'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 ZAOI'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 ZAOI'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 do 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 ZAOI'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 ZAOI's need to be modified, the City of Haysville would not be opposed to using the Urban Growth Areas as the new ZAOI'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 ZAOI'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 ZAOI'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 ZAOI'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 ZAOI'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 ZAOI'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 ZAOI'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 ZAOI'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 ZAOI 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 ZAOI'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 ZAOI 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 (9-1). **DAILEY** – No.

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# CITY OF HAYSVILLE, KANSAS

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200 W. GRAND AVENUE - P.O. BOX 404 - HAYSVILLE, KS 67060  
(316) 529-5900 - FAX (316) 529-5925 - WWW.HAYSVILLE-KS.COM

To Whom It May Concern:

As administrators of the City of Haysville, Mayor Bruce Armstrong, Chief Administrative Officer Will Black, and Planning Coordinator Zach McHatton recognize the importance of the Planning Commission and Board of Zoning Appeals. The members of these groups, who work on a volunteer basis, are essential to positive community development. These members bring years of experience in traffic and civil engineering, planning, and utility expertise, as well as knowledge about the community and culture affected by development in and around the cities they serve. Their recommendations are paramount in providing our Governing Body with the information necessary to make informed decisions in regard to development both within the city and throughout our area of influence.

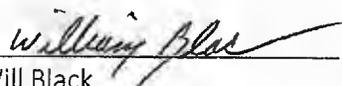
To remove individual cities' rights to contribute guidance regarding development of their respective areas of influence would effectively hamper those cities' future expansion and upward mobility, which is why the City of Haysville urges MAPC to reject the request to eliminate zoning area of influence jurisdiction. Rejecting this request will allow cities, and the citizens contained therein, to maintain control of their own destinies.

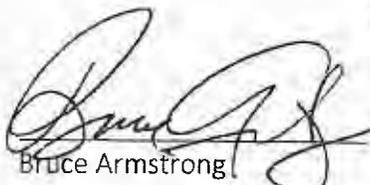
It seems that the main reason the BoCC is considering this action is for the convenience of developers, who may, under current protocol, be required to attend Planning Commission meetings in both the city and county. To put it bluntly, this seems a small price to pay for the opportunity to develop within a city's area of influence.

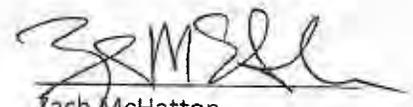
It has also been said that the ZAOs create too much restriction of citizens in unincorporated areas. Whether or not this is the case, less than 35,000 citizens of Sedgwick County reside in unincorporated areas, which is less than 10% of the county's population. It would seem that, with this proposed elimination of ZAOs, the BoCC is attempting to cater to the needs of the few.

If the BoCC feels the current procedure is ineffective, we would encourage the idea of compromise. Consider bringing ZAOs in line with the City of Wichita's 2035 projected growth areas, and reduce the voting requirement to overturn by the BoCC to a super majority. This way, cities of all sizes would still maintain a protected perimeter, while those without much future growth potential would not maintain an area larger than what is likely to be utilized.

Again, the City of Haysville urges the MAPC to reject the request to eliminate zoning area of influence jurisdiction. Thank you in advance for your consideration in this matter.

  
Will Black  
Chief Administrative Officer

  
Bruce Armstrong  
Mayor

  
Zach McHatton  
Planning Coordinator

To: Metropolitan Planning Commission  
Sedgwick County Board of County Commissioners

From: The City of Clearwater Governing Body  
The City of Clearwater Planning Commission  
Justin S. Givens, City Administrator

Date: July 14, 2015

Re: Elimination of Zoning Areas of Influence

On June 12, 2015, the Sedgwick County Board of County Commissioners directed County staff to process an amendment to the Wichita-Sedgwick County Unified Zoning Code that would eliminate Zoning Areas of Influence (ZAOI) review authority. Ironically, this action was taken almost three years to the day that the Metropolitan Planning Commission faced an audience full of representatives from those cities that are protected by the Zoning Areas of Influence.

Since that day in 2012 and since its inception in 1985 and until today, the ZAOI's have worked and will continue to work in protecting growth patterns for cities that are not represented by the Wichita – Sedgwick County Unified Zoning Code. These areas have been established to help protect not hinder development in the present and future. If, as Commissioner Ranzau stated, that he wants to streamline the development process, perhaps it is the County that should forgo its zoning in the Zoning Areas of Influence and allow the cities to have complete extra territorial zoning as allowed by Kansas law. And if, as Commissioner Peterjohn has stated, that he has heard that residents wonder how a nearby city could tell property owners what they can and cannot do on their properties, perhaps it would be better for those property owners to work closely with the members of their own community as opposed to those members of the MAPC.

The Clearwater Planning Commission is made up of seven individuals from the community, five from inside the city limits and two that reside with the Zoning Area of Influence. The closest member of the MAPC lives approximately 5 miles from Clearwater and outside of our current ZAOI. Of the 14 members of the Metropolitan Planning Commission only three live in the unincorporated areas of Sedgwick County, and the representative from Clearwater's district lives inside the Haysville city limits.

The Zoning Areas of Influence were created to safeguard communities and 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, that 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 BoCC and the cities this action threatens.

Reviewing boundaries and growth patterns on a regular basis is smart government. To eliminate these Zoning Areas of Influence and the Review Authority they provide would only serve to centralize power and create long term issues affecting the cities and county alike.

We the undersigned would encourage the Metropolitan Planning Commission 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,

Hon. Burt Ussery, Mayor  
Laura Papish, Council President  
Chris Griffin, Council Member  
Paul Clark, Council Member  
Austin Wood, Council Member  
Ron Marsh, Council Member

The Clearwater Planning Commission,

Mike Cass, Vice Chairman  
Mike Marchart, Commissioner  
Ron Witt, Commissioner  
Jennifer Clark, Commissioner  
In Absentia:  
Dick Croft, Commissioner  
George Rudy, Commissioner  
Crystal Luckner, Commissioner



**RECEIVED**  
SEP 01 2015  
BY: \_\_\_\_\_

**THE CITY of MOUNT HOPE**

316-661-2211  
fax: 316-661-2212  
112 West Main  
Mount Hope, Kansas 67108

Date: August 12, 2015

Wichita-Sedgwick County MAPD

The City of Mount Hope is strongly opposed to the action by the Sedgwick County Commission to eliminate the zoning area of influence jurisdiction that the cities of Sedgwick County now have. We also oppose reduction in the area of influence to the "Area of growth" shown on MAPD maps.

The residents of the cities in the county know their areas of the county and what should and should not be allowed as it relates to zoning and development. The cities have planning and zoning commissions to handle these issues.

Some of the cities, including the City of Mount Hope, have their own fire department and the possibility of an industry or large development could require an increase in our capability to protect our residents. These departments are **not** first responders as stated at the last MAPC meeting, but are in actually responsible for their fire district.

George Dick  
Mount Hope City Clerk/Zoning Administrator

Dwayne McCaskill, Council member

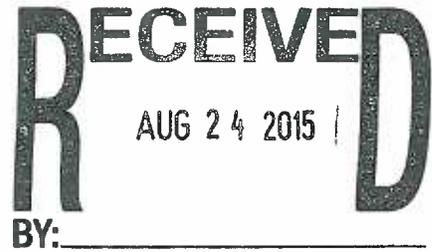
Amanda Buoy, Council member

Terry Somers, Mayor

Rex Reynolds, Council member

Don McCaskill, Council member

Jessica Klingenberg, Council member



August 18, 2015

Wichita – Sedgwick County MAPC  
455 N Main, 10<sup>th</sup> Floor  
Wichita, KS 67202

RE: Case # DER2015-00005 – Zoning Area if Influence

Dear Planning Commission:

We sincerely appreciate your deferral of Case # DER2015-00005 which eliminates the zoning area of influence (ZAOI) to your September 17<sup>th</sup> meeting and requesting Bel Aire to give written response. The Bel Aire City Council reviewed the proposed change at our workshop on August 11<sup>th</sup>, and subsequently voted unanimously on August 18<sup>th</sup> that I, as Mayor, send this letter opposing any change in the zoning area of influence.

The current zoning area of influence was adopted by the Sedgwick County Commission in 1985 as part of county-wide zoning. This three mile area was given to cities to ensure growth would not be detrimental to a city and that should the parcel be annexed, it would then become an issue of the cities to deal with. The Governing Body believes this is a vital piece of county-wide zoning which protects the residents of a city from uses that could reduce property values, create a nuisance or become unsightly thereby inhibiting the growth and economic development of cities. We believe the current system has worked very well for thirty years and should continue.

Bel Aire utilizes its own Planning Commission consisting of seven appointed members. Two of those members must live outside the city limits but within the three mile ZAOI. This ensures property owners who are not Bel Aire residents, but live close by, have input in zoning matters not just of Bel Aire but also within that three mile area. Bel Aire works closely with our county neighbors by including them in our zoning issues making the current system effective and it should continue as it is.

Thank you for your willingness to serve on the Wichita-Sedgwick County MAPC. We understand the commitment it takes from residents and have council members who've served in such capacities. Feel free to contact myself or our City Manager, Ty Lasher, if we can be of further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "David Austin".

David Austin  
Mayor



July 8, 2015

Sedgwick County/City of Wichita  
Metropolitan Area Planning Commission  
455 N. Main St., 10<sup>th</sup> Floor  
Wichita, KS 67202  
ATTN: Matt Goulsby, Chairman

RE: Case No. DER 2015-00005 - Proposed Amendment to Unified Zoning Code  
to Eliminate Zoning Area of Influence Authority

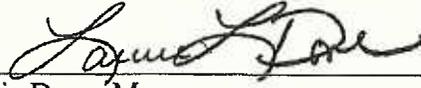
Dear Chairman Goulsby:

The Valley Center, Kansas City Council discussed on July 7, 2015, the proposed change to the zoning ordinance of the Uniform Code proposed by the Sedgwick County Commission eliminating the Zoning Area of Influence Authority currently provided for in the Code since 1985. It is the belief of a majority of the Council, determined by a vote, that the Code should not be amended to delete this protection.

The current system of a public hearing before a City's Planning Commission and one before the MAPC insures local, affected citizens are given a chance to be heard on a proposed development. In addition, it promotes enhanced communication between the local Planning Commissions and the MAPC as a means of understanding local customs, development patterns and economies facilitating more informed planning decisions.

As the County memo also notes, the MAPC sees "little value to be gained by its elimination." The Valley Center, Kansas, Council sees the value to an affected city, as also noted in the County's memo, of "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 . . ."

Again, the City Council of Valley Center, Kansas, recommends denial of this proposed amendment.



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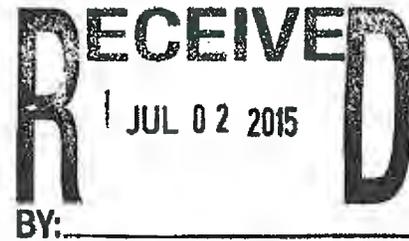
Laurie Dove, Mayor  
Valley Center, Kansas

Cc: VC City Council  
VC Planning Commission



For a day, a week, a lifetime.

6110 North Hydraulic  
Park City, KS 67219-2499  
Tel 316-744-2026  
Fax 316-744-3865



July 1, 2015

Mr. Matt Goolsby, Chairman  
Wichita-Sedgwick County  
Planning Commission  
455 N. Main, 10<sup>th</sup> Floor  
Wichita, KS 67202

Re: Zoning Area of Influence

Dear Mr. Goolsby:

It has been brought to our attention there has been a movement towards doing away with the *Zoning Area of Influence* for Cities in Sedgwick County. We also understand you will be holding a hearing to discuss this matter later next month.

The City of Park City Governing Body unanimously opposes getting rigid of the Zoning Area of Influence for the following reasons:

- It provides a means for cooperation between County and City planners.
- It allows other cities to view areas that another city might view as an area that they feel might be in their natural growth area.
- It protects property owners against poor zoning on either side of a city limit.
- It gives a city an opportunity to let their views to be known adjacent to its city limits, both to MAPC, and the Board of County Commissioners.
- The Board of County Commissioners still have the final say on zoning.

Please share my letter with other Board members.

Yours truly;

PARK CITY, KANSAS

Ray Mann, Mayor

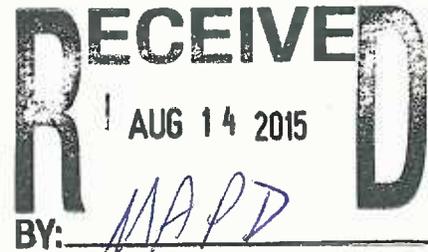
CC: Chairman Bill Johnson of the Advance Plans Committee  
John Schlegel, Director of MAPD  
Commissioner Richard Ranzau



# CITY OF MULVANE

211 NORTH SECOND STREET  
MULVANE, KANSAS 67110  
(316) 777-1143  
(316) 777-4081 (Fax)

8/6/15



Metropolitan Area Planning Commission  
Attn. Dale Miller  
455 N. Main Wichita, Ks. 67202-1688

RE: Zoning Area of Influence

Thank you for the opportunity to respond to the proposal of changing the regulations concerning the Zoning Area of Influence (ZAOI).

It has been said to plan for the future you should look at the past. Before the County adopted Countywide zoning regulations cities of Sedgwick County could have had Extraterritorial jurisdiction (ETJ). This gave cities complete zoning authority in a specific area outside of their city boundaries. The majority of the 55 counties in Kansas that have adopted County wide Zoning still grant cities within their counties Extraterritorial jurisdiction. In the 1980's when Sedgwick County established County wide zoning they created the ZAOI. This is unique to Sedgwick County and is a less than optimal way for a city to control its growth. The need for cities to have control of the area around them is almost universally recognized thru various studies and numerous court hearings. It would now appear the ability for a city to plan beyond its boundaries in Sedgwick county are going to be reduced or eliminated. Small cities struggle to expand when development happens outside their borders even when they have a say in what happens around them. An action that severely limits or eliminates planning outside of its borders could cause the city to change its growth direction perhaps at times even going around a problem development leaving the development without the ability to gain the advantage of city services.

One of the arguments submitted as a reason for the suggested change can work both ways. Representation for the County is supposed to be county wide when in effect some areas of the county are not represented on the MAPC at all and clearly half of the members on the MAPC are appointed by Wichita. At least with the current ZAOI each City has to have representatives on their planning commission who live in the County, giving a more accurate statement of representation. Even though the number of cases submitted under the ZAOI each year is small, the process has worked to the benefit of the small cities and ultimately to the County in general and worked well. While the City of Mulvane does not want the ZAOI eliminated because it has served everyone well for several years, it is felt that changing the voting requirements for the County Commission to a super majority instead of a unanimous vote would be fair.

Lastly, if the MAPC and the BOCC want to streamline this process and reduce the counties involvement then they should follow the lead of other counties in the state and grant EJT authority to the small cities that make up the majority their neighbors and associates . Approximately only seven percent of the people residing in Sedgwick County reside in the unincorporated area.

Regards,

A handwritten signature in black ink that reads "Jay Patterson". The signature is written in a cursive, flowing style.

Jay Patterson  
Chairman , Mulvane Planning Commission

*City of Colwich*



City Administrative Center  
310 S. Second Street  
Colwich, Kansas 67030  
(316) 796-1025

September 8, 2015

Wichita Metropolitan Area Planning Commission  
435 N. Main  
Wichita, KS 67202

Dear Commissioners:

The Colwich Planning Commission met on August 25, 2015 and reviewed the Sedgwick County Commissioners request to remove the Zoning Area of Influence for the communities throughout Sedgwick County. After careful review of the information provided in your packets, the correspondence from MAPC staff, and Colwich city staff's report, the Colwich Planning Commission respectfully requests that the issue of removing the area of zoning influence be dismissed and no changes made to the current practices as the current practices have served the area as a whole quite well.

The Colwich Planning Commission feel cases reviewed in the zoning area of influence provides the opportunity for neighbors to communicate with neighbors on development and growth affecting everyone surrounding the community within the established three mile radius. They also feel it is important that city departments have the opportunity to weigh in on applications that may tap resources of their department in ways the commissioners and neighbors may not be fully aware of.

Thank you for the opportunity to express our concerns and wishes. Thank you for serving the entire Sedgwick County area in this important matter.

Sincerely,

THE CITY OF COLWICH, KANSAS

A handwritten signature in cursive script that reads "Greg Tice". The signature is written in black ink and includes a small circular mark at the end.

Greg Tice, Chairperson  
Colwich Planning Commission



September 8, 2015

Dale Miller  
Metropolitan Area Planning Department  
via email [dmiller@wichita.gov](mailto:dmiller@wichita.gov)

Dear Dale:

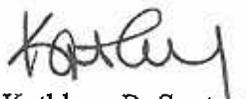
This letter is submitted in response to your memo of July 28 requesting an official written statement of the City of Derby's response to the proposal to eliminate zoning area of influence (ZAOI) jurisdiction. Derby's position remains as stated publicly to the Board of County Commissioners (BOCC) on June 10, the MAPC Advance Plans Committee on July 9, and the MAPC on July 23.

The City of Derby opposes elimination of this long-standing policy of having a city planning commission meeting occur for zoning cases in the county that are just outside our city limits. The City agrees with the Wichita Area Builders Association that informing area residents about development projects is good for the community and for the developer, and the ZAOI policy generally promotes healthy communication.

We understand the concerns raised with use of the ZAOI policy in certain areas of the county and believe some tweaking now might be in order. Changing the ZAOI boundaries to match the future growth areas would be a reasonable change, as would changing from a unanimous BOCC vote to a supermajority (4/5).

Thank you for the opportunity to participate in this discussion.

Very truly yours,

  
Kathleen B. Sexton  
City Manager

City of Derby  
City Manager's Office

611 N. Mulberry · Derby, KS 67037-3533 · 316-788-3132  
[CityManager@derbyweb.com](mailto:CityManager@derbyweb.com)

# CENTRAL PLAINS QUAD - COUNTY PLANNING FORUM

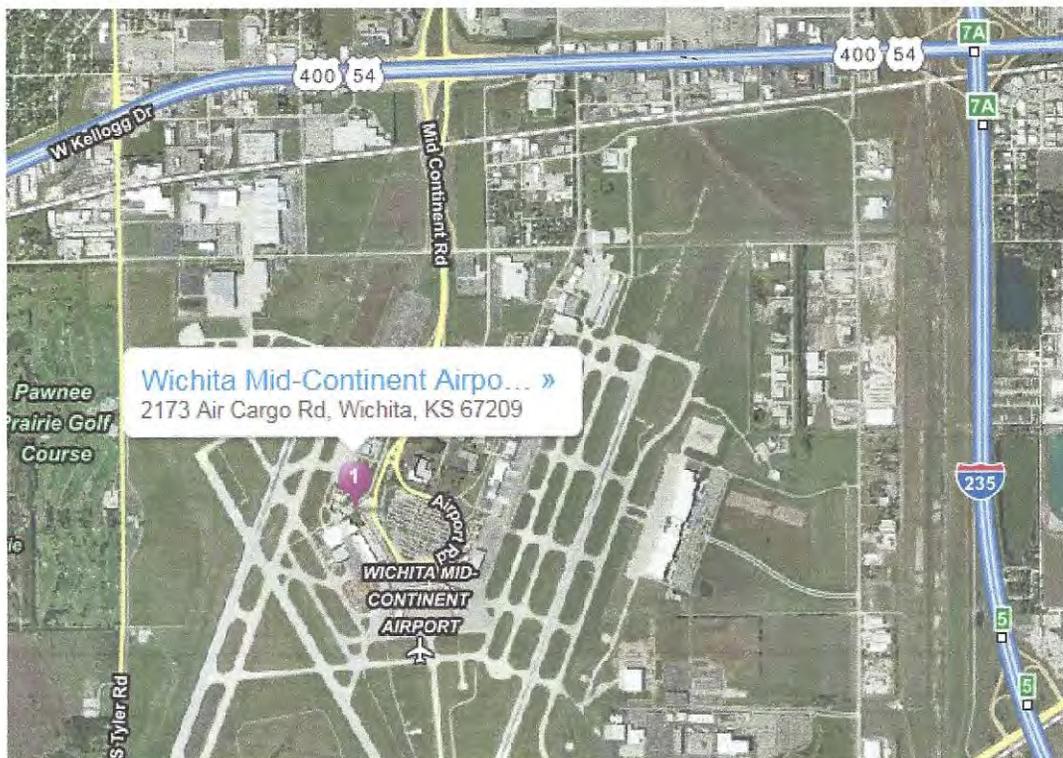


## NOTICE OF MEETING

The Central Plains Quad-County Planning Forum will hold a regularly scheduled meeting on Monday, September 21, 2015 at the new Eisenhower National Airport (formally Wichita Mid-Continent Airport), 2277 Eisenhower Parkway, Wichita, Kansas. Lunch will begin at 11:45 a.m., and is provided by Ray's Countryside Catering, Inc. Brad Christopher, Assistant Director of Airports, will deliver an overview of the new airport followed by a tour.

Upon your arrival, please park in the parking garage and a parking voucher will be made available to you at the meeting. Enter the airport through the main entrance and take the escalator/stairs up to the second level and enter the first room on the right, adjacent Airport Security.

Please RSVP by September 16, 2015 to Carol Cole at [carol.cole@sedgwick.gov](mailto:carol.cole@sedgwick.gov)



**Directions from El Dorado:** Merge onto US-54 W/US-400 W via EXIT 50 toward Wichita. Take the Eisenhower National Airport exit . Follow Eisenhower National Airport signage to Parking Garage. (Estimated travel time 40 minutes)

**Directions from Newton:** Take-135 S/US-81 S/KS 15 S, continue toward Wichita. Merge onto I-235 S via EXIT 11B. Merge onto US-54 W/US-400 W via EXIT 7B toward Kellogg. Take Eisenhower National Airport exit. Follow Eisenhower National Airport signage to Parking Garage. (Estimated travel time 34 minutes)