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WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION AGENDA
Thursday, January 7, 2016

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission will be held on **Thursday, January 7, 2016**, beginning at **1:30 PM** in the Planning Department Conference Room City Hall - 10th Floor, 455 N. Main Street, Wichita, Kansas. **If you have any questions regarding the meeting or items on this agenda, please call the Wichita-Sedgwick County Metropolitan Area Planning Department at 316.268.4421.**

1. Approval of the prior MAPC meeting minutes:

Meeting Date: December 3, 2015

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

Items may be taken in one motion unless there are questions or comments.
SUBDIVISION CASE DETAILS

- 2-1. **SUB2015-00045: One-Step Final Plat - HIEGER EAST 2ND ADDITION**, located east of 247th Street West, on the North side of 61st Street North (COUNTY)

Committee Action: APPROVED 4-1. Foster - No.
Surveyor: Ruggles & Bohm, P.A.
Acreage: 25.53
Total Lots: 9

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 – 10th Floor, City Hall, 455 N. Main Street, Wichita, Kansas

- 3-1. **VAC2015-00060: City request to vacate a utility easement contained in plattor's text on property**, generally located northeast of Oliver and Douglas Avenues, between First and Second Streets, on the west side of Pershing Avenue (235 N. Pershing Ave.)

Committee Action: APPROVED 5-0

PUBLIC HEARINGS

ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 PM

4. Case No.: ZON2015-00043 *****CASE WITHDRAWN BY CLIENT*****
Request: City zone change request from LC Limited Commercial to GC General Commercial with a Protective Overlay.
General Location: At the southwest corner of Lewis Street and Ellison Streets (north of Kellogg and Ease of Greenwich).
Presenting Planner: Derrick Slocum

5. Case No.: ZON2015-00050
Request: City zone change from NR Neighborhood Retail to LC Limited Commercial.
General Location: At the northeast corner of East Central Avenue and Old Manor (5308, 5314, 5320, 5326 E. Central Ave.).
Presenting Planner: Derrick Slocum
6. Case No.: ZON2015-00051
Request: City zone change from SF-5 Single-family Residential and GO General Office to LC Limited Commercial for a bank expansion.
General Location: East of South Seneca and one block north of 31st Street South (3122 S. Seneca St.).
Presenting Planner: Derrick Slocum
7. Case No.: CON2015-00037 *****CASE DEFERRED TO 1-21-2015*****
Request: County Conditional Use request for an Asphalt Plant or Concrete Plant on LI Limited Industrial zoned property.
General Location: On the west side of Woodlawn Boulevard/63rd Street East and 1/2 mile north of K-254.
Presenting Planner: Bill Longnecker
8. Case No.: CON2015-00038
Request: City Conditional Use for Ancillary Parking in TF-3 Two-family Residential zoning.
General Location: South of East Douglas Avenue and east of South Poplar Street (116 S. Poplar St.).
Presenting Planner: Jess McNeely

NON-PUBLIC HEARING ITEMS

9. Other Matters/Adjournment

Dale Miller, Secretary

Wichita-Sedgwick County Metropolitan Area Planning Commission

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

MINUTES

December 3, 2015

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, December 3, 2015 at 1:32 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Carol Neugent, Chair; John Dailey; Bob Dool; Bill Ellison; David Foster; Matt Goolsby; Joe Johnson; John McKay Jr.; Debra Miller Stevens; Bill Ramsey; John Todd and Chuck Warren. David Dennis and Lowell Richardson were absent. Staff members present were: Dale Miller, Director; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Jeff Vanzandt, Assistant City Attorney; Justin Waggoner, Assistant County Counselor and Maryann Crockett, Recording Secretary.

1. Approval of the October 15 and November 5, 2015 Planning Commission Minutes:

MOTION: To approve the October 15, 2015 minutes.

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

MOTION: To approve the November 5, 2015 minutes.

WARREN moved, **RAMSEY** seconded the motion, and it carried (9-0-3). **JOHNSON**,
MCKAY and **NEUGENT** – Abstained

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

There were no Subdivision Items.

3. **PUBLIC HEARING – VACATION ITEMS**

3-1. **VAC2015-00053: City request to vacate a street side yard setback established by vacation on property,** generally located northeast of MacArthur and Maize Roads on the northwest corner of York and Norman Streets.

OWNER/AGENT: Red House Partners, LLC (owners) Evans Building Company, c/o William Johnson (agent)

LEGAL DESCRIPTION: Generally described as vacating the 40-foot street side yard building setback, established by Vacation Order VAC2002-00017, that runs parallel to the east property line of Lot 5, Block C, Mid-Continent Industrial Park I Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located northeast of MacArthur and Maize Roads on the northwest corner of York and Norman Streets (WCC #IV)

REASON FOR REQUEST: Future development

CURRENT ZONING: Subject property and all abutting and adjacent properties are zoned LI Limited Industrial.

The applicants are requesting consideration to vacate the 40-foot street side yard building setback established by Vacation Order VAC2002-00017 (approved by City Council July 2, 2002), which runs parallel to the east property line of a portion of the corner site; Lot 5, Block C, Mid-Continent Industrial Park I Addition. VAC2015-00017 vacated the west 10-feet of the planted 50-foot street side yard setback. The Unified Zoning Code (UZC) defines a front yard building setback on corner lots as being located along the shorter street frontage, with the longer frontage being the street side yard building setback; UZC, Sec.II-E.1(6). The corner site abuts York Street on its south side and Norman Street on its east side. York Street is the shorter frontage making the south side of the site the front yard and the longer Norman Street frontage along the east side of the site the street side yard.

The corner site is zoned LI Limited Industrial. The LI zoning district has a zero street side yard building setback, which is what the applicant is requesting. There are water lines, water valves and water nodes in the area of the vacation that cross east-west thru the north-south setback; there are no platted easements located over these utilities. Other water lines/equipment and sewer equipment are located in the east 10-feet of the subject site and are covered by an easement dedicated by separate instrument; need copy of recorded instrument. Power poles are located east of the site in the east side of the Norman Street right-of-way. Westar Energy has equipment that feeds that customer that may be located in the area they are requesting to vacate. If it is located in that area, the customer can either retain that portion as easement or they can relocate it but that will be at their expense. Conditions #2 and #3 will cover Westar. Brian Ward, Supervisor, Design Services is the contact for this item. He can be contacted at 261-6734. The Mid-Continent Industrial Park I Addition was recorded with the Register of Deeds March 2, 1976.

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/Storm Water, 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 describe portion of the street side yard building setback established by a vacation order.

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 November 12, 2015, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by vacating the described portion of the street side yard building setback established by a vacation order 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 40-foot street side yard building setback, established by Vacation Order VAC2002-00017, which runs parallel to the east property line of the corner site; Lot 5, Block C, Mid-Continent Industrial Park I Addition. The street side yard building setback will be zero feet, as allowed by the subject corner site's Limited Industrial zoning, if Public Works agrees to a hold harmless agreement that would allow encroachment into the 10-foot wide utility easement dedicated by separate instrument. If the hold harmless agreement is not issued the setback will be 10-feet.
- (2) Any relocation or reconstruction of utilities, made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide all utilities, with any needed plans for review for relocation of utilities. Provide a guarantee or approved plans for the relocation of any utilities. This must be provided to Planning prior to this case going to City Council for final action.
- (3) As needed provide all utilities, including Water, with easements dedicated by separate instrument(s) with original signatures. The original public easement(s) dedicated by separate instrument must be provided to Planning prior to the case proceeding to City Council with the Vacation Order for final action and subsequent recording at the Register of Deeds.
- (4) Provide a legal description of the vacated 40-foot street side yard building setback, 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. The legal description will be used on the Vacation Order.
- (5) All improvements shall be according to City Standards and at the applicant's expense.
- (6) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the 40-foot street side yard building setback, established by Vacation Order VAC2002-00017, which runs parallel to the east property line of the corner site; Lot 5, Block C, Mid-Continent Industrial Park I Addition. The street side yard building setback will be zero feet, as allowed by the subject corner site's Limited Industrial zoning, if Public Works agrees to a hold harmless agreement that would allow encroachment into the 10-foot wide utility easement dedicated by separate instrument. If the hold harmless agreement is not issued the setback will be 10-feet.

- (2) Any relocation or reconstruction of utilities, made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide all utilities, with any needed plans for review for relocation of utilities. Provide a guarantee or approved plans for the relocation of any utilities. This must be provided to Planning prior to this case going to City Council for final action.
- (3) As needed provide all utilities, including Water, with easements dedicated by separate instrument(s) with original signatures. The original public easement(s) dedicated by separate instrument must be provided to Planning prior to the case proceeding to City Council with the Vacation Order for final action and subsequent recording at the Register of Deeds.
- (4) Provide a legal description of the vacated 40-foot street side yard building setback, 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. The legal description will be used on the Vacation Order.
- (5) All improvements shall be according to City Standards and at the applicant's expense.
- (6) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

There were no public comments.

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

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

PUBLIC HEARINGS

4. **Case No.: ZON2015-00045** - Reichenberger Revocable Family Trust and Sandra Reichenberger (Owners), PlanScape Partners c/o Ronald Discus (Agent/Applicant) request a City zone change from SF-5 Single-family Residential to LC Limited Commercial on property described :

Lot 1, Mary Ellen Addition to Wichita, Sedgwick County, Kansas.

AND

The North 180 feet of the West 197 feet of the South Half of the Northwest Quarter of Section 27, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas; EXCEPT the North 30 feet and the West 40 feet thereof for road purposes.

AND

The South 150 feet of the North 330 feet of the West 197 feet of the South half of the Northwest Quarter EXCEPT the West 40 feet for road, Section 27, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas.

BACKGROUND: The applicant requests a rezone from SF-5 Single-family Residential (“SF-5”) to LC Limited Commercial (“LC”) zoning on three lots, one platted (501 S. Summitlawn Dr.) and two unplatted (500 and 526 S. Ridge Rd) lots equaling approximately 1.10 acres, located on the east side of Ridge Road and the south side of Taft Avenue. The parcels are currently developed with single-family residences.

The current neighborhood character is a mix of GC General Commercial (“GC”) and LC zoned shopping, restaurant and entertainment uses along Kellogg Dr., Mid-Continent Dr., Ridge Rd. and Taft Ave. The only remaining residential properties along this corridor are these two SF-5 zoned homes on the east side of Ridge Rd. and the one SF-5 zoned home on the south side of Taft Ave. The proposed zone change, from SF-5 to LC would require conformance to all property development standards in the Unified Zoning Code.

To the north of the application area (across Taft Ave.), the property is zoned LC and is developed with a collection of restaurants. South of the application area the property is zoned GC and still developed with a single-family residence. East of the subject site is property zoned GC (DP-151 The Dugan Center) and is developed with regional retail uses. West of the application area (across S. Ridge Rd.) is property zoned LC and developed with a theater and restaurants. US-54 (Kellogg) is located approximately 1,000 feet south of the application area, which is accessible from Mid-Continent Dr., but not S. Ridge Rd., which turns into a cul-de-sac just south of the application area.

CASE HISTORY: Two properties within this application are currently unplatted (500 and 526 S. Ridge Rd.) and 501 S. Summitlawn Dr. is platted as Lot 1, Mary Ellen Addition, recorded October 11, 1967.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Restaurants
SOUTH:	GC	Single-family Residence
EAST:	GC	Shopping Center
WEST:	LC	Movie Theater & Restaurants

PUBLIC SERVICES: The properties are located along Ridge Rd. and Taft Ave., northeast of Mid-Continent Dr. and Kellogg. The 2006 Average Daily Traffic Map showed 27,701 ADTs (average daily trips) for section of Mid-Continent Dr., west of the application area, and 10,823 ADTs for Taft, just north of the application area. The application area currently has two points of access onto Ridge Rd. and one onto Taft Ave. City water and sewer are available at the application area.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the application area, along with the entire surrounding area, as “Regional Commercial.” The application area is consistent with the “Commercial Locational Guidelines” of the Wichita-Sedgwick County Comprehensive Plan. Commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion, with the location of major commercial uses being coordinated with mass transit routes, high-density residential, employment and other intensive uses. Commercial development should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses and commercial uses should locate in compact clusters or nodes versus extended strip developments. Commercially-generated traffic should not feed directly onto local residential streets and commercial uses that are not located in planned centers or nodes (including large free-standing buildings, auto-related and non-retail uses) should be guided to other appropriate areas such as: the CBD fringe; segments of Kellogg; established areas of similar development; and, areas where traffic patterns, surrounding land uses and utilities can support such development.

RECOMMENDATION: This zone change request is in conformance with the Land Use Guide of the Comprehensive Plan and “Commercial Locational Guidelines.” A zone change to LC and the subsequent redevelopment will require the application area to be in compliance with the landscape ordinance; and to screen and deflect lighting from any residential neighbors. To be redeveloped, the applicant will be required to plat the two unplatted properties within the application area. Planning staff anticipates that platting will include complete dedication of access control with one point of access on Ridge Rd., and required cross-lot access agreements with all non-residentially zoned neighboring lots.

For the application proposing a rezone from SF-5 Single-Family Residential (“SF-5”) to LC Limited Commercial (“LC”) for 500 & 526 S. Ridge Rd. and 501 S. Summittlawn Dr., considering information available prior to the public hearings, planning staff recommends APPROVAL of the rezone request, subject to platting within one year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is a mixture of GC and LC zoning. The surrounding land uses are a mixture of restaurants, shopping centers, a theater, a single-family home, and an elevated highway. Landscape and screening requirements should help mitigate any negative impacts from the application area any residential neighbors.
2. The suitability of the subject property for the uses to which it has been restricted: The Land Use Guide of the Comprehensive Plan identifies the entire surrounding area as “Regional Commercial.” With a large CUP commercial development to immediate east, and past street improvements along Ridge and Taft, the entire surrounding area is currently being redeveloped for commercial uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of LC zoning on this property will increase traffic and the intensity of land uses in the immediate area. Designation of the entire surrounding area as “Regional Commercial” in the Land Use Guide of the Comprehensive Plan, and past street improvements on Ridge and Taft, have taken into consideration the redevelopment of the surrounding area for commercial uses.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested zoning change is in conformance with the Comprehensive Plan "Wichita Land Use Guide," and it is in conformance with the commercial locational guidelines of the plan.
5. Impact of the proposed development on community facilities: A zone change at the application area to LC will increase traffic along Ridge and Taft, the designation of the entire surrounding area as "Regional Commercial" in the Land Use Guide of the Comprehensive Plan, and past street improvements, have planned and accounted for increased traffic in this area.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

There were no public comments.

MOTION: To approve subject to staff recommendation.

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

-
5. **Case No.: ZON2015-00047** - Janice Thacker (Owner/Applicants) requests a City zone change request from T- 3 Two-family Residential to GC General Commercial on property described as:

Lots 4, 6 and 8, on Alice, now Greet Street, Fairmount Park Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant is requesting GC General Commercial ("GC") zoning on a 0.22-acre site, currently zoned TF-3 Two-family Residential ("TF-3"). The proposed use is a parking area, commercial, for the art studio and an open air retail market with outside display proposed to be developed just west of the site, across Green Street. The site is located at the southeast corner of East 13th Street North and North Green Street, just two blocks east of North Grove Avenue. The subject site currently is undeveloped.

Any development on the subject property, even a parking area, will be required to meet screening, compatibility standards and landscaping. For any proposed development, screening, buffer landscaping and compatibility standards will be required for the residential properties to the south and east. Any existing vegetation, on the subject property, that is left in place after the development of the site can be used to satisfy the buffer landscaping requirement. Access control would be reviewed, by the Traffic Engineer, according to the redevelopment of the site. There is currently one existing drive for the site.

Property to the north of the subject site (across 13th Street) is zoned GC and is developed with outdoor storage area. Property to the south of the subject site is zoned TF-3 and is developed with a single-family residence. To the west of the subject site (across Green Street) the property is zoned GC and is currently developed with a vacant single-family residence. Property to the east of the subject site is zoned TF-3 and is vacant, with a duplex further to the east, fronting Estelle Avenue.

CASE HISTORY: The property is platted as Lots 4, 6 and 8, Green Street, Fairmount Park Addition, which was recorded August 12, 1909.

ADJACENT ZONING AND LAND USE:

NORTH:	GC	Outdoor Storage
SOUTH:	TF-3	Single-family Residence
EAST:	TF-3	Vacant Land, Duplex
WEST:	GC	Vacant Single-Family Residence

PUBLIC SERVICES: The subject property has frontage along East 13th Street North (north side of property), a four-lane, paved, arterial road with approximately 35,000 Average Daily Trips (ADT's) near this location. Along the west side of the property runs North Green Street, a two-lane, paved, collector without traffic counts. Public water and sewer service are currently available to the subject property.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as "Urban Residential." This is the only corner of Green Street that is not identified as "Local Commercial." 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 (assisted living, congregate care and nursing homes). Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category."

RECOMMENDATION: While this proposed zone change does not exactly conform to the existing Land Use Guide of the Comprehensive Plan, this request would be in conformance at the other three corners of the intersection due to them being classified as Local Commercial. This proposed zone change is proposed to help serve the property to the east of the subject site (across Green Street) which was granted a zone change from TF-3 to GC by the MAPC on December 2, 2010 (ZON2010-00042). Thus, based upon the information available prior to the public hearings and past zone change requests in the area, planning staff recommends that the request be APPROVED, subject to the proposed Protective Overlay:

- A. The following uses shall not be permitted: hotel or motel; pawn shop; payday loan; rodeo; riding academy or stable; tattooing or body piercing facility; vehicle and equipment sales; asphalt or concrete plant; vehicle storage yard; adult entertainment establishment; massage therapist/parlor; correctional placement residence; recycling collection station; reverse vending machine; car wash; convenience store; kennel; night club; restaurant with drive-in or drive-thru facilities; service station; tavern and drinking establishment.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** Property to the north of the subject site (across 13th Street) is zoned GC and is developed with outdoor storage area. Property to the south of the subject site is zoned TF-3 and is developed with a single-family residence. To the west of the subject site (across Green Street) the property is zoned GC and is currently developed with a vacant single-family residence. Property to the east of the subject site is zoned TF-3 and is vacant, with a duplex further to the east, fronting Estelle Avenue.

2. **The suitability of the subject property for the uses to which it has been restricted:** The site could be developed with a single-family residential or duplex use under the current zoning.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Rezoning and commercial development could have negative effects on the single-family residences south and east of the application area. Existing codes would require compatibility setbacks, screening, landscaping, limit noise, and prohibit certain uses within 200 feet of residences.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The Land Use Guide of the Comprehensive Plan identifies this area as “Urban Residential.” This is the only corner of Green Street that is not identified as “Local Commercial.” 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 (assisted living, congregate care and nursing homes). Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category.”
5. **Impact of the proposed development on community facilities:** Traffic on the existing residential street could increase as a result of the proposed development. The site currently has a curb cut for access to North Green Street, a classified local street.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

There were no public comments.

MOTION: To approve subject to staff recommendation.

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

6. **Case No.: ZON2015-00048** - Merle Meeds, Charles Meeds and LaDonna Moss (Owner(s)/Applicants(s)) request a City zone change from TF-3 Two-family Residential to GO General Office on property described as:

The South half of lot 3, all of lots 4 and 5 and the ½ vacated alley on the South and all of vacated alley adjacent to lots 6 thru 10 EXCEPT the West 35 feet for street, Boyce & Taylor’s Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant requests a zone change from TF-3 Two-family Residential (“TF-3”) to GO General Office (“GO”) on a 0.97 acre site located south of East 9th Street North, along the east side of North Hillside Avenue (918 N. Hillside Ave.) The vacant site is 208 feet deep and 80 feet wide. The applicant indicates a desire to have the property rezoned to the same zoning of the properties to the north and south of the subject site to make the property more marketable.

GO zoning would allow the following land uses not permitted in the current TF-3 zoning: multi-family residential (at 75 units per acre), assisted living, group residence, cemetery, community assembly, correctional placement residence, day care, nursing facility, university or college, automated teller machine, bed and breakfast inn, broadcast/recording studio, funeral home, hotel or motel, recreational marine facility, medical service, general office and commercial parking area. Code standards would require a landscape plan to include parking lot screening, and would limit light pole height to 15 feet with lights shielded downward, preventing light trespass off the site. Maximum building height in the GO district is 60 feet.

Property north of the subject site is zoned GO and is currently vacant. South of the site, the property is also zoned GO and TF-3 and is developed with a medical office (GO zoned property) and single-family residence (TF-3 zoned property.) East of the subject site, the property is zoned TF-3 and is developed with a single-family residence. West of the subject site (across N. Hillside Ave.) the property is zoned GC General Commercial ("GC") and is developed as a mortuary/funeral home.

CASE HISTORY: The property was platted as the South ½ of Lot 3, all of Lots 4 and 5 and ½ the Vacated Alley on the South and Vacated Alley adjacent to Lots 6, 7, 8, 9 and 10, Except the West 35 Feet for Street, Boyce and Taylors's Addition on October 7, 1911.

ADJACENT ZONING AND LAND USE:

NORTH:	GO	Vacant Land
SOUTH:	GO and TF-3	Medical Office and Single-family Residence
EAST:	TF-3	Single-family Residence
WEST:	GC	Mortuary/Funeral Home

PUBLIC SERVICES: The site has access to North Hillside Avenue, a paved, four-lane arterial with a 94-foot right-of-way. Public water and sewer service are available at the subject property.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as "Local Commercial." This category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. On a limited presence basis, these areas may also include mini-storage warehousing and small scale, light manufacturing uses.

RECOMMENDATION: Staff finds that based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**.

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

- 1. The zoning, uses and character of the neighborhood:** Property north of the subject site is zoned GO and is currently vacant. South of the site, the property is also zoned GO and TF-3 and is developed with a medical office (GO zoned property) and single-family residence (TF-3 zoned property.) East of the subject site, the property is zoned TF-3 and is developed with a single-family residence. West of the subject site (across N. Hillside Ave.) the property is zoned GC General Commercial ("GC") and is developed as a mortuary/funeral home.

2. **The suitability of the subject property for the uses to which it has been restricted:** The site could be developed with a single-family residential or duplex use under the current zoning.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** GO zoning on this site could permit uses which may be incompatible with the residential neighborhood to the east. The limited size (0.97 acres) and limited depth of the site (208 feet) would likely prevent most objectionable uses from being developed on this site. Minimum code requirements regarding lighting, screening and landscaping should minimize potential impacts on nearby residences.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The Land Use Guide of the Comprehensive Plan identifies this area as "Local Commercial." This category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. On a limited presence basis, these areas may also include mini-storage warehousing and small scale, light manufacturing uses.
5. **Impact of the proposed development on community facilities:** Traffic on the existing arterial could increase as a result of any proposed development. The site currently has a curb cut for access to North Hillside Avenue, a classified arterial road.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

There were no public comments.

MOTION: To approve subject to staff recommendation.

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

7. **Case No.: ZON2015-00049 and CUP2015-00043** - Norma J. David and K-DA c/o Eric Larson (Owner), Baughman Company, P.A. c/o Russ Ewy (Agent) request a City zone change from LC Limited Commercial to GC General Commercial and CUP Community Unit Plan amendment to permit select GC General Commercial uses on property described as:

Lot 1, Block 1, Davis-Moore 13th Addition, Wichita, Sedgwick County, Kansas; TOGETHER WITH the East 130 feet of the West 140 feet of Lot 2, Block A, Hudson Addition to Wichita, Sedgwick County, Kansas; TOGETHER WITH Lot 1, Davis-Moore 5th Addition, Wichita, Kansas; TOGETHER WITH The West 110 feet of Lot 1, Universals First Addition to Wichita, Kansas; TOGETHER WITH the West 110 feet of Lot 2, except the South 160 feet, Universals First Addition to Wichita, Kansas; TOGETHER WITH that part of vacated Waverly Drive lying adjacent to said Universals First Addition, and said Davis-Moore 5th Addition.

BACKGROUND: The applicants request a zone change from LC Limited Commercial (LC) to GC General Commercial (GC) zoning and an amendment to DP-183, the Davis Moore Community Unit Plan (CUP). The CUP Amendment would add the following GC uses: Construction Sales and Service, Ancillary Fuel Storage, Outdoor Storage and Wholesale or Business Services. The amendment would also prohibit the following uses: Adult Entertainment, Sexually Oriented Business, Group Residence, Correctional Placement Residence, Asphalt/concrete Plants, Private Clubs, Taverns and Drinking Establishments. Restaurants that serve liquor can be developed and may serve liquor, as long as food is the primary service of the establishment. The CUP would continue to permit LC uses to include auto sales, leasing and service. The CUP has a wood screening fence along the south property line; the southeast corner of the CUP has a concrete parking garage which screens the residential neighborhood to the south from the CUP. The CUP would keep all other development standards in place regarding signage, light pole height, landscaping, etc. This zone change and CUP amendment request is generated by the applicant's desire to have outdoor storage of contractor's materials and equipment; the CUP and zoning code would require screening of that storage from surrounding properties and streets.

North of the site is the below grade Kellogg Expressway. The site is not visible from the lowered freeway, but is visible from the eastbound, at-grade Kellogg access drive. South of the site, across Orme and Eilerts is SF-5 Single-family Residential (SF-5) and TF-3 Two-family Residential (TF-3) zoning with duplex and single-family residences. East of the site, across Fabrique is TF-3 and LC zoning with duplex residential and car sales development. West of the site, across Lightner is TF-3 and LC zoning with duplex residential and vehicle repair development.

CASE HISTORY: The site was platted as four different additions: Universals 1st, Hudson, Davis Moore 5th and Davis Moore 13th between the years of 1965 and 1999. DP 183 was originally approved in 1988.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Kellogg Expressway, single-family residential
SOUTH:	TF-3, SF-5	Single-family residential, duplex
EAST:	LC, TF-3	Single-family residential, duplex, vehicle sales
WEST:	LC, TF-3	Single-family residential, duplex, vehicle repair

PUBLIC SERVICES: The CUP has seven access points from Kellogg Drive, and one minor access point from both Fabrique and Lightner. All other urban public services are available.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the site as "Regional Commercial." The Regional Commercial category encompasses major destination areas (centers and corridors) containing concentrations of commercial, office, and personal service uses that have predominately regional market areas and high volumes of retail traffic. These areas are located in close proximity to major arterials or freeways. The range of uses includes major retail malls, major automobile dealerships and big box retail outlets with a regional market draw. Regional Commercial areas may also include higher density residential housing and uses typically found in Local Commercial areas. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials, should locate in compact clusters or nodes versus extended strip developments, should not put commercially generated traffic on residential streets, and should have site design features which limit noise, lighting and other activity from adversely impacting surrounding residential areas.

RECOMMENDATION: The existing CUP has standards for signage, access, light pole height, landscaping and screening which improve compatibility with surrounding residences. The proposed zone change and CUP amendment would permit outdoor storage of contractor's materials and equipment. Staff feels that the CUP should ensure that this storage remains at a height visually screened from surrounding properties and public right of way. Based upon information available prior to the public hearings, planning staff recommends that the proposed CUP amendment and zone change be **APPROVED**, subject to the following conditions:

- A. The CUP General Provision #6 shall be amended to require that all outdoor storage of materials shall be visually screened from all surrounding properties and public right of way; materials shall not be stored or stacked to where they are visible above screening fences from surrounding properties or public right of way.
- B. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** North of the site is the below grade Kellogg Expressway. The site is not visible from the lowered freeway, but is visible from the eastbound, at-grade Kellogg access drive. South of the site, across Orme and Eilerts is SF-5 and TF-3 zoning with duplex and single-family residences. East of the site, across Fabrique is TF-3 and LC zoning with duplex residential and car sales development. West of the site, across Lightner is TF-3 and LC zoning with duplex residential and vehicle repair development.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned LC, but can only be used for vehicle sales, leasing and service. The proposed zone change and CUP amendment will increase use flexibility for this site.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The proposed outdoor storage use of this site should have no impact on nearby property provided the outdoor storage is adequately screened.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the site as "Regional Commercial." The Regional Commercial category encompasses major destination areas (centers and corridors) containing concentrations of commercial, office, and personal service uses that have predominately regional market areas and high volumes of retail traffic. These areas are located in close proximity to major arterials or freeways. The range of uses includes major retail malls, major automobile dealerships and big box retail outlets with a regional market draw. Regional Commercial areas may also include higher density residential housing and uses typically found in Local Commercial areas. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials, should locate in compact clusters or nodes versus extended strip developments, should not put commercially generated traffic on residential streets, and should have site design features which limit noise, lighting and other activity from adversely impacting surrounding residential areas.

5. **Impact of the proposed development on community facilities:** The proposed zone change and CUP amendment should have minimal impact on community facilities, and no more impact than previous uses on this CUP.

JESS MCNEELY, Planning Staff presented the Staff Report.

FOSTER referenced the conditions stated on the planning document eliminating the requirement for a masonry wall along the south side of Orme Street and making it a wooden fence. He said one of the reasons given is possible expansion. He said he can't see the applicant going across Orme Street to expand. He asked if staff was comfortable with that provision and asked about the discussion regarding the condition.

MCNEELY commented that condition has been on the plan quite a few years. He said staff did not see changing the use into a contractor's yard as an opportunity to change out the existing screening fence with a masonry wall. He recommended keeping the provision as it has been for years.

DAILEY asked what happens if they don't maintain the fence.

MCNEELY replied that was a Code Enforcement issue.

There were no public comments.

MOTION: To approve subject to staff recommendation.

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

8. **Case No.: CUP2015-00042** - Charles Koch Foundation (Owner), Wichita Center for the Arts, c/o Katy Dorrah, PEC, P.A. c/o Isaac Krumme (Agent) request a City CUP Amendment to DP-144 Parcel 1 to uses, building restrictions, signs and parking; in LC Limited Commercial zoning on property described as:

Lots 1 and 2, Fairfield Estates, Wichita, Sedgwick County, Kansas.

BACKGROUND: The undeveloped application area is Parcel 1 of DP-144, The Fairfield Commercial Community Unit Plan (CUP), a 26.4-acre site at the southwest corner of East 13th Street North and North Rock Road. The applicants wish re-locate the Wichita Center for the Arts to this location with the following uses permitted by the CUP: Community Assembly, Parks and Recreation, Single-family Residential, Entertainment Establishment, Event Center, Nightclub, Retail Sales, Automated Teller Machine, Offices, Restaurants (excluding drive-up or drive-in service), and Personal Services. The CUP would prohibit supermarkets and service stations on this parcel. The applicants wish to provide rental space for receptions where entertainment and dancing would be permitted and alcohol would be served, hence the Nightclub use request. The applicants wish to provide space for an artist's residence, hence the Single-family Residential request. Other amendments to the CUP include: reducing the required parking on the site by 25% with a provision for shared parking with the church west of the site; provision for LED signs; elimination of a commercial building architectural consistency requirement; increase in permitted building height from 35 to 50 feet; and an increase in the total number of permitted buildings from three to four.

The application area is the only undeveloped parcel within the CUP. Parcels 2 and 3, south of the application area, are both zoned GO General Office (GO) and developed with offices. North of the site, across 13th Street North, is an MF-18 Multi-family Residential (MF-18) zoned patio home development. South of the site are GO zoned offices within the same CUP. East of the site, across Rock Road, is an SF-5 Single-family Residential (SF-5) zoned golf course and country club. West of the site is a GO zoned church, offices and apartments developed under CUP DP-146.

CASE HISTORY: The site was rezoned to LC with DP-144 in 1985 and was platted as the Fairfield Estates Addition in 1986.

ADJACENT ZONING AND LAND USE:

NORTH:	LC, MF-18	Patio homes
SOUTH:	GO	Offices
EAST:	SF-5	Private golf course
WEST:	GO, DP-146	Offices, multi-family residences

PUBLIC SERVICES: The existing CUP grants this site two access points to 13th and three access points to Rock. However, the proposed site plan (see attached) shows only one access point to each street. The proposed CUP amendment would defer to the City Traffic Engineer to determine if accel/decel lane improvements are necessary. Based on linear frontage, the City Traffic Engineer recommends that access spacing meet the access management guidelines. And, the Traffic Engineer recommends requiring sidewalk connections between buildings in the CUP and the arterial street sidewalks along 13th and Rock. 13th is a four-lane arterial with a 110-foot right of way (ROW) and a central turn-lane at the Rock intersection. This portion of 13th has a traffic count of 15,282 vehicles per day. Rock is a four-lane arterial with a 90-foot ROW and a central turn-lane at the 13th Street intersection. This portion of Rock has a traffic count of 30,275 vehicles per day. All typical urban services are available.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “local commercial.” The local commercial category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw.

RECOMMENDATION: The applicant’s CUP amendment request is to accommodate the Wichita Center for the Arts. This proposed institutional use should have less impact on surrounding properties and public infrastructure than the commercial uses intended by the original CUP. The applicants want the ability to have rented functions with dancing, entertainment and alcohol service, therefore they requested “Nightclub” as a permitted use. Staff feels that this use can be tailored to prevent a regular occurring commercial nightclub from impacting the surrounding neighborhoods.

Based upon the information available prior to the public hearings, planning staff recommends that the request for an amendment to DP-144 Parcel 1 to uses, parking, building restrictions and signs be **APPROVED** subject to the following conditions:

- (1) Parcel 1 uses shall be amended to state that the Nightclub use shall be for rented and special occasions only, and shall not be regularly open to the general public.

- (2) General Provision #1 shall be amended to state: "Access openings per access management guidelines as approved by the Traffic Engineer."
- (3) A general provision shall be added stating: "A pedestrian circulation plan shall be approved by Planning Staff and the Traffic Engineer demonstrating accessible pedestrian access to all buildings from the arterial street sidewalks."
- (4) The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days of approval or the request shall be considered denied and closed.
- (5) If the Zoning Administrator finds that there is a violation of any of the conditions of the CUP amendment, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the CUP amendment null and void.

This recommendation is based on the following findings:

- (1) The zoning, uses and character of the neighborhood: The application area is the only undeveloped parcel within the CUP. Parcels 2 and 3, south of the application area, are both zoned GO and developed with offices. North of the site, across 13th Street North, is an MF-18 zoned patio home development. South of the site are GO zoned offices within the same CUP. East of the site, across Rock Road, is an SF-5 zoned golf course and country club. West of the site is a GO zoned church, offices and apartments developed under CUP DP-146.
- (2) The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC with DP-144 use restrictions and development standards, and could be developed for a number of uses under those restrictions. However, the site has been vacant as zoned since 1985.
- (3) Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed amendments are to accommodate an institutional and recreational use which should have less impact on nearby property than the commercial uses originally intended by the CUP.
- (4) Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "local commercial." The local commercial category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw.
- (5) Impact of the proposed development on community facilities: The requested CUP amendment should have less impact on community facilities than the commercial uses originally intended by the CUP. Existing community facilities will accommodate the proposed use, accel and decel lane improvements will be required if determined necessary by the City Traffic Engineer.

JESS MCNEELY, Planning Staff presented the Staff Report.

There were no public comments.

MOTION: To approve subject to staff recommendation.

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

9. **Case No.: CON2015-00025** - Kelly W. Ast (Owner) and Dr. Charles Coleman (Applicant) request a City conditional use for an event center and nightclub on LC Limited Commercial zoned property described as:

The South half of lot 135 and all of lots 137, 139 and 141, Hydraulic Avenue, Burr's Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant is requesting consideration for a Conditional Use for an "event center" and a "nightclub in the city" on the LC Limited Commercial (LC) zoned platted property located north of Kellogg Street on the west side of Hydraulic Avenue. The applicant proposes to provide a venue for events, such as weddings, birthdays, church functions, fraternal functions, a reception venue and similar activities. The serving of food is an option at these events. Dancing with DJ provided music or live music is an option for the events. The serving and consumption of alcoholic liquor or cereal malt beverages (drinks) on the site is an option for the events. An establishment that serves unrestricted amounts of alcohol for consumption on site and that also provides live entertainment or dancing is defined as a nightclub in the city; UZC Unified Zoning Code (UZC) Sec.II-B.9.b. When a LC zoned proposed nightclub in the city is located within 300-feet of a church, public park, school or residential zoning district a Conditional Use is required: UZC Sec.III-D.6.w. B Multi-Family Residential (B) zoned property is located less than 70-feet east of the site, across Hydraulic Avenue. The unoccupied event center-nightclub portion of the site is located in the east half of a small one-story commercial strip building (built 1950). The west half used to house the Night Owl bar. Staff has found no previous conditional use or use exception for a tavern/drinking establishment or nightclub for this site. Staff found no other tavern/drinking establishments, nightclubs or event center-nightclubs located in the neighborhood.

The applicant proposes that the nightclub and event center-nightclub operate; Friday-Saturday, 5:00 p.m.-1:30 a.m., Monday-Wednesday, 5:00 p.m.-11:00 p.m., Thursday, 5:00 p.m.-12:45 a.m. and Sunday, 5:00 p.m.-12:45 a.m. The west nightclub portion is open to the general public. The east event center-nightclub portion is rented out for public or private activities that are not repeated on a weekly basis, and that are not open to the public on a daily basis at times other than when an event is scheduled; UZC Sec.II-B.4.m. Enforcement of the proposed operations is problematic, as the Metropolitan Area Building and Construction Department's Code Enforcement division (OCI) is not active during the proposed hours or on the weekends.

The applicant has stated that the Fire Marshal has posted an occupancy of 102 people for the west nightclub portion of the site. A nightclub requires one parking space for two people, meaning the nightclub portion would need 51 parking spaces. The applicant has stated that unoccupied event center-nightclub portion does not have a posted occupancy. OCI has stated that it is 2,200-square feet in size. Applying 15-square feet of space needed per occupant, or 30-square feet per two occupants for one parking space, the site would need to provide another 77 parking spaces for a total of 126 parking spaces. The required parking for the this total could vary more or less depending on the Fire Marshall's approved occupancy.

The site plan shows 17 marked parking spaces located in the front and the interior side of the subject building and another 12 marked parking spaces located in front of the north, adjacent commercial strip building. The applicant's site and the adjacent commercial strip building have the same owner. The proposed 5 p.m. starting time for the nightclub (and event center-nightclub) is possibly towards the end of the business day for the veterinary clinic, the barber shop and the other occupants of the owner's adjacent commercial strip building, thus the possibility of shared parking. If shared parking is possible there is a total of 29 parking spaces available, which is 97 parking spaces short of the required 126 parking spaces. Staff has received complaints from neighboring property owners about the site's customers parking their cars in their parking lots and blocking the alley. The parking issue could possibly be addressed by a variance or off-site parking agreements. However, a variance would probably not resolve the neighbors parking issues.

The neighborhood located west of the site is a predominately GC General Commercial (GC) and LI Limited Industrial (LI) zoned mix of small office-warehouses, contractors, offices, professional services, some multi-family residences and scattered single-family residences. GC zoned office-warehouse, maybe a vacant building, offices and a car repair (body) business are adjacent to the site, west across a paved 20-foot wide, north-south alley. A LC zoned professional services office and office-warehouse (built 1962) are located south of the site. A look alike commercial strip building is located north of the site, housing a veterinary clinic, a barber shop and unoccupied store fronts. The site and the other strip building share common parking. B and GO General Office (GO) zoned four-plexes, a small apartment and a vacant duplex are located east of the site, across Hydraulic Avenue.

CASE HISTORY: The site described as the south half of Lot 135, all of Lots 137, 139, 141, Hydraulic Avenue side, Burrs Addition. The Burrs Addition was recorded February 18, 1886. Staff has found no previous conditional use or use exception for a tavern/drinking establishment or nightclub for this site. Staff has received complaints from neighboring property owners about the site's customers parking their cars in their parking lots and blocking the alley.

ADJACENT ZONING AND LAND USE:

<u>NORTH:</u>	LC	Commercial strip buildings, four-plex, small retail
<u>SOUTH:</u>	LC	Offices
<u>EAST:</u>	B, GO	Small apartment, four-plexes, vacant duplex
<u>WEST:</u>	GC	Offices, office-warehouse, car repair

PUBLIC SERVICES: The site has direct access onto Hydraulic Avenue a curbed, paved four-lane, two-way arterial street at this location. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" depicts this location as being appropriate for "local commercial," which contains concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes: medical or insurance offices, auto repair or service stations, grocery stores, florist shops, restaurants and personal service facilities. The purpose of the LC zoning District is to accommodate retail, commercial, office and other complementary land uses. The LC zoning is generally compatible with the local commercial designations of the Wichita-Sedgwick County Comprehensive Plan.

When a LC zoned proposed nightclub in the city is located within 300-feet of a church, public park, school or residential zoning district a conditional use is required. The LC zoned site less than 70-feet from residential zoning, thus the conditional use request. A LC zoned site needs to have direct access onto an arterial street to direct traffic away from residential neighborhoods. The site has direct access onto Hydraulic Avenue a curbed, paved four-lane, two-way arterial street. If approved, there would be an expansion of a legal non-conforming use in what used to be the Night Owl bar.

RECOMMENDATION: The site lacks the required parking. Based on the applicant's and OCI's information on the site, 126 parking spaces are needed but the site can only provide 29 parking spaces; the site is 97 parking spaces short of the required parking. The parking issue could be addressed by a variance or off-site parking agreements. However, a variance would probably not resolve the issue of parking on neighboring properties or parking in the west abutting paved alley. Enforcement of the proposed operation is problematic, as OCI is not active during the proposed hours or on the weekends. The proposed nightclub and event center-nightclub appears to be too ambitious for the site. However, there is the possibility that the applicant could acquire additional parking located within 600-feet of the subject site; UZC Sec.IV-9. & 10. The applicant should be given the opportunity to resolve parking with a deadline. If the parking is not resolve before the deadline the request would be closed and marked denied. Based upon information available prior to the public hearings, planning staff recommends that the request for a nightclub in the city be APPROVED, subject to the following conditions:

- (1) Off-site parking agreements shall be provided within 60-days of approval by the MAPC. These off-site parking agreements must provide at least 50% of the required parking or more per the standards of UZC Sec.IV-9. & 10. If the parking is not resolved with the 60 day deadline, CON2015-00025 shall be marked closed and denied. The event center-nightclub located in the east 2,200-square feet of the commercial strip building will not operate until condition #1 is successfully resolved.
- (2) Denial of CON2015-00025 will not take away the non-conforming use rights of the west 2,200-square feet of the old Night Owl west 2,200-square feet portion of the commercial strip building, which has current licenses for night club, drinking establishment, which are scheduled to expire March 17, 2016.
- (3) A revised site plan shall be submitted for review and approval within 60 days of approval by the MAPC or CON2015-00025 shall be marked closed and denied.
- (4) The nightclub and event center-nightclub shall operate; Friday-Saturday, 5:00 p.m.-1:30 a.m., Monday-Wednesday, 5:00 p.m.-11:00 p.m., Thursday, 5:00 p.m.-12:45 a.m. and Sunday, 5:00 p.m.-12:45 a.m. The west nightclub portion is open to the general public. The east event center-nightclub portion is rented out for public or private activities that are not repeated on a weekly basis, and that are not open to the public on a daily basis at times other than when an event is scheduled. The event center-nightclub shall be made available for weddings, birthdays, church functions, fraternal functions, a reception venue and similar activities
- (5) No outdoor entertainment, music, speakers, recreation or food preparation or food consumption is permitted on the site.
- (6) The applicant shall comply with all applicable development standards of the UZC.
- (7) The applicant shall obtain, maintain, and comply with all applicable permits and licenses necessary for the operation of a nightclub in the city.
- (8) The applicant shall file a covenant with the Register of Deeds noting the Conditional Use and its conditions attached to the south half of Lot 135, all of Lots 137, 139, 141, Hydraulic Avenue side, Burrs Addition.

- (9) 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 neighborhood located west of the site is a predominately GC and LI zoned mix of small office-warehouses, contractors, offices, professional services, some multi-family residences and scattered single-family residences. GC zoned office-warehouse, maybe a vacant building, offices and a car repair (body) business are adjacent to the site, west across a paved 20-foot wide, north-south alley. A LC zoned professional services office and office-warehouse (built 1962) are located south of the site. A look alike commercial strip building is located north of the site, housing a veterinary clinic, a barber shop and unoccupied store fronts. The site and the other strip building share common parking. B and GO General Office (GO) zoned four-plexes, a small apartment and a vacant duplex are located east of the site, across Hydraulic Avenue.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC, which allows a wide variety of retail, office and residential uses. The LC zoning is the common zoning of the properties located on the west side of Hydraulic Avenue, with the less restrictive GC and LI zoning covering those properties located west of the site, with no frontage on Hydraulic Avenue. There appears to be no tavern/drinking establishments, nightclubs or event center-nightclubs located in the neighborhood.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The site appears to have been a long time non-conforming tavern/drinking establishment, the Night Owl bar. Allowing the proposed expansion via a conditional use for an event center-nightclub without resolving the required parking means the problem of the site's patrons parking on the neighboring properties without permission remaining a constant source of transgression of the neighboring owner's property rights.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide" depicts this location as being appropriate for "local commercial," which contains concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes: medical or insurance offices, auto repair or service stations, grocery stores, florist shops, restaurants and personal service facilities. The purpose of the LC zoning District is to accommodate retail, commercial, office and other complementary land uses. The LC zoning is generally compatible with the local commercial designations of the Wichita-Sedgwick County Comprehensive Plan.

When a LC zoned proposed nightclub in the city is located within 300-feet of a church, public park, school or residential zoning district a conditional use is required. The LC zoned site less than 70-feet from residential zoning, thus the conditional use request. A LC zoned site needs to have direct access onto an arterial street to direct traffic away from residential neighborhoods.

The site has direct access onto Hydraulic Avenue a curbed, paved four-lane, two-way arterial street. If approved, there would be an expansion of a legal non-conforming use in what used to be the Night Owl bar.

5. Impact of the proposed development on community facilities: Approval could trigger more calls to the Police Department and OCI, in regards to unruly behavior as a result of intoxication.

BILL LONGNECKER, Planning Staff presented the Staff Report. He said the primary concern of surrounding neighbors is the lack of parking on site. He said the applicant will be required to provide an off-site parking agreement to the MABCD recorded with the Sedgwick County Register of Deeds within 60 days of approval of the conditional use.

ELLISON asked if the west parking lot is owned by the same people who own the two buildings. He asked if that parking is used for some particular use.

LONGNECKER responded that lot was owned by someone else. He said he has not heard from that property owner so he cannot answer the question about how the parking is used. He said that could be a potential site for an off-site parking agreement.

JOHNSON asked how many parking spaces the applicant is short.

LONGNECKER referred to the Staff Report that indicated 126 parking spaces are needed and they are 97 parking spaces short. He said the application is addressing the possible expansion and additional parking that would be needed to allow the applicant to operate the event center.

DAILEY mentioned a typographical error on #2 under conditions "...2016." He also asked if this could be deferred until the applicant gets the parking permissions.

LONGNECKER said the clock starts ticking on the parking agreements from the date of approval of the rezoning application. He said if the applicant feels they need more time than 60 days, they can make that request.

MILLER STEVENS asked about #1 under conditions regarding providing 50% of the off-site parking. She asked is staff just requiring 50% of the required parking.

LONGNECKER said if the applicant can't provide 100% they will have to look at obtaining a variance on the parking requirement; however, he added that wouldn't satisfy the neighbors who are complaining about having their property used for parking.

DAILEY commented that he didn't think 50% of the parking requirement was good enough; that it needs to be 100% or close to it. He asked if the Commission would have to make that requirement into a motion.

LONGNECKER responded yes and that could be changed to 100%.

DR. CHARLES COLEMAN, JD, OWNER AND APPLICANT said 60 days should be sufficient time to obtain the off-site parking agreements. He commented that one resident had concerns about the parking and they were the one who took the pictures of the night time parking attached to the Staff Report. He said the agreements will get done and turned in. He said the center will not be operating in the daytime and will host church functions and other special events.

DAILEY asked if the applicant is okay with 100% of the requirement on condition #1.

COLEMAN responded that would be fine.

ELLISON asked the applicant where they were going to find that many parking spots.

COLEMAN said there is parking on site. He added that he was a strong believer in God and in faith and if it is meant to happen, it will happen. He said people in the area have been fine with the parking situation except one particular person. He said if he has to close the event center, which would be a sad thing to do, then they will do that.

ELLISON asked who owns the parking across the alley to the west.

COLEMAN said the music company owns the lot to the west across the alley.

MCKAY clarified that the 100% parking was the 97 parking spaces.

LONGNECKER confirmed that was correct.

MOTION: To approve subject to staff recommendation with 80% of the parking required by the UZC.

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

There was considerable discussion concerning the parking requirement for the existing use and the proposed expansion.

LONGNECKER mentioned the possibility of a variance or administrative adjustment.

DOOL asked why the Commission was considering the application if the applicant doesn't have adequate parking and have not identified where they are going to get it. He asked about deferring the request until the applicant can come up with adequate parking.

WARREN asked why make the applicant go through the work of trying to get the required parking if the Commission is going to turn down the application; it would be a lot of work for nothing. He said that is why he is requesting that the application be approved subject to obtaining the required parking agreements.

DAILEY moved a substitute motion to require 100% of the required parking. The **SUBSTITUTE MOTION** died due to lack of a second.

It was agreed to **AMEND THE ORIGINAL MOTION** to say 75 parking stalls between the motion maker and the second.

The **ORIGINAL MOTION, AS AMENDED** carried (12-0).

MCKAY asked what happens if the applicant cannot come up with the required parking.

LONGNECKER said the case will be marked closed and denied.

10. **Case No.: CON2015-00035** - Lonely Pine, LLC, c/o Jason Le (Owner) and Roger's Enterprises, Inc. I (Applicant), MKEC Engineering, c/o Brian Lindebak (Agent) request a City conditional use for Warehouse, Self-storage in LC Limited Commercial zoning on property described as:

Lot 1, Lonely Pine Addition, Wichita, Sedgwick County, Kansas, EXCEPT the east 94.00 feet of the south 247.00 feet thereof.

BACKGROUND: The applicant is requesting a conditional use for a self-service storage warehouse on a portion of the undeveloped 1.76 acre LC Limited Commercial (LC) zoned Lot 1, Lonely Pine Addition. The applicant owns the abutting self-service storage warehouse development and if the conditional use is approved the subject site will become part of the existing self-service storage warehouse development, under one owner.

The Unified Zoning Code (UZC) requires consideration of a conditional use for a self-service storage warehouse in the LC zoning district subject to 19 supplemental use conditions; UZC Sec.III-D.6.y. The location of the site, the applicant's site plan and its text ('conditional use items') conforms to the supplemental use conditions. The applicant notes in the site plan's text that; "A resident manager shall not be required in the event that the west adjacent storage facility maintains ownership of said property and is used as an expansion to existing facility. West adjacent storage property is in conformance with an on-site resident manager and shall be responsible for maintaining the operation of the facility." The site plan shows the location of the west adjacent resident on-site manager. The applicant has also provided a landscape plan for review.

The site is located approximately a quarter-mile east of the Wichita State University campus, the dominate development in the area located southwest of the 21st Street North and Oliver Avenue intersection. A LC zoned dentist office and a car wash abut and is adjacent to the east side of the site, with MF-29 Multi-Family Residential (MF-29) zoned apartments are located further east. The already noted LC zoned self-service storage warehouse development abuts the west side of the site, with a small commercial strip building located west of the self-storage development. Two wireless communication facilities with towers are located in the self-storage development. The LC zoning continues west to the northeast corner of 21st Street North and Oliver, with development including (but not limited to) small retail, a recently constructed convenience store and an indoor self-storage warehouse, which is the result of converting a vacant Dillon's grocery store. MF-29 zoned undeveloped property abuts the north side of the site and TF-3 Two-Family Residential (TF-3) zoned apartments are adjacent to the site's northeast side. B Multi-Family Residential (B), GO General Office (GO) and LC zoned medical research, offices, skilled nursing services are located south of the site, across 21st Street North.

CASE HISTORY: The site is described as Lot 1, Lonely Pine Addition, except the east 94.00 feet of the south 247.00 feet thereof. The Lonely Pine Addition was recorded March 8, 1991.

ADJACENT ZONING AND LAND USE:

NORTH: MF-29, TF-3 Undeveloped land, apartment complex
SOUTH: B, GO, LC Medical research, office, skilled nursing services
EAST: LC, MF-29 Dentist office, car wash, apartments
WEST: LC Self-service storage warehouse, wireless communication facilities and towers, commercial strip building, indoor self-storage warehouse, retail, convenience store

PUBLIC SERVICES: The subject property has immediate access to 21st Street North, a curbed and paved four-lane, two-way arterial street with a center turn lane. Municipal water and sewer services and all other utilities are available to the subject property.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” depicts this location as being appropriate for “local commercial,” which contains concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes: medical or insurance offices, auto repair or service stations, grocery stores, florist shops, restaurants and personal service facilities. The purpose of the LC zoning District is to accommodate retail, commercial, office and other complementary land uses. The LC zoning is generally compatible with the local commercial designations of the Wichita-Sedgwick County Comprehensive Plan.

The Commercial Locational Guidelines of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The site has direct access onto 21st Street North and the condition of the conditional use should minimize any negative impact on the adjacent properties. The proposed use would be a low traffic generator at this location.

The Unified Zoning Code (UZC) requires consideration of a conditional use for a self-service storage warehouse in the LC zoning district. If approved, the requested self-service storage warehouse would not be the first self-service storage warehouse in this area. A self-service storage warehouse site abuts the west side of the site and an indoor self-service storage warehouse is located approximately 700-feet west of the site.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the proposed conditional use for warehouse/self-storage be **APPROVED**, subject to the following conditions:

- 1) All of the supplemental use regulations of UZC Sec.III-D.6.y. shall be in effect. The applicant will file a covenant with the Register of Deeds binding and tying the subject site and the west abutting self-service storage warehouse under common ownership and making the on-site resident manager of the west abutting self-service storage warehouse the on-site resident manager of the subject site. The covenant must be recorded prior to the Conditional Use resolution being signed. If the two said sites are not under common ownership the subject site shall be required to provide an on-site resident manager.
- 2) Obtain all permits and inspection as required by the Metropolitan Area Building and Construction Department. All development will be per City Code including landscaping, code compliance and any other applicable standards.

- 3) The site will be developed according to an approved site and landscape plan.
- 4) The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- 5) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

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

1. **The zoning, uses and character of the neighborhood:** The site is located approximately a quarter-mile east of the Wichita State University campus, the dominate development in the area located southwest of the 21st Street North and Oliver Avenue intersection. A LC zoned dentist office and a car wash abut and is adjacent to the east side of the site, with MF-29 zoned apartments are located further east. The already noted LC zoned self-service storage warehouse development abuts the west side of the site, with a small commercial strip building located west of the self-storage development. Two wireless communication facilities with towers are located in the self-storage development. The LC zoning continues west to the northeast corner of 21st Street North and Oliver, with development including (but not limited to) small retail, a recently constructed convenience store and an indoor self-storage warehouse, which is the result of converting a vacant Dillon's grocery store. MF-29 zoned undeveloped property abuts the north side of the site and TF-3 zoned apartments are adjacent to the site's northeast side. B, GO and LC zoned medical research, offices, skilled nursing services are located south of the site, across 21st Street North.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned LC, which allows a wide variety of retail, office and residential uses. The LC zoning is the common zoning of the properties located on the northeast side of the 21st Street North and Oliver Avenue intersection.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** If approved, the requested self-service storage warehouse would not be the first self-service storage warehouse in this area. A self-service storage warehouse site abuts the west side of the site and an indoor self-service storage warehouse is located approximately 700-feet west of the site. The conditions attached to a Conditional Use can address site design issues and should mitigate any potential negative effects on surrounding properties.
4. **Conformance of the requested change to adopted or recognized Plans/Policies:** The 2030 Wichita Functional Land Use Guide" depicts this location as being appropriate for "local commercial" which contains concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes: medical or insurance offices, auto repair or service stations, grocery stores, florist shops, restaurants and personal service facilities. The purpose of the LC zoning District is to accommodate retail, commercial, office and other complementary land uses. The LC zoning is generally compatible with the local commercial designations of the Wichita-Sedgwick County Comprehensive Plan.

The Commercial Locational Guidelines of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The site has direct access onto 21st Street North and the condition of the conditional use should minimize any negative impact on the adjacent properties. The proposed use would be a low traffic generator at this location.

The Unified Zoning Code (UZC) requires consideration of a conditional use for a self-service storage warehouse in the LC zoning district. If approved, the requested self-service storage warehouse would not be the first self-service storage warehouse in this area. A self-service storage warehouse site abuts the west side of the site and an indoor self-service storage warehouse is located approximately 700 feet west of the site.

5. **Impact on Community Facilities:** All public facilities are available and existing road facilities are adequate. Any increased demand on community facilities can be handled by current infrastructure

BILL LONGNECKER, Planning Staff presented the Staff Report.

There were no public comments.

MOTION: To approve subject to staff recommendation.

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

11. **Case No.: PUD2015-00006** - Cross Road Fellowship Bible, Inc., c/o Pastor Michael Cooper and Jennifer Warner (Owner/Applicant) Baughman, PA, c/o Russ Ewy (Agent) request creation of a new PUD in GC General Commercial and SF-20 Single-family Residential zoning on property described as:

A tract in the SW $\frac{1}{4}$ of Section 25, Township 27 South, Range 2 West of the 6th Principal Meridian, Sedgwick County, Kansas described as: Beginning at a point on the north right of way line of U.S. Highway 54, as condemned in District Court Case No. A-38302 and 1468.75 feet west of the east line of said SW $\frac{1}{4}$ (Measured along said Highway right of way); thence west along said Highway right of way, a distance of 80 feet; thence north with a deflection angle to the right of 89°48', a distance of 630.17 feet to a point 736.6 feet north of the south line of said SW $\frac{1}{4}$; thence west parallel with the south line of said SW $\frac{1}{4}$, a distance of 750.49 feet to a point 300 feet east of the west line of said SW $\frac{1}{4}$, said point being the SE corner of Lot 1, Block A, Weber Addition, Sedgwick County, Kansas; thence north parallel with the west line of said SW $\frac{1}{4}$ and along the east line of said Lot 1, a distance of 218 feet to the NE. corner of said Lot 1; thence west parallel with the south line of said SW $\frac{1}{4}$ and along the north line of said Lot 1, a distance of 300.06 feet to the west line of said SW $\frac{1}{4}$; thence north along the west line of said SW $\frac{1}{4}$, a distance of 895.67 feet; thence east parallel with the south line of said SW $\frac{1}{4}$, a distance of 1609.15 feet; thence south parallel with the west line of said SW $\frac{1}{4}$ a distance of 1083.14 feet to a point on the north line of deed recorded at Film 2123, Page 23; thence westerly along the north line of deed recorded at Film 2123, Page 23, a distance of 138.29 feet to the NW. corner of

deed recorded at Film 2123, Page 23; thence southerly along the west line of deed recorded at Film 2123, Page 23, a distance of 30.50 feet; thence westerly along the north line of deed recorded at DOC.#.FLM-PG: 28778360, a distance of 341.09 feet; thence southerly, a distance of 630.50 feet to the point of beginning. EXCEPT that part condemned for Highway right of way in Condemnation Case C-10792. Subject to road right of ways of record.

BACKGROUND: The applicant propose to change the unplatted 40-acre Sedgwick County site's GC General Commercial (GC) zoned south half and its SF-20 Single-family Residential (SF-20) zoned north half to PUD Planned Unit Development zoning; PUD #49, the 135th & Kellogg Event Center. The GC and SF-20 zoned Sedgwick County site is located approximately 750-feet north of US-54/Kellogg Street on the east side of 135th Street West. The proposed PUD will be rented out for corporate or professional events, life cycle and other special events. Examples of these events include seminars, meetings, lectures, retreats, birthdays, anniversaries, weddings, reunions, charitable events, fund raisers, art shows, holiday festivals, photography shoots and similar events. These events will be scheduled on an as need basis every day of the year, but not repeated on a weekly basis and not be open to the general public. The applicant also proposes outdoor entertainment and recreation, including water related activities on the proposed expanded pond, with volleyball courts, and an area for inflatables. The outdoor entertainment and recreation area will be open to the general public. The serving and consumption of alcoholic liquor or cereal malt beverages (drinks) on the site is an option for all of the proposed activities. Live music or DJ music for dances for the events are also options. Indoor and outdoor preparation of food for the activities are an option as is a concession stand.

The PUD zoning district is a special zoning district that is intended to encourage innovative land planning and design. Any use may be permitted within the PUD zoning district, provided that it is consistent with the purposes of the Unified Zoning Code (UZC) and the approved PUD plan. A PUD allows consideration of the applicant's event center with the options of providing the serving and consumption of alcoholic liquor or cereal malt beverages and live music or DJ music for dances, as well as some uses permitted by right in the GC zoning district.

The UZC Unified Zoning Code (UZC) defines an "event center in the city" as premises that are frequently rented out for public or private activities that are not repeated on a weekly basis, and that are not open to the public on a daily basis at times other than when an event is scheduled; UZC Sec.II-B.4.m. However, the UZC does not have a definition of an event center in the county, therefore the applicant's request for an event center is not permitted. The proposed PUD zoning allows consideration of an event center in the county. The proposed days of availability are seven (7) days a week, all year. The event center is proposed to be available: Sunday – Thursday, 8 a.m. to 12 p.m.; Friday – Saturday 8 a.m. to 1 a.m. The event center will be rented out for public or private activities that are not repeated on a weekly basis, and that are not open to the public on a daily basis at times other than when an event is scheduled. A maximum of 350 people attending an event is proposed. Based on one parking space per two people (nightclub standard), 175 parking spaces would need to be provided.

The UZC's definition of a "nightclub in the county" is an establishment located in the unincorporated area of the County that provides entertainment, which may include the provision of dancing by employees or patrons, and which may or may not serve food or that provides entertainment as defined in the County's Adult Entertainment Code ("sexually oriented business") so long as such establishment is in compliance with the Adult Entertainment Code. The term nightclub in the county shall not include

any establishment in the unincorporated area of the County in which alcoholic liquor or cereal malt beverage of any kind is sold, used, consumed or possessed by any person at any time on the premises of the establishment; UZC Sec.II-B.9.c. The applicant does not propose a “sexually oriented business in the county.” The applicant proposes to provide live music or DJ music for dances located in the event center buildings as options for the scheduled events. The applicant also proposes low volume music that will not be a nuisance for weddings, with the exception of allowing musical groups and speaker within 50-feet of the event center buildings. The site’s SF-20 zoning does not permit consideration of a nightclub in the county. The site’s GC zoning does permit a night club in the county. The site’s GC zoning is not typical for property located within the county, but instead reflects the site’s and the neighboring properties close proximity to Wichita and US-54/Kellogg Street.

The UZC defines a “tavern and drinking establishment” as an establishment engaged in the preparation and retail sale of alcoholic liquor or cereal malt beverage for consumption on the premises that derives in a six-month period less than fifty percent (50%) of its gross revenues from the sale of food and beverages for consumption on the premises. For the purposes of this code, the term tavern and drinking establishment shall include Class B Club; UZC Sec.II-B.13.b. The applicant proposes the serving and consumption of alcoholic liquor or cereal malt beverages (drinks) on the site as an option for the events. The site’s SF-20 zoning does not permit consideration of a tavern and drinking establishment in the county. The site’s GC zoned portion allows consideration of tavern and drinking establishment as a Conditional Uses and subject to Sec. V-D (Conditional Use review procedures) when located within 300 feet of a Church or Place of Worship, public Park, public or parochial School or residential zoning District. The site abuts SF-20 zoning on its north and east sides and is located within 90-feet of SF-5 Single-Family Residential (SF-5) zoning on its west side. The proposed PUD zoning serves the same purpose as a Conditional Use for this activity. The applicant proposes that the site will not operate as a tavern or nightclub, nor will it operate as a Class A or Class B club.

The UZC defines outdoor entertainment and recreation as a privately-owned establishment offering recreation, entertainment or games of skill to the general public or members wherein any portion of the activity takes place in the open. Typical uses include archery ranges, batting cages, golf driving ranges, drive-in theaters, miniature golf courses, "pitch and putt" facilities, tennis courts and amusement rides; UZC Sec.II-B.11.b. The applicant has not prohibited “recreational marine facility,” which is a facility relating to recreational boating. Typical uses include boat docks, marinas, boathouses and yacht clubs; UZC Sec.II-B.8.g. This would allow water related activities on the proposed expanded pond. It can be anticipated that with volleyball courts would be included. Outdoor entertainment and recreation is permitted by right in the GC zoning district. The outdoor entertainment and recreation area is open to the general public year round from 10 a.m. to 10 p.m. The sale of alcoholic liquor or cereal malt beverages for consumption on the premises is not prohibited to the general public for outdoor entertainment and recreation.

Currently the 40-acre site is developed with what appears to be two, metal agricultural accessory buildings, a dirt and gravel drive that splits to the north and south of the buildings, continuing on the south side to the east side of the property. There is a small pond located on the northeast side of the site. The south drive connects to Kellogg Street. The site also currently has access onto Harry Street by a gravel drive located on a long, narrow south extension of the site.

The PUD shows the existing pond expanding to cover most of the northeast portion of the site. The applicants propose that outdoor events and outdoor recreation and entertainment are placed at least 100-feet away from the site's north side, 200-feet from the site's east side and 250-feet from the site's west side. These sides of the site either abut or are adjacent to SF-20 or SF-5 zoning. Outdoor events and outdoor recreation and entertainment are allowed up to the 35-foot setback on the south side of the site where it abuts GC zoned land. The PUD proposes 35-foot building setbacks. The PUD proposes landscaping per the UZC while incorporating the existing landscaping. The PUD does not provide screening where it abuts residential zoning. The applicant has proposed that security may be provided. Other provisions of the PUD refer to allowing tents as needed for the events, but not for camping.

The site is located in a relatively small, isolated portion (north of Kellogg Street) of Sedgwick County, with the City of Wichita and city development adjacent to its west, north and east sides. SF-5 Single-Family Residential (SF-5) zoned single-family residential development featuring a public golf course is located in the City of Wichita and is the areas predominate feature. SF-20 zoned agricultural fields abut the north side of the site and these fields are impacted by a flood zone. The SF-5 zoned Auburn Hills Public Golf Course is located approximately 750-feet further north of the site. Extensive SF-5 single-family residential development (subdivisions mid-2000s) abut and follow the golf course. GC and SF-20 zoned agricultural fields and a farmstead abut the east side of the site and are impacted by a flood zone. The SF-5 zoned Auburn Hills Public Golf Course is located approximately 1,000-feet further east of the site. Extensive SF-5 single-family residential development (subdivisions early-2000s) abut and follow the golf course. Development abutting the south side of the site include a GC zoned retail-warehouse, an antique mall, a self-storage warehouse and agricultural fields. Development located west of the site, across 135th Street West, includes a few SF-5 zoned large tract single-family residences (built 1957, 1968, 181, 1998), SF-5 zoned single-family residential development (subdivisions mid-2000s), the Auburn Hills Public Golf Course and a GC zoned Presbyterian Church (built 1996, 1999, 2004). All development located west of the site is located within the City of Wichita. The requested PUD appears to be the first for this general area.

CASE HISTORY: The GC and SF-20 zoned subject site not platted and there is no evidence of past zoning activity. Planning has received calls requesting information on the PUD or being not in favor of the requested zoning. Their concerns include, but are not limited to: traffic, the number of people allowed per event, drainage, loud music, unruly behavior, the availability of liquor and beer and disruption to the area.

ADJACENT ZONING AND LAND USE:

NORTH: SF-20, SF-5	Agricultural fields, single-family residential subdivisions, public golf course
SOUTH: GC, SF-20, LC	Retail-warehouse, antique mall, self-storage warehouse, agricultural fields
EAST: GC, SF-20, SF-5	Agriculture fields, farmstead, public golf course, single-family residential subdivisions
WEST: SF-5, GC	Large tract single-family residences, agricultural fields, church, single-family residential subdivisions

PUBLIC SERVICES: Water is available to the site. There is no sewer available to the site. Current access to the site is off of 135th Street West, a curbed and paved two-lane, two-way arterial with a center turn lane. The site also currently has access onto Harry Street by a gravel drive located on a long, narrow south extension of the site. Harry Street is a paved two-lane, two-way frontage road at this location. Final access to the site will be determined at the time of platting. A northeast portion of the site is located within a flood zone, which means development within it must be addressed with an approved drainage plan and must meet all standards for construction of buildings/structures on the site, per the County Engineer and Code Enforcement. The flood plain is also located on large portions of the abutting north and east properties.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" of the "Wichita-Sedgwick County Comprehensive Plan" identifies the north half of the site as "urban residential" and south half as "regional commercial" and located within the City of Wichita's 2030 urban growth area. The urban residential category encompasses areas that reflect the full diversity of residential development densities and types and residential-serving uses typically found in a large urban municipality. The site's current SF-20 zoning (on its north half) allows single-family residential, as well as some institutional uses, but not duplexes nor multi-family residential by right. The SF-20 zoning district is suitable for the urban residential category.

The regional commercial category encompasses major destination areas containing concentrations of office, commercial and personal uses that have a predominately regional market areas and high volumes of retail traffic. These areas are located in close proximity to major arterials or freeways. The site has direct access onto the arterial 135th Street West and is located approximately 750-foot north of US-54/Kellogg Street. Major retail malls, major commercial auto dealerships, and big box retail are examples the uses found in this category. The 40-aces site's proposed activities, including water activities centered around a pond seem to be aiming at regional traffic, although it is perhaps somewhat seasonal in its draw. The proposed water activities make the proposed PUD something of a throw-back to an earlier era when outdoor ponds like Meadow Lake and Sandy Beach drew patrons throughout Sedgwick County. The GC zoning district 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 GC portion of the site is located within the Wichita 2030 Urban Growth Area and is appropriate for the regional commercial category. The PUD proposes uses not allowed by right in the county and the SF-20 district or that requires a conditional use in the GC zoning district. A PUD is intended to:

- (1) Reducing or eliminating the inflexibility that sometimes results from strict application of zoning standards that were designed primarily for individual lots. The proposed PUD allows one zoning for the entire property whose use, as an indoor-outdoor event venue that permits the consumption of drinks and music for dancing and outdoor recreation and entertainment. The proposed days of availability for the indoor-outdoor event venue is seven (7) days a week, all year. The event center is proposed to be available: Sunday – Thursday, 8 a.m. to 12 p.m.; Friday – Saturday 8 a.m. to 1 a.m. The event center will be rented out for public or private activities that are not repeated on a weekly basis, and that are not open to the public on a daily basis at times other than when an event is scheduled. The PUD's proposed limits

lessens the impact on the area's single-family residential character. The area's single-family residential development may be impacted more by the proposed outdoor recreation and entertainment use, which is open to the general public seven days a week, 10 a.m. to 10 p.m. Consumption of drinks is permitted. The outdoor recreation and entertainment use may be somewhat seasonal.

- (2) Allowing greater freedom in selecting the means to provide access, light, open space and design amenities. All of the current development and future development is located within the PUD's 40-acres, which provides ample open space.
- (3) Promoting quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations and land uses. The 40-acre site has county agricultural fields abutting its east and north sides separating it from the single-family residential development located in the city. Future development on these fields will be impacted by a flood zone located on them. The arterial road 135th Street West separates the site from the adjacent west single-family residential development located in the city. 135th Street West provides the site with access to the major arterial US-54-Kellogg Street (750-foot south of the site), away from the area's single-family residential development.
- (3) Allowing deviations from certain zoning standards that would otherwise apply if not contrary to the general spirit and intent of this Code. The PUD allows mixed uses that are not permitted in the county, in the SF-20 zoning district, but are allowed by right in in the GC portion of the site or by consideration and approval of a conditional use.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the proposed PUD be APPROVED, subject to platting within a year and the following revisions to the attached PUD:

- (1) Change General Provision #2 to: Parking shall be provided at the rate of 1 parking spaces per two people.
- (2) Change General Provision #6.I: No outdoor musical groups or speakers allowed.

This recommendation is based on the following findings:

- 1) The zoning, uses and character of the surrounding area: The requested PUD appears to be the first for this general area. The site is located in a relatively small, isolated portion (north of Kellogg Street) of Sedgwick County, with the City of Wichita and city development adjacent to its west, north and east sides. SF-5 Single-Family Residential (SF-5) zoned single-family residential development featuring a public golf course is located in the City of Wichita and is the areas predominate feature. SF-20 zoned agricultural fields abut the north side of the site and these fields are impacted by a flood zone. The SF-5 zoned Auburn Hills Public Golf Course is located approximately 750-feet further north of the site. Extensive SF-5 single-family residential development (subdivisions mid-2000s) abut and follow the golf course. GC and SF-20 zoned agricultural fields and a farmstead abut the east side of the site and are impacted by a flood zone. The SF-5 zoned Auburn Hills Public Golf Course is located approximately 1,000-feet further east of the site. Extensive SF-5 single-family residential development (subdivisions early-2000s

abut and follow the golf course. Development abutting the south side of the site include a GC zoned retail-warehouse, an antique mall, a self-storage warehouse and agricultural fields. Development located west of the site, across 135th Street West, includes a few SF-5 zoned large tract single-family residences (built 1957, 1968, 181, 1998), SF-5 zoned single-family residential development (subdivisions mid-2000s), the Auburn Hills Public Golf Course and a GC zoned Presbyterian Church (built 1996, 1999, 2004). All development located west of the site is located within the City of Wichita. The requested PUD appears to be the first for this general area.

- 2) The suitability of the subject property for the uses to which it has been restricted: The north half of the site is zoned SF-20, which primarily permits single-family residential uses. The south half of the site is zoned GC, which is. The GC which is meant to accommodate retail, commercial, office and other complementary land uses. The site could continue to be used as zoned. The site's close proximity to the major arterial US-54/Kellogg Street makes it more suitable for commercial or multi-family residential use.
- 3) Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed provisions and the proposed revisions of the PUD are intended to lessen that possibility of the need for more policing (providing security) in the area as well as the intrusion of loud music (cannot be heard on the neighboring properties) on the neighboring properties.
- 4) Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" of the "Wichita-Sedgwick County Comprehensive Plan" identifies the north half of the site as "urban residential" and south half as "regional commercial" and located within the City of Wichita's 2030 urban growth area. The urban residential category encompasses areas that reflect the full diversity of residential development densities and types and residential-serving uses typically found in a large urban municipality. The site's current SF-20 zoning (on its north half) allows single-family residential, as well as some institutional uses, but not duplexes nor multi-family residential by right. The SF-20 zoning district is suitable for the urban residential category.

The regional commercial category encompasses major destination areas containing concentrations of office, commercial and personal uses that have a predominately regional market areas and high volumes of retail traffic. These areas are located in close proximity to major arterials or freeways. The site has direct access onto the arterial 135th Street West and is located approximately 750-feet north of US-54/Kellogg Street. Major retail malls, major commercial auto dealerships, and big box retail are examples the uses found in this category. The 40-aces site's proposed activities, including water activities centered around a pond seem to be aiming at regional traffic, although it is perhaps somewhat seasonal in its draw. The proposed water activities make the proposed PUD something of a throw-back to an earlier era when outdoor ponds like Meadow Lake and Sandy Beach drew patrons throughout Sedgwick County. The GC zoning district 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 GC portion of the site is located within the Wichita 2030 Urban Growth Area and is appropriate for the regional commercial category.

The PUD zoning district is a special zoning district that is intended to encourage innovative land planning and design. Any use may be permitted within the PUD zoning district, provided that it is consistent with the purposes of the Unified Zoning Code (UZO) and the approved PUD plan. A PUD allows consideration of the applicant's defined event center with the options of providing the serving and consumption of alcoholic liquor or cereal malt beverages and live music or DJ music for dances, as well as outdoor recreation and entertainment, which is permitted by right in the GC zoning district.

- 5) Impact of the proposed development on community facilities: Because the serving and consumption of alcoholic liquor or cereal malt beverages is allowed to possibly as many as 350 people, there is a possible negative impact on an area, which could increase the presence of Law Enforcement. Enforcement could be problematic for the Metropolitan Area Building and Construction Department's (MAPCD) Code Enforcement division especially during the weekend and after 5 p.m., when Code Enforcement is not available.

BILL LONGNECKER, Planning Staff presented the Staff Report.

WARREN clarified that staff recommendation was no outdoor music but if this location was within the City limits there was a City Ordinance governing the noise level. He asked if the Commission could require a condition that the applicants meet the City requirements on outdoor music even though the location is in the County. He said his thinking was that if the Sedgwick County Commission approves the application without any restrictions on noise, the applicant's may be able to argue that they are a legal non-conforming use if the area is annexed into Wichita.

LONGNECKER said that was correct, there was a City Ordinance on noise level of outdoor music, but this application will go to the Board of County Commissioners for approval. He said he would have to ask Legal about putting a City standard on property located in the County.

DIRECTOR MILLER said staff's concern was that Sedgwick County did not have any way to measure and enforce the noise level because they don't have an ordinance on that. He said from a practical standpoint, he does not know how the County would enforce that. He said one of the issues that has come up on a previously approved PUD farther west in the County is the adjoining neighbors version of what is loud versus what the event operator thinks it is loud.

LONGNECKER referred to provision H. and commented that low level music is allowed as long as it cannot be heard by neighboring properties; however, no outdoor speakers or musical groups are allowed outside except within 50 feet of the event building.

WARREN asked about approving the application per staff recommendation with no outdoor music, and adding a provision for outdoor music at the time the property is annexed.

DIRECTOR MILLER commented that one of the conditions could be no outdoor music now but it would be allowed once the property is annexed in compliance with the City Ordinance.

RUSS EWY, BAUGHMAN COMPANY, 315 ELLIS, AGENT FOR THE APPLICANT

commented that the applicant Jennifer Warner was in attendance to answer any questions regarding the day-to-day operations of the project. He said this is a unique situation because this is located in a heavily zoned commercial area; the general character of the area and the Kellogg frontage. He said he and the clients have discussed at length the noise issue the Commission just mentioned. He said the applicants are straddling the fence so to speak operating in the County prior to annexation into the City. He mentioned two additional provisions they worked on being 6.J. and 6.K. 6.J would read "Noise generation in conjunction with the outdoor entertainment and recreational use shall not exceed the sound level of five decibels as measured on the "A" Scale of a sound pressure meter over the normal background noise that is discernible at any property line within 200 feet of the subject property that has a residential use. Normal background noise shall be established by taking an average of ten sound level readings in any ten minutes." He said he did not know if City Staff or the Commission would consider adding in verbiage of the City Ordinance on noise without actually referring to it per se. He said they are more than willing to work with staff and the Commission on that issue. He said they would also like to add 6.K. that says "All outdoor speakers used in conjunction with the outdoor entertainment and recreation use within 200 feet of residential zoning shall be required to stop all noise generation activities such as music outside of the hours of 10:00 a.m. to 8:00 p.m. between the dates of April 1 and September 30. He said staff indicated that perhaps the outdoor entertainment and recreational areas might be seasonal in nature so the applicant agreed to offer seasonal as well as hourly restrictions to help resolve the issue. He said they are offering those two additional conditions of approval to try to mitigate any of the issues they are hearing today.

EWY commented that 25 of the 40 acres on the site is currently zoned General Commercial GC and all of the uses to the south also fall into that zoning district. He said his clients intend to develop their property to the south for standard commercial uses. He said the property is surrounded by floodplain to the east and a creek bottom to the northwest, west and north which they believe provides a number of built in buffers to mitigate any impact of the project on surrounding properties. He mentioned the diagram of the PUD including expansion of the pond, areas for outdoor recreation, outdoor seating areas, and other areas. He said his office worked on the Waterfront and Rustic Timbers PUD's and borrowed a lot of language from those projects. He concluded by saying that they would like outdoor music for weddings and other events but as far as the outdoor entertainment and recreational areas, they are talking more along the lines of low level background music similar to what you see at the YMCA and Rock River Rapids in Derby, which is located 150 feet away from urban development

ELLISON said he lives within three miles of an area with major activities so he can hear it at night time. He said he believes noise is going to be an issue for the neighbors. He said one way to control the noise would be to direct the speakers towards Kellogg. He said he does not believe he has heard enough information on how the noise can be controlled. He asked if the buildings on site would be expanded or torn down or what. He asked if activities would be taking place inside the buildings.

EWY said he would let the applicant address the question on the buildings. He said he understood the buildings would not be expanded but renovated. He mentioned that this location is approximately 700 feet from a future expressway. He said the 25 acres that is zoned GC is going to generate more traffic and noise although it may be a different type of noise and at different hours. He said they are trading what they can currently do on the property today with no rezoning for an activity with a laundry list of

limitations on the type of activities and type of development. He said he believes they are giving away some points and asking for some points. He said the Planning Commission hears arguments on mitigating sound year in and year out. He said there will always be people who are dissatisfied with the way noise is handled.

ELLISON asked if this was a church camp or is it open to the general public.

EWY replied this facility will be open to the general public. He clarified that the church was the contract seller and his clients were the contract buyers and were not affiliated with the church.

WARREN said he his house backed up to Rock Rapids and limiting the hours to 8:00 p.m. alleviated some of his concerns; however, he said any neighbor can put up a boom box, it is just part of life living in the city. He asked how any noise restrictions the Commission placed on the project would be enforced.

MILLER STEVENS said the Commission is being a little naïve about the noise issue because the City of Wichita does not enforce the Noise Ordinance. She said what they do enforce is a “nuisance ordinance” when your neighbor is being too loud and you call the Police. She said she challenges anyone present to find a case where the City has enforced the Noise Ordinance so she feels the Commission is making “much ado about nothing.” She said whatever standards the Commission sets will be what’s on the books and if it is too noisy the neighbors will complain.

FOSTER asked about development of the pond area and whether the soil will be used onsite.

EWY said they haven’t gotten that far in the development process. He said one of the conversations he and his clients had was the possibility of utilizing the dirt for berming purposes. He said the 40 acres and the property to the east is elevated enough that they are out of floodplain so they won’t have to use the excavated dirt for in-fill. He said their intent is to use the dirt on site.

FOSTER asked about access control and if there were three access points.

EWY said the Access Management Policy allows for three accesses points; however, that decision is made at the platting phase. He mentioned that they no longer have access to the driveway to the south because that is part of the condemnation case that will limit any type of use of the “pan handle” area to the south. He said access to the site will come off of 135th Street and added that the site will require more than one point of access.

ELLISON asked if there were plans for any traffic flow studies on the whole intersection.

EWY said he was sure KDOT and their design engineers have studied that intersection traffic flow, but he was not privy to that information. He said his understanding is that KDOT would look at the land use and zoning and what the area would support when they designed the interchange.

EWY concluded by mentioning that as far as parking, they are requesting one space per four people. He said since this is a family oriented type of business, they do not believe it will require the parking that staff is requesting.

FOSTER asked if the applicant wanted to speak.

JENNIFER WARNER, 10874 WEST DORA COURT, APPLICANT said her husband and their partner want to provide a safe place for families to bring kids to play outside and experience different types of water activities. She said they are doing this backwards because normally you have everything in place and then you find the property, but they came across this property and it seemed so perfect for what they were trying to do. She said they will be renovating the arena and updating and keeping the old stadium. She said they are not wanting loud music because this is not that kind of atmosphere. She said the main reasons for music would be the wedding area and giving brides and grooms the option of having a reception outside and low level background music for the water park low level background. She said she toured a Kansas center and the low level music was for atmosphere. She concluded by saying that she understands and respects Mrs. Hall's concerns but wanted her to know that they aren't the type of people that are going to come in and make things uncomfortable. She said they want the surrounding property owners to have their residence and house as their sanctuary area where they can relax and they do not want to impede on that at all.

CHAIR NEUGENT asked County Staff to explain how Sedgwick County handles noise.

KELLY DIXON, METROPOLITAN AREA BUILDING AND CONSTRUCTION DEPARTMENT, 1144 SOUTH SENECA said Sedgwick County has no noise ordinance or any way to enforce that in unincorporated areas. He mentioned that a recently approved PUD with noise restrictions on it has been an enforcement nightmare. He asked how you measure a nuisance.

BARBARA HALL, 1819 SMASCH said she owns 61 acres of property at 1227 135th St, West which is northeast of the property being talked about today. She said the proposed changes will have a very negative affect and impact on the value and uses of her investment property and for all the surrounding single-family home owners who have poured their life savings into their property. She said some say the noise level won't make a difference but she believes it will. She said the proposed use as a family venue with alcohol, adding that she is not opposed to alcohol, sounds more like a nightclub atmosphere. She said the proposed pond will go all the way across to the end of her property. She mentioned that the center would be open seven days a week, will probably have extra lighting and loud speakers and will create noise and traffic which will certainly impact the selling or development of any land in the area. She said there could be quiet, residential living in this area. She added that the wildlife would not be preserved and will probably disappear altogether. She said she purchased this property as an investment and for development of single-family residential homes. She mentioned the recent development of a housing project for retirees south of Kellogg with homes ranging in the neighborhood of \$200,000 to \$400,000. She said the proposal will cause extra traffic and safety issues to deal with. She said the proposed event center will have a negative impact on the area causing the need for more law enforcement and traffic issues. She said 135th Street is only a two-lane road with a middle turn lane. She concluded by pleading with the Planning Commission not to pass the proposal on the grounds that the surrounding neighbor's property values will decrease and safety will be a problem also.

MCKAY asked Mrs. Hall to indicate the property she owned on the aerial map. He asked how much of the land can be developed because of flooding problems.

HALL indicated that she own 25% of the land surrounding the site. She said the plan was to develop all of the property except the portion on the east with 40 residential sites. She said she bought the property to build a home and develop the land.

DAILEY asked won't 40 single-family homes increase traffic in the area.

HALL replied sure they will but residential homes are not like an activity on a daily basis.

DIRECTOR MILLER indicated that single-family homes usually generate 9.7 trips a day.

DAILEY commented so that would be approximately 400 trips per day.

HALL said their concern is people coming and going and serving of alcoholic beverages. She said drinking and driving will be an issue, the noise level and activities all the time. She said people have bought homes in the area for the quiet atmosphere.

MCKAY asked about the floodplain map and what percent of Mrs. Hall's land is in the floodplain.

LONGNECKER said quite a bit of the eastern part of Mrs. Hall's property is in the floodplain which drains into the Calfskin Creek drainage project.

JOHN OBORNEY, 13315 WEST HAVEN STREET, PRESIDENT, AUBURN HILLS 8TH ADDITION HOMEOWNERS ASSOCIATION said he lives just north of the #9 hole in Auburn Hills. He said there are 56 homeowners in that area that he is representing. He said after reviewing the information he has several concerns. He referred to the Staff Report and the phrase "life cycle and other special events" and said he does not know what that means. He said several years ago there was a nightclub at 151st Street and Kellogg and they could hear the music blaring a half mile away until 1-2:00 a.m. at night. He said this proposed event center is located right in their backyard. He said music is a concern. He said you mix alcohol, music and late hours and the Police will probably get involved. He mentioned traffic and that 135th Street had recently been expanded but added he guessed the taxpayers can pay and they can just widen the road again. He mentioned other concerns were the number of people allowed per event, loud music, unruly behavior, and the availability of liquor and beer. He said shutting things down at 8:00 p.m. all week long sounds a lot better to him. He mentioned that a lot of elderly people live in the area. He said this proposal will have a negative impact on the area. He said it sounds like there is no way to enforce the noise unless as a homeowner calls 911 or the Police. He said they would much rather see single-family residential in the area than an entertainment center in their back yard.

DAILEY asked if the clubhouse at Auburn Hills Golf Course serves alcohol.

OBORNEY said it is a public golf course and they serve beer. He added that a lot of property taxes come from this area and he recommend not passing the request.

JOHNSON clarified since the site is in the County there is no DAB recommendation. He asked since this is a unique piece of property would the DAB surrounding the area weigh in.

DIRECTOR MILLER responded that staff does not typically send county cases to DAB boards for review.

JIM EDGINGTON, 806 NORTH BEBE said he owns the property (vacant lot) at 441 South 135th Street. He mentioned the grandfather clause on the property and that the applicant should have to follow City of Wichita rules when the property becomes part of the city. He mentioned the parking lot and said the City has a lot of gravel parking lots which are pretty dusty so he would like to request asphalt for the parking. He mentioned the noise level and the five decibel rating. He said he understands Kellogg will be elevated but come back down to ground level approximately 1,000 feet west of 135th Street so any sound shot to the south will probably hit the asphalt and come right back. He said he has no problem with what the applicant and her partners want to do as long as it is not a bar or rowdy party. He said Kellogg is a noisy road as many of the people who live there already know. He concluded by saying that he doesn't want loud music at 1:00 a.m. on a Thursday or Friday night.

OMAR KADER, 9409 EAST SHANNONWOOD said he was present at the meeting for a class project. He said his input is that in his experience he doesn't think there is anything wrong with what the partners want to do but he doesn't think they should put this in an area where they are not welcome; that they should find another area.

EWY said he believed he has addressed the issues in general terms. He said the Commission is aware of what the site can potentially yield in terms of noise and traffic. He said this use will generate a fraction of the traffic that would happen if this was fully developed for commercial retail uses in addition to dust, pollution, smells and all the other issues that go with a full scale commercial development. He said his clients would like to take 25 acres of commercially zoned land and turn it into something that will take advantage of the natural features of the area. He said this type of use is generally located at the intersection of a major arterial road or expressway that is already surrounded by commercial zoning. He commented that the surrounding property is zoned approximately 90% GC. He said Baughman worked with the former property owner to the northeast and they could not make the residential development work for his pro forma. He said the Special Assessments were too high on a per lot basis. He said the area has been looked at for residential development approximately eight years ago. He said what they are presenting is trying to be sensitive to the surrounding neighbors because he knows event centers have developed a bad reputation in the last year or so.

MOTION: To give the speaker an additional minute.

MCKAY moved, **WARREN** seconded the motion and it carried.

EWY said they have tried to take the better provisions of the Waterfront Development that is in the middle of residential development and the better parts of the Rustic Timers PUD and merge them together to be sensitive to the fact that the location is currently in Sedgwick County but will probably be annexed into the City within one or two years. He said they are trying to be aware of all the rules and regulations and the impact of this development.

FOSTER asked Mr. Ewy to describe the analysis on the multi-family development. He specifically asked what some of the negatives were.

EWY said the issue was access and he believes there may have been an issue with trying to sell GC ground for residential prices. He said Baughman had done some sketch layouts for residential development and residential and multi-family mixed.

FOSTER mentioned using some of the soil on the lake excavation for berming and added that berming has helped in the past on some other projects.

EWY said they do see berming as a possibility and referred to the landscape plan. He said “on the record” they will add a provision to do a landscape plan as part of the redevelopment of the site that shows berming along the perimeter.

FOSTER commented that approximately 60% of the proposed PUD will have some sort of landscape treatment which he feels seems like pretty good low-impact land development.

EWY said they are almost one-quarter mile away from most of the single-family homes in almost all directions which is amazing compared to any other project they have been involved in. He said they are proposing a 200 foot buffer on the east which does not take into account the depth of the lake east to west. He said any activity is going to be a minimum of 500 feet away from the east property line. He said there is approximately one-quarter mile from the north property line before they reach Auburn Hills through creek bottom in addition to the area being fairly heavily wooded. He said to the northwest will be open space with parking areas approximately 250 feet across the creek from those residences as well. He said they are isolated because they are located in the center of a 40-acre piece of ground in addition to the topography and the general nature of the surrounding properties.

ELLISON clarified that the applicant would be willing to berm the property on the west and north side to help with the sound issue. He clarified that would not kill the project if that was what the Commission stipulated.

EWY said the applicant would be willing to berm around the north and east sides of the pond as they are excavating it to the degree and capacity that they can. He said a landscape plan must be submitted to planning staff for review and approval as part of the building permit process. He said they will have to wait and see what the project yields in terms of dirt.

WARREN said the main concerns he is hearing are traffic, alcohol and noise. He said if this area were developed into residential homes they would be looking at approximately 170 residences which would generate a lot more traffic, more alcohol consumption and probably just as much noise. He said this use will not generate that much traffic and he does not see an issue with consumption of alcohol. He said there is a difference between noise that keeps you awake and disturbs your peace and background clutter like he experienced when he lived near Rock Rapids which he got used to. He asked staff how he could form a motion to insure the area comes under City rules on noise once the area is annexed into Wichita.

MILLER said one approach would be to state that once they are annexed into Wichita, they would conform to the City Noise Ordinance.

JOHNSON said he always has problems with these types of cases because he believes that property owners have the right expect some zoning certainty when they buy a piece of property. He said he really wrestles with making up his mind.

DOOL asked staff if they were convinced that the floodplain would not be a problem with the proposed use of the property.

LONGNECKER replied that based on the aerial, the only part of the applicant's property that is located in the flood zone is a portion on the east. He said the rest of the flood zone is located outside the property boundaries.

FOSTER asked about the one-quarter ratio on the parking requirement. He also asked staff to provide comment on what type of surfacing is required on the parking lot.

LONGNECKER said the County allows gravel surfacing for parking lots. He said once the property is annexed into the City, the standard is paving. He added that the County has no landscape ordinance so additional verbiage would need to be added per what the agent offered in terms of landscape and berming. He said the property will be platted and eventually annexed into the City. He said the applicant is asking for retail type parking of one space per three people which staff has no problem with.

EWY said they are proposing one to four on the parking spaces. He said in reviewing the Parking Code, they felt that was more fitting to the type of scale they are looking at. He reiterated that the applicant is asking for one parking space per four people.

DIRECTOR MILLER commented that staff does not object to the one to four ratio on the parking.

MCKAY commented that this is the former Frontier Land USA, and he was glad to see someone doing something with this property.

MOTION: To approve subject to staff recommendation with the addition that when the property is annexed into the City that it meet the City Noise Ordinance and allow one parking space per four people.

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

FOSTER asked if the motion included the applicant's offer of berming on the north and west sides of the property and the landscape plan.

MCKAY said he would agree that the applicant provide some kind of buffer, but to specifically require a berm, he didn't know if he wanted to do that in a motion.

FOSTER suggested a landscape plan to include berming.

MCKAY said okay, he would add berming, but added that there were no regulations on berms so he considered it an oxymoron.

The **MOTION** was **AMENDED** (with consent of the second) to include a landscape plan with berming on the north and west sides of the property.

RAMSEY commented that the Commission has reviewed several event centers recently. He said the Sedgwick County Commission has set a precedent on what they are going to approve. He said everything that the speakers brought up today the Commission has heard before. He said the same fears and other issues they brought up in the long run turned out to be unfounded.

The **MOTION, AS AMENDED** carried (12-0).

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12. **Case No.: DER2015-00007** - City of Garden Plain request to modify urban area of influence boundary.

CHAIR NEUGENT reported that the case has been deferred indefinitely at the request of the applicant.

The Metropolitan Area Planning Commission adjourned at 3:23 p.m.

State of Kansas)
Sedgwick County) ss

I, W. Dale Miller, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

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

Dale Miller, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)

STAFF REPORT

CASE NUMBER: SUB2015-00045 – HIEGER EAST 2nd ADDITION

OWNER/APPLICANT: B & E Investments, Inc., 5512 West Central Avenue, Suite A,
Wichita, KS 67212; Tom Hieger (contact purchaser), 1107 West
Douglas, Wichita, KS 67213

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

LOCATION: North side of 61st Street North, East of 247th Street West (County
District III)

SITE SIZE: 25.53 acres

NUMBER OF LOTS

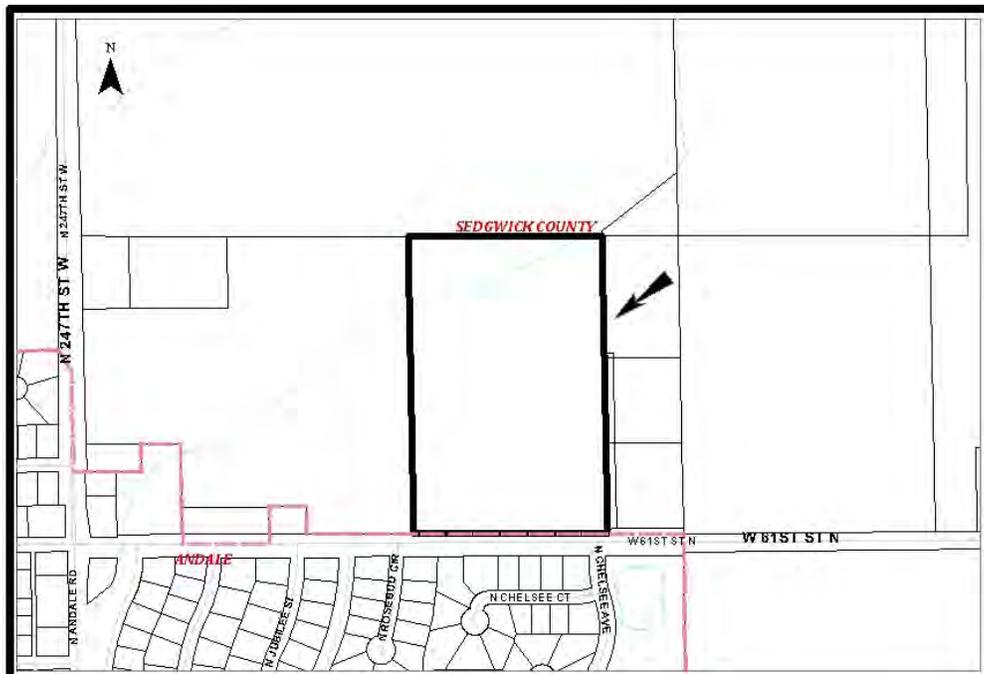
Residential:	9
Office:	
Commercial:	
Industrial:	—
Total:	9

MINIMUM LOT AREA: 2 acres

CURRENT ZONING: Rural Residential (RR)

PROPOSED ZONING: Same

VICINITY MAP



SUB2015-00045 -- Plat of HIEGER EAST 2ND ADDITION
January 7, 2016 - Page 2

NOTE: This site is located in the County in an area designated as “Andale urban growth area” by the Community Investments Plan 2015-2035.

STAFF COMMENTS:

- A. The applicant shall contact Metropolitan Area Building and Construction Department to find out what tests may be necessary and what standards are to be met for approval of on-site water wells. A memorandum shall be obtained specifying approval.
- B. The plat proposes connection to City of Andale’s sanitary sewer in accordance with that city’s standards. A letter of confirmation shall be provided from Andale.
- C. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.
- D. The plat proposes three openings along 61st Street North. County Engineering has approved the access controls subject to a letter from Andale approving the access controls.
- E. County Stormwater advises the drainage plan is approved contingent on revisions.
- F. County Stormwater requires limitations on impervious area and has requested language on the plat’s text. A restrictive covenant regarding water quality requirements should also be filed and referenced in the plat’s text. County Stormwater will work with the applicant’s engineer on the covenant. A stormwater permit and a Notice of Intent are needed.
- G. A restrictive covenant shall be submitted regarding the reserves, which sets forth ownership and maintenance responsibilities of the private drives.
- H. 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.
- I. 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.
- 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. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- 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.)

SUB2015-00045 -- Plat of HIEGER EAST 2ND ADDITION
January 7, 2016 - Page 3

- M. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- N. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Westar Energy requests additional easements which will be provided by separate instrument on the adjoining Hieger East Addition. Heide Bryan, Subdivision Representative, will be the contact for this plat. She can be reached at 316-261-6554. Any and all relocation and removal of any existing equipment made necessary by this plat will be at the applicant's expense.
- 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).

STAFF REPORT

CASE NUMBER: VAC2015-00060 - Request to vacate a public utility easement referenced in the platton's text

OWNER/APPLICANT: Stephen K. and Pamela M. Lester (owner/applicant)

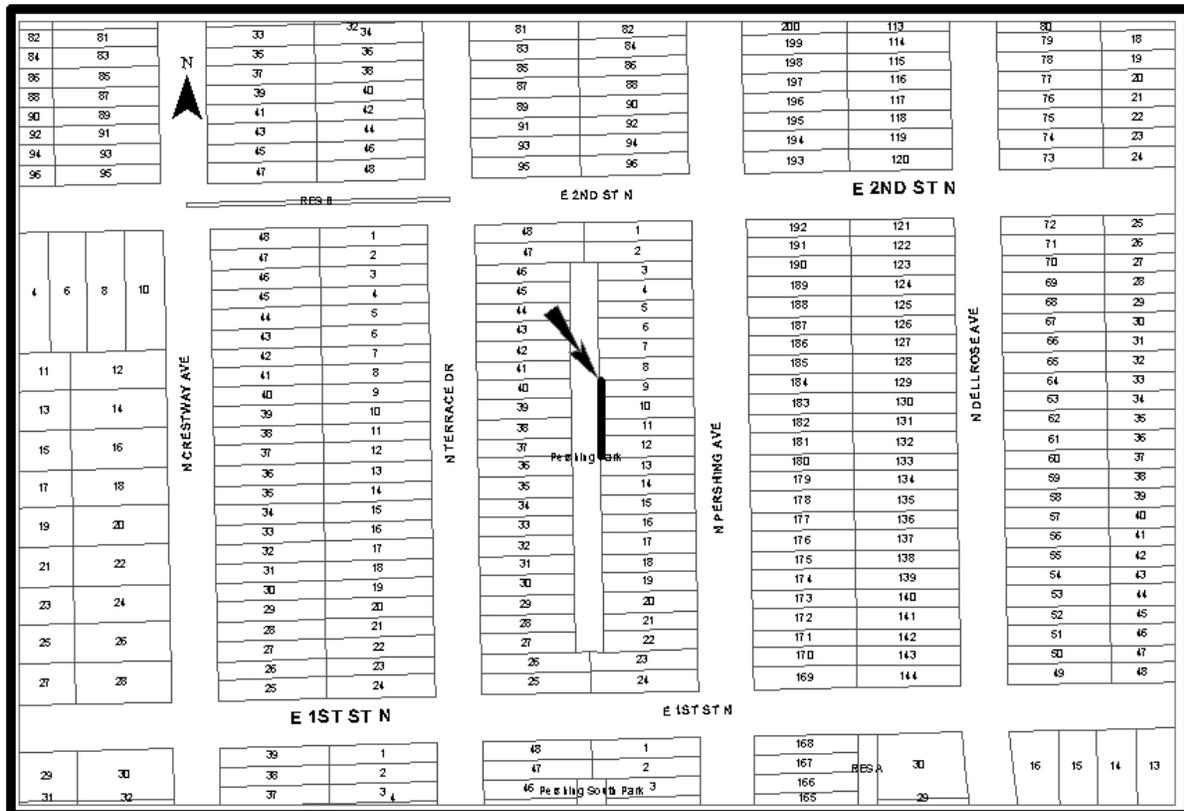
LEGAL DESCRIPTION: Generally described as vacating the 5-foot wide public utility easement (as referenced in the platton's text) located in the west 5 feet of Lots 9, 10, 11 and 12, Pershing Terrace Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located northeast of Oliver and Douglas Avenues, between 1st and 2nd Streets, on the west side of Pershing Avenue (235 N Pershing - WCC #I)

REASON FOR REQUEST: To allow for detached garage

CURRENT ZONING: The site and the abutting properties and are zoned SF-5 Single-Family Residential. Adjacent properties are zoned SF-5 and TF-3 Two-Family Residential

VICINITY MAP:



The applicant is requesting the vacation of the five-foot wide public utility easement (as referenced in the plattor’s text) located in the west five feet of Lots 9, 10, 11 and 12, Pershing Terrace Addition; the subject site. Per the plattor’s text “The City of Wichita is hereby granted an easement for the construction and maintenance of all public utilities in the rear five feet of each and every lot.” The plattor’s text also references a park, which has not been dedicated for public use; it is a private park. Access to the private park is through the SF-5 Single-Family Residential (SF-5) zoned private properties that abut it; all developed as single-family residences. The 38.25-foot wide park abuts the rear yards of Lots 3-22 (east side, which contains the subject site), Lots 27-36 (west side) and the interior side yards of Lots 2 and 47 (north side) and Lots 22 and 26 (south side), all in the Pershing Terrace Addition. The ownership description of the subject site, Lots 9, 10, 11 and 12, Pershing Terrace Addition, also includes a 1/24 interest in park. The applicant’s interest/ownership in the park would push the rear yard 19.125 feet west (the east half of the 38.25-foot wide park) of the rear lot lines of the subject site, Lots 9, 10, 11 and 12, Pershing Terrace Addition. This would establish the SF-5 zoned site’s 20-foot rear yard setback, of which 0.875 feet of it would be located over the west lot lines of the subject site. The vacation process can reduce the 20-foot rear setback by 20%, establishing a 16-foot rear setback, which would allow the applicant to build four feet into the private park. There are several abutting properties that have built into the private park, but staff has found no vacation of the utility easement. There is a sewer line and manholes located the length of the park. If approved a dedication of a sewer-utility easement by separate instrument, would establish a 10-foot wide (x) 100-foot long sewer and utility easement running from the center of the public sewer, east towards the subject site. The Pershing Terrace Addition was recorded April 11, 1923.

NOTE: A similar vacation case, located a block south of this case, required the dedication of utility easement by separate instrument to cover the sewer equipment located in the Pershing Terrace 2nd Addition’s private park; V-1832, Lots 29, 30 and 31, Pershing Terrace 2nd Addition. The design of the Pershing Terrace 2nd Addition mirrors the subject Pershing Terrace Addition

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

- 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 December 17, 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 utility easement referenced in the plattor’s text 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 five-foot wide public utility easement (as referenced in the plattor’s text) located in the west five feet of Lots 9, 10, 11 and 12, Pershing Terrace Addition.
- (2) Reduce the 20-foot rear setback by 20%, establishing a 16-foot rear setback. The 16-foot rear setback begins 19.125 feet west of the rear lot lines of the subject site, Lots 9, 10, 11 and 12, Pershing Terrace Addition, which is the middle of the 38.25-foot wide park abutting the subject site.
- (3) Dedicate a 10-foot wide (x) 100-foot long sewer and utility easement by separate instrument that shall be located in the center of the public sewer line, going east towards the subject site. This must be provided, with original signatures, to Planning prior to the case going to the City Council for final action and subsequent recording with the Register of Deeds.
- (4) As needed provide letters from franchised utility representatives stating that there utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council for final action.
- (5) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council for final action.
- (6) All improvements shall be according to City Standards and at the applicants’ expense.
- (7) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE’S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the five-foot wide public utility easement (as referenced in the plattor’s text) located in the west five feet of Lots 9, 10, 11 and 12, Pershing Terrace Addition.
- (2) Reduce the 20-foot rear setback by 20%, establishing a 16-foot rear setback. The 16-foot rear setback begins 19.125 feet west of the rear lot lines of the subject site, Lots 9, 10, 11 and 12, Pershing Terrace Addition, which is the middle of the 38.25-foot wide park abutting the subject site.
- (3) Dedicate a 10-foot wide (x) 100-foot long sewer and utility easement by separate instrument that shall be located in the center of the public sewer line, going east towards the subject site. This must be provided, with original signatures, to Planning prior to the case going to the City Council for final action and subsequent recording with the Register of Deeds.

- (4) As needed provide letters from franchised utility representatives stating that there utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council for final action.
- (5) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council for final action.
- (6) All improvements shall be according to City Standards and at the applicants’ expense.
- (7) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

AGENDA ITEM # 4

- 4. Case No.: ZON2015-00043 *****CASE WITHDRAWN BY CLIENT*****
Request: City zone change request from LC Limited Commercial to GC General Commercial with a Protective Overlay.
General Location: At the southwest corner of Lewis Street and Ellison Streets (north of Kellogg and Ease of Greenwich).
Presenting Planner: Derrick Slocum



STAFF REPORT

DAB I: January 4, 2016
MAPC January 7, 2016
WCC: February 9, 2016

CASE NUMBER: ZON2015-00050

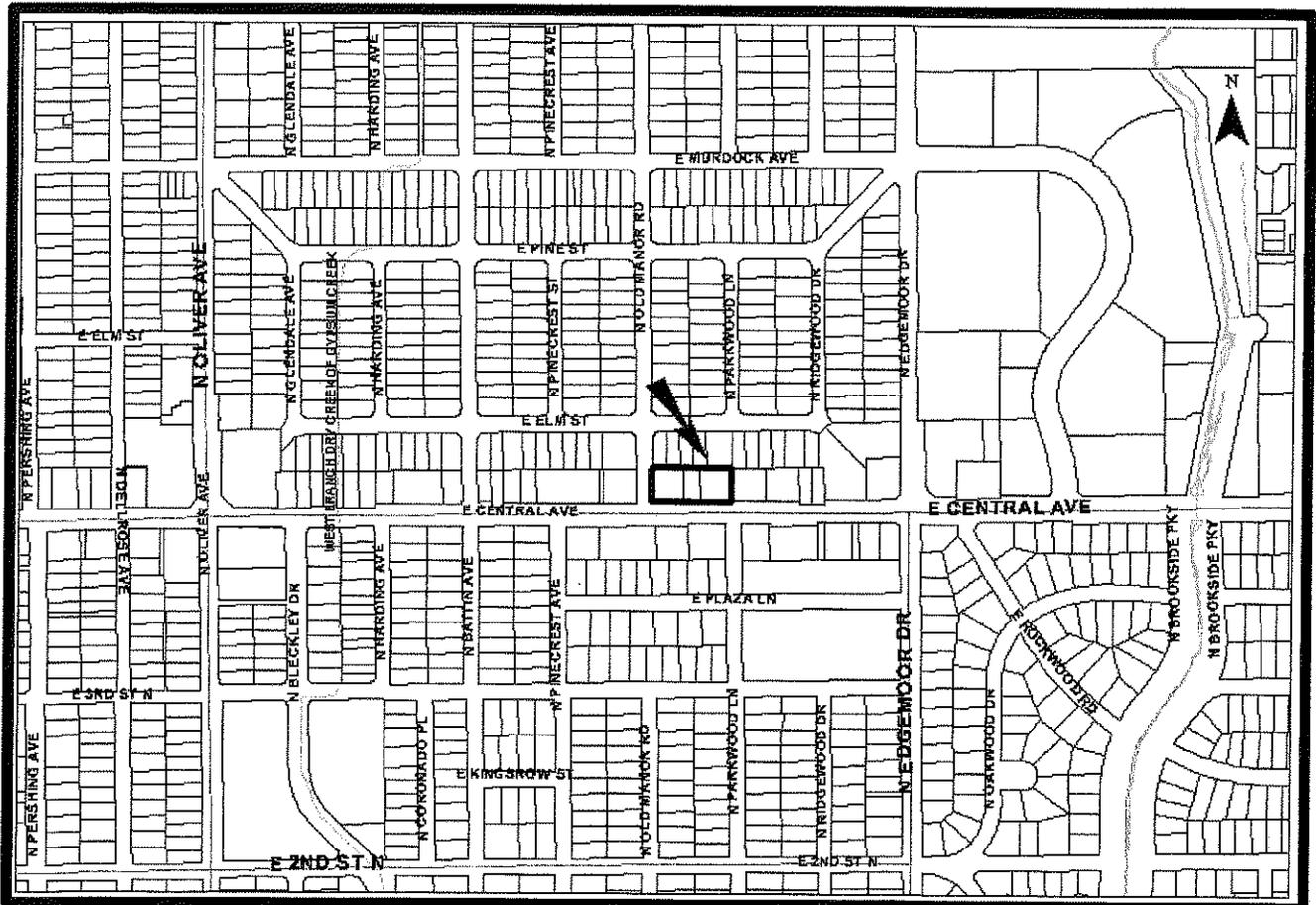
APPLICANT/AGENT: F & R Investments (Applicant/Owner)
Kim Edgington (Agent)

REQUEST: LC Limited Commercial ("LC")

CURRENT ZONING: NR Neighborhood Retail ("NR")

SITE SIZE: 0.86 acre

LOCATION: Generally located at the northeast corner of East Central Avenue and Old Manor (5308, 5314, 5320, 5326 E. Central Ave.)



BACKGROUND: The applicant requests a rezone from NR Neighborhood Retail (“NR”) to LC Limited Commercial (“LC”) zoning on three lots, 1, 2 and 3; Rebecca Addition (5308, 2314, 5320 and 5326 East Central Avenue) totaling 0.86 acres, located at the northeast corner of East Central Avenue and Old Manor Road. The parcels are currently developed with older quadraplexes, many of the units currently vacant. These three lots are the last remaining residential lots along Central Avenue at this location, between Edgemoor (to the east) and North Pinecrest Street (to the west).

The current neighborhood character is a mix of LC and NR zoned retail, vehicle repair, medical services and personal care services along Central Avenue. The only other residential properties along this corridor are further west down Central Avenue, near Battin Street and backing up to the commercial properties that are located along Central Avenue. The proposed zone change, from NR to LC would require conformance to all property development standards in the Unified Zoning Code

Property north of the subject site is zoned SF-5 Single-family Residential (“SF-5”) and is developed with single-family residences. Property to the south of the subject site, across Central Avenue, is zoned LC and is developed with a medical service, personal care services and a restaurant. Property to the east of the subject site is zoned NR and is develop with a strip center, retail stores. Property west of the subject site, across Old Manor Road, is zoned LC and is developed with vehicle repair services and a car wash.

CASE HISTORY: The subject site was platted as Lots 1, 2 and 3; Rebecca Addition on October 15, 1988. Property directly to the west of the subject site, across Old Manor Road, was rezoned to LC from B Multi-family Residential (“B”) (Z-3352) in 2000.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Residential
SOUTH:	LC	Retail, Medical Services, Restaurant
EAST:	NR	Strip Center, Retail Stores
WEST:	LC	Vehicle Repair, Car Wash

PUBLIC SERVICES: The subject property has frontage along East Central Avenue (south side of property), a five-lane (center turn lane), and paved, arterial road with approximately 95-feet of right-of-way at this location. Along the west side of the property runs North Old Manor Road, a two-lane, paved, collector without traffic counts. Public water and sewer service are currently available to the subject property.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies this site as appropriate for Local Commercial category of uses. This category of use encompasses areas that contain concentrations of predominantly commercial, office, and personal service uses that do not have a predominately regional market draw. The range of uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities.

The purpose of the requested LC zoning district is to accommodate retail, commercial, office and other complementary land uses. The LC and NR zoning districts are generally compatible with the Local Commercial or Regional Commercial designations of the Wichita-Sedgwick County Comprehensive Plan.

RECOMMENDATION: The request does not introduce LC zoning into this area located north of the East Central Avenue – Old Manor Road intersection, as the property across Old Manor Road from the subject site was recently rezoned from B to LC; Z-3352 and property south of the subject site, across Central Avenue, is also zoned LC. A persistent consideration with the subject site is the possible lack of on-site parking for nonresidential uses. It is reasonable to state that the possible lack of on-site parking would need to be resolved thru off-site parking or a variance.

Based on the information available prior to the public hearing, MAPD staff recommends the application be **APPROVED**, subject to the following provisions of a Protective Overlay;

- (1) All uses allowed as permitted uses in the LC Limited Commercial (“LC”) zone district except the following: adult bookstores; pawn shops; funeral home; adult entertainment; convenience stores; hotel or motel; night club; recreation and entertainment, indoor; service station; restaurant with drive-up window service or in-vehicle food service; tavern and drinking establishment; vehicle and equipment sales, outdoor and wireless communication facility;
- (2) Signage on the site shall be limited to that permitted in the NR Neighborhood Retail (“NR”) zoned district. No signage shall face property zoned or used for residential purposes;
- (3) The site shall be developed in conformance with code required noise, setback and height standards, zoning screening and buffering and landscaping requirements unless modified by this Protective Overlay;
- (4) No outdoor storage shall be permitted on the site;
- (5) Outdoor lighting on the site shall be restricted to 12 feet in height, including the base, and shall be shielded away from residential zoning;
- (6) Outdoor speakers and sound amplification systems shall not be permitted.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** Property north of the subject site is zoned SF-5 Single-family Residential (“SF-5”) and is developed with single-family residences. Property to the south of the subject site, across Central Avenue, is zoned LC and is developed with a medical service, personal care services and a restaurant. Property to the east of the subject site is zoned NR and is developed with a strip center, retail stores. Property west of the subject site, across Old Manor Road, is zoned LC and is developed with vehicle repair services and a car wash.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site could be developed with residential and light commercial uses under the current NR zoning.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Rezoning and commercial development could have negative effects on the single-family residences north of the application area. Existing codes would require compatibility setbacks, screening, landscaping, limit noise, and prohibit certain uses within 200 feet of residences.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies this site as appropriate for Local Commercial category of uses. This category of use

encompasses areas that contain concentrations of predominantly commercial, office, and personal service uses that do not have a predominately regional market draw. The range of uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. The purpose of the requested LC zoning district is to accommodate retail, commercial, office and other complementary land uses. The LC and NR zoning districts are generally compatible with the Local Commercial or Regional Commercial designations of the Wichita-Sedgwick County Comprehensive Plan.

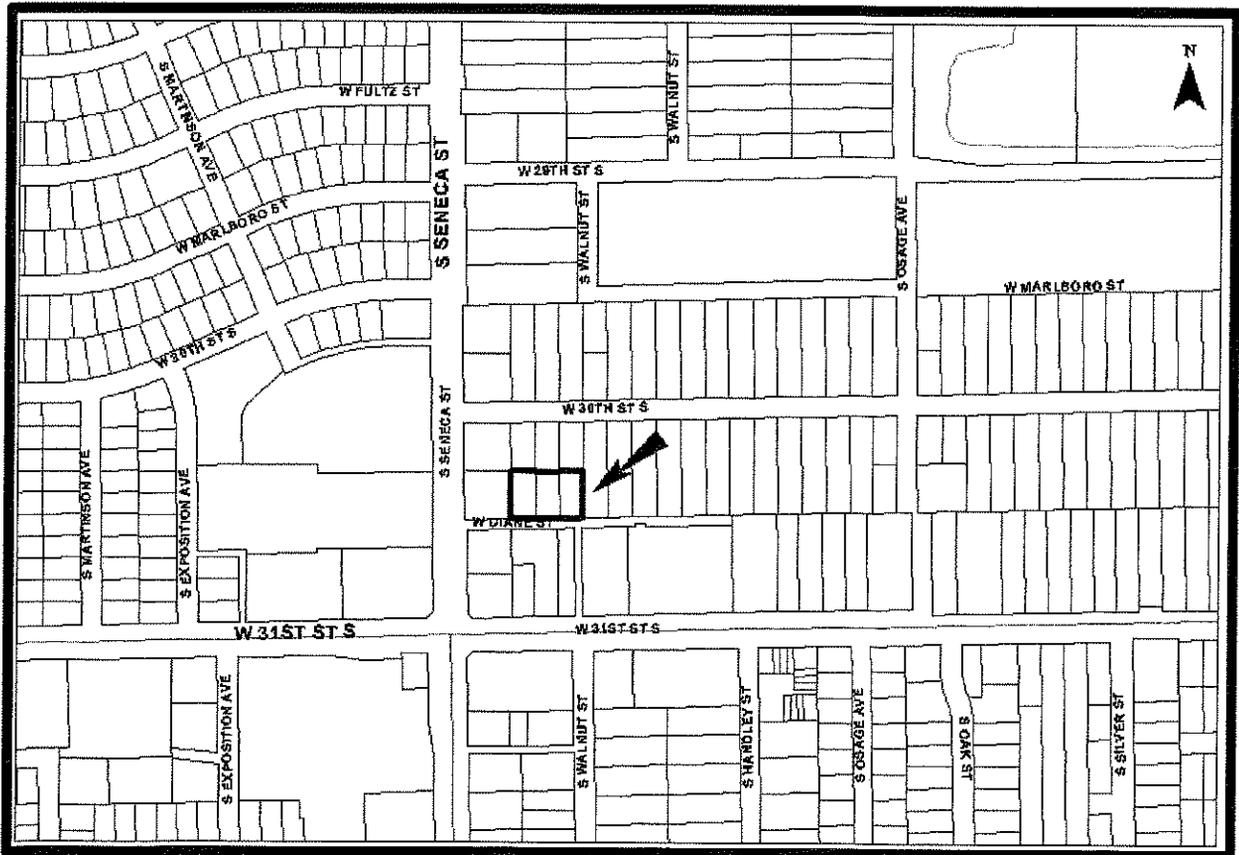
- (5) **Impact of the proposed development on community facilities:** Traffic on the existing residential street could increase as a result of the proposed development. The site currently has a curb cut for access to Old Manor Road, a classified local street and two other access points along Central Avenue.



STAFF REPORT

DAB III: January 6, 2016
MAPC: January 7, 2016
WCC: February 9, 2016

- CASE NUMBER:** ZON2015-00051
- APPLICANT/AGENT:** Fidelity Bank, c/o: Terri Rosenhammer (Owner/Applicant)
Baughman Company, PA, c/o: Russ Ewy (Agent)
- REQUEST:** LC Limited Commercial (“LC”)
- CURRENT ZONING:** SF-5 Single-family Residential (“SF-5”)
GO General Office (“GO”)
- SITE SIZE:** 0.7 acres
- LOCATION:** Generally located east of South Seneca and one block north of 31st Street South (3122 S. Seneca).
- PROPOSED USE:** Expand existing bank



BACKGROUND: The .70 acre application area is currently zoned SF-5 Single-Family Residential (SF-5), with a small squared are of GO General Office (“GO”) at the extreme southeast part of the application area. These three lots have remained vacant since platting in 1950. The applicant also owns the LC Limited Commercial (LC) zoned lot west of the site, developed with a strip retail commercial use. The applicant wishes to expand their banking operation to the subject site. Their nearest bank location is 400 feet northwest of the subject site and therefore requests a zone change request to LC. Under LC zoning, the Unified Zoning Code (UZC) would permit the following land uses on this site by right (which are not permitted under the current SF-5 zoning): duplex, multi-family, assisted living, group residence, correctional placement residence, hospital, nursing facility, university or college, animal care, automated teller machine, bank or financial institution, broadcast/recording studio, construction sales and services, convenience store, farmers market, funeral home, hotel or motel, medical service, nurseries or garden centers, general office, commercial parking area, pawnshop, personal care service, personal improvement service, post office substation, limited printing and copying, indoor entertainment and recreation, restaurant, general retail, secondhand store, service station, limited vehicle repair, vocational school, agricultural research, agricultural sales and service. Under LC zoning, the UZC would require compatibility setbacks from SF-5 zoning, parking, screening and landscaping; these requirements will limit development on the site. The UZC requires a 25-foot compatibility setback from SF-5 zoning to the north, it limits building height to 35 feet within 50 feet of SF-5 zoning, it limits light pole height to 15 feet within 200 feet of residential zoning, and it requires three parking spaces per 1,000 square feet for most commercial uses.

The three lots north of the application area are zoned SF-5 and developed with single-family residences. Property east of the site is also zoned SF-5 and developed with a single-family residence. South of the site, across Diane Street, is zoned LC and developed with a retail store (Walgreens). West of the site is property zoned LC and developed with a strip mall, with larger and more concentrated retail uses across Seneca Street.

CASE HISTORY: The site includes parts of Lots 3, 4 and 5 of the Robson Addition platted on July 26, 1950. CON2005-00029 was approved for an ancillary parking lot on SF-5 zoned property in 2005. Also in 2005, a lot split (SUB2005-00125) was approved and a dedication (DED2005-00033) of road right of way was required in association with SUB2005-00125.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family Residences
SOUTH:	LC	Retail Store
EAST:	SF-5	Single-family Residence
WEST:	LC	Retail Stores and Strip Mall

PUBLIC SERVICES: South Seneca Street is a paved arterial with a 90-foot right of way. West Diane Street is a paved local road with a 30-foot right of way. All other public utilities are available.

CONFORMANCE TO PLANS/POLICIES: The *2030 Wichita Functional Land Use Guide* of the Comprehensive Plan identifies the site as “urban residential.” The urban residential category encompasses areas that reflect the full diversity of residential development densities and types, including multi-family units, typically found in large urban municipality. The *Land Use Guide* identifies property west of the site along Seneca as “local commercial.” The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials, should

locate in compact clusters or nodes versus extended strip developments, should not put commercially generated traffic on residential streets, and should have site design features which limit noise, lighting and other activity from adversely impacting surrounding residential areas.

RECOMMENDATION: Staff notes that these lots, other than the westernmost lot (Lot 3), has remained vacant since platting in 1950. The requested zone change would extend contiguous LC zoning from the Seneca frontage to expand area available for a future bank location. 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 three lots north of the application area are zoned SF-5 and developed with single-family residences. Property east of the site is also zoned SF-5 and developed with a single-family residence. South of the site, across Diane Street, is zoned LC and developed with a retail store (Walgreens). West of the site is property zoned LC and developed with a strip mall, with larger and more concentrated retail uses across Seneca Street.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned SF-5 and could be developed with single-family residences. However, the site has remained vacant since platting, and existing commercial development bordering the site to the west and south may reduce the site's desirability for future single-family residential development.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Residential neighbors to the north and east could be impacted with increased noise, light, trash, traffic and activity from development under LC zoning. These impacts would not be new to the area as significant commercial zoning and development already exists in the immediate area. The compatibility standards of the UZC should mitigate these impacts on nearby residences.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The *2030 Wichita Functional Land Use Guide* of the Comprehensive Plan identifies the site as "urban residential." The urban residential category encompasses areas that reflect the full diversity of residential development densities and types, including multi-family units, typically found in large urban municipality. The *Land Use Guide* identifies property east of the site along Seneca as "local commercial." The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials, should locate in compact clusters or nodes versus extended strip developments, should not put commercially generated traffic on residential streets, and should have site design features which limit noise, lighting and other activity from adversely impacting surrounding residential areas.
- (5) **Impact of the proposed development on community facilities:** The proposed zone change could bring increased commercial traffic one lot further east on this portion of Diane Street. All other services are in place, any increased demand on community facilities can be handled by existing infrastructure.

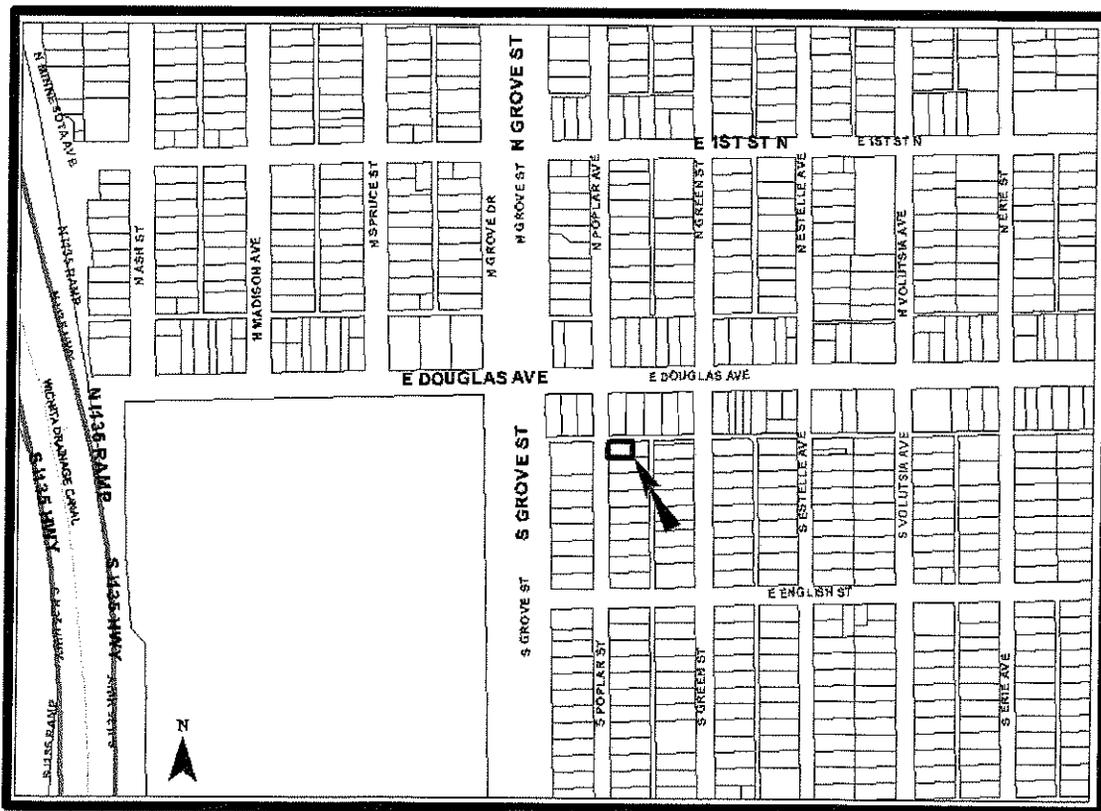
7. Case No.: CON2015-00037 *****CASE DEFERRED TO 1-21-2016*****
Request: County Conditional Use request for an Asphalt Plant or Concrete Plant on LI Limited Industrial zoned property.
General Location: On the west side of Woodlawn Boulevard/63rd Street East and 1/2 mile north of K-254.
Presenting Planner: Bill Longnecker

STAFF REPORT

MAPC January 7, 2016

DAB I January 4, 2016

- CASE NUMBER:** CON2015-38
- OWNER/APPLICANT:** Murfin, Inc. (applicant)
- REQUEST:** Conditional Use for Ancillary Parking
- CURRENT ZONING:** TF-3 Two-family Residential
- SITE SIZE:** .09 acre
- LOCATION:** One lot south of East Douglas, east of South Poplar (116 S. Poplar)
- PROPOSED USE:** Parking for an apartment building



BACKGROUND: The applicant requests a Conditional Use to allow ancillary parking on a TF-3 Two-family Residential (TF-3) zoned property. The property is developed with a duplex to be removed for the parking lot (see the attached site plan). The site is located one lot south of East Douglas on the east side of South Poplar (116 S. Poplar), across an alley and behind apartment buildings that front on Douglas. Similar parking exists along this alley in support of apartment and commercial uses along this portion of East Douglas.

Property north of the site is zoned LC Limited Commercial (LC) and developed with apartment buildings fronting East Douglas. Property south of the site is zoned TF-3 and primarily developed with single-family residences. East of the site is GO General Office (GO) zoning along the alley, and TF-3 zoning further south. Property immediately east of the site is developed with a single-family residence, but also has ancillary parking along the alley. Property west of the site is zoned GO and is used for parking in support of commercial buildings fronting Douglas.

Per the Unified Zoning Code (UZC) Sec.III-D.6.p., ancillary parking may be permitted with a Conditional Use in the TF-3 zoning district. The UZC supplementary use conditions for ancillary parking in TF-3 include: parking must be within 600 feet of the supported use, must be for passenger vehicles only, shall not permit parking spaces within the required front setback, must meet city paving and design standards, must be screened in accordance with the UZC and meet the Landscape Code, must meet UZC lighting requirements, is limited to signage for the orientation of the parking area, and is prohibited from being a fee based parking area. The UZC also allows for an Administrative Adjustment (Sec.V-I.2.I.) to allow parking in residential zoning districts within the front setback but no closer to the property line than eight feet.

CASE HISTORY: The site was platted as a portion of Lots 2 and 4 of the Richland's 2nd Addition to Wichita in 1885.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Multi-family residences
SOUTH:	TF-3	Single-family residences
EAST:	GO, TF-3	Ancillary parking, single-family residences
WEST:	GO	Ancillary parking

PUBLIC SERVICES: The subject property has direct access to Poplar, a residential street, and is one block south of East Douglas, a four-lane arterial.

CONFORMANCE TO PLANS/POLICIES: The '2030 Land Use Guide of the Comprehensive Plan' identifies the site as "Urban Residential." The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in large urban municipality.

RECOMMENDATION: The proposed parking is similar to parking lots on this block and

in the immediate surrounding blocks. The existing parking lots do not appear to have any impact on nearby residences, and improve the on-street parking within the immediate neighborhood. Based on the information available prior to the public hearing, staff recommends that the request be APPROVED, subject to the following conditions:

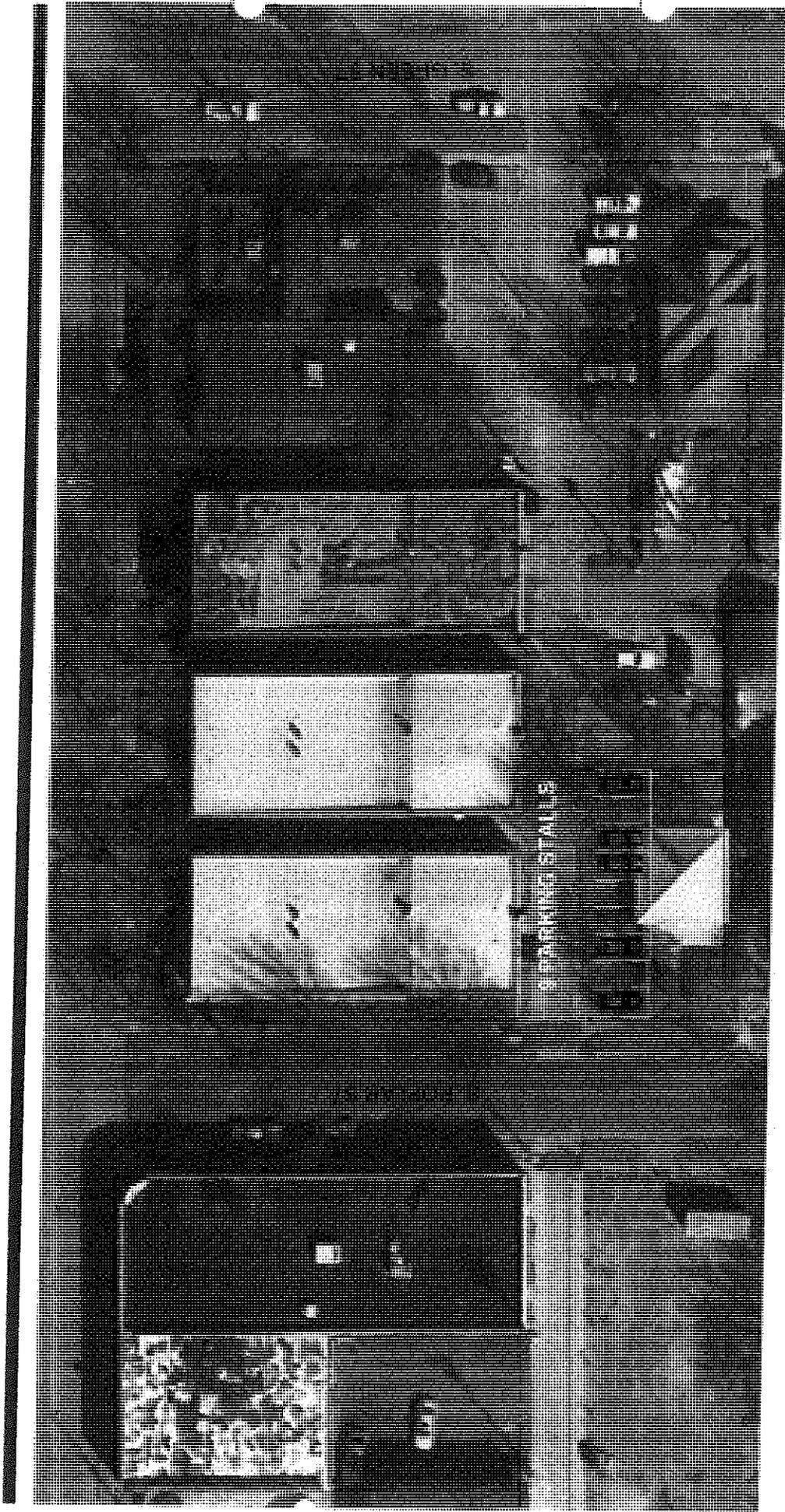
1. The Conditional Use for Ancillary Parking shall conform to the UZC, Sec.III-D.6.p.
2. Paved parking surface shall be no closer than eight feet from the front or west property line.
3. The applicant shall submit a revised site plan for planning staff approval, which demonstrates the eight-foot front setback for parking, screening from residential property to the south, and landscaping within the eight-foot front setback.
4. The site shall be maintained in conformance with the approved site plan.
5. No light poles shall be permitted on the site.
6. The applicant shall submit a landscape plan, to be approved by planning staff, in conformance with the Landscape Ordinance.
7. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The staff recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** Property north of the site is zoned LC and developed with apartment buildings fronting East Douglas. Property south of the site is zoned TF-3 and primarily developed with single-family residences. East of the site is GO zoning along the alley, and TF-3 zoning further south. Property immediately east of the site is developed with a single-family residence, but also has ancillary parking along the alley. Property west of the site is zoned GO and is used for parking in support of commercial buildings fronting Douglas.
2. **The suitability of the subject property for the uses to which it has been restricted:** The property is zoned TF-3 and was developed with a single-family residence in 1910. The non-residential zoning and uses abutting this site to the north provide the opportunity for consideration of ancillary parking on the site.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Ancillary parking on a site this size, when developed with the UZC

supplementary conditions, should have little impact on nearby property. The proposed parking will support the abutting multi-family residential uses, alleviating on-street parking in the neighborhood.

4. **Conformance of the requested change to adopted or recognized Plans/Policies:** The '2030 Land Use Guide of the Comprehensive Plan' (Plan) identifies the site as "Urban Residential." The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in large urban municipality.
5. **Impact on Community Facilities:** Impact on community facilities will be minimal.



SITE PLAN



02.04.2015

PARKING OPTION 'A'

Douglas & Grove



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