

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

**MINUTES**

February 18, 2016

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, February 18, 2016 at 1:30 p.m., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Carol Neugent, Chair; David Dennis, Vice Chair; John Dailey; Bill Ellison; David Foster (Out @2:16 p.m.); Matt Goolsby; Bob Dool; John McKay Jr.; Bill Ramsey (In @1:33 p.m.); Lowell Richardson; and John Todd. Joe Johnson; Debra Miller Stevens and Chuck Warren were absent. Staff members present were: Dave Barber, Advance Plans Manager; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Jeff Vanzandt, Assistant City Attorney; Justin Waggoner, Assistant County Counselor and Maryann Crockett, Recording Secretary.

1. Approval of the January 21, 2016 Planning Commission Minutes:

**MOTION:** To approve the January 21, 2016 Planning Commission Minutes.

MCKAY moved, DOOL seconded the motion, and it carried (10-0)

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2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

There were no Subdivision Cases.

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RAMSEY (In @1:33 p.m.)

3. **PUBLIC HEARING – VACATION ITEMS**

- 3-1. **VAC2016-00001: City request to vacate an easement created by the vacation of public street right-of-way**, on property generally located north of Central Avenue on the east side Hydraulic Avenue (540 N. Hydraulic).

**CASE NUMBER:** VAC2016-00001 - Request to vacate an easement created by the vacation of public street right-of-way

**OWNER/AGENT:** Timothy McGinty (owner/applicant) KE Miller c/o Kirk Miller (agent)

**LEGAL DESCRIPTION:** Generally described as vacating a 25-foot wide (x) 135-foot long utility easement created by the vacation of a portion of Elm Street (V-1114, approved November 9, 1983, Vacation Ordinance #38-447) located between Hydraulic Avenue (west side) and I-135, Lot 25, Ratliffes Addition south side) and Lot 3, McGinty Addition (north side), Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located north of Central Avenue on the east side Hydraulic Avenue (540 N. Hydraulic - WCC #I)

**REASON FOR REQUEST:** Building addition

**CURRENT ZONING:** The site and the abutting south property are zoned GC General Commercial. Abutting north property is zoned LI Limited Industrial. Adjacent west (across Hydraulic Avenue) properties are zoned GC & LI. Abutting east property is I-135 right-of-way.

The applicant proposes to vacate a 25-foot wide (x) 135-foot long utility easement created by the vacation of a portion of Elm Street located between Hydraulic Avenue (west side) and I-135, Lot 25, Ratliffes Addition south side) and Lot 3, McGinty Addition (north side); V-1114, approved November 9, 1983, Vacation Ordinance #38-447. There is a sewer line and manhole located in the east portion of the subject easement. This sewer line continues north onto the abutting north property's (Lot 3, McGinty Addition) platted utility easement; see NOTES. AT&T has underground lines located in the subject easement. The applicant and AT&T are working for resolution, via a private agreement. Westar Energy has lines and equipment in the easement. Becky Thompson is the Area Representative working with the applicant to relocate the existing equipment. She can be reached at 261-6320.

NOTE: VAC2015-00057 was a request to vacate the platted 188.79-foot long (x) 25-foot wide utility easement running parallel to the south property line of Lot 3, McGinty Addition; this request has not gone to City Council for final action. VAC2015-00011 vacated the 404.72-foot (x) 20-foot platted utility easement running parallel to the east property lines of Lots 1, 2 and 3 (the subject site), McGinty Addition; approved by the City Council June 23, 2015.

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

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time January 28, 2016, 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 created by the vacation of a portion of public street right-of-way and that the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request

- (1) Abandonment or relocation/reconstruction of any/all utilities, made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. As needed provide an approved private project plan number for the abandonment /relocation of public utilities, specifically the sewer line and manhole that is located in the subject easement. As needed

provide approval from franchised utilities, in particular from Westar and AT&T, for the relocation of franchised utilities. Becky Thompson is the Area Representative is working with the applicant to relocate the existing equipment. She can be reached at 261-6320. All to be provided to the Planning Department prior to this case going to City Council for final action.

- (2) Provide Planning with any needed easements, with original signatures, for relocated utilities, prior to this case going to City Council for final action and subsequent recording with the Vacation Order at the register of Deeds.
- (3) Provide Planning with a legal description of the vacated portion of the public utility easement dedicated by separate instrument on a Word document via E-mail that can be used on the Vacation Order. This must be provided to the Planning Department prior to this case going to City Council for final action.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Abandonment or relocation/reconstruction of any/all utilities, made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. As needed provide an approved private project plan number for the abandonment /relocation of public utilities, specifically the sewer line and manhole that is located in the subject easement. As needed provide approval from franchised utilities, in particular from Westar and AT&T, for the relocation of franchised utilities. Becky Thompson is the Area Representative is working with the applicant to relocate the existing equipment. She can be reached at 261-6320. All to be provided to the Planning Department prior to this case going to City Council for final action.
- (2) Provide Planning with any needed easements, with original signatures, for relocated utilities, prior to this case going to City Council for final action and subsequent recording with the Vacation Order at the register of Deeds.
- (3) Provide Planning with a legal description of the vacated portion of the public utility easement dedicated by separate instrument on a Word document via E-mail that can be used on the Vacation Order. This must be provided to the Planning Department prior to this case going to City Council for final action.

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

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

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

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3-2. **VAC2016-00002: City request to vacate an easement dedicated by separate instrument and a platted setback,** on property generally located west of I-35 on the southeast corner of 31st Street South and Bluff Avenue (4011 E. 31st Street S.).

**CASE NUMBER:** **VAC2016-00002** - Request to vacate a sewer easement dedicated by separate instrument and a portion of a platted setbacks

**OWNER/APPLICANT:** Julius Properties, LP (owner/applicant)

**LEGAL DESCRIPTION:** Generally described as vacating a 16.5-foot wide sewer easement dedicated by separate instrument (Misc. Book 150 – Pages 604-606, recorded March 29, 1940) and a portions of platted 29-foot wide & 35-foot wide street side yard setback, all located on Lot 1, Poston Addition, Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located west of I-35 on the southeast corner of 31st Street South and Bluff Avenue (4011 E. 31st Street S - WCC #III)

**REASON FOR REQUEST:** Remove existing building encroachments

**CURRENT ZONING:** The site and adjacent south and east properties are zoned LI Limited Industrial. Adjacent west (across Bluff Avenue) property is zoned MH Manufactured Housing. Adjacent north property (across 31<sup>st</sup> Street South) is zoned MF-29 Multi-Family Residential.

The applicant proposes to vacate a 16.5-foot wide sewer easement (east-west) dedicated by separate instrument; Misc. Book 150 – Pages 604-606, recorded March 29, 1940. The north side of the site's building (built 1971, 2006, 2014) covers most of the subject easement. There is a sewer line (northwest-southeast) located in an east portion of the subject easement. This east portion of the subject easement is located in a parking lot and has no structural encroachments. There is also a platted 12-foot wide utility easement that covers the subject sewer line; this easement will remain in place. Westar Energy has lines and equipment near the areas requested to be vacated. LaDonna Vanderford, is the Area Representative and will be the contact should the equipment need to be relocated or removed. She can be reached at 261-6490.

The applicant is also requesting the vacation of a portions of the platted setbacks: (a) The east four feet of the platted 29-foot wide street side yard setback located on the west side site and running parallel to Bluff Avenue, and; (b) The west four feet of the platted 35-foot wide street side yard setback located on the east side of the site and running parallel to Navajo Street. The LI zoning district has no minimum street side yard setback. The Poston Addition was recorded with the Register of Deeds July 13, 1973.

NOTE: The applicant has provided a Final Judgement, recorded March 21, 1953, Misc. Book 301, Pages 541-543, that is not legible and as such Staff cannot comment on its contents.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water & Sewer/Stormwater, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of a sewer easement dedicated by separate instrument and portions of platted street side yard setbacks.

- 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 January 28, 2016, 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 a sewer easement dedicated by separate instrument and portions of platted street side yard setbacks and that the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request

- (1) Westar Energy has lines and equipment near the areas requested to be vacated. LaDonna Vanderford, is the Area Representative and will be the contact should the equipment need to be relocated or removed. She can be reached at 261-6490. Any and all relocation and removal of existing equipment due to this vacation request shall be the responsibility and at the expense of the applicant to City Standards. As needed provide an approved private project plan number for the abandonment /relocation of public utilities. As needed provide approval from franchised utilities for the relocation of franchised utilities. All to be provided to the Planning Department prior to this case going to City Council for final action.
- (2) Dedicate by separate instrument, with original signatures, an additional 8 feet of easement to the platted 12-foot wide utility easement generally located along the north side of Lot 1, Poston Addition. This must be provided to Planning prior to this case going to City Council for final action and subsequent recording with the Vacation Order at the register of Deeds.

- (3) Vacate the east 4 feet of the platted 29-foot street side yard setback located on the west side of Lot 1, Poston Addition and running parallel to Bluff Avenue. Vacate west four feet of the platted 35-foot wide street side yard setback located on the east side of Lot 1, Poston Addition and running parallel to Navajo Street.
- (4) Provide Planning with a legal description of the vacated portion of the public utility easement dedicated by separate instrument on a Word document via E-mail that can be used on the Vacation Order. This must be provided to the Planning Department prior to this case going to City Council for final action.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Westar Energy has lines and equipment near the areas requested to be vacated. LaDonna Vanderford, is the Area Representative and will be the contact should the equipment need to be relocated or removed. She can be reached at 261-6490. Any and all relocation and removal of existing equipment due to this vacation request shall be the responsibility and at the expense of the applicant to City Standards. As needed provide an approved private project plan number for the abandonment /relocation of public utilities. As needed provide approval from franchised utilities for the relocation of franchised utilities. All to be provided to the Planning Department prior to this case going to City Council for final action.
- (2) Dedicate by separate instrument, with original signatures, an additional 8 feet of easement to the platted 12-foot wide utility easement generally located along the north side of Lot 1, Poston Addition. This must be provided to Planning prior to this case going to City Council for final action and subsequent recording with the Vacation Order at the register of Deeds.
- (3) Vacate the east 4 feet of the platted 29-foot street side yard setback located on the west side of Lot 1, Poston Addition and running parallel to Bluff Avenue. Vacate west four feet of the platted 35-foot wide street side yard setback located on the east side of Lot 1, Poston Addition and running parallel to Navajo Street.
- (4) Provide Planning with a legal description of the vacated portion of the public utility easement dedicated by separate instrument on a Word document via E-mail that can be used on the Vacation Order. This must be provided to the Planning Department prior to this case going to City Council for final action.

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

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

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

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### **PUBLIC HEARINGS**

4. **Case No.: ZON2016-00001** - Lighthouse Development, LLC, c/o: Nathan Robertson (Owner/Applicant) and Savoy Company, P.A., c/o: Mark Savoy (Agent) request a City zone change from SF-5 Single-family Residential and LC Limited Commercial to LI Limited Industrial on property described as:

The North 337 feet of the South 677 feet of the Southeast Quarter of Section 3, Township 27 South, Range 1 West of the Sixth Principal Meridian, lying East of the Missouri Pacific Railroad, Sedgwick County, Kansas, except the East 60 feet thereof.

**BACKGROUND:** The applicant requests a zone change from LC Limited Commercial (“LC”) and SF-5 Single-family Residential (“SF-5”) to LI Limited Industrial (“LI”) on a 5.5 acre unplatted tract located north of 21<sup>st</sup> Street North, along the west side of North Hoover Road (2241 and 2249 N. Hoover Rd.) The subject site is currently developed with residential structures and various accessory structures. The applicant proposes to redevelop the property with wholesale and warehousing uses.

The surrounding area is characterized by mixed-use suburban-density residential and commercial/industrial development. Properties to the north is currently zoned LI and is developed with warehouse uses and a church. The property developed with the church was rezoned to LI in 2002 (ZON2002-00065). Property south of the subject site is zoned LC and is developed with an office. Directly west of the subject site is railroad right-of-way and on the other side of the railroad, the property is zoned GC General Commercial (“GC”) which is developed with a strip office center. To the east of the subject site, across Hoover Road, the property is zoned LI (rezoned in 2000 ZON2000-00012) and developed with warehouse-office combination and a vehicle repair service.

The developed industrial properties surrounding the subject site that required a rezone were approved with Protective Overlays that limit the uses and increased setbacks and screening standards. To maintain consistency with those other approvals, planning staff recommends that the subject property be developed under the same Protective Overlay provisions.

**CASE HISTORY:** There is no history of any past land use cases on this site and the site is currently unplatted. Property directly north of the site was rezoned to LI with a PO in 2002 (ZON2002-00065) and property east of the subject site, across N. Hoover, was also rezoned to LI with a PO in 2000 (ZON2000-00012.) The site is currently in the process of being platted (Lighthouse Addition) and was approved by the MAPC on February 4<sup>th</sup>, 2016.

**ADJACENT ZONING AND LAND USE:**

NORTH:	LI	Warehouse/Church
SOUTH:	LC	Office
EAST:	LI	Warehouse/Vehicle Repair
WEST:	GC	Strip Office Center

**PUBLIC SERVICES:** North Hoover Road is a paved, 2-lane, arterial with a (currently) 80-foot right of way. The proposed plat of Lighthouse Addition shows additional right-of-way dedication. All other public utilities are available.

**CONFORMANCE TO PLANS/POLICIES:** The 2035 Wichita Future Growth Concept Map of the Community Investments Plan identifies this site as appropriate for residential, commercial and industrial types of uses. According to the map, this site is an island of residential surrounded by commercial and industrial. The residential identification encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The commercial identification encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality, and the industrial identification encompasses areas that reflect the full diversity of industrial development intensities and types typically found in a large urban municipality.

The Locational Guidelines of the Community Investment Plan indicates that industrial and major commercial land uses that generate pollution, odor, noise, light, safety hazards, and high levels of traffic should be located away from residential areas and developed with screening, buffering, and site design features sufficient to mitigate adverse impacts.

The location abides by the Future Land Policies for Design (1d&e) with the site being surrounded by industrial and commercial zoned properties providing an appropriate buffer to the nearest low-density residential uses (the nearest being 300 feet north of the subject site) and the remaining uses surrounding the site already commercial or industrial in nature.

**RECOMMENDATION:** Based upon information available prior to the public hearing, planning staff recommends that the request be APPROVED, subject to platting within one year and subject to the following provisions of Protect Overlay #304:

1. The following uses permitted in the LI Limited Industrial (“LI”) zone district shall not be permitted on the subject property: funeral home, hotel or motel, kennel (boarding/breeding/training), marine facility (recreational), microbrewery, night club, parking area (commercial), pawnshop, recreation and entertainment (outdoor), tavern and drinking establishment, vehicle and equipment sales (outdoor), asphalt and concrete plant (general), gas and fuel storage and sales, landfill, mining or quarrying, oil or gas drilling, rock crushing, solid waste incinerator, transfer station, vehicle storage yard and agricultural processing.
2. The subject property shall have an increased front building setback of 35 feet.
3. All outdoor storage uses on the subject property shall be screened on all sides by a solid screening wall or fence constructed of standard building materials customarily used for wall and fence construction such as brick, stone, concrete masonry, stucco, concrete, or wood.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** Property to the north is currently zoned LI and is developed with warehouse uses and a church. Property south of the subject site is zoned LC and is developed with an office. Directly west of the subject site is railroad right-of-way and on the other side of the railroad, the property is zoned GC General Commercial (“GC”) which is developed with a strip office center. To the east of the subject site, across Hoover Road, the property is zoned LI and developed with warehouse-office combination and a vehicle repair service.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned SF-5 and LC and is currently developed with single-family residences. However, property surrounding the site has developed with commercial and industrial uses, thus reducing 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 further north of the site could be impacted with increased noise, light, trash, traffic and activity from development under LI zoning. However, these impacts would not be new to the area as significant commercial and industrial zoning and development already exists in the area. Proposed provisions of the Protective Overlay will mitigate any possible negative impacts. 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 2035 Wichita Future Growth Concept Map of the Community Investments Plan identifies this site as appropriate for residential, commercial and industrial types of uses. According to the map, this site is an island of residential surrounded by commercial and industrial. The residential identification encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The commercial identification encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality, and the industrial identification encompasses areas that reflect the full diversity of industrial development intensities and types typically found in a large urban municipality. The Locational Guidelines of the Community Investment Plan indicates that industrial and major commercial land uses that generate pollution, odor, noise, light, safety hazards, and high levels of traffic should be located away from residential areas and developed with screening, buffering, and site design features sufficient to mitigate adverse impacts. The location abides by the Future Land Policies for Design (1d&e) with the site being surrounded by industrial and commercial zoned properties providing an appropriate buffer to the nearest low-density residential uses (the nearest being 300 feet north of the subject site) and the remaining uses surrounding the site already commercial or industrial in nature.
- (5) **Impact of the proposed development on community facilities:** The proposed zone change could bring increased commercial and industrial traffic; however, that traffic already exists at this location. All other services are in place, any increased demand on community facilities can be handled by existing infrastructure.

**BILL LONGNECKER** presented the Staff Report. He reported that DAB VI approved the request 6-0.

**RICHARDSON** asked staff to help him understand uses that are prohibited and those that are not. He said for example the PO excludes kennels but allows rodeos and Sexually Oriented Businesses (SOB's). He said those types of uses don't seem appropriate for an industrial area. He also mentioned the elimination of vehicle and equipment sales but it allows construction sales and service. He also asked staff to define what "marine facility recreational" meant.

**LONGNECKER** explained that "marine facility recreational" would be for the sale of boats, jet skis, etc. He said he was not sure how SOB's did not get put on the prohibited list and reiterated that he borrowed language from previous PO's.

**RICHARDSON** mentioned elimination of "parking area commercial" and asked how many spaces are needed to be considered commercial. He asked about a business with a fleet of trucks.

**LONGNECKER** said a good example of parking commercial would be the bus staging area for USD 259. He said that was added to prohibit those uses because there isn't any similar use in the area and because of the amount of traffic generated during particular periods of the day. He said there is no specific number of spaces required to be considered commercial parking, it is based on the nature of the use. He said that designation would not apply to a business with a fleet of trucks because the trucks would be considered accessory to the business.

**RICHARDSON** asked for an explanation of "construction sales and services." He also asked about eliminating rodeos and SOB's as possible uses.

**LONGNECKER** explained that construction sales and services would be a business not engaged in retail sales. He further noted that all the terms Commissioner Richardson was asking about were defined in the UZC. He said the Commission could add elimination of SOB's and rodeos to the conditions of approval.

**KNEBEL** explained that the definition of SOB's was added to the UZC in 2002 which was after the protective overlays used to fashion this applicant's request was created.

**MARK SAVOY, AGENT FOR THE APPLICANT** said they are in agreement with staff comments.

**RICHARDSON** asked if the applicant was in agreement with elimination of two uses; namely, SOB's and rodeos.

**SAVOY** said yes they agreed.

**MOTION:** To approve subject to staff recommendation and the addition of Sexually Oriented Businesses and Rodoes as prohibited uses.

**RICHARDSON** moved, **GOOLSBY** seconded the motion, and it carried (11-0).

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5. **Case No.: ZON2016-00002** - Timothy McGinty, Jr. (Owner/Applicant) and K.E. Miller Engineering, c/o: Kirk Miller (Agent) request a City zone change from GC General Commercial to LI Limited Industrial on property described as:

Lots 25, 27, 29, 31 and 33, together with the South Half of vacated Elm Street adjoining said Lot 25 on the North, in Ratliffe's Addition to Wichita, Sedgwick County, Kansas.

**BACKGROUND:** The applicant is requesting LI Limited Industrial (LI) zoning on the 0.46-acre, platted GC General Commercial (GC) zoned site located north of East Central Avenue, on the east side of North Hydraulic Avenue. The applicant owns a machine shop (United Machine, built 1965, 1991, per the Appraiser's web site) that manufactures aircraft parts on the north abutting LI zoned property. The manufacturing of aircraft parts fits into the Unified Zoning Code's (UZC) definition of "general manufacturing"; UZC, Sec.II-B.8.e. The LI zoning district permits general manufacturing by right; UZC, Sec.III-B.20.b.4. The proposed LI zoning will allow the applicant to expand the machine shop operation onto the site, without the restrictions imposed by the GC zoning district; UZC, Sec. III-D.6.n.; "...the entire frontage of the ground floor along the principal Street frontage is used for office space, display or wholesale or retail sales." The site has a vacant building (built 1953) on it that was previously used as a gymnastic venue.

This portion of Hydraulic Avenue, between Central Avenue and Murdock Avenue, is a mix of LI and GC zoned mostly small-medium size businesses including, but not limited to, office-warehouses, a medium-large office-warehouse (built 1955, 1980, 1990, 2011, 2014), a medium-large commercial printer (1951, 1957, 1961, 1963, 1970, 2000) , a wholesale flooring office-warehouse (1985), a small body and paint shop with vehicles stored/parked outdoors, a granite sales office-warehouse (1950, 1960, 1975), undeveloped land, a Dog and Shake fast food restaurant (1978), small free standing retail building (1980), a small commercial strip building, the applicant's vacant building and the applicant's machine shop.

**CASE HISTORY:** The site is Lots 25, 27, 29, 31 and 33, together with the south half of vacated Elm Street adjoining said Lot 25 on the North, in Ratliffe's Addition. The Ratliffe's Addition was recorded February 16, 1924. Vacation case V-1114, vacated that portion of Elm Street that is now part of the application area; approved November 9, 1983, Vacation Ordinance #38-447. VAC2016-00001 is a request to vacate a 25-foot wide by 135-foot long utility easement created by V-1114. VAC2016-00001 was approved by the MAPC's Subdivision Committee at their February 11, 2016, meeting and is on today's MAPC agenda for consideration.

**ADJACENT ZONING AND LAND USE:**

NORTH: LI Machine shop and shipping and receiving, granite sales office- warehouse  
SOUTH: GC Vacant building, wholesale flooring office-warehouse, fast food restaurant, free standing commercial building, commercial strip building  
EAST: I-135 Interstate highway I-135  
WEST: GC, LI Office-warehouses, commercial printer, undeveloped land, body and paint shop

**PUBLIC SERVICES:** All utilities are available to the site. Access to the site is provide by the Hydraulic Avenue, a paved two-lane, two-way arterial public street.

**CONFORMANCE TO PLANS/POLICIES:** The “2035 Urban Growth Area Map” of the “2015-2035 Community Investment Plan/Comprehensive Plan identifies the site being in Wichita’s “established central area.” The established central area is comprised of the downtown core and the mature neighborhoods surrounding it in a roughly three-mile radius. The established central area is the focus area for the Wichita Urban Infill Strategy, which encourages infill development and maximizing public investment in existing and planned infrastructures and services. The established central area also promotes mixed use redevelopment of existing commercial centers along arterial streets.

The “2035 Wichita Growth Concept Map” of the Comprehensive Plan identifies the general location as appropriate for “industrial” development. The industrial category reflects the full diversity of industrial intensities and types found in a large urban municipalities. Concentrations of manufacturing, warehousing, distribution, construction research, and technology are located in close proximity to highways and airports and may have rail service. Industrial uses associated with the extraction, processing, or refinement of natural resources or recycling of waste materials are typically found along rail lines. Businesses with negative impacts associated with noise, hazardous materials, visual blight, and order typically are buffered from residential uses by commercial uses.

The purpose of the LI zoning district is to accommodate moderate intensity manufacturing, industrial, commercial and complementary land uses. The requested LI zoning is in character with the area. The proposed LI zoning will allow expansion of the applicant’s machine shop, which is infill development. The area’s collection of office-warehouses, wholesale building materials, a machine shop, a commercial printer, etc., matches the 2035 Wichita Growth Concept Map designation of the site and the area it is located in as industrial. The areas’ uses do not present negative impacts associated with noise, hazardous materials, visual blight; the exception may be the paint and body shop, vehicles stored/parked outdoors.

The site is located within the “McAdams Neighborhood Revitalization Plan.” The Plan’s “Future Land Use Redevelopment Concept” shows the as suitable for “general industrial and warehousing.” The proposed LI zoning and the applicant’s machine shop fits into the Plan.

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

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the surrounding area:** The area is a mix of LI and GC zoned mostly small-medium size businesses including, but not limited to, office-warehouses, a medium-large office-warehouse (built 1955, 1980, 1990, 2011, 2014), a medium-large commercial printer (1951, 1957, 1961, 1963, 1970, 2000) , a wholesale flooring office-warehouse (1985), a small body and paint shop, a granite sales office-warehouse (1950, 1960, 1975), undeveloped land, a Dog and Shake fast food restaurant (1978), small free standing retail (1980), a vacant building (1953, owned by the applicant) and the applicant’s machine shop.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The proposed LI zoning will allow the applicant to expand the machine shop onto the site, without the restrictions imposed by the GC zoning district; UZC, Sec. III-D.6.n.;

“...the entire frontage of the ground floor along the principal Street frontage is used for office space, display or wholesale or retail sales.” The proposed LI is in character with the area’s existing LI and GC zoning.

- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The proposed LI zoning that will allow the expansion of the machine shop, which is in character with the area’s other LI and GC zoned businesses. The proposed expansion will also offer employment opportunities.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2035 Urban Growth Area Map” of the “2015-2035 Community Investment Plan/Comprehensive Plan identifies the site being in Wichita’s “established central area.” The established central area is comprised of the downtown core and the mature neighborhoods surrounding it in a roughly three-mile radius. The established central area is the focus area for the Wichita Urban Infill Strategy, which encourages infill development and maximizing public investment in existing and planned infrastructures and services. The established central area also promotes mixed use redevelopment of existing commercial centers along arterial streets.

The “2035 Wichita Growth Concept Map” of the Comprehensive Plan identifies the general location as appropriate for “industrial” development. The industrial category reflects the full diversity of industrial intensities and types found in a large urban municipalities. Concentrations of manufacturing, warehousing, distribution, construction research, and technology are located in close proximity to highways and airports and may have rail service. Industrial uses associated with the extraction, processing, or refinement of natural resources or recycling of waste materials are typically found along rail lines. Businesses with negative impacts associated with noise, hazardous materials, visual blight, and order typically are buffered from residential uses by commercial uses.

The purpose of the LI zoning district is to accommodate moderate intensity manufacturing, industrial, commercial and complementary land uses. The requested LI zoning is in character with the area. The proposed LI zoning will allow expansion of the applicant’s machine shop, which is infill development. The area’s collection of office-warehouses, wholesale building materials, a machine shop, a commercial printer, etc., matches the 2035 Wichita Growth Concept Map designation of the site and the area it is located in as industrial. The areas uses do not present negative impacts associated with noise, hazardous materials, visual blight; the exception may be the paint and body shop, vehicles stored/parked outdoors. The site has access onto Hydraulic Avenue, which allows access onto Central Avenue and I-135, which abuts the east side of the site.

The site is located within the “McAdams Neighborhood Revitalization Plan.” The Plan’s “Future Land Use Redevelopment Concept” shows the as suitable for “general industrial and warehousing.” The proposed LI zoning and the applicant’s machine shop fits into the Plan.

- (5) **Impact of the proposed development on community facilities:** The site may generate an additional amount of industrial truck traffic onto Hydraulic Avenue, which allows access onto Central Avenue and I-135, which abuts the east side of the site.

**BILL LONGNECKER** presented the Staff Report.

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

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

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6. **Case No.: CON2016-00002** - Tom George Investments, LLC (Applicant/Owner) and Dean Chesnut, Martin's Central Sand (Agent) request a County Conditional Use for a Rock Crusher in SF-20 Single family Residential zoning on property described as:

That part of the South Half of the Southeast Quarter of Section 2, Township 27 South, Range 1 West of the 6<sup>th</sup> P.M., Sedgwick County, Kansas, lying West of the Westerly right of way line of the Wichita-Valley Center Flood Control Project as condemned in District Court Case A-31849 and further described as follows: Beginning at a point on the South line of said Southeast Quarter, 1838.48 feet West of the Southeast Corner of said Southeast Quarter, said point being the intersection of the Flood Control right of way with the South line of said Quarter Section; thence West 791.3 feet to the Southwest Corner of said Southeast Quarter; thence North along the West line of said Southeast Quarter, 1316.5 feet to the Northwest Corner of the South one-half of said Southeast Quarter; thence East along the North line of said South one-half, 2108.24 feet to the Flood Control right-of-way; thence Southwesterly along said right-of-way to the place of beginning.

**BACKGROUND:** The applicant is requesting a “rock crusher” on the 44.9-acre, unplatted SF-20 Single-family Residential (SF-20) zoned county tract located on the north side of West 21st Street North and the west side of North West Street. The Unified Zoning Code (UZC) requires consideration of a conditional use for a rock crusher in the SF-20 zoning district; UZC, Sec.III.D

The county site was approved for sand extraction in 1959 (CU-16, CU-24) and has a spent sandpit located on it. The site also has numerous inoperable trucks, trailers, recreational vehicles, equipment, pallets, barrels, tubs, ties, piles of concrete, concrete pipe, etc., scattered throughout the site. The site currently appears to be a combination of a wrecking/salvage yard and landfill; neither of these uses are permitted in the SF-20 zoning district. For the site to come in compliance with the UZC will require the removal of these materials. The applicant proposes to use two types of rock crushers to break the concrete up and stock pile it on site for sale.

The conditional use for the rock crushers is proposed for one-year. The applicant proposes to use the crushers to clean up the site by removing the metal and concrete for use on construction projects. There may be a need to operate longer than a year depending on the market for the concrete rubble and the amount of concrete found on the site. The applicant estimates there is 60,000 tons of concrete on the site, but there may be more buried on the site. The applicant has stated that 1,500 tons of concrete can be crushed in a day. The concrete is pre-processed using an excavator, loader and other equipment to make piles of the rubble so that when a crushing machine is available it can process this material quickly. The crews normally work 10 hour days during the construction season. The activity will be from 7:00 a.m. to 6:00 p.m., Monday – Friday with Saturdays optional depending on demand. Sundays would be required if the planning to meet the demand requires it. Ten to twenty trucks per day would be coming and going from the site depending on the demand. The crushers have spray bars for adding water during the crushing operation and these will be used to minimize the airborne dust. After the site is cleared of debris the property owner proposes to use the site as permitted in the SF-20 zoning district.

The Kansas Department of Health and Environment (KDHE) has reviewed the information on the crushers and stated that they are familiar with these crusher models and that they are a “good piece of equipment.” KDHE also commented that the applicant may have to put a water dust control system on it to control the dust when crushing on some type of material. The company will also need to get an air permit from KDHE to operate it in the State of Kansas and the equipment will be subject to EPA Regulation 40 CFR 60, Subpart OOO NSPS for Nonmetallic Mineral Processing Plants.

The area is a mix of land uses located in the county and the City of Wichita. The zoning in the area includes SF-20, SF-5 Single-Family Residential (SF-5), LI Limited Industrial (LI), LC Limited Commercial (LC), and IP Industrial Park (IP). The zoning allows a wide range of uses including up-scale single-family subdivisions, a few isolated single-family residences, active and spent sandpits, farmland, a construction and demolition landfill, a concrete plant that has a rock crusher, a sludge pit and its lime piles and small businesses. The partially developed SF-5 zoned Emerald Bay up-scale single-family residential subdivision abuts the north side of the site. Undeveloped lots and large single-family residences (built 2013-2015) in that subdivision face the north side of the site, separated by the residential Shoreline Street. These properties would be the most negatively impacted by the rock crushers. However, the current derelict condition of the subject site has a negative impact on these abutting residences as well as those other abutting and adjacent properties. A resident living in one of the single-family residences facing the site stated that he could not hear the graders, shovels and trucks currently being used to move, pile materials and remove materials on the site. That resident also commented that he regularly hears construction noise from his residence, the result of Emerald Bay still being developed. Sludge from Wichita’s sewage plants is stored on the SF-5 zoned property located north of Emerald Bay, resulting in lime piles that generate dust throughout the area. A SF-5 zoned single-family residence abuts the west side of the site as does a SF-20 zoned sand pit. Another SF-5 zoned single-family residence is located further west as are LI and IP zoned warehouses, a machine shop and a paint and body shop. A SF-5 zoned spent sandpit and a vacant commercial building are located south of the site, across 21<sup>st</sup> Street North, as is the Wichita-Valley Center Floodway and its levee. The Wichita-Valley Center Floodway and its levee are also located east of the site, across West Street. SF-5 zoned single-family residences and a LC Limited Commercial (LC) zoned commercial strip building and convenience store are separated from the site by the Wichita-Valley Center Floodway and its levee.

**CASE HISTORY:** Conditional Use CU-16 was approved to allow sand extraction on the site on October 8, 1959. CU-24 allowed an expansion of the sand extraction. The property was zoned R-1 Suburban Residential in 1958, which was converted to SF-20 zoning in 1996.

**ADJACENT ZONING AND LAND USE:**

NORTH: SF-5	Single-family residences, farmland, lime pit
SOUTH: SF-5, levee	Vacant commercial building, sandpit, Wichita-Valley Floodway
EAST: Levee, SF-5, LC	Wichita-Valley Center Floodway, single-family residences, commercial strip building, convenience store
WEST: SF-20, SF-5, IP, LI	Sandpit, single-family residences, offices, warehouse, machine shop

**PUBLIC SERVICES:** The site currently has access onto 21<sup>st</sup> Street North, a paved two-lane local street that functions like a collector. The east-west 21<sup>st</sup> Street becomes West Street as it curves to the north. West Street is a paved two-lane arterial. Staff found no visible access from the site onto West Street. Public water is available to the site. Public Sewer would have to be extended to the site. More than the east half of the site is located in a FEMA Flood Zone.

**CONFORMANCE TO PLANS/POLICIES:** The “Community Investment Plan’s” (Plan, adopted November 19, 2015) “2035 Wichita Future Growth Map” depicts the site as “industrial.”

The industrial category reflects the full diversity of industrial intensities and types found in a large urban municipalities. Concentrations of manufacturing, warehousing, distribution, construction research, and technology are located in close proximity to highways and airports and may have rail service. Industrial uses associated with the extraction, processing, or refinement of natural resources or recycling of waste materials are typically found along rail lines. Businesses with negative impacts associated with noise, hazardous materials, visual blight, and order typically are buffered from residential uses by commercial uses.

In this case the industrial designation seems to be a recognition of the SF-20 zoned site’s past use of sand extraction and its current derelict and noncompliant use as a construction and demolition landfill and a wrecking and salvage yard. The Plan also shows the site to be located in the City of Wichita’s “2035 Urban Growth Area.” The site’s SF-20 zoning restricts development pretty much too single-family residential development, which has more in common to the most recent development in the area, the north abutting Emerald Bay single-family residential development

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

- A. The activity will be from 7:00 a.m. to 6:00 p.m.
- B. The site shall be developed and operated in conformance with the approved revised site plan and all applicable codes to include but not limited to zoning, building, fire and environmental regulations. All rock crushing operations and material storage shall take place within the designated site plan area.
- C. Prior to rock crushing operations, the applicant shall get an air permit from KDHE to operate it in the State of Kansas and that the equipment will be subject to EPA Regulation 40 CFR 60, Subpart OOO NSPS for Nonmetallic Mineral Processing Plants.
- D. Rock crushing operations on the site shall not create dust which travels on to surrounding properties.
- E. Rock crushing activities will take place on the south half of the site, unless approved by the Director of Planning.
- F. All vehicular drives on the site, work and parking areas shall be surfaced with an all-weather material, which may include crushed rock, to minimize dust on the site. A water truck will be kept onsite to be used to control dust.
- G. Access to the site will be from the current drive located on 21<sup>st</sup> Street North.
- H. All conditions shall be met and operations begun within one year of final approval or the Conditional Use shall be null and void.
- I. The rock crushing operation shall cease and all equipment and material shall be removed from the site one-year after final approval. This time limit may be extended an additional year with an adjustment to the Conditional Use.
- J. If the Zoning Administrator finds that there is a violation of any of the provisions or 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 the Conditional Use null and void.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The area is a mix of land uses located in the county and the City of Wichita. The zoning in the area includes SF-20, SF-5, LI, LC, and IP. The zoning allows a wide range of uses including up-scale single-family residential subdivisions, a few isolated single-family residences, active and spent sandpits, farmland, a construction and demolition landfill, a concrete plant that has a rock crusher and small businesses.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned SF-20, which permits agricultural activities, larger lot residential uses and a limited set of nonresidential uses by right. The site could be used as presently zoned if not for its derelict state, the result of it being used as nonconforming construction and demolition landfill and a wrecking and salvage yard.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** If approved the neighboring properties would have a year of rock crushers (the noise, dust and truck traffic) being used to clean up the site in the removing of a long time nonconforming construction and demolition land fill and a wrecking and salvage yard. The long term benefit of the rock crushers being used is the SF-20 zoned property would be in compliance allowing the possibility of single-family residential development.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “Community Investment Plan’s” (Plan, adopted November 19, 2015) “2035 Wichita Future Growth Map” depicts the site as “industrial.” The industrial category reflects the full diversity of industrial intensities and types found in a large urban municipalities. Concentrations of manufacturing, warehousing, distribution, construction research, and technology are located in close proximity to highways and airports and may have rail service. Industrial uses associated with the extraction, processing, or refinement of natural resources or recycling of waste materials are typically found along rail lines. Businesses with negative impacts associated with noise, hazardous materials, visual blight, and order typically are buffered from residential uses by commercial uses.

In this case the industrial designation seems to be a recognition of the SF-20 zoned site’s past use of sand extraction and its current derelict state and noncompliant use as a construction and demolition landfill and a wrecking and salvage yard. The Plan also shows the site to be located in the City of Wichita’s “2035 Urban Growth Area.” The site’s SF-20 zoning restricts development pretty much too single-family residential development, which has more in common to a more recent development in the area, the north abutting Emerald Bay single-family residential development.

5. **Impact of the proposed development on community facilities:** The conditions of approval and other regulations should minimize impacts on community facilities. Traffic on 21<sup>st</sup> Street North and West Street could increase due to the rock crushing operations. Demand for other County services such as inspections and fire prevention may temporarily increase, but a time limit on the rock crushing use should ensure future development on the site is compatible with community facilities.

**BILL LONGNECKER** presented the Staff Report. He noted that although this is a County case, Councilwoman Miller requested that the item be heard by DAB VI because of its close proximity to the Emerald Bay Subdivision. He said keeping in mind that the DAB is an advisory board to the City Council and not the County Commission, he said the DAB requested several “tweaks” to the conditions recommended by staff as follows: Condition A - insertion of specific language that rock crusher activity will be from 7:00 a.m. – 6:00 p.m. (Monday – Friday) and from 8:00 a.m. – 3:00 p.m. on Saturday and Condition I - specifically say that the time of the conditional use could be extended with an “administrative adjustment”. He said the applicant and property owner agreed to the additional language requested. He reported that DAB VI recommended approval of the request. He added that the general feeling he got from the few people who contacted him from Emerald Bay was that the cost of a year of the rock crusher activity going on to help clean out the area quicker was worth it.

**DAILEY** asked where the water goes after it is used to keep the dust down. He said he would hate to see it go into the sandpit.

**LONGNECKER** indicated that would be a question for the applicant.

**RICHARDSON** asked about operations on Sundays and if that was discussed at the DAB.

**LONGNECKER** said the information in the Staff Report is what was offered up by the applicant. He said Sunday operations were discussed at the DAB, and he understood that they would operate on Sundays depending on demand. He suggested he ask the applicant that question.

**RICHARDSON** asked about the language “beginning within one year” and completing within a year. He said that seems to be in conflict.

**LONGNECKER** explained that activities must be completed within a year of the start date, whenever that is within a year’s time. He also mentioned allowing the applicant the flexibility to ask for an extension. He said the applicant can provide the startup date.

**RICHARDSON** asked about the east half of the application area being in the FEMA flood zone. He said he didn’t see it on the map.

**LONGNECKER** commented that he may have looked at an old map so he would tweak that.

**GOOLSBY** asked if the applicant would be allowed to burn on the site.

**LONGNECKER** said that would take another conditional use application.

**DENNIS** asked if the applicant will be allowed to bring more material into the site.

**LONGNECKER** said the application was to clean up the site. He suggested asking the applicant and property owner that question.

**DENNIS** clarified unless it is specifically stated, there is nothing to prevent the applicant from bringing more material onto the site.

**LONGNECKER** said that was correct and said that language would need to be added as a condition of approval.

**DEAN CHESNUT, AGENT FOR THE APPLICANT** introduced Tom George, Property Owner and Stan Martin, who operated the machinery on the site, who he said were present to address any questions. He said he would try to address questions already asked. He said water added to the pile is not excess water and it goes into the aggregates and evaporates. He said that is controlled by the operator through the crusher machine to keep the dust with the aggregates being crushed and there is no excess water on the pile.

**CHESNUT** said they are not opposed to not working on Sunday. He said with approval of the Planning Commission, they would crush fairly quickly. He mentioned that they have been doing some “pre-processing” on site and gathering concrete in a pile so it can easily be loaded into the crusher.

**CHESNUT** said they initially asked for burn permission but the applicant does not want to take out any more trees than they have to. He said unfortunately there are trees growing up in the middle of the concrete piles so some trees will have to be removed. He said with approval of the Fire Marshall and the City, they may do some on-site burning in compliance with all City Codes.

**CHESNUT** said they have no desire or need to bring in other material to the site. He mentioned that DAB asked about asbestos. He said they have found a couple of asbestos pipes and they will not be crushed but properly disposed of in a landfill. He said as far as the noise of the crusher, he said it was comparable to the noise that has occurred during the preprocess operation.

**ELLISON** asked what the applicant was going to do with the three foot boulders on site.

**CHESTNUT** indicated a hydraulic hammer is part of the preprocessing operation.

**ELLISON** asked is there a cavity filled with rock on the property, and if so, how deep does it go.

**CHESNUT** said they were not sure but it appears that the sand operation previously operated at the site accepted concrete. He said he doesn't know the history of what was being done there. He said as far as bringing in material, they believe they will have to bring dirt in to cover the slopes. He said the applicant would like them to pull as much concrete out of the banks of the pond as they can.

**CHESNUT** said they would like approval to bring in soil to cover the slopes.

**ELLISON** announced that he had previous knowledge and worked projects on the property.

**RICHARDSON** asked staff to explain the administrative adjustment to extend the time longer than a year.

**LONGNECKER** said administrative adjustments are not public hearing items; however, the applicant is required to post a sign to notify the neighbors. He said at that time, staff will probably hear if there are any negative comments about the operation.

**RICHARDSON** clarified that bringing soil onto the property was not part of the conditional use request.

**LONGNECKER** replied no.

**MOTION:** To approve subject to staff recommendation as amended (no Sundays, no additional materials from other jobs, and items noted by DAB).

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

**FOSTER** clarified that soils would be allowed to be brought in. He also suggested that Condition I be amended to read “That this could be extended up to an additional year with an administrative adjustment.”

**MCKAY** said the way he reads it is the applicant has one year to start the process and one year to get it finished, that the year of operation doesn’t start until they begin work. He said they also have the ability to apply for a one year extension. He said it seems pretty plain to him.

The **MOTION CARRIED** (11-0).

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**FOSTER** (Out @2:16 p.m.)

7. **Case No.: DER2015-00007** - Larry Lampe (Mayor of Garden Plain) requests an Amendment to expand the Urban Area of Influence of Garden Plain.

**BACKGROUND:** On Wednesday October 21, 2015, the Board of Sedgwick County Commissioners (BoCC) adopted an amendment (Resolution No. 185-2015) to the Wichita-Sedgwick County Unified Zoning Code (UZC) that abolished “zoning area of influence” (ZAOI) review authority and the ZAOI map. “Zoning area of influence” authority and its accompanying map were replaced with “urban areas of influence” (UAOI) review authority and an UAOI map. The UAOI map depicts the land that is subject to UAOI review. “Urban area of influence” authority permits certain development applications that deal with land use associated with properties located within the specifically defined geographic areas surrounding 17 of Sedgwick County’s cities to be presented for consideration and recommendation by the designated cities’ planning commissions. The UAOI boundaries for all 17 cities are shown on the attached 2035 Urban Growth Areas Map, and are labeled as “small city urban growth areas.” The boundaries of each city’s territory that is subject to UAOI review is currently the same as the “small city urban growth areas” depicted on the 2035 Urban Growth Areas Map. The City of Garden Plain is one of the 17 cities that was granted UAOI authority.

The City of Garden Plain has requested that its UAOI boundary be expanded from its current boundary (as depicted in blue on attachment 2) to an expanded area (shown in red on attachment 2) enclosed by West 6<sup>th</sup> Street South (north), South 263<sup>rd</sup> Street West (east), West 23<sup>rd</sup> Street South (south) and South 311<sup>th</sup> Street West (west). (See attached letter from Garden Plain.) The overwhelming majority of the land included in the expansion area is farmland that is zoned RR Rural Residential.

The request would expand Garden Plain’s UAOI to a total of six square-miles. Currently, Garden Plain has approximately 0.7 of a square-mile of UAOI territory. Garden Plain’s UAOI territory is the smallest of those cities having such review authority. Garden Plain’s request to expand its UAOI is permitted by

UZC Sec. II-V.K. Garden Plain's existing urban growth area and UAOI boundary were developed in 2014 as part of the development of the County's *Community Investments Plan* (comprehensive plan). Since that time staff has received additional information regarding Garden Plain's projected growth expectations and recent annexation activities (see Garden Plain's attached letter).

Data developed as part of the update of the Wichita-Sedgwick County *Community Investments Plan* reports that over the time period 2005 to 2014 Garden Plain added, in a typical year, three new dwelling units. In contrast, in an average year during that same ten-year period Derby added the most dwelling units with 108 dwelling units; Goddard added 39 dwelling units and Cheney added 29 dwelling units. Of the 17 cities that have UAOI authority, Garden Plain's estimated 2014 population (879) ranks 14<sup>th</sup>. Derby has the largest population of the cities that have UAOI authority (23,234); Bentley is the smallest (524) excluding that portion of the City of Sedgwick located in Sedgwick County. By 2035 Garden Plain is projected to grow in population by 121 people to 1,000 people. Assuming an average household size of 2.5 that equates to a projected need for 48 additional dwelling units over the next 20 years or 2.4 dwelling units per year.

Under the provisions of UAOI review authority, cities are provided the opportunity to review certain land use applications within 30 days of notice that an application that is subject to potential review has been filed. If the city planning commission recommends denial, the BoCC can override the denial recommendation with a two-thirds vote upon first hearing. If the case were to be returned to the MAPC for reconsideration, the BoCC can approve the request with a simple majority vote upon second hearing.

**CASE HISTORY:** Prior to the adoption of UAOI, the UZC had provisions for "zoning area of influence" review authority that was similar to UAOI review authority. "Zoning area of influence" review authority was initiated in 1985 and utilized different boundaries, usually larger than that granted under UAOI. "Zoning area of influence" also had a requirement for a unanimous vote requirement to override a city's recommendation for denial, instead of a two-thirds majority vote or simple majority on second hearing.

**PUBLIC SERVICES:** "Urban area of influence" review provides an early notice to a city that development is planned in an area that the city may currently serve or is likely to serve, and may serve to facilitate the planning for and the delivery of services where multiple jurisdictions may be involved. Other methods other than current UAOI procedures can or have been implemented to provide early notice of zoning applications, such as the "early warning notice."

**CONFORMANCE TO PLANS/POLICIES:** As noted above, the authority for UAOI review is contained within the UZC. There is not any statutory requirement that a county has to grant a city zoning review authority in areas where a county has established county zoning. As described on the 2035 Urban Growth Areas Map, Small City Urban Growth Areas are generally located adjacent to existing municipal boundaries. The designated areas indicate the likely direction and magnitude of growth these communities can expect to experience out to the year 2035. Determination of growth direction and amount is based upon municipal political considerations, anticipated municipal population growth, current infrastructure limitations, cost effective delivery of future municipal services and environmental factors.

**RECOMMENDATION:** A windshield survey of land located within the city limits of Garden Plain reveals 67.5 acres of undeveloped ground located at the northeast corner of 295<sup>th</sup> Street and U. S. 54. Another vacant 133 acres are located at the southeast corner of 295 Street and U. S. 54. The two vacant tracts total 200.5 acres. Finally, there are approximately 60 platted vacant lots located in the Pretty Flowers Addition located in the southeast section of Garden Plain (east of 295 Street, one-half mile north of 23<sup>rd</sup> Street. Over the last ten years Garden Plain has built an average of three new dwelling units per year. The projected 2035 population growth for Garden Plain results in a projected housing need of an average of 2.4 dwelling units per year. If all projected 48 dwelling units were developed on 4.5-acre lots or tracts that equals the need for 216 acres to accommodate the projected growth rate.

At the time the Board of County Commission converted the zoning area of influence to the urban area of influence there was much discussion about ensuring that the urban area of influence be applied to lands that were likely to be developed within the projected time frames. Inclusion of land in the urban area of influence located beyond the projected time frame adds an extra layer of review that can be considered by land owners, developers and builders as excessive.

Although land located within Garden Plain's existing city limits can accommodate projected growth, Garden Plain should be afforded an expanded UAOI to account for unexpected growth that can accommodate a range of housing choices. It is recommended that Garden Plain's UAOI boundary be expanded to the following boundary depicted on attachment 2 in yellow: West 6<sup>th</sup> Street South (north), South 279<sup>th</sup> Street West (east), West 23<sup>rd</sup> Street South (south) and South 311<sup>th</sup> Street West (west). The recommendation is based upon the documented ten-year rate of an average of three new dwelling units per year cited above and the presence of 200 acres of vacant land and approximately 60 undeveloped lots located inside Garden Plain's existing city limits.

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

**DOOL** asked if Garden Plain has any plans for expansion into the yellow area that is outlined on the map.

**BARBER** replied not that Planning Staff is aware of.

**RANDAL HUBERT, 150 SOUTH BLUEBELLS, GARDEN PLAIN, KANSAS, MEMBER OF THE GARDEN PLAIN PLANNING COMMISSION** introduced Chris Drum, President of the Garden Plain Planning Commission, Bonnie Kooper, Deputy City Clerk and Bobby Thompson, City Council Member.

**HUBERT** referred to the aerial map of Garden Plain and indicated the low lying area in the floodplain on the west side of town which prohibits expansion to the west. He also indicated where the floodplain areas were on the east and south sides of the City. He presented a PowerPoint presentation on the City's request for modification of their urban area of influence boundary. He referred to a map indicating their request and said the area included the area enclosed by West 6<sup>th</sup> Street South (north), South 263<sup>rd</sup> Street West (east), West 23<sup>rd</sup> Street South (south) and South 311<sup>th</sup> Street West (west).

**HUBERT** indicated the purpose of the request for modification of the boundary was to: (1) Protect the integrity of the lifestyle currently existing in and surrounding the city and community of Garden Plain; (2) Provide a local government body for local citizens to present issues affecting them that is convenient and available after work hours; and (3) Have formal input over infrastructure and development patterns that will impact city government and citizens in the area in future years. He said the reason they were making the request was the Change to ZAOI's to UAOI's on October 21, 2015 greatly reduced size of areas of influence; and the new areas and maps were keyed to growth projections included in the Wichita-Sedgwick County community investment plan approved by the MAPC in August of 2015.

**HUBERT** indicated the map used to determine the new urban area of influence boundary was in large part based upon a 9 year old published Garden Plain comprehensive plan which was based on figures from the 5-10 year period prior to 2007 and does not adequately represent recent growth and changes in the City of Garden Plain and the surrounding area. He said much of the area on the new urban boundary map is unavailable for development because of the floodplain.

He said the new UAOI maps also reflected a discussion with representatives from each of the cities; however, the discussion with the Garden Plain representative was based upon a miscommunication (a communication failure due to turnover among staff), and the Garden Plain City Council and Mayor were not a party to these discussions and believe the map area represented is insufficient.

**HUBERT** asked that the staff recommendation in the Staff Report dated December 3, 2015 be adopted. He continued by stating that Garden Plain has experienced a 6.25% population growth from 2000 to 2010. He reviewed housing statistics stating that the housing growth rate change was 24 new dwelling units were added from 2005 to 2014 for an average of 3 new dwelling units per year. He said 18 new dwelling units were added from 2012 to 2015 which was an average of 4.5 new units per year or a growth rate of 5.2%. He reviewed annexation activity consisting of 233.6 acres acquired in 2014 to the east and north of the City and possible annexation of 40 acres to the west. He briefly reviewed gas, sewer and water services outside the city limits.

**HUBERT** indicated that the City's large sewer plant on the southern border of the City was not included within the projected growth area for the City on the 2035 Urban Growth Area Map and the City's own plant was not included in the new UAOI. In addition, he added that there were three dwellings immediately bordering the south side of the city limits that are connected and using the city sewer line but were not included in the 2035 Urban Growth Area Map or the new UAOI area. He added that the City has an additional capacity of at least 30%.

**MOTION:** To allow the speaker an additional two minutes.

**RICHARDSON** moved, **DENNIS** seconded the motion and it carried (10-0).

**HUBERT** indicated that the Garden Plain police department courtesy assists in serving many of the outlying areas near the city with courtesy assistance to the Sedgwick County Sheriff's department which include the large housing development to southwest; large housing development to south; and large housing area to the west of the city; in addition to assisting in every direction.

**HUBERT** concluded by saying that there are several clusters of housing additions outside the city limits to the west, southwest, and south on water well and sewer lagoons that are located within a mile or two of city borders and in the future may very well require sewer and water services. He said the City of Goddard project will likely greatly enhance desirability of housing in the western Sedgwick County and increase housing growth in the area. He thanked the Commission for the opportunity to present their request and asked for approval.

**ELLISON** asked if the City had an industrial park and if the railroad that goes into town was still active.

**HUBERT** said they have the coop elevator and some industrial areas within the City, but not an “industrial park” per se. He said the railroad corridor is no longer active and has been turned into a walking trail that goes east to Goddard.

**MCKAY** asked if they agreed with the staff recommendation on the latest map.

**HUBERT** said they were staying with their original request. He said they were unaware of staff’s latest recommendation and he was not in a position to address that. He said homes have been built in the area outside of the staff recommendation.

**MCKAY** asked about project housing growth within the next ten years.

**HUBERT** said he has no idea and referred to previous housing growth figures. He said growth in Pretty Flowers Addition has really taken off within the last couple of years.

**MCKAY** referred to numbers in the Staff Report and asked if those accurately represent projected growth in the area.

**HUBERT** said a lot of the 200 acres referred to in the Staff Report were he believed located in the floodplain.

**MCKAY** said based on the acreage and the lots it will take the City approximately 25-30 years to develop the land they were requesting. He said during development of the revised Comprehensive Plan small towns were requesting vast areas that they would never be able to provide services for. He said it hinders industry development because the local jurisdiction may not like what was being proposed. He commented that the County Commission did not even want the UAOI the Planning Commission recommended and wanted to cut back the areas even more. He said he believed their request was excessive.

**HUBERT** relayed a discussion the Garden Plain Planning Commission had stating that Garden Plain has been very conservative over the years in not annexing areas and pushing things and now they feel like they are being punished for not being aggressive in the past. He said growth is occurring now and those areas outside the City limits are trapping future growth.

**MCKAY** (OUT @2:46 p.m.)

**DAILEY** suggested requiring people outside the City limits to request annexation if they want City services.

**HUBERT** said right now the majority opinion is that they don't want to be in the City limits. He added that they do provide police services on a courtesy basis.

**DAILEY** asked Mr. Hubert to justify why they think they need so much area.

**HUBERT** said some of the housing developments that have their own sewer and lagoons will at some point as the City grows eventually be within the City limits. He said that will increase costs for services if the lots are bigger. He said they would like to control growth on the borders of the City so that services are used in an efficient manner.

**DAILEY** commented so Garden Plain wants to control the area and not the Sedgwick County Commission.

**HUBERT** indicated that Garden Plain was a small, tight knit community and citizens want to address their concerns on zoning issues to people who live in the same community.

**GOOLSBY** commented that Garden Plain did not have much urban growth area outside the City limits according to the 2035 Urban Growth Area Map compared to other small cities. He asked if the Commission approved staff's recommendation, how long Mr. Hubert thought that would serve the community.

**HUBERT** replied that was a good question and he said the City needs to update its own Comprehensive Plan and see where we are at and where we are going. He said the fact that their Comprehensive Plan is from 2007 was a disadvantage because they did not have all the facts and figures to best address their request for a larger area.

**GOOLSBY** commented that staff recommendation would probably more than serve the area for the next 20 years.

**HUBERT** commented that they would be pleased with that.

**RICHARDSON** asked if the City has allowed people to buy water and sewer services without being annexed. He referred to the map of the area and whether the City could provide services within a certain area.

**HUBERT** said he was not sure he could answer that. Garden Plain staff present said the City would require annexation to provide water and sewer.

**DAILEY** indicated they need to update their Comprehensive Plan prior to requesting this change because they have not provided the Planning Commission enough information.

**TODD** asked about the population of Garden Plain and commented that growth is market driven.

**HUBERT** commented that the last several years' growth in the area has been really good. He mentioned two developments in addition to new private homes.

**CHAIR NEUGENT** asked about the December 3, 2015 document Mr. Hubert referred.

It was clarified that he was referring to a Staff Report.

**DAILEY** asked staff to clarify what vote was needed to do what action.

**KNEBEL** stated that this would amend text in the UZC so they would need a majority of the body to pass the motion.

**CHAIR NEUGENT** clarified so with nine Commissioners if two people vote not, the request does not pass.

**RICHARDSON** clarified that the issue would go to the County Commission for a final decision.

**GOOLSBY** said he supports staff's recommendation which he believes will serve the community's needs for the next 20 years. He added that he agreed with Commissioner Dailey's comment that it would be better if they had an updated Comprehensive Plan.

**CHAIR NEUGENT** said she supports staff recommendation and added that although the Garden Plain Comprehensive Plan may not be up-to-date, MAPD Staff spent time coming up with the adjusted recommendation.

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

**RICHARDSON** moved, **GOOLSBY** seconded the motion, and it failed (7-2).

**DAILEY** and **TODD** – No. It was later determined that the vote **PASSED.**

**JUSTIN WAGGONER, ASSISTANT COUNTY COUNSELOR** indicated that meant the proposed action did not pass because it would be a change in the UZC.

**CHAIR NEUGENT** asked if there was another opportunity for a motion or was that it. She asked the Commission if anyone had a substitute motion.

**WAGGONER** indicated the motion was the compromise and added that there would be an appeal to the County Commission.

**KNEBEL** indicated that the request would automatically go before the County Commission. He added that he believed the County Commission could approve the request with a two thirds majority vote.

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The Metropolitan Area Planning Commission adjourned at 3:30 p.m.

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

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 \_\_\_\_\_, 2016.

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

(SEAL)