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WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION AGENDA

Thursday, July 7, 2016

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission will be held on **Thursday, July 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: May 19, 2016

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

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

SUBDIVISION CASE DETAILS

- 2-1. **SUB2016-00011: One-Step Final Plat - KANSAS HYDROGRAPHICS ADDITION**, located on the north side of East 47th Street South, west of South Woodlawn Boulevard.

Committee Action: APPROVED 6-0
Surveyor: Ruggles & Bohm, P.A.
Acreage: 4.51
Total Lots: 1 lot

- 2-2. **SUB2016-00013: One-Step Final Plat – TIFFANI BREEZE ADDITION**, located on the north side of East 71st Street South, East of South 127th Street East.

Committee Action: APPROVED 4-0
Surveyor: Abbott Land Survey, P.A.
Acreage: 40
Total Lots: 22

- 2-3. **SUB2016-00019: One-Step Final Plat – FAWN GROVE ADDITION**, located South of Kellogg, West of Greenwich.

Committee Action: APPROVED 4-0
Surveyor: Ruggles & Bohm, P.A.
Acreage: 3.28
Total Lots: 11

- 2-4. **SUB2016-00020: One-Step Final Plat – TYLER’S LANDING 6TH ADDITION**, located on the southeast corner of 37th Street North and Tyler Road.

Committee Action: APPROVED 4-0
Surveyor: Baughman Company, P.A.
Acreage: 1.4
Total Lots: 6

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. VAC2016-00019: City request to vacate a portion of a platted setback on property,**
located north of I-135 on the east side of Hydraulic Avenue (3000 S Hydraulic).

Committee Action: APPROVED 4-0

- 3-2. VAC2016-00020: County request to vacate a portion of a platted floodway reserve on property,** generally located west of 183rd Street West on the south side of 29th Street North.

Committee Action: APPROVED 4-0

- 3-3. VAC2016-00021: City request to vacate a portion of platted Diane public street right-of-way,** generally located east of Seneca Street and north of 31st Street South.

Committee Action: APPROVED 4-0

PUBLIC HEARINGS

ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 PM

- 4.** Case No.: ZON2016-00023
Request: County zone change request from RR Rural Residential to SF-20 Single-family Residential.
General Location: Midway between 143rd and 127th Streets East on the north side 71st Street South.
Presenting Planner: Scott Knebel
- 5.** Case No.: ZON2016-00024
Request: City zone change request from TF-3 Two-family Residential to LC Limited Commercial.
General Location: Northeast corner of South Hillside Avenue and East Harry Street (3216 E. Harry St.).
Presenting Planner: Scott Knebel
- 6.** Case No.: ZON2016-00026
Request: City request to amend PO Protective Overlay 11 to allow retail sales on LC Limited Commercial zoned property.
General Location: West of 135th Street West on the north side of Maple Street.
Presenting Planner: Scott Knebel

7. Case No.: CON2016-00022
Request: City Conditional Use request for a Nightclub in the City in LC Limited Commercial zoning (the Cactus) within 300 feet of residential zoning.
General Location: East of S. Hydraulic Avenue and south of E. Wassall Street (2802 S. Hydraulic Ave).
Presenting Planner: Scott Knebel
8. Case No.: CON2016-00025
Request: City Conditional Use request for a Nightclub on LC Limited Commercial zoned Property.
General Location: East of Southeast Boulevard/K 15, on the north side of Pawnee Avenue (1916 E. Pawnee Ave.)
Presenting Planner: Bill Longnecker
9. Case No.: CON2016-00027
Request: County Conditional Use request for an Accessory Apartment on RR Rural Residential zoned property.
General Location: Less than a fourth mile south of 117th Street North on the east side of Greenwich Road (11646 N. Greenwich Rd.).
Presenting Planner: Scott Knebel
10. Case No.: CON2016-00028
Request: County Conditional Use request for Mining and Quarrying, removal of salt water, from RR Rural Residential zoned properties.
General Location: North and south of 111th Street South, between 183rd and 247th Streets West.
Presenting Planner: Bill Longnecker
11. Case No.: CUP2016-00012
Request: City CUP amendment to DP-67 Parcel 2 to permit additional LC Limited Commercial uses and Warehouse, Self-Storage within the CUP's definition of shopping center.
General Location: Southeast corner of 21st Street North and north Woodlawn Boulevard (2120 N. Woodlawn Blvd.).
Presenting Planner: Scott Knebel
12. Case No.: PUD2016-00005
Request: County request to create a PUD Planned Unit Development on RR Rural Residential zoned property.
General Location: One-third mile west of Hoover Road on the south side of MacArthur Road.
Presenting Planner: Scott Knebel

NON-PUBLIC HEARING ITEMS

- 13.** Case No.: DER2016-00002
Request: Wireless Communication Master Plan Update
General Location: County wide
Presenting Planner: Scott Knebel

- 14.** Other Matters/Adjournment

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

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

MINUTES

May 19, 2016

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, May 19, 2016 at 1:30 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: David Dennis, Vice Chair; John Dailey; Bob Dool; Bill Ellison; David Foster; Joe Johnson; John McKay Jr. Debra Miller Stevens; Lowell Richardson and John Todd. Members absent were: Matt Goolsby; Carol Neugent; Bill Ramsey and Chuck Warren. Staff members present were: Dale Miller, Director; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Jess McNeely, Senior Planner; Derrick Slocum, Administrative Supervisor; Sharon Dickgrafe, Assistant City Attorney; Justin Waggoner, Assistant County Counselor and Maryann Crockett, Recording Secretary.

1. There were no minutes for approval.

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB2015-00047: Revised One-Step Final Plat – SHOCKER ADDITION**, located north of 29th Street North, west of Arkansas.

NOTE: This is an unplatted site located within the City of Wichita. The site has been approved for a zone change (ZON2015-00009) from Single-Family Residential (SF-5) to Two-Family Residential (TF-3). A conditional use (CON2015-00008) was approved to allow multi-family residential density.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department requests the applicant extend water (distribution) to serve all lots and extend sewer (laterals) to serve all lots. A utility plan is requested for water and sewer.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the concept plan.
- D. The drainage and utility easement needs revised to a “street, sidewalk, drainage and utility easement” which is required adjoining a narrow 32-foot street right-of-way.
- E. The plattoner’s text shall include language that the street, sidewalk, drainage and utility easement is hereby granted as indicated for street, sidewalk and drainage purposes and for the construction and maintenance of all public utilities.
- F. The plattoner’s text references sewer easements not shown on the face of the plat.

- G. The applicant shall guarantee the paving of the proposed street. For the narrow public 32-foot street, this guarantee shall be for the 29-foot paving standard.
- H. The streets adjoining the plat (Mascot and Shelton) to the north shall be labelled.
- I. County Surveying requests a distance added on the north lines of Lots 5 and 6, Block 1.
- J. County Surveying requests a bearing added along the north line of Reserve A.
- K. County Surveying requests the addition of the delta for the curve with the 20-foot radius.
- L. County Surveying requests that in the legal description "except the south 30 feet for street right-of-way" needs removed and the 30-foot street dedication labelled.
- M. The owner's signature needs corrected to Christopher J. Lee.
- N. The notary under the owner's certificate needs corrected to "on behalf of the Company".
- O. Since this plat proposes the platting of narrow street right-of-way with adjacent 15-foot street, drainage and utility easements, a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- P. 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.
- Q. 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.
- R. GIS has approved the street name.
- S. This property is within a zone identified by the City Engineer's office as likely to have groundwater at some or all times within ten feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineer's office.
- T. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly installed, permitted and inspected.

- U. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- V. 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.
- W. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- X. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- Y. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- Z. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- AA. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- BB. Perimeter closure computations shall be submitted with the final plat tracing.
- CC. The applicant should check City or County GIS mapping to determine whether the location of any taxing district boundaries (e.g. school districts) crosses their property and plan accordingly to avoid unnecessary splitting of lots between taxing districts.
- DD. Westar Energy has advised that no additional easements will be needed if the front lot 15-foot drainage and utility easement is platted as that easement is needed to provide service. 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.

EE. 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).

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

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

2-2. INFORMATIONAL ITEM: Amendment to Subdivision Regulations, Plats with Non-Contiguous Blocks.

At the Subdivision Committee of May 12, 2016, the Subdivision Committee reviewed the attached memo. They voted 5-0 to retain the current policy on plats and not amend the Subdivision Regulations. Plats with non-contiguous blocks would continue to be permitted.

SUBJECT: Amendment to Subdivision Regulations – Plats with Non-Contiguous Blocks

At the Planning Commission Meeting of April 21, 2016, MAPD was directed by the Planning Commission to draft an amendment regarding subdivisions containing blocks which are not contiguous.

Law Review

County Law has reviewed the issue and Kansas Statutes regarding subdivisions does not include any provisions a) requiring blocks in a plat to be contiguous or b) imposing a maximum distance between blocks.

Subdivision Regulations from other Cities/Counties

Staff conducted a sampling of subdivision regulations in other localities and could not locate any subdivision codes which addressed plats with disconnected blocks.

Frequency of Plats with Non-Contiguous Blocks

At the 4/21/16 MAPC Meeting, MAPD Staff discussed four plats containing fragmented blocks:

C & M Winter Addition – 375-foot separation

Hedge Acres – 215 feet

Cummings Estates – 1000 feet

Hole-in-One Holstein – 1700 feet

Staff involvement with such plats is not common and one local surveyor estimates these types of subdivisions are less than .1% (letter attached). The surveyor also states that these type of subdivisions has not caused any confusion and believes an amendment to the Subdivision Regulations would be unnecessary.

City/County Staff

No members of City or County staff expressed any issues that have developed with these types of disjointed plats. The County Clerk's Office also explained they have no issues with these plats.

MAPD Recommendation

There would appear to be several situations whereby a plat containing non-contiguous blocks may be justified (e.g. phased development, developable lots along perimeter of a non-developable land, replat containing disparate sites, etc). If it is determined that an amendment is necessary, the following may be considered:

"7-203. Blocks. (F) The property being developed shall include blocks that are encouraged to be contiguous and should not be separated unless they were originally part of the same parent tract, in which case the blocks shall not be separated by a distance greater than 5,280 feet."

VICE CHAIR DENNIS asked legal counsel if the Commission needed to have a formal vote on the Informational Item under the Subdivision Agenda.

JUSTIN WAGGONER, ASSISTANT COUNTY COUNSELOR commented since the Commission asked staff to review and bring forward a policy, he suggested hearing the item and voting on it.

TODD clarified that staff has no problem with non-contiguous plats.

MOTION: To retain the current policy on non-contiguous platting subject to the recommendation of the Subdivision Committee and staff recommendation.

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

3. PUBLIC HEARING – VACATION ITEMS

- 3-1. VAC2016-00004: City request to vacate a portion of the Minnesota public street right-of-way, located east of I-135 and north of 1st Street.

APPLICANT: Import Auto Center, Inc., Peter A & Sarah J Langenwalter Living Trust (applicants), Kaw Valley Engineering, co Tim Austin

LEGAL DESCRIPTION: Generally described as vacating the south approximately 236 feet of the North Minnesota public street right-of-way, Wichita, Sedgwick County, Kansas

LOCATION: Generally located east of North Interstate Highway I-135 and north of East 1st Street (WCC I)

REASON FOR REQUEST: Move cul-de-sac further north

CURRENT ZONING: Abutting and adjacent properties are zoned LC Limited Commercial and B Multi-Family Residential

The applicants are requesting the vacation of the south approximately 236 feet of the North Minnesota Street public right-of-way. This portion of Minnesota Street does not intersect with East 1st Street at this location, but ends as a cul-de-sac north of 1st Street. The applicants propose to rebuild the cul-de-sac, which means a portion of the proposed new cul-de-sac will be located on their northmost property, this will require the dedication of public street right-of-way. The applicant proposes the reconstructed cul-de-sac will be per Subdivision Standards. There is a sidewalk located on the north end of the cul-de-sac that runs to 2nd Street. There is a water line, water valve, stormwater line and stormwater inlets locate in the cul-de-sac and the length of Minnesota Street. Westar has no equipment in the area of the vacation and has no objection to this request, as condition # 7 will covers Westar. Becky Thompson is the Construction Services Representative for the Northeast area and can be contacted at 261-6320 for questions concerning Westar equipment. The applicant currently has access/a drive onto Minnesota Street, located just above the radius of the cul-de-sac. Vacation of the right-of-way will not deny any properties access to public street right-of-way and will not change traffic patterns.

Minnesota Street was originally platted as part of the Minneapolis Addition, which was recorded June 9, 1886. The west, abutting section of I-135 was constructed between 1971 and 1978. The construction of I-135 required addition right-of-way and re-routed Minnesota Street. An I-135 frontage road runs parallel to the west side of this portion of Minnesota. The applicant is proposing an expansion of his auto repair business, which the vacation of Minnesota will facilitate.

NOTE: This case was deferred at the March 10, 2016, SD meeting. The applicant requested the deferral so that VAC2016-00004 could be considered at the May 19, 2016, MAPC meeting, which is the same date as his request, for a zone change from B Multi-family Residential (B) to LC Limited Commercial (LC) and an associated Conditional Use for car sales on portions of the property; ZON2016-00008 and CON2016-00009. The proposed vacated Minnesota right-of-way will used for car sales display.

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 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 February 25, 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 platted complete access control 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) As approved by the Traffic Engineer, vacate the described public street right-of-way. Provide Planning with a legal description of the vacated right-of-way on a Word document, via E-mail to be used on the Vacation Order. This must be provided to Planning prior to VAC2016-00004 proceeding to City Council for final action.
- (2) Dedicate by separate instrument public street right-of-way for the relocated cul-de-sac. The cul-de-sac radius will be per the Subdivision Regulations. The original dedication must be provided to Planning prior to VAC2016-00004 proceeds to City Council for final action and subsequent recording with the Sedgwick County Register of Deeds.
- (3) Provide a plan for review and approval for the reconstruction of the cul-de-sac and any other required improvements, as required by Public Works and Traffic. The approved private street project for the reconstruction of the cul-de-sac must be provided to Planning prior to VAC2016-00004 proceeding to City Council for final action.
- (4) Minnesota Street will remain open and in its current configuration until Minnesota Street is reconstructed, per the approved private street project.
- (5) Provide a covenant, with original signatures, binding and tying the described vacated public street eight-of-way dedicated by separate instrument to the applicant's abutting property. This must be provided to Planning prior to VAC2016-00004 proceeding to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds and the Sedgwick County Appraisers Office.
- (6) Dedicate easements by separate instruments to cover all utilities. These original dedications must be provided to Planning prior to VAC2016-00004 proceeds to City Council for final action and subsequent recording with the Sedgwick County Register of Deeds. An alternative would be to dedicate the vacated right-of-way as a utility – drainage easement that must be provided to Planning prior to VAC2016-00004 proceeds to City Council for final action and subsequent recording with the Sedgwick County Register of Deeds.
- (7) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Any relocation/reconstruction of 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(s) to Planning prior to the case going to City Council for final action. Becky Thompson is the Construction Services Representative for the Northeast area and can be contacted at 261-6320 for questions concerning Westar equipment.

All improvements shall be according to City Standards and at the applicants' expense.

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

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) As approved by the Traffic Engineer, vacate the described public street right-of-way. Provide Planning with a legal description of the vacated right-of-way on a Word document, via E-mail to be used on the Vacation Order. This must be provided to Planning prior to VAC2016-00004 proceeding to City Council for final action.
- (2) Dedicate by separate instrument public street right-of-way for the relocated cul-de-sac. The cul-de-sac radius will be per the Subdivision Regulations. The original dedication must be provided to Planning prior to VAC2016-00004 proceeds to City Council for final action and subsequent recording with the Sedgwick County Register of Deeds.
- (3) Provide a plan for review and approval for the reconstruction of the cul-de-sac and any other required improvements, as required by Public Works and Traffic. The approved private street project for the reconstruction of the cul-de-sac must be provided to Planning prior to VAC2016-00004 proceeding to City Council for final action.
- (4) Minnesota Street will remain open and in its current configuration until Minnesota Street is reconstructed, per the approved private street project.
- (5) Provide a covenant, with original signatures, binding and tying the described vacated public street right-of-way dedicated by separate instrument to the applicant's abutting property. This must be provided to Planning prior to VAC2016-00004 proceeding to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds and the Sedgwick County Appraisers Office.
- (6) Dedicate easements by separate instruments to cover all utilities. These original dedications must be provided to Planning prior to VAC2016-00004 proceeds to City Council for final action and subsequent recording with the Sedgwick County Register of Deeds. An alternative would be to dedicate the vacated right-of-way as a utility – drainage easement that must be provided to Planning prior to VAC2016-00004 proceeds to City Council for final action and subsequent recording with the Sedgwick County Register of Deeds.

(7) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Any relocation/reconstruction of 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(s) to Planning prior to the case going to City Council for final action. Becky Thompson is the Construction Services Representative for the Northeast area and can be contacted at 261-6320 for questions concerning Westar equipment.

All improvements shall be according to City Standards and at the applicants' expense.

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

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

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

3-2. **VAC2016-00016: City request to vacate a portion of platted street right-of-way,** generally located west of 119th Street West, on the north side of Kellogg Avenue and east of Hornecker Drive.

APPLICANT/AGENT: Steven J Martens & Michael R Martens (applicant/owner) Ruggles and Bohm, c/o Will Clevenger (agent)

LEGAL DESCRIPTION: Generally described as vacating the 50-foot wide portion of the platted Harry Drive that abuts Hornecker Drive on the west side, Lots 8-14, Block 2, Wheat Ridge Addition on its north side, ending at the west side Lot 7, Block 2, Wheat Ridge Addition on its east side and abuts Kellogg Avenue– US Highway US-54 on its south side, Wichita, Sedgwick County, Kansas

LOCATION: Generally located west of 119th Street West, on the north side of Kellogg Avenue – US-54 and east of Hornecker Drive (WCC IV)

REASON FOR REQUEST: Right-of-way will not be used for improvements of Kellogg Street – US-54

CURRENT ZONING: All abutting and adjacent north, east and west properties are zoned GC General Commercial. Kellogg Street – US-54 abuts the south side of the site.

The applicants are requesting the vacation of the 50-foot wide portion of the unimproved, platted Harry Drive public street right-of-way (ROW) that abuts Hornecker Drive on the west side, Lots 8-14 (subject lots), Block 2, Wheatridge Addition on its north side, ending at the west side Lot 7, Block 2, Wheatridge Addition on its east side and abuts Kellogg Avenue– US Highway US-54 on its south side; a distance of approximately 759.33 feet. VAC2005-00035 vacated the eastern 320-foot long (x) 50-foot wide, portion of Harry Drive ROW that abuts the south sides of Lots 7-6, and a southwest portion of Lot 5, all in Block 2, the Wheatridge Addition; approved December 13, 2005, by the Wichita City Council. The combination of the the current vacation request and VAC2005-00035 appears to leave approximately 20 feet of Harry Drive. The applicants will need to verify if this is a remnant or if the combination of the two noted vacation cases removes all of Harry Drive. There is a platted 35-foot front setback on the subject lots that can be vacated with this case, although it was not requested. The applicant has provided a cross lot access agreement between the subject lots that will provide access to Hornecker Drive, which appear to have access onto Kellogg Avenue – US-54. The Wheatridge Addition plat has complete access control on the abutting Lots 5-14 onto Harry Drive, making the cross lot access agreement necessary; complete access control will be retained. The public ROW Hornecker Drive provides access for the subject lots. Harry Drive will not be used for improvements of Kellogg Street – US-54. Public Works requires the dedication of a 50-foot (x) 50-foot triangle shaped drainage easement located at Harry Drive's intersection with Hornecker Street. There is existing Westar equipment in the area but condition # 8 will cover Westar. Ennidh Garcia is the Construction Services Representative for the Southwest Area and can be contacted at 261-6320 for questions concerning this this vacation request. The Wheatridge Addition was recorded with the Sedgwick County Register of Deeds on April 8, 1968.

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 portion of platted 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 April 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 platted 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) Provide Planning with a legal description of the vacated Harry Drive right-of-way on a Word document, via E-mail to be used on the Vacation Order. This must be provided to Planning prior to VAC2016-00013 proceeding to City Council for final action.

- (2) Vacate the platted 35-foot front yard setback located on and running parallel to the south property lines of Lots 8-14, Block 2, Wheatridge Addition. The described vacated platted setback will be replaced with the GC General Commercial zoning district's minimum 20-foot front yard setback.
- (3) Verify that VAC2016-00016 and VAC2005-00035 have vacated all of Harry Drive.
- (4) Retain complete access control on the south property lines of Lots 8-14 (subject lots), Block 2, Wheatridge Addition.
- (5) An approved cross lot circulation agreement (with original signatures) for Lots 8-14, Block 2, Wheatridge Addition will be recorded with the Vacation Order at the Sedgwick County Register of Deeds.
- (6) Provide a covenant, with original signatures, binding and tying the described vacated public street right-of-way to the applicants' abutting property. This must be provided to Planning prior to VAC2016-00016 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds and the Sedgwick County Appraisers Office.
- (7) Dedicate a 50-foot (x) 50-foot drainage easement by separate instrument with original signatures. The original dedication must be provided to Planning prior to VAC2016-00016 proceeds to City Council for final action and subsequent recording, with the Vacation Order, at the Sedgwick County Register of Deeds.
- (8) Westar has equipment in the area of the vacation activity. Contact Ennidh Garcia, the Westar Construction Services Representative for the Southwest Area, at 261-6859 for questions/direction concerning Westar equipment located in the area of the vacation. Any relocation/reconstruction of 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(s) or the permission to proceed from Westar to Planning prior to the case going to City Council for final action.
- (9) All improvements shall be according to City Standards and at the applicants' expense.
- (10) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide Planning with a legal description of the vacated Harry Drive right-of-way on a Word document, via E-mail to be used on the Vacation Order. This must be provided to Planning prior to VAC2016-00013 proceeding to City Council for final action.
- (2) Vacate the platted 35-foot front yard setback located on and running parallel to the south property lines of Lots 8-14, Block 2, Wheatridge Addition. The described vacated platted setback will be replaced with the GC General Commercial zoning district's minimum 20-foot front yard setback.
- (3) Verify that VAC2016-00016 and VAC2005-00035 have vacated all of Harry Drive.
- (4) Retain complete access control on the south property lines of Lots 8-14 (subject lots), Block 2, Wheatridge Addition.
- (5) An approved cross lot circulation agreement (with original signatures) for Lots 8-14, Block 2, Wheatridge Addition will be recorded with the Vacation Order at the Sedgwick County Register of Deeds.
- (6) Provide a covenant, with original signatures, binding and tying the described vacated public street right-of-way to the applicants' abutting property. This must be provided to Planning prior to VAC2016-00016 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds and the Sedgwick County Appraisers Office.
- (7) Dedicate a 50-foot (x) 50-foot drainage easement by separate instrument with original signatures. The original dedication must be provided to Planning prior to VAC2016-00016 proceeds to City Council for final action and subsequent recording, with the Vacation Order, at the Sedgwick County Register of Deeds.
- (8) Westar has equipment in the area of the vacation activity. Contact Ennidh Garcia, the Westar Construction Services Representative for the Southwest Area, at 261-6859 for questions/direction concerning Westar equipment located in the area of the vacation. Any relocation/reconstruction of 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(s) or the permission to proceed from Westar to Planning prior to the case going to City Council for final action.
- (9) All improvements shall be according to City Standards and at the applicants' expense.
- (10) 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.

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

- 3-3. **VAC2016-00017: City request to vacate platted access control on property,** located on the southwest side of 21st Street North and K-96.

APPLICANT/AGENT: Slawson East, Inc. (applicant/owner) PEC, c/o Charlie Brown (agent)

LEGAL DESCRIPTION: Generally described as vacating 40 feet of 433.7 feet of platted complete access control onto 21st Street North, located on the northwest property line of Lot 5, Block 1, Cross Point 2nd Addition, Sedgwick County, Kansas.

LOCATION: Generally located on the southwest side of 21st Street North and Kansas Highway K-96 (WCC #3)

REASON FOR REQUEST: To allow a right-in – right-out drive

CURRENT ZONING: The site and the abutting and adjacent east, south and east properties are zoned LC Limited Commercial. The adjacent north properties are zoned SF-5 Single-Family Residential.

The applicant proposes to vacate 40 feet of 433.7 feet of platted complete access control onto 21st Street North, located on the northwest property line of Lot 5, Block 1, Cross Pointe 2nd Addition (the subject site). The applicant proposes a right-in – right-out drive onto 21st Street North. 21st Street North is a paved four-lane, two-way, arterial road at this location. The east end of a full curbed landscaped (grass) median strip lines up with the proposed vacated portion of platted complete access control. To more fully ensure that the proposed drive is right-in – right-out it, the full curbed landscaped median strip may have to be extended further west. Currently the subject site has access to 21st Street North via the public street Crossmark Place by a 45-foot access easement abutting the south side of the subject site. The abutting west property, Lot 10, Block 1, Cross Pointe Addition (recorded July 22, 2005), has direct access onto the public street Crossmark Place, which provides access to 21st Street North.

The proposed drive would be located approximately 211 feet east of the public street Crossmark Place and 220 feet west of the 21st Street North – Kansas Highway K-96 interchange. The current Access Management Regulations standard for a right-in – right-out drive is 200 feet between drives or arterial intersections and 400 feet between full movement drives or arterial intersections.

There does not appear to be any public utilities located in the area of the vacation. Westar has equipment in the vacation area but Westar has no objection to this request as condition # 3 will cover Westar. Becky Thompson is the Construction Services Representative for the Northeast Area and can be contacted at 261-6320 for direction on this request. The Cross Pointe 2nd Addition was recorded with the Sedgwick County Register of Deeds on January 3, 2008.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from County Public Works, 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 platted complete access control.

- 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 April 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 platted complete access control 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 that portion platted access control to allow one drive onto the sites' 21st Street North frontage, as approved by Public Works - Traffic. Provide Planning Staff with a legal description of the approved vacated portion of the platted access control on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. This must be provided to Planning prior to the case going to the City Council for final action.
- (2) If necessary provide a plan for review and approval to extend the full curbed landscaped median strip further west. If required provide Planning with a private project number of the approved plan. This must be provided to Planning prior to the case going to the City Council for final action.
- (3) Any relocation or reconstruction of any utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. Provide written approval from the utility companies prior to the case going to the City Council for final action. Becky Thompson is the Westar Construction Services Representative for the Northeast Area and can be contacted at 261-6320 for direction on this request in regards to Westar equipment.
- (4) All improvements shall be according to City Standards and at the applicant's expense, including all required plans, permits, inspections and the construction of the drive onto 21st Street North.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate that portion platted access control to allow one drive onto the sites' 21st Street North frontage, as approved by Public Works - Traffic. Provide Planning Staff with a legal description of the approved vacated portion of the platted access control on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. This must be provided to Planning prior to the case going to the City Council for final action.
- (2) If necessary provide a plan for review and approval to extend the full curbed landscaped median strip further west. If required provide Planning with a private project number of the approved plan. This must be provided to Planning prior to the case going to the City Council for final action.
- (3) Any relocation or reconstruction of any utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. Provide written approval from the utility companies prior to the case going to the City Council for final action. Becky Thompson is the Westar Construction Services Representative for the Northeast Area and can be contacted at 261-6320 for direction on this request in regards to Westar equipment.
- (4) All improvements shall be according to City Standards and at the applicant's expense, including all required plans, permits, inspections and the construction of the drive onto 21st Street North.
- (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.

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

PUBLIC HEARINGS

FOSTER recused himself and left the bench.

4. **Case No.: ZON2015-00052 (Deferred from 2-4-16)** - R. Brandon Wilson (owner/applicant) and MKEC, c/o Brian Lindebak (agent) request City request for a zone change from SF-5 Single-family Residential and GC General Commercial to LI Limited Industrial on property described as:

The West half of the Northeast Quarter of the Northeast Quarter EXCEPT the North 600 feet, all in Section 28, Township 27, Range 2 East of the 6th P.M., Sedgwick County, Kansas.

AND

The South 49.34 feet of the North 600 feet of the West half of the Northeast Quarter of the Northeast Quarter, all in Section 28, Township 27, Range 2 East of the 6th P.M., Sedgwick County, Kansas.

BACKGROUND: The applicant is requesting LI Limited Industrial (LI) zoning on the 11.21-acre, unplatted SF-5 Single-Family Residential (SF-5) and GC General Commercial (GC) site. The site is located a block west of Greenwich Road, abuts the north side of I-35 on the northwest side of the Gilbert and Trig Streets intersection. East Kellogg Avenue/US-54 is located approximately 380 feet north of the site. At the time the report was prepared for the February 4, 2016, MAPC meeting the site was an overgrown field.

Since the February 4, 2016, MAPC meeting the applicant has bull dozed most of the site's trees, brush and weeds and piled them on the east side of the site. Meanwhile construction on the East Kellogg Street improvements has accelerated and it appears that the west portion of the SF-5 zoned site and/or the west abutting GC zoned property is being used to stock pile dirt from the Kellogg Street improvements. Stock piling dirt (outdoor storage) is not permitted in the SF-5 zoning district, but is permitted in the LI and GC zoning district. Graders and dump trucks have been observed in the area of the site crossing a City owned drainage easement for access to the west portion of the site. The Kellogg Street improvements has allowed the temporary crossing of the City owned drainage easement, but this could be stopped if the City finds damage to the drainage easement. Permanent access to the west side of the site would require the applicant to construct a permanent bridge over the drainage easement and reach an agreement with the abutting west property owner to cross over their land or purchase the needed land from the abutting west property owner. Planning is not aware of any dialogue with the City or the abutting west property owner that would provide permanent access to the site from the west. Trig and Gilbert Streets are currently the only access to the site and there are no plans for improvements to these sand and gravel residential streets. The completion of this phase of Kellogg/US-54 improvements is set at 2019-2020.

As noted a large GC zoned City owned drainage easement abuts the north side of the site. A GC zoned western clothing store is located north of the drainage. Further north of the site, across Kellogg Street – US-54 Highway, is the long established (1940) LI zoned Beech Aircraft manufacturing complex. GC zoned undeveloped land and what appears to be unimproved parking abut the west side of the site. As earlier stated this GC zoned land appears to be used for temporary access to the site and may have stock piles of dirt on it. GC zoned Nissan and Mazda car sales lots are located further west. Six SF-5 zoned single-family residences (built 1954 and early 1970s) are located east, across Trig Street, of the site, as is a GC zoned single-family residence (built 1954) and undeveloped GC zoned land. A GC zoned Green Lantern car wash, undeveloped GC zoned land, a LC Limited Commercial (LC) zoned small commercial strip building, and SF-5 zoned cleared lots and two single-family residences are located a short block east of the site, along the west side of Greenwich Road. The noted SF-5 zoned single-family residences in area are the remnants of 18 single-family lots that were platted in the East Kellogg Addition, which was recorded December 23, 1953.

Based on design for the improvements to this portion of Kellogg/US-54 and its intersection with Greenwich Road, Trig Street provides the preferred access to the site. Gilbert Street provides access to Greenwich Road. However, the Gilbert Street – Greenwich Road intersection's close proximity to the I-35 overpass triggers public safety concerns in regards to a sight restrictions. Trig Street will intersect with the Kellogg Street frontage road, which will be a one way street east to the noted intersection. If the zoning is approved, Trig Street will have to be paved per City standards. The City has no plans to pave Trig Street and has not been presented with a petition to pave Trig Street. Currently the six SF-5 zoned single-family residences located on the east side of Trig Street generate almost all of the traffic onto Trig Street, with the exception of cut through traffic using Trig Street to avoid the Kellogg Street – Greenwich Road intersection. The completion of this phase of Kellogg/US-54 improvements is set at 2019-2020.

The closest LI zoned properties to the site are located east and north of the site. Approximately 740 feet east of the site, across Greenwich Road are LI zoned properties with a covenant COV-6 and a community plan CUP DP-196 overlays, which have provisions for uses, screening, outdoor storage, signs, lighting, building height, landscaping, etc. The long established (1940) LI zoned Beechcraft Airplane manufacturing complex is located approximately 720 feet north of the site, across Kellogg Street.

CASE HISTORY: The site is undeveloped and based on historical aerials appears to have been undeveloped since the 1970s. The MAPC considered this case at their February 4, 2016 meeting. The adjacent single-family residences opposed the LI zoning request. Their concerns included having industrial truck traffic on the sand and gravel residential Trig and Gilbert Streets, which are the only streets they have to get to and from their homes. Neither Trig nor Gilbert Streets were built for industrial traffic, which would damage the roads, creates dust in dry weather and pose a public safety problem to their families. The neighbors noted that Trig and Gilbert Streets were already used as a way for vehicular traffic to avoid the Greenwich Road – Kellogg Street intersection located a block east of their homes. The neighbors were also concerned that outdoor storage would bring down the value of other properties in the area, as well as frustration in not knowing what the LI zoning would allow. The MAPC deferred a recommendation on the request for 90 days. The MAPC will reconsider the case at their May 19, 2016, meeting. The case was also scheduled for the February 8, 2016, District Advisory Board (DAB) II meeting. However a recommendation by DAB II was deferred until its May 9, 2016, meeting.

At the May 9, 2016, DAB II meeting the adjacent single-family residences restated their opposition to the proposed LI zoning. The neighbors also noted that since the February 4, 2016, MAPC meeting the construction on the East Kellogg Street improvements has accelerated and has increased their concerns of the immediate and future impact of the proposed LI zoning on their properties. The neighbors expressed concerns about the site throwing more water off the site and onto Trig Street and their yards. The neighbors questioned how the applicants' were allowed to stock pile dirt on the still SF-5 zoned property, leaving them to wonder if they could do the same on their SF-5 zoned property. They noted that the stock piling of dirt on the subject property has increased the dust in the area and that industrial truck traffic was still using Trig Street to get in and out of the site. They noted that if the applicant had left a portion of the trees up on the east side of the site that they could have provided a buffer between their homes and the dirt stock piles and the graders and trucks moving the dirt on and off the site. They noted that the trees, bushes and grass had not been piled up but left where they had been dozed over. It

must be noted that if the applicants propose to burn the trees, bushes and grass on the site, the activity would be defined as a limited construction burn site; UZC Sec.III-B.3.1. A limited construction burn site on LI zoned property is permitted by right if the site can meet the property development standards listed in Sec.III-C.12. of the UZC. If the property development standards are not met consideration of a conditional use is required.

The applicants' response to the stock piling of dirt on the site was that they had a three-year contract with Sherwood Construction, a contractor working on the Kellogg improvements for the stock piling of dirt and the parking of their equipment on the site. The applicants stated that they would not use Trig Street until the improvements to Kellogg were complete and the property was platted. The applicants stated that at the time of platting the entrance to their site would be determined and that they would pay for the paving of Trig Street from the Kellogg frontage road to their entrance. The applicants also stated that they would contact Sherwood Construction no later than tomorrow to tell them not to use Trig Street to get to the site. The applicants also told the neighbors that they would begin and finish the construction of an eight-foot tall berm the length of the east side of their property in 60 days to screen the site from the neighbors and discourage vehicular traffic from cutting through their site to Trig Street and Gilbert Street.

The DAB's recommendation was to approve the LI zoning with the provisions of the Protective Overlay and the following additional provisions:

- (1) The applicant will not use Trig Street or Gilbert Streets until the improvements on East Kellogg are completed (2019-2020) and the property has been platted, after which the applicant will pave Trig Street at their expense from its intersection with the Kellogg frontage road to the entrance(s) of their property, per City Standards.
- (2) Access to the site for life of the East Kellogg Street improvements (2019-2020) will be confined to the northwest portion of the site.
- (3) The applicant will call Sherwood Construction to instruct them to keep all construction traffic off of Trig and Gilbert Streets and only use the current northwest entrance to the site.
- (4) The applicant will construct and complete an eight-foot tall berm for the length of the east side of the site seeded with a grass to hold it together within 60 days of May 9, 2016, DAB II meeting.
- (5) The City will install "No construction truck traffic" signs on Trig and Gilbert Streets during the life (2019-2020) of this portion of the construction/improvements to East Kellogg Street.

Since the DAB II meeting Planning Staff has found the posting of no construction truck traffic signs on Trig and Gilbert Streets requires an amendment to the provisions of City Code Section 11.40.010. This section has a list of streets in the city where no commercial truck traffic is permitted. Public Works is hesitant in putting staggered construction barriers on the north portion of Trig Street, expressing doubts in their effectiveness and not wanting to funnel traffic from the neighborhood onto the sand and gravel Gilbert Street's intersection with Greenwich Road because of public safety concerns due to its close proximity to the I-35 overpass in regards to a sight restrictions. Public Works has contacted the manager (Wildcat Construction Company) of the Kellogg improvements to tell them not to use Trig or Gilbert Streets to get to the subject site during the life of the project. Wildcat Construction Company has responded that they don't plan on utilizing Trig Street for routine ingress or egress to the storage (subject) site during construction, but occasional use may be needed for erosion control, maintenance, dust control and/or seeding of the storage pile. They have also expressed a desire to be a good neighbor during the construction – improvements to this portion of Kellogg Street and that as long as they continue to have

access across the City property to and from the northwest and west side of the storage (subject) site to the south frontage road, they do not see a need to utilize Trig Street.

ADJACENT ZONING AND LAND USE:

| | | |
|--------|-------------------|--|
| NORTH: | GC, Kellogg/US-54 | Western clothes store, drainage easement, land cleared for improvements to Kellogg/US-54, aircraft manufacturing |
| SOUTH: | I-35, SF-5 | Interstate Highway I-35, single-family residences |
| EAST: | SF-5, GC, LC | Single-family residences, undeveloped land, retail strip building, car wash |
| WEST: | GC | Undeveloped land, car sales |

PUBLIC SERVICES: Public water and sewer are located in the Trig Street right-of-way. Access to the site is currently provide by the local, sand and gravel residential Trig Street. Access to the arterial Greenwich Road is via Trig Street to the sand and gravel Gilbert Street. Direct full movement access to the arterial Kellogg/US-54 is via Trig Street. Improvements to the Kellogg/US-54 will provide access to the Kellogg/US-54 frontage road, which in turn will provide access to the east Kellogg/US-54-Greenwich Road intersection and west along the frontage road. Completion of this phase of Kellogg/US-54 improvements are set at 2019-2020.

CONFORMANCE TO PLANS/POLICIES: The “2035 Wichita Growth Concept Map” of the Comprehensive Plan identifies the general location as appropriate for “new employment” development. This category encompasses areas likely to be developed or re-developed by 2035 with uses that constitute centers or concentrations of employment primarily in manufacturing, warehousing, distribution, construction, research, technology, business services, or corporate offices. Major shopping centers and office parks are likely to be developed as well, based on market driven factors. Higher density housing and convenience centers are also development possibilities. In areas of existing industrial uses associated with extraction, processing or refinement of natural resources or recycling of waste materials like will be developed. There are no existing industrial uses associated with extraction, processing or refinement of natural resources or recycling of waste materials in this area. The area is developed with large car sales lots, big box retail (Lowe's and Wal-Mart), commercial strips and stand-alone retail/commercial.

The purpose of the LI zoning district is to accommodate moderate intensity manufacturing, industrial, commercial and complementary land uses. The requested LI zoning district can be compatible with the new employment classification. If approved the proposed LI zoning would mean that the site does not meet the locational criteria of industrial land having direct access to arterial roads. Access to the site is via Trig Street a sand and gravel residential street. The locational criteria also states that industrial traffic shall not go through a residential neighborhood. The area cannot not be described as residential, but six SF-5 zoned single-family residences (built 1954 and early 1970s) are located east, across Trig Street, of the site. These residences are the remnants of the 18 single-family lots that were platted in the East Kellogg Addition, which was recorded December 23, 1953. LI zoning does not permit any residential development. Since 2000 the area has been extensively developed with large retail complexes.

RECOMMENDATION: Applying provisions of a protective overlay (PO) to the request for LI zoning will allow the applicants the opportunity for commercial and limited industrial development on the site as well as eliminating some of the industrial uses permitted by right that are out of character with the

existing development in the area, most which has occurred since 2000 and has been anchored by the big box stores Wal-Mart and Lowes. When a PO is applied to a base zoning district the result is a more restrictive designation than if the base district did not have the PO classification; UZC. Sec.III-C.6.s. The proposed PO in an attempt to buffer the remaining single-family residences from industrial development, but allow the applicant to use and develop the site. Based upon information available prior to the public hearings, planning staff recommends that the proposed conditional use be APPROVED, subject to the following provisions of a protective overlay:

1. Prohibited Land Uses –

- a. Pawn Shop, Private and Public Recycling Collection Stations, Recycling Processing Center, Reverse Vending Machine, Rodeo in the City, Sexually Oriented Business, Tattooing and Body Piercing Facility, Asphalt and/or Concrete Plant, Landfill, Mining or Quarrying, Oil and Gas Drilling, Rock Crushing, Solid Waste Incinerator, Transfer Station, Wrecking/Salvage Yard.
- b. In addition to the prohibited uses listed 1.a.) the following uses are prohibited as long as the SF-5 Single Family Residential Zoning remains on the Properties located on the east side of Trig Street (being legally described as: Lots 5, 6, 7, 8, 9, 10, and 11, East Kellogg Acres, Sedgwick County, Kansas): Correctional Facility, Correctional Placement Residence, Nightclub in the City, and Tavern or Drinking Establishment.
- c. As long as the SF-5 Single-Family Residences remain on Trig Street, any stock piling of dirt, sand or gravel shall require the property owner to employ dust control methods such as having a water trucks or an irrigation system on site to spray the dirt sand or gravel piles frequently enough to keep the dust on the site.

2. Transportation –

- a. The applicant or any entity using the subject site will not use Trig Street until the improvements on East Kellogg are completed (2019-2020) and the property has been platted, after which the applicant/owner will pave Trig Street, per city standards, at their expense from its intersection with the Kellogg frontage road to the entrances of their property.
- b. Access to the site for the life of this portion of the East Kellogg Street construction - improvements (2019-2020) will be confined to the northwest and west portions of the site. No access to the site via Trig and Gilbert Streets for the life of this portion of the East Kellogg Street construction - improvements (2019-2020)
- c. The applicant will request the City to post signs, at the applicant's expense, prohibiting commercial/industrial truck traffic from using Gilbert Street to get to and from the site. These signs shall be placed for the life of this portion of the East Kellogg Street construction - improvements (2019-2020) and after said project.
- d. The applicant shall monitor Sherwood Construction (or whoever is using the site during the life of the Kellogg Street improvements – 2019-20120) to instruct them to keep all construction traffic off of Trig and Gilbert Streets and only use the current northwest or west entrance to the site

3. Screening – If the said properties located on the east side of Trig Street remain zoned SF-5 at the time of development, then the following screening and landscaping provisions are required. (Lots 5, 6, 7, 8, 9, 10, and 11, East Kellogg Acres, Sedgwick County, Kansas)

- a. An eight-foot tall berm seeded with a grass to hold it together will be constructed along the length of the east property line within 60 days of the May 9, 2016, DAB II meeting. The berm will remain and be maintained on the site for the life of this section of the East Kellogg Street construction - improvements (2019-2020), after which it may be applied towards permanent screening or substituted with the next listed b. or c. Using it as permanent screening would still require this side of the site to comply with the Landscape Ordinance.
 - b. A minimum 8 foot tall masonry wall shall be built along the site's east side of the subject property, along Trig Street, except however for access drives or street locations into the subject property. Landscaping will be per the Landscape Ordinance. Screening and landscaping shall be constructed within 120 days of a building permit being issued.
 - c. A landscaped berm may substitute 3.b., if; landscape screening is planted with evergreen trees planted in a double row staggered/offset atop a three to four foot tall berm. The trees shall be irrigated to sustain them and shall be planted a minimum rate of 16 feet on center and shall be a minimum of 6 feet in height at the time of planting.
 - d. Existing landscaping within the south 20 feet of the south property, if maintained, satisfies the landscape street yard requirement, if it meets the standards of the Landscape Ordinance. If there is outdoor storage within 150 feet of the south property line solid screening will be required if removed.
 - e. A landscape plan shall be reviewed and approved by the Planning Director.
 - f. All landscape material that dies shall be replaced within 30 days.
 - g. All screening and landscaping will be per code, unless otherwise noted.
4. All rooftop mechanical equipment shall be screened from ground view per the U.Z.C. All loading, docking areas and trash receptacles shall be screened from ground view and along I-35 as approved by the Planning Director.
5. Signage – shall be as permitted in the Limited Industrial LI Zoning District provided the following standards:
- a. All ground signs will be pylon or monuments.
 - b. Only one building sign per building shall be allowed along I-35 frontage.
 - c. If the said properties located on the east side of Trig Street remain zoned SF-5 at the time of development of the subject property, then:
 - i. Building signs shall only be permitted on the south, north and west sides of the building unless they can be seen from said SF-5 properties.
 - ii. Portable signs, flashing or animated signs, pennants, banners, and balloon signs are not permitted.
 - iii. Backlit canopies and neon or florescent tube lighting on buildings are not permitted.
 - iv. The maximum height of ground signs shall be 10 foot along Trig Street, all other signs shall not exceed 20 feet tall. The maximum sign area of street signs shall be 250 square feet, EXCEPT along Trig Street which shall be limited to a maximum of 150 square feet.
 - v. No ground signs along Trig Street shall lit, provided ground lighting is allowed for monument signs. The lighting shall be turned off between the hours of 8:00 PM to 6:00 AM.
6. A minimum of a 35 foot building setback shall be required along the Trig Street and I-35. No pole lights, or outdoor storage is allowed in the 35 foot building setback.

7. All exterior lighting shall be shielded to direct light downward. Pole lights, including the base shall be no taller than 15 feet if the said properties located on the east side of Trig Street remain zoned SF-5 at the time of development.
8. Compatibility height, setback and light standards shall apply, unless otherwise noted.
9. All utilities shall be underground.
10. Parking shall be paved per City Standards and a drainage plan must be provided for review and approval.
11. No building permits will be issued until the site is platted.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the surrounding area:** The area is located along the Kellogg/US-54 corridor and abuts I-35, with access onto Greenwich Road, which, with Broadway Avenue – US-81 Highway is perhaps the only paved, north-south, county line to county line arterial road in Wichita and Sedgwick County. The area is a mix of GC, LI, and LC zoning, most with development overlays, which have developed into big box stores Wal-Mart and Lowes anchoring stand-alone fast food restaurants, stand-alone retail and small commercial strip buildings. The LI zoned Beechcraft Airplane manufacturing complex (1940) is located approximately 720 feet north of the site, across Kellogg Street. The area also has at least five major automobile dealerships. The area’s nine single-family residences are the remnants of the 18 single-family lots that were platted in the East Kellogg Addition, which was recorded December 23, 1953.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The unplatted 11.21-acres SF-5 zoned site could be developed as single-family residential subdivision. However, the area’s development trend is large scale commercial and major auto dealerships, which reflects the areas access to Kellogg/US-54 corridor, the arterial Greenwich Road and the area’s visibility from the abutting I-35.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The provisions of the protective overlay are intended to conform the site to the area’s commercial development, most of which was established or redeveloped beginning in the early 2000s, as well buffer the remaining existing single-family residential development. The provisions of the PO and the requested zoning are intended to allow development of a site that has been vacant since at least the 1970s.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2035 Wichita Growth Concept Map” of the Comprehensive Plan identifies the general location as appropriate for “new employment” development. This category encompasses areas likely to be developed or re-developed by 2035 with uses that constitute centers or concentrations of employment primarily in manufacturing, warehousing, distribution, construction, research, technology, business services, or corporate offices. Major shopping centers and office parks are likely to be developed as well, based on market driven factors. Higher density housing and convenience centers are also development possibilities. In areas of existing industrial uses associated with extraction, processing or refinement of natural resources or recycling of waste materials like will be developed.

The purpose of the LI zoning district is to accommodate moderate intensity manufacturing, industrial, commercial and complementary land uses. The requested LI zoning district can be compatible with the new employment classification. If approved the proposed LI zoning would mean that the site does not meet the locational criteria of industrial land having direct access to arterial roads and not having industrial traffic go through a residential neighborhood. Access to the site is via Trig Street a sand and gravel residential street. The area cannot not be described as residential, but six SF-5 zoned single-family residences (built 1954 and early 1970s) are located east, across Trig Street, of the site. These residences are the remnants of the 18 single-family lots that were platted in the East Kellogg Addition, which was recorded December 23, 1953. Since 2000 the area has been extensively developed with large retail complexes.

- (5) **Impact of the proposed development on community facilities:** The site will generate industrial truck traffic onto Trig Street, Kellogg/US-54, Greenwich Road and perhaps Gilbert Street.

BILL LONGNECKER, Planning Staff presented the Staff Report.

MCKAY asked since the Commission has heard the case before, are they going to hear the entire case because not much has changed.

VICE CHAIR DENNIS asked the Commission if they wanted to hear the whole case or just what has changed since the last meeting. He asked staff to cover why the Commission deferred the case and what has transpired since that time.

RICHARDSON said he recalled that the case was deferred because of access issues.

LONGNECKER briefly reviewed the case stating that it came before the Planning Commission on February 4, 2016. He said at that time, the Planning Commission deferred the item for ninety days and instructed staff to send it to DAB II for review and recommendation. He said nothing has changed on the application as far as development zoning; however, he said he has outlined proposed changes on page two of the Staff Report. He briefly reviewed the changes and mentioned progress of construction along East Kellogg. He indicated that members of Public Works were also present to answer any questions regarding improvements to Kellogg.

He reviewed several photographs taken of the current temporary access point to the property, the condition of the property and the surrounding area. He mentioned possible drainage problems in the area and said a member of the Storm Water Division was present to provide possible solutions.

DIRECTOR MILLER asked for clarification that the existing berm would not be broken by any drives until after the area is platted.

LONGNECKER said the proposed berm will go into effect after the area has been platted. He said the intent of the berm is to meet the screening requirement when the zoning goes into effect.

JOHNSON asked about the DAB vote on the application.

LONGNECKER reported that DAB II approved the application unanimously with the recommended PO.

MCKAY asked for clarification that the applicant could not use Trig Street until it was paved. He also asked why can't they continue to use the current entrance onto the property permanently, it would be cheaper than paving Trig Street.

LONGNECKER said the applicant has agreed to pave Trig Street to the entrance to their property. He said he would have to defer the question on the temporary entrance to the property to Traffic Engineering and Storm Water. He added that the applicant would have to get permission from the west property owner to cross their property to continue to use the temporary entrance.

RICHARDSON asked about amending the Ordinance to allow for signs about no truck traffic.

JEFF VANZANDT, ASSISTANT CITY ATTORNEY said that would have to be requested by Public Works or the City Council member. He said there were no guarantees and that it often takes some time to change a City Ordinance.

RICHARDSON mentioned that the Commission asked the applicant to speak to the City about purchasing property for access to the site from the northwest corner. He asked about the status of that request.

LONGNECKER said Traffic Engineering and the applicant can address that.

JOE HICKLE, INTERIM STORM WATER ENGINEER referred to a picture of the temporary crossing installed by the applicant stating that "temporary" could mean up to 3-4 years. He said during that time there could be severe storms, so they are checking to see that this structure has the "flow capacity" to not flood people located up or downstream. He said his preliminary assessment is this structure is pretty weak, that it needs another pipe. He said he will work with the contractor to see that an additional pipe is installed. He commented that when the property comes to be platted, the applicant will be required to meet all Storm Water Regulations.

VICE CHAIR DENNIS asked if the property was located in a floodway or flood zone.

HICKLE said it is going into the flood zone. He referred to a map of the floodplain in the area.

ELLISON asked if the applicant has explored options about an entrance from the west side of the property. He said that would eliminate the traffic issue along Trig Street.

HICKLE deferred to Public Works Engineering to answer that question.

MIKE ARMOUR, PUBLIC WORKS, ENGINEERING indicated that the City acquired property for right-of-way for improvements including an off-ramp onto the frontage road. He said the City purchased the whole property which is being used now for a staging area for construction materials and equipment.

ARMOUR said if the property owner was allowed to have a drive right before or after the off-ramp it may become a safety issue and cause collisions between vehicles exiting Kellogg. He said the City has complete access control across the area. He said allowing the applicant access to their property straight north to the frontage road is not an option.

MCKAY clarified that the City couldn't give the applicant access at that point; however, they could let them have access to Trig Street, just a short ways to the east.

ARMOUR said that was correct. He briefly reviewed the aerial of the location of the proposed off-ramp.

RICHARDSON asked about future plans for development of the City property.

ARMOUR said that would be a question for City Property Management.

ELLISON asked about the applicant entering their property on the north side from Trig Street.

ARMOUR said that was an option.

BRIAN LINDEBAK, MKEC ENGINEERING, REPRESENTING THE OWNERS AND APPLICANT said they are in agreement with staff comments. He said they have spent considerable time with City Staff crafting the PO to prevent harm to the neighborhood. He referred to a brief presentation on the site. He mentioned paving of Trig Street and said the PO also offers screening, lighting, setbacks, parking, utilities and compatibility with the neighborhood. He said back in the 1970's when this area was developed as residential it was considered on the "edge of town". He said because of expansion this is now surrounded by LC and GC zoning and development. He said the applicant does not anticipate platting and improving the site until after the Kellogg improvement project is completed. He said they also do not know what the uses of the property will be and whether they will be LI or commercial in nature. He commented that the site already has access to Trig Street, which is a public street. He mentioned other possible changes to the area that would increase commercial traffic along Trig Street. He referred to the Staff Report which states that the Comprehensive Plan indicates the area for commercial and retail development. He said when they plat, if the residential properties still remain the applicant will pay to pave Trig Street to the entrance to their property.

LINDEBAK commented that the Kellogg improvement project has complicated this proposal and made it appear that some of the activities with the Kellogg project are connected with the applicant's project but that is not the case. He mentioned an e-mail from one of the neighbor's about a truck being parked on Gilbert, but said that had nothing to with the applicant's project but with the Kellogg project. He concluded by stating that they were in agreement with the proposed PO.

RICHARDSON referenced page 4 of the Staff Report and the five additional requirements proposed by the DAB. He asked if the applicant was also in agreement with those requirements.

LINDEBAK said yes and mentioned that they are attempting to build the eight-foot berm as soon as possible, as requested by the DAB.

RICHARDSON clarified that those requirements would be incorporated into the PO.

LONGNECKER responded that they have been included in the PO.

LINDEBAK clarified that they will pave Trig Street to the entrance to their property as long as the properties to the east remain residential. He said if those properties are sold and rezoned to commercial, they will look to the new owners to assist with the cost of paving Trig Street which they felt was only fair.

TODD clarified that ingress and egress to the property will be to the East off of Trig Street. He also asked about possible GC as opposed to LI zoning for the property.

LINDEBAK said ingress and egress onto the property will be off of the public street, which was Trig Street. He said there is a lot of overlapping uses between LI and GC. He said the biggest difference is that GC would allow for residential use and those uses are stripped out of LI. He said they do not feel this is a viable place for residential development. He said surrounding property is being marketed for commercial development.

DAILEY asked about delaying rezoning of the property until after completion of the Kellogg project.

LINDEBAK said if someone buys land for commercial purposes, they want to have those uses sooner rather than later. In addition, he said they want to understand what they can do with the property long-term instead of making plans and then finding out they can't do what they want to do with the property down the line. He said there is a lot of transition in the area and they would like to complete the zone change now.

DAILEY asked if staff agreed with that.

DIRECTOR MILLER responded that staff has to process requests for zoning. He said given what is going on in the surrounding area, the proposal seems reasonable.

MCKAY asked since the case has been heard previously, will it be the same public comment.

VICE CHAIR DENNIS asked the public not to repeat the concerns expressed at the last hearing.

KARMEN GIROUX, 640 TRIG STREET said the neighborhood is protesting this development and asked what was the 20 percent required to trigger the super-majority vote by the City Council. She asked how many homeowners it was going to take.

DIRECTOR MILLER explained that the 20 percent was of the land area within the first 200 feet surrounding the application area, not the number of land owners. He said without someone doing a calculation, he could not tell her what that number was off the top of his head. He said they use the computer to calculate the percentage.

GIROUX asked when that could be done.

VICE CHAIR DENNIS suggested that Bill Longnecker, the Planner handling the case contact her with that information.

BRAIDEN FIENE, 556 SOUTH TRIG STREET mentioned at the last meeting the applicant indicated they weren't doing any construction; however, when they got home after the meeting three-fourths of the trees on the property had been torn down. He said there was a barrier of trees along Trig Street already that would have been sufficient for screening but the applicant tore them down. He said there is a drainage issue in the area and said he has pictures of what happened in the area the last time there was about five inches of rain which he would like to share with Storm Water Staff. He referred to the aerial of the area and said the water went from the back of Dandales south onto the applicant's property and over the top of Trig Street and south behind the back side of their properties. He said that much water will go over the temporary bridge that has been made to access the property. He said there is a 15-20 foot embankment that could swallow a car and is very dangerous. He mentioned safety concerns expressed by the representative from Engineering and said he has to exit out of the neighborhood from Trig Street every day onto Kellogg. He said traffic backs up on Kellogg and you can't turn onto it. He said getting tee-boned is an issue. He said exiting from Gilbert is also dangerous because you can't see northbound traffic until you are out in the lane. He said there is no safe exit out of where he lives and it is dangerous no matter what time of day it is. He said a lot of the traffic is cutting through Trig to Gilbert to Greenwich. He asked about the possibility of getting "No through Traffic" and "No Commercial Traffic" signs posted in the area. He gave several scenarios of possible solutions to traffic in the area. He said with all the trees being torn down, there is going to be quite a bit more run off which is going to increase the drainage issues in the area.

PHIL DUNBAR said he owns property at **630 TRIG STREET**. He asked if a new bridge would be required if Trig Street was paved. He asked about the possibility of installing a new road over the drainage area, since there is already a traffic light at the Wal-Mart complex.

LINDEBAK mentioned drainage issues and said the property does flood. He said flooding to the east of the property is an existing condition. He said the Staff Report indicated that in a 2004 study the neighbors indicated that water does over top Trig Street. He said they believe paving Trig Street will fix that issue.

RICHARDSON asked which way the water leaves the site now.

LINDEBAK said partially to the northeast and southeast.

JOHNSON asked how many residential properties are affected along Trig Street and if the City has considered buying the properties.

LONGNEKCEFR said he believes there are six residences along Trig Street. He said he is not aware if the City has made offers to purchase them.

MOTION: To approve subject to staff recommendation.

MCKAY moved, **TODD** seconded the motion, and it carried (8-1-1).
ELLISON – No. **FOSTER** – Abstained.

MCKAY mentioned that he felt the e-mail the Commissioners received from the DAB member stating that they had changed their mind about how they voted was inappropriate.

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5. **Case No.: ZON2016-00012 and CON2016-00007 (Deferred Indefinitely)** - City zone change from SF-5 Single-family Residential to TF3-Two-family Residential to allow ancillary parking (CON2016-00007), an amendment to PO-300 to allow a restaurant and a 10% reduction of the compatibility setback.

VICE CHAIR DENNIS announced that the item has been deferred indefinitely.

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6. **Case No.: CON2016-00009 and ZON2016-00008** - Import Auto Center, Inc., Venture Realty, Inc (applicants/owners) and Kaw Valley Engineering, c/o Tim Austin (agent) request a City zone change from B Multi-family Residential to LC Limited and City conditional use request for car sales on property described as:

LOT 1, BLOCK 1, ALONG WITH 10 FEET VACATED ALLEY ADJACENT ON WEST, SIXTY-SIX ADDITION, SEDGWICK COUNTY, KANSAS; ALONG WITH, LOTS 30-32-34-36, EXCEPT THAT PART DEEDED TO CITY, BLOCK 1, MINNEAPOLIS ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS; ALONG WITH, LOTS 38-40, EXCEPT THAT PART LYING WEST OF A LINE STARTING AT A POINT 59 FEET EAST OF THE SW CORNER LOT 40 AND ENDING AT A POINT 47.2 FEET EAST OF THE NW CORNER OF LOT 38 DEEDED TO CITY FOR HIGHWAY PURPOSES, BLOCK 1, MINNEAPOLIS ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS; ALONG WITH, THE EAST 33 FEET OF LOTS 42-44 ALONG WITH THAT PART OF LOTS 42-44 DESCRIBED AS FOLLOWS: BEGINNING 33 FEET WEST OF THE NE CORNER OF LOT 42, THENCE SOUTH 22.60 FEET, THENCE NORTHWESTERLY ALONG A CURVE TO THE LEFT 39.58 FEET, THENCE NORTH 2.35 FEET TO THE NORTH LINE OF LOT 42, THENCE EAST 32.50 FEET TO THE POINT OF BEGINNING, BLOCK 1, MINNEAPOLIS ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS; ALONG WITH, THE EAST 33 FEET LOT 46 AND THE NORTH 5 FEET OF THE EAST 33 FEET OF LOT 48, BLOCK 1, MINNEAPOLIS ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS.

BACKGROUND: The applicants are requesting LC Limited Commercial (LC) zoning on the 0.32-acre, platted B Multi-Family Residential (B) zoned portion of the of the 1.12-acre site located north of 1st Street, on the east side of Minnesota Avenue. This B zoned north portion of the site is developed as a triplex (built 1935). The south and east parts of the site are the applicants' LC zoned auto repair and indoor car sales business, as permitted by Use Exception BZA12-87. The conditions of approval are:

- (1) All vehicle sales on this property shall be displayed and stored within an enclosed building.
- (2) That portion of the building to be occupied by the automobile sales business shall not exceed 5,000-square feet of floor area.
- (3) All parking spaces on the property shall be surfaced and designated as off-street parking for customers and employees and not be used for display of company vehicles.

- (4) If light is provided on the exterior, it shall be installed so as to not illuminate the adjoining residential properties by shielding and directing the light away from the residential properties.
- (5) Signs shall be limited to that permitted by Sec.28.04.139 of the zoning ordinance, provided however, no string type lighting or banners shall be permitted.
- (6) No sound projecting devices or loud speakers shall be used so as to be heard beyond the property lines.
- (7) All screening required by the zoning ordinance for the protection of the adjacent residential properties shall be installed and maintained in good condition.
- (8) Any change of occupancy of this building or change in the manner in which the automobile sales business is operated, shall null and void the resolution.
- (9) Any expansion of the building shall be subject to compliance with the requirements of the ordinance and must be reconsidered by the BZA.
- (10) Resolution BZA68-83 shall become null and void upon release of this resolution.

The applicants are requesting a Conditional Use to replace BZA12-87, to permit outdoor vehicle display and sales. The Unified Zoning Code (UZC, Sec-D.3.6.x) require a Conditional Use for car sales in the LC zoning district.

The LC and B zoned properties also had a variance approved. BZA13-87, to reduce the required parking from 41 parking spaces to 31 parking spaces and to reduce the 20-foot front setback along the portion of the site with Minnesota Avenue frontage for parking spaces. BZA13-87 was approved the same day as BZA12-87, subject to the above conditions, plus improvements to an abutting alley to City Standards, requiring parking barriers along right-of-way and landscaping in the reduced front setback that was not occupied by parking.

The applicants' auto repair business building (built 1988, approximately 10,000-square feet) has three bay doors facing 1st Street, as well as large windows and the entrance to the office. There is another bay door facing Minnesota Avenue as well as a large window. The applicants' site plan is projected on an aerial of the site. It does not show all of the proposed or existing parking spaces, instead it shows automobiles parked in unidentified space and a proposed sales display area for 13 vehicles. The site plan – aerial shows an existing drive onto Ash Street and an existing drive onto Minnesota Avenue. The site plan does not show proposed or existing lighting, existing or proposed screening, nor existing or proposed landscaping.

The construction of Interstate Highway I-135 (I-135), between 1971 and 1978, re-routed and reconfigured this portion of Minnesota Avenue into a cul-de-sac, taking away its intersection with 1st Street on its south end. The only access to this portion of Minnesota Avenue is on its north side at its intersection with 2nd Street. An older B zoned residential neighborhood made up of single-family residences, a few duplexes, tri-plexes, and four-plexes (mostly built in the 1920s) abuts and adjacent to the north, east, and northeast sides of the site. An older B zoned residential neighborhood made up of mostly single-family residences, scattered duplexes, tri-plexus, and four-plexes (built 1872-1940s) is located south of the site, across 1st Street.

CASE HISTORY: The site is platted as Lot 1, Block 1, along with 10 feet of the vacated alley adjacent on the west side, Sixty Six Addition. The Sixty Six Addition was recorded with the Register of Deeds on February 4, 1970. The site is also platted as Lots 30-32-34-36, except that part deeded to the City & Lots 38-40, except that part lying west of a line starting at a point 59 feet east of the southwest corner of Lot 40 and ending at a point 47.2 feet east of the northwest corner of Lot 38 deeded to the City for highway purposes, all in Block 1, Minneapolis Addition. The 'highway' referenced is the west, abutting section of I-135, which was constructed between 1971 and 1978. The construction of I-135 required additional right-of-way and re-routed and re-configured Minnesota Avenue into a cul-de-sac on its south end. The Minneapolis Addition was recorded with the Register of Deeds June 9, 1886. Vacation case V-1523, approved March 1, 1988, vacated with conditions, the east abutting north-south alley from 2nd Street to 1st Street. As already noted Use Exception BZA12-87 and variance request BZA13-87 were approved with the conditions listed by the BZA on April 28, 1987. Staff has received calls inquiring about the zoning request. None of these calls expressed opposition to the applicants' request.

NOTE: VAC2016-00004 was approved with conditions at the May 12, 2016, Subdivision Committee (SD) meeting. VAC2016-00004 is a request to vacate the south approximately 236 feet of the Minnesota Street public right-of-way. This portion of Minnesota Avenue abuts the east side of the applicants' property and will increase the size of the site. There were no protests at the SD meeting. VAC2016-00004 will be considered at the May 19, 2016, MAPC meeting.

ADJACENT ZONING AND LAND USE:

| | |
|-------------|---|
| NORTH: B | Single-family residences |
| SOUTH: B | Single-family residences, scattered duplexes, tri-plexes, four-plexes |
| EAST: B | Single-family residences, scattered duplexes, tri-plexes, four-plexes |
| WEST: I-135 | Interstate Highway I-135 |

PUBLIC SERVICES: All utilities are available to the site. The site currently has a driveway onto the Minnesota Avenue cul-de-sac on its north end where a tri-plex is located. The only access to this portion of Minnesota Avenue is on its north side with its intersection with the one-way west, two-lane arterial 2nd Street. Ash Street is a residential street that intersects with the one-way west, two-lane arterial 2nd Street on its north side and with the one-way west, two-lane arterial 1st Street on its south side

CONFORMANCE TO PLANS/POLICIES: The "2035 Wichita Future Growth Concept Map" of the "Comprehensive Plan" identifies the site as appropriate for "residential development." The site's residential development designation appears to confirm the site's and neighborhood's development mix of single-family residences, scattered duplexes, tri-plexes, and four-plexes. The Concept Map does not recognize the site's LC zoning. The requested LC zoning is not a match for the site's residential development designation, but does match the site's current LC zoning, which is what most of the site is zoned. The Map does show the area south of the site, across 1st Street, as appropriate for "new employment," which does match up with the site's LC zoning.

The "2035 Urban Growth Areas Map" identifies the site as being in the "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. Commercial development in the Established Central Area should be neighborhood-serving retail and office uses and high-density residential uses can be appropriate along arterial streets on small infill sites near residential uses or through conversions of residential structures if appropriate site design features that limit traffic, noise, lighting, and adverse impacts on surrounding residential are provided and the scale of the development is appropriate for its context. The proposed LC zoning would allow the expansion of an existing LC zoned auto repair business and car sales. In the past the MAPC has considered the relatively small size of a site for car repair and car sales to be a neighborhood serving business and considered car sales associated with existing or past car repair businesses.

The locational criteria for commercial development states that it should be located at the intersection of arterial streets and along highways and commercial corridors. The site is adjacent to I-135, but has no access to I-135. If VAC2016-00004 is approved the site would abut the east side of the I-135 right-of-way. Access to the site can be provided through the applicant's east abutting LC zoned auto repair business/indoor car sales, via Ash Street to the one way east bound arterial 1st Street and via Minnesota Avenue to the one way west arterial 2nd Street. The locational guidelines of the Comprehensive Plan also supports the expansion of existing uses to adjacent areas. The proposed LC zoning would allow the expansion of an existing LC zoned auto repair business and allow outdoor car sales, which is currently allowed indoors.

The purpose of the LC zoning district is to accommodate retail, commercial, office and other complementary land uses including all densities of residential development. The requested LC zoning can be compatible with the Established Central Area's infill goal of providing neighborhood-serving retail, office uses and high-density residential uses located along arterial streets.

RECOMMENDATION: In the past the MAPC has supported the expansion of established businesses after a case-by-case consideration. The proposed LC zoning would allow the expansion of the existing LC zoned auto repair and allow outdoor car sales to replace the current indoor car sales business. The applicant's 10,000-square foot building was built in 1988 making it perhaps the most recent development in the area. Based upon information available prior to the public hearings, planning staff recommends that the proposed LC zoning and Conditional Use for outdoor car sales be APPROVED, subject to the following conditions:

- (1) The Conditional Use permitted is the outdoor display and sale of automobiles and light trucks only, subject to the Supplemental Use Regulations UZC, Sec-D.3.6.x. No sale or rental of trailers, vehicles or trucks larger than pick-ups are permitted.
- (2) No selling of cars shall be allowed until all permits have been acquired and all improvements to the site have been made.
- (3) No outdoor display of cars for sales or cars waiting for repair is allowed north of Lot 38, Block 1, Minneapolis Addition.
- (4) No outdoor storage of tires, parts, oil barrels or any other items used in car repair. All parked cars waiting for repair must be operable with current tags. No outside storage of salvaged vehicles or vehicles waiting for repair shall be permitted in association with this use

- (5) Access onto and off of the site shall be off of Ash Street and the north moist point of Minnesota Avenue. No deliver of cars shall be permitted off of Minnesota Avenue.
- (6) A six to eight foot tall solid wood fence shall be erected around the property where is adjacent or abutting residential zoned properties.
- (7) All employee and customer parking and car sale display areas shall be paved with concrete, asphalt or asphaltic concrete or any comparable hard surfacing material. Parking barriers shall be installed along all perimeter boundaries Abutting streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public street right-of-way. The paving must be completed before the any vehicles are displayed or sold.
- (8) The site shall be in compliance with the UZC's parking standards for car sales and limited vehicle repair.
- (9) Outdoor lighting sources, including base or pedestal, pole and fixture, shall employ cut-off luminaries to minimize light trespass and glare, and shall be mounted at a height not exceeding one-half the distance from the neighboring Lot, unless evidence is provided to the satisfaction of the Zoning Administrator that the light source will be aimed or shielded such that the light source is not visible from the neighboring Lot. Lighting sources shall be limited to 15 feet in height within 200 feet of residential zoning Districts. No building lighting shall permitted on the north and east side of the building.
- (10) The noise levels shall be in compliance with the compatibility noise standards of Sec. IV-C.6. Outdoor speakers and sound amplification systems shall not be permitted.
- (11) No repair work shall be conducted except in the enclosed building, and further provided that no body work or painting is done.
- (12) No portable, flashing, moving or off-site signs shall be permitted and no streamers, banners, pennants, pinwheels, commercial flags, bunting or similar devices shall be permitted. No building signs are permitted on the north or east sides of the building. No signs on Minnesota Avenue or Ash Street
- (13) There shall be no use of elevated platforms for the display of vehicles.
- (14) The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- (15) Provide a revised site plan for approval by the Planning Director within 60 days of approval of the Conditional Use and zoned change or the case will be declared null and void. No car sales until the revised site plan is approved
- (16) 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 surrounding area:** An older B zoned residential neighborhood made up of single-family residences, a few duplexes, tri-plexes, and four-plexes (mostly built in the 1920s) are abutting and adjacent to the north, east, and northeast sides of the site. An older B zoned residential neighborhood made up of mostly single-family residences, scattered duplexes, tri-plexes, and four-plexes (built 1872-1940s) is located south of the site, across 1st Street. A portion of the applicants' property is the only LC zoning in the neighborhood. I-135 is located approximately 40-50 feet west of the site.

- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site's B zoning allows the current triplex development by right and ancillary parking by a Conditional Use, as well as any potential duplex, multi-family residential and some office development. The site is located within 40-50 feet of I-135, which makes residential development less attractive, as the traffic generated by the I-135 compromises the value of residential development. The LC zoned portion of the site is permitted for limited auto repair and the indoor display and sale of cars.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The requested LC zoning and Conditional Use allows for the expansion of the site's car sales and removes the restriction of the indoor display and sale of cars. The proposed Conditional Use is intended to minimize the negatively impact the on older established residential neighborhood and possibly leave a negative visual impact of the community from I-135.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The 2035 Wichita Future Growth Concept Map" of the "Comprehensive Plan" identifies the site as appropriate for "residential development." The site's residential development designation appears to confirm the site's and neighborhood's development mix of single-family residences, scattered duplexes, tri-plexus, and four-plexus. The Concept Map does not recognize the site's LC zoning. The requested LC zoning is not a match for the site's residential development designation, but does match the site's current LC zoning, which is what most of the site is zoned. The Map does show the area south of the site, across 1st Street, as appropriate for "new employment," which does match up with the site's LC zoning.

The "2035 Urban Growth Areas Map" identifies the site as being in the "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. Commercial development in the Established Central Area should be neighborhood-serving retail and office uses and high-density residential uses can be appropriate along arterial streets on small infill sites near residential uses or through conversions of residential structures if appropriate site design features that limit traffic, noise, lighting, and adverse impacts on surrounding residential are provided and the scale of the development is appropriate for its context. The proposed LC zoning would allow the expansion of an existing LC zoned auto repair business and car sales. In the past the MAPC has considered the relatively small size of a site for car repair and car sales to be a neighborhood serving business and considered car sales associated with existing or past car repair businesses.

The locational criteria for commercial development states that it should be located at the intersection of arterial streets and along highways and commercial corridors. The site is adjacent to I-135. If VAC2016-00004 is approved the site would abut the east side of the I-135 right-of-way. Access to the site can be provided through the applicant's east abutting LC zoned auto repair business, via Ash Street to the one way east arterial 1st Street and via Minnesota Avenue to

the one way west arterial 2nd Street. The locational guidelines of the Comprehensive Plan also supports the expansion of existing uses to adjacent areas. The proposed LC zoning would allow the expansion of an existing LC zoned auto repair business and allow outdoor car sales, which are currently allowed indoors.

The purpose of the LC zoning district is to accommodate retail, commercial, office and other complementary land uses including all densities of residential development. The requested LC zoning can be compatible with the Established Central Area's infill goal of providing neighborhood-serving retail, office uses and high-density residential uses located along arterial streets.

- (5) **Impact of the proposed development on community facilities:** The expanded site will generate more traffic onto Ash Street and 1st Street. Paved parking on the site will require a drainage study.

BILL LONGNECKER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

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

7. **Case No.: ZON2016-00018** - Adam Gray (owner/applicant) requests a City zone change request from SF-5 Single-family Residential to TF-3 Two-family Residential on property described as:

A tract in the Northeast Quarter of Section 22, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas described as beginning 30 feet South and 548.5 feet West of the Northeast corner of the South half of said Northeast Quarter; thence South 300 feet; thence West 217.5 feet; thence North 330 feet; thence East to the point of beginning, except that part taken for 1-35 in Condemnation Case A-77195, and EXCEPT a tract in the Northeast Quarter of Section 22, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas described as beginning 1291.61 feet North and 574.80 feet West of the Southeast corner to the intersection of the Southerly right of way line of an existing public road and the Westerly right of way line of the existing highway thence South 01°02'46" East, 300.00 feet along said Westerly right of way to the North line of a tract of land described in a deed recorded in Deed Book 1438, Page 102 in the Register of Deeds Office, Sedgwick County, Kansas; SECOND COURSE, thence South 88°38'22" West, 33.62 feet along said North line; THIRD COURSE, thence North 01°02'08" West, 282.49 feet; FOURTH COURSE, thence North 43°36'02" West, 23.65 feet to said Southerly right of way line; FIFTH COURSE, thence North 88°38'22" East, 49.57 feet along said Southerly right of way line to the Point of Beginning.

TGOETHER WITH

A tract in the Northeast Quarter of Section 22, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, described as beginning 30 feet South and 621 feet West of the Northeast corner of the South Half of said Northeast Quarter; thence South 300 feet; thence West 145 feet; thence North 300 feet; thence East 145 feet to the point of beginning.

BACKGROUND: The applicant requests TF-3 Two-Family Residential (TF-3) zoning on a 1.16-acre unplatted parcel. Any future construction on the site will require platting. The site is developed with one single-family residence and detached garage on the north end of the site. The site has 300 feet of frontage along North Gilda Street and 145 feet of depth. The applicant intends to retain the existing single-family residence on the site leaving room for up to three separate lots with frontage on North Gilda Street for three duplexes. If the existing house on the site were removed, the application area meets the Unified Zoning Code (UZC) minimum dimensions and size for up to six duplexes in TF-3 zoning.

The surrounding neighborhood is primarily zoned SF-5 Single-family Residential (SF-5) and developed with single-family residences. A property two blocks north and one block west of this site was rezoned to TF-3 in 2006. Commercial zoning and uses exist within a few blocks of this site. Over a dozen pockets of TF-3 zoning exist within a half-mile of this location, the majority exist north of West Central and east of I-235. North of the site on North Gilda Street are SF-5 zoned single-family residences. South of the site is an SF-5 zoned single-family residence, an SF-5 zoned City public works substation facility permitted as a conditional use (CON2001-62) and a GC General Commercial (GC) zoned storage facility. East of the site is I-235, further east are TF-3 zoned duplexes. West of the site are SF-5 zoned single-family residences, the City substation facility, and a GC zoned self-storage facility.

CASE HISTORY: The site is unplatted. The existing house on the site was built in 1952. An additional single-family residence existed on the site but was removed with the widening/relocation of Gilda Street in conjunction with I-235 improvements.

ADJACENT ZONING AND LAND USE:

| | | |
|--------|----------|--|
| NORTH: | SF-5 | Single-family residences |
| SOUTH: | SF-5, GC | Single-family residence, public works substation, storage facility |
| EAST: | TF-3 | I-235, duplexes |
| WEST: | SF-5, GC | Single-family residences, self-storage |

PUBLIC SERVICES: North Gilda Street is a paved, two-lane local street at this location adjacent to I-235 right-of-way. Saint Louis Avenue is an unpaved, two-lane local street at this location. All public services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the mature neighborhoods within an approximate three-mile radius of the downtown core. The Plan encourages infill development within the Established Central Area that maximizes public investment in existing and planned infrastructure and services. The Plan also encourages development of a variety of lot sizes and housing types within the Established Central Area. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential," encompassing areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality.

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

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The surrounding neighborhood is primarily zoned SF-5 and developed with single-family residences. A property two blocks north and one block west of this site rezoned to TF-3 in 2006. Commercial zoning and uses exist within a few blocks of this site. Over a dozen pockets of TF-3 zoning exist within a half-mile of this location, the majority exist north of West Central and east of I-235. North of the site on North Gilda Street are SF-5 zoned single-family residences. South of the site is an SF-5 zoned single-family residence, an SF-5 zoned City public works substation facility permitted as a conditional use (CON2001-62) and a GC zoned storage facility. East of the site is I-235, further east are TF-3 zoned duplexes. West of the site are SF-5 zoned single-family residences, the City substation facility, and a GC zoned self-storage facility.
- (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 platted and developed with up to three additional single-family residences.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Impact on surrounding property due to the requested zone change should be minimal; duplexes and TF-3 zoning are common within the surrounding area.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the mature neighborhoods within an approximate three-mile radius of the downtown core. The Plan encourages infill development within the Established Central Area that maximizes public investment in existing and planned infrastructure and services. The Plan also encourages development of a variety of lot sizes and housing types within the Established Central Area. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential," encompassing areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality.

- (5) **Impact of the proposed development on community facilities:** All services are in place. Any increased demand on community facilities can be handled by existing infrastructure. Gilda is a paved street at this location with a paved route to arterial street and highway access.

JESS MCNEELY, Planning Staff presented the Staff Report. He reported that staff has received calls from surrounding neighbors asking what could be developed on the property. He said they were told up to three duplexes could be developed at the site.

FOSTER asked if it was three duplexes on the total parcel or three duplexes per parcel.

MCNEELY said the maximum would be six units or three duplexes total.

ADAM GRAY, 1927 NORTH EVERGREEN, PROPERTY OWNER/APPLICANT said he would be using the southernmost part of his property to build duplexes. He referred to two drawings maximizing the space per the building Code. He said it is not his intention to degrade or lessen the integrity of the neighborhood. He said if anything he would like to uplift the area a little bit especially considering the state the property was in when he purchased it. He said the front yard faces I-235 so it is not a desirable location for a homestead. He said; however, that it could be utilized for some type of housing. He said not tract housing but he would like the opportunity to utilize space.

ELLISON asked if the home located at the site would remain long term.

GRAY said he has no intentions of taking the home down.

FOSTER asked about using the mature trees on the south property lines for buffering.

GRAY said he will keep every tree that he can. He said the mature trees is something that he admires about the property. He said they provide camouflage from the highway and keep the road noise down. He said he has not chosen a plan or blueprints but he will keep the location of the trees in mind when he develops the site.

TODD clarified that the applicant is planning on platting four lots.

GRAY said four lots is the maximum allowed by the Building Code.

ELLISON asked if the applicant owned the property to the south.

GRAY responded no.

ANTOINETTE FAULKNER AND LAURA FAULKNER, 428 NORTH EISENHOWER said they have owned the residential property adjacent to this property since 1970. She said they also own the house on the corner directly across from the applicant's house to the north at 5801 N. Gilda, a home at 440 N. Gilda and their residence 428 N. Eisenhower. She said she is a retired school teacher and has lived in the area since 1971. She said they expected the land to be as is for many years because it was not accessible because of the property taken for I-235. She said she is definitely opposed to the

proposed rezoning. She said she enjoys her neighbors and the trees are important because of the exhaust created by the bypass. She asked the Commission to consider that the area was in existence and could not be developed and she would like it to stay the same

BARBARA J. FRY, 5800 WEST 3RD STREET said she owns the property south of the proposed development. She said she has lived there for 50 years and enjoys the quietness other than the bypass. She said her husband, who recently passed away, had a big garden and they would like to keep it like it is. She said she would appreciate it if the Commission did not change the zoning.

BEVERLY BRADFORD, 500 NORTH GILDA said she lives just north of the site. She said she has lived there for 31 years, since 1983 and raised four children who she sent off to college. She said there are big lots in the neighborhood but there are no multiple dwelling units around the neighborhood. She said there is no way the applicant can build on the property without tearing down trees which are a buffer to the highway and Mrs. Fry's home. She said there is not a lot of room for three duplexes. She said residents in the area bought these properties with the expectation that this would be single-family dwelling units only, not multiple family units. She said Mrs. Fry is virtually alone and this is going to be right up next up to her. She asked where is the safety, security and peace in that. She said the neighborhood has always been safe, quiet, nice and peaceful and they would like it to stay that way. She said this is going to be her retirement home.

GRAY said through this process he was not wanting to create too much of an uproar or a ripple so he appreciates the neighborhood coming today and expressing their concerns so he knows where they are coming from. He said he would like the possibility of doing something at the location.

TODD asked the applicant if they would consider single-family residential zoning for the parcel instead of duplexes.

GRAY replied it is already zoned SF-5. He said the TF-3 zoning allows duplex and below.

VICE CHAIR DENNIS asked if the applicant would be willing to build SF-5 instead of duplexes.

GRAY said he would like to keep duplexes if possible.

RICHARDSON asked if the applicant would consider leaving the northern corner as SF-5 as a buffer to the residential zoning with duplex zoning on the undeveloped south portion of the property.

GRAY said he would be open to that compromise.

DIRECTOR MILLER said he believed the minimum lot size for a duplex is 6,000 square feet so the applicant would need a minimum lot size of 12,000 square feet on the south and 5,000 square feet on the north to accommodate the SF-5 zoning. He said he was not sure if there is that much area at the location.

MCNEELY said the lot is 145 feet in depth but it is the frontage on Gilda that will be the limiting factor. He said the drawing appears to show 110 feet north to south for dimensions to retain the single-family home and detached garage. He said it would appear that it would be the north 110 feet of the application area that would remain SF-5 zoning.

RICHARDSON asked if the applicant would have to replat the property.

MCNEELY responded that the property is unplatted and the applicant will be required to plat to pull building permits.

FOSTER commented that whenever the Commission considers TF-3 zoning he goes back to the discussion during development of the Comprehensive Plan about increasing the density in the City's core area. He said the difference on this application is there is a lot of land so that is the issue he is weighing on this one.

JOHNSON asked about the DAB vote.

MCNEELY said DAB will consider the application on June 6, 2016.

RICHARDSON suggested rezoning the south portion of the site to TF-3 and leaving the north 110 feet as SF-5. He said because of the interstate, he does not see developing the area as SF-5 as being marketable.

MOTION: To approve subject to staff recommendation and rezoning the south portion of the site to TF-3 and leaving the north 110 feet of the site as SF-5.

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

VICE CHAIR DENNIS said he was concerned that the proposed use doesn't fit into the neighborhood but he doesn't know how you can develop it any other way so he was going to vote for the motion.

TODD said he agreed with the compromise to promote infill housing.

MCKAY said he was not opposed to the motion but he thinks it needs to be more definite.

RICHARDSON asked if the Commission should limit the number of duplexes to be developed.

MCKAY suggested limiting the number of units instead of stating how the area can be used.

RICHARDSON, with permission of the second, **AMENDED THE MOTION** to say a maximum of six units.

FOSTER asked if the 110 foot dimension should be taken out of that or should they just say approximately.

MCNEELY reiterated that north to south the area is 110 feet.

ELLISON commented that he is always confused as to why the neighborhood thinks multi-family housing is a bad thing. He said nice housing could upgrade the neighborhood.

The **AMENDED MOTION** carried (9-1). **JOHNSON** – No.

8. **Case No.: CUP2016-00015** - Hawkins Marital Trust c/o Craig Kreiser (owner) and Baughman Company, P.A. c/o Russ Ewy (agent) request creation of a City commercial CUP Community Unit Plan on LC Limited Commercial zoned property described as:

A tract of land described as the North 600 feet of the West 600 feet of the Northwest ¼ of Section 4, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; EXCEPT for road rights-of-way.

BACKGROUND: The applicant requests creation of The Fossil Rim Commercial Community Unit Plan (CUP) DP-339 in existing LC Limited Commercial (LC) zoning. The 6.49-acre site is unplatted and undeveloped. The Wichita-Sedgwick County Unified Zoning Code (UZC) requires a CUP for LC zoned sites of 6-acres or more that are held under unified control at the time of initial approval. A CUP is intended to provide well planned and organized commercial development to certain standards prescribed by the UZC.

The site is located at the southeast corner of 29th Street North and North Tyler Road. North of the site, at the northeast corner of West 29th Street North and Tyler, is an LC zoned video store. North and east of the video store is an SF-5 Single-family Residential (SF-5) zoned neighborhood. South and east of the site is zoned SF-5 and developed with single-family residences. West of the site, across Tyler, is an LC zoned retail development and TF-3 Two-family Residential (TF-3) zoned duplex residences. The other LC zoned properties at this intersection are smaller (under six acres) and not under the development controls of a CUP or Protective Overlay (PO).

The proposed DP-340 is divided into four Parcels. The applicants propose all permitted uses in the LC zoning district with the following prohibitions: adult entertainment, sexually oriented business, correctional placement residences, night club in the city, and tavern/drinking establishment. Restaurants may serve liquor as long as food is the primary establishment service. Restaurants with drive-through windows, convenience stores, service stations and vehicle repair (limited) uses are not permitted within 170 feet of residential uses. Restaurants with drive-through windows shall be designed to ensure queuing lanes will not align vehicle headlights to face residential zoning. A car wash is permitted in Parcel 1 as an accessory use to a convenience store, subject to the provisions of the UZC Section III-D.6(f). No overhead doors shall be allowed within 170 feet of residential uses and shall not be facing any residential zoning district. Exterior audio systems that project sound beyond the boundaries of the CUP are prohibited.

The proposed DP-340 includes the UZC required masonry wall where abutting residential lots. The CUP allows a combination of wrought-iron fencing, berms and landscaping to meet the screening requirement adjacent to Reserve A. Reserve A is adjacent to the existing Fossil Estates Addition Reserve F which serves as a storm water detention and open space reserve. The CUP includes parking,

setback, signage, lighting, landscaping and screening standards that meet or exceed code requirements and restrictions. The proposed CUP includes standards for architectural consistency, cross-lot circulation, and pedestrian circulation connected to the sidewalks along arterial streets.

CASE HISTORY: The site is unplatted and undeveloped.

ADJACENT ZONING AND LAND USE:

| | | |
|--------|----------|--|
| NORTH: | LC, SF-5 | Retail commercial, single-family residential |
| SOUTH: | SF-5 | Single-family residential |
| EAST: | SF-5 | Single-family residential |
| WEST: | LC, TF-3 | Retail commercial, two-family residential |

PUBLIC SERVICES: West 29th Street North and North Tyler Road are both section line arterial streets at this location with 60-foot half-width right-of-way (ROW) adjacent to the application area, tapering to 75-foot half-width ROW at the intersection. Both streets have four lanes, a center turn lane at the intersection, and right-turn lanes at the intersection. The CUP proposes two full-movement access points on 29th and one full-movement access point on Tyler. This is a small CUP with limited frontage, these access points do not meet the City Access Management Regulations spacing requirements. In consulting with the City Traffic Engineer, Planning Staff recommends that the access points align with the access points to commercial developments across 29th Street North and Tyler Road. Access controls, turn lanes, decel lanes, a drainage plan and other improvements will be finalized during platting. Current traffic counts on this portion of West 29th Street North and Tyler Road are 7,631 and 12,388 vehicles per day respectively. The proposed CUP could have a total of 81,200 commercial square feet. With the ITE Manual estimate of 42 cars per day trip generation per 1,000 square feet of shopping center space, this CUP could generate an additional 3,410 vehicles per day to this intersection. All utilities are available to the site, and the CUP indicates that all utilities will be placed underground.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Wichita City Limits. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "New Employment" which encompasses areas that likely will be developed or redeveloped by 2035 with uses that constitute centers or concentrations of employment primarily in manufacturing, warehousing, distribution, construction, research, technology, business services, or corporate offices. Major shopping centers and office parks likely will be developed within this area as well, based upon market driven location factors. In certain areas, especially those in proximity to existing residential uses, higher density housing and convenience retail centers likely will be developed. The Locational Guidelines of the Comprehensive Plan encourage major commercial development at arterial street intersections. This application meets the Comprehensive Plan Land Use Compatibility and Design recommendations regarding screening, buffering, shared internal vehicular and pedestrian circulation, access controls, noise and lighting controls and aesthetic considerations.

RECOMMENDATION: As stated in the Public Services portion of this report, Planning and Traffic Engineering Staff recommend that access points to this CUP align with commercial access points across the arterial streets. Based upon information available prior to the public hearings, planning staff recommends that the proposed CUP and zone change be APPROVED, subject to the following conditions:

- A. CUP graphics and General Provision 8 shall be edited to require full movement openings on West 29th Street North and Tyler Road to align with the existing commercial full movement openings across West 29th Street North and Tyler Road.
- 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, at the northeast corner of 29th Street North and Tyler, is an LC zoned video store. North and east of the video store is an SF-5 zoned neighborhood. South and east of the site is zoned SF-5 and developed with single-family residences. West of the site, across Tyler, is an LC zoned retail development and TF-3 zoned duplex residences. The other LC zoned properties at this intersection are smaller (under six acres) and not under the development controls of a CUP or PO.
2. The suitability of the subject property for the uses to which it has been restricted: The 6.49-acre site is zoned LC. The Wichita-Sedgwick County Unified Zoning Code (UZC) requires a CUP for LC zoned sites of 6-acres or more that are held under unified control at the time of initial approval. A CUP is intended to provide well planned and organized commercial development to certain standards prescribed by the UZC.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: LC zoning exists on the property. The requested CUP will further restrict land uses on the site and require specific development standards. Development on the site could impact nearby property with increased traffic, light, noise, trash and other impacts. The proposed CUP and existing development codes should mitigate those impacts.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Wichita City Limits. The Plan's 2035 *Wichita Future Growth Concept Map* identifies this location as "New Employment" which encompasses areas that likely will be developed or redeveloped by 2035 with uses that constitute centers or concentrations of employment primarily in manufacturing, warehousing, distribution, construction, research, technology, business services, or corporate offices. Major shopping centers and office parks likely will be developed within this area as well, based upon market driven location factors. In certain areas, especially those in proximity to existing residential uses, higher density housing and convenience retail centers likely will be developed. The Locational Guidelines of the Comprehensive Plan encourage major commercial development at arterial street intersections. This application meets the Comprehensive Plan Land Use Compatibility and Design recommendations regarding screening, buffering, shared internal vehicular and pedestrian circulation, access controls, noise and lighting controls and aesthetic considerations.

5. Impact of the proposed development on community facilities: The proposed CUP will generate increased traffic and demand for City services at this site. However, the Comprehensive Plan anticipates commercial development to occur at arterial intersections such as this location. Final access controls and improvements will be determined during platting. The staff recommended commercial drive alignment with adjacent commercial developments will mitigate conflicting turning movements and improve traffic safety in the area.

JESS MCNEELY, Planning Staff presented the Staff Report.

ELLISON commented that he is familiar with the area and that none of the restaurants have drive thru windows and he doesn't think that should be allowed in this neighborhood. He said this is a beautiful neighborhood with \$375,000 homes on the back of the property. He asked shouldn't the Commission limit what is developed on this corner to be consistent with the other two intersections. He suggested not allowing drive thru restaurants within 170 feet from residences.

MCNEELY commented it was the applicant's proposal and they have tried to mitigate drive thru windows to not within 170 feet of residences and insuring that the cuing lanes don't direct headlights towards the residential zoning. He said he believes the applicants want the flexibility of that type of development.

RICHARDSON referenced general provision #18. He asked if the 170 feet was from the property line.

MCNEELY responded yes.

RICHARDSON requested clarification that restaurants with drive-thru windows have been eliminated on parcels 3 and 4. He asked if that included the restaurant building itself, or any part of the operation.

MCNEELY said he believes some portions of each parcels 2, 3 and 4 can be used for restaurants. He said typically they look at the operation as the entire lot.

There was brief discussion concerning location of medians on Tyler Road and access points.

RUSS EWY, BAUGHMAN COMPANY, AGENT FOR THE APPLICANT, 315 SOUTH ELLIS said they are in agreement with staff comments. He commented that staff has recommended changes to the access points shown on the CUP but all permit those drives to be full access points. He said the northeast corner access would be median controlled or right in/right out only. He explained that this is a remnant piece of the county-wide checkerboard zoning from 60 years ago. He said this is one of the last cases of its nature where there is LC zoning on unplatted ground. He said there have been extensive internal discussions concerning options for developing the property including platting and what would trigger CUP requirements and down zoning a reserve to get below the 6 acre threshold. He said the client met with City staff to help determine their best course of action and they decided to file for establishment of a CUP. He said the thought rationale for the uses that were put in the CUP are underpinned by the idea that there is established zoning at the site. He said this is unlike commercial zoning they have done and referenced a similar situation which was Redmond where it was an exception

to a residential plat. He said this was excepted out of the platting otherwise the site would have been perfected ten years ago. He said there was some question regarding the prohibition of restaurants with drive thru service. He noted that the north/south dimension on parcel 2 is 170 feet which is where they got that figure, which also affects parcels 3 and 4 as well.

RICHARDSON clarified that the way he understood the CUP is that the only parcel that could have a drive thru was parcel 1.

EWY responded that is correct.

CHAIR DENNIS asked if the agent was through with his presentation because he didn't want to interrupt him and cut into his ten minute presentation time.

EWY said he was through with his comments and was open for questions. He referenced item A and asked the Planning Commission for a combination of the old CUP language and to "kick the can down the road until platting" as the appropriate time to determine access controls. He said staff did a great job of expressing why they need to put that condition in now since platting is not a standard requirement. He requested that item A also add the language alternatively that access can be established through the plat as well since they plan on platting within a year. He said they are asking for the flexibility.

ELLISON asked if the berm on the southern end of the property will be left or removed.

EWY said that is undecided. He said he spoke with one property owner from Lot 1. He said it is understood that she and two other property owners spent the time and money to build a 2 ½ - 3 foot berm with landscaping. He said the berm is built on parcel 2 of the applicant's property to a depth of about 45 feet. He said they were questioning what was going to happen to the berm if they build a wall per code to the standard five foot wall easement. He said the best he could offer the property owner was that the applicant would work with her when parcel 2 was developed. He said it benefits everyone for the berm to stay in place until parcel 2 is developed. He said although it does not impact the client's immediate short term goals for the property, as parcel 2 is developed, there will have to be coordination. He said at the least the property owner requested that they be contacted prior to any construction so they can hire a company to come and remove the trees. He said they have no intention of incorporating the berm into any type of landscape buffer.

ALEXIS HOPKINS, REPRESENTING FOSSIL RIM, HOA, 8433 WEST MEADOW PARK COURT said homes begin at \$350,000 and go up from there so they are very concerned about what is going to go into their backyard. She mentioned another berm left by the developer that protects them from the lights of the video store which is like a beacon to the north. She referenced a handout in the anteroom which references the policies and charges of the Planning Commission. She mentioned item #1 – zoning, uses and character of the neighborhood; #3 – the extent to which removal of the restrictions will detrimentally affect nearby property; and #4 – the relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant.

HOPKINS said the character of the neighborhood is high end residential. She said Maize South High School is located north on Tyler Road less than a mile away. She noted that Tyler Road is only a 4-lane road right there at the intersection. She commented that the Staff Report states that this commercial development will increase traffic at the intersection by approximately 3,500 cars per day in what is essentially a 2-lane road from 21st Street until just before the intersection. She admitted that there was some LC development in the area but it was very low key -- a party store, nail salon and family video. She said she does not believe the applicant is creating the CUP to benefit the neighborhood because they are including a convenience store and a car wash which scares the heck out of them because that is a 24-hour operation which will not only increase the traffic during the day but at night also. She said it would increase lights, sound, traffic and trucks. She said when the homeowners all built in Fossil Rim they were promised that this area was going to be developed as a strip mall or a medical facility. She said never were the words fast food restaurant, drive thru, car wash or convenience store used. She said a property just south of this that is a beautiful home that is not overpriced has been for sale for over a year and the realtors tell them the reason it hasn't sold is all potential buyers are concerned about what is going to be developed on the corner. She said this development will have an adverse effect on their property values; the safety of all the children from Maize High School and the kids and families commuting on a 2-lane road south. She added that the applicant/agent is not limiting themselves to just the two egress points that they are asking for today. She said they are not opposed to LC development at the location, they just asked that the Commission consider what type it will be respectful of the neighbors who are paying nice property tax amounts.

ELLISON commented that he and his wife looked at the house she mentioned and the minute his wife saw the activity on the corner, it went cold fast. He said he agreed with the speaker that it was a nice home but the location was a problem.

RICHARDSON clarified that the developer chose not to include this lot in the HOA. He commented that this has been zoned LC ever since it came into the County.

DIRECTOR MILLER said if this was part of the checkerboard zoning it would have been in 1958.

RICHARDSON suggested that the developer wasn't completely up front with the property owners in Fossil Rim. He said the LC zoning on the four corners was done long before the residential development in the area. He said it precedes the residential development which is part of the Planning Commission's dilemma.

DAILEY asked staff if the area was under six acres, what's to keep the applicant from doing what they want to do anyway.

MCNEELY responded if the area was less than six acres, a CUP would not be required. He said the CUP actually creates additional restrictions and design guidelines above and beyond what the UZC requires. He said the matter would not even be discussed; the applicant would be able to plat and develop with no restrictions as to where anything could be.

DAILEY commented so the neighborhood could be worse off than what is being proposed.

Staff agreed with the comment.

FLOYD TOLMAN, 2945 NORTH PEPPER RIDGE COURT said when he bought his property he asked questions because he knew light commercial zoning was located west of him. He said he asked what was going in there and was told it would be some type of office development either doctor or lawyers. He said he specifically asked if it would be developed as a convenience store and was told no. He said just because property changes hands people shouldn't be allowed to make statements to buyers and that not be upheld. He said a convenience store will mean light pollution, noise pollution, people pumping gas and kids meeting their friends all happening after midnight. He said the Commission is in charge of protecting the neighbors because the developer won't.

DAILEY commented that this could be developed without a hearing if it was under six acres. He said the neighbors were misinformed.

TOLMAN commented that he was lied to.

RICHARDSON asked the speaker so the only solution for the neighbors would be an office complex.

TOLMAN responded said no the only solution was something that is not open twenty-four hours a day. He said something open twenty-four hours a day was inappropriate in a residential area.

ANDREA WAGGONER, 8610 WEST MEADOW PARK which she said is located directly south of the proposed development. She said there are two others schools within walking distance of the location and added that she has three children, two of which walk to school and she is concerned about their safety. She said her children have to cross 29th Street to get to the sidewalk. She said she is concerned about the increased traffic (3,410 vehicles per day) that this CUP will generate. She said what this development will bring into this area for all these families is disconcerting to her. She also mentioned the decrease in property values.

CAROL MOLZ, 8716 WEST MEADOW PARK which she said is the first house off of Tyler Road. She said this is a beautiful addition and she echoes all of her neighbor's concerns about the proposed development. She said a five-foot wall is not going to protect the half a million dollar homes and she feels like they deserve better than a five-foot concrete fence. She said she realizes her berm is on the applicant's property and that she did that intentionally when she built the house because there was so much standing water back there and mosquitoes, so she had the berm put in to protect her. She said she would like to keep the berm but she understands that it is not on her property. She mentioned the existing trees on the berm and said she hoped the builders take them into consideration. She also asked that they take into consideration the people who live out there. She said it is a shame if they don't.

EWY he said they are not talking about establishing a different set of land uses here. He said it is zoned Limited Commercial regulated or Limited Commercial regulated with some additional restrictions through a Community Unit Plan. He said the client filed the CUP with the understanding that they would open this discussion. He said this is a standard CUP and once again compared it to the Redmond CUP located at Central and Pawnee that backs up to established homes in the Turkey Creek Addition. He said they believe the protections being offered to the neighborhood are fair regardless of the price of the homes. He said this CUP is very reasonable and tries to account for some of the site features and insure that there are adequate buffers. He concluded by mentioning once again that this zoning pattern

was established well before any of the residential development. He said they are not trying to put in access points wherever they want but they would like the flexibility to work with City staff to put access points in the best places possible for the City, traveling public as well as their clients.

RICHARDSON asked if the applicant would agree with to eight foot wall as opposed to a 6-8 foot wall.

EWY said the berm is of undetermined height and the example he gave the neighbor he spoke with is if the berm was three feet, they could simply cut it out on the client's side, wall that up and add a retention wall that would be 6-8 feet on the client's side and 3-5 feet on the neighbor's side. He said with the additional restrictions they placed on parcel 2 and 4 they do not see the need to go to an eight foot wall. He said they did at Turkey Creek and it is the will of the Commission to make that determination but they are comfortable with the conditions they set forth in the application.

JOHNSON clarified that with the current zoning, the applicant can build a restaurant with a drive up window and a convenience store.

EWY said in his opinion, the current zoning would allow a restaurant with a drive up window and a convenience store with a 6-8 foot fence.

JOHNSON asked so what is the applicant getting out of this deal.

EWY referred to staff and said there is a disagreement as to whether or not the CUP was needed under the UZC. He said staff, legal staff and his client met approximately two months ago and City staff determined that six acres is six acres regardless of when the Code came into effect so the applicant had to do a CUP as a condition of the plat. He asked Planning Staff if they wanted to clarify that explanation.

DIRECTOR MILLER explained that the wording on any CUP states "when the initial approval was granted." He said as far as these 1958 checkerboard sites are concerned, even though they were zoned LC, if they are over six acres they need to have a CUP in order to be compliant with the UZC. He said there was quite a debate over the interpretation. He said City Staff determined that the location would be dealt with as similar locations of this nature had been in the past. He said the applicant has all the LC uses on the site by right. He said the CUP clarifies additional standards on the site in terms of the height of the screening wall, the usual lighting requirements and setbacks, etc. He said because the zoning is already in place, the uses cannot be modified except for what the applicant has volunteered.

JOHNSON asked how many acres was the site.

EWY replied 6.4 acres gross and 5.32 acres net without the reserve.

There was brief discussion concerning the location of the reserve.

ELLISON asked about the applicant running a berm all along the property to help protect the neighbors. He also asked about the intentions of the previous owner/developer. He added that he was confused why the developer couldn't work with the neighbors.

EWY said he did not know what the previous client's plan was for the area. He said they have another property owner now who is taking the correct steps to work with the neighbors to provide better protection than was originally established under the previous developer.

MCKAY asked about increasing the wall easements to 10-12 feet and building a six-foot wall and growth plantings. He said the applicant would have to build a twenty-five foot berm to do what the neighbors want done. He commented that he doesn't have much sympathy for someone who builds a berm and plants trees on someone else's property.

EWY said he doesn't think they will have a problem adding additional area that will restrict development. He mentioned the mature hedge on the northeast quadrant. He said they could protect that with a landscape buffer. He said they need the five foot wall easement, even if they offset it from the property line. He said they can't co-mingle landscape buffers and wall easements.

MCKAY asked about the possibility of a 10-12 foot easement in addition to the 5 foot easement for plant materials. He said it has been done before and they will just have to give up a little bit more land that they can't build on anyway.

EWY said they don't see a problem with that and will be more than happy to work with the staff to provide a 5 foot wall buffer and landscaping within that buffer per Code.

DOOL clarified that as he understands this, if the applicant were to give up a little over an acre of the property, they can do anything allowed under LC zoning by right.

DIRECTOR MILLER said no because according to the interpretation it was the size of the site "at the time of approval."

EWY commented that the other part of that was 6 acres of LC development which they do not have so it would meet the definition of unified development. He said it will be 5.3 acres of LC development at the time they plat the property.

DIRECTOR MILLER explained that at the time the zoning was approval it was over 6 acres under unified development.

FOSTER asked about service stations and if they would be "full-service."

Staff replied yes, typically.

FOSTER said this is a unique neighborhood because it is insulated. He mentioned a case at 21st Street and Oliver where a convenience store was proposed at the corner that was also a unique neighborhood. He mentioned major commercial improvements approved at the southeast corner of Maize and Ridge Road and further up Tyler Road. He said this location does not need a convenience store, car wash and service station. He said he was prepared to make a motion and allow further discussion.

FOSTER moved to approve per staff comments and the following refinements: allow the applicant to figure out access controls at the time of platting; strike convenience store with car wash and service station from Provision #18; to increase the landscape requirement where the property abuts residential zoning on the south and northeast to one and one-half times the Landscape Ordinance requirement; and to increase the easement on the northeast and south to 15 feet.

DIRECTOR MILLER said the Commission does not have the ability to eliminate uses allowed by right in LC zoning because the zoning is already in place. He specifically mentioned convenience stores, service stations and car washes.

FOSTER asked about sexual oriented businesses and other uses that were restricted.

DIRECTOR MILLER explained that the applicant volunteered those restrictions.

VICE CHAIR DENNIS asked Commissioner Foster if he wanted to make the motion with the other three items.

FOSTER replied that it would not accomplish what needs to be accomplished so he said he would withdraw the motion.

MOTION: To approve subject to staff recommendation and allow the applicant to figure out access controls at the time of platting; to increase the landscape requirement where the property abuts residential zoning on the south and northeast to one and one-half times the Landscape Ordinance requirement; and to increase the easement on the northeast and south to 15 feet to allow for the increased landscape buffer.

MCKAY moved, **DOOL** seconded the motion, and it carried (7-3). **ELLISON**, **FOSTER** and **JOHNSON** – No.

NON-PUBLIC HEARING ITEMS

9. **Case No.: DER2016-00003** - Set a Public Hearing Date for review of the Final Draft Wichita, Parks, Recreation and Open Space Plan Update 2016 as an element of the Community Investments Plan 2015-2035

Background: In December 2006, the Wichita City Council formally initiated work on the development of the Wichita Parks, Recreation and Open Space Plan (PROS) to serve as a guide for the development, provision, maintenance, and funding of park, recreation and open space resources for the City of Wichita. This new plan will replace the 1996 Park and Open Space Master Plan for the City of Wichita.

On November 20, 2008, the Metropolitan Area Planning Commission held a public hearing and passed a motion adopting the 2008 Wichita Parks, Recreation and Open Space Plan as an element of the Wichita-Sedgwick County Comprehensive Plan, replacing the 1996 Park and Open Space Master Plan. The new 2008 Wichita PROS Plan was adopted as an element of the Wichita-Sedgwick County Comprehensive Plan by the Sedgwick County Board of Commissioners on December 17, 2008, and by the Wichita City Council on January 6, 2009.

Unfortunately, the 2008 Wichita PROS Plan was negatively impacted by the economic downturn that commenced in early 2009. Since its adoption, the PROS Plan has only been partially implemented. During the development of the new Community Investments Plan, the need to update the 2008 Wichita PROS Plan became evident. To that end, the Arts, Culture and Recreation Element of the Community Investments Plan contains the following Strategy:

- A. *Review and update the Wichita Parks, Recreation and Open Space Plan to ensure that future planned parks/open space and recreation facility investments (capital, maintenance, operations) strategically integrate with County regional parks and open space investments, and remain consistent with our community priorities and willingness to pay.*

Over the last six months, Wichita Park and Recreation staff members have been working on an update to the 2008 Wichita PROS Plan. Their work has been supplemented with community feedback, and some technical support from the consultants who had been hired to prepare the original Plan.

On May 5, 2016, the Park and Recreation Department provided the Advance Plans Committee of the MAPC with a presentation on the changes contained in the proposed Wichita PROS Plan Update 2016. Major changes and modifications contained in the Wichita PROS Plan Update 2016 are listed below:

- o The Plan reflects a more pragmatic and realistic approach and is centered around 10 new/revised goals;
- o The Plan is fully coordinated and consistent with other current, relevant City plans including the recently adopted Community Investments Plan;
- o The Plan focuses on improving connections and linkages, preserving existing resources, and promoting community-based recreation that utilizes recreation centers and specialized centers. Emphasis is also placed on building multi-sector service delivery based on the utilization of public/private partnerships.
- o Renewed emphasis is placed on the advocacy role of the Wichita Parks Foundation in the areas of fund-raising, lobbying, and soliciting donations to fund future capital improvements.

The Advance Plans Committee recommended to Park and Recreation staff that the Wichita PROS Plan Update 2016 be modified to include policy direction related to the following two items:

- o Importance of finding corporate underwriters or donors who will fund the development and operation of the City parks, recreation and open space facilities recommended in the Plan.
- o Emphasis on supporting the use of gray water to irrigate city parks, open space areas and golf courses where economically feasible

The Advance Plans Committee subsequently passed a motion at its May 5th meeting recommending that the MAPC adopt the Wichita PROS Plan Update 2016, amended to include the policy changes recommended by the Advanced Plans Committee, as an element of the Community Investments Plan 2015-2035.

The final draft Wichita PROS Plan Update 2016 currently under consideration by the MAPC has been revised to reflect and incorporate the policy changes recommended by the Advance Plans Committee on May 5th. The revised final draft Plan was presented to the Wichita Board of Park Commissioners on May 9, 2016 and was unanimously approved by the Board at that time. The final draft Wichita PROS Plan Update 2016 will be presented to the members of the Wichita City Council for their information and feedback at a workshop session scheduled for May 24, 2106.

Recommended Action: Set a public hearing date for June 16, 2016 to consider the proposed adoption of the *Wichita Parks, Recreation and Open Space Plan Update 2016* as an element of the *Wichita-Sedgwick County Community Investments Plan 2015-2035*.

Attachments:

1. Final Draft *Wichita Parks, Recreation and Open Space Plan Update 2016*

DAVE BARBER, Planning Staff presented the Staff Report.

DAILEY asked staff how many hours they spent reviewing the plan. He also asked if there was County representation on the committee. He also asked why this Plan wasn't completed before the Comprehensive Plan was completed.

BARBER said staff spent approximately a day and a half reviewing the Plan. He said he had several meetings with Park staff and the Advance Plans Committee to get feedback on the Plan. He said County representation included Commissioners John Todd and Joe Johnson of the Advance Plans Committee and that was the extent of Planning Commission involvement. He explained that this was the City of Wichita PROS Plan; however, he added that it had implications for the County as it anticipates growth of the City system into the unincorporated areas of the County over the next 10-20 years.

BARBER explained that the PROS Plan was one of many elements of the Comprehensive Plan which included a number of neighborhood and area plans. He said it was not critical that this Plan update occur concurrent to or prior to the new Community Investment Plan.

KNEBEL added that there is a strategy in the Comprehensive Plan that this PROS Plan update should occur.

DAILEY clarified that the PROS Plan would be presented to both the City Council and County Commission.

BARBER replied that was correct.

MCKAY clarified that this was not new, it was an update to an already approved Plan that was part of the Comprehensive Plan.

MATT TOWNSEND, MANAGEMENT ANALYST, PARK AND RECREATION

DEPARTMENT briefly reviewed a slide presentation. He commented that they have solicited community feedback during development of the Plan. He said the Plan has been revised to make it more reflective of the current situation in the City. He said he cannot say exactly how much time staff has been spent over the last six months, but it has been considerable including weekends. He said feedback was received from stakeholder groups, the Board of Park Commissioners and other user groups through surveys.

TOWNSEND said staff wanted to insure that the PROS Plan was in alignment with the Community Investment Plan, Downtown Master Plan, the Arkansas River Corridor Access Plan and the Bicycle and Pedestrian Master Plan. He said the five planning guiding principles of the Plan were:

- Support an Innovative, Vibrant and Diverse Economy;
- Invest in the Quality of Our Community Life;
- Take Better Care of What We Already Have;
- Make Strategic, Value-added Investment Decisions;
- Provide for Balanced Growth but with Added Focus on Our Established Neighborhoods.

TOWNSEND said they also wanted to emphasize physical connections within the community such as trails, pathways and things of that nature that provide connections not only in Wichita but the broader metropolitan area as well. He said they would like to see more coordination with Transit and WAMPO to insure they are operating in conjunction with each other. He also mentioned coordination with other City Departments, Sedgwick County and the region. He said they also want to emphasize parks and open spaces and the recreation and leisure opportunities that are offered through the Park Department.

TOWNSEND briefly reviewed Plan Goals to include:

- Goal 1: Provide safe and accessible parks, open spaces, recreation facilities and programs that help create healthy residents and a healthy community.
- Goal 2: Preserve and enhance our unique natural and cultural resources.
- Goal 3: Provide facilities that focus on user needs and desires, offer amenities that are appealing to the site specific community, and the facilities have participant safety as the top priority.
- Goal 4: Provide Community based education and leisure programs that are oriented for all ages, abilities and are not cost prohibitive.
- Goal 5: Preserve resources through sound management and best practices to create a legacy for future generations.
- Goal 6: Provide trails that connect community destinations, support alternatives to automobile transportation, and encourage active transportation.
- Goal 7: Support life-long human development by providing recreation and learning opportunities.
- Goal 8: Foster community ownership, encourage community participation, and promote volunteerism.
- Goal 9: Build partnerships and sponsorships in order to leverage resources and work cooperatively toward our vision.
- Goal 10: Provide golf facilities that are accessible and meet the needs of all generations, promoting active, healthy residents throughout the community.

TOWNSEND referred to a map depicting parks and park land, river access and trails. He said the trail map will be updated before final submission. He referred to a map of future projected growth areas outside of Wichita. He commented that one of the focuses of the Plan is building partnerships. He mentioned the Park Board, Wichita Parks Foundation and also other providers within the City such as the YMCA, non-profits and other private recreational outlets and clubs. He said they do not want to duplicate services and by being good coordinators with the other recreation providers they can fill the niche market that is the City's. He mentioned the Great Plains Nature, the Ice Center and Botanic as good examples of the specialized centers the City offers.

TOWNSEND briefly reviewed the Wichita Parks Foundation which is a 501 (c) 3 established in 2011 that helps support the Park and Recreation Department by providing additional necessary resources. Its mission is to enhance the quality and maintain the heritage of Wichita's park system by assembling necessary resources through developing partnerships and fostering relationships in the community. He said this is achieved through:

- Fundraising
- Lobbying
- Soliciting donations
- Advocating on behalf of the Department
- Encouraging sponsorship of programs, events or sites

TOWNSEND briefly reviewed steps to improving Wichita parks including: reinvestment in existing parks; a public park within a reasonable distance for residents; develop parks to meet specific standards; coordinate park locations with other public facilities and acquire sites in the 2035 Growth Area. He reviewed steps to improving park maintenance as follows: rethink park maintenance priorities; invest in sites, fleet, staff; allocate more resources to building and park maintenance and reviewing the current 2015-2024 CIP Budget which included putting approximately \$400,000 into park facilities annually. He said options for increasing capital development funding could come from maintaining current sources, but possible new sources could include:

- Increase park portion of City debt financing (CIP)
- General or targeted special assessments
- Tax Increment Financing (TIF) funding improvements
- Dedicated general tax
 - Sales tax
 - Property tax

TOWNSEND said they are staying with the original seven pathway connection priorities developed in 2008 including Delano Neighborhood; K-96 Pathway to Harry Street Pathway; Arkansas to Haysville; South Central Neighborhood; Redbud Trail; Redbud Trail Segment – K-96 to county line; Prairie Sunset Trail Connection to Goddard.

TOWNSEND briefly reviewed the Arkansas River Corridor Access Plan (ARCAP) stating that it was a multi-jurisdictional plan with partners from a 3-county area Explored improved access to Arkansas River; Lincoln Street safe boat passage; Gander Mountain boat dock; Other canoe launch areas, such as Garvey Park, South Arkansas Greenway, Cowtown; future Derby River Park and future safe boat passage at the 21st Street Dam.

TOWNSEND reviewed existing and planned dog parks; existing park expansion and future development of Crystal Prairie Lake Park which is being dredged to create lake features for swimming, fishing, boating and other water recreation activities to create a regional attraction.

TOWNSEND commented that in review of the Plan they took into account changing economic needs and increasing importance of maintaining existing infrastructure which continues to be an issue; quality of life amenities for younger generations and national trends are included; continue to be good stewards of park resources; redevelopment and revitalization of the downtown corridor district; and the importance of trails and connectivity and creating more special events.

FOSTER asked about proposed future parks in relationship to HOA requests for amenities.

TOWNSEND said they like to emphasize public park access because amenities in HOA's are restricted by covenant to those user groups and homeowners. He mentioned that people will travel some distance for certain amenities specifically citing children's playgrounds.

MILLER STEVENS mentioned the emphasis on connectivity and bicycle/pedestrian trails and paths. She said many accidents are caused by lack of education of the general public. She said she thinks the Park Department does an excellent job of community education. She asked if the Park Department will continue to take on that responsibility or is that something the Bicycle and Pedestrian Advisory Board will be taking on.

TROY HOUTMAN, DIRECTOR, PARK AND RECREATION DEPARTMENT said bicycle education is not the role of the Park Department, particularly street bicycling. He said they do provide flyers and partner with Bike/Walk Wichita to provide information. He said the Department's focus is on trails that are off main streets located in parks and connect parks. He said that is where they would like to do expansion.

TODD asked if the locations of any of the proposed parks are within areas of influence of any of the small cities.

TOWNSEND said not at present. He said the sites are all within the City of Wichita 2035 Growth area. He said the Park and Recreation Department provides services to the City of Wichita.

RICHARDSON mentioned priorities for City pathway connection and specifically the Redbud Trail. He provided various details about the path and infrastructure and asked why it was not at a higher priority. He said it is an unused resource that is readily available that people are using today.

TOWNSEND said he did not have an answer to that offhand but he could research that and get back to Commissioner Richardson with an answer. He commented that people are using a lot of trails that are unimproved.

MOTION: To set a public hearing date for June 16, 2016 to consider the proposed adoption of the Wichita Parks, Recreation and Open Space Plan Update 2016 as an element of the Wichita-Sedgwick County Community Investment Plan 2015-2035.

JOHNSON moved, **MCKAY** seconded the motion, and it carried (8-0).

The Metropolitan Area Planning Commission adjourned at 4:38 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 _____, 2016.

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

(SEAL)

DRAFT

STAFF REPORT

CASE NUMBER: SUB2016-00011 – KANSAS HYDROGRAPHICS ADDITION

OWNER/APPLICANT: Brent Ottaway, 6180 East 47th Street South, Derby, Kansas 67037

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

LOCATION: North side of East 47th Street South, West of South Woodlawn Boulevard (County District V)

SITE SIZE: 4.51 acres

NUMBER OF LOTS

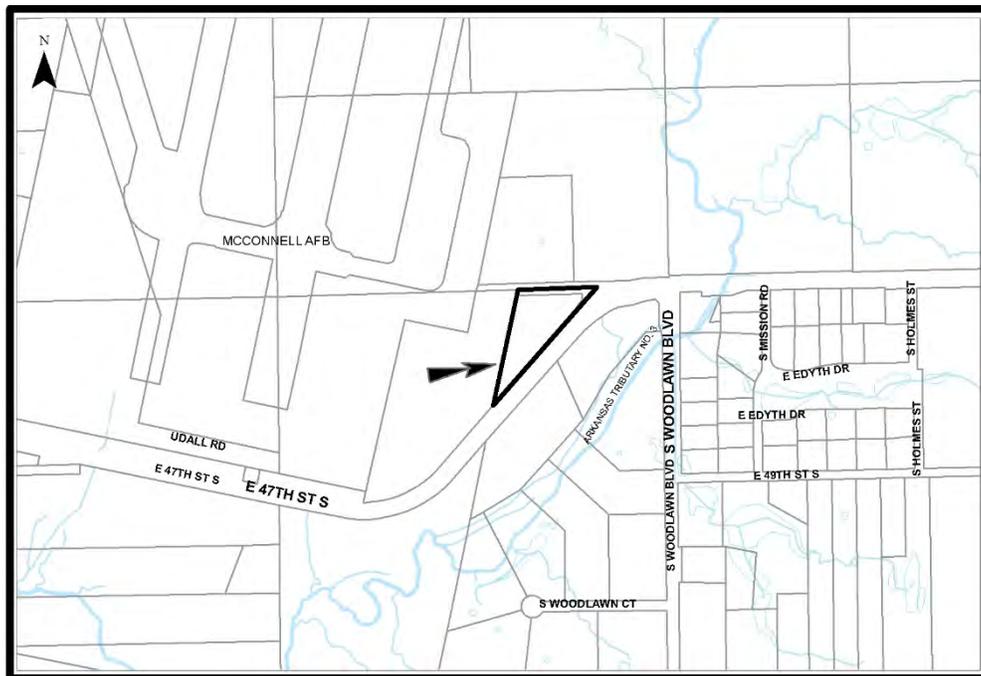
| | |
|--------------|---|
| Residential: | |
| Office: | |
| Commercial: | |
| Industrial: | 1 |
| Total: | 1 |

MINIMUM LOT AREA: 4.15 acres

CURRENT ZONING: Industrial Park – Airport (IP-A)

PROPOSED ZONING: Same

VICINITY MAP



SUB2016-00011 -- Plat of KANSAS HYDROGRAPHICS ADDITION
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NOTE: This is unplatted property located in the County within three miles of the City of Wichita. It is designated as "Wichita Urban Growth Area" by the Community Investments Plan 2015-2035. The site is located within the Air Force Base Protection Overlay District (AFBP-O).

STAFF COMMENTS:

- A. Since sanitary sewer is unavailable to serve this property, 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 sewerage facilities. A memorandum shall be obtained specifying approval.
- B. The site is currently located within the Sedgwick County Rural Water District No. 3. If service is available, feasible and the property is eligible for service, Metropolitan Area Building and Construction Department recommends connection.
- C. City of Wichita Public Works and Utilities Department has requested a No Protest Agreement for future extension of sanitary sewer.
- D. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) along with the corresponding dollar amounts shall be submitted to the Planning Department for recording.
- E. County Public Works has approved the applicant's drainage plan.
- F. The plat proposes two openings along 47th Street South and complete access control along the east 100 feet of old 47th Street South. County Public Works has permitted one opening along old 47th Street South west of the 100 feet of complete access control. Access controls along 47th Street denote 400 feet of complete access control from the intersection of old 47th Street to the first entrance.
- G. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.
- H. The plat's text shall note the dedication of the street to and for the use of the public.
- I. The site is located within the Maximum Mission Area of the Air Installation Compatible Use Zone (AICUZ) study to identify noise impact areas around McConnell Air Force Base. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- J. A written response from McConnell Air Force Base is needed regarding their comments on the plat. On April 19th, McConnell informed Staff they would like additional time to evaluate the proposal and stated their biggest concerns are security issues and status of the facility should it change ownership. The applicant has increased the setback to 20 feet between the two properties and platted this setback to address security concerns.
- K. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.

SUB2016-00011 -- Plat of KANSAS HYDROGRAPHICS ADDITION
July 7, 2016 - Page 3

- L. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- N. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. The applicant should check City or County GIS mapping to determine whether the location of any taxing district boundaries (e.g. school districts) crosses their property and plan accordingly to avoid unnecessary splitting of lots between taxing districts.
- S. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- T. 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: SUB2016-00013 – TIFFANI BREEZE ADDITION

OWNER/APPLICANT: TCRS, LLC., 401 West 47th Street South, Wichita, KS 67217

SURVEYOR/AGENT: Abbott Land Survey, 520 South Holland, Suite 103, Wichita, KS 67209

LOCATION: North side of East 71st Street South, East of South 127th Street East (County District V)

SITE SIZE: 40 acres

NUMBER OF LOTS

| | |
|--------------|----|
| Residential: | 18 |
| Office: | |
| Commercial: | |
| Industrial: | |
| Total: | 18 |

MINIMUM LOT AREA: 1.5 acres

CURRENT ZONING: Rural Residential (RR)

PROPOSED ZONING: Single-Family Residential (SF-20)

VICINITY MAP



SUB2016-00013 – Plat of TIFFANI BREEZE ADDITION
July 7, 2016 - Page 2

NOTE: This is unplatted property located in the County. It is designated as “rural area” by the Community Investments Plan 2015-2035. The applicant proposes a zone change (ZON2016-00023) from Rural Residential to Single-Family Residential (SF-20).

STAFF COMMENTS:

- A. This plat will be subject to approval of the associated zone change and any related conditions of such a change. Prior to this plat being released for the Board of County Commissioners, the zone change will need to be approved to allow for the lot sizes being platted.
- B. Since sanitary sewer is unavailable to serve this property, 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 sewerage facilities. A memorandum shall be obtained specifying approval.
- C. The site is currently located within the Sedgwick County Rural Water District No. 3. If service is available, feasible and the property is eligible for service, Metropolitan Area Building and Construction Department recommends connection.
- D. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) along with the corresponding dollar amounts shall be submitted to the Planning Department for recording.
- E. County Stormwater advises that the drainage plan is approved.
- F. County Public Works advises the existing crossroad structure on 71st Street South will need to be relocated to avoid conflict with Suzette Drive or the eastern Suzette Drive will need to be relocated.
- G. County Public Works has approved two street openings along 71st Street South.
- H. The applicant shall guarantee the installation of the proposed loop street to the 32-foot suburban street standard.
- I. The Applicant has provided a 70-foot ingress/egress easement and contingent dedication of street right-of-way extending to the north line of the plat in order to provide potential street connection to adjoining properties.
- J. The ingress/egress easement shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- K. GIS has approved the street names.
- L. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.

SUB2016-00013 – Plat of TIFFANI BREEZE ADDITION
July 7, 2016 - Page 3

- M. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineers (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- N. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- O. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- Q. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. The applicant should check City or County GIS mapping to determine whether the location of any taxing district boundaries (e.g. school districts) crosses their property and plan accordingly to avoid unnecessary splitting of lots between taxing districts.
- V. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- W. 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: SUB2016-00019 – FAWN GROVE ADDITION

OWNER/APPLICANT: Clint Miller Construction, 1907 South Hydraulic Street, Wichita, KS 67211-4557

SURVEYOR/AGENT: Ruggles & Bohm, P.A., 924 North Main, Wichita, KS 67203

LOCATION: South of Kellogg, West of South Greenwich Road (District II)

SITE SIZE: 3.28 acres

NUMBER OF LOTS

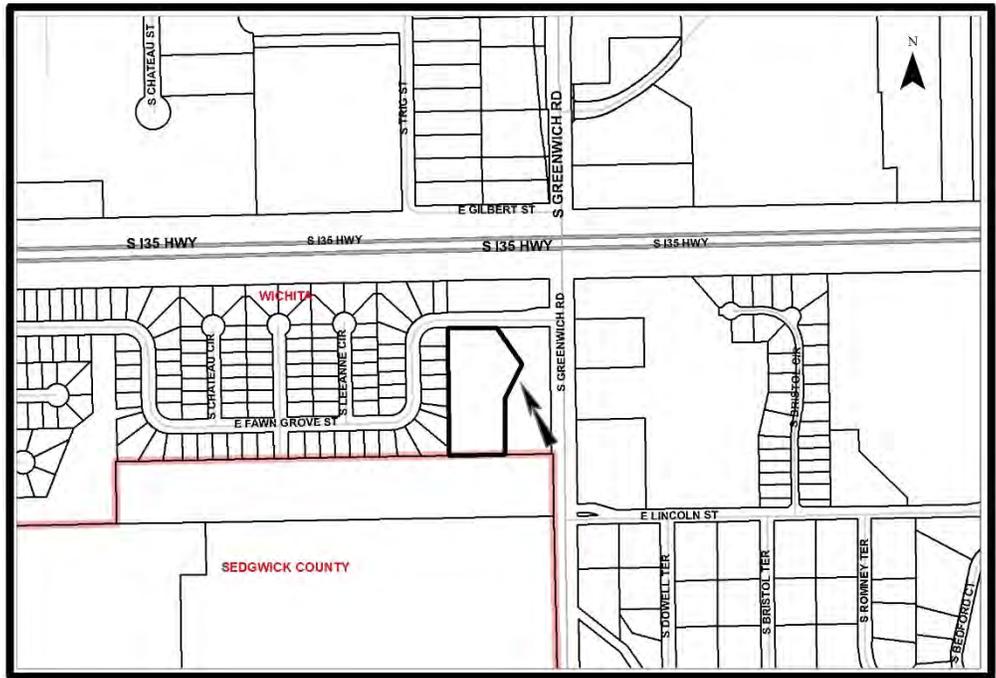
| | |
|--------------|----|
| Residential: | 11 |
| Office: | |
| Commercial: | |
| Industrial: | |
| Total: | 11 |

MINIMUM LOT AREA: 4,226 square feet

CURRENT ZONING: General Office (GO)

PROPOSED ZONING: Same

VICINITY MAP



SUB2016-00019 -- Plat of FAWN GROVE ADDITION
July 7, 2016 - Page 2

NOTE: This is a replat of Lot 1, Block 1, Fawn Grove at Sunset Lakes Addition. The applicant proposes duplexes and triplexes (23 total units) on property zoned General Office (GO).

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department requests a petition for extension of sewer (laterals) and water (distribution). In-lieu-of-assessment fees are due on water (transmission). Water meters will set in the east easement. Developer will be responsible for boring service lines under the street.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) along with the corresponding dollar amounts shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the drainage plan.
- D. Due to the platting of a 32-foot residential street in a commercial zoning district, a restrictive covenant is needed limiting the site to residential uses.
- E. The applicant shall guarantee the paving of the proposed street. The Subdivision Regulations limit cul-de-sac streets to 24 units accessed by a 32-foot narrow local residential street and this 23-unit plat complies.
- F. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a restrictive covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- G. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- H. City Fire Department has approved the turnaround.
- I. Since this plat proposes the platting of narrow street right-of-way with adjacent 15-foot street, drainage and utility easements, a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- J. GIS has approved the street name.
- K. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted, installed and inspected.
- L. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.

SUB2016-00019 -- Plat of FAWN GROVE ADDITION
July 7, 2016 - Page 3

- M. 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.)
- N. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- O. 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.
- P. 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.
- Q. 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.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. The applicant should check City or County GIS mapping to determine whether the location of any taxing district boundaries (e.g. school districts) crosses their property and plan accordingly to avoid unnecessary splitting of lots between taxing districts.
- T. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- U. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

SUB2016-00020 -- Plat of TYLER'S LANDING 6TH ADDITION
July 7, 2016 - Page 2

NOTE: This is a replat of Lot 14, Block A Tyler's Landing 5th Addition. An amendment to the Tyler's Landing Commercial Plaza Community Unit Plan (CUP2014-13, DP-267) was approved to allow residential uses.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department requests a petition for extension of sewer (laterals) and water (distribution).
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) along with the corresponding dollar amounts shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the drainage plan.
- D. The plat's text shall include language that "No signs, light poles, private drainage systems, masonry trash enclosures or other structures shall be located within public utility easements."
- E. Traffic Engineering has approved the access controls. The plat proposes complete access control along Tyler Road and a rights-in/out private street opening along 37th Street North.
- F. City Fire Department has approved the turnaround.
- G. The applicant shall guarantee the paving of the private street (Reserve A) to a public street paving standard as required by City Public Works. As private improvements, such guarantee shall not be provided through the use of a petition.
- H. A restrictive covenant shall be submitted regarding the private street, which sets forth ownership and maintenance responsibilities.
- I. 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.
- J. 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.
- K. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- L. GIS has approved the street name.
- M. County Surveying advises that on the mortgage holder consent for Legacy Bank the plat name needs changed from Tyler's Landing 5th to Tyler's Landing 6th.
- N. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.

SUB2016-00020 -- Plat of TYLER'S LANDING 6TH ADDITION
July 7, 2016 - Page 3

- O. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted, installed and inspected.
- P. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- Q. 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.
- R. 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.)
- S. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- T. 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.
- U. 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.
- V. 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.
- W. Perimeter closure computations shall be submitted with the final plat tracing.
- X. The applicant should check City or County GIS mapping to determine whether the location of any taxing district boundaries (e.g. school districts) crosses their property and plan accordingly to avoid unnecessary splitting of lots between taxing districts.
- Y. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- Z. 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).

The applicant is requested the vacation of the east 16 feet of the platted 60-foot front yard located on and running parallel to the west property line of the LI Limited Industrial zoned Lot 1, Block A, Western Lithograph 2nd Addition and Hydraulic Avenue. The site is a corner lot with the short side of the lot being along its Hydraulic Avenue frontage. Per the Unified Zoning Code (UZC) the short side of a corner lot is the front side of the lot. Per the UZC the LI zoning district has a 20-foot minimum front yard setback. The applicant's requests reduces the platted 60-foot setback to 44 feet. A 10-foot wide platted easement runs through the south 10 feet of the subject setback; the easement that will remain in effect. Water, sewer and stormwater are located in the Hydraulic and Industrial Avenues right-of-way. Westar has equipment and transmission lines running parallel to the west side of the subject property in Hydraulic Avenue. Conditions 2 and 3 cover Westar Energy. LaDonna Vanderford is the area representative for that area and can be reached at 261-6490. The Western Lithograph 2nd Addition was recorded April 12, 1985.

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 portion of the platted front yard setback.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time June 16, 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 the platted front yard setback and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Provide a legal description of the vacated portion of the platted front yard setback on a Word document via E-mail for the Vacation Order. This must be provided to Planning prior to VAC2016-00019 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (2) As needed provide easements for public and franchised utilities. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. Easements for public utilities, with original signatures, must be provided to Planning prior to VAC2016-00019 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) 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 all required approved projects to Planning prior to VAC2016-00019 proceeds to the City Council for final action.

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

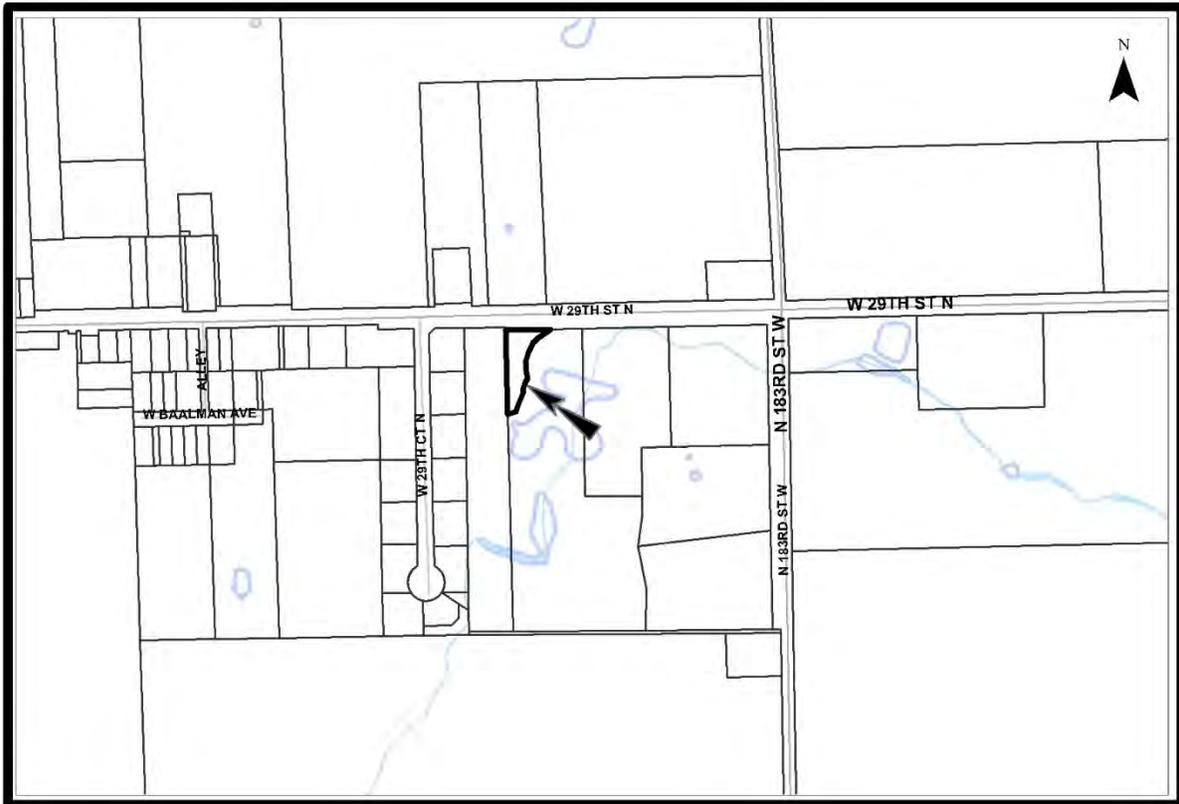
SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide a legal description of the vacated portion of the platted front yard setback on a Word document via E-mail for the Vacation Order. This must be provided to Planning prior to VAC2016-00019 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (2) As needed provide easements for public and franchised utilities. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. Easements for public utilities, with original signatures, must be provided to Planning prior to VAC2016-00019 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) 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 all required approved projects to Planning prior to VAC2016-00019 proceeds to the City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

STAFF REPORT

- CASE NUMBER:** VAC2016-00020 - Request to vacate a portion of platted drainage reserve
- APPLICANT/AGENT:** Marshall & Donna Walker (applicant/owner) Baughman Company, P.A., c/o Phil Meyer (agent)
- LEGAL DESCRIPTION:** Generally described as vacating a portion of the platted drainage easement located in the northwest corner of Lot 3, Block A, Walker Estates Addition, Sedgwick County, Kansas.
- LOCATION:** Generally located west of 183rd Street West on the south side of 29th Street North (BoCC #3)
- REASON FOR REQUEST:** To allow a single-family residence to be built
- CURRENT ZONING:** The site and all abutting and adjacent properties are zoned RR Rural Residential.
- VICINITY MAP:**



The applicant proposes to vacate a portion of the platted drainage reserve located on the northwest side of the 11.59-acre Lot 3, Block A, Walker Estates Addition. The plattor's text states the platted drainage reserve is for drainage and shall be owned and maintained by the owners of the lots they are located on, or until such time that the appropriate governing body elects to assume the responsibility for the maintaining and improvements to the drainage reserves. The plattor's text also states that no buildings shall be constructed in the drainage reserves and that no fill, change of grade, creation of channel or other work shall be done within the drainage reserves without the permission of the Engineer of the appropriate governing body. The proposed vacated portion of the drainage reserve appears to be located outside of the FEMA Flood Plains.

The applicant wishes to build a single-family residence and driveway within the proposed vacated drainage reserve. There is an existing single-family residence (built 1989) on the subject lot, Lot 3, Block A, Walker Estates Addition. If the vacation request is approved the applicant will need a Lot Split to build another single-family residence on the lot.

The site is located in Sedgwick County Rural Water District #4. Sewer is an on-site that serves the existing single-family residence and it appears to be septic; a separate on site sewer system will be needed for the proposed single-family residence. There are no utilities located within the area of the vacation. The site is located within Sedgwick County Rural Electric Cooperative. The Walker Estates Addition was recorded with the Register of Deeds March 18, 2004.

NOTE: VAC2016-00014 vacated a portion of platted access control to allow a drive from the subject site to 29th Street North; MAPC April 21, 2016.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from County Public Works, 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 the platted drainage reserve.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 - 1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time June 16, 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 the platted drainage reserve and that the public will suffer no loss or inconvenience thereby.
 - 3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Vacate that portion platted drainage reserve, as approved by County Public Works. Provide Planning Staff with a legal description of the approved vacated portion of the platted drainage reserve on a Word document,

via e-mail, to be used on the Vacation Order and Vacation Petition. All Provide to Planning prior to the case going to the BoCC for final action.

- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (3) All improvements shall be according to County Standards and at the applicant's expense, including all required County plans, permits, inspections and the construction of the drive onto 29th Street North and through the platted drainage reserve.
- (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) Vacate that portion platted drainage reserve, as approved by County Public Works. Provide Planning Staff with a legal description of the approved vacated portion of the platted drainage reserve on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. All Provide to Planning prior to the case going to the BoCC for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (3) All improvements shall be according to County Standards and at the applicant's expense, including all required County plans, permits, inspections and the construction of the drive onto 29th Street North and through the platted drainage reserve.
- (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.

STAFF REPORT

CASE NUMBER: VAC2016-00021 - Request to vacate a portion of platted public street right-of-way

APPLICANT/AGENT: Southwest Baptist Church & Via Fone Inc. (applicants) J P Weigand & Sons, c/o Grant Tidemann & Baughman Company, c/o Phil Meyer (agents)

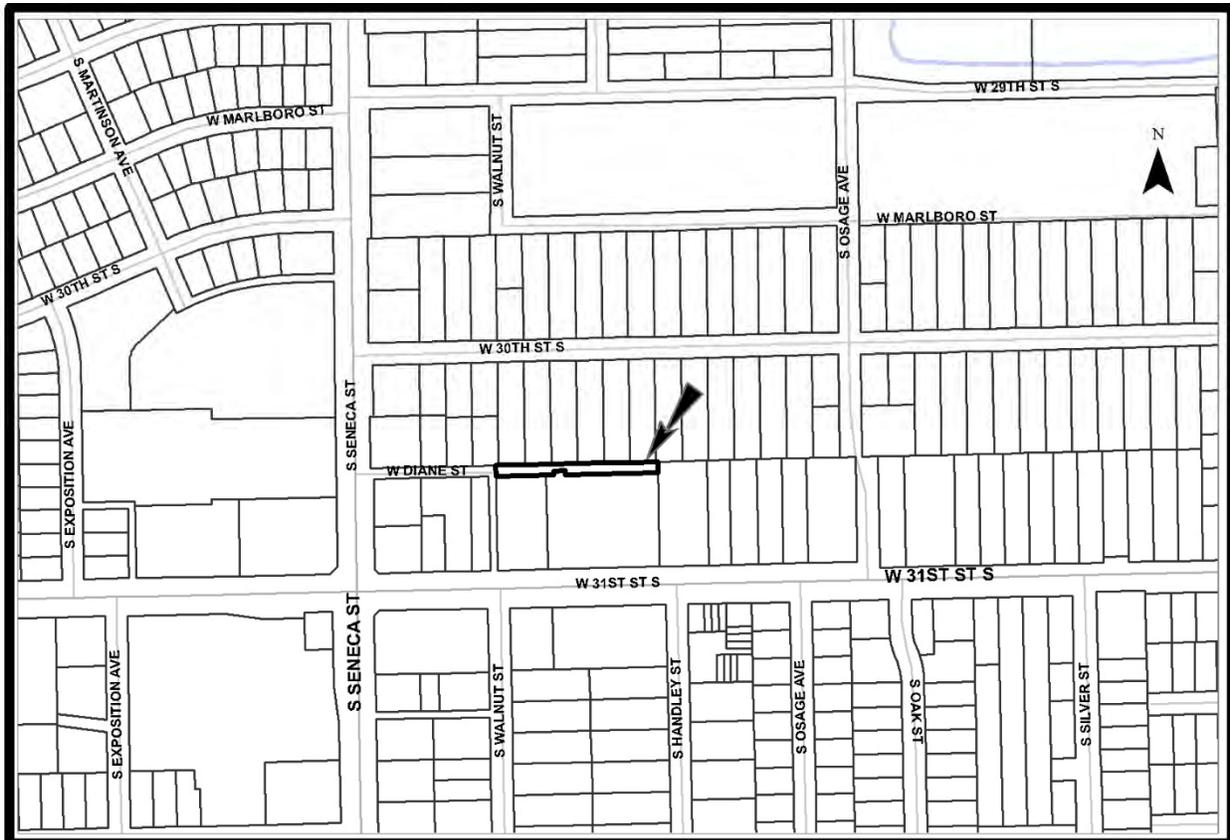
LEGAL DESCRIPTION: Generally described as vacating a 30-foot wide (x) 332.15-foot long portion of Diane Street dedicated on the Leonard A. Garnett Addition and the Southwest Baptist Church Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located east of Seneca Street and north of 31st Street South (WCC III)

REASON FOR REQUEST: Street has never been improved and has remained 30 feet wide

CURRENT ZONING: Abutting west adjacent properties are zoned SF-5 Single-Family Residential. Abutting north properties are zoned SF-5 and abutting south properties are zoned LC Limited Commercial and SF-5. Abutting west side is 30-foot wide Diane Street and 20-foot wide alley intersection

VICINITY MAP:



The applicants are requesting the vacation of the unimproved 30-foot wide (x) 332.15-foot long portion of Diane Street dedicated on the Leonard A. Garnett Addition and the Southwest Baptist Church Addition; the applicants own the Leonard A. Garnett Addition and the Southwest Baptist Church Addition.

The unimproved half-street right-of-way looks like a yard. The half-street right-of-way dead ends against multiple unplatted SF-5 Single-Family Residential zoned properties on its east side, leaving it approximately 525 feet short of intersecting with the nearest street to the east, Osage Street. There are least four single-family residences (built 1950, 1951 and 1953) located on those tracts. The abutting north SF-5 zoned properties were platted as part of the Robson Heights Addition, recorded July 25, 1950. This portion of Diane Street was platted in the Leonard A. Garnett Addition, recorded with the Register of Deeds January 21, 1986, and the Southwest Baptist Church Addition, recorded February 29, 1968. Both of the applicants' properties, which dedicated the described portion of Diane Street, were platted 18-36 years after the north and east abutting properties were either platted or developed as single-family residences.

There has been no opportunity for this portion of Diane Street to acquire an additional 30 feet of right-of-way from the abutting north properties or to extend further east to Osage Avenue through the abutting east properties. The proposed vacation will not create a dead end, as the west remaining paved 30-foot wide portion of Diane Street intersects with Seneca Street on its west side and with a paved 20-foot wide alley on its east side, which in turn intersects with 31st Street South. No properties will be denied access to public right of way and circulation in the area will remain as it is now. There are no garages or accessory buildings located on the abutting north properties that use the unimproved half-street right –of-way for access. No public water, sewer, stormwater, nor hydrants are located in the subject right-of-way. Westar has line and equipment in that area that serves private security lighting to one of the applicants, Southwest Baptist Church. Conditions 3 and 4 cover Westar Energy. Ennidh Garcia is the area representative for that area and can be reached at 261-6859

The property owner, Jon Prange, of Lot 6, Robson Heights Addition was present at the June 23, 2016, Subdivision meeting. Lot 6 abuts the northeast 70 feet (of the east approximately 80 feet) of that portion of Diane Street that was dedicated by the Leonard A. Garnett Addition. Mr. Prange stated that he had bought Lot 6 late last year and that the property had an existing gate located in the southwest corner of the rear yard that opened onto the unimproved Diane Street. Mr. Prange stated that he wanted to contact the applicant(s) to inquire if he could retain access onto Diane Street. Lot 6 has access to 30th Street South, the unimproved 30-foot wide Diane Street is basically secondary access that requires mowing and other maintenance by the applicants. There is no garage or other structure located in the rear yard of Lot 6 or the other lots in the Robson Heights Addition that requires access off of the unimproved Diane Street. Staff discourages using the subject portion of Diane Street right-of-way for secondary access when there is no structures in the Robson Heights Addition requiring Diane Street to be used as secondary access.

The Subdivision Committee instructed the applicants to meet with Mr. Prange to discuss possible access from a portion of the proposed vacated portion of Diane Street to Mr. Prange's property, Lot 6, Robson Heights 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 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 June 16, 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 platted 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) Vacate the described portion of the Diane Street public street right-of-way. Provide Planning with a legal description of the vacated right-of-way on a Word document, via E-mail to be used on the Vacation Order. This must be provided to Planning prior to VAC2016-00021 proceeding to City Council for final action
- (2) Provide a covenant, with original signatures, binding and tying the described vacated public street right-of-way to the applicant's abutting property. This must be provided to Planning prior to VAC2016-00021 proceeding to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds and the Sedgwick County Appraisers Office.
- (3) If needed dedicate the described vacated portion of Diane Street as easement(s) by separate instrument to cover all utilities. The original dedication must be provided to Planning prior to VAC2016-00021 proceeds to City Council for final action and subsequent recording with the Register of Deeds.
- (4) If needed provide utilities with any needed project plans for the relocation of utilities for review and approval. Any relocation/reconstruction of 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(s) to Planning prior to the case going to City Council for final action.
- (5) All improvements shall be according to City Standards and at the applicants' expense.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) The Subdivision Committee instructed the applicants to meet with Mr. Prange to discuss possible access from a portion of the proposed vacated portion of Diane Street to Mr. Prange's property, Lot 6, Robson Heights Addition.

- (2) Vacate the described portion of the Diane Street public street right-of-way. Provide Planning with a legal description of the vacated right-of-way on a Word document, via E-mail to be used on the Vacation Order. This must be provided to Planning prior to VAC2016-00021 proceeding to City Council for final action
- (3) Provide a covenant, with original signatures, binding and tying the described vacated public street right-of-way to the applicant's abutting property. This must be provided to Planning prior to VAC2016-00021 proceeding to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds and the Sedgwick County Appraisers Office.
- (4) If needed dedicate the described vacated portion of Diane Street as easement(s) by separate instrument to cover all utilities. The original dedication must be provided to Planning prior to VAC2016-00021 proceeds to City Council for final action and subsequent recording with the Register of Deeds.
- (5) If needed provide utilities with any needed project plans for the relocation of utilities for review and approval. Any relocation/reconstruction of 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(s) to Planning prior to the case going to 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.



STAFF REPORT

MAPC July 7, 2016

- CASE NUMBER:** ZON2016-23
- APPLICANT/AGENT:** Wayne and Donna Wulf (owner/applicant)
- REQUEST:** SF-20 Single-family Residential (SF-20) zoning
- CURRENT ZONING:** RR Rural Residential (RR) zoning
- SITE SIZE:** 40 acres
- LOCATION:** Generally located north of East 71st Street South and east of South 127th Street East
- PROPOSED USE:** Single-family residential development on 1.5 to 2.9-acre lots



BACKGROUND: The applicant requests a zone change from RR Rural Residential (RR) to SF-20 Single-family Residential (SF-20) on 40 acres. The application area is concurrently platting as the Tiffani Breeze addition with 18 lots and a reserve ranging in size from 2.9 acres to 1.5 acres on modified septic systems. RR zoning requires a 2-acre minimum lot size. The site is located on the north side of East 71st Street South and is ¼ mile east of South 127th Street East. The site is not within a small city urban growth area but is within Rural Water District #3.

All property surrounding the site is zoned RR. Property due north, south and east of the site is undeveloped and used for agriculture. Further east is the Downwind Estates airfield and associated residential subdivision. West of the site are RR zoned residential lots approximately 10 acres in size. Further west and northwest are residential lots as small as 0.63 acres in the RR zoned Fairway Meadows Addition with a community sewer system.

CASE HISTORY: The site is in the platting process, MAPC will hear the plat on July 7, 2016.

ADJACENT ZONING AND LAND USE:

| | | |
|--------|----|--|
| NORTH: | RR | Agriculture, large-lot single-family residential development |
| SOUTH: | RR | Agriculture |
| EAST: | RR | Agriculture, large-lot single-family residential development, private airfield |
| WEST: | RR | Large-lot single-family residential development |

PUBLIC SERVICES: East 71st Street South is an unpaved, two-lane section-line road maintained by the township. The proposed plat will give this section of 71st Street South a 30-foot half-width right-of-way and a 30-foot water line easement. By keeping the lot count below 20, the applicant is not required to make paving improvements to 71st Street South. The site will be provided water by Rural Water District #3, on-site sewer (modified septic systems) are proposed based on lot sizes below two acres.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as “rural” and not within any small city growth areas. The “rural” category encompasses land outside the 2035 urban growth areas for Wichita and the small cities. Agricultural uses, rural-based businesses, and larger lot residential exurban subdivisions likely will be developed in this area. Such development should occur in accordance with the *Urban Fringe Development Standards for Wichita and Sedgwick County*.

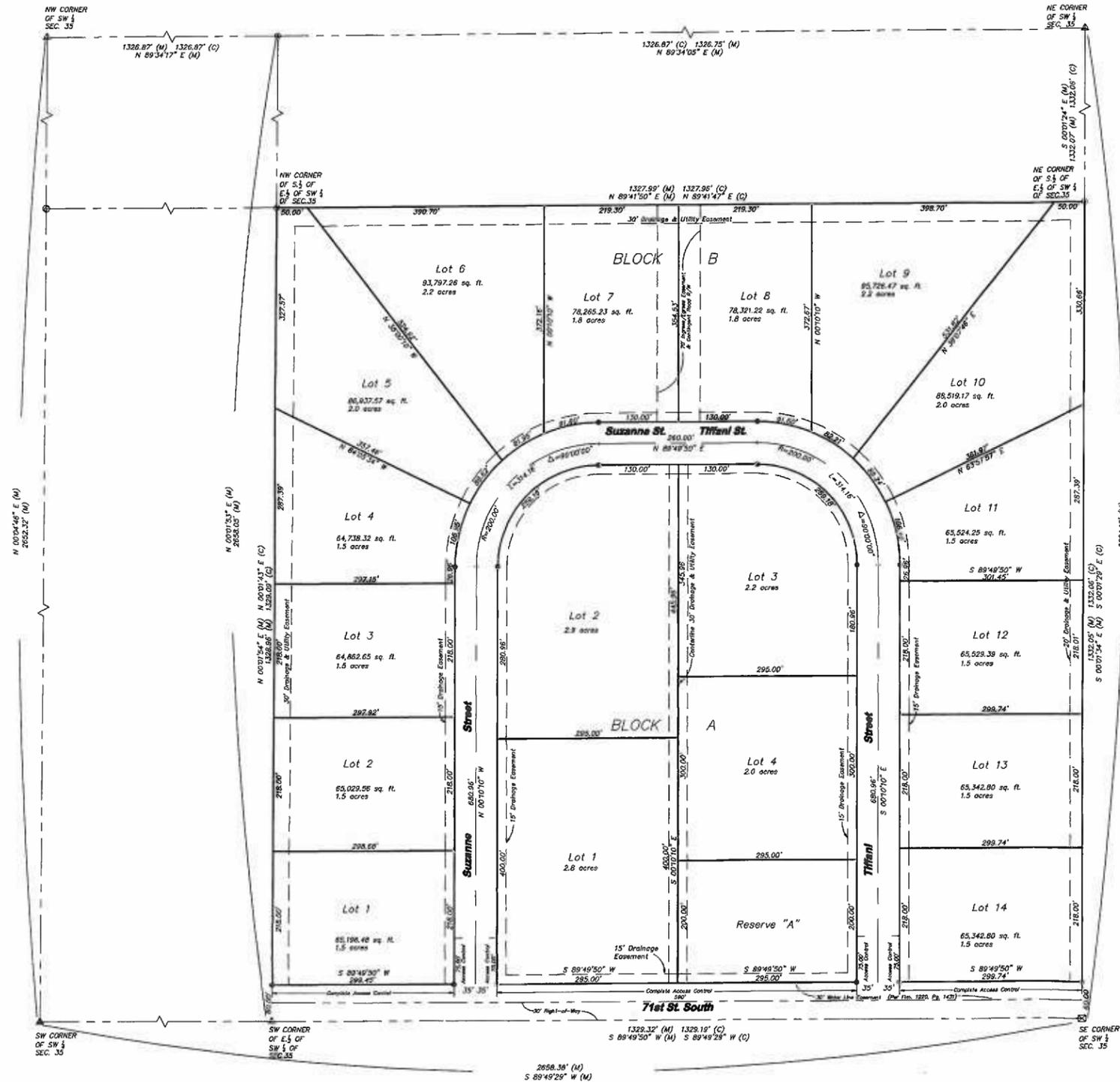
RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** All property surrounding the site is zoned RR. Property due north, south and east of the site is undeveloped and used for agriculture. Further east is the Downwind Estates airfield and associated residential subdivision. West of the site are RR zoned residential lots approximately 10 acres in size. Further west and northwest are residential lots as small as 0.63 acres in the RR zoned Fairway Meadows Addition with a community sewer system.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned RR and could be developed with 2-acre minimum residential lots.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The requested SF-20 zoning will allow half-acre lots. The increased number of potential lots will impact nearby property with increased traffic.

- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as “rural” and not within any small city growth areas. The “rural” category encompasses land outside the 2035 urban growth areas for Wichita and the small cities. Agricultural uses, rural-based businesses, and larger lot residential exurban subdivisions likely will be developed in this area. Such development should occur in accordance with the *Urban Fringe Development Standards for Wichita and Sedgwick County*.
- (5) **Impact of the proposed development on community facilities:** 71st Street South is unpaved at this location. MAPC will hear the plat for this development concurrently with the zone change. The increase in residential density will slightly increase demand on community facilities, infrastructure and services.

**TIFFANI BREEZE ADDITION
TO SEDGWICK COUNTY, KANSAS**



CERTIFICATE OF SURVEY

State of Kansas }
County of Sedgwick } SS

I, Chad R. Abbott the undersigned registered land surveyor of the State of Kansas, do hereby certify that the following described tract of land was surveyed on February 22, 2016. The survey was made by me or under my direct supervision and the accompanying plat "TIFFANI BREEZE ADDITION TO SEDGWICK COUNTY, KANSAS" is a true and correct exhibit of the property surveyed, described as follows:

The South Half of the East Half of the Southwest Quarter of Section 35, Township 28 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas.
Existing public easements and dedications being vacated by virtue of K.S.A. 12-512(b), as amended.

Chad R. Abbott L.S. #1340

OWNER'S CERTIFICATE

State of Kansas }
County of Sedgwick } SS

Know all men by these presents that we the undersigned owners of the land as above set forth in the Surveyor's Certificate, have caused the same to be surveyed and platted into lots, blocks, and streets. The same to be known as "TIFFANI BREEZE ADDITION TO SEDGWICK COUNTY, KANSAS". The 60' Street Right-of-Way along 71st Street South is hereby dedicated to and for the use of the public. The 70' Right-of-Way for Susanne Street and Tiffani Street are hereby dedicated to and for the use of the public. The 70' contingent Right-of-Way is provided for future road. Access control as shown on the face of the plat is hereby granted to the appropriate governing body. Reserve A is hereby reserved for drainage reserve purposes and shall be the responsibility of the homeowner's association, until such time as the appropriate governing body elects to assume the responsibility for maintenance and improvements to the drainage. No buildings shall be constructed or placed on or within said Reserve A, nor shall any fill, change of grade, creation of channel or any other work be carried on without the permission of the Engineer for said governing body. The Drainage Easements and Utility Easements are hereby granted as indicated. No signs, light poles, private drainage systems, masonry trash enclosures or other structures shall be located within public utility easements. The contingent street dedication is hereby contingently dedicated as street right-of-way to become effective upon the platting of any adjacent subdivision having a street connecting thereto. A drainage plan has been developed for the plat and all drainage easements, right-of-ways, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and will remain unobstructed to allow for the conveyance of stormwater.

Jeff Lange, Managing Member for TORS, LLC.

NOTARY CERTIFICATE

State of Kansas }
County of Sedgwick } SS

BE IT REMEMBERED, that on this _____ day of _____, 2016, before me the undersigned, a Notary Public in and for the County and State aforesaid, came Jeff Lange, Managing Member for TORS, LLC to me personally known to be the same persons who executed the foregoing instrument of writing and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year above written.

_____, Notary Public

My Appointment Expires: _____

PLANNING AGENCY CERTIFICATE

State of Kansas }
County of Sedgwick } SS

This plat of "TIFFANI BREEZE ADDITION TO SEDGWICK COUNTY, KANSAS" has been submitted to and approved by the Wichita-Sedgwick County Metropolitan Area Planning Commission, Wichita, Kansas.
Dated this _____ day of _____, 2016.

WICHITA-SEDGWICK COUNTY METROPOLITAN PLANNING COMMISSION

Carol Chapman Neugent, Chairman

Date Miller, Secretary

COUNTY SURVEYOR CERTIFICATE

Reviewed in accordance with K.S.A. 38-2005 on this _____ day of _____, 2016.

Tricia L. Rebell #1246

Deputy County Surveyor

Sedgwick County, Kansas

PLANNING COMMISSION CERTIFICATE

State of Kansas }
County of Sedgwick } SS

This plat of "TIFFANI BREEZE ADDITION TO SEDGWICK COUNTY, KANSAS" has been submitted to and approved by the Board of County Commissioners of Sedgwick County, Kansas, on this _____ day of _____, 2016.

James H. Howell, Fifth District

ATTEST: Kelly B. Arnold, County Clerk

TRANSFER RECORD

State of Kansas }
County of Sedgwick } SS

Entered on transfer record this _____ day of _____, 2016

Kelly B. Arnold, County Clerk

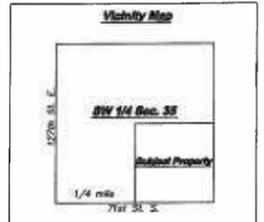
REGISTER OF DEEDS CERTIFICATE

State of Kansas }
County of Sedgwick } SS

This is to certify that this plat has been filed for record in the office of the Register of Deeds, this _____ day of _____, 2016 at _____ o'clock _____, and is duly recorded.

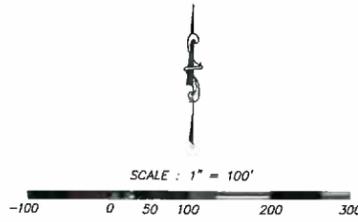
Tonya Buckingham, Register of Deeds

Judy J. Pogel, Deputy



LEGEND:

- (C) Calculated
- (M) Measured
- ▲ Found 1/2" Iron Pipe (Origin Unknown)
- Calculated Point
- ⊗ Found 1/2" Rebar (Origin Unknown)
- ▲ Found 1" Iron Pipe (Origin Unknown)
- ⊗ Found Stone w/ chiseled "+"
- Set 1/2" Rebar with #1340 Cap



Abbott and Survey

JOB DESCRIPTION: PLAT
PREPARED FOR: Mark Wodman

JOB LOCATION: SE 1/4 SW 1/4 Sec. 35, T28S, R2E, S12E
DATE OF PREPARATION: 5-11-2016

520 S. Holland, Ste. 103, Wichita, KS 67209
Ph. 316.262.2262 Fax 316.262.2266
surveyors@benchmarkis.net

STAFF REPORT
DAB III 7-6-2016
MAPC 7-7-2016

CASE NUMBER: ZON2016-00024

APPLICANT/AGENT: TN Investments & Catholic Diocese of Wichita (applicants),
Ruggles & Bohm (agent)

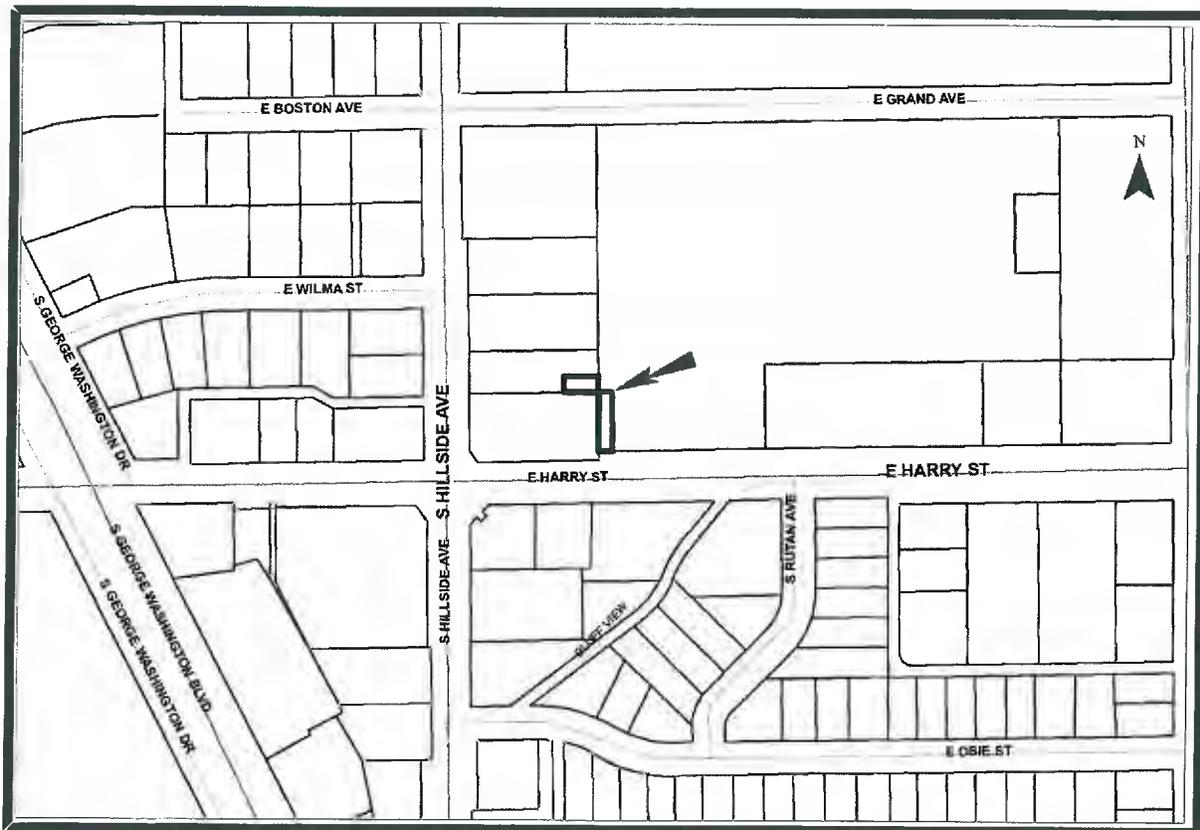
REQUEST: LC Limited Commercial

CURRENT ZONING: TF-3 Two-family Residential

SITE SIZE: 0.10 acre

LOCATION: Northeast corner of East Harry and South Hillside

PROPOSED USE: Expand parking and trash enclosure for Limited Commercial
use



BACKGROUND: The applicant is seeking Limited Commercial (LC) zoning on approximately 0.10 acre of a 0.74 acre parcel located at the northeast corner of East Harry and South Hillside. The subject site is the northeast portion (0.04 acre) of the platted lot and the west 0.06 acre of the Replat of Pineridge Addition. If approved, the LC zoning would permit the entire parcel to be redeveloped as a fast food restaurant. TN Investments is in negotiation to purchase the 0.06 acre from the Catholic Diocese of Wichita.

The properties located east and south of the site are zoned LC and developed with fast food restaurants with drive-thru services. Land north of the site is zoned B Multi-family and TF-3 Two Family Residential developed with single family residential. Land to the east of the site is zoned TF-3 and is All Saints Parish.

CASE HISTORY: This zone change application has been filed to change current zoning (TF-3) to LC. The subject site was previously occupied by a convenience store/gas station. The land will be scraped and a new restaurant with a drive-thru window will be built.

ADJACENT ZONING AND LAND USE:

North: B; multi-family residential & TF-3; single-family residential
South: LC; Fast Food Restaurant with Drive-Thru
East: TF-3; religious institutional use
West: LC; auto title loan business

PUBLIC SERVICES: The site is served by all usual municipal and private utilities and services. Traffic engineering requires a five feet right-of-way dedication along the Harry Street frontage for future street expansion.

CONFORMANCE TO PLANS/POLICIES: The 2035 Wichita Functional Land Use Guide depicts the site as appropriate for “local commercial” use. The “local commercial” use category 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 and service stations, grocery stores, florist shops, restaurants and person service facilities.

RECOMMENDATION: Based upon the information available at the time the staff report was completed, staff recommends approval of the request upon dedication of street right-of-way along the Harry Street frontage for future street expansion.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The land located east and south of the site are zoned LC and developed with fast food restaurants with drive-thru services. Land north of the site is zoned B Multi-family developed with a five-plex unit and undeveloped TF-3 Two Family Residential. Land to the east

of the site is zoned TF-3 and is occupied by All Saints Parish facilities.

2. The suitability of the subject property for the uses to which it has been restricted: The site is located at a major arterial intersection with LC development on the northwest, southwest and southeast corners. North of the subject site is B zoned property developed with a multi-family unit, which is separated from the subject site by a solid screening fence. East of the subject site is the All Saints Parish campus on TF-3 zoned property.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the LC zoning should not create an increased negative impact on nearby property given the site location on the intersection of two arterial streets and the previous use of the site as a convenience store.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: LC zoning is appropriate for this location and provides economic viability to redevelop the property. Residential zoned property will be screened according to the Unified Zoning Code requirements.
5. Length of time the property has been vacant as currently zoned: The convenience store site has been vacant since 2010.
6. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2035 Wichita Functional Land Use Guide depicts the site as appropriate for "local commercial" use. The "local commercial" use category 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 and service stations, grocery stores, florist shops, restaurants and person service facilities. The site is intended to be developed as a fast food restaurant.
7. Impact of the proposed development on community facilities: Right-of-way is being required by traffic engineering for future street expansion.

BACKGROUND: The applicant proposes to develop the west 200± feet of Lot 2, Riverside Health System Addition (Parcel 2 of the attached Lot Split SUB2007-87), with a Goodwill secondhand store. The subject property is 1.7 acres zoned LC Limited Commercial (LC) with Protective Overlay (PO) #11. The provisions of the attached PO #11 limit use of the subject property to office and medical office uses; therefore, the applicant requests an amendment to PO #11 to permit the proposed secondhand store.

In addition to use restrictions, the provisions of PO #11 restrict signage, lighting, landscaping, and building height, and require all buildings to share similar architectural character, color, texture, and the same predominate exterior building material. The applicant has not requested to amend any of these additional provisions of PO #11. Since the remainder of the property that is subject to the provisions of PO #11 has a tan brick exterior, the proposed secondhand store will need to be constructed with predominately the same building material.

North of the subject property is a vacant church site zoned SF-5 Single-Family Residential (SF-5). South of the subject property across Maple is zoned LC with DP-225 Auburn Hills Commercial II Community Unit Plan (CUP), which has similar restrictions to PO #11. The site to the south is partially developed with a commercial strip center, but most of the site is currently vacant. East of the subject property, is an LC zoned credit union located within PO #11. Further east of the subject property, is a medical clinic zoned GO General Office (GO) with PO #1 that has similar provisions to PO #11. West of the subject property are SF-5 zoned single family residences.

CASE HISTORY: The subject property was zoned GO with the provisions of PO #11 on June 27, 1997 (SCZ-0730). The subject property was platted as part of Lot 2, Riverside Health System Addition on July 18, 1997. PO #11 was amended to permit office, general and a bank or financial institution on July 1, 2003 (ZON2003-26). A conditional use was granted to permit the bank or financial institution to have a drive-through window on July 1, 2003 (CON2003-16). The credit union constructed east of the subject property is the permitted bank or financial institution. The property was rezoned LC and PO #11 was amended to permit additional signage and restrict building height on September 14, 2007 (ZON2005-28). The subject property was created by a lot split on October 19, 2007 (SUB2007-87).

ADJACENT ZONING AND LAND USE:

| | | |
|--------|--------|---------------------------------|
| NORTH: | SF-5 | Vacant church site |
| SOUTH: | LC | Commercial strip center, vacant |
| EAST: | LC, GO | Credit union, medical clinic |
| WEST: | SF-5 | Single-family residences |

PUBLIC SERVICES: Maple is a paved, two-lane arterial street at this location. The subject property is permitted one access drive to Maple. All public services are available to the subject property.

CONFORMANCE TO PLANS/POLICIES: The adopted 2035 Wichita Future Growth Concept Map of the Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the subject property as “commercial.” The “commercial” category encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. Convenience retail, restaurants, small offices, and personal service uses are located in close proximity to, and potentially mixed with, residential uses. The Locational Guidelines Development Pattern section of the Comprehensive Plan recommends that non-residential uses should provide appropriate screening and buffering from residential uses. Non-residential uses also should have site design features that limit traffic, noise, lighting, and adverse impacts on surrounding residential land uses.

RECOMMENDATION: The applicant met with the owners of the single-family residences to the west to discuss the proposed secondhand store. To satisfy concerns expressed by neighboring residents, the applicant agreed to locate the drop-off lane for the secondhand store on the east side of the building. The applicant also

agreed to construct a six-foot tall masonry screening wall along the west boundary of the subject property and to locate all mechanical equipment on the ground with screening from adjacent residential properties. Finally, the applicant agreed that all lighting will be aimed away from adjacent residential properties. Based upon information available prior to the public hearings, planning staff recommends that an amendment to PO #11 be **APPROVED**, subject to the following conditions:

Parcel 2 of Lot Split SUB2007-87 shall be subject to the existing provisions of PO #11 and shall be subject to the following additional provisions:

- (1) The additional permitted uses of this property are secondhand store and retail, general.
- (2) Any drop-off lane shall be located on the east side of the building and screened from view by residential properties to the west.
- (3) A six-foot tall masonry screening wall shall be constructed along the west property line.
- (4) No rooftop mechanical equipment is permitted. Ground-level mechanical equipment and trash receptacles shall be screened with material matching the building walls.
- (5) All lighting shall be aimed away from adjacent residential properties.

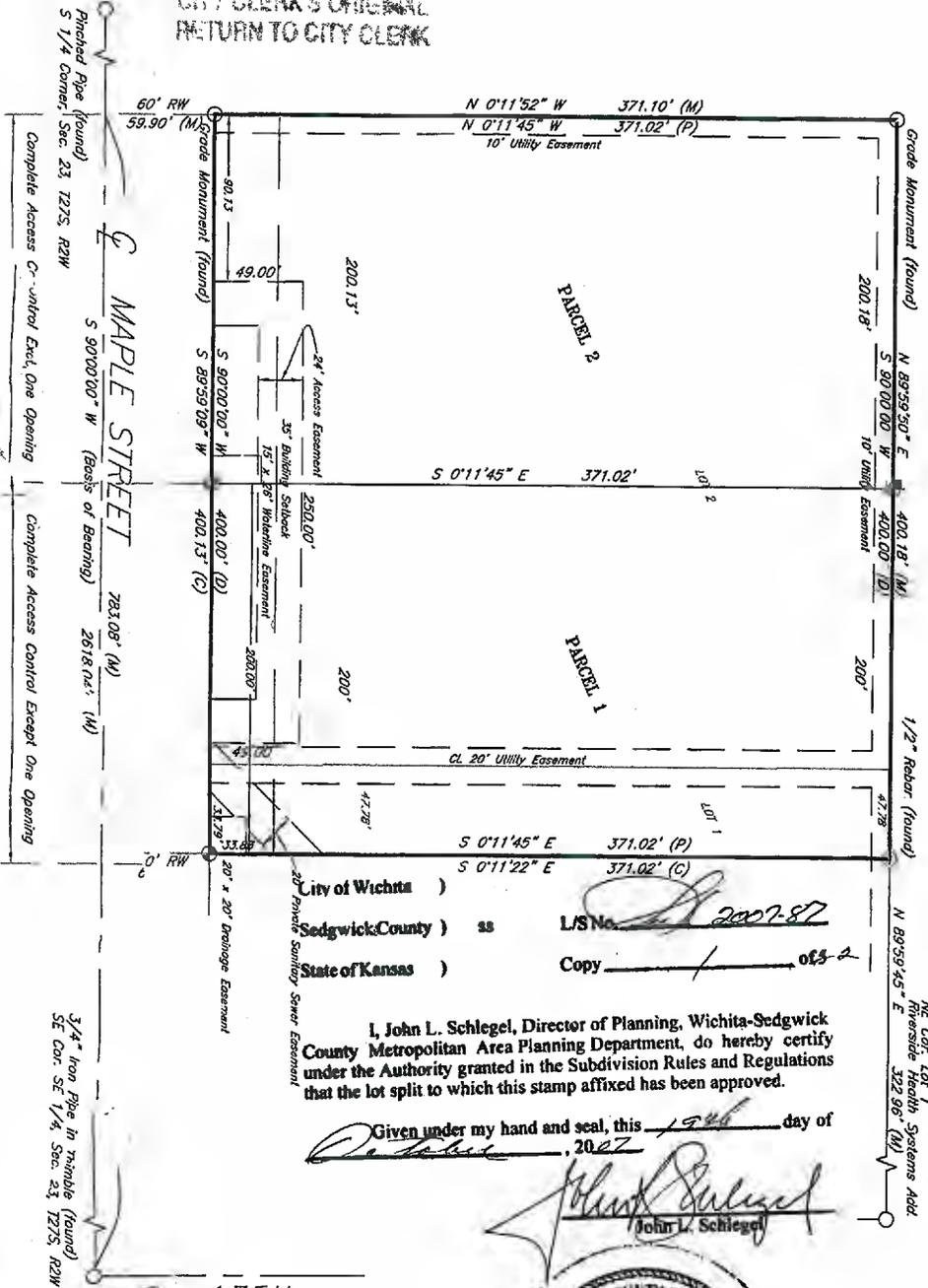
This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** North of the subject property is a vacant church site zoned SF-5 Single-Family Residential (SF-5). South of the subject property across Maple is zoned LC with DP-225 Auburn Hills Commercial II Community Unit Plan (CUP), which has similar restrictions to PO #11. The site to south is partially developed with a commercial strip center, but most of the site is currently vacant. East of the subject property, is an LC zoned credit union located within PO #11. Further east of the subject property, is a medical clinic zoned GO General Office (GO) with PO #1 that has similar provisions to PO #11. West of the subject property are SF-5 zoned single family residences.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned LC with PO #11 restricting uses to office and medical service. The site could be developed as zoned. However, the property has not been developed since zoning and platting completion in 1997.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Impact on surrounding property due to the requested PO amendment should be mitigated by the additional recommended screening and lighting requirements and the existing provisions of PO #11.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The adopted 2035 Wichita Future Growth Concept Map of the Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the subject property as “commercial.” The “commercial” category encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. Convenience retail, restaurants, small offices, and personal service uses are located in close proximity to, and potentially mixed with, residential uses. The Locational Guidelines Development Pattern section of the Comprehensive Plan recommends that non-residential uses should provide appropriate screening and

buffering from residential uses. Non-residential uses also should have site design features that limit traffic, noise, lighting, and adverse impacts on surrounding residential land uses.

- (5) **Impact of the proposed development on community facilities:** All public services are available to the subject property.

CITY CLERK'S OFFICIAL
RETURN TO CITY CLERK



City of Wichita)
Sedgwick County) ss L/S No. 2007-87
State of Kansas) Copy of 2

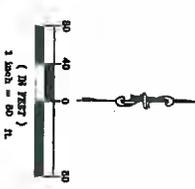
I, John L. Schlegel, Director of Planning, Wichita-Sedgwick County Metropolitan Area Planning Department, do hereby certify under the Authority granted in the Subdivision Rules and Regulations that the lot split to which this stamp affixed has been approved.

Given under my hand and seal, this 19th day of October, 2007

John L. Schlegel
John L. Schlegel



LOT SPLIT
PART OF LOT 1 & LOT 2
RIVERSIDE HEALTH SYSTEM ADDITION TO
WICHITA, SEDGWICK COUNTY, KANSAS



LEGEND

Legend Description

Parcel 1
The East 152.22 feet of Lot 2 and the West 47.78 feet of Lot 1, Riverside Health System Addition to Wichita, Sedgwick County, Kansas. Total area 74243.38 square feet ±.

Parcel 2
The East 152.22 feet of Lot 2 and the West 47.78 feet of Lot 1, Riverside Health System Addition to Wichita, Sedgwick County, Kansas. Total area 74243.38 square feet ±.



Bradley C. Ward, LS #520 Date 10-19-07
Original unless signed in blue ink

(150006) Published in The Wichita Eagle on 9-14-07
ORDINANCE NO. 47-569

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED; AND REPEALING THE ORIGINAL OF ORDINANCES NOS. 45-755 AND 46-653.

BE IT ORDAINED BY THE GOVERNING BODY
OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2005-00028

Request for Zone change to "LC" Limited Commercial and amendment to Protective Overlay #11 on property zoned "GO" General Office, on property described as:

Lot 2 and the west 48 feet of Lot 1, Riverside Health System Addition, Wichita, Sedgwick County, Kansas. Generally located north of Maple and west of 135th Street West.

SUBJECT TO THE FOLLOWING PROVISIONS OF AMENDED PROTECTIVE OVERLAY DISTRICT #11:

- A. All freestanding signs must be monument type. Freestanding monument signs shall be limited to no more than 20 feet in height and 130 square feet.
- B. Light Poles must be limited to a maximum height of 14 feet.
- C. Extensive use of backlit canopies and neon or fluorescent tube lighting on buildings is not permitted.
- D. Landscaping shall comply with the Landscape Ordinance of the City, except that requirements for street yard landscaping and buffer strip trees must be calculated at 1.5 times the minimum ordinance requirements.
- E. All buildings on the site must share similar architectural character, color, texture, and the same predominate exterior building material. Building walls and roofs must have predominantly earth-tone colors, with vivid colors limited to incidental accent, and must employ materials similar to surrounding residential areas.
- F. The administrative adjustment provisions of the Wichita-Sedgwick County Unified Zoning Code, Section V-E.14 shall apply to the protective overlay.
- G. The use of this property shall be limited to office uses, medical office uses, and a bank with drive-through window.
- H. All buildings shall be limited to 35 feet in height, and 2 stories in height with the second story limited to 25% of the total building floor area.

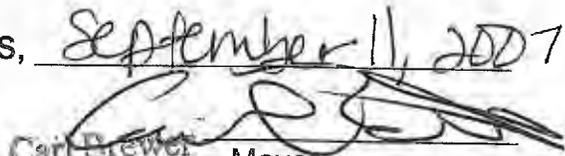
- I. The west 48 feet of Lot 1, Riverside Health System Addition, shall be added to P-O #11 and removed from P-O #1.

SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

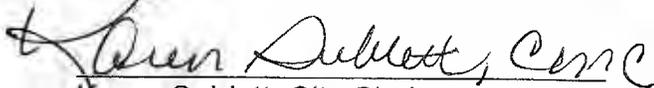
SECTION 3. The original of Ordinance Nos. 45-755 and 46-653 are hereby repealed.

SECTION 4. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED AT WICHITA, KANSAS, September 11, 2007


Carl Brewer - Mayor

ATTEST:


Karen Sublett, City Clerk

(SEAL)

Approved as to form:


Gary E. Rebenstorff, City Attorney



STAFF REPORT
 DAB III 7-6-16
 MAPC 7-7-16

CASE NUMBER: CON2016-22

APPLICANT/AGENT: Homer Morgan (applicant), Stephen Joseph (agent)

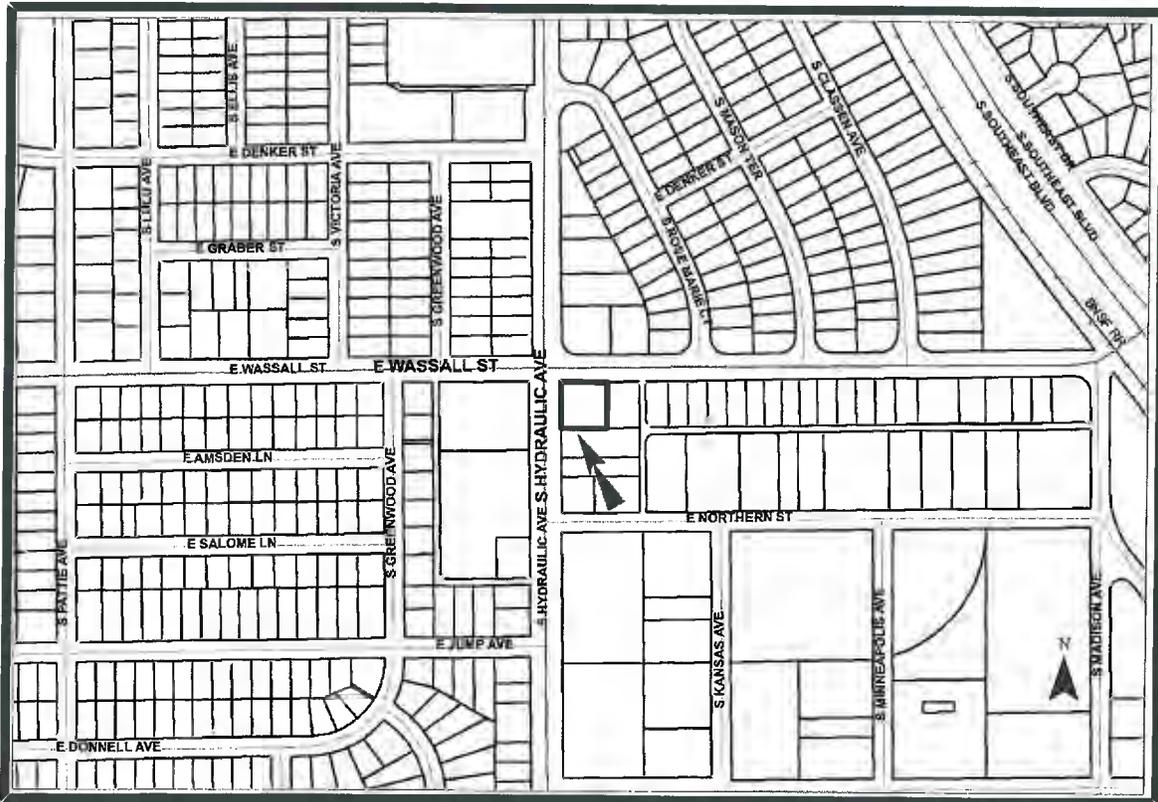
REQUEST: Conditional Use for a Nightclub in the City within 300 feet of residential zoning

CURRENT ZONING: LC Limited Commercial

SITE SIZE: 0.45 acres

LOCATION: East of S. Hydraulic Avenue and south of E. Wassall Street (2802 S. Hydraulic Ave.)

PROPOSED USE: Tavern and Drinking Establishment with Entertainment License



BACKGROUND: The application area, 2802 South Hydraulic Avenue, is located at the southeast corner of Hydraulic Avenue and East Wassall Street in LC Limited Commercial (LC) zoning and within 300 feet of residential zoning. The site is developed with a one-story building and 35 off-street parking spaces. The County Tax Assessor lists “restaurant” as the current land use; the site currently has a drinking establishment-restaurant license allowing the sale of alcohol provided that food is the majority of the gross sales. A drinking establishment and/or restaurant has functioned on the site for many years. The applicant wishes to obtain an entertainment license and therefore requests this conditional use for a “nightclub in the city.” Nightclub in the city is defined by the Unified Zoning Code (UZC) as an establishment that provides entertainment and/or dancing, where alcoholic beverages are served and where food may or may not be served. The UZC permits a nightclub in the city in the LC zoning district by right, but requires a conditional use if the property is located within 300 feet of a church, park, school or residential zoning district. The application area is approximately 120 feet west of multi-family residential zoning and development along Wassall Street, 160 feet from single-family residential zoning and development on South Rose Marie Court, 230 feet from single-family residential zoning and development on South Hydraulic and 230 feet from two-family residential zoning with single-family residential development on South Greenwood Avenue.

Property north of the site is zoned LC and developed with retail, warehousing and another drinking establishment. Property south of the site is zoned LC and developed with a retail strip center and vehicle repair. Property east of the site is zoned LC and developed with a warehouse/office. Property further east is zoned MF-29 Multi-family Residential (MF-29) and developed with three-plex apartments. Property west of the site is zoned LC and developed with a convenience store and a vehicle sales lot. Property further west is zoned TF-3 Two-family Residential (TF-3) and SF-5 Single-family Residential (SF-5) and developed with single-family residences.

CASE HISTORY: The site was platted as a portion of Lot 1, Block A of the Industrial Addition to Wichita in 1951. The building on the site was constructed in 1955.

ADJACENT ZONING AND LAND USE:

| | |
|----------------------|--|
| North: LC, SF-5 | Retail, warehousing, drinking establishment, single-family residential |
| South: LC | Retail, vehicle repair |
| East: LC, MF-29 | Warehouse/office, multi-family residences |
| West: LC, TF-3, SF-5 | Convenience store, retail, vehicle sales, warehousing and vehicle repair |

PUBLIC SERVICES: South Hydraulic Avenue is a paved arterial street with four lanes and a signalized intersection at this location. Wassall is a paved two-lane local street at this location. Sidewalks exist along both Hydraulic and Wassall at this location. All other urban utilities and services are available.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the mature neighborhoods within an approximate three-mile radius of

the downtown core. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "commercial" and adjacent to areas identified as "new employment." The UZC requires one parking space per two seats for nightclubs. The applicant indicates that the site has an occupancy of 118 people. The applicant's site plan demonstrates 35 parking spaces, 24 fewer than required. The applicant will require either a shared parking agreement or a combination of parking reduction through an adjustment or variance with a shared parking agreement to meet the UZC parking requirement.

RECOMMENDATION: Staff notes that some form of drinking establishment has existed on this site for some time which does not appear to be incompatible with nearby residential uses. This application does not introduce a new use to the area. Staff notes that the site is buffered from nearby residential properties by other commercial uses. Based upon the information available prior to the public hearings, planning staff recommends that the request for a Conditional Use for a Nightclub in the City be **APPROVED**, with the following conditions:

- (1) The applicant shall obtain a parking reduction through a zoning administrative adjustment or variance and/or a shared parking agreement to conform to the UZC parking requirements.
- (2) The applicant shall submit a revised site plan, to be approved by planning staff, which identifies required parking.
- (3) The site shall be developed and maintained in conformance with the approved site plan.
- (4) No outside loudspeakers or outdoor entertainment is permitted.
- (5) The site shall maintain all necessary licenses for a nightclub in the city.
- (6) The site shall conform to all applicable codes and regulations to include but not limited to zoning, building, fire and health.
- (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 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: Property north of the site is zoned LC and developed with retail, warehousing and another drinking establishment. Property south of the site is zoned LC and developed with a retail strip center and vehicle repair. Property east of the site is zoned LC and developed with a warehouse/office. Property further east is zoned MF-29 and developed with three-plex apartments. Property west of the site is zoned LC and developed with a convenience store and a vehicle sales lot. Property further west is zoned TF-3 and SF-5 and developed with single-family residences.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC and developed with a restaurant licensed to serve alcohol. The site could be used as zoned for commercial uses other than a nightclub.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The site is zoned LC and could be developed with any range of permitted uses in that district. The proximity of residential zoning triggers the conditional use review for a nightclub. Noise and activity from the nightclub could impact nearby residences; proposed conditions prohibiting outdoor speakers and entertainment should mitigate this impact. The request does not introduce a new use in the neighborhood. The limited size of the site and building will prevent expansion beyond a neighborhood scale, and proposed conditions should mitigate impacts on surrounding properties.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial of the request would presumably be an economic hardship upon the property owner, as the applicant owns the property and desires to operate the proposed business within LC zoning.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the mature neighborhoods within an approximate three-mile radius of the downtown core. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "commercial" and adjacent to areas identified as "new employment." The UZC requires one parking space per two seats for nightclubs. The applicant indicates that the site has an occupancy of 118 people. The applicant's site plan demonstrates 35 parking spaces, 24 fewer than required. The applicant will require either a shared parking agreement or a combination of parking reduction through an adjustment or variance with a shared parking agreement to meet the UZC parking requirement.
6. Impact of the proposed development on community facilities: The proposed Conditional Use should not impact community facilities to any greater extent other uses permitted in the LC zoning district.

Site Plan

CONDITIONAL USE:

Tavern and Drinking Establishment and Entertainment Establishment

APPLICANT:

Homer Morgan, Trustee

AGENT:

Stephen M. Joseph

LEGAL DESCRIPTION:

Beg NW Cor Lot 1, Block A, E 140 Ft, S 140 Ft, W 140 Ft, N to Beg, Industrial Addition to Wichita

BUSINESS:

Cactus Cantina

ADDRESS:

2802 S. Hydraulic, Wichita

Legend

 2802 S. Hydraulic St.



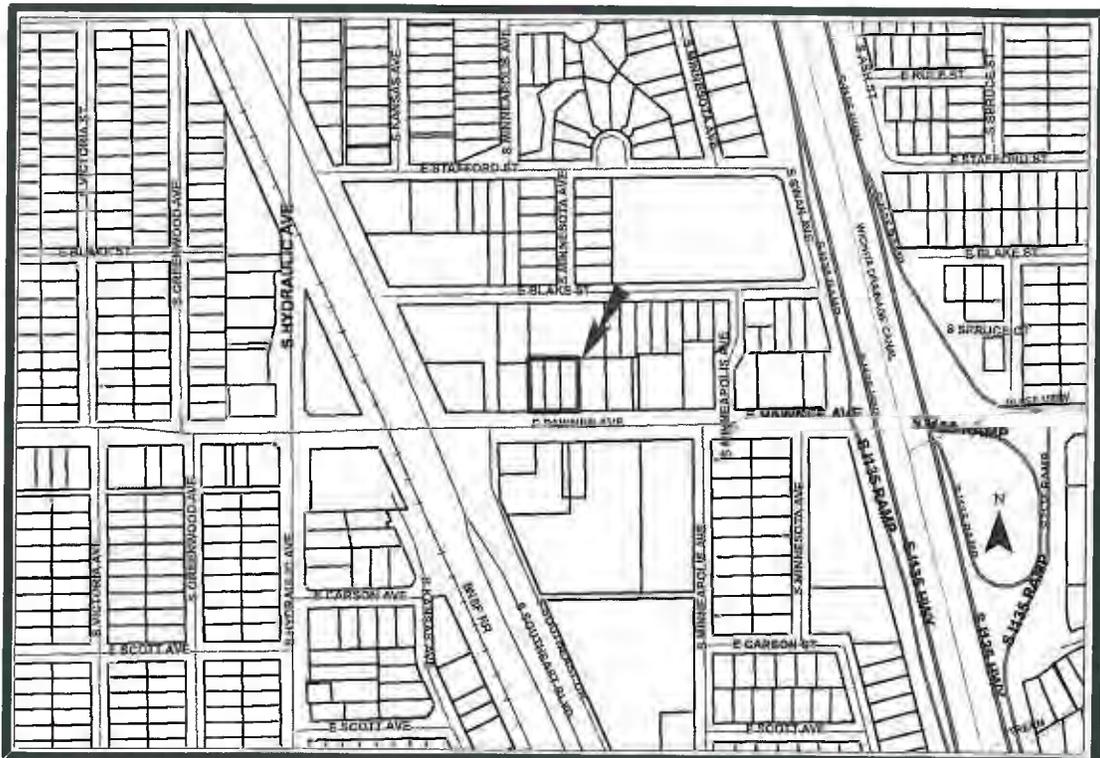
S Hydraulic St



STAFF REPORT

MAPC July 7, 2016
DAB III July 6, 2016

- CASE NUMBER:** CON2016-00025
- APPLICANT/AGENT:** Ast Investments, c/o Kelly Ast (applicant/owner) Stephen M. Joseph (agent)
- REQUEST:** Conditional Use to allow a night club
- CURRENT ZONING:** Limited Commercial (LC)
- SITE SIZE:** Approximately 0.20-acres
- LOCATION:** Generally located east of Southeast Boulevard/K-15, on the north side of Pawnee Avenue (WCC #III)
- PROPOSED USE:** Allow unlimited alcohol sales and entertainment



BACKGROUND: The LC Limited Commercial zoned site is located east of South Southeast Boulevard/Kansas Highway K-15 on the north side of East Pawnee Avenue. Currently the west portion of a 3,960-square foot one-story commercial strip building (built 1955) advertises itself as Whisky Jacks. When a LC zoned tavern, drinking establishment or nightclub is located within 300 feet of a church or place of worship, public park, public or parochial school or residential zoning district, approval of a Conditional Use is required; Unified Zoning Code (UZC), Sec.III-D6.w. TF-3 Two-Family Residential and SF-5 Single-Family Residential (SF-5) zoned properties abut the north side of the site. There is no history of a Use Exception or Conditional Use for a tavern, drinking establishment or nightclub on this site. However the applicant has stated that the site has been either a tavern, drinking establishment or nightclub most of its time (from 1955 to the present), with the longest tenured being called the Golden Knight. The site currently does not have a liquor or entertainment license and is vacant. The applicant is applying for a Conditional Use for a nightclub to get the site in conformance with the UZC and to obtain a liquor and entertainment license.

The applicant's site plan is an aerial. The aerial does not show marked parking spaces, but a trip to the site showed maybe 23 barely discernable parking spaces; 10 parking spaces on the north and south sides of the site and three parking spaces on the east side of the site. The proposed nightclub shares the 3,960-square foot one-story commercial strip building with a Chinese restaurant. The occupancy rate of the nightclub may be 84 and the occupancy rate for the restaurant may be 40; the applicant will confirm these occupancy rates. Based on these tentative occupancy rates the total parking required for the nightclub is 42 parking spaces (one space per two occupants) and 14 parking spaces (one space per three occupants) for the restaurant for a total of 56 parking spaces, which is 31 parking short of the required parking for this site. The applicant will need to apply for either a variance, an off-street parking agreement or a combination of the two to meet the UZC's parking standards. The UZC requires off-street parking space to be located no more than 600 feet from the building or use it is intended to serve, measured along the shortest legal, practical walking route. The aerial does not show the wooden fence that separates the site from the north abutting TF-3 and SF-5 zoned single-family residences. The staff's trip to the site showed no screening of the dumpster(s), which were placed up against the north side of the site. The UZC requires dumpsters and refuse receptacles to be located a minimum of 20 feet from any property zoned TF-3 or more restrictive and it requires solid screening around dumpsters. The site is completely paved over with no opportunity for landscaping. There are no on -ground parking stops or a rail barrier to prevent cars parked on the south side of the site, along Pawnee Avenue, from overlapping into the right-of-way where the sidewalk would continue from the abutting east and west properties.

LC zoned businesses are located along this relatively short portion of Pawnee Avenue between South Southeast Boulevard (west side) and the I-135 interchange (east side). The LC zoned business include a Burger King (built 1996) and Spangles (built 1986) fast food restaurants, a Mexican restaurant (built 1956), a Chinese restaurant, a commercial box partially occupied by a Doller General retail store (formerly Howards Grocery and then Checkers Grocery, built 1968), Big Bob's flooring outlet (built 1956) a self-serve laundry service (built 1957), pay day loan (built 1999), a liquor store (built 1967), and a car wash(built 1966). Two SF-5 zoned single-family residences (built 1930s) are located east of the site along Pawnee Avenue. A TF-3 and

SF-5 zoned single-family residences (built mostly mid-1950s, part of a SF-5 single-family residential neighborhood) abut the north side of the site. The nearest nightclub or drinking establishment is located approximately a quarter-mile west of the site at 1507 and 1527 East Pawnee Avenue. A Conditional Use, CON2016-00030, is scheduled later this year for 1507 and 1527 East Pawnee Avenue.

CASE HISTORY: The site is located on Lots 28, 29 and 30 together with the half vacated alleys adjacent on the north and east, Block B, Bomhoff Addition, which was recorded with the Register of Deeds January 23, 1953. Oral history of the site indicates the site has been a drinking establishment or a nightclub off and on since the late 1950s with the longest tenured being called the Golden Knight. The site currently does not have a liquor or entertainment license and is vacant.

ADJACENT ZONING AND LAND USE:

| | |
|------------------------|---|
| NORTH: LC, TF-3, SF-5 | Flooring outlet store, self-serve laundry service, single-family residences |
| SOUTH: LC, MF-29, SF-5 | Fast food restaurant, retail box, single-family residences |
| EAST: LC, SF-5 | Restaurant, fast food restaurant, pay day loan, liquor store, car wash, single-family residence |
| WEST: LC | Self-serve laundry service, fast food restaurant, K-15 highway |

PUBLIC SERVICES: The site has access off the paved four-lane, with a center turn lane, arterial Pawnee Avenue. Pawnee Avenue intersects with the major arterial Southeast Boulevard/K-15 highway located approximately 270 feet west of the site and the I-135 interchange located approximately 850 feet east of the site. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The “Community Investment Plan’s” (Plan, adopted November 19, 2015) shows the site located within the “Established Central Area.” This 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. The established central area encourages a mixed-use development area with a focus on office, retail, hospitality, government services, high-density residential, and entertainment, cultural, and civic facilities and activities. A nightclub is an entertainment facility.

The “Community Investment Plan’s 2035 Wichita Future Growth Map” depicts the site as “commercial.” The commercial designation encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. Convenience retail, restaurants, small offices, and personal service uses are located in close proximity to, and potentially mixed with, residential uses. A nightclub is an appropriate use of the commercial designation.

Locational criteria for commercial development include three key elements: development pattern, land use compatibility, and design. The development pattern in the area is small LC zoned businesses located along this relatively short portion of Pawnee Avenue between South Southeast

Boulevard (west side) and the I-135 interchange (east side). The proposed nightclub is small enough to be considered a local business that will generate less traffic than the area's two fast food restaurants. SF-5 zoned single-family residences abut the north side of the site, thus the Conditional Use request. There are no less intrusive businesses or higher density residential uses located between the proposed nightclub and those closest single-family residences. This proximity could be a potential source of nuisance for the residential zoned properties. The site and the north abutting single-family residential neighborhood do not abut a common street, which lessens the possibility that the customers of the proposed nightclub will be parking in the abutting single-family residential neighborhood. There is no screening of the dumpster(s), which were placed up against the north side of the site. The UZC requires dumpsters and refuse receptacles to be located a minimum of 20 feet from any property zoned TF-3 or more restrictive and it requires solid screening around dumpsters. The site is completely paved over with no opportunity for landscaping. There are no on-ground parking stops or a rail barrier to prevent cars parked on the south side of the site, along Pawnee Avenue, from overlapping into the right-of-way where the sidewalk would continue from the abutting east and west properties.

RECOMMENDATION: If approved the request would re-establish a drinking establishment – nightclub on the site. Typically in the older neighborhoods, parking is a critical consideration for recommending approval as is the proximity of a church or place of worship, public park, public or parochial school or residential zoning district. The site does not have the required parking spaces. The applicant will need to apply for either a variance, off-street parking agreements or a combination of the two to meet the UZC's parking standards. It is unknown how the site's past history as a drinking establishment or nightclub will affect the neighbors' opinion of the current application. Based upon the information available prior to the public hearings, planning staff recommends that the request for a Conditional Use for a nightclub be **APPROVED**, with the following conditions:

- (1) The site shall be developed with an approved revised site plan, showing, but not limited to, the required parking spaces, locating dumpsters 20 feet from the north abutting SF-5 zoned properties, solid screening with a solid screening gate around the dumpsters, the solid wooden fence, and a rail to prevent cars parked on the south side of the site, along Pawnee Avenue, from overlapping into the right-of-way. No outdoor seating, outdoor speakers or outdoor entertainment is permitted. The site plan must be submitted for review within 60-days of approval by the appropriate governing body.
- (2) The use of the site as a nightclub shall not be permitted until the applicant confirms the occupancy rates of the nightclub and the restaurant.
- (3) The use of the site as a nightclub shall not be permitted until the applicant provides written agreements for 31 off-site or shared parking, a variance is approved or a combination of the two. The amount of needed off-site parking is subject to change based on the confirmation of the occupancy rates of the nightclub and the restaurant.
- (4) The use of the site as a nightclub shall not be permitted until the parking lot is restriped and a metal rail is installed along the site's Pawnee Avenue frontage.
- (5) The use of the site as a nightclub shall not be permitted until dumpsters are located 20 feet from the north abutting SF-5 zoned properties and solid screening (as defined in the UZC) with solid screening gates are installed around the dumpsters.
- (6) The applicant shall obtain all required state, local and other applicable permits and

inspections.

- (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 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:** LC zoned businesses are located along this relatively short portion of Pawnee Avenue between South Southeast Boulevard (west side) and the I-135 interchange (east side). The LC zoned business include a Burger King (built 1996) and Spangles (built 1986) fast food restaurants, a Mexican restaurant (built 1956), a Chinese restaurant, a commercial box partially occupied by a Doller General retail store (formerly Howards Grocery and then Checkers Grocery, built 1968), Big Bob's flooring outlet (built 1956) a self-serve laundry service (built 1957), pay day loan (built 1999), a liquor store (built 1967), and a car wash(built 1966). Two SF-5 zoned single-family residences (built 1930s) are located east of the site along Pawnee Avenue. A TF-3 and SF-5 zoned single-family residences (built mostly mid-1950s, part of a SF-5 single-family residential neighborhood) abut the north side of the site. The nearest nightclub or drinking establishment is located approximately a quarter-mile west of the site at 1507 and 1527 East Pawnee Avenue.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned the LC, which is meant to accommodate retail, commercial, office and other complementary uses. If approved the request would re-establish a drinking establishment – nightclub on the site.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** SF-5 zoned single-family residences abut the north side of the site, thus the Conditional Use request. There are no less intrusive businesses or higher density residential uses located between the proposed nightclub and those closest single-family residences. This proximity could be a potential source of nuisance for the residential zoned properties. Typical concerns about tavern/drinking establishment/nightclub include bad behavior resulting from unlimited liquor sales, the noise from music and dancing, and the hours of the nightclub having a detrimental impact on the residential neighborhood.
- (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) shows the site located within the "Established Central Area." This 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. The established central area encourages a mixed-use development area with a focus on office, retail, hospitality, government services, high-density residential, and entertainment, cultural, and civic facilities and activities. A nightclub is

an entertainment facility.

The “Community Investment Plan’s 2035 Wichita Future Growth Map” depicts the site as “commercial.” The commercial designation encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. Convenience retail, restaurants, small offices, and personal service uses are located in close proximity to, and potentially mixed with, residential uses. A nightclub is an appropriate use of the commercial designation.

Locational criteria for commercial development include three key elements: development pattern, land use compatibility, and design. The development pattern in the area is small LC zoned businesses located along this relatively short portion of Pawnee Avenue between South Southeast Boulevard (west side) and the I-135 interchange (east side). The proposed nightclub is small enough to be considered a local business that will generate less traffic than the area’s two fast food restaurants. SF-5 zoned single-family residences abut the north side of the site, thus the Conditional Use request. There are no less intrusive businesses or higher density residential uses located between the proposed nightclub and those closest single-family residences. This proximity could be a potential source of nuisance for the residential zoned properties. There is no vehicular or pedestrian access from the site to the north abutting single-family residential neighborhood, which lessens the possibility that the customers of the proposed nightclub will be parking in the abutting single-family residential neighborhood. There is no screening of the dumpster(s), which were placed up against the north side of the site. The UZC requires dumpsters and refuse receptacles to be located a minimum of 20 feet from any property zoned TF-3 or more restrictive and it requires solid screening around dumpsters. The site is completely paved over with no opportunity for landscaping. There are no on ground parking stops or a rail barrier to prevent cars parked on the south side of the site, along Pawnee Avenue, from overlapping into the right-of-way where the sidewalk would continue from the abutting east and west properties.

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

SITE PLAN

CONDITIONAL USE:

Tavern and Drinking Establishment and Entertainment Establishment

APPLICANT:

Ast Investments, LLC

AGENT:

Stephen M. Joseph

LEGAL DESCRIPTION:

Lot 28, and one half vacated alley on the east and north; abd Kits 29 and 30, and one half vacated alley on the north, Block B, Bomhoff Addition to Wichita

ADDRESS:

1916 E. Pawnee

BUSINESS:

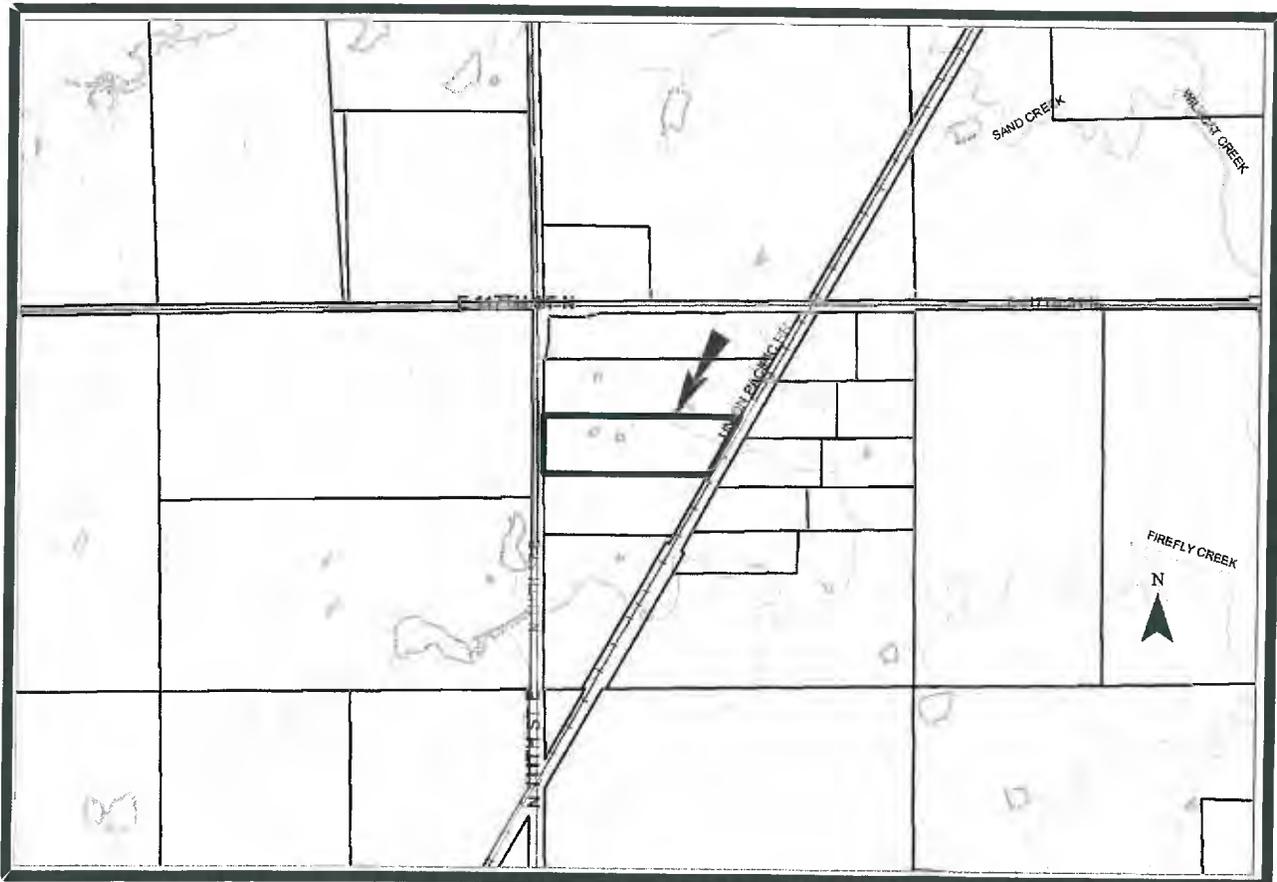
The Golden Knight





STAFF REPORT
MAPC July 7, 2016

-
- CASE NUMBER:** CON2016-00027
- APPLICANT/OWNER:** Edward and Nancy Robinson, owners
- REQUEST:** Conditional Use request for an accessory apartment
- CURRENT ZONING:** RR Rural Residential
- SITE SIZE:** Approximately 11.8 acres
- LOCATION:** Generally located south of East 117th Street North on the east side of North Greenwich Road
- PROPOSED USE:** Second residence on the property



BACKGROUND: The applicant is requesting a Conditional Use for an accessory apartment to be built on the subject property. The unplatted property is zoned RR Rural Residential and is approximately 11.8 acres. It is currently developed with a single-family residence, post frame building, garden tool shed/kennel, fish pond water feature and a lagoon for the septic. The subject site is located the east side of Greenwich Road, south of East 117th Street North. The Sedgwick County site is not located within any Zoning Area of Influence.

The Wichita-Sedgwick County Unified Zoning Code (“UZC”) defines an “accessory apartment” (Art. II. Sec. II-B.1.b) as a dwelling unit that may be wholly within, or may be detached from a principal single-family dwelling unit. Accessory apartments are also subject to supplementary use regulation Art. III.Sec.III-D.6.a (1) a maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling unit that may be within the main building, within an accessory building or constructed as an accessory apartment; (2) the appearance of an accessory apartment shall be compatible with the main dwelling unit and with the character of the neighborhood; (3) the accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling unit, and the ownership shall not be divided or sold as a condominium and (4) the water and sewer service provided to the accessory apartment shall not be provided as separate service from the main dwelling. Electric, gas, telephone and cable television utility service may be provided as separate utility services.

The surrounding properties to the north, south, east and west are large tracts zoned RR. The uses include single-family residences, agriculture fields and farming/ranch operations with improvements.

The applicant submitted an existing site plan showing the location of existing structures and the 50-foot X 50-foot lagoon. The applicant also submitted a proposed site plan which identifies the location of the new 30-foot X 48-foot residential designed manufactured home and new 28-foot X 33-foot detached two-car garage.

CASE HISTORY: The subject property is an unplatted large lot.

ADJACENT ZONING AND LAND USE:

| | |
|-----------|--|
| NORTH: RR | Large tract, Single-family residences with associated buildings |
| SOUTH: RR | Large tract, Single-family residences with associated buildings |
| WEST: RR | Single-family residence, agricultural fields and associated buildings |
| EAST: RR | Large tract, agricultural fields with residential and associated buildings |

PUBLIC SERVICES: The subject site has access to North Greenwich Road which is an arterial paved street. The property is served by a lagoon for sewage and is located in Sedgwick County Rural Water District #01.

CONFORMANCE TO PLANS/POLICIES: The “2035 Community Investments Plan” (Plan) identifies the subject site as being in the Rural Area. This category encompasses land outside the 2035 urban growth areas for Wichita and the small cities. Agricultural uses, rural-based businesses, and larger lot residential exurban subdivisions likely will be developed in this area. Such development should occur in accordance with the *Urban Fringe Development Standards for Wichita and Sedgwick County*. This category identifies Wichita’s urban fringe

areas that are presently undeveloped but have the potential to be developed by the year 2035, based upon Wichita population growth projections and current market trends. Determination of growth direction and amount is based upon municipal political considerations, anticipated municipal population growth, efficient patterns of municipal growth, current infrastructure limitations, cost effective delivery of future municipal services and environmental factors.

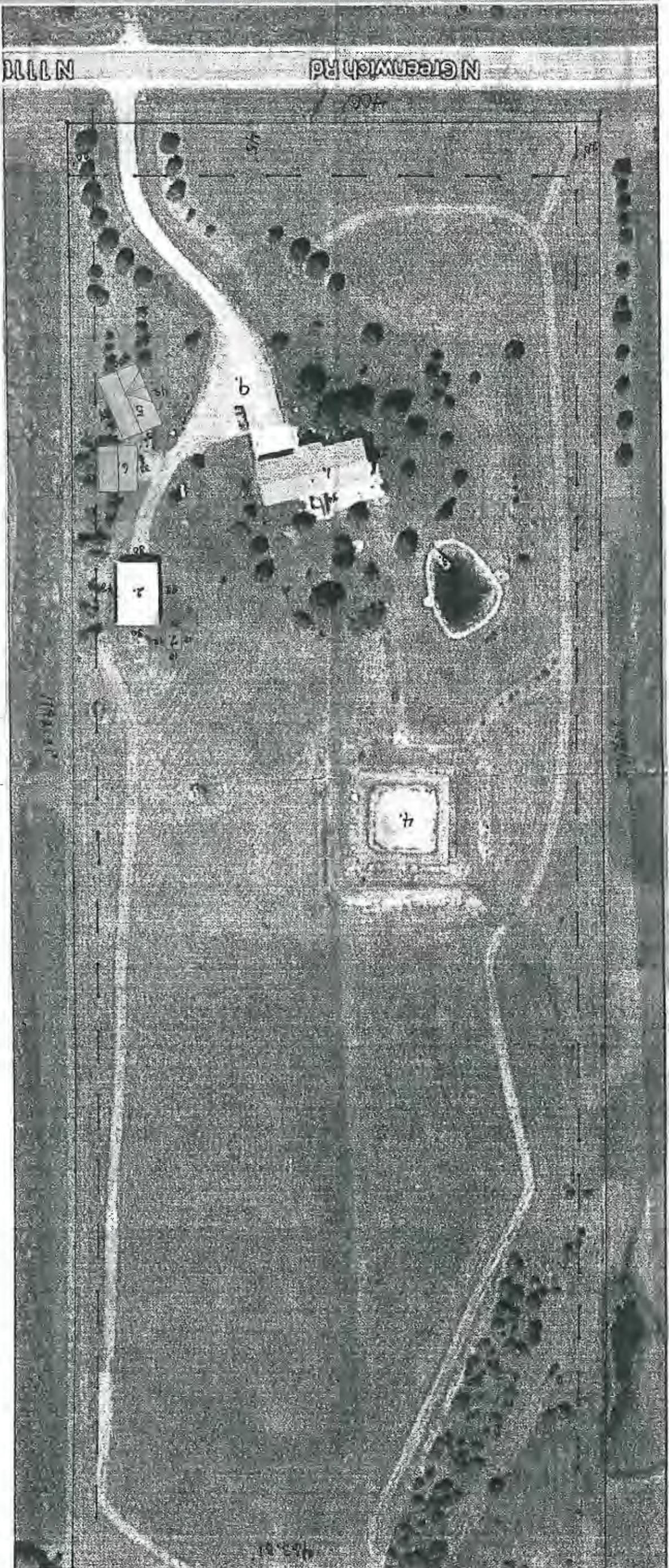
RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**, with the following conditions:

- (1) The accessory apartment (residential designed manufactured home) and detached garage shall remain accessory to and under the same ownership as the principal single-family residence (located at 11646 N. Greenwich Road) and the ownership shall not be divided or sold as a condominium. The appearance of the accessory structure shall be compatible with the main dwelling.
- (2) The water and sewer service provided to the accessory apartment shall not be provided as separate services from the main dwelling. Electric, gas, telephone and cable television utility service may be provided as separate utility services. The applicant shall have the MABCD review the status of the existing lagoon.
- (3) The applicant shall obtain all applicable permits including, but not limited to: building, health and zoning. This will include turning in plans for review and approval by the MABCD for the placing of the accessory apartment.
- (4) Development and maintenance of the site shall be in conformance with the approved site plan.
- (5) If the accessory apartment is not in place within 12 months after final approval, or 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 subject site is located in Sedgwick County in an RR zoned area with lots ranging from +/- 5 acres to 80 acres. Development is a mix of large lot single-family residential and farming/ranching operations.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The subject site is currently zoned RR which permits the existing single-family residence. The property could continue to be used for one single-family residence; the depth of the property easily accommodates an accessory apartment and the detached garage and additional required parking space. The neighbor at 11501 E. 117th Street has e-mailed his objection to allowing a "double-wide" to be placed on the property. Residential designed manufactured homes are allowed in RR zoning districts.

- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** This appears to be the first request for an accessory apartment in this neighborhood. Approval of the request should not detrimentally impact nearby properties. The conditions of approval should minimize any anticipated detrimental impacts.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2035 Community Investments Plan” (Plan) identifies the subject site as being in the Rural Area. This category encompasses land outside the 2035 urban growth areas for Wichita and the small cities. Agricultural uses, rural-based businesses, and larger lot residential exurban subdivisions likely will be developed in this area. Such development should occur in accordance with the *Urban Fringe Development Standards for Wichita and Sedgwick County*. This category identifies Wichita’s urban fringe areas that are presently undeveloped but have the potential to be developed by the year 2035, based upon Wichita population growth projections and current market trends. Determination of growth direction and amount is based upon municipal political considerations, anticipated municipal population growth, efficient patterns of municipal growth, current infrastructure limitations, cost effective delivery of future municipal services and environmental factors.
- (5) **Impact of the proposed development on community facilities:** Community facilities are the public streets in the area, police and fire services, none of which will be noticeably impacted by another residence being built on the site. There is no public water or sewer service available to the unplatted area.



TITLE: CONDITIONAL USE FOR ACCESSORY APARTMENT -
FOR RETIRED PARENTS TO LIVE IN.

APPLICANT NAME: EDWARD G. AND NANCY ROBINSON,
11646 N. GREENWICH ROAD, VALLEY CENTER, KANSAS 67147
11.8 ACRES

LEGAL DESCRIPTION: BEGIN 770.52' S OF THE NW COR OF
THE NW/4; TH E 1424.20' TO THE WLY RM LINE OF THE OK
& TRR; TH SW 463.31'; TH W 1192.31' TO THE W LINE; TH N
400' TO BEG EXC ROAD ON W 10-25-2E.

KEY

1. PRIMARY RESIDENCE 28' X 80'
2. POST FRAME BUILDING 30' X 48'
3. WATER FEATURE (FISH POND)
4. LAGOON
5. ACCESSORY APARTMENT/MANUFACTURED HOME
30' X 48'
6. GARAGE FOR ACCESSORY APARTMENT 33' X 28'
(TO BE RELOCATED)
7. GARDEN TOOL SHED & DOG KENNEL ON SMALL MAP
(TO BE RELOCATED)
8. TREES TO BE REMOVED ON SMALL MAP
9. DRIVEWAY & PARKING

From: Nomad1958 <nomad1958@gmail.com>
Sent: Tuesday, June 21, 2016 1:02 PM
To: Crockett, Maryann
Subject: CON2016-00027

Conditional Use permit.

My name is Kenneth Ozbun

My address is 11501 E. 117th St. North Valley Center Kansas 67147 Location of my property & home are at the S/E corner of Greenwich & 117th St. North. About 300 ft from this location.

I have an issue with this permit being issued.

#1 Not all info was disclosed in the notice from the commission such as what type of structures & one structure was omitted altogether.

#2 It is my understanding that the land owner is wanting to place a Double wide & a garage on his property. I have no issue with the garage but do have an issue with a trailer of any size due to the fact that this area is made up of single family homes on 15 to 5 ac. lots & all are kept up very nicely.

#3 I also understand that there is a limit of 1000 ft from this location to be eligible to file a protest & I would like to make it clear to the commission that There are only 7 homes that fall into this category due to the size & layout of these property's. At this time I have talked to 2 of them & we all have issues with the trailer.

Thank you for your time. Kenneth Ozbun

BACKGROUND: The applicants are requesting Conditional Use approval to amend the RR Rural Residential zoned site of Conditional Use CU-509. CU-509 permitted “mining and quarrying,” specifically the extraction of salt water from 454-acres of RR zoned tracts for 30-years with eight conditions; see attached Metropolitan Area Planning Commission (MAPC) Resolution, approved March 11, 1999. If approved the request would enlarge CU-509 to include another 480-acres of RR zoned land and to amend/modify the eight conditions. The Wichita-Sedgwick County Unified Zoning Code (UZC) permits mining and quarrying in the RR zoning district with Conditional Use approval.

The applicant’s color Exhibit B-1 (site plan) shows the two original tracts; the 288-acre Tract 1 (green tract) and the 166-acre Tract 2 (yellow tract). Both tracts are located north of 111th Street South and east of 215th Street West. Both sites generally abut the south side of the Ninnescah River, following the river northeast past 103rd Street South and within 650 feet of 183rd Street West. There is a gap between Tract 1 and Tract 2, which the applicants propose to fill with the additional 160-acre Tract 3 (red tract located between the green and yellow tracts). 215th Street West divides Sedgwick County into the Board of County Commissioner’s Districts (BoCC) 2 and 3. Properties located east of 215th Street West, such as Tracts 1, 2 and 3, are in BoCC 2. Properties located west of 215th Street West, such as Tract 4 (red tract by itself), are in BoCC 3. The proposed additional 320-acre Tract 4 is located approximately three-quarters of mile west of 215th Street West, on both the east and west sides of Kansas Highway K-42 and 239th Street West and north of 103rd Street South.

A summary of the proposed amendments (Exhibit B, pages 3-5) to the eight conditions of CU-509 are:

1. Has additional language stating that that the site will be developed in accordance with the rules, guidelines and regulations of the Kansas Department of Health and Environment (KDHE), but that the specific location of the lines and wells are subject to possible changes as development circumstances warrant.
2. Remains the same with the exception of allowing on-site wells to be no closer than 200 feet from adjoining properties if that property is not included as part of the Conditional Use and/or under ownership or lease by the applicants as prescribed by the rules, guidelines and regulations of KDHE.
3. Removes the restriction of having certain times and days for drilling and construction activities during the development phase of the sites. The applicants claim that since 1999 there has been new and approved drilling equipment, development methods and technology advances that have greatly reduced the noise generated from the equipment and eliminated the need for work hour and work day restrictions. The applicants goes on to elaborate those improvements in Exhibit B, pages 3, 4, 6, 7, 11, and 12
4. Remains the same.
5. Specifies that the noise emitted by equipment permanently installed on the site after drilling and development activities are completed shall not be audible beyond the property lines of the application area, except for those circumstances when occasional maintenance is required by KDHE; testing of wells is mandated.
6. Moves the start of the 30-year operational time from 1999 (ending in 2029) to the approval of CON2016-00028 by the MAPC or the BoCC (ending in 2046).
7. Is no longer needed as the applicant has stated that the public street right-of-way dedications have been completed.
8. Has additional language in regards to what would render the Conditional Use null and void.

The method of extraction in 1999 was hydro fracturing but is now done by mechanically drilling using coiled tubing and directionally guided horizontal drilling techniques. All extraction is limited to the applicants’ properties and will not cross over into adjoining properties, staying no closer than 200 feet from the adjoining properties that are not in the application. No waste water is generated. The sites will

not require an on-site sewer system. The pumping operations will be housed in 16-foot by 12-foot well houses that will be painted in earth tone colors. Each well house will have a process control system (PCS) computer that monitors, regulates and controls the operation. All of the PCS will be connected to a central control room located off of 95th Street South and 183rd Street West. In addition the operations will be checked daily by the applicants moving from well to well in a pickup truck. The extracted salt water is sent by underground pipeline, including a pipeline underneath the Ninnescha River, to the Occidental Chemical Chlor-alkali plant located approximately nine-miles northeast of the site at 6200 South Ridge Road. The pipeline underneath the Ninnescha River was installed late 2000 or early 2001, approximately 18 feet below the riverbed. The applicants have stated that prior to the pipeline being installed Occidental contacted various agencies including the Corp of Engineers, KDHE, Underground Injection Control, the Kansas Corporation Commission and the Kansas Division of Water Resources.

KDHE does not have regulations for the pipelines that carry the brine, but does consider these lines in their overall review of the operation of the facility. KDHE has stated that the brine at this facility is not particularly corrosive and the piping is of good quality steel, which makes leaks on these line a very low risk. All brine is corrosive in the presence of oxygen. However, the applicants have stated that the pipelines do not have corrosion because of two specific reasons: the brine's purity or lack of contaminants in the Occidental brine field, and; and, the pipeline is kept completely full of brine to exclude the presence of any oxygen. As previously noted solution mining operation, which includes the pipelines, is PCS monitored for flow rate and pressure. As previously noted daily field checks are also conducted by Occidental.

This portion of unincorporated, rural RR zoned Sedgwick County is located over a southwest portion of the geological feature known as the Wellington Formation, which extends over parts of McPherson, Harvey, and Sedgwick Counties. There are large deposits of salt in the Wellington Formation, which is currently being extracted by the applicants. One of the applicants, Occidental Chemical, has been extracting salt water from this area since 1962. There are currently 10 operating salt water extraction facilities located in the area. The area is developed primarily as agricultural fields with scattered farmsteads and a few large tract single-family residences. The Ninnescah River and its drainage tributaries impact a large portion of this area as evidence by most of the west site/tract being in the FEMA 100-year Floodplain and at least half of the east site/tracts also being located in the FEMA 100-year Floodplain.

CASE HISTORY: Conditional Use CU-509 permitted "mining and quarrying," specifically the extraction of salt water from 454-acres of RR zoned tracts for 30-years with eight conditions; MAPC Resolution, approved March 11, 1999. The 454-acres are located north of 111th Street South and east of 215th Street West. Both sites generally abut the south side of the Ninnescah River, following the river northeast past 103rd Street South and within 650 feet of 183rd Street West. CON2012-00038 adjusted CU-509's site plan to allow a cluster of wells as well as an in-line layout of wells. There has been no recorded violations reported to the Metropolitan Area Building and Construction Department (MABCD).

ADJACENT ZONING AND LAND USE:

- North: RR Ninnescah River, agricultural fields, scattered farmsteads
- South: RR Ninnescah River agricultural fields, scattered farmsteads
- East: RR Ninnescah River agricultural fields, large tract single-family residences, scattered farmsteads
- West: RR Ninnescah River agricultural fields, large tract single-family residences

PUBLIC SERVICES: Parts of the sites are located in Rural Water District 5. There is no public sewer and the proposed operation will not require on-site sewer. Access to the sites are off of K-42, a paved

two-lane Kansas highway or 111th Street South, a paved two-lane County highway. Access is also provided by the unpaved section line roads 199th Street West, 215th Street West, 239th Street West and 103rd Street South.

CONFORMANCE TO PLANS/POLICIES: The “2035 Urban Growth Concept Map” of the Comprehensive Plan identifies the general location as “rural.” The rural category encompasses land outside the 2035 urban growth areas for Wichita and the small cities. Agricultural uses, rural-based businesses, and larger lot residential exurban subdivisions likely will be developed in this area. Commercial/industrial development should be limited to the following: agricultural-oriented uses; rural home occupations; natural resource dependent; convenience services; highway-oriented services at interchange areas; or uses that need significant buffering from residential areas (to mitigate nuisance or hazard impacts).

The Plan discourages encroachment of land uses such as residential and recreation that would be negatively impacted by noise, dust, odor, light, and other impacts of agricultural operations into primarily agricultural areas outside the 2035 Urban Growth Areas. Industrial and commercial uses located in rural areas should be separate and distinct from lower-intensity lands uses and should provide appropriate screening and buffering to ensure compatibility among land uses.

RECOMMENDATION: Based upon the information available at the time the staff report was prepared it is recommended that the Conditional Use request for the extraction of salt water be APPROVED subject to the following conditions:

1. The extraction of salt water from the described 934-acre site shall be good for 30-years beginning the day of the final approval by the appropriate governing body. Upon the end of the permitted 30-years of the extraction of salt water from the site, the well houses and all equipment will be removed from site and it will be returned to its original state as agricultural fields along KDHE rules, guidelines, and regulations.
2. The site will be developed in accordance with the rules, guidelines and regulations of the Kansas Department of Health and Environment (KDHE) and other appropriate local, state and federal rules, guidelines and regulations. The site will be developed as indicated on the site plan, but that the specific location of the lines and wells are subject to possible changes as development circumstances warrant. All applicable local, state, and federal permits necessary for the extraction operation and for flood plain development shall be obtained and maintained.
3. On-site wells will be no closer than 200 feet from adjoining properties if that property is not included as part of the Conditional Use and/or under ownership or lease by the applicants as prescribed by the rules, guidelines and regulations of KDHE. On-site wells shall be either in line or in a cluster pattern as shown on the site plan.
4. The applicant shall obtain all required permits and inspections as required by Sedgwick County, the State of Kansas and any needed federal agency for the extraction of salt from the site.
5. Noise emitted by equipment permanently installed on the site after drilling and development activities are completed shall not be audible beyond the property lines of the application area, except for those circumstances when occasional maintenance is required by KDHE; testing of wells is mandated.
6. If operations have not begun within one year of approval, the Conditional Use shall be null and void.
7. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void. Upon the receipt of a complaint that is determined to be a violation of the conditions of approval, the applicant shall be notified of the complaint and have 72 hours to contact zoning enforcement to address the complaint. Failure to address the

validated complaint may lead to additional enforcement efforts.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: This portion of unincorporated, rural RR zoned Sedgwick County is located over a southwest portion of the geological feature known as the Wellington Formation, which extends over parts of McPherson, Harvey, and Sedgwick Counties. There are large deposits of salt in the Wellington Formation, which is currently being extracted by the applicants and sent by pipeline to the Occidental Chemical Chlor-alkali plant located approximately nine-miles northeast of the site at 6200 South Ridge Road. One of the applicants, Occidental Chemical, has been extracting salt water from this area since 1962. There are currently 10 operating salt water extraction facilities located in the area. The area is developed primarily as agricultural fields with scattered farmsteads and a few large tract single-family residences. The Ninnescah River and its drainage tributaries impact a large portion of this area as evidence by most of the west site/tract being in the FEMA 100-year Floodplain and at least half of the east site/tracts also being located in the FEMA 100-year Floodplain.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned RR. The RR zoning district accommodates agricultural uses, rural-based businesses, natural resource dependent uses, such as mining and quarrying and larger lot residential exurban subdivisions in areas where a full range of municipal facilities and services are not available and not likely to be available in the near future. The RR zoning district is generally compatible with the "rural" designation of the "2035 Urban Growth Concept Map" of the Comprehensive Plan.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The requested action permits an expansion of Conditional Use CU-509, the extraction of salt water. There have been no complaints filed with the MABCD or KDHE on CU-509, which would seem to indicate that the use has been integrated into this rural, unincorporated portion of southwest Sedgwick County. KDHE considers the applicant Occidental Chemical to be a careful and prudent operator.

There is a sinkhole is located in an old brine field located approximately a quarter-mile south of the Occidental Chemical brine field offices, southwest of the intersection of 183rd Street West and 95th Street South. This old field where the sinkhole is located was operated before the regulations for these wells came into effect in 1979 and by a company other than Occidental. The regulations in effect are designed to prevent sinkholes and no sinkholes have occurred for wells operated under the regulations. Impacts of a sinkhole are potential brine contamination of groundwater and soil and damage to any property within the impact area of the sinkhole.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2035 Urban Growth Concept Map" of the Comprehensive Plan identifies the general location as "rural." The rural category encompasses land outside the 2035 urban growth areas for Wichita and the small cities. Agricultural uses, rural-based businesses, and larger lot residential exurban subdivisions likely will be developed in this area. Commercial/industrial development should be limited to the following: agricultural-oriented uses; rural home occupations; natural resource dependent, such as mining and quarrying; convenience services; highway-oriented services at interchange areas; or uses that need significant buffering from residential areas (to mitigate nuisance or hazard impacts).

The Plan discourages encroachment of land uses such as residential and recreation that would be negatively impacted by noise, dust, odor, light, and other impacts of agricultural operations into primarily agricultural areas outside the 2035 Urban Growth Areas. Industrial and commercial uses located in rural areas should be separate and distinct from lower-intensity lands uses and should provide appropriate screening and buffering to ensure compatibility among land uses.

5. Impact of the proposed development on community facilities: Existing or required facilities are in place to address anticipated demands on community facilities.

EXHIBIT B-1

OCCIDENTAL CHEMICAL CORPORATION
EXISTING AND PROPOSED BRINE FIELD DEVELOPMENTS
Parts of Sections 23 & 24, Township 29 South, Range 3 West
And
Parts of Sections 20, 29, and 30, Township 29 South, Range 2 West

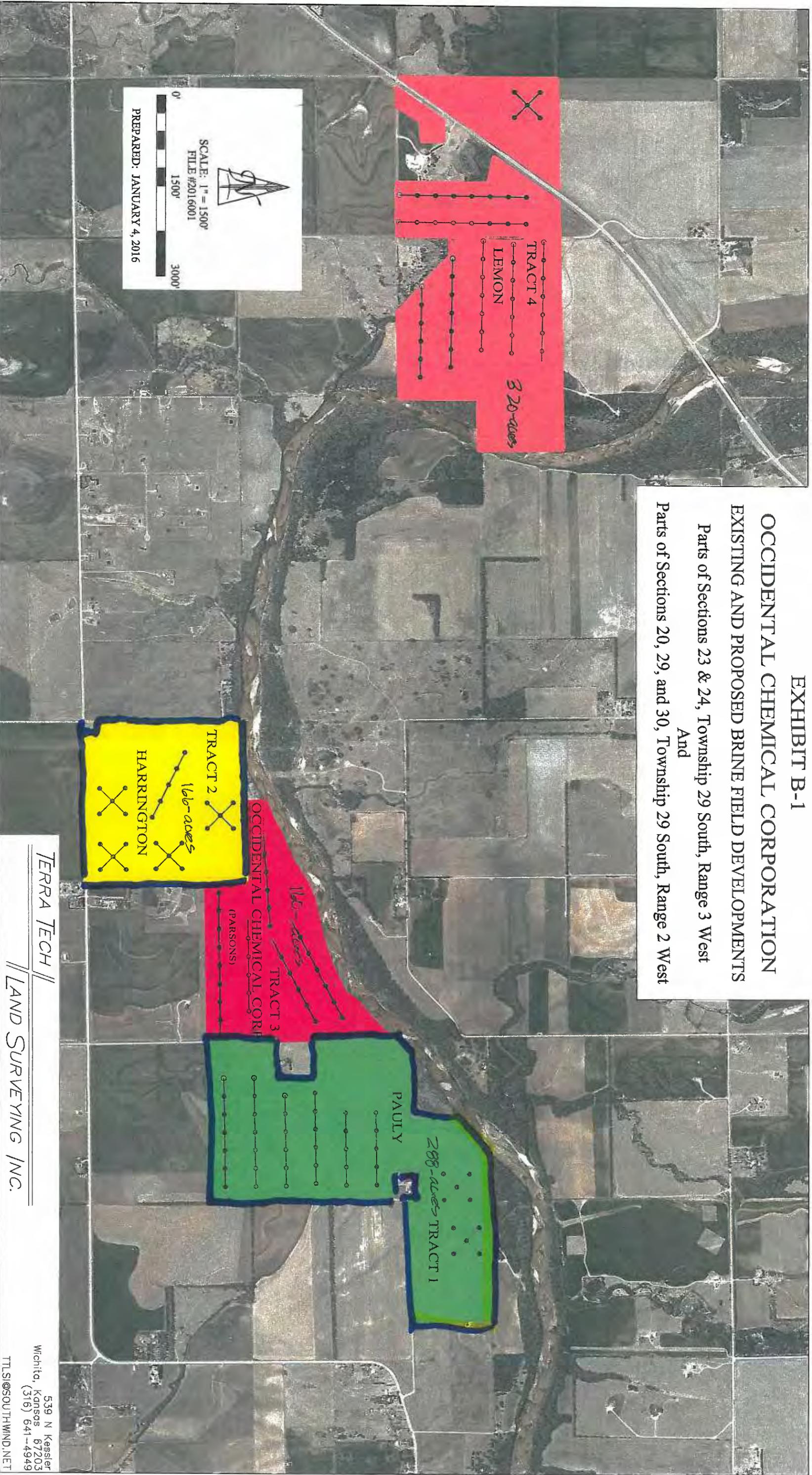


EXHIBIT B

SITE PLAN INDEX

Note: As to Exhibit B-1, the tracts shaded in green (Pauly) and yellow (Harrington) are currently approved for drilling activity in CU-509. The tracts shaded in red (Occidental Chemical Corporation) and (Lemon) were not submitted for approval in the original application in CU-509, but are the subject of this formal Amended Application of CU-509 seeking such approval and identified as Tracts 3 and 4 respectively.

The applicants also attach hereto as Exhibits B-2 through B-7 reflecting the following:

- B-2: Occidental Chemical Corporation Proposed Brine Field Developments for the Occidental Chemical Corporation and Lemon Tracts reflecting the proposed use of both the “5-spot” configuration and “in-line gallery” configuration.
- B-3: Occidental Chemical Corporation Existing Brine Field Developments for both the Pauly and Harrington Tracts.
- B-4: Occidental Chemical Corporation depicting in detail the Existing Pauly Brine Field Development.
- B-5: Occidental Chemical Corporation depicting in detail the Existing Harrington

Brine Field Development.

B-6: Occidental Chemical Corporation Proposed Occidental Chemical Corp. (Parsons) Brine Field Development using an “in-line gallery” configuration.

B-7: Occidental Chemical Corporation Proposed Lemon Brine Field Development using both the “5-spot” configuration and “in-line gallery” configuration.

The applicants seek to retain the option to use either the “5-spot” or “in-line gallery” or a combination of both configurations as to the undeveloped portion of both Tracts 1 and 2 and for Tracts 3 and 4. Regardless of which option is selected, all well spacing and drilling activity must first be permitted and approved by the Kansas Department of Health and Environment (“KDHE”).

I. Summary of Application

This conditional use application is submitted for the following purposes: (A) amending existing CU-509 adopted and approved on March 11, 1999, which applies only to Tracts 1 and 2 and (B) granting a conditional use permit to mine salt water as to Tracts 3 and 4.

A. Amending Current Conditions of Existing CU-509

Due to drilling, operational and development changes and technological advances which have occurred since the initial granting of CU-509, two of the applicants, the owners of Tracts 1 and 2, seek modification of the current conditions numbered 1 through 8 in CU-509 to read as follows:

1. The site shall be developed in accordance with the rules, guidelines and regulations of the Kansas Department of Health and Environment ("KDHE"). The attached site plans are intended to be as illustrative as possible, but the specific location of the laying of lines and wells are subject to possible changes as development circumstances warrant.
2. All wells on-site must be located no less than 200 feet from any adjoining property line unless that property is included as part of this permit and under ownership or lease by the applicant(s) as prescribed by KDHE rules, guidelines and regulations.
3. Request the removal of restrictions on the hours and days of operation. This request is based upon new and improved drilling equipment, development method changes

and technological advances that have taken place or come into service since the original CU-509 was issued in 1999. These changes and advancements have greatly reduced the noise generated from the equipment and eliminated the need for work hour and work day restrictions. The specific differences in the operations, in 1999 compared to present day operations, are described in paragraph C below. In general, the noisy, powerful, diesel engines associated with well development in the past have been replaced with newer quiet run diesels and higher technology equipment that allows us to horizontally drill the connections together in a matter of days instead of pumping fluids under pressure over weeks to make the well connections. The drilling and development work can now be performed without much audible noise carrying, for the most part, beyond the boundaries of the application area. Our drilling and development equipment is now below the noise levels generated by indigenous local farm equipment working in nearby fields. Additionally, the proposed development areas are all located in a very rural farm areas, surrounded for the most part by open agricultural fields with very sparsely located homes in the area. A good buffer zone (several hundred feet to ½ mile) exists between the homes that are present and the proposed development areas).

4. Remains as stated.
5. Noise emitted by equipment permanently installed on this site after drilling and development actions are completed, shall not be audible beyond the property lines of

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the application area, except for those circumstances when occasional maintenance is required or KDHE testing of existing wells is mandated.

6. Remains as stated except the "period not to exceed thirty years" shall be from the date of approval by the Wichita-Sedgwick County, Metropolitan Area Planning Commission or the Board of County Commissioners of this application.
7. No longer required as the specified dedication of additional right-of-way has been completed.
8. Subject to the normal county or state administrative review and compliance procedures applicable to the proposed operations, any violation of the condition of approval shall render the conditional use permit null and void.

B. Conditional Use Permit Application to Mine Salt Water as to Tracts 3 and 4

General Information

Occidental Chemical has operated a salt solution mining facility near Clearwater, Kansas since 1962. It is located in a very rural area and used to supply the necessary raw material, salt, to its Chlor-alkali production plant on Ridge Road near Southwest Wichita. In order to produce the necessary amount of salt to continually supply the plant over the long term it becomes necessary to replace depleted existing salt solution mining wells from time to time. There are

currently 10 operating brine series producing brine at the Clearwater location. Mining occurs and these current production wells are located on several different properties approx. 3 miles west of town. A conditional use permit has been obtained in the past to allow operation of these industrial solution mining wells in geographic areas that are predominately rural and farm oriented. After years of mining, the wells deplete and must be plugged. New wells must then be drilled and sites for these new wells located on new additional properties around the Clearwater area. We are currently applying to bring two additional properties into the existing "Conditional Use" permit. We currently operate solution mining operations on the Pauly and Harrington Properties as shown on the map (Exhibit B-1). We would like to bring in two additional properties for location of future solution mining wells. These are proposed to be located on the Occidental Chemical Property (Parsons) owned property and on another parcel of property owned by Lemon Family Farm, LLC, both as shown on the map (Exhibit B-1).

Construction

The beginning construction for a brine series involves laying out the location of the proposed wells and wellhouse by a licensed surveyor ensuring that all KDHE regulations governing well spacing from property lines, public roadways, public utilities etc. are complied with. We begin construction by submitting our stamped plans for the wellhouse to Sedgwick County Code Enforcement and applying for a building permit. Once approved, we construct a wellhouse (12ft x 16ft) that complies with all Sedgwick County Building & Electrical Codes. We use only licensed civil, mechanical, electrical contractors for this construction. This wellhouse building has a cement floor and is a 2x4 and 2x6 frame construction building with matching color metal roofing and painted wood siding. The paint the exteriors of all buildings

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constructed on this site using the Kansas Wildlife and Parks color palette of greys, light greens, tans and other earth tones to choose from to make these buildings blend as well as possible into their surroundings. The interior of this building will contain the control piping for mining the wells complete with flow meters, control valves and pressure transmitters on each of the five injection lines. This well house building will also house approx. \$150,000 worth of computers and in line instrumentation, for control of all fresh water and brine flows in and out of the production wells. A (PCS) or Process Control System computer is installed in the wellhouse that is used to regulate, monitor and control the fluid flows for the mining of the salt in the five production wells. This system is fully programmed and capable of running all the wells in this series of wells autonomously from the wellhouse, and is complete with automatic shutdowns for any operations outside normal parameters, but is also connected to the centralized control room for the entire brinefield by a spread spectrum radio transmission (works even during thunderstorms) for additional monitoring and control from there. Changes to mining flow rates can be monitored and/or made from either the local wellhouse or from the centralized control room. After wellhouse construction is well along or nearly complete, then we begin the drilling of 5 VERTICAL production wells approx. 500 ft. in depth, arranged along a tangent line 300 ft. apart from each other. At one end of the row of five production wells we will also drill a 175 ft. deep access well. This "access" well is temporary and will only be used during the development of the five production wells and once they come into brine production the access well is plugged with cement top to bottom. This vertical drilling activity is performed by a crew of three to four employees of a local drilling company using a typical rotary drill stem rig. The production wells are drilled in two parts. The first drilling operation includes drilling a "surface hole" with a 17 ½" bit to 150 ft. Then 13 3/8" steel well casing is put into this surface hole to bottom and

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cemented into place by circulation of cement between the casing and the surrounding ground. This casing and cementing is for initial assurance and protection of any groundwater in the area. Then this surface hole is re-entered with a 12 1/4" bit inside the 13 3/8" steel casing and drilled on down to 50 ft. below the bottom of the salt formation for that area. This will always be in the 500 ft. depth range. This hole is then cased with 8 5/8" steel well casing from bottom to top and cemented in by circulating cement between the 8 5/8" casing and the interior of the 13 3/8" surface casing. At the completion of the casing and cementing process, all the production wells are double cased and double cemented through the useable groundwater zones per KDHE regulations. This process of wellhouse and vertical well construction takes approximately 60 days.

Once the vertical drilling portion of the well construction is completed, then we log the recently constructed wells to locate the exact layers of salt and shale. We then perform a gamma log of the production well to identify all lithology of the surrounding formations up and down the entire length of the well. We then locate the exact depth of the bottom of the salt formation and perforate the 8 5/8" casing as close to the bottom of the salt formation (450 ft. depth) as possible. Casing is perforated over a vertical interval of 30". The logging and perforating process takes one day.

At that point, all our vertical drilling is completed and our horizontal directional driller arrives and locates over the "access well". The drilling operation now switches from rotary stem drilling to coiled tubing directional drilling. This is very modern high tech equipment with quiet run diesels and very little to no off site noise generation. We enter the "access well" with the directional guidance tool and a drill bit on the end of the coiled tubing and proceed to the bottom of the access well. At that point we begin drilling a curve toward the first in line of the vertical

④ - ② -

production wells and to cause this curve to proceed downward to a 450 ft. depth while at the same time curving over to intersect the first production well perforated section (300 feet away). While drilling this curve we are also laying the guided drilling tool over from vertical orientation to horizontal orientation as it goes deeper. We must be completely at 90 degrees horizontal when intersecting the vertical well at the perforations at a 450 ft. depth. The horizontal drill will then be in a complete horizontal position as it passes by the first production well. We then continue to drill horizontally past the first and on to the second, third, fourth and fifth production wells connecting the horizontal mechanically drilled hole with the bottom of the perforated casings on the vertical wells at the same time each at the bottom of salt depth. This gives us a fluid connection between all the wells. We then remove the horizontal directional drilling equipment and shut in the "access well". Then we pump fresh water down vertically through to the bottom of the first production well out through the perforations in the casing and through the horizontal connection (300 ft.) and over to the bottom of the casing perforations in the second vertical production well and then return the fresh water up out of the top of the second production well through underground piping back into the pump truck tanks. We continue this circulation process through each of the five wells to develop or open the horizontal drilled connection between each of the five vertical production wells to a point where efficient mining can begin to occur. This process usually takes 5-30 days. We just completed one in 5 days.

Operations

Once the flow capabilities of the galleries have been sufficiently developed, we switch the system over to operation by the locally installed computerized control system and into our

own underground steel fresh water supply and brine collection headers. Through a series of control valves, flow meters and pressure transmitters each of the five fresh water injection lines control the proper amount of fresh water allowed to enter each of the four production wells and then use one of the production wells as the brine withdrawal well. The injected fresh water enters each of the four production wells and travels downward into the horizontal drilled connecting well and over through the salt formation to the brine withdrawal well. A submersible pump is installed in the withdrawal well and the produced solution of salt, now brine, is pumped up to the surface and piped through underground piping back to the wellhouse. There the brine goes through control piping in the wellhouse containing a flow meter which indicates flow to the PCS system which controls the speed of the submersible pump and therefore the flow rate of the brine being removed and pumped to the plant. This mining operation at this point is very quiet and no noise whatsoever is audible outside the wellhouse. This wellhouse will operate in this fashion for another 10-15 years until the salt section around the five production wells are mined to within KDHE standards.

During the entire production lifetime for the five production wells, they are monitored and controlled for pressure and flow continuously by the computer system and physically by an operator coming around daily to each well and taking readings from the wells for flow and pressure and observing the general operations and conditions surrounding the wells and equipment to ensure there are no leaks, drips, or other problems. Additionally, we are required by the KDHE to meet the KDHE ongoing monitoring requirements for these wells. This mandates a gamma log be ran on each of the wells every two years to ensure proper development of the height of the cavern being mined. Also, we must conduct a sonar survey (3 dimensional

view) of the developing cavern at every 20% of production of the useful life of the well. An MIT (Mechanical Integrity Test) of the well piping must be conducted and witnessed by the KDHE every 5 years to ensure all piping is in good shape and that there are no leaks above or below ground. Samples are also taken of the mined salt every month and ran by our laboratory to look at salt percentage and other possible elements to ensure the salt is of the quality required.

Once a series of wells has produced the allowable quantity of salt from that area (as detected by the results of the gamma and sonar testing) that series of wells is taken out of service and application is made to KDHE to plug this series of wells. A plugging plan is submitted to KDHE and upon their approval the wells are plugged with cement, usually with KDHE witness present, to meet the KDHE standards for proper plugging.

C. Construction and Operational Changes since CU-509 was approved in 1999.

At the time CU-509 was approved in 1999 the vertical driller installed 5 wells which would take 3-4 months to complete. Now, the vertical driller can install 5 wells (process and equipment exactly the same), but the process takes only about 8 weeks once per year. At the time CU-509 was approved, we ran well completion testing and perforate casing (log truck). Now, run well completion testing and perforate casing (process and equipment exactly the same), process takes about 2 days and is noiseless. At the time CU-509 was approved a hydrofracturing truck was brought in which would pump for 30-60 days. The old process could be noisy and would run for days on end. Now, horizontal drillers can drill the connections together in 5-30 days with the use of quiet run diesel engines.

⊕ - 270

Since CU-509 was approved, we have also moved away from hydrofracturing. We now make subterranean connections with mechanically drilled hole using coiled tubing and directionally guided horizontal drilling techniques.

④ 0120

CONDITIONAL USE RESOLUTION NO. CU-509

WHEREAS, Kenneth Pauly and Marilyn B. Pauly, Keith A. Harrington, and Marga Harrington, pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requested a Conditional Use to allow the mining of salt water on Tract 1: approximately 288 acres; and Tract 2: approximately 166 acres zoned "RR" Rural Residential described as:

Tract 1: The North Quarter of the Southwest Quarter (N/4 SW/4) of Section 29, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas. And, All of the Southeast Quarter of the Southwest Quarter (SE/4 SW/4) of Section 20; and all of that part of the South Half of the Southeast Quarter (S/2 SE/4) of Section 20, except the East 17.6 acres thereof, all in Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas. And, All that part of the Northwest Quarter (NW/4) of Section 29, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, lying North of the present Township Road (same being the North 270 feet of said Northwest Quarter) except those portions of the above described tracts in such excepted out tracts are legally described to wit: A tract in the Southeast Quarter (SE/4) and the Southwest Quarter (SW/4) of Section 20, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, described as beginning at the South Quarter Corner of said Section 20; thence North 89 degrees 56' 38" East along the South line of said Southeast Quarter, 33.75 feet; thence North 1 degree 02' 24" East 179.19 feet; thence South 87 degrees 11' 48" West 476.43 feet; thence South degree 23' 8" East, 155.51 feet to the South line of said Southwest Quarter; thence South 89 degrees 56' 38" East along the South line of said Southwest Quarter, 435.10 feet to the point of beginning; also a tract in the Northwest Quarter of Section 29, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning at the North Quarter Corner of said Section 29; thence North 89 degrees 56' 38" West along the North line of said Northwest Quarter (NW/4), 435.10 feet; thence South 1 degree 23' 08" East 298.19 feet; thence North 89 degrees 21' 26" East 432.84 feet to the East line of said Northwest Quarter; thence North 00 degrees 57' 50" West, 292.86 feet to the point of beginning. And, The Northwest Quarter of Section 29, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, except the North 20 acres and except that portion Beginning at a point on the West Line of the NW/4 of Section 29, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, 458 feet North of the Southwest Corner of said NW/4; thence North along the West line of said NW/4; thence North 00 degrees 00' East, 662.27 feet; thence South 88 degrees 35' East, 659.74 feet; thence South 00 degrees 00' West parallel to the West Line of said NW/4 662.27 feet; thence North 88 degrees 35' West, 659.74 feet to the point of beginning. Tract 2: Southwest Quarter, except a tract 13 rods square in the Southwest corner for Cemetery, and all that part of the Southwest Quarter of the Northwest Quarter, lying South of the center of the Ninnescah River, in Section 30, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas.

Generally located east of 199th Street West between 95th Street South and 111th Street South (Tract 1) and north of 111th Street South and east of 215 Street West (Tract 2).

WHEREAS, proper notice as required by the Unified Zoning Code and by the policy of the Metropolitan Area Planning Commission (hereinafter referred to as MAPC) has been given; and

WHEREAS, the MAPC did, at the meeting of March 11, 1999, consider said application; and

WHEREAS, the MAPC has authority to permit a Conditional Use, subject to any special conditions deemed appropriate in order to assure full compliance with the criteria of the Unified Zoning Code.

NOW, THEREFORE, BE IT RESOLVED by the Metropolitan Area Planning Commission that this application be approved to permit a conditional use to allow the mining of salt water on Tract 1: approximately 288 acres; and Tract 2: approximately 166 acres zoned "RR" Rural Residential described as:

Tract 1: The North Quarter of the Southwest Quarter (N/4 SW/4) of Section 29, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas. And, All of the Southeast Quarter of the Southwest Quarter (SE/4 SW/4) of Section 20; and all of that part of the South Half of the Southeast Quarter (S/2 SE/4) of Section 20, except the East 17.6 acres thereof, all in Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas. And, All that part of the Northwest Quarter (NW/4) of Section 29, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, lying North of the present Township Road (same being the North 270 feet of said Northwest Quarter) except those portions of the above described tracts in such excepted out tracts are legally described to wit: A tract in the Southeast Quarter (SE/4) and the Southwest Quarter (SW/4) of Section 20, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, described as beginning at the South Quarter Corner of said Section 20; thence North 89 degrees 56' 38" East along the South line of said Southeast Quarter, 33.75 feet; thence North 1 degree 02' 24" East 179.19 feet; thence South 87 degrees 11' 48" West 476.43 feet; thence South degree 23' 8" East, 155.51 feet to the South line of said Southwest Quarter; thence South 89 degrees 56' 38" East along the South line of said Southwest Quarter, 435.10 feet to the point of beginning; also a tract in the Northwest Quarter of Section 29, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning at the North Quarter Corner of said Section 29; thence North 89 degrees 56' 38" West along the North line of said Northwest Quarter (NW/4), 435.10 feet; thence South 1 degree 23' 08" East 298.19 feet; thence North 89 degrees 21' 26" East 432.84 feet to the East line of said Northwest Quarter; thence North 00 degrees 57' 50" West, 292.86 feet to the point of beginning. And, The Northwest Quarter of Section 29, Township 29 South,

Range 2 West of the 6th P.M., Sedgwick County, Kansas, except the North 20 acres and except that portion Beginning at a point on the West Line of the NW/4 of Section 29, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, 458 feet North of the Southwest Corner of said NW/4; thence North along the West line of said NW/4; thence North 00 degrees 00' East, 662.27 feet; thence South 88 degrees 35' East, 659.74 feet; thence South 00 degrees 00' West parallel to the West Line of said NW/4 662.27 feet; thence North 88 degrees 35' West, 659.74 feet to the point of beginning. Tract 2: Southwest Quarter, except a tract 13 rods square in the Southwest corner for Cemetery, and all that part of the Southwest Quarter of the Northwest Quarter, lying South of the center of the Ninnescah River, in Section 30, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas. Generally located east of 199th Street West between 95th Street South and 111th Street South (Tract 1) and north of 111th Street South and east of 215 Street West (Tract 2).

subject to the following conditions:

1. The site shall be developed as indicated on the site plan.
2. All wells on-site are required to be at least 200 feet from any adjoining property, with wells on Tract 1 being located no more or no less than 200 feet from the northern and eastern property lines.
3. During the development phases of the site, drilling and construction activities shall be limited to the hours of 7:00 A.M. to 6:30 P.M., Monday through Friday, and 9:00 A.M. to 1:00 P.M. on Saturday. Development phase activities shall not occur on Sunday or official county holidays.
4. The applicant shall obtain all required permits from the State of Kansas and Sedgwick County necessary for the production of brine from sub-surface formations by hydraulic methods.
5. Noise emitted by the equipment installed on this site shall not be audible beyond the property lines of the application area.
6. The approval of the Conditional Use is for a period not to exceed thirty years from the date of approval by the MAPC or the Board of County Commissioners, and subject operation is to cease after that period, or at such time as production ceases, with any above-ground equipment and materials associated with the operation removed from the premises. The site shall be returned to its natural state, such as prior to the beginning of this extraction, as approved by the Kansas Department of Health and Environment and/or Sedgwick County Health Department.

7. The applicant shall dedicate additional right-of-way along 111th Street South to equal 60' half street right-of-way, and shall dedicate additional right-of-way along 199th Street West, 103rd Street South, and the extension of 215th Street West to equal 50' half street right-of-way for arterial road purposes.
8. Any violation of the conditions of approval shall render the conditional use permit null and void.

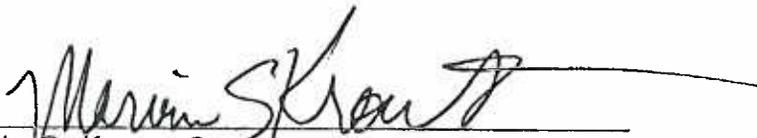
Adopted this 11th day of March, 1999. This resolution shall become effective on the fifteenth day after the date last noted above unless the matter is forwarded to the Governing Body for final action under the provisions of Section V-D.6. When any one or more of the exceptions listed in Section V-D.6 exist, this resolution with its conditions of approval shall be considered a recommendation of the MAPC to the Governing Body which shall then have final authority to approve, approve with conditions or modifications, or deny the Conditional Use application.

METROPOLITAN AREA PLANNING COMMISSION



William M. Johnson, Chairman

ATTEST:



Marvin S. Krout, Secretary



STAFF REPORT
MAPC 7-11-16
DAB II 7-7-16

CASE NUMBER: CUP2016-12

APPLICANT/AGENT: Mountaingate Brittany LLC, Spring Street LLC, Union Street LLC (owner); Kaw Valley Engineering c/o Tim Austin (agent)

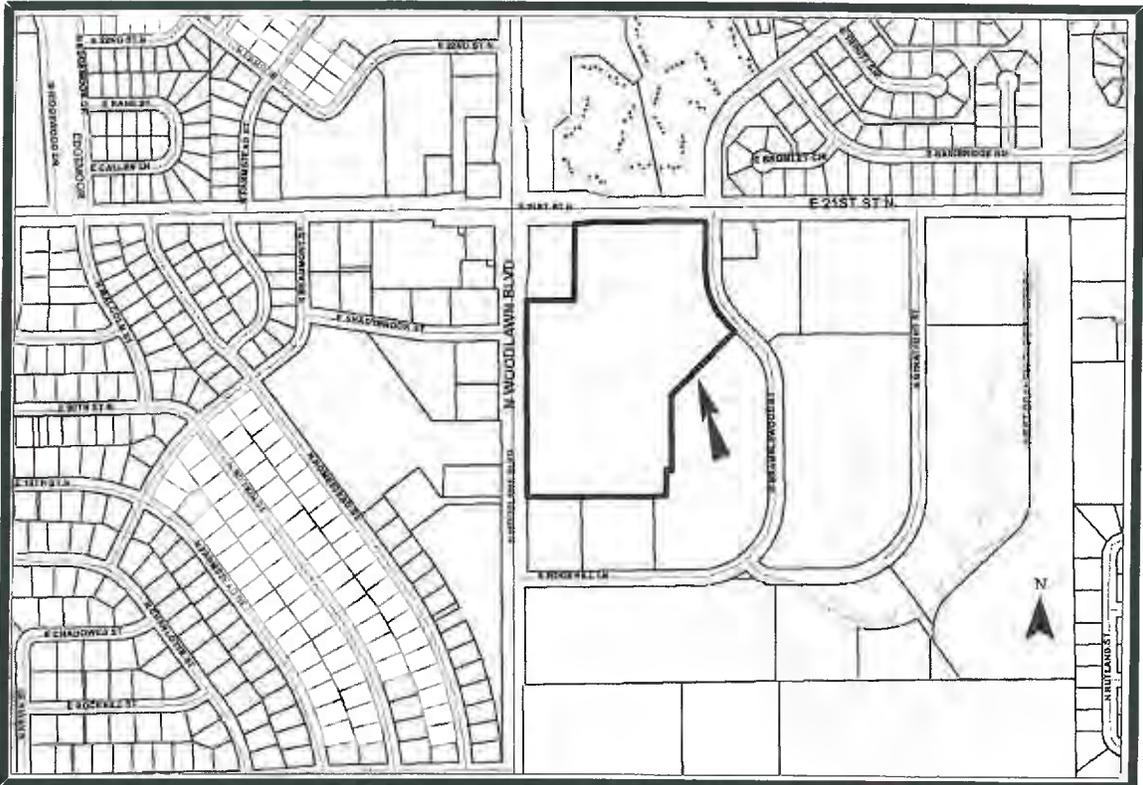
REQUEST: Amendment #7 to the Northborough Community Unit Plan, DP-67 Parcel 2, to allow Warehousing, Self-storage

CURRENT ZONING: LC Limited Commercial

SITE SIZE: 18.8 acres

LOCATION: Generally located south of East 21st Street North and east of North Woodlawn Boulevard

PROPOSED USE: Self-storage warehousing



BACKGROUND: The LC Limited Commercial (LC) zoned site is located within DP-67, the Northborough Community Unit Plan (CUP) at the southeast corner of East 21st Street North and North Woodlawn Boulevard. The applicant requests an amendment to the DP-67, Parcel 2 Proposed Uses. The uses are currently limited to “shopping center and/or offices, professional, personal services, comparison and convenience shopping, parking, seasonal nursery and garden center, indoor entertainment and recreation.” The applicant proposes the uses be amended to state: “shopping center shall mean all uses permitted by right in the Limited Commercial LC zoning district except for group residences and correctional placement residences; along with warehousing, self-storage, inside of an existing climate controlled building only, and subject to the supplemental use regulations of Section III-D.6.y of the Unified Zoning Code, except that a resident manager shall not be required.” The Unified Zoning Code (UZC) requires conditional use approval for self-storage warehousing in LC zoning. Because the application area is within a CUP which does not specifically permit self-storage warehousing, a CUP amendment can be done in lieu of the conditional use for the self-storage warehousing use.

The UZC supplementary use requirements for self-storage warehousing in LC zoning are: The use must be on an arterial street with arterial street access; building setbacks must be 35 feet from arterials and 20 feet from other streets; a 15-foot landscape street yard is required when adjacent to residential zoning; planning staff architectural review is required to ensure that storage buildings are compatible with surrounding development; storage doorways shall be setback 40 feet from residential zoning; parking is required at a rate of one space per 8,000 square feet plus one space per employee; all parking, driveways and drives shall be paved; lighting shall be shielded away from surrounding properties; all storage shall be within enclosed buildings; no activities such as garage sales shall be conducted; no vehicle or equipment service or repair shall be conducted on the premises; signs are limited to one per arterial street frontage and shall not exceed 20 feet in height or 50 square feet in surface area; the area shall be policed by the operator/owner to remove trash and debris; the facility shall not be used as a transfer and storage business where the use of vehicles is part of such business; a resident manager shall be on site to ensure conformance with conditions of approval; maximum building coverage is 45 percent and no individual or business shall lease more than 3,000 square feet of storage. The applicant anticipates placing the self-storage inside an existing building, and therefore does not see a need for 24-hour on-site management.

The existing DP-67 has building setbacks, landscaping, signage, lighting, trash screening, perimeter wall screening and other standards. The remainder of the CUP is zoned LC and GO General Office (GO) and developed primarily with retail, indoor recreation and entertainment, banking, office and restaurant uses. The northwest and southwest corners of East 21st Street North and North Woodlawn are also zoned LC and under CUPs (DP-56 and DP-35). The northeast corner of East 21st Street North and North Woodlawn is zoned SF-5 Single-family Residential and developed with condominium residences under DP-46.

CASE HISTORY: The property is platted as Northborough Addition, recorded August 9, 1977, and the CUP was originally approved March 11, 1975. It has been amended several times. The most recent amendment to Parcel 2 (Amendment #6) permitted seasonal nursery and garden centers. The most recent administrative adjustment to Parcel 2 permitted indoor recreation and entertainment.

ADJACENT ZONING AND LAND USE:

| | | |
|--------|--------------|--|
| NORTH: | LC, SF-5 | Retail, banking, condominium and single-family residential |
| SOUTH: | LC, GO | Retail, office |
| EAST: | LC, GO | Retail, restaurant, indoor recreation |
| WEST: | LC, GO, SF-5 | Nursery and garden center, banking, restaurant, office, church |

PUBLIC SERVICES: The property has direct access to Woodlawn Boulevard, a four-lane principal arterial street with left-turn center lanes, and connects through the parking lot to 21st Street North, also a four-lane principal arterial street with left-turn center lanes. A right-turn lane is located at the intersection of Woodlawn Boulevard and 21st Street North.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the mature neighborhoods within an approximate three-mile radius of the downtown core. The Plan encourages infill development within the Established Central Area that maximizes public investment in existing and planned infrastructure and services. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential and employment mixed," and surrounded by "new residential." The residential/employment mix encompasses areas of land that likely will be developed or redeveloped by 2035 with uses predominately of a mixed nature. Due to the proximity of higher intensity business uses, residential housing types within this area likely will be higher density. Due to the proximity of residential uses, employment uses likely will have limited negative impacts associated with noise, hazardous emissions, visual blight and odor.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request for an amendment to DP-67 Parcel 2 to allow self-storage warehouse use be **APPROVED**, with the following conditions:

- (1) Proposed Uses for Parcel 2 shall be amended to state: "shopping center shall mean all uses permitted by right in the Limited Commercial LC zoning district except for group residences and correctional placement residences; along with warehousing, self-storage, inside of an existing climate controlled building only, and subject to the supplemental use regulations of Section III-D.6.y of the Unified Zoning Code, except that a resident manager shall not be required."
- (2) 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.
- (3) 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.

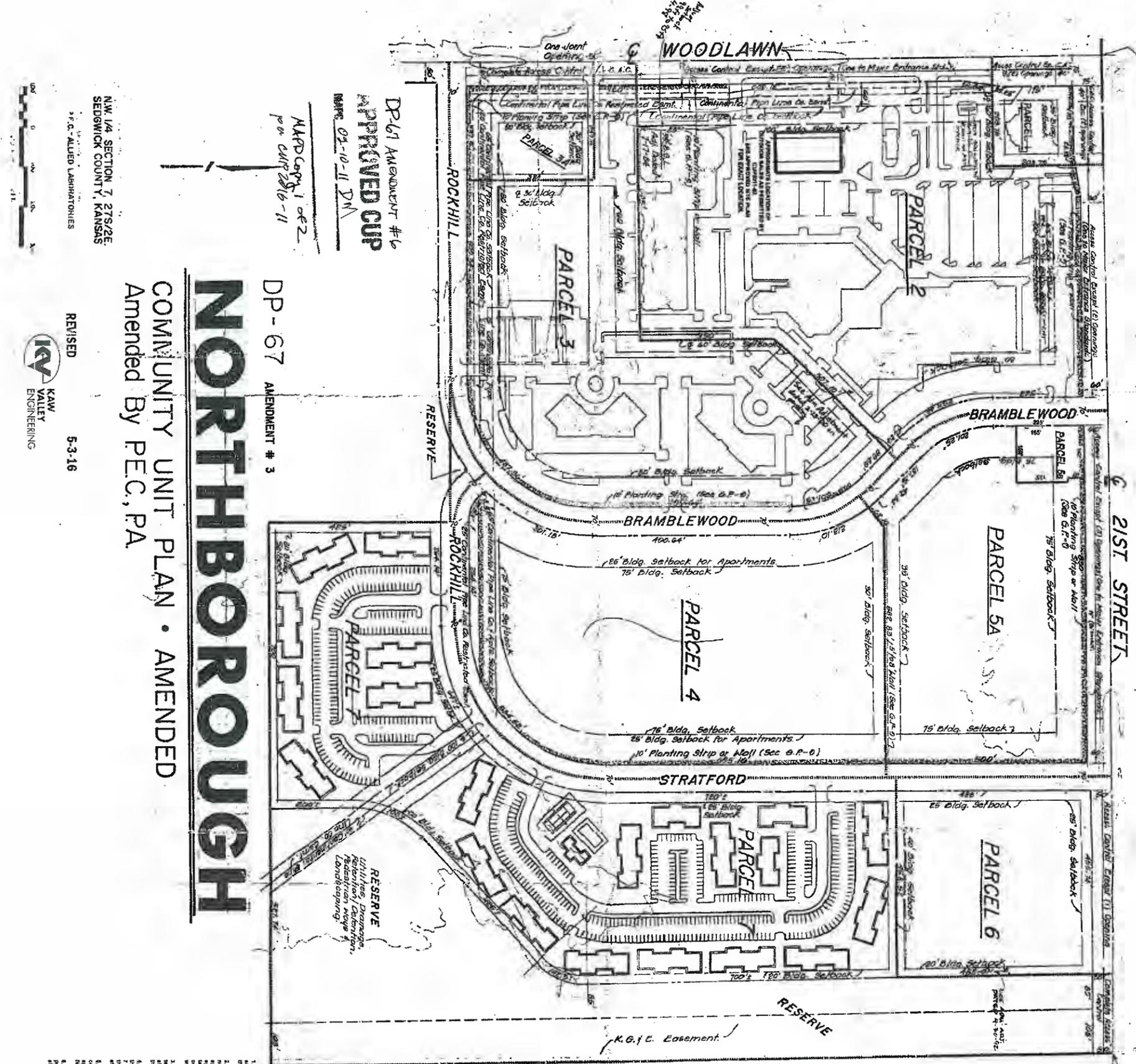
This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The existing DP-67 has building setbacks, landscaping, signage, lighting, trash screening, perimeter wall screening and other standards. The remainder of the CUP is zoned LC and GO General Office (GO) and developed primarily with retail, indoor recreation and entertainment, banking, office and restaurant uses. The northwest and southwest corners of East 21st Street North and North Woodlawn are also zoned LC and under CUPs (DP-56 and DP-35). The northeast corner of East 21st Street North and North Woodlawn is zoned SF-5 Single-family Residential and developed with condominium residences under DP-46.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned LC with DP-67 use restrictions, which accommodates a wide range of commercial uses. The site could be developed with other uses permitted by right in LC zoning and permitted by the existing CUP.

- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The proposed amendment to allow self-storage warehouse should have no impact on nearby property as the proposed use will be within an existing commercial building.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the mature neighborhoods within an approximate three-mile radius of the downtown core. The Plan encourages infill development within the Established Central Area that maximizes public investment in existing and planned infrastructure and services. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential and employment mixed," and surrounded by "new residential." The residential/employment mix encompasses areas of land that likely will be developed or redeveloped by 2035 with uses predominately of a mixed nature. Due to the proximity of higher intensity business uses, residential housing types within this area likely will be higher density. Due to the proximity of residential uses, employment uses likely will have limited negative impacts associated with noise, hazardous emissions, visual blight and odor.
- (5) **Impact of the proposed development on community facilities:** The requested CUP amendment should have minimal impact on community facilities. Self-storage warehousing has a lower traffic impact than most typical LC retail uses.

N.W. Cor. N.W. 1/4 Sec. 7, T.15, R.2E

N.E. Cor. N.W. 1/4 Sec. 7, T.15, R.2E



DP-67 AMENDMENT #6
 APPROVED CUP
 MAP CORP. 1 OF 2
 DATE 01-10-11 DN
 per CUP 2816-11

DP-67 AMENDMENT #3

NORTHBOROUGH

COMMUNITY UNIT PLAN • AMENDED

Amended By P.E.C., PA

REVISED



5-3-16

GENERAL

Total Gross Area = 108.5 Acres ±
 Total Net Area = 93.92 Acres ±
 This development is proposed to contain 3,000 units, consisting of 2,033 units of 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100 units.

Light commercial uses - 200,000 square feet
 Office - 100,000 square feet
 Retail - 100,000 square feet
 Multi-family - 2,033 units

1. ACCESS CONTROL: ACCESS TO THE DEVELOPMENT SHALL BE LIMITED TO THE MAIN ENTRANCE. THE DEVELOPMENT SHALL BE DESIGNED TO PROVIDE FOR THE SEAMLESS INTEGRATION OF THE DEVELOPMENT WITH THE SURROUNDING COMMUNITY. ACCESS TO THE DEVELOPMENT SHALL BE LIMITED TO THE MAIN ENTRANCE. THE DEVELOPMENT SHALL BE DESIGNED TO PROVIDE FOR THE SEAMLESS INTEGRATION OF THE DEVELOPMENT WITH THE SURROUNDING COMMUNITY.
2. ALL UTILITIES SHALL BE INSTALLED UNDERGROUND.
3. DRAINAGE: DRAINAGE SHALL BE IN ACCORDANCE WITH DRAINAGE PLANS APPROVED BY THE ENGINEERING DIVISION OF THE CITY OF WICHITA. A RETENTION BASIN SHALL BE SUBMITTED WITH THE PLANNING STAFF REPORT.
4. BUILDING SETBACKS: BUILDING SETBACKS SHALL BE AS INDICATED ON THE PLANS. THE SETBACKS SHALL BE MEASURED FROM THE CENTERLINE OF THE STREET. THE SETBACKS SHALL BE MEASURED FROM THE CENTERLINE OF THE STREET.
5. ADVERTISING SIGNS: ADVERTISING SIGNS SHALL BE IN ACCORDANCE WITH THE CITY OF WICHITA SIGNAGE ORDINANCE. ADVERTISING SIGNS SHALL BE IN ACCORDANCE WITH THE CITY OF WICHITA SIGNAGE ORDINANCE.
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| PARCEL | PROPOSED USE | MINIMUM BUILDING HEIGHT | MINIMUM BUILDING SETBACK | MINIMUM BUILDING FOOTPRINT | MINIMUM BUILDING FOOTPRINT PER GROSS FLOOR AREA | MINIMUM BUILDING FOOTPRINT PER GROSS FLOOR AREA PER UNIT | MINIMUM BUILDING FOOTPRINT PER GROSS FLOOR AREA PER UNIT PER UNIT | MINIMUM BUILDING FOOTPRINT PER GROSS FLOOR AREA PER UNIT PER UNIT PER UNIT |
|----------|---|-------------------------|--------------------------|----------------------------|---|--|---|--|
| PARCEL 1 | PROFESSIONAL, MEDICAL, DENTAL OFFICES AND CLINICS | 15 FEET | 15 FEET | 10,000 SQ. FT. | 10% | 100 SQ. FT. PER UNIT | 100 SQ. FT. PER UNIT PER UNIT | 100 SQ. FT. PER UNIT PER UNIT PER UNIT |
| PARCEL 2 | PROFESSIONAL, MEDICAL, DENTAL OFFICES AND CLINICS | 15 FEET | 15 FEET | 10,000 SQ. FT. | 10% | 100 SQ. FT. PER UNIT | 100 SQ. FT. PER UNIT PER UNIT | 100 SQ. FT. PER UNIT PER UNIT PER UNIT |
| PARCEL 3 | PROFESSIONAL, MEDICAL, DENTAL OFFICES AND CLINICS | 15 FEET | 15 FEET | 10,000 SQ. FT. | 10% | 100 SQ. FT. PER UNIT | 100 SQ. FT. PER UNIT PER UNIT | 100 SQ. FT. PER UNIT PER UNIT PER UNIT |
| PARCEL 4 | PROFESSIONAL, MEDICAL, DENTAL OFFICES AND CLINICS | 15 FEET | 15 FEET | 10,000 SQ. FT. | 10% | 100 SQ. FT. PER UNIT | 100 SQ. FT. PER UNIT PER UNIT | 100 SQ. FT. PER UNIT PER UNIT PER UNIT |
| PARCEL 5 | PROFESSIONAL, MEDICAL, DENTAL OFFICES AND CLINICS | 15 FEET | 15 FEET | 10,000 SQ. FT. | 10% | 100 SQ. FT. PER UNIT | 100 SQ. FT. PER UNIT PER UNIT | 100 SQ. FT. PER UNIT PER UNIT PER UNIT |
| PARCEL 6 | PROFESSIONAL, MEDICAL, DENTAL OFFICES AND CLINICS | 15 FEET | 15 FEET | 10,000 SQ. FT. | 10% | 100 SQ. FT. PER UNIT | 100 SQ. FT. PER UNIT PER UNIT | 100 SQ. FT. PER UNIT PER UNIT PER UNIT |

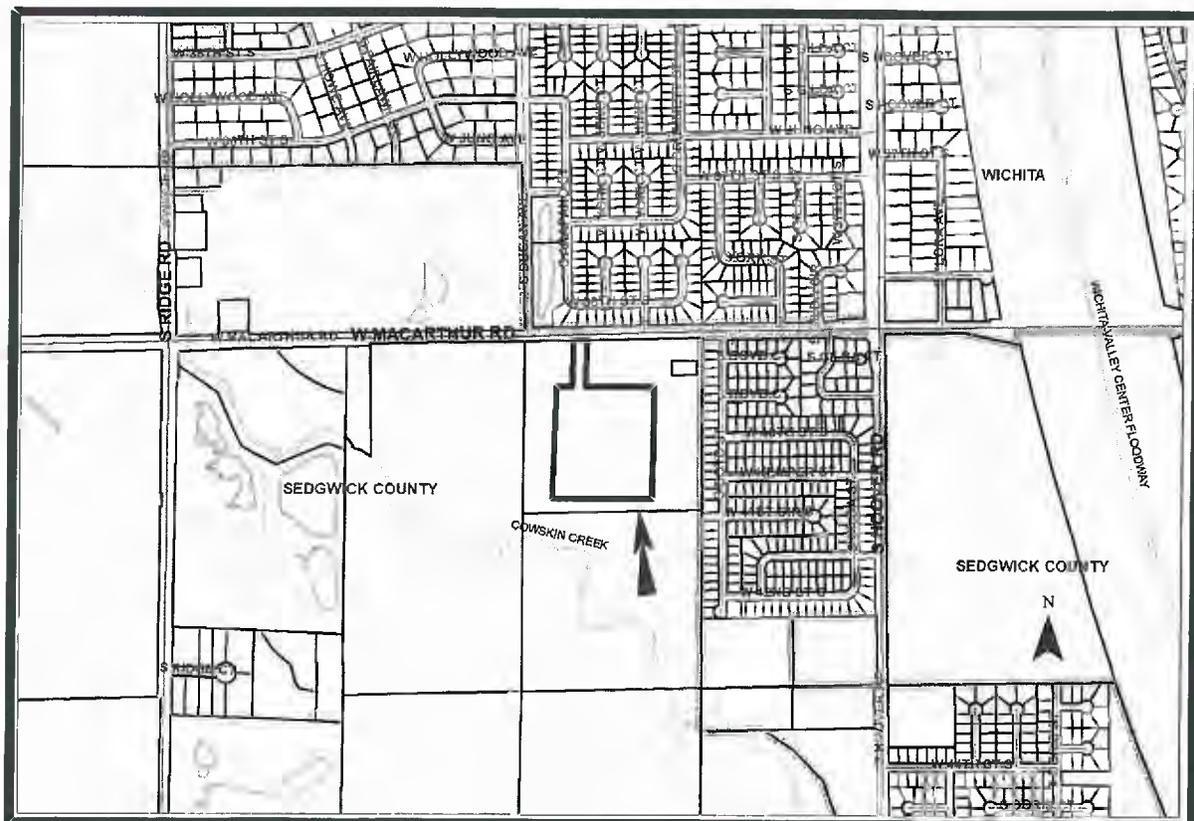


AGENDA ITEM NO. 12

STAFF REPORT

MAPC July 7, 2016

- CASE NUMBER:** PUD2016-05
- APPLICANT/OWNER:** Michael and Tina Andra Living Trust (applicant/owner); Baughman Company, P.A. c/o Russ Ewy (agent)
- REQUEST:** Create PUD #50 the Andra Commercial Planned Unit Development
- CURRENT ZONING:** RR Rural Residential
- SITE SIZE:** 14.9 acres
- LOCATION:** Generally located south of West Macarthur and ½ mile west of South Hoover Road
- PROPOSED USE:** Rental event center, broadcast/recording studio, community assembly, agriculture, farmer's market, office, restaurant and retail



BACKGROUND: The undeveloped application area is in the unincorporated county and located south of West Macarthur Road, between South Ridge and South Hoover Roads. The southwest corner of the site is within mapped flood zone. The applicants propose rezoning this property from RR Rural Residential (RR) to PUD #50, the Andra Commercial Planned Unit Development (PUD). According to the Unified Zoning Code (UZC), a PUD is intended to:

- (1) Reduce or eliminate the inflexibility that sometimes results from strict application of zoning standards that were designed primarily for individual lots;
- (2) Allow greater freedom in selecting the means to provide access, light, open space and design amenities;
- (3) Promote quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations and land uses; and
- (4) Allow deviations from certain zoning standards that would otherwise apply if not contrary to the general spirit and intent of this Code.

The un-platted 14.9-acre site is used for agriculture and sits within the applicant's larger 38.8-acre site. The PUD proposes keeping the balance of the 38.8-acre site as an open-space buffer. The PUD (see attached) specifies that landscaping and berm screening identified on the PUD is to be approved by staff, and is contingent upon the surrounding area remaining as open space. The PUD states "The applicant may define this area as a reserve when platted, and/or as a conservation easement, in order to preserve this open space." The PUD anticipates the extension of municipal water and sewer and platting. Annexation into the City of Wichita will occur along with these actions. The PUD is limited to 45,000 square feet of building coverage, 75,000 square feet of building space, 45-foot maximum building height and 50-foot building setbacks.

The PUD demonstrates access from one 24-foot drive. Parking for the first 20,000 square feet is 115 paved spaces. Additional building space will be provided parking at the rate of one parking space per 333 square feet of building space, or one parking space per four occupants for community assembly use. Demonstrated overflow parking on the PUD may be surfaced with an all-weather surface other than paving. Signage will be per commercial district regulations under the County Sign Code or under GC General Commercial signage under the City Sign Code. LED, billboard, portable and off-site signs are prohibited. Uses in the PUD are limited to those in the SF-20 Single-family Residential (SF-20) zoning district and the following: nightclub (as restricted for an event center in the PUD), agriculture, community assembly, broadcast/recording studio, event center, farmers market, office, restaurant and retail. Overnight accommodations are permitted accessory to the multi-use facility. The night club is limited to the UZC definition of an event center, limited to 500 persons, limited to a rental venue, may allow the service of food and alcoholic beverages and may allow music and dancing. The PUD limits event center hours to 8:00 am to 1:00 am Friday and Saturday, and 8:00 am to midnight Sunday to Thursday. The PUD designated outdoor activity area is accessory to the event center and farmer's market. Tents are permitted in the outdoor activity area. Use of the outdoor activity area and outdoor

music is limited to the hours of 10:00 am to 10:00 pm and subject to the UZC compatibility noise standard. Outdoor speakers in this area are further limited to 8:00 pm and shall be oriented to the interior of the site. Outdoor lighting requires shielding away from surrounding properties and is limited to 30 feet in height.

All property surrounding the application area is owned by the applicant, zoned RR, and used for agriculture. One 0.44-acre home-site, split off from the original 40-acres, exists 150-feet northeast of the site. Property further north (across Macarthur Road) and further east of the site is in the City of Wichita, zoned SF-5 Single-family Residential (SF-5) and developed with urban scale residential lots. Property further south and further west of the site is zoned RR and used for agriculture and large-lot residences.

CASE HISTORY: None.

ADJACENT ZONING AND LAND USE:

| | | |
|--------|----------|--|
| NORTH: | SF-5 | Single-family residential |
| SOUTH: | RR | Agriculture, large-lot residential |
| EAST: | RR, SF-5 | Agriculture, single-family residential |
| WEST: | RR | Agriculture, large lot residential |

PUBLIC SERVICES: The site has frontage along Macarthur Road, a paved, two-lane arterial at this location with a daily traffic count of 5,232. Municipal services are available to the north and east of the site. The PUD requires connection to public water and sewer for development. Platting is required for utility extension and building permits. Access improvements will be determined at the time of platting. A drainage plan will be required at the time of platting.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies this location as within the 2035 Wichita growth area. The *2035 Wichita Future Growth Concept Map* identifies the site as “New Residential.” The Locational Guidelines of the Comprehensive Plan encourage commercial development at arterial street intersections, along highways and commercial corridors. This application meets the Comprehensive Plan Land Use Compatibility and Design recommendations regarding screening, buffering, access controls, noise and lighting controls and aesthetic considerations. The Plan’s *Priority Enhancement Areas for Wichita Infrastructure Projects Map* identifies this portion of Macarthur Road as a “Targeted Arterial,” and recommends considering the inclusion of site design features that increase the sense of quality of life through emphasis of visual character and aesthetic improvements.

RECOMMENDATION: Planning Staff worked with the applicant’s agent to modify this PUD request, ensuring compatibility with surrounding property and mitigation of potential impacts on nearby residential properties. The proposed open-space buffer keeps the PUD over 340 feet from nearby residential subdivisions. Based on

information available prior to the public hearing, staff recommends the request be **APPROVED** subject to the following conditions:

- A. The applicant shall submit four revised copies of the PUD 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: All property surrounding the application area is owned by the applicant, zoned RR, and used for agriculture. One 0.44-acre home-site, split off from the original 40-acres, exists 150-feet northeast of the site. Property further north (across Macarthur Road) and further east of the site is in the City of Wichita, zoned SF-5 and developed with urban scale residential lots. Property further south and further west of the site is zoned RR and used for agriculture and large-lot residences.
- (2) The suitability of the subject property for the uses to which it has been restricted: The site could be developed with single-family residences on 2-acre minimum size lots under the current RR zoning.
- (3) Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed PUD permits uses which could impact nearby property owners. However, the proposed open space buffer surrounding the PUD, along with required landscaping, screening and development limitations, should mitigate impact on nearby properties.
- (4) Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request will add mixed-use commercial development at the southwest Wichita City limit along W. Macarthur Road. Vehicle traffic and activity on the site could minimally impact Macarthur; mitigating development limits are included in the PUD. Denial of this request would presumably be a loss of economic opportunity for the land owner.
- (5) Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies this location as within the 2035 Wichita growth area. The *2035 Wichita Future Growth Concept Map* identifies the site as "New Residential." The Locational Guidelines of the Comprehensive Plan encourage commercial development at arterial street intersections, along highways and commercial corridors. This application meets the Comprehensive Plan Land Use Compatibility and Design recommendations regarding screening, buffering, access controls, noise and lighting controls and aesthetic considerations. The Plan's *Priority Enhancement Areas for Wichita Infrastructure Projects Map* identifies this portion of Macarthur Road as a

“Targeted Arterial,” and recommends considering the inclusion of site design features that increase the sense of quality of life through emphasis of visual character and aesthetic improvements.

- (6) Impact of the proposed development on community facilities: The proposed development will increase traffic on this portion of West Macarthur Road. This portion of Macarthur can accommodate the proposed traffic increases which will occur at non-peak traffic hours. Access improvements will be determined at the time of platting. The proposed development could increase demand of public safety services at this location.

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

DATE: July 7, 2016
TO: Metropolitan Area Planning Commission
FROM: Scott Knebel, AICP, Advanced Plans Division 
SUBJECT: DER2016-02: Update of the Wireless Communication Master Plan

Background: Senate Substitute for House Bill No. 2131 was recently passed by the Kansas House and Senate. The bill has numerous State mandates regarding how local units of government can regulate wireless communication facilities. Wichita-Sedgwick County regulations of wireless communication facilities are based on the Wireless Communication Master Plan.

The following is a high-level summary of the State mandates that will need to be addressed through an amendment of the Wireless Communication Master Plan (WCMP) and the Unified Zoning Code (UZC). The bill prohibits the following established practices:

- 1) Requiring applicants to document that no colocation opportunity is available prior to permitting construction new facility.
- 2) Requiring applicants to demonstrate that a wireless facility addresses a wireless service provider need rather than being constructed as a speculative facility.
- 3) Evaluating the merits of an application based on colocation opportunities.
- 4) Requiring small cell facilities in lieu of macro facilities in visually/environmentally sensitive locations.
- 5) Requiring applicants to agree to removal of an unused facility after 12 months of disuse as a conditional of approval.
- 6) Prohibiting flashing white aircraft obstruction lights for nighttime use.
- 7) Requiring applicants to agree to permit colocation on their facility by other service providers as a condition of approval.

Additionally, the bill deems an application for a wireless communication facility approved if the application is not acted upon within 150 days for a new facility or 60-90 days (depending on type) for a colocation application. Finally, the bill requires equal treatment of wireless communication facilities with utility installations when applying to locate in right-of-way but establishes a right-of-way fee cap on local governments that is significantly lower than the fee charged utilities.

Staff recommends the following process to amend the WCMP and the UZC.

| <u>Target Date</u> | <u>Task</u> |
|--------------------|---|
| July 7, 2016 | Advanced Plans Committee considers update to WCMP and amendments to UZC and makes recommendation to the MAPC |
| July 7, 2016 | Request Metropolitan Area Planning Commission (MAPC) to set public hearing to consider update to WCMP and amendments to UZC |
| July 28, 2016 | Notice of public hearing to consider update to WCMP and amendments to UZC published |
| August 18, 2016 | MAPC public hearing to consider update to WCMP and amendments to the UZC |
| September 20, 2016 | City Council considers update to WCMP and amendments to UZC |
| September 21, 2016 | Board of County Commissioners considers update to WCMP and amendments to UZC |
| September 30, 2016 | Ordinances and Resolutions updating WCMP and amending UZC published |

Recommended Action: Set the date of the official public hearing to consider adoption of the Update to the Wireless Communication Master Plan as an amendment of the Comprehensive Plan along with the implementing amendments to the Unified Zoning Code for the regularly-scheduled meeting of the MAPC on August 18, 2016.

Attachment: Draft Update to the Wireless Communication Master Plan
Draft Amendments to the Wichita-Sedgwick County of the Unified Zoning Code

Wireless Communication Master Plan

Prepared by:

Wichita-Sedgwick County Metropolitan Area Planning Department

With the assistance of:

City of Wichita Engineering Division

Sedgwick County Public Works

September 2016

Draft July 7, 2016

Wireless Communication Master Plan – September 2016

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I. Background

In 1999, the City of Wichita and Sedgwick County determined that they needed a clearer framework to review proposals for wireless communication facilities. An extensive planning process was initiated that included outreach to the community and wireless communication industry representatives. Community workshops and a wireless industry roundtable were held. Wireless industry representatives were surveyed and meetings were held with individual industry representatives. After a joint workshop with the Wichita City Council, Sedgwick County Commission and Metropolitan Area Planning Commission (MAPC) to review a draft plan, a city-county staff task force was assigned to meet further with the various stakeholders and prepare revisions to the draft plan. The city-county task force held numerous meetings with stakeholders from December 1999 through July 2000. In July 2000, the MAPC adopted the Wireless Communication Master Plan (“the Plan”) as an element of the Wichita-Sedgwick County Comprehensive Plan. The Plan was subsequently approved by the Wichita City Council and the Sedgwick County Commission in August 2000.

Implementing revisions to the Wichita-Sedgwick County Unified Zoning Code (UZC) were approved at the same time. The UZC revisions were based on the Plan’s recommendations to limit the overall number of wireless communication facilities by promoting collocation of multiple providers’ antennas at a single facility. The UZC revisions also addressed visual obtrusiveness by restricting the tallest towers to heavy commercial and industrial areas, requiring setbacks from low-density residential areas, and promoting the use of monopole rather than lattice-type towers. Over the next ten years, over 100 new wireless communication facilities were built in the community, most of them monopole towers located in commercial areas that supported multiple providers’ antennas.

In March 2011, the Plan was updated to reflect modifications made in 2008 to the UZC pertaining to the heights and zoning districts in which Administrative Permits could be granted, as well the limitation of Administrative Permits within the city limits to certain designated properties. The March 2011 update also included revisions that clarified when it is acceptable to use a lattice-type tower and when it is acceptable to use a monopole.

In 2016, the Kansas Legislature adopted Senate Substitute for House Bill No. 2131, which declared the regulation of wireless communication facilities to be a state-wide interest and directed the approach of cities and counties to regulate wireless communication facilities. The bill prohibits the following established practices of the City of Wichita and Sedgwick County:

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- 1) Requiring applicants to document that no collocation opportunity is available prior to permitting construction of a new wireless communication facility.
- 2) Requiring applicants to demonstrate that a wireless communication facility addresses a wireless service provider need rather than being constructed as a speculative facility.
- 3) Evaluating the merits of an application based on collocation opportunities.
- 4) Requiring small cell facilities in lieu of macro facilities in visually/ environmentally sensitive locations.
- 5) Requiring applicants to agree to permit collocation on their facility by other service providers as a condition of approval.

Additionally, the bill deems an application for a wireless communication facility approved if the application is not acted upon within 150 days for a new facility or 60-90 days (depending on type) for a collocation application. The bill also requires that small cell facilities or distributed antennae systems located in an interior structure or upon the site of any campus, stadium, or athletic facility be permitted by right. Finally, the bill requires equal treatment of wireless communication facilities with utility installations when applying to locate in right-of-way but establishes a right-of-way fee cap on local governments that is lower than the fee charged utilities.

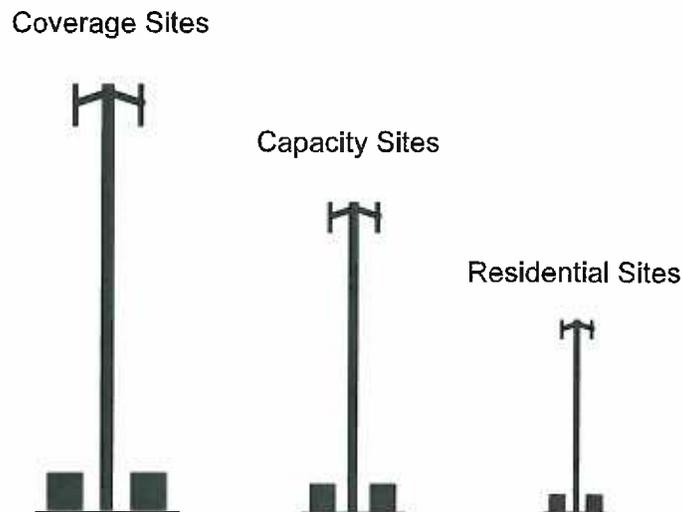
The September 2016 update of the Wireless Communication Master Plan addresses the state-mandated approach to reviewing proposals for wireless communication facilities. The updated Plan also has corresponding implementing revisions to the UZC.

II. Wireless Communication Deployment

Wireless communication has evolved from a niche business catering to corporate executives in the early 1990s to a ubiquitous communication tool used by almost everyone less than 25 years later. As the business has evolved, the number of wireless communication facilities in Wichita and Sedgwick County has grown from a few dozen in the early 1990s to several hundred today. By the year 2035, there may well be thousands of wireless communication facilities. They wireless communication facilities have deployed in three phases:

- Coverage. The initial phase occurred primarily between mid-1990s and mid-2000s when carriers tried to spread their signal throughout the community in an attempt to reach new subscribers.
- Capacity. Following the coverage phase, new capacity sites were built between the coverage sites to address areas where a high number of users are located.
- Residential. The current phase of the business plan involves the replacement of most wired phones in customers' homes with wireless devices that are used more for text and data than for voice communication.

The last phase of deployment brings wireless communication facilities into residential areas where they are restricted to shorter facilities, as illustrated below.



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The impact of the phases of wireless communication deployment in Wichita and Sedgwick County are:

- **Coverage.** Most areas of Wichita and Sedgwick County presently have coverage. The construction of additional wireless communication facilities to provide coverage will be limited in the future and are mostly like to occur in rural areas.
- **Capacity.** As areas of the community grow in population, the demand on the wireless communication systems will exceed the capacity of the coverage sites and providers will need new sites in developing areas to add capacity. These sites mostly can be accommodated in commercial areas and along major roadways.
- **Residential.** As the use of wireless devices in homes continues to increase, it is likely that there will have to be many more sites for each provider located immediately within residential areas. These mostly likely deployment of these sites will be small cell facilities and distributed antenna systems located in street right-of-way, as illustrated below.

[insert image]

The challenge of planning for wireless communication facilities is the same as that for many other land uses: balancing marketplace demands with public expectations for an orderly and attractive environment. This Plan anticipates and guides future wireless communication deployment with guidelines and policies that should be applied in the review of proposed new wireless communication facilities.

III. Location/Design Guidelines

This chapter contains guidelines for location, siting and design of new wireless communication facilities. The term “guidelines” is used in recognition that deviations from these guidelines can be considered on a case-by-case basis, if consistent with the general spirit and intent of this Plan.

The intent of the Location/Design Guidelines is to balance marketplace demands for deployment of wireless communication facilities with the community’s desire for an orderly and attractive environment. In general, tall wireless communication facilities should be limited to heavy commercial and industrial areas and should decrease in height as the intensity of development decreases, with the shortest facilities being located in residential areas. Additionally, facilities should be located and designed in a manner that minimizes visual obtrusiveness and negative aesthetic impacts on surrounding properties.

A. Location/Height Guidelines

1. The following wireless communication facilities should be permitted by right in any zoning district, subject to the issuance of a building permit, if they conform to the Location/Design Guidelines in this chapter. Note that right-of-way is not zoned and has separate permitting requirements described below in Section C.
 - a. New facilities that are concealed in or mounted on top of or the side of existing buildings (excluding single-family and duplex residences) and other structures, including collocation and support structures up to 20 feet above the building or the maximum height permitted by a building permit or an Administrative Permit in the underlying zoning district, whichever is greater.
 - b. Modification and/or replacement of support structures that are not significantly more visible or intrusive, including collocation and cumulative height extensions of up to 25 percent above the original structure height.
 - c. Modification and/or replacement of wireless communication facilities, including collocation and cumulative height extensions of up to 25 percent above the original structure height that comply with the compatibility height standards of the Unified Zoning Code.
 - d. New or modified lattice towers no larger than 18 inches wide on any side up to 80 feet in height measured from grade.
 - e. Small cell facilities or distributed antennae systems located in an interior structure or upon the site of any campus, stadium, or athletic facility.

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If the Zoning Administrator determines that the wireless communication facility does not conform to the Location/Design Guidelines, the building permit should be denied. Denied building permits may be appealed by applying for an Administrative Permit or a Conditional Use. An Administrative Permit should be approved subject to conditions that maintain conformance with the Location/Design Guidelines. Wireless communication facilities that do not conform to the Location/Design Guidelines may be approved for a Conditional Use on a case-by-case basis as circumstances warrant.

2. The following wireless communication facilities should be approved by Administrative Permit in any zoning district, with the concurrence of the Director of Planning and the Zoning Administrator, if they conform to the Location/Design Guidelines in this chapter and, for zoning lots located within the City, are designated on the “Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map”. Note that right-of-way is not zoned and has separate permitting requirements described below in Section C.
 - a. New disguised ground-mounted facilities up to 85 feet in height.
 - b. New undisguised ground-mounted facilities up to 65 feet in the SF-10, SF-5, TF-3, MF-18, MF-29, B, U, and MH zoning Districts that comply with the compatibility height standards of the Unified Zoning Code.
 - c. New undisguised ground-mounted facilities up to 85 feet in height in the NO, GO, and NR zoning districts that comply with the compatibility height standards of the Unified Zoning Code.
 - d. New undisguised ground-mounted facilities up to 120 feet in the RR, SF-20, LC, OW, and GC zoning Districts that comply with the compatibility height standards of the Unified Zoning Code.
 - e. New ground-mounted facilities up to 150 feet in height in the IP, CBD, LI, GI, and AFB zoning districts that comply with the compatibility height standards of the Unified Zoning Code.
3. Wireless communication facilities that exceed the maximum height for an Administrative Permit should be reviewed through the Conditional Use process. Conditional Use approvals typically should be subject to conditions that maintain conformance with the Location/Design Guidelines in this chapter; however, wireless communication facilities that do not conform to the Location/Design Guidelines may be approved for a Conditional Use on a case-by-case basis as circumstances warrant. Note that right-of-way is not zoned and has separate permitting requirements described below in Section C.

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4. There should be no nighttime lighting of or on wireless communication facilities except for aircraft warning lights or similar emergency warning lights required by applicable governmental agencies. Flashing white obstruction lights should not be permitted for nighttime operation. Lighting for security purposes should be permitted at the base of wireless communication facilities. Temporary lighting for nighttime repairs should be permitted.
5. No signs should be allowed on a wireless communication facility other than those required by applicable governmental agencies.
6. The owner should be responsible for the removal of unused facilities, including the uppermost 20% of support structures that are unused (except where removal of the uppermost 20% would require the removal of a lower portion the support structure that is in use, in which case the required removal will be raised to the next highest portion of the support structure not in use), within 60 days if the wireless communication facility, or portion thereof, has been unused for 12 consecutive months. If such a facility or portion of a facility is not removed by the owner, then the City or County may employ all legal measures, including, if necessary, obtaining authorization from a court of competent jurisdiction, to remove it, and after removal may place a lien on the subject property for all direct and indirect costs incurred in its dismantling and disposal, including court costs and reasonable attorney fees. Under this paragraph, "owner" includes both the owner of the real property and the owner of the wireless communication facility, whether such ownership is divided or in the same person.
7. All wireless communication facilities should comply with all federal, state, and local rules and regulations.

Wireless communication providers are particularly encouraged to seek the following new locations for new facilities:

1. Mounted on top or the side of multistory buildings and other structures, appropriately concealed, screened, disguised or camouflaged.
2. On existing utility poles in street right-of-way and on parking lot and athletic field/stadium light standards.
3. On existing support structures, including those constructed for school district microwave antennas and private dispatch systems.
4. In wooded areas.

5. At certain City and County-owned properties, where the size and nature of the use does not interfere with other functions and allows for compatible siting; these may include multistory buildings, water towers, large park areas, sewer treatment plant sites, maintenance yards, and public airports.
6. The City and County should also work with public and private agencies such as KDOT, KTA, and KG&E, to encourage the use of highway light standards, sign structures, and electrical support structures for new wireless communication facilities.

B. Design Guidelines

As a general rule, the less visible and obtrusive a proposed wireless communication facility is, the more acceptable it will be to the community. The visibility of facilities can be minimized by techniques such as concealment, disguise, camouflage, and sensitive design and siting. Specific guidelines include:

1. Preserving the pre-existing character of the area as much as possible.
2. Minimizing the height, mass or proportion of the facility to minimize conflict with the character of its proposed surroundings.
3. Minimizing the silhouette presented by new support structures and antenna arrays. Lattice-type support structures are generally appropriate in areas outside the “Urban Growth Areas” identified in the Wichita-Sedgwick County Comprehensive Plan. Lattice-type support structures inside the Urban Growth Area boundaries generally should be limited to installations that have antennas mounted flush to the support structure with cables attached to the main support arms rather than the girders. When an antenna array that protrudes from the wireless communication facility is used on a support structure inside the Urban Growth Area boundaries, the support structure generally should be a monopole. The figure below illustrates the types of support structures that are “encouraged” and “discouraged” by this section.

Encouraged



Discouraged



4. Using colors, textures and materials that blend in with the existing environment and minimize reflection; under some circumstances, surfaces should be painted, or otherwise treated, to match or complement existing background structures or utility poles, as appropriate.
5. Concealing facilities within potential space in or on existing structures, or disguised to look like another type of facility, like a flagpole, clock tower, or church steeple.
6. Placing facilities in areas where trees and/or buildings obscure some or all the facility from view, and installing new plantings/screening around the site where visible from major streets or residential areas.
7. Placing facilities on existing walls, flush-mounted, or on roofs buildings (excluding single-family and duplex) and structures, up to 20 feet above the existing structure, as opposed to building new ground-mounted support structures. Facilities on rooftops generally should be set back from roof edges or screened from view.
8. Screening equipment shelters and cabinets through landscaping, walls and/or fencing, as appropriate to the surroundings. In most cases, ground-level equipment should respect the setbacks for accessory uses in the applicable zoning district and be enclosed by 6-8 foot high security fencing, of a material compatible with its surroundings. Equipment should be encouraged indoors if space is available nearby. Burying equipment in an underground vault, to keep most of the equipment out of sight, may be necessary in right-of-way and in some other visually/environmentally sensitive locations, such as tourist attractions, historic landmarks/districts, museum district, river corridor, and other locations of civic importance or architectural significance. Ground level shelters/equipment, appropriately screened and generally landscaped with trees and/or shrubs, should be permitted on lots adjacent to right-of-way, to facilitate the use or reconstruction of utility poles in those right-of-way.
9. Permitting lighting on facilities only if required by federal regulations.

C. Right-of-Way

City and County right-of-way is an encouraged location for wireless communication facilities, particularly for small cell facilities and distributed antenna systems. Locating wireless communication facilities in the right-of-way requires an agreement with the City or County, as applicable. Such agreements should include an ongoing rental fee to ensure that private property owners are

not at a competitive disadvantage to the public sector in regards to renting land for the location of wireless communication facilities. However, state law requires that any rental fee for right-of-way must be competitively neutral with fees charged to other users of the right-of-way such utility companies.

In addition to the design guidelines described in Section D above, wireless communication facilities should also meet the following additional design guidelines when located in the right-of-way:

1. Installing facilities in a manner that is protested in by adjoining property owners. To the extent practical, the design and location should be changed to mitigate the property owner’s concerns and increase consistency with the guidelines of this Plan.
2. Installing facility wiring underground and within the support structure or within conduit immediately attached to the support structure.
3. Placing facilities in locations that do not hinder traffic or pedestrian safety.
4. Placing facilities in locations to do not hinder existing or planned uses of the right-of-way such as utilities, drainage, street lights, sidewalks, driveways, turn lanes, etc.
5. Matching, to the extent practical, the height of facilities to the prevailing height of street lights and utilities in the vicinity. Where necessary, heights for facilities of up to 25 percent above the prevailing height is acceptable.
6. Replacing existing utility poles is encouraged and installing new support structures solely for the wireless communication facility is discouraged. The figure below illustrates the types of support structures that are “encouraged” and “discouraged” by this guideline.

[insert figure]

E. Submittal Requirements

Review of proposals for wireless communication facilities will be greatly aided by using a set of standardized submittal requirements. This Plan suggests the following submittal requirements:

1. A scaled vicinity plan, dimensioned and identifying existing buildings, trees, and other features within 200 feet of the wireless communication facility in the City of Wichita or within 1,000 feet of the wireless communication facility in the unincorporated area of Sedgwick County.

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2. A one-inch-equals-20 feet site plan, dimensioned, identifying the location of all facility elements.
3. Typical elevations of all facility elements, dimensioned.
4. Specification of exterior materials and colors of all facility elements.
5. Landscape/screening plan, with all materials and sizes specified.
6. Appearance of proposed facility shown in site context by photo-simulation.

Appendix A: Definitions

Applicant. Any person or entity that is engaged in the business of providing wireless services or the wireless infrastructure required for wireless services and that submits an application.

Application. A request submitted by an applicant for: (A) the construction of a new wireless support structure or new wireless facility; (B) the substantial modification of a wireless support structure or wireless facility; or (C) collocation of a wireless facility or replacement of a wireless facility.

Collocation. Mounting or installation of wireless facilities on a building, structure, wireless support structure, tower, utility pole, base station or existing structure for the purposes of transmitting or receiving radio frequency signals for communication purposes.

Distributed Antenna System. A network that distributes radio frequency signals and consisting of: (A) Remote communications or antenna nodes deployed throughout a desired coverage area, each including at least one antenna for transmission and reception; (B) a high capacity signal transport medium that is connected to a central communications hub site; and (C) radio transceivers located at the hub's site to process or control the communications signals transmitted and received through the antennas to provide wireless or mobile service within a geographic area or structure.

Lattice Tower. A type of support structure that consists of an open network of braces forming a tower that is usually triangular or square in cross section.

Modification and/or Replacement. Modification of a support structure or wireless communication facility of comparable proportions and of comparable height or such other height that would not constitute a substantial modification in order to support wireless facilities or to accommodate collocation and includes replacement of any pre-existing wireless communication facility or support structure.

Monopole. A type of support structure that consists of a vertical pole fixed into the ground and/or attached to a foundation.

Right-of-Way. The area of real property in which the City or County has a dedicated or acquired right-of-way interest in the real property. It shall include the area on, below or above the present and future streets, alleys, avenues, roads, highways, parkways or boulevards dedicated or acquired as right-of-way. "Right-of-way" does not include any state, federal or interstate highway right-of-way, which generally includes the area that runs contiguous to, parallel with,

and is generally equidistant from the center of that portion of the highway improved, designed or ordinarily used for public travel.

Small Cell Facility. A wireless communication facility that meets both of the following qualifications: (A) Each antenna is located inside an enclosure of no more than six cubic feet in volume, or in the case of an antenna that has exposed elements, the antenna and all of the antenna's exposed elements could fit within an imaginary enclosure of no more than six cubic feet; and (B) primary equipment enclosures that are no larger than 17 cubic feet in volume, or facilities comprised of such higher limits as the federal communications commission has excluded from review pursuant to 54 U.S.C. § 306108. Associated equipment may be located outside the primary equipment, and if so located, is not to be included in the calculation of equipment volume. Associated equipment includes, but is not limited to, any electric meter, concealment, telecommunications demarcation box, ground-based enclosures, back-up power systems, grounding equipment, power transfer switch, cut-off switch and vertical cable runs for the connection of power and other services.

Substantial Modification. Modification of a wireless communication facility or support structure that will substantially change the physical dimensions under the objective standard for substantial change, established by the federal communications commission pursuant to 47 C.F.R. 1.40001.

Support Structure. A freestanding structure, such as a monopole, guyed or self-supporting tower or other suitable existing or alternative structure designed to support or capable of supporting wireless facilities, and any structure that is currently supporting or designed to support the attachment of wireless facilities, including, but not limited to, towers, buildings and water towers.

Utility Pole. A structure owned or operated by a public utility as defined in K.S.A. 66-104, and amendments thereto, a municipality as defined in K.S.A. 75-6102, and amendments thereto, or an electric cooperative as defined in K.S.A. 2015 Supp. 17-4652, and amendments thereto, that is designed specifically for and used to carry lines, cables or wires for telecommunications, cable, electricity or to provide lighting.

Wireless Communication. Personal wireless services and personal wireless service facilities as defined in 47 U.S.C. § 332(c)(7)(C), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through a wireless communication facility or any fixed or mobile wireless services provided using a wireless communication facility.

Wireless Communication Facility. Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including, but not limited to: (A) a support structure consisting of a freestanding support structure, such as a monopole, guyed, or self-supporting tower or other suitable existing or alternative structure designed to support or capable of supporting wireless facilities; (B) a base station that supports or houses an antenna, transceiver, coaxial cables, power cables or other associated equipment at a specific site that is authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies and other associated electronics; (C) equipment associated with wireless services such as private, broadcast and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul; and/or (D) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies and comparable equipment, regardless of technological configuration.

Appendix B: Adopting Documents

[insert documents]

**Amendments to the Wichita-Sedgwick County of the Unified Zoning Code
Required by Senate Substitute for House Bill No. 2131**

Section II-B.14.p. and Section II-B.14.q.

- p. ~~Wireless Communication~~** means ~~wireless services covered by the Location/Design Guidelines of the Wireless Communication Master Plan. It includes the following terms as defined in the Wireless Communication Master Plan as adopted by the Governing Bodies: broadcast systems, cellular, commercial mobile radio services, common carrier wireless access exchange services, enhanced specialized mobile radio, functionally equivalent services, personal communication services, paging, personal wireless services, public service and emergency systems, specialized mobile radio, tower builder, unlicensed wireless services and wireless cable system. It does not include amateur radio or private dispatch system as defined in the Wireless Communication Master Plan as adopted by the Governing Bodies~~ personal wireless services and personal wireless service facilities as defined in 47 U.S.C. § 332(c)(7)(C), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through a Wireless Communication Facility or any fixed or mobile wireless services provided using a Wireless Communication Facility.
- q. ~~Wireless Communication Facility~~** means ~~facilities covered by the Location/Design Guidelines of the Wireless Communication Master Plan. It includes the following terms as defined in the Wireless Communication Master Plan as adopted by the Governing Bodies: antenna, antenna array, equipment shelter, guyed tower, lattice tower, location, monopole, site, support Structure and tower. a Lot containing equipment at a fixed location that enables wireless communications between user equipment and a communications network, including, but not limited to: (A) a wireless support structure consisting of a freestanding support structure, such as a monopole, guyed, or self-supporting tower or other suitable existing or alternative structure designed to support or capable of supporting wireless facilities; (B) a base station that supports or houses an antenna, transceiver, coaxial cables, power cables or other associated equipment at a specific site that is authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies and other associated electronics; (C) equipment associated with wireless services such as private, broadcast and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul; and/or (D) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies and comparable equipment, regardless of technological configuration.~~

Section III-D.6.g.

- g. ~~Wireless Communication Facilities~~**Facility.**** Whether allowed by right, subject to a Building Permit, by Administrative Permit, by CUP adjustment/amendment, by P-O adjustment/amendment or by Conditional Use approval, a ~~Wireless Communication Facilities~~ Facility shall be subject to the following provisions.

- (1) ~~All~~ A Wireless Communication ~~Facilities~~ Facility shall be evaluated in terms of ~~their~~ conformance to the guidelines in the "Wireless Communication Master Plan" as adopted by the Governing Body, and applications for such facilities shall include information for review as required in that Plan.
- (2) ~~The~~ A following Wireless Communication ~~Facilities~~ Facility ~~are~~ is permitted by right in any zoning District, subject to the issuance of a Building Permit, if ~~they conform~~ conforms to the Location/Design Guidelines in ~~this chapter~~ that Plan:
 - (a) new ~~facilities~~ facility that ~~are~~ is concealed in or mounted on top of or the side of existing buildings (excluding single-family and duplex residences) and other Structures, including support structures up to 20 feet above the Building or the maximum height permitted by a Building Permit or an Administrative Permit in the underlying zoning District, whichever is greater;
 - (b) modification and/or replacement of support structures (light poles, flag poles, electrical poles, private dispatch towers, etc.) that are not significantly more visible or intrusive, including cumulative height extensions of up to 25 percent above the original Structure height;
 - (c) modification and/or replacement of a Wireless Communication ~~Facilities~~ Facility, including cumulative height extensions of up to 25 percent above the original structure height that comply with the compatibility height standards as outlined in Sec. IV-C.5;
 - (d) new or modified lattice towers no larger than 18 inches wide on any side up to 80 feet in height measured from grade.
 - ~~(d)~~ (e) small cell facility or distributed antennae system located in an interior Structure or upon the site of any campus, stadium, or athletic facility.

If the Zoning Administrator determines that the Wireless Communication Facility does not conform to the Location/Design Guidelines, the Building Permit shall be denied. Denied Building Permits may be appealed by applying for an Administrative Permit or a Conditional Use. An Administrative Permit shall be approved subject to conditions that maintain conformance with the Location/Design Guidelines. A Wireless Communication ~~Facilities~~ Facility that does not conform to the Location/Design Guidelines may be approved for a Conditional Use on a case-by-case basis as circumstances warrant.

- (3) ~~The following~~ A Wireless Communication ~~Facilities~~ Facility shall be approved by Administrative Permit in any zoning District, under the procedures in Sec. VI-G.9 and Sec. VI-H.5, if ~~they conform~~ conforms to the Location/Design Guidelines in the "Wireless Communication Master Plan" and, for zoning Lots located within the City, ~~are~~ is designated on the "Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map" of Sec. I- L.:

- (a) new disguised ground-mounted facilities up to 85 feet in height;
- (b) new undisguised ground-mounted facilities up to 65 feet in the SF- 10, SF-5, TF-3, MF-18, MF-29, B and MH zoning Districts that comply with the compatibility height standards as outlined in Sec. IV-C.5, which shall not be reduced or waived through the provisions of Sec. V-I.2.d;
- (c) new undisguised ground-mounted facilities up to 85 feet in the NO, GO and NR zoning Districts that comply with the compatibility height standards as outlined in Sec. IV-C.5, which shall not be reduced or waived through the provisions of Sec. V-I.2.d;
- (d) new ground-mounted facilities up to 120 feet in height in the RR, SF- 20, LC, OW, and GC zoning Districts that comply with the compatibility height standards as outlined in Sec. IV-C.5, which shall not be reduced or waived through the provisions of Sec. V-I.2.d; or
- (e) New ground-mounted facilities up to 150 feet in height in the IP, CBD, LI and GI zoning Districts that comply with the compatibility height standards as outlined in Sec. IV-C.5, which shall not be reduced or waived through the provisions of Sec. V-I.2.d.

If the property on which the facility is located is within a CUP or P-O, the Administrative Permit shall also be considered as an application for an adjustment of the CUP or P-O as outlined in Sec. V-E.14, excluding the requirement of V-E.14.a, or Sec. V-C.14, excluding the requirement of V-C.14.a., as applicable.

- (4) ~~All-A~~ Wireless Communication ~~Facilities-Facility~~ that does not meet the requirements of Sec. III-D.6.g(2) or Sec. III-D.6.g(3) shall be reviewed through the Conditional Use process as outlined in Sec. V-D or, if the property on which the facility is located is within a CUP or P-O, as an amendment to the CUP or P-O as outlined in Sec. V-E.13. or Sec. V-C.13, as applicable.
- (5) There shall be no nighttime lighting of or on a Wireless Communication ~~Facilities-Facility~~ except for aircraft warning lights or similar emergency warning lights required by applicable governmental agencies. Flashing white obstruction lights shall not be permitted for nighttime operation. Lighting for security purposes shall be permitted at the base of wireless communication facilities. Temporary lighting for nighttime repairs shall be permitted.
- (6) No signs shall be allowed on ~~an antenna support structure~~ a Wireless Communication Facility other than those required by applicable governmental agencies.
- ~~(7) At the time of requesting a Conditional Use, a CUP amendment, a P-O amendment, an Administrative Permit, or a Building Permit for a~~

~~new ground-mounted Wireless Communication Facility, as applicable, the applicant shall demonstrate to the satisfaction of the approving authority that: (a) there is no available space on existing or approved wireless communication facilities or other structures that can be utilized to meet the communication needs (an existing site will be considered "available space" only if the site is technically feasible with a ready, willing, and able landlord); and (b) there is no other economically and technically feasible opportunity to modify or rebuild an existing structure on which the communication equipment may be located. The technical feasibility of existing, modified or rebuilt structures may be reviewed by consultants to the Planning Department.~~

~~(8) At the time of requesting a Conditional Use, a CUP amendment, a P-O amendment, an Administrative Permit, or a Building Permit for a Wireless Communication Facility, as applicable, the owner of a proposed new undisguised ground-mounted Wireless Communication Facility, and the Owner of the land, if not the same, shall agree in writing that (a) the support structure is designed, and the ground area is adequate or will be made adequate, to accommodate at least one other carrier, if more than 80 feet in height, and at least two other carriers, if more than 100 feet in height; (b) reasonable accommodations will be made to lease space on the facility to other carriers so as to avoid having a proliferation of support structures that are not fully utilized; and (c) the owner(s) shall make available in the future the opportunity for another party to pay the cost to modify or rebuild the Structure to support additional communication equipment where economically and technically feasible. Lattice towers no larger than 18 inches on any side shall be excluded from the co-location requirements of subsection (a) of this paragraph.~~

~~(9)~~(7) Unused facilities, including the uppermost 20 percent of support structures that are unused (except where removal of the uppermost 20 percent would require the removal of a lower portion the support structure that is in use, in which case the required removal will be raised to the next highest portion of the support structure not in use), shall be removed by the owner within 60 days if the Wireless Communication Facility, or portion thereof, has been unused for 12 consecutive months. If such a facility or portion of a facility is not removed by the owner, then the City or County may employ all legal measures, including, if necessary, obtaining authorization from a court of competent jurisdiction, to remove it, and after removal may place a lien on the subject property for all direct and indirect costs incurred in its dismantling and disposal, including court costs and reasonable attorney fees. Under this paragraph, "owner" shall include both the Owner of the real property and the owner of the Wireless Communication Facility, whether such ownership is divided or in the same person.

~~(10)~~(8) All Wireless Communication Facilities shall comply with all federal, state, and local rules and regulations.

Section IV-C.5.

5. Compatibility Height standards. The following Height standards shall apply

to Development that is subject to compatibility standards, unless reduced or waived through the provisions of Sec. V-I.2.

- a. No Structure ~~(except for wireless communication facilities)~~ shall exceed 35 feet in height within 50 feet of the lot line of property zoned TF-3 or more restrictive. Structures located more than 50 feet from the Lot Line of property zoned TF-3 or more restrictive may increase Height (if permitted by the base District regulations) at a ratio of one foot in Height for each three feet of Setback beyond 50 feet. For example, a ~~Building-Structure~~ limited to 35 feet in Height at 50 feet from the Lot Line of property zoned TF-3 or more restrictive could be increased to a Height of 85 feet at a distance of 200 feet from the Lot Line of property zoned TF-3 or more restrictive.
- b. ~~Wireless Communication Facilities shall not exceed a Height equal to the distance to the Lot Line of property zoned TF-3 or more restrictive. For example, a Wireless Communication Facility located 100 feet from the Lot Line of property zoned TF-3 or more restrictive cannot exceed a Height of 100 feet.~~

Section VI-B.7. (new)

7. Zoning Adjustments. ~~The Governing Body shall have the authority to approve, approve with conditions or modifications, or deny zoning adjustments when requested in association with an application to amend the Official Zoning Map, an application for Community Unit Plan approval, or an application for Conditional Use approval.~~

Section VI-C.7. (new)

7. Zoning Adjustments. ~~The Planning Commission shall have the authority to approve, approve with conditions or modifications, or deny zoning adjustments when requested in association an application for Conditional Use approval or for amendment to a Community Unit Plan and shall have the authority to recommend to the Governing Body approval, approval with conditions, or denial of a zoning adjustment when requested in association with an application to amend the Official Zoning Map or amend a Planned Unit Development or Protective Overlay.~~

Section VI-G.9.

9. Administrative Permits. The Planning Director, with the concurrence of the Zoning Administrator, shall have the authority to approve, approve with conditions or modifications, or deny applications for a ~~Wireless Communication Facilities-Facility~~ pursuant to Sec. III-D.6.g. The Planning Director's decision on such an application may be appealed by filing an application for a Conditional Use.

Section VI-H.5.

5. Administrative Permits. The Zoning Administrator shall have the authority to review and recommend to the Planning Director approval, approval with conditions or modifications, or denial of applications for ~~wireless communication~~

~~facilities~~ a Wireless Communication Facility pursuant to Sec. III-D.6.g. An Administrative ~~permits~~ Permit for a Wireless Communication ~~Facilities~~ Facility may be granted by the Planning Director only with the concurrence of the Zoning Administrator.