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WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION AGENDA
Thursday, October 20, 2016

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission will be held on **Thursday, October 20, 2016**, beginning at **1:30 PM** in the Planning Commission Conference Room, 271 West Third Street, 2nd Floor, Ste #203, 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: August 18, 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. **SUB2016-00028: Final Plat – THE PADDOCK AT 127TH ADDITION**, located south of Harry, on the east side of 127th Street East.

Committee Action: APPROVED 5-0
Surveyor: Ruggles & Bohm, P.A.
Acreage: 20.45
Total Lots: 53

- 2-2. **SUB2016-00031: One-Step Final Plat – EDGEMOOR COMMERCIAL ADDITION**, located north of Central, west of Woodlawn.

Committee Action: APPROVED 5-0
Surveyor: K.E. Miller Engineering, P.A.
Acreage: 2.45
Total Lots: 1

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 – 271 West Third Street, 2nd Floor, Ste #201, Wichita, Kansas

- 3-1. **VAC2016-00038: City request to vacate the plattors text to amend the uses permitted in a platted reserve on property**, generally located north of Central Avenue on the east side of 127th Street East.

Committee Action: APPROVED 5-0

- 3-2. **VAC2016-00039: City request to vacate a portion of a platted setback on property**, located west of Hillside Avenue, on the south side of Kellogg Street, on the northwest side of Sunnyside Street and Lorraine Avenue.

Committee Action: APPROVED 5-0

- 3-3. **VAC2016-00040: City request to vacate a portion of platted street right-of-way,** located on the southwest portion of the Kellogg and Cypress Avenue's intersection.

Committee Action: APPROVED 5-0

- 3-4. **VAC2016-00041: City request to vacate portions of a platted setback, platted drainage easement and platted utility easement on property,** generally located east of Rock Road, north of 21st Street North on the east side of Tallgrass Street.

Committee Action: APPROVED 5-0

- 3-5. **VAC2016-00042: City request to vacate a portion of a platted building setback on property,** generally located southwest of West 4th Street and South 135th Street West on the northwest corner of Hardtner Street and Hardtner Court.

Committee Action: APPROVED 5-0

- 3-6. **VAC2016-00043: City request to vacate portions of platted access control on property,** generally located east of South Meridian Avenue on the south side of West MacArthur Road.

Committee Action: APPROVED 5-0

- 3-7. **VAC2016-00044: City request to vacate a portion of a platted front building setback,** located on multiple lots located southwest of North Hoover Road and West 37th Street North, south of Venice Street on the west and east sides of Venice Court.

Committee Action: APPROVED 5-0

- 3-8. **VAC2016-00045: City request to vacate a portion of Waterman public street right-of-way,** located between Main Street and the Arkansas River.

Committee Action: APPROVED 5-0

- 3-9. **VAC2016-00046: City request to vacate portions of platted complete access control and a building setback line and a portion of a drainage and utility easement dedicated by separate instrument on property,** located south of West 29th Street North on the east side of North Tyler Road.

Committee Action: APPROVED 5-0

PUBLIC HEARINGS

ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 PM

4. Case No.: ZON2016-00040
Request: City zone change from SF-5 Single-family residential and GO General Office to NR Neighborhood Retail.
General Location: 654 N. Woodchuck; generally located south of Central Avenue between Ridge and Tyler Roads.
Presenting Planner: Kathy Morgan

- 5.** Case No.: CON2016-00030
Request: City Conditional Use to permit a Tavern and Drinking Establishment and an Entertainment Establishment within 300 feet of residential zoning on property zoned LC Limited Commercial.
General Location: South of Pawnee and west of Hydraulic (1507 & 1527 E. Pawnee The Elbow Room).
Presenting Planner: Bill Longnecker
- 6.** Case No.: CON2016-00039 (Deferred Indefinitely)
Request: City Conditional Use to permit a Tavern and Drinking Establishment and an Entertainment Establishment within 300 feet of residential zoning in LI Limited Industrial zoning.
General Location: West of Rock Road and south of Harry (7707 E. Harry).
Presenting Planner: Bill Longnecker
- 7.** Case No.: CON2016-00045
Request: County Conditional Use for an accessory apartment in RR Rural Residential zoning.
General Location: North of West 53rd Street and east side of Ridge Road (5902 N. Ridge Rd).
Presenting Planner: Kathy Morgan
- 8.** Case No.: CON2016-00047
Request: City Conditional Use request for a Major Utility on LI Limited Industrial zoned property.
General Location: West of North Webb Road on the northwest side of East 39th Street North and Toben Street.
Presenting Planner: Bill Longnecker
- 9.** Case No.: CON2016-00048
Request: City Conditional Use request for personal improvement service, massage therapist, on GO General Office zoned property.
General Location: South of Harry Street and east of Seneca Street (1724 S. Seneca St.).
Presenting Planner: Kathy Morgan
- 10.** Case No.: CON2016-00049
Request: City Conditional Use request for animal care limited and expansion of existing facility, on GO General Office zoned property.
General Location: North of East Kellogg Avenue, on the southeast side of South Edgemoor Drive and Lexington Road.
Presenting Planner: Kathy Morgan
- 11.** Case No.: CUP2016-00022
Request: City CUP Major Amendment to DP-62 to increase the permitted residential density on Parcel 8.
General Location: South and west of the intersection of East 21st Street North and North Rock Road on the east side of North Broadmoor Street.
Presenting Planner: Scott Knebel

- 12.** Case No.: PUD2016-00008
Request: City request to rezone from SF 5 Single-family Residential to PUD
Planned Unit Development.
General Location: North of West 37th Street North and K-96/I 235 on the east side of North
Seneca Street.
Presenting Planner: Bill Longnecker

NON-PUBLIC HEARING ITEMS

13. Other Matters/Adjournment

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

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

MINUTES

August 18, 2016

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, August 18, 2016 at 1:35 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Carol Neugent, Chair; John Dailey; Bob Dool; Bill Ellison (Out @5:04 p.m.); David Foster; Mike Greene; John McKay Jr. (Out @2:50 p.m.); Lowell Richardson; John Todd and Chuck Warren. Members absent were: Matt Goosby; Joe Johnson; Debra Miller Stevens and Bill Ramsey. Staff members present were: Dale Miller, Director; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Neil Strahl, Senior Planner; Jeff Vanzandt, Assistant City Attorney; Justin Waggoner, Assistant County Counselor; Patricia Parker, Assistant County Counselor and Maryann Crockett, Recording Secretary.

DIRECTOR NEUGENT introduced new Commissioner Mike Greene.

1. Approval of the July 7, 2016 Planning Commission Minutes.

MOTION: To approve the July 7, 2016 Planning Commission minutes.

MCKAY moved, **TODD** seconded the motion, and it carried (8-0-2). **GREENE** and **WARREN** – Abstained.

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB2016-00025: One-Step Final Plat – CLEAR RIDGE TOWNHOMES ADDITION**, located on the south side of East Pawnee Road, west of South 143rd Street East.

NOTE: This unplatted site is located in the County adjoining Wichita's municipal boundaries and annexation is requested. Reserve A and Lot 2 which are zoned Single-Family Residential (SF-20), will be converted to Single-Family Residential (SF-5) upon annexation. The remainder of the site, Lot 1, Block 1, and Reserve B has been approved for a zone change (ZON2016-00011) from Single-Family Residential (SF-20) to Multi-Family Residential (MF-18). The lot zoned MF-18 has denoted the location of the 39 units for the purpose of establishing minimum pad elevations.

STAFF COMMENTS:

- A. As this site is adjacent to Wichita's municipal boundaries, the applicant may submit a request for annexation. Upon annexation, the portion of the property zoned SF-20 will be zoned Single-Family Residential (SF-5).
- B. City of Wichita Public Works and Utilities Department requests the applicant extend sewer (laterals) to all lots, and extend water (distribution) to all lots. In lieu-of-assessment fees on transmissions are due. A service area release is needed from Sedgwick County Rural Water District #3. The utility easement for the proposed sewer located outside of the plat boundaries needs to be established by separate instrument.

- C. The plat's text shall include language that Reserve B includes utilities as confined to easements.
- 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. City Stormwater Management has approved the drainage plan.
- F. Traffic Engineering has approved the access controls. The plat denotes two openings along Pawnee in accordance with the site plan submitted with the zone change.
- G. City Fire Department advises that the hammerhead at the southwest corner is an acceptable turnaround, however the entire private drive must allow for proper turns for fire apparatus.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a restrictive covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. 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.
- 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.
- 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 and all relocation and removal of any existing equipment made necessary by this plat 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)

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

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

- 2-2. **SUB2016-00026: One-Step Final Plat – NORTHWEST WATER TREATMENT PLANT ADDITION**, located on the south side of 21st Street North, East of Hoover Road.

NOTE: This unplatted site is located within the City of Wichita. A conditional use was approved (CON2016-00014) for a major utility (water treatment plant) on the portion of the site zoned SF-5 (Lot 3 and Reserve A). Lots 1 and 2 were approved for a zone change (ZON2016-00021) from Limited Commercial (LC) and Single-Family Residential (SF-5) to Industrial Park (IP).

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department requests the applicant extend sewer (laterals) and extend water (distribution). In lieu-of-assessment fees on transmission are due.
- 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 inset needs corrected to denote Lot 3.
- E. The plat denotes two openings along 21st Street North for the IP-zoned property (Lot 1, Block 1) and two openings for the water treatment plant (Lot 3). The site plan approved with the conditional use denotes three openings for the IP-zoned lot and the plat needs revised. The plat's text states that access controls must comply with access management standards. Traffic Engineering has approved the access controls.
- F. The plat's text shall be corrected to reference Reserve A as being owned and maintained by the owner of Lot 3, Block 1.
- G. Provisions shall be made for ownership and maintenance of the proposed reserves. A restrictive covenant shall be submitted regarding ownership and maintenance responsibilities.
- H. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- I. This property is within a zone identified by the City Engineer's office as likely to have groundwater at some or all times within ten feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineer's office.
- J. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- K. The joint access 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.

- L. The applicant shall submit a copy of the instrument, which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the appropriate governing body.
- M. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.
- N. Elevations and minimum openings need shown as referenced in the plat's text.
- 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).

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

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

3. PUBLIC HEARING – VACATION ITEMS

3-1. VAC2016-00032: City request to vacate a utility easement referenced in the plattor's text on property, generally located north of Central Avenue on the east side of Hydraulic Avenue.

OWNER/APPLICANT: Timothy McGinty, Jr. (applicant), K.E. Miller Engineering, P.A. (agent)

LEGAL DESCRIPTION: Generally described as vacating the five-foot wide public utility easement (as referenced in the plattor's text) located in the east five feet of Lots 25, 27, 29, 31 and the north 10 feet of the east 5 feet of Lot 33, Ratliffe's Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located North of East Central Avenue, on the East Side of North Hydraulic Avenue (540 North Hydraulic) (District I)

REASON FOR REQUEST: To build security fencing/wall and portion of new building

CURRENT ZONING: The site and the abutting property to the north is zoned Limited Industrial (LI). The abutting property to the south and adjacent property to the west are zoned General Commercial (GC). I-135 Highway is abutting to the east.

The applicant is requesting the vacation of the five-foot wide public utility easement (as referenced in the plattor's text) located in the east five feet of Lots 25, 27, 29, 31 and the north 10 feet of the east 5 feet of Lot 33, Ratliffe's Addition, Wichita, Sedgwick County, Kansas to install a security fence/wall and portion of a new building. Per the plattor's text: "The City of Wichita is hereby granted an easement on the rear five feet of each and every lot for the construction and maintenance of public utilities." Per City GIS, a sewer line exists within the subject easement.

Three vacation cases have been submitted in the past year (VAC2016-00001 for right-of-way vacation for Elm Street, VAC2015-00011 and VAC2015-00057 for utility easements) in conjunction with a new building that is being proposed to connect the two existing buildings north and south of Elm Street. The applicant is removing a manhole and sewer line under the building with a private sewer project (PPS 2267) and installing a new manhole at the new sewer terminus.

With this subject vacation case, the applicant intends to install a manhole south of the proposed wall/fence, located further south than shown on PPS 2267 and will necessitate another private sewer project to remove the additional sewer line.

City of Wichita Public Works and Utilities Department has no objection to the proposed vacation and requests a new sewer project for the installation of a manhole south of the proposed fence/wall and removal of additional sewer line. No other City staff has objections.

Westar Energy has equipment located outside the portion of the subject easement and therefore agrees with the vacation request.

No objections have been received from other franchised utilities. The Ratliffe's Addition was recorded with the Register of Deeds on February 16, 1924.

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

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time July 28, 2016, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described utility easement referenced in the plattor's text and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

1. Vacate the five-foot wide public utility easement (as referenced in the plattor's text) located in the in the east five feet of Lots 25, 27, 29, 31 and the north 10 feet of the east 5 feet of Lot 33, Ratliffe's Addition, Wichita, Sedgwick County, Kansas.
2. Provide a restrictive covenant tying the subject lots together to be used as one undivided parcel.
3. Provide Public Works with the project plans for the removal of public sewer line and manhole installation for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council for final action.
4. All improvements shall be according to City Standards and at the applicants' expense.
5. Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

1. Vacate the five-foot wide public utility easement (as referenced in the plattor's text) located in the in the east five feet of Lots 25, 27, 29, 31 and the north 10 feet of the east 5 feet of Lot 33, Ratliffe's Addition, Wichita, Sedgwick County, Kansas.
2. Provide a restrictive covenant tying the subject lots together to be used as one undivided parcel.
3. Provide Public Works with the project plans for the removal of public sewer line and manhole installation for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council for final action.
4. All improvements shall be according to City Standards and at the applicants' expense.
5. Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

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

3-2. **VAC2016-00033: City vacation of a platted setback on property,** generally located north of E. 13th N. and west of Webb Rd. (1624 N. Gatewood).

OWNER/APPLICANT: Ken and Pam Wells (owner/applicant)

LEGAL DESCRIPTION: Generally described as vacating the south 15 feet of the platted 25-foot building setback running parallel to the north property line of Lot 41, Block 1, Country Place Estates Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located North of 13th Street North, West of Webb Road, on the southeast corner of East Crestwood Street and North Gatewood Street (1624 North Gatewood) (District II)

REASON FOR REQUEST: To erect a detached garage

CURRENT ZONING: The site and the abutting and adjoining properties all zoned Single-Family Residential (SF-5)

The applicant is requesting the vacation of the south 15 feet of a platted 25-foot building setback from Crestwood Street running parallel to the north property line of Lot 41, Block 1, Country Place Estates Addition. The site is a corner lot with the shorter frontage along Crestwood and therefore defined as the front lot line per the Unified Zoning Code (UZC).

The Unified Zoning Code's minimum front yard setback for the SF-5 zoning district is 25 feet. The applicant's request reduces the platted 25-foot setback to ten feet. Section 10-104 of the Subdivision Regulations allows the Planning Commission to modify the setback standards.

No platted easements are located within the platted setback. A water hydrant is located within the setback at the northwest corner of the property. No manholes, sewer or water lines, or stormwater equipment is located within the described portion of the platted setback.

Stormwater Management, City of Wichita Public Works and Utilities, City Traffic and City Fire Departments have no objection to the proposed vacation. No objections have been received from any franchised utilities.

Westar Energy has street light equipment in the right-of-way at the corner of Gatewood and Crestwood and has no objection to the vacation request. A letter has been submitted from the Country Place Estates Homeowner's Association which is in support of the request.

The Country Place Estates Addition was recorded with the Register of Deeds on April 20, 1979

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate a portion of the described platted 25-foot 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 July 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 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. Vacate the south 15 feet of the 25-foot building setback running parallel to the north property line of Lot 41, Block 1, Country Place Estates Addition, Wichita, Sedgwick County, Kansas
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 VAC2016-00033 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 VAC2016-00033 proceeds to the City Council for final action.
4. Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

1. Vacate the south 15 feet of the 25-foot building setback running parallel to the north property line of Lot 41, Block 1, Country Place Estates Addition, Wichita, Sedgwick County, Kansas
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 VAC2016-00033 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 VAC2016-00033 proceeds to the City Council for final action.
4. Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

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

- 3-3. **VAC2016-00034: City request to vacate an easement referenced in the plattor's text on property,** generally located north of Harry Street, east of Broadway Avenue. (719 E. Zimmerly).

APPLICANT/AGENT: William S. Humphrey (owner), R.D. Wood (agent)

LEGAL DESCRIPTION: Generally described as vacating the language in the plattor's text referencing an easement granted to the City of Wichita, for the construction and maintenance of all public utilities, underground, on the rear 6 feet of Lots 1, 2 and 3, Wakefield Addition, Wichita, Kansas.

LOCATION: Generally located North of East Harry Street, East of South Broadway Avenue, on the southwest corner of East Zimmerly Street and South Mead Avenue (719 East Zimmerly) (District III)

REASON FOR REQUEST: Easement is not needed and applicant desires to clear title as existing structure encroaches the easement

CURRENT ZONING:

The site, adjacent north property, abutting south property, and adjoining property to the east are zoned Limited Industrial (LI). Adjacent property to the west is zoned Multi-Family Residential (MF-29).

The applicant proposes to vacate a utility easement referenced in the plat's text within the south six feet of Lots 1, 2 and 3, Wakefield Addition. Per the plat's text, "The City of Wichita is hereby granted an easement, for the construction and maintenance of all public utilities, underground, on the rear 6 feet of all lots".

The applicant desires to clear the title as the existing structure encroaches upon the easement. Per the City's GIS Viewer, there are no manholes, sewer lines, water lines or stormwater equipment located within the described utility easement.

Stormwater Management, City of Wichita Public Works and Utilities, City Traffic and City Fire Departments have no objection to the proposed vacation.

Westar Energy has no objection and advises any relocation or removal if necessary will be at the Applicant's expense. Shane Price, Supervisor, Construction Services will be the contact for this vacation request and can be reached at 261-6315.

No objections have been received from other franchised utilities. The Wakefield Addition was recorded on June 30, 1914.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described public utility easement referenced in the plat's text.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time July 28, 2016, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described utility easement referenced in the plat's text and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

1. Vacate the south 6-foot wide utility easement (as referenced in the plat's text) of Lots 1, 2 and 3, Wakefield Addition, Wichita, Kansas.

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 VAC2016-00034 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 VAC2016-00034 proceeds to the City Council for final action.
4. Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

1. Vacate the south 6-foot wide utility easement (as referenced in the plattor's text) of Lots 1, 2 and 3, Wakefield Addition, Wichita, Kansas.
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 VAC2016-00034 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 VAC2016-00034 proceeds to the City Council for final action.
4. Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

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

PUBLIC HEARINGS

4. **Case No.: ZON2016-00020** - City request to amend the Delano Protective Overlay to allow a wireless communication facility on U University zoned property, generally located southeast of West Maple Street and Meridian Avenue and southeast of Mentor Street and St. Claire Avenue.

CHAIR NEUGENT reported that the item was deferred.

5. **Case No.: ZON2016-00028** - Masoud Etezazi (owner applicant) and Conco, Inc., c/I Kyle Blasdel (agent) request a City zone change from B Multi-family Residential, SF-5 Single family Residential and LC Limited Commercial to GC General Commercial on property described as:

Lot 1, except the north 10 feet thereof, and all of Lots 3, 5, 7, 9, 11, 13, 15, 17, 19, 21 and 23, on Guy, now Piatt Avenue, in Parkview Addition to Wichita, Kansas, Sedgwick County, Kansas.

TOGETHER WITH

Lot 2, except the north 10 feet thereof, and all of Lots 4, 6, 8, 10 and 12, on Sedgwick, now Minnesota Avenue, in Parkview Addition to Wichita, Kansas, Sedgwick County, Kansas.

TOGETHER WITH

Lot 1, Conway Addition to Wichita, Sedgwick County, Kansas, EXCEPT that portion platted as U.N.B. 2nd Addition, Wichita, Sedgwick County, Kansas.

BACKGROUND: The subject property is two parcels located at the southeast and southwest corners of 21st Street North and Piatt. The east parcel is 1.9 acres zoned LC Limited Commercial, B Multi-Family Residential, and SF-5 Single-Family Residential and is developed with Etezazi Industries, a global manufacturer of machine parts and assemblies for aerospace, alternative energy, transportation and defense industry. Per the Unified Zoning Code (UZC), the uses of the east parcel are defined as Manufacturing, General (Sec. II-B.8.e.) and Welding or Machine Shop (Sec. II-B.14.n.). The uses of the east parcel are first permitted by the UZC in GC General Commercial zoning. The west parcel is 1.37 acres zoned LC, B, and SF-5 and is developed with The Market and MetroPCS. Per the UZC, the uses of the west parcel are defined as Convenience Store (Sec II-B.3.p.) and Retail, General (Sec. II-B.11.1). The uses of the west parcel are first permitted by the UZC in LC zoning; however, the applicant proposes to use the undeveloped portion of the west parcel for Warehousing (Sec. II-B.14.m.), which is not permitted in LC zoning but is permitted by the requested GC zoning.

The existing building on the east parcel was constructed as a vocational school to train employees in aerospace manufacturing. A vocational school is a permitted use in the LC zoning of the east parcel. Etezazi Industries purchased the existing building and manufacturing equipment in 2015 and began operating a manufacturing and machine shop. Since no building permit or change of occupancy permit was required, there was no review of the new use by the City of Wichita, and Etezazi Industries began operating a use that is not permitted by the UZC. There have been no complaints about the operation. The non-conformity of the existing use with the UZC arose when the applicant proposed an expansion of the operation requiring a building permit. Both the existing use and the proposed expansion require the requested GC zoning. If GC zoning is not approved, the applicant will need to relocate the existing business to a properly zoned property.

The applicant proposes to expand Etezazi Industries on the undeveloped portions of the east and west parcels as shown in the attached site plan. On the east parcel, the applicant proposes a 34,000 square foot expansion of the existing 11,460 square foot manufacturing and machine shop building. The applicant proposes a 10-foot building setback along the south property line of the east parcel and a 20-foot building setback along the west property line of the east parcel. The applicant proposes a screening wall along the south property line of the east parcel. On the west parcel the applicant proposes a 3,000 square foot warehouse and a parking lot. The applicant proposes 10-foot building setbacks along the west and south property lines of the west parcel and a 20-foot building setback along the east property line of the west parcel. The applicant proposes a screening wall along the south and west property lines of the west parcel. The applicant's proposal does not meet the following UZC requirements:

1. The entire frontage of the ground floor of the manufacturing and machine shop building along 21st Street North must be used for office space, display, or wholesale or retail sales (Sec. III-D.6.n).
2. The parking requirement is 96 spaces (note the site plan has inaccurate parking requirements) and 94 spaces are shown (Sec. IV.4.A.4.). The 96 space parking requirement is calculated as 85 spaces for manufacturing and machine shop (1 space per 500 square feet); nine (9) spaces for office (1 space per 333 square feet) and two (2) spaces for warehousing (1 space per 2,000 square feet).
3. Four parking spaces for persons with disabilities with are required and two are shown (Sec. IV.A.8.).
4. Two off-street loading spaces are required for customers and deliveries and none are shown (Sec. IV.A.14.).
5. The warehouse is adjacent to property zoned SF-5; therefore, a 25-foot compatibility setback is required along the south and west property lines of the west parcel (Sec. IV-C.4.).
6. The loading docks on the warehouse and manufacturing and machine shop building are not screened from view from Piatt (Sec. IV-B.3.e.).

The subject property is located along the 21st Street North corridor east of Interstate 135, which has been the focus of major revitalization efforts to improve the aesthetics of the community as well as provide increased employment and educational opportunities to neighborhood residents. Manufacturing and machine shops are an established use along this corridor, in particular at the 21st Street North and Piatt intersection. Two existing manufacturing and machine shops are located at the northeast corner of 21st Street North and Piatt on property zoned GC, and the subject property has a non-conforming manufacturing and machine shop in LC zoning. The corridor also has major educational institutions located along Opportunity Drive northeast of the subject property within the 21st Street Kids and Family Empowerment Planned Unit Development. Additional commercial uses along the corridor include several retail and office uses both east and west of the subject property on properties zoned LC and GO General Office. The remainder of the corridor is developed with residential uses, the most predominate of which are senior apartments east of the subject property on property zoned GO and single-family residences located both north and south of the subject property on properties zoned TF-3 Two-Family Residential, SF-5, and B.

CASE HISTORY: The east parcel is platted as the Conway Addition, which was recorded August 8, 1957. The west parcel is platted as part of the Parkview Addition, which was recorded March 26, 1910.

ADJACENT ZONING AND LAND USE:

NORTH:	TF-3, LC, GC	Single-family residences, retail, manufacturing, machine shop
SOUTH:	SF-5, B	Single-family residences
EAST:	GO	Senior apartments, office
WEST:	SF-5, B, LC	Single-family residences, retail

PUBLIC SERVICES: 21st Street North is a four-lane arterial street with a continuous center left-turn lane at this location. 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. The Locational Guidelines of the Comprehensive Plan recommend that the expansion of existing uses to adjacent areas be supported. The Locational Guidelines also recommend that non-residential uses should provide appropriate screening and buffering from residential uses and should have site design features that limit traffic, noise, lighting, and adverse impacts on surrounding residential land uses. The *21st Street North Corridor Revitalization Plan* has a goal to increase the long-term economic renewal, vitality, and sustainability of the corridor.

RECOMMENDATION: Given the long-term efforts to revitalize the 21st Street North corridor with employment opportunities for neighborhood residents and the guidance of the Comprehensive Plan to support the expansion of existing businesses, planning staff supports the application. However, the already developed convenience store and retail on the LC-zoned portion of the western parcel are permitted uses, and planning staff finds changing the zoning of that portion of the subject property to be unnecessary. Additionally, the applicant’s proposal does not meet all UZC requirements or screening, buffering, and site design guidelines of the Comprehensive Plan. Therefore, planning staff recommends a Protective Overlay to address these issues. Based upon information available prior to the public hearings, planning staff recommends that a zone change to GC General Commercial be **APPROVED** for only the east parcel and that portion of the west parcel zoned B Multi-Family Residential and SF-5 Single-Family Residential, subject to the following provisions of a Protective Overlay:

1. Permitted uses shall be those uses permitted by right in GC General Commercial, except for auditorium or stadium, correctional placement residence, recycling collection station, recycling processing center, reverse vending machine, animal care, car wash, entertainment establishment, event center, kennel, marine facility, microbrewery, monument sales, nightclub, pawnshop, recreation and entertainment, recreational vehicle campground, riding academy or stable, secondhand store, sexually oriented business, tattooing and body piercing, tavern and drinking establishment, teen club, vehicle and equipment sales, self-storage warehouse, asphalt or concrete plant, outdoor storage, vehicle storage, and agricultural sales and service.
2. The entire frontage of the ground floor of the manufacturing and machine shop building along 21st Street North shall be used for office space, display, or wholesale or retail sales.
3. All buildings located within GC zoning shall share a uniform architectural character, color, and predominate exterior building material as approved by the Planning Director.
4. Development shall be in accordance a site plan approved by the Planning Director.
5. Building height is limited to 35 feet.

6. Building setbacks where GC zoning abuts residential zoning shall be 25 feet.
7. The existing hedge row shall be preserved along the south property line and may count towards the landscaping required to meet the landscape buffer requirements of the Landscape Ordinance. If the existing hedge row is damaged or dies, a landscape buffer equal to 1.5 times the Landscape Ordinance requirement shall be provided along the south property line.
8. A six (6) to eight (8) foot high concrete/masonry wall shall be constructed adjacent to the south and east property lines of the east parcel and adjacent to the south and west property lines of the portion of the west parcel zoned GC. The masonry wall shall not be constructed within a utility easement without the permission of the City Engineer.
9. Loading docks, trash receptacles, mechanical equipment, and outdoor work areas shall be screened from ground-level view from street right-of-way and adjacent properties.
10. Parking and loading shall be in accordance with Section IV-A of the Unified Zoning Code.
11. Signs shall per the Sign Code provisions for the LC district, except that no signage is permitted along the Piatt frontage or facing south.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The subject property is located along the 21st Street North corridor east of Interstate 135, which has been the focus of major revitalization efforts to improve the aesthetics of the community as well as provide increased employment and educational opportunities to neighborhood residents. Manufacturing and machine shops are an established use along this corridor, in particular at the 21st Street North and Piatt intersection. Two existing manufacturing and machine shops are located at the northeast corner of 21st Street North and Piatt on property zoned GC, and the subject property has a non-conforming manufacturing and machine shop in LC zoning. The corridor also has major educational institutions located along Opportunity Drive northeast of the subject property within the 21st Street Kids and Family Empowerment Planned Unit Development. Additional commercial uses along the corridor include several retail and office uses both east and west of the subject property on properties zoned LC and GO General Office. The remainder of the corridor is developed with residential uses, the most predominate of which are senior apartments east of the subject property on property zoned GO and single-family residences located both north and south of the subject property on properties zoned TF-3 Two-Family Residential, SF-5, and B.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned LC, which does not permit the existing manufacturing and machine shop uses. If the zoning is not approved, the existing business on the site will need to relocate.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The use restrictions and development standards of the recommended Protective Overlay should mitigate detrimental impacts on nearby properties.

- (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. The Locational Guidelines of the Comprehensive Plan recommend that the expansion of existing uses to adjacent areas be supported. The Locational Guidelines also recommend that non-residential uses should provide appropriate screening and buffering from residential uses and should have site design features that limit traffic, noise, lighting, and adverse impacts on surrounding residential land uses. The *21st Street North Corridor Revitalization Plan* has a goal to increase the long-term economic renewal, vitality, and sustainability of the corridor.
- (5) **Impact of the proposed development on community facilities:** All public services are available to the subject property.

SCOTT KNEBEL, Planning Staff presented the Staff Report.

WARREN clarified that if the Planning Commission did not approve the staff recommendation for GC zoning on the north and west buildings, would the applicant continue to operate within zoning compliance or allowed to continue to operate as non-confirming uses.

KNEBEL said the buildings to the north and west do conform to LC zoning now.

FOSTER asked if the facility to the east met bulk regulation requirements because it was a massive structure.

KNEBEL commented that there were no standard building coverage requirements in GC zoning. He said as long as they can meet the parking requirements they are okay.

RICHARDSON asked can't the southwest site be used as parking as it is currently zoned.

KNEBEL said no, the applicant would have to obtain a conditional use for ancillary parking in a residential district.

ELLISON asked staff to clarify screening.

KNEBEL said staff is recommending a masonry wall on the east and south sides of the east parcel and the south and west sides of the west parcel. He referred to the site plan. He added that the masonry wall can prevent future expansion because it is costly to build hard to tear down. He said if the business becomes more successful and want to expand again, the wall will discourage them from buying up houses in the neighborhood and tearing them down so they can expand.

ELLISON clarified so there would be truck traffic from the storage area across the street east to manufacturing.

KNEBEL said he wasn't sure but they thought maybe fork lifts.

RICHARDSON clarified if the application was approved, there would be major changes to the site plan.

KNEBEL indicated that was correct and said the site plan presented is not what staff is recommending at all.

KYLE BLASDEL, PROJECT MANAGER FOR CONCO CONSTRUCTION INC., 3051 N. OHIO, AGENT FOR THE APPLICANT said they are in agreement with staff recommendations and they realize that will require changes to the site plan. He specifically mentioned changing the orientation of the storage building to the north and providing screening. He also mentioned that the current building frontage along 21st Street is office space and that won't change in the future. He commented that they would update the site plan with the required setbacks and other items requested in the Staff Report.

MASOUD ETEZAZI, CEO ETEZAZI INDUSTRIES, APPLICANT, 2952 NORTH ARKANSAS said this building was recommended and sold to them by the City. He said they bought the building and redeveloped it with the consent of the City. He said they did a lot of investment to bring the building to its present condition and that they do not want to have to relocate. He said he also doesn't believe it will be good for the community if they relocate.

TODD clarified that the applicant purchased the building from the City of Wichita who knew what you were going to do with it.

ETEZAZI responded yes.

TODD asked how many employees they had.

ETEZAZI said right now 28, but with the expansion they believe it will be between 60-70 people.

TODD clarified that it would create a hardship on the company if they had to move.

ETEZAZI said yes, very much so. He said they have spent a tremendous amount of money on equipment and they have contracts that need to be delivered at the beginning of the year.

ELLISON asked if they are training people from the area.

ETEZAZI said approximately 35-40% of their employees have to be from the area in order for them to be awarded the contracts they are awarded.

JAMES BARFIELD, 1911 E. 21ST STREET said the neighborhood's main concern is the property to the west which is currently zoned for residential. He gave a brief overview of the neighborhood stating that the area was populated with hard working homeowners who pay taxes. He said many of the neighbors couldn't be here today because they work. He said these are not \$500,000 homes, but they have made the investment in them and raised families here. He said the neighborhood feels this is an infringement on their property and rights. He said the neighborhood is best known for the 1965 KC 135 crash that destroyed 12 homes and killed 30 people in the area. He said this area is in better condition today then when the airplane crashed.

BARFIELD said the primary purpose of zoning is to segregate uses that are thought to be incompatible. He said nothing is more incompatible than putting GC zoning in a residential neighborhood. He said zoning is also used to protect areas from uses that would interfere with the current neighborhood and preserve the character of a community. He said putting a warehouse and manufacturing facility is interfering with the character of the neighborhood. He briefly reviewed a presentation of pictures of homes in the surrounding residential neighborhood. He said the neighbors think this proposal is unprecedented and unthinkable. He said if this were in any other area of town this would not even be considered.

MOTION: To give the speaker three additional minutes.

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

BARFIELD commented that the parking at the facility is currently underutilized and gave several examples of what he has observed at the location. He referred to unused green space consisting of approximately 2-3 acres to the east that would allow the applicant to double the size of the current operation without infringing on the residential properties across the street. He said the neighborhood is expected to welcome them with open arms because they have invested in a building without doing their "due diligence" because they are operating illegally. He concluded by saying that he represented the neighborhood who are totally opposed to any change in the zoning at this location. He said the property to the west is zoned residential and they want it to stay that way.

WARREN asked where the homes on his slide presentation were located and if any of them were built within the last 20 years.

BARFIELD reviewed the slide presentation and indicated that most of the homes were built within the last ten years, adding that one of the homes was less than two years old.

RICHARDSON asked what if the applicant put the warehouse on the north side of the west property and left the south side for employee parking.

BARFIELD said it will still disrupt the character of the neighborhood.

CARLA JACKSON PATTON, 1919 N. SPRUCE, PRESIDENT, POWER NEIGHBORHOOD ASSOCIATION boundaries of which were the west side of Grove to I-135 and north side of 17th Street to the south side of 21st Street. She said they welcome the convenience store and gas station. She said they are not in opposition of the expansion, but they want to maintain the integrity and character of Piatt Street and do not want GC zoning in the area.

SHUKARA SENTWALI, 2111 N. PIATT referred to a letter she sent to the Commission. She said she and her husband have lived in their home for over 25 years. She said they absolutely oppose the proposed zone change to GC. She said she has seen this happen before in other neighborhoods and mentioned North Ohio and the McAdams neighborhood which was all homes until industry took over. She said they know that will happen here if the zoning is changed. She said the homeowners will not settle for this and will continue to protest if this is allowed.

SENTWALI mentioned that the current facility has only been there a year. She asked how they could have not known they were going to need to expand. She said most business plans project five years in advance. She asked how many of the people present would want this to happen yards from their home. She asked the Commission to listen to the tax paying residents in the area, some of which have lived there for over 50 years and not change the zoning to GC in their neighborhood.

WARREN said he appreciated her passion about protecting the properties; however, he said he was not sure the land to the west was viable for future new home construction because it was next to LC zoning.

SENTWALI said they do not want the zoning changed. She made several comments relative to the City selling property where the Boys and Girls Club was located to an out of town white buyer for less than what was quoted to a local black organization that tried to buy the property.

DOOL asked about installation of a masonry wall on the south side of the west property.

SENTWALI said that is not the issue; they don't care what the applicant puts up, the neighborhood does not want the zoning changed to GC.

SONYA HOUSE, 2123 PIATT said she has lived in the neighborhood for over 60 years. She said she used to live at 2020 N. Washington but the property was bought for development. She said they take a little bit at a time and ease and inch into a neighborhood until it is all gone. She said now the whole area from Washington down to Murdock is gone and you can't even tell that people used to live there. She said she is very much against the zoning change and does not want it. She said she is a weak old woman defending her house and home for her and her grandchildren. She said she is very anxious to see their neighborhood left alone like it has been all these years. She said she's sure they wouldn't want someone to come in and take over their house that their mom and dad worked for. She asked the Commission to leave it alone that it belongs to her grand kids and their grand kids.

MOTION: To give the speaker an additional minute.

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

HOUSE mentioned that she saw the KC 135 jet crash with her own two eyes and her life was spared. She said the area is sacred to her and they fought for a monument to be put down there. She asked that they not move her house out from under her. She said no, they do not want this they want to keep their own house and property.

HORACE HOUSE, 1641 N. ERIE said he grew up in this area and played sports on the lot to the west the applicant is trying to rezone. He said the lot was used as a morgue when the plane crashed and he said putting a business on it will desecrate that ground. He said his mother and the rest of the neighborhood paid special assessments for road improvements in the area and he said it's not fair that these guys come in and benefit from that.

OLETHA FAUST-GOUDEAU, STATE SENTATOR, 1130 N. PARKWOOD commented that a number of her constituents and relatives reside in the area of 21st Street and Pitt and that she was raised in the area. She said as far as the proposed compromise of a wall, she doesn't think her aunt will want to look out her window at the back of a wall. She said she was surprised there was not a town hall discussion regarding this issue where residents could voice their opinion. She said she is totally in favor of economic development but none of the 20 employees are from within a two-mile radius of the neighborhood.

MCKAY (OUT @2:50 p.m.)

FAUST-GOUDEAU commented that she believes that installation of a parking lot would create more negative activity with people coming and going and standing about and things of that nature. She mentioned the neighborhoods work on the monument to honor those who lost their lives when the KC 135 crashed into the neighborhood. She said she is in strong opposition to turning this residential area into a commercial area. She mentioned the approximately 3 acres to the east of the location that could be used for expansion. She said she is concurring with the residents and asking the Commission to vote in opposition to this request.

RICHARDSON commented that the dilemma is the building was vacant for quite some time. He said even with the current zoning this site is available to a number of uses that might not be what you would want in the neighborhood. He said this is a manufacturing operation that by regulation has to provide jobs to people within the neighborhood. He said it does not operate at night or generate traffic at night. He asked the speaker if she could see a way that the manufacturing operation could be allowed to happen but not be a detriment to the neighborhood. He said this may also be a way to eliminate the uncertainty in the area because some of the lots are zoned multi-family which might generate more problems for the neighborhood. He asked if she saw any compromise here.

FAUST-GOUDEAU commented that the parking spaces aren't being used now. She said she is in opposition of any activity on the southwest side of the street. She suggested the Commission take a physical tour of the area. She said this proposed expansion will generate additional noise and activity that is not there now.

RICHARDSON commented that he (and he suspects other Commissioners) drove through the area prior to this hearing.

TODD asked when the item will be presented to the District Advisory Board (DAB).

CHAIR NEUGENT reported that the item is scheduled to be heard by DAB I on Monday, September 12, 2016.

FOSTER asked about site line views.

FAUST-GOUDEAU referred to her aunt's house at 2123 N. Piatt. She concluded by asking for the Commission's opposition to this proposal.

LONNIE WRIGHT, 1711 S. LULU commented that at the Saturday, September, 2016 District I breakfast when the applicant presented their plan for expansion it received a positive response from the audience. He said people also expressed that they were grateful that people from the community had been hired by the applicant and that they were good neighbors.

KYLE BLASDEL, CONCO CONSTRUCTION INC., AGENT FOR THE APPLICANT commented that the additional parking is required by the Unified Zoning Code for the proposed expansion.

ETEZAZI reiterated that the City sold them the building to help spur economic development in the area. He said they received very positive feedback when the plans to both buy the building and the expansion were presented at the District I Breakfast. He said the addition to the west is required for both parking and material and equipment storage needs. He mentioned that the proposed parking area will be fully gated, lit and access controlled.

MOTION: To give the speaker three more minutes.

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

ETEZAZI said they may not be able to hire within the two mile radius, but they are hiring from the surrounding residential area. He said he means no disrespect and that they understand that most of the community next to them is senior citizens, but they are looking to hire the next generation to offer training and develop a work force, that is what they are trying to do. He said a park has been developed for this area to the south and the property to the west has always been vacant. He said before they took over this facility it was vacant and ruined. He said they designed and developed the buildings for this type of manufacturing and that they had no plan to expand as fast as they are. He said it is not their plan to go into the community. He said one third of the area is zoned Limited Commercial, one third is zoned single-family and another third is zoned multi-family which is how it was zoned back in the 1940's but they purchased it all as one parcel. He said they have made the property look nice for the community. He said if this is not approved it will have tremendous damage to the business and loss of major contracts and work force. He concluded by urging the Commission to approve this.

TODD clarified that the applicant bought this property from the City of Wichita and they approved what was being proposed there.

ETEZAZI commented that Councilwoman Williams was very supportive of the idea.

TODD said there was no mention of a required zoning change.

ETEZAZI said not at that time, the City Council was in favor of this.

TODD asked if any new houses were built in the area since his company moved in.

ETEZAZI replied yes.

FOSTER asked about buffering in the area.

ETEZAZI said buffering will be as recommended by Planning Staff and that there will be landscaping on the front, back and side of the facility. He said the area will look professional, neat and clean.

RICHARDSON asked if the west side was strictly a parking lot, would that work.

ETEZAZI said since a 25-foot easement is required and they originally planned on a 10-foot easement, that shrinks the size of the facility they were planning so they would like an extra warehouse on the west side adjacent to the parking.

RICHARDSON asked if the warehouse could be moved clear to the north end of the property.

ETEZAZI said that is not a problem, they plan to move it to the north side of the property.

CHAIR NEUGENT asked the applicant to clarify their statement that the Council Member was in favor of this proposal. She clarified that the City Council hasn't guaranteed anything, right?

ETEZAZI said there have been no guarantees; the Councilwoman was in favor of what the company is doing at this location in terms of economic development and improvement in the area. He said prior to their relocating here the land was vacant and the building was not being used.

WARREN commented on the emotional issues associated with the land; however, that is not for the Commission to consider. He said the property owner has the right to use his property. He said if the community feels it is "sacred ground" they should buy it to protect it. He said he would like to make a motion to approve the request with some conditions. He suggested some additional buffering requirements; that the proposed building for the west side be moved to the north end of the property and that the fence be eight foot tall.

FOSTER commented that he felt the buffering issues on the west side side of the property consisted of three different elements which were to protect the trees and establish sufficient clearance; to provide evergreen buffering; and to respect the potential green space area. He said there is the potential to provide a buffer of 30-50 feet by the time the building is moved to the north. He also suggested a reduction in the parking requirement. He said the same elements apply to the east side but could be done in a tighter fashion, maybe 30 feet.

DIRECTOR MILLER said staff needs definite direction such as specific dimensions and mentioned minimum compatibility standards for buildings at 15 feet to a maximum of 25 feet so that could be converted to an open space buffer/landscaping area; or, the Commission could recommend a defined landscape and site plan which could either be approved by staff or brought back to the Commission for review and approval.

FOSTER suggested a 30-foot buffer on the east parcel and a 50-foot buffer on the west parcel. He also recommended double the quantity of evergreens.

MOTION: To approve subject to staff recommendation with the addition of a 30-foot buffer on the east parcel and a 50-foot buffer on the west parcel; double the quantity of evergreens; eight-foot concrete masonry wall and the warehouse to be located on the north end of the west property.

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

SUBSTITUTE MOTION: To defer the application until after the DAB meeting.

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

TODD said he thinks there should be more dialogue (that he didn't consider a District I breakfast sufficient) and the neighbors be made aware of what can go onto the property as it is zoned.

There was discussion regarding continuing the item or starting over.

DIRECTOR MILLER said if the site plan is changed, he doesn't think you can deny the public the right to address it.

TODD suggested a totally new hearing.

WARREN commented that ultimately this decision will be made by the City Council and they have the right to change anything the Planning Commission or DAB recommends. He suggested sending forward a plan and let the City Council make the final decision.

FOSTER commented that the DAB makes a recommendation to the governing body, not to the Planning Commission.

The **SUBSTITUTE MOTION** to defer the item failed (3-6). **DAILEY, DOOL, FOSTER, GREENE, RICHARDSON** and **WARREN** – No.

The **ORIGINAL MOTION** to approve subject to staff recommendation with the addition of a 30-foot buffer on the east parcel and a 50-foot buffer on the west parcel; double the quantity of evergreens; eight-foot concrete masonry wall and the warehouse to be located on the north end of the west property carried (7-2). **ELLISON** and **TODD** – No.

6. **Case No.: ZON2016-00034** - Ritchie Development Corporation (owner) and Baughman Company, PA, Attn: Phil Meyer (agent) request a City zone change from LI Limited Industrial to SF-5 Single-family Residential (approx. 38.5 acres) and MF-18 Multi-family Residential (approx. 41.1 acres) on property described as:

All of Lots 3 and 4, Block 2, TOGETHER with all of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15, Block 3, TOGETHER with all of Lots 1, 2, and 3, Block 4, TOGETHER with all of Reserves "B", "F", and "G", TOGETHER with all of Founders, Founders Ct., and Collective Ln., all as platted and dedicated in Greenwich Business Center Addition, an addition to Wichita, Sedgwick County, Kansas, TOGETHER with that part of 28th St. as dedicated in said Greenwich Business Center Addition lying east of and abutting the following described line: Beginning at the northwest corner of said Lot 15, said northwest corner also being a point on the west line of Government Lot 2 in Section 3, Township 27 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas; thence N00°35'43"W along the northerly extension of the west line of said Lot 15, (and along the west line of said Government Lot 2), 70.61 feet to the southwest corner of Lot 3 in said Block 2, and for a point of termination, and TOGETHER with that part of 29th St. N. as dedicated in said Greenwich Business Center Addition lying east of and abutting the following described line: Beginning at the northwest corner of said Government Lot 2; thence S00°35'43"E along the west line of said Government Lot 2, 60.00 feet to the northwest corner of Lot 4 in said Block 2, and for a point of termination.

BACKGROUND: The applicant is requesting a zone change from LI Limited Industrial to SF-5 Single-Family Residential (approximately 38.5 acres) and MF-18 Multi-Family Residential (approximately 41.1 acres) zoning on approximately 79.6 acres of the newly platted Firefly Way Addition (it is currently platted as the Greenwich Business Center Addition, see attached exhibit.) The applicant proposes to build single-family residences, duplexes and multi-family residences on the newly platted lots.

West of the subject property is MF-18, LC Limited Commercial and LI Limited Industrial (CUP DP-333) zoned property that is developing with apartments and destination retail. Property east and south of the subject property is SF-5 zoned Woods North Addition, 2nd Addition and 3rd Addition developed with single-family residences. Immediately south of the subject property is SF-5 zoned Fairmount Addition that is developed with single-family residences. North of the subject property, across 21st Street, is RR Rural Residential large lot agricultural land.

CASE HISTORY: The property was platted as the Greenwich Business Center Addition with LI zoning in 2005. The Subdivision Committee approved the preliminary plat of the Firefly Way Addition for the subject property on July 14, 2016.

ADJACENT ZONING AND LAND USE:

NORTH: RR	Single-family residential and agricultural land
SOUTH: SF-5	Single-family residential
WEST: MF-18; LC; LI	Partially developed with apartments and destination retail
EAST: SF-5	Single-family residential

PUBLIC SERVICES: The site has access to 29th Street North, an unpaved arterial street with 100-foot right-of-way. The conditions of the Firefly Way Addition require paving of 29th Street North to a rural, asphalt mat standard from the end of the pavement to the west to the entrance of the subdivision. All utilities are available to be extended to the site.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, *the Community Investments Plan*, identifies the site as New Residential Growth. The Plan encourages the full diversity of residential housing types and densities typically found in a large urban municipality. The range of housing densities and types includes, but is not limited to single-family, duplexes, patio homes, townhouses, apartments and residential accommodations for the elderly. Elementary and middle schools, churches, playgrounds, small parks and other similar residential-serving uses are located in these areas.

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 site is located in a mixed use development area with apartments and destination retail in MF-18, LC, and LI zoning and SF-5 zoned single-family residential neighborhoods. Single-family residences are located to the east and south of the proposed Firefly Way Addition. The proposed MF-18 zoning abuts existing MF-18, LC and LI zoning to the west.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** SF-5 and MF-18 zoning would allow single-family residences, duplexes and multi-family units to be built, which is an appropriate use for urban residential development. The proposed development is separate and distinct from adjacent single-family neighborhoods and the proposed MF-18 zoning is buffered from existing single-family residences by proposed SF-5 zoning on the subject property.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The requested SF-5 zoning allows single-family residences by right and MF-18 zoning allows single-family, duplexes and multi-family by right. This zoning is a good buffer between the LC and LI zoning to the west of the subject property and the SF-5 zoning to the east and south of the subject property.
- (4) **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Approval of the request would limit development by right to single-family residential, duplex, multi-family and some (but not limited to) institutional uses such as a parks, schools and churches. The proposed rezoning further restricts uses on the property, as it is currently zoned LI.

- (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 New Residential Growth. The Plan encourages the full diversity of residential housing types and densities typically found in a large urban municipality. The range of housing densities and types includes, but is not limited to single-family, duplexes, patio homes, townhouses, apartments and residential accommodations for the elderly. Elementary and idle schools, churches, playgrounds, small parks and other similar residential-serving uses are located in these areas. As such, the SF-5 and Mf-19 zoning of the Fire Fly Way Addition conforms to the future growth concept prescribed by the Community Investment Plan.
- (6) **Impact of the proposed development on community facilities:** All services are in place and any increased demand on community facilities will be addressed through the platting process, including the pavement of 29th Street North and the extension of water and sanitary sewer services.

KATHY MORGAN, Planning Staff presented the Staff Report.

RICHARDSON commented that it would be helpful to see what the new plat looked like; the one that was approved by the Subdivision Committee.

FOSTER asked then the plat attached to the Staff Report will be changed.

MORGAN suggested that the agent could address the questions concerning the latest plat.

RUSS EWY, BAUGHMAN COMPANY, P.A., 315 ELLIS, AGENT FOR THE APPLICANT said they were asked to prepare two different plats: one with how the potential zone changes impact the existing plat and one that conforms to the preliminary plat that is on file with the Planning Department. He said they will take care of the split zoning issue if the Planning Commission approves the zoning request.

FRANK MESSINGER, 12100 E. 29TH ST., NORTH said his father lived across the street from the proposed development. He mentioned that when the electric substation went in more than three years ago his parent came to the Commission to speak against it because they believed the electro-magnetic fields caused leukemia. He said his mom died of leukemia which might just be a coincidence. He said this is tearing his father up knowing these apartments are going in across the street from him. He said his dad moved out into the country to get away from that. He said he knows you can't stop progress. He said they would like some kind of buffer to protect his father's property from this because this is driving him crazy. He said his dad put a lot of money into his home. He said he understands the landscape buffer is a tree every 40 feet and that is not enough. He asked the Commission to do the right thing. He asked if there are going to be apartment complexes or duplexes at the location.

RICHARDSON said they would ask the applicant or agent to clarify specifically what was being proposed for the site.

FOSTER explained that Reserve G will have open space for drainage and a five foot masonry wall along 30% of the stretch across the street from his father's property.

MESSINGER said that is not what he was told by the agent and staff. He said once the LI zoning is changed, the wall and buffer go out the window. He asked if the Commission was going to continue to require the wall and buffer once the zoning was changed to apartments.

FOSTER said the Commission would get clarification from the applicant.

RUSS EWY, BAUGHMAN COMPANY, PA, AGENT FOR THE APPLICANT said his understanding is that the northern loop area at Pepperwood Street would have one lot on the final plat for an apartment complex, with duplexes on the southern Block A, lots 22-40 with potential for a duplex as well on Block D. He said a multi-family development does need to provide some type of buffering or landscaping along 29th Street.

FOSTER clarified that the Landscape Ordinance does require buffering because it is a more intense use across from RR. He asked the agent to explain the wall easement. He said he feels there is a conflict with the required tree planting requirement because of a drainage easement.

EWY said that is platted that way as a “place holder” to develop a mix of various types of walls and landscaping in and around the perimeter so it does not interfere with the utility provision. He said the Commission could make a provision for a screening wall as part of the motion.

KNEBEL clarified if they develop multi-family along 29th street the landscaping requirement is referred to as a landscape street yard which is a landscaped area that has trees, the size of which depends on the depth of the lot.

MOTION: To approve subject to staff recommendation.

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

7. **Case No.: ZON2016-00035 and CON2016-00040** - City zone change from SF-5 Single-family Residential to LC Limited Commercial and City Conditional Use to permit a Nightclub/Event Center on SF-5 Single-Family Residential zoned property on property described as:

CHAIR NEUGENT reported that the case was deferred.

8. **Case No.: ZON2016-00036 and CUP2016-00027** - Entertainment Enterprises, Inc. (Richard Leslie) and Baughman Company, PA (Russ Ewy – agent) request a City zone change from SF-5 Single family Residential to GC General Commercial and creation of Community Unit Plan CUP DP-341 The Cotillion Ballroom Commercial Community Unit Plan on property described as:

A portion of the Southeast Quarter of Section 30, Township 27 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas, more particularly described as follows: Commencing at the intersection of the North line of U.S. Highway 54 and the West line of said Southeast Quarter; thence North along the West line of said Southeast Quarter 832.16 feet for a Point of Beginning; thence East, 331.05 feet; thence North, 178.24 feet; thence East, 298 feet to the Northeast Corner of Lot 3, Block 1, Doonan Plaza II Addition, Sedgwick County, Kansas; thence North parallel with the West line of said Southeast Quarter, 650 feet; thence West parallel with the North line of said Southeast Quarter, 629.05 feet, more or less, to a point on the West line of said Southeast Quarter; thence South along the West line of said Southeast Quarter to the Point of Beginning.

Entertainment Enterprises, Inc. (Richard Leslie) / Baughman Company (Russ Ewy)

BACKGROUND: The applicant is requesting GC General Commercial zoning for a portion of subject property currently zoned SF-5 Single-Family Residential and the creation of the Cotillion Ballroom Community Unity Plan (CUP DP-341). The application area is 10.74 acres that is located 1,000 feet north of Kellogg, north of Doonan Trucks and Eddy's Chrysler Dodge Jeep Ram car sales, west of Maize Road. The subject property is currently developed with The Cotillion Ballroom, which is a legal, non-conforming night club. The requested zone change and CUP will establish a conforming use if approved. It is also proposed that all uses in the GC district be permitted except for a list of specifically excepted uses, such as: adult entertainment, sexually oriented business and correctional placement residences. The complete list of excepted uses can be found in the proposed CUP, General Provision 12. The CUP contains one parcel.

The proposed CUP also requires:

- 1) Setbacks are as indicated on the CUP drawing.
- 2) Landscaping per City ordinance with modifications.
- 3) Maximum height of light poles, including fixtures, lamps and base, are limited to 24 feet except when located within 100 feet of residential zoning, which shall be 15 feet, except that existing light poles can remain.
- 4) In the event of change of use, rooftop mechanical equipment is to be screened from ground level view with similar materials to the main building.
- 5) Screening walls around the perimeter of the CUP where adjacent to residential zoning shall not be required. The existing wood screening along Emilia Street, where indicated on the plan shall be maintained. Future expansion of the parking lot within the northern, or northeastern portions of Parcel 1 shall trigger the requirement of a 6 to 8-foot screening fence along those property lines.
- 6) Parking is to be per code.
- 7) Signs are to be per code, except that the existing off-site sign located along Kellogg shall be permitted to stay. Portable, billboards, LED and off-site signs are not permitted within Parcel 1.

Land located to the north of the subject property is undeveloped and zoned SF-5 and is under the same ownership as the requested zone change and proposed CUP. Land located to the east is zoned SF-5 and developed with single-family residences. South of the subject property are LI Limited Industrial zoned lots developed with vehicle sales and services. Land west of the subject property is located in the county and is zoned LI and SF-20 Single-Family Residential and is occupied by Brady's Nursery.

CASE HISTORY: The site is unplatted and currently developed with a legal, non-conforming night club.

ADJACENT ZONING AND LAND USE:

North: SF-5	Undeveloped
South: LI	Vehicle sales and service
East: SF-5	Single-family residences
West: LI, SF-20	Landscaping and nursery business

PUBLIC SERVICES: Municipal services are currently provided to the subject property. Access to the subject property is from signalized intersection on Kellogg at 111th Street West through a private access easement across the abutting property to the south.

CONFORMANCE TO PLANS/POLICIES: The "2035 Wichita Future Growth Concept Map" in the "Community Investments Plan" identifies the subject property as "Commercial." Properties with the "Commercial" designation encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. The "Locational Guidelines" of the "Community Investments Plan" support the expansion of existing uses and encourage major destination areas that generate high volumes of traffic to be located in close proximity to major arterials or highways.

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

- 1) Approve the zone change and the Community Unit Plan DP-341 subject to the development standards contained therein.
- 2) Proof shall be provided to planning staff that notice of the development standards contained in CUP DP-341 has been filed on the application area with the register of deeds.
- 3) The applicant shall submit four copies of the approved CUP to planning staff within 60 days after approval by the governing body, or the request shall be considered null and void.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** Land located to the north of the subject property is undeveloped and zoned SF-5 and is under the same ownership as the requested zone change and proposed CUP. Land located to the east is zoned SF-5 and developed with single-family residences. South of the subject property are LI Limited Industrial zoned lots developed with vehicle sales and services. Land west of the subject property is located in the county and is zoned LI and SF-20 Single-Family Residential and is occupied by Brady's Nursery.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is currently operating as a legal, non-conforming night club in the city. The zone change and creation of a new CUP will establish a conforming use on the subject property.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The development standards associated with the CUP and the zoning code will minimize detrimental impacts of the proposed development. Code requirements include solid screening, landscape buffers, maximum building heights below base zoning standards and maximum gross floor area limitations.
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 not significantly impact the neighborhood. Denial would result in a legal, non-conforming use of the property.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2035 Wichita Future Growth Concept Map” in the Community Investments Plan” identifies the subject property as “Commercial.” Properties with the “Commercial” designation encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. The “Locational Guidelines” of the “Community Investments Plan” support the expansion of existing uses and encourage major destination areas that generate high volumes of traffic to be located in close proximity to major arterials or highways.
6. Impact of the proposed development on community facilities: The development standards contained in the CUP will ensure that required community facilities are in place or are installed.

KATHY MORGAN, Planning Staff presented the Staff Report.

RUSS EWY, BAUGHMAN COMPANY, P.A. 315 ELLIS, AGENT FOR THE APPLICANT said the applicant was looking to expand their license in order to allow patrons to bring their cocktails out of the Cotillion onto a smoking patio. He said they were told they needed to get a conditional use for a nightclub. He said during that process it was determined that the northern 25% of the Cotillion was zoned SF-5 and the balance of the property was zoned GC. He said it was noted that they needed to take care of that non-conformity and once they applied for additional commercial property, it was noted that the area exceeded the acreage requirements which necessitated the need for a zoning change and creation of a new Community Unit Plan. He referred to an aerial of the site. He said although the Cotillion owns everything up to the hedgerow, they are not seeking any changes north of the line indicated on the site plan. He said the CUP conditions hold the Cotillion to its existing form today. He said the applicant is not looking to expand outside the building, have music outdoors, build other buildings, expand parking or change access to the venue. He said after talking with area residents he suggested that the CUP have a requirement that an amendment be required for any commercial development other than surface parking.

RICHARDSON asked if the area was platted. He also asked about access controls on the east side of the property.

EWY said no, the area is not platted. He added that they would be willing to dedicate access controls on the east side by a separate instrument.

KNEBEL said the CUP allows the nightclub which does not differentiate between inside and outside.

RICHARDSON said so theoretically with the CUP you could have outside entertainment.

EWY said specifically within the smoking area and the CUP states that.

FOSTER asked if the southwest entry was public or private and how it gets maintained if there are several owners.

EWY said that entrance is private and there are restrictive covenants regarding maintenance.

TIFFANY OLTSENBRUNS, 10505 WEST RINGER STREET, PRESIDENT CALFSKIN NEIGHBORHOOD ASSOCIATION asked what platted or non-platted means. She said the neighbors are concerned about expansion and have received two different pieces of information concerning outside drinking and paving of the streets. She also asked about the term "housekeeping" and how the drinking outside is going to affect the neighbors.

CHAIR NEUGENT asked staff to provide a simple explanation of platted versus non platted land.

DIRECTOR MILLER explained that platting is the process where raw ground with a meets and bounds description is divided into lots as part of a subdivision and given a legal description. He said for example after a property is platted the description would be Dales Addition, Lot 1, Block 2, which is how the City acquires utility easements, road right of way, etc.

FOSTER confirmed that according to the agent's comments, they are not proposing any expansion, just what is there today.

OLTSENBRUNS asked about future expansion.

CHAIR NEUGENT said any future expansion would require a building permit, which would trigger the platting requirement.

DIANE LOUX, 1250 S. EMELIA STREET said once the zoning is changed the applicant can expand and rebuild the Cotillion at the back of the area. She said that field is much lower than the rest of the area and it drains when they get rain so any development will be detrimental to the entire neighborhood. She said they have to deal with the noise because the doors are open spring and fall and they can feel the base guitar. She said it was mentioned that there is no entrance to Emelia but people park along Emelia and jump the fence. She said the applicant doesn't maintain the fence now and added that there are no trees or buffer towards Emelia Street. She said when she bought her home 6 years ago they were told there would be expansion because the adjacent property was zoned SF-5, but if this happens her house will be worthless. She said she will lose her property value if this is allowed. She said the applicant can expand and all they have to do is put up a 6-8 foot screening fence. She urged the Commission to deny the request. She said there is no reason to have drinks outside and there is adequate parking at the site now. She said if they are not expanding the building this is not required.

RICHARDSON clarified that the property across from the speaker is not involved in this case.

LOUX commented that they had no idea the extent of what was being proposed because all they heard about was paving the parking lot and allowing drinks outside. She said this allows the applicant to put lights on poles that will shine into their bedrooms. She said more people from the Calfskin Neighborhood would have been present if they knew what was being pushed through here.

FOSTER commented on the CUP including buffering requirements, shielding of light poles within 100 feet or residential, etc.

LOUX indicated the neighbors are already putting up with a lot from the Cotillion and that she hoped the Commission considered the neighbors in their decision.

CINDY CORN, 1420 S. FIELDCREST complained about the noise and lights from businesses in the area. She said they bought their home in 1989 and thinks it is sad that they have to accommodate patrons at the Cotillion. She asked about building a new fence and asked if they could request that a hedgerow be put in between Emelia and the Cotillion to help muffle the noise. She said this opens this up to the possibility of rezoning or additional features happening down the road. She asked the Commission to listen to the neighbors and reconsider this.

DAILEY asked the speaker if they knew the Cotillion was there when they moved out there.

CORN responded yes, but that the noise level and lights have changed over the years,

MIKE LOUX, 1250 S. EMELIA STREET said they are concerned about any water from the proposed paving because they have dealt with flooding in the area before and he is not real confident that the City knows where to put water. He said the neighbors maintain the grassy area and wooden fence because the applicant does nothing to maintain the area outside the fence. He added that there is no barrier in the parking lot to stop the drunks from driving into the field and ending up in the neighbor's ditches or backyards. He also complained that the City does not maintain the drainage ditches in the area, the neighbors have to do that. He said they also have to deal with vandalism and traffic tie ups on Kellogg and 111th St. He said the neighbors mow at least twice a year because right now there is no maintenance over there.

JERRY UNRUH, 1300 EMELIA said electronic music is louder and he has heard gun shots in the parking lot. He asked why the applicant needs all of the area and said he was concerned about the wetlands.

FOSTER asked what the speaker felt would be an appropriate barrier between the venue and Emelia Street.

UNRUH suggested some type of masonry fence or barrier of some kind.

JOHN KEISER said he lives on the corner of Glendale and Emelia. He said he doesn't understand why the whole area needs to be rezoned if all they are doing is repaving a parking lot unless they are anticipating an exit out of the parking lot onto Emelia, which would be totally unacceptable. He reiterated complaints about patrons of the Cotillion parking along Emelia and kicking down the fence to gain access, increased noise, tow trucks at 1:00 a.m. in the morning trying to pull some one out of the bean field, no maintenance of the outside area by the Cotillion and how the neighborhood has maintained the fence and mowed grass in the area.

JUNE JOHNSON, 1226 S. FIELDCREST asked why this wasn't taken to the DAB first and wasn't that the normal procedure. She concluded by saying that she agreed with everything else that has been said.

DIRECTOR MILLER explained that the Planning Commission meets twice a month and the DAB meets once a month. He said staff has been given direction not to delay applications so they can go to DAB first.

KNEBEL added that the item will go to the DAB on September 12, 2016.

EWY said if they need a separate provision that states they are not expanding anything including the parking lot they can add that to the CUP. He said dedication of access control would insure that there is no access from the parking lot to the residential area to the east. He said they can clarify cut off luminaries on any light poles permitted within 100 feet of residential zoning. He said they have already offered a 300 foot building setback from the east and north property lines to insure that no buildings are built and they can provide a general provision that any expansion of parking into the northeast quadrant would require an amendment to the CUP.

FOSTER clarified that according to the Landscape Ordinance, no landscaping is required with this change.

EWY said that is correct.

FOSTER mentioned the neighbor's concerns regarding buffering with solid screening and said he thinks some type of barrier needs to be considered.

KNEBEL said since the application is across the street, the "landscape street yard" is what would be required to comply with the Landscape Ordinance.

EWY said the only way to provide a barrier would be to provide some type of wood screening fence along the edge of the existing paved parking area.

FOSTER said he might need clarification from the neighbors, but right now he is only talking about the eastern portion of the parking until platting addresses it further.

RICHARDSON asked if the applicant would be willing to provide a fence on the north side of parking and east side of the north lot.

EWY said if that is something the Planning Commission would like to recommend, it is something the applicant can address later on.

WARREN said he was willing make a motion and requested that staff clarify the amendments.

KNEBEL said the agent offered no expansion of the parking lot without an amendment to the CUP; dedication of access control onto Emelia Street; cut off light luminaries on the light poles; and 300 foot building setbacks from the north and east property lines.

MOTION: To approve subject to staff recommendation in addition to no expansion of the parking lot without an amendment to the CUP; dedication of access control onto Emelia Street; cut off light luminaries on the light poles; and 300 foot building setbacks from the north and east property lines

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

FOSTER said he believes the Commission needs to address the concerns expressed by the neighbors. He suggested a masonry wall on the east side of the parking lot.

RICHARDSON commented that the Cotillion has been there since around 1960 which he believes is about the same time most of the houses in the area were built. He said he believes the Commission has helped in some sense by insuring that there will be no access onto Emelia Street.

The **MOTION** carried (7-2). **ELLISON** and **FOSTER** – No.

-
9. **Case No.: ZON2016-00037 and CUP2016-00028** - City zone change from SF-5 Single-family Residential and GO General Office to LC Limited Commercial and amendment of the Highland Springs CUP DP-233 on property described as:

CHAIR NEUGENT reported that the case was deferred.

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10. **Case No.: CON2016-00024** - Ast Investments, c/o Kelly Ast (applicant/owner) and Stephen M. Joseph (agent) request a City Conditional Use to permit a Tavern/Drinking Establishment/ Nightclub within 300 feet of residential zoning on LC Limited Commercial zoned property on property described as:

The West 445 feet of lot 1, Northgate Center Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The LC Limited Commercial (LC) zoned site is located on the northeast corner of West 33rd Street North and North Arkansas Avenue. Joyce's Club and Deli, a tenant of the multi-tenant 25,997-square foot commercial strip building (built 1962) has requested a Conditional Use for a nightclub in the city. 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. SF-5 Single-Family Residential (SF-5) zoned properties abut and are adjacent to the north and west (across Arkansas Avenue) sides of the site. The SF-5 zoned Martin Ortiz Elementary School is located approximately 90 feet southwest of the site, across Arkansas Avenue. 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 prior to the current UZC, which came into effect in 1996. The proposed nightclub, Joyce's Club and Deli, currently has a Drinking and Eating Restaurant (DER) license. The applicant is applying for a Conditional Use for a nightclub to get the site in conformance with the UZC and to obtain an entertainment license.

The applicant's site plan is an aerial. Staff counted 142 on-site parking spaces. The posted occupancy of the proposed nightclub/Joyce's Club and Deli is 87 people. The proposed nightclub also has a fenced and gated area located on the north/back side of the building. The proposed nightclub requires 44 total on-site parking spaces; one on-site parking space per two occupants. The other tenants of the commercial strip building are a barber shop, a second hand store, an army surplus store, Elks Lodge #427, and in the largest space (6,048-square foot, which used to be a grocery store) what appears to be a used home goods and appliance store. Parking for the other tenants cannot be determined with the information provided by the applicant. However, all of the other current uses, with the exception of the Elks Lodge, can be classified as retail or second hand stores, office and personal improvement service, all of which require one on-site parking space per 333-square feet of building. The fraternal organization Elks Lodge is classified as Class A Club, which may require one parking space per two occupants. A 1,326-square foot stand-alone restaurant (built 1964) is also located on the site, which requires one parking space per three occupants.

The abutting north property is under one ownership, but is split by zoning, with a LC zoned single-family residence (built 1930) on the west portion and the remaining eastern portion zoned SF-5. The dead-end, north-south, unimproved residential street Jackson Avenue abuts the rest of the north side of the site. A SF-5 zoned single-family residential neighborhood (built early to mid-1950s) is adjacent to the northeast side of the site. A LC zoned contractor's warehouse and a LC zoned residence (built 1920) are located further northwest of the site, across Arkansas Avenue. Undeveloped LC zoned property abuts the east side of the site. A SF-5 zoned single-family residential neighborhood is located southeast of the site, across 33rd Street North and the Chisholm Creek drainage channel. The already noted SF-5 zoned United School District 259's (USD) Martin Ortiz Elementary School is located southwest of the site, across 33rd Street North and Arkansas Avenue. A MF-29 Multi-Family Residential (MF-29) zoned single-family residential development (built late 2000s) and SF-5 single-family residences (built 1920s-1940s) are located south of the site across 33rd Street North. Two LC zoned office-warehouse (built 1947, 2007) are also located south of the site, across 33rd Street North.

CASE HISTORY: The proposed nightclub is part of the west 445 feet of Lot 1, Northgate Center Addition, which was recorded with the Sedgwick County Register of Deeds May 15, 1964. The property was rezoned from R-1 (now SF-20 Single-Family Residential) to LC on October 23, 1958. The property was annexed into the City between 1961 and 1970. On May 11, 1961, Conditional Use request CU-49 permitted a ‘trampoline center’ on the part of the property that is currently a stand-alone restaurant. CON2012-00031 was a denied Conditional Use request for an event center with the option of providing alcohol and entertainment in the commercial strip building’s 6,048-square foot space that used to be a grocery store. The proposed nightclub, Joyce’s Club and Deli, was noted in the CON2012-00031 report as a tavern/drinking establishment. The LC zoned property the proposed nightclub is located on was recently sent notice for an outdoor storage violation.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5, LC	Single-family residences
SOUTH: LC, MF-29, SF-5	Office-warehouse, single family residences
EAST: LC	Undeveloped land, Chisholm Creek drainage
WEST: SF-5	Single-family residences, USD 259 elementary school

PUBLIC SERVICES: 33rd Street North is a two-lane collector street at this location. Arkansas Avenue is a two-lane minor arterial street at this location. The site has direct access to both of these roads. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: 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 for the area is mostly SF-5 zoned single-family residences and a MF-29 zoned single-family residential neighborhood all developed around the SF-5 zoned USD 259 Martin Ortiz Elementary School. The LC zoned property where the proposed nightclub is located contains the only retail/personal improvement services types of activity in the area. The other LC zoned properties in the area are two single-family residences and two properties listed by the appraiser office as (small) warehouses. The applicant has stated that the site has been either a tavern, drinking establishment or nightclub prior to the current UZC, which came into effect in 1996. The proposed nightclub is relatively small (posted occupancy of 87) and could continue to operate as a DER if the application is denied.

There is a paved drive located on the north side of the commercial strip building the proposed nightclub is located in. The dead-end, north-south, unimproved residential street Jackson Avenue abuts a portion of the north side of the site and it could provide access to the north abutting single-family residential neighborhood, via the paved drive. There is a section of a wooden privacy fence separating an east portion of the north abutting single-family residential neighborhood from the LC zoned property the proposed nightclub is located in. There is no screening around the dumpster and it (via a visit to the site by staff) appears to be located closer than 20 feet to the north abutting SF-5 zoned single-family residences. Because the site is completely paved over there is no opportunity for landscaping.

RECOMMENDATION: Approval of the Conditional Use would confer compliance with the current UZC on an existing tavern/drinking establishment that, based on its history of not having a Use Exception or a Conditional Use, may have been established prior to the 1996 adoption of the UZC. As such, approval would not introduce a new use into the area. If denied the applicant could continue to operate as a DER. 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 applicant shall provide the legal description of the area used as a nightclub (currently Joyce's Club and Deli) and the associated parking for the Conditional Use Resolution of the proposed nightclub on a Word document via E-mail to the planner. This must be provided no later than 30 days of approval by the MAPC.
- (2) 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, and a solid wooden fence along the north property line. The site plan must be submitted for review within 60-days of approval by the MAPC or, as applicable, the appropriate governing body.
- (3) No outdoor speakers or outdoor entertainment are permitted.
- (4) The Conditional Use shall not be in effect until a solid wooden fence is installed along the north property line of the west 445 feet of Lot 1, Northgate Center Addition. This must be completed within 90 days of approval by the MAPC or, as applicable, the appropriate governing body or the Conditional use shall be declared null and void.
- (5) The Conditional Use shall not be in effect until the required parking is determined for the west 445 feet of Lot 1, Northgate Center Addition and any adjustments or variances are needed to resolve the required parking is completed. This must be completed within 90 days of approval by the MAPC or, as applicable, the appropriate governing body or the Conditional use shall be declared null and void.
- (6) The Conditional Use shall not be in effect until the 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. This must be completed within 90 days of approval by the MAPC or, as applicable, the appropriate governing body or the Conditional use shall be declared null and void.
- (7) The applicant shall obtain all required state, local and other applicable permits and inspections.

- (8) 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:** The development pattern for the area is mostly SF-5 zoned single-family residences and a MF-20 zoned single-family neighborhood all developed around the SF-5 zoned Martin Ortiz Elementary School. The LC zoned property where the proposed nightclub is located contains the only retail/personal improvement services types of activity in the area. The other LC zoned properties in the area are two single-family residences and two properties listed by the appraiser office as (small) warehouses.
- (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 establish a drinking establishment – nightclub as a conforming use on the site.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** SF-5 and MF-20 zoned single-family residences are either abutting or located within 75 feet of the site, plus there is a public school located 80 feet 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 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 for the area is mostly SF-5 zoned single-family residences and a MF-29 zoned single-family residential neighborhood all developed around the SF-5 zoned USD 259 Martin Ortiz Elementary School. The LC zoned property where the proposed nightclub is located contains the only retail/personal improvement services types of activity in the area. The other LC zoned properties in the area are two single-family residences and two properties listed by the appraiser office as (small) warehouses. The

applicant has stated that the site has been either a tavern, drinking establishment or nightclub prior to the current UZC, which came into effect in 1996. The proposed nightclub is relatively small (posted occupancy of 87) and could continue to operate as a DER if the application is denied.

There is a paved drive located on the north side of the commercial strip building the proposed nightclub is located in. The dead-end, north-south, unimproved residential street Jackson Avenue abuts a portion of the north side of the site and it could provide access to the north abutting single-family residential neighborhood, via the paved drive. There is a section of a wooden privacy fence separating an east portion of the north abutting single-family residential neighborhood from the LC zoned property the proposed nightclub is located in. There is no screening around the dumpster and it (via a visit to the site by staff) appears to be located closer than 20 feet to the north abutting SF-5 zoned single-family residences. Because the site is completely paved over there is no opportunity for landscaping.

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

BILL LONGNECKER, Planning Staff presented the Staff Report.

He reported that DAB VI recommended approval of the application 8-0.

STEPHEN JOSEPH, 500 NORTH MARKET, AGENT FOR THE APPLICANT said they accept the conditions in the Staff Report. He said this is a neighborhood bar that has been there forever and is grandfathered in as a non-conforming use. He said the purpose of the conditional use request is to bring this into conformance with the zoning.

MOTION: To approve subject to staff recommendation.

DOOL moved. **TODD** seconded the motion, and it carried (8-0).

11. **Case No.: CON2016-00033** - City Conditional Use to permit a Tavern/Drinking Establishment/Nightclub within 300 feet of residential zoning on LC Limited Commercial zoned property, generally located Northeast of East Harry Street and South Webb Road. (1520 S. Webb Rd - Wichita Pizza Co.)

CHAIR NEUGENT reported that the case had been withdrawn.

12. **Case No.: CON2016-00034** - City Conditional Use to permit a Tavern/Drinking Establishment/Nightclub within 300 feet of residential zoning on LC Limited Commercial zoned property, generally located Northeast of East Harry Street and South Webb Road. (1530 S. Webb Rd. - Auntie Mae's)

CHAIR NEUGENT reported that the case had been withdrawn.

13. **Case No.: CON2016-00035** - Homer Morgan Revocable Trust, c/o Homer Morgan (applicant/owner) and Stephen M. Joseph (agent) request a City Conditional Use to permit a Tavern/Drinking Establishment/Nightclub within 300 feet of residential zoning on LC Limited Commercial zoned property described as:

All of lot 2 EXCEPT beginning 28 feet West of the Southernly most Southeast corner, thence West 22 feet, thence Northwest 65.66 feet, thence North 46.25 feet, thence East 87 feet, thence South 56 feet to the point of beginning together with that part of lot 1 beginning at the Northeast corner, thence South 48 feet, thence West 17.5', thence North 48 feet, thence East 17.5 feet to the point of beginning, all in Block 1, Park Meadow Estates Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The LC Limited Commercial (LC) zoned site is located northeast of East Harry Street and South Webb Road. 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 (TF-3) zoned duplex development is located approximately 165 feet east-northeast of the site, thus the Conditional Use request. There is no history of a Use Exception or Conditional Use for a tavern, drinking establishment or nightclub on this site. The applicant has stated that a portion of the one-story commercial building (built 1981, 1989) has been a tavern, drinking establishment or nightclub for at least 20-years. The applicant is applying for a Conditional Use for a nightclub to get the site in conformance with the UZC. The site has a current drinking establishment and entertainment license.

The applicant's site plan is an aerial. The applicant has stated that the proposed nightclub occupies approximately 55% (4,937-square feet) of the 8,976-square foot one-story commercial building with the remaining square footage being occupied by a liquor store and maybe (as observed by staff during an on-site look) a small nail salon.

- (a) As counted by staff, the aerial shows approximately 62 on-site parking spaces.
- (b) The Fire Department has a posted occupancy rate of 173 people for the current non-conforming nightclub.
- (c) The non-conforming nightclub requires 89 on-site parking spaces; one on-site parking space per two nightclub customers.
- (d) The building's remaining 4,039-square feet for liquor store and nail salon require 13 on-site parking spaces; one parking space per 333-square feet for retail and personal improvement service.
- (e) The non-conforming nightclub also has a small outside seating area for customers that has not been provided that is needed for the calculations for parking*.
- (f) The tentative* required total of 102 on-site parking spaces exceeds the site's current 62 total parking spaces by at least 40 parking spaces.

- (g) The applicant will need to apply for either a variance, an administrative adjustment, an off-street parking agreement or a combination 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 applicant owns the abutting north and northeast properties, which have improved parking lots.
- (h) The retail operational hours are largely different than the non-conforming nightclubs hours

LC zoned businesses abut the four corners of the arterial Harry Street – Webb Road intersection ending at abutting or adjacent SF-5 Single-Family Residential (SF-5), TF-3 and GO General Office (GO) zoned single-family residential, duplex, multi-family residential and office types of development. A LC zoned Intrust Bank (built 1978) with drive-thru service abuts the south side of the site. A LC zoned Quik-Trip convenience store (built 2013), an Auto Zone car parts store (built 1996), a Walgreens pharmacy (built 2000) and an auto parts store and assorted fast food restaurants are located south of the site, across Harry Street. A vacant Walmart Local Neighborhood Market is located south of the site, across Harry Street. A LC zoned Dillon's grocery store with a gas island (built 1995) and a small commercial strip building (built 2006) are located west of the site, across Webb Road. The already noted TF-3 zoned duplex development is located approximately 165 feet east-northeast of the site. A LC zoned full service restaurant (Felipe's Jr. DER) abuts the east side of the site. LC zoned self-storage warehouses are located east of the DER. A LC zoned commercial strip building (built 1991) and a free standing vacant commercial building (built 1999, formerly a restaurant called Auntie Maes) abut the north side of the site*. In driving the area staff could find no taverns, drinking establishments or nightclubs located within a mile of the subject site.

NOTE: Besides this Conditional Use, CON2016-00035, to bring an existing nightclub into conformance with the UZC, the same applicant has two other Conditional Use applications for nightclubs on the already noted two abutting north properties.* There is total of three requests for nightclubs on abutting properties all owned by the applicant and all are on the August 18, 2016, MAPC and the August 8, 2016, DAB II agendas. CON2016-00033 is for a new nightclub on a LC zoned commercial strip building for one tenant of multiple tenants. The application is for a current tenant that is restaurant with a DER license. CON2016-00034 is for a new nightclub in the free standing vacant commercial building that used have restaurant with a DER license. A consideration on all of the properties is the amount of on-site parking available compared to the UZC's required on-site parking for a nightclub.

As counted by staff on the aerial/site plan provide by the applicant, the total on-site parking for the three abutting properties is 231. The tentative required parking for the three properties if all of the nightclubs are approved is 243-252. Staff is recommending denial of CON2016-00034 because it would create a new nightclub that abuts TF-3 zoned duplex development (see staff report). Staff is also recommending that the 66 parking spaces on the northeast abutting CON2016-00034 site not be used for off-site parking for a nightclub because of the negative impact on the abutting TF-3 zoned duplex development. Subtracting those 66 parking spaces from the 231 parking spaces available leaves 165 parking spaces available for a revised required parking total of 174-183 parking spaces. The subject site, CON2016-00035, the Port of Wichita has the largest on-site parking deficit, needing a tentative additional 40 parking space. Those 40 parking spaces can be obtained from the CON2016-00033 commercial strip building site, leaving it with 63 parking spaces to serve its current multiple tenants. An adjustment or variance may be needed to resolve on-site parking.

CASE HISTORY: The site is located on a south portion of Lot 2, Block 1, Park Meadow Estates Addition to Wichita, Sedgwick County, Kansas. The Park Meadow Estates Addition was recorded at the Register of Deeds on August 18, 1976. The applicant has stated that a portion of the 8,976-square foot one-story commercial building (built 1981, 1989) has been a tavern, drinking establishment or nightclub on this site for at least 20-years. The site was annexed into the City between 1971 and 1980. Staff has received phone calls expressing concerns about the proposed nightclubs. The request was considered at the August 8, 2016, DAB II meeting and the DAB recommended denial. There were protesters present at the meeting.

ADJACENT ZONING AND LAND USE:

NORTH: LC, GO	Commercial strip building, commercial building, condominiums
SOUTH: LC, SF-5, GO	Convenience store, auto parts sales, fast food restaurants, vacant building, undeveloped land
EAST: LC, TF-3	Restaurant, self-service warehouse, duplexes
WEST: LC, TF-3	Grocery store with gas island, garden apartments, commercial strip building

PUBLIC SERVICES: The site has access off the paved four lane, with a center turn lane and right-hand turn lanes, arterials Harry Street and Webb Road. Both streets have short full curbed medians. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The “2035 Future Growth Concept Map” shows the site as “new residential/employment mix.” This category 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. A moderately low density TF-3 zoned duplex development is the closest residential development to the site, located approximately 165 feet east – northeast of the site. Due to the proximity of residential uses, employment uses likely will have limited negative impacts associated with noise, hazardous emissions, visual blight, and odor. Noise, trash, traffic and increased police activity are commonly noted negative impacts on abutting or adjacent residential properties.

A nightclub is better located in the “commercial” category, which reflects the full diversity of commercial development intensities and types typically found in a large urban municipality and are typically buffered from lower density residential areas by higher density housing types.

Locational criteria for commercial development include three key elements: development pattern, land use compatibility, and design. The development pattern in the area is a mix of two LC large box retail stores (one vacant) and small LC zoned businesses located along the intersection of Harry Street and Webb Road. The LC zoning and development ends where it abuts or is adjacent SF-5, TF-3 and GO zoned single-family residential, duplex, multi-family residential and office types of development. TF-3 zoned duplexes are located approximately 165 feet east, northeast of the site, thus the Conditional Use request. However, there are no less intrusive businesses or higher density residential uses located between the proposed nightclub and the TF-3 zoned duplexes. This proximity could be a potential source of nuisance for the residential zoned/developed properties. The subject site and the adjacent

duplex neighborhood do not abut a common street, which lessens the possibility that the customers of the proposed nightclub will be parking in the adjacent duplex neighborhood. The applicant needs a maximum of an additional 40 parking spaces. The applicant owns the two abutting north and northeast properties and he will need to apply for either a variance, an administrative adjustment, an off-street parking agreement or a combination to meet the UZC's parking standards. The applicant's abutting northeast property (a vacant restaurant) abuts the noted TF-3 zoned duplex development, which makes it a less attractive option for the needed off-site parking.

RECOMMENDATION: Approval of the Conditional Use would confer compliance with the current UZC on an existing nightclub that, based on its history of not having a Use Exception or a Conditional Use, may have been established prior to the 1996 adoption of the UZC. As such, approval would not introduce a new use into the area. If denied the applicant could continue to operate as a non-conforming nightclub, per the UZC's Non-Conforming policies. Approval would bring the nightclub into conformance with the current UZC and relieve the applicant the burden of maintaining the site's non-conforming rights. 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 and solid screening gate around dumpsters. Outdoor seating is permitted. No outdoor speakers or entertainment is permitted. The site plan must be submitted for review within 60-days of approval by the appropriate governing body or the Conditional Use will be declared null and void.
- (2) No off-site parking allowed on the abutting northeast LC zoned property that has the vacant one-story commercial building, site of CON2016-00034. Post signs declaring "No Bar Parking" on the west side of this site. These signs must be installed within 30-days of approval by the appropriate governing body or the Conditional Use will be declared null and void. The location of these signs must be shown on the revised site plan. For the purpose of this Conditional Use request, provide a legal description of that portion of Lot 2, Block 1, Park Meadow Estates Addition that matches the site plan for CON2016-00034.
- (3) The applicant shall provide written agreements for off-site or shared parking, an administrative adjustment, a variance or a combination to resolve the need for at least 40 additional parking spaces. The applicant needs to provide the number of outside seating, which will increase the number of needed parking spaces above 40. Parking shall be resolved as prescribed within 90-days of approval by the appropriate governing body or the Conditional use will be declared null and void.
- (4) The applicant shall obtain all required state, local and other applicable permits and inspections.
- (5) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in 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 abut the four corners of the arterial Harry Street – Webb Road intersection ending at abutting or adjacent SF-5, TF-3 and GO zoned single-family residential, duplex, multi-family residential and office types of development. A LC zoned Intrust Bank (built 1978) with drive-thru service abuts the south side of the site. A LC zoned Quik-Trip convenience store (built 2013), Auto Zone car parts store (built 1996), a Walgreens pharmacy (built 2000) and an auto parts store and assorted fast food restaurants are located south of the site, across Harry Street. A vacant Walmart Local Market is located south of the site, across Harry Street. A LC zoned Dillon’s grocery store with its gas station (built 1995) and a small commercial strip building (built 2006) are located west of the site, across Webb Road. A LC zoned commercial strip building (built 1991) and a free standing vacant commercial building (built 1999, formerly a restaurant called Auntie Maes) abut the north side of the site. TF-3 zoned duplexes are located approximately 165 feet east –northeast of the site. A LC zoned full service restraint (Felipe’s Jr. DER) abuts the east side of the site. LC zoned self-storage warehouses are located east of the DER. In driving the area staff could find no taverns, drinking establishments or nightclubs located within a mile of the subject site.
- (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, as being in compliance with the current UZC.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** TF-3 zoned duplexes are locate approximately 165 feet east – northeast 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 duplex 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, the hours of the nightclub having a detrimental impact on the residential neighborhood and an increase in police activity.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2035 Future Growth Concept Map” shows the site as “new residential/employment mix.” This category 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. A moderately low density TF-3 zoned duplex development is the closest residential development to the site, located approximately 165 feet east – northeast of the site. Due to the proximity of residential uses, employment uses likely will have limited negative impacts associated with noise, hazardous emissions, visual blight, and odor. Noise, trash, traffic and increased police activity are commonly noted negative impacts on abutting or adjacent residential properties.

A nightclub is better located in the “commercial” category, which reflects the full diversity of commercial development intensities and types typically found in a large urban municipality and are typically are buffered from lower density residential areas by higher density housing types.

Locational criteria for commercial development include three key elements: development pattern, land use compatibility, and design. The development pattern in the area is a mix of two LC large box retail stores and small LC zoned businesses located along the intersection of Harry Street and Webb Road. The LC zoning and development ends where it abuts or is adjacent SF-5, TF-3 and GO zoned single-family residential, multi-family residential and office types of development. TF-3 zoned duplex development is located approximately 195 feet east, northeast of the site, thus the Conditional Use request. However, 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 subject site and the adjacent 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.

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

BILL LONGNECKER, Planning Staff presented the Staff Report. He reported that the DAB II recommended denial of the application.

STEPHEN JOSEPH, 500 NORTH MARKET, AGENT FOR THE APPLICANT said the Port of Wichita Club has been at this location as a legal non-conforming use for over 40 years. He said at one time it qualified as a restaurant because it sold more food than alcohol. He said currently the owner wants to have live entertainment (his own band) and serve some food but probably not more than the 50% needed to qualify as a restaurant. He said they are asking for a conditional use permit and accept all the conditions listed in the Staff Report.

STEVE MANWEILER, 8225 N. OLIVER, VALLEY CENTER said he was not as opposed to this request as he was the two previous cases that were withdrawn. He said he owns property in the area on Global Circle and is not concerned if the establishments are going to operate in the same manner, but he said he was concerned about "creep." He asked if this would make the request on the previous two cases more viable if this was approved. He said if that were to happen he would be concerned about noise, traffic, etc. He said this is income property for him and he wants to get his return on his investment. He said if he has vacancies and can't fill them, he will lose revenue. He said his current tenants stay anywhere from 5-10 years at a time so he is concerned that his property maintain its current value as income property. He said he is as concerned for his tenants as he his own home.

WARREN said he sees each one of these cases as standing alone and does not see "creep" as being an issue. He said he thinks the three properties are different as night and day.

KNEBEL noted that staff did recommend denial of the two previous cases that were withdrawn.

STEPHEN JOSEPH commented that both previous cases that were withdrawn have drinking establishment licenses already.

MOTION: To approve subject to staff recommendation.

GREENE moved, **WARREN** seconded the motion, and it carried (8-0).

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14. **Case No.: CON2016-00039** - City Conditional Use to permit a Tavern/Drinking Establishment/Nightclub within 300 feet of residential zoning on LI Limited Industrial zoned property, generally located West of South Rock Road and south of East Harry Street (7707 E. Harry St.).

CHAIR NEUGENT reported that the case was deferred.

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15. **Case No.: CUP2016-00025** - Wheeler Trust; Brandon Hospitality, LLC; and Wichita Hospitality Group, LLC (owners/applicants); and Kaw Valley Engineering, Inc., c/o Tim Austin (agent) request a City request to create the Village at Greenwich Commercial CUP DP-340 on property described:

The Manhattan Addition, Sedgwick County, Kansas, EXCEPT that part platted as Village at Greenwich Addition, as Addition to Wichita, Sedgwick County, Kansas; ALONG WITH Lots 1-8, Lots 13-15, and Reserve A, Village at Greenwich Addition, an Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant requests creation of the Village at Greenwich Community Unit Plan (CUP) DP-342 (see attached) in existing LC Limited Commercial (LC) zoning located at the northeast corner of 21st Street North and Greenwich Road. The 19.25-acre site is developed with three strip shopping centers, two hotels, and a bank. Five (5) acres of the site remains undeveloped. The site is controlled by an agreement (see attached) with the City of Wichita establishing use restrictions and development standards. The agreement is recorded as a deed restriction on the site.

The applicant proposes to eliminate the deed restriction controlling development of the site and replace it with the proposed Village at Greenwich CUP. Other than updated code references, the only changes from the deed restriction proposed by the Village at Greenwich CUP are:

1. A reduction of the setback requirements along 21st Street North and Greenwich Road to match the setbacks established by the Village at Greenwich Addition.
2. An increase in the number of permitted monument signs from seven (7) to eleven (11). The number of proposed monument signs is still two (2) fewer than would be permitted by right in the LC district.

The site is located in the middle of a major commercial area along K-96 Highway. North of the site is zoned LC and LI Limited Industrial (LI) and is developed with a vehicle repair garage, big box retail, and commercial pad sites. South of site is a proposed 59 acre shopping center that is zoned LC and has two fast food restaurants and a bank developed on pad sites to date. East of the site is a 57 acre cemetery that is zoned LC and SF-5 Single-Family Residential (SF-5). West of the site is zoned LC and LI and is developed with a 70 acre shopping center developed with big box retail and commercial pad sites.

CASE HISTORY: The southwest portion of the site was zoned LC in 1958 when Sedgwick County established zoning within three (3) miles of the Wichita city limits. The remainder of the site was approved for LC zoning by the Sedgwick County Board of County Commissioners on December 13, 1995 (SCZ-0699). Approval of the expanded LC zoning was subject to platting the entire site, including a development agreement with the City of Wichita to provide for the extension of municipal services and establish use controls and development restrictions. The development agreement for the site was approved by the Wichita City Council on January 7, 1997, and the site was platted as The Manhattan Addition on February 21, 1997. A portion of the site was replatted as the Village at Greenwich Addition on September 30, 2008.

ADJACENT ZONING AND LAND USE:

NORTH:	LC, LI	Vehicle repair, big box retail, commercial pad sites
SOUTH:	LC	Undeveloped, fast food restaurant, bank
EAST:	LC, SF-5	Cemetery
WEST:	LC, LI	Big box retail, commercial pad sites

PUBLIC SERVICES: 21st Street North and Greenwich Road are both section line arterial streets at this location with 60-foot half-width right-of-way (ROW), tapering to 75-foot half-width ROW at the intersection. Greenwich Road is a six-lane arterial with dual left turn lanes at 21st Street North and a single left turn lane into the major entrance to the site. Both intersections are signalized. 21st Street North is a six-lane arterial with a continuous center left turn lane. The CUP proposes three (3) access openings to 21st Street North, all of which have been constructed, and four (4) access openings to Greenwich Road, three of which have been constructed. Any remaining access opening to Greenwich Road is subject to the City of Wichita's Access Management Policy per the requirements of the CUP and plat. All utilities currently serve 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: Based upon information available prior to the public hearings, planning staff recommends that the proposed CUP be APPROVED, subject to the following conditions:

- A. The applicant shall record a CUP certificate with the Register of Deeds indicating that this tract (referenced as DP-342 Village at Greenwich CUP) has special conditions for development on the property. A copy of the recorded certificate along with four copies of the approved CUP shall be submitted 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: The site is located in the middle of a major commercial area along K-96 Highway. North of the site is zoned LC and LI Limited Industrial (LI) and is developed with a vehicle repair garage, big box retail, and commercial pad sites. South of site is a proposed 59 acre shopping center that is zoned LC and has two fast food restaurants and a bank developed on pad sites to date. East of the site is a 57 acre cemetery that is zoned LC and SF-5 Single-Family Residential (SF-5). West of the site is zoned LC and LI and is developed with a 70 acre shopping center developed with big box retail and commercial pad sites.
2. The suitability of the subject property for the uses to which it has been restricted: The 19.25-acre site is zoned LC. Current Wichita-Sedgwick County Unified Zoning Code (UZC) requirements include 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 restricts land uses on the site and require specific development standards that are greater than standard LC zoning requirements. The proposed CUP use restrictions and development standards should mitigate detrimental impacts on nearby property.
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: Any remaining access opening to Greenwich Road is subject to the City of Wichita's Access Management Policy per the requirements of the CUP and plat. All utilities currently serve the site, and the CUP indicates that all utilities will be placed underground.

SCOTT KNEBEL, Planning Staff presented the Staff Report.

RICHARDSON mentioned changing the height of the signs to 25 feet. He commented that there are also a number of references to actions to be taken at the time of platting, but added that this property is already platted.

KNEBEL said he thought it was just the sign at the corner 21st Street and Greenwich Road that the applicant wanted to be 25 feet high. He said they will revise the CUP language to reflect that. He commented that there are a number of CUP's that mention items to be done at platting when the platting happened 50 years ago. He said staff did not see the purpose in rewriting the entire CUP.

WARREN clarified that the applicant was asking to replace a deed restriction with a CUP. He said he thought deed restrictions lasted forever.

KNEBEL said the applicant is asking for creation of a CUP for the property. He said they will have to petition the City Council to eliminate the deed restriction.

MOTION: To approve subject to staff recommendation.

WARREN moved, **GREENE** seconded the motion, and it carried (8-0).

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16. **Case No.: DER2016-00002** - Adoption of the Wireless Communication Master Plan as an element of the Community Investments Plan 2015-2035, the Wichita-Sedgwick County Comprehensive Plan and Amendments to certain sections of the Wichita-Sedgwick County Unified Zoning Code (UZC) pertaining to the regulation of wireless communication facilities.

RICHARDSON announced that Councilman Meitzner requested that this item be deferred to the September 29, 2016 Planning Commission hearing.

MOTION: To table the item until September 29, 2016.

RICHARDSON moved, **DOOL** seconded the motion, and it carried (8-0).

CHAIR NEUGENT announced that because the Commission is down to eight people the amendment will require a unanimous vote to pass.

17. **Case No.: DER2016-00005** - Amendments to certain sections of the Wichita-Sedgwick County Unified Zoning Code (UZC) to permit event centers, churches, farmer's markets, community assembly and bed and breakfast uses by right subject to development standards in certain zoning districts. Minor changes dealing with punctuation and codification are also proposed.

BACKGROUND: Some time ago staff was approached by two county residents who have agricultural facilities that were not being fully utilized due to limitations contained in the current Wichita-Sedgwick County Unified Zoning Code (UZC). Staff has worked to develop a series of proposed amendments that can assist farm producers to better utilize farm properties and facilities. The proposed amendments are attached in the form of a delineated and annotated resolution. Words that are underlined are proposed additions to the code. Lined through letters or words are proposed to be deleted or modified. Italicized words are annotations providing a brief description of what the proposed amendment accomplishes. The last two pages of the delineated and annotated resolution contains a section by section summary of the proposed amendments.

In general, the proposed amendments:

1. Clarify what is an agricultural use.
2. Establish a new use, "event center in the county"
3. Establish a new use, "farmer's market in the county"
4. Permits a "church or place of worship," "community assembly," "bed and breakfast inn," "event center in the county" and "farmer's market in the county" as uses by right in the RR Rural Residential (RR) district provided they meet 12 supplemental use standards.
5. Permits "event center in the county" and "farmer's market in the county" as uses by right in the LC Limited Commercial, GC General Commercial, LI Limited Industrial and GI General Industrial districts.
6. In the RR district only, an event center in the county, church or place of worship, community assembly or farmer's market in the county with more than 20 acres is permitted by right provided, in part, the site or use complies with building, fire, sanitation, life-safety and other applicable codes, provides minimum parking, addresses drainage, building setback of 100 feet from property lines and submits a site plan that is approved.
7. "Church or place of worship," "community assembly," "bed and breakfast inn," "event center in the county" and "farmer's market in the county" that do not or cannot comply with the supplemental development standards may be permitted with conditional use approval.

CONFORMANCE TO PLANS/POLICIES: Strategy G of the Arts, Culture and Recreation section of the Community Investments Plan recommends that staff "Identify opportunity areas and regulatory adjustments necessary to support agritourism in the unincorporated areas of Sedgwick County."

RECOMMENDATION: Based upon the information available at the time the staff report was prepared it is recommended that the request

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The RR district permits agricultural uses by right and a few other uses compatible with agricultural activities or uses that can be buffered from agricultural uses by large lot sizes.
2. The suitability of the subject property for the uses to which it has been restricted: Most of the event center uses requested in the County have been located in the RR district.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed supplemental use standards should minimize detrimental impacts to 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: The proposed amendments would allow rural residents, farmers and other agricultural producers a wider range of by right uses and provide a greater choice for such activities within the area's marketplace. Denial of the proposed amendments would maintain the current status quo of requiring zoning approval for the identified uses.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: Strategy G of the Arts, Culture and Recreation section of the Community Investments Plan recommends that staff "Identify opportunity areas and regulatory adjustments necessary to support agritourism in the unincorporated areas of Sedgwick County."
6. Impact of the proposed development on community facilities: The proposed amendments could lead to increased traffic on unpaved roads and to increased calls for code or law enforcement.

DALE MILLER, PLANNING DIRECTOR, presented the Staff Report. He referred to the hand out resolution and said it was a revised, streamlined version of the completely annotated version of the resolution that was sent out with the agenda packets. He said this change would make an event center in the County a use "by right" and subject to the thirteen development standards listed in the proposed amendment. He briefly reviewed some of those standards including minimum lot size, minimum setbacks, parking provisions, drainage, submission of a site plan (for enforcement staff to refer to) and compliance with building and Fire Codes. He said they have also moved churches, place of worship and community assembly, Bed & Breakfast, event center in the County and farmer's markets in the County as uses "by right" in the RR Rural Residential Zoning District.

WARREN asked about parking and whether a grass field can be designated as parking.

DIRECTOR MILLER grass is a permissible surface as long as it is not used more than a certain interval. In addition he said crushed gravel or rock is also permissible.

RICHARDSON commented the he believes he read that the parking surface is based on how often an event occurs. He said some require gravel and some allow grass.

KNEBEL clarified that grass parking is allowed for one event per month lasting no longer than three days per event.

DAN STOCKEMER, OWNER, PRAIRIE HILL VINEYARD, 21421 WEST 37TH STREET NORTH, COLWICH, KANSAS said his farm has been in his family since 1907. He thanked the Planning Commission for bringing this amendment for agritourism by right in the Rural Residential designation to the Board of County Commissioners. He said allowing the development of agritourism will create economic development benefits for the County including a lot of new jobs and activities for residents. He said their business is approached often to host weddings and bridal showers as well as other activities at their facility. He said they would also like to open a pumpkin patch.

STOCKEMER said they will comply with the standards listed on pages 25 and 26 and do not want to impede this proposal; however, he said he would like to comment on some of the requirements. He said their primary concern was the provision of providing gravel parking if more than one event per month is held. He said no one has ever gotten stuck in his pasture and he really doesn't want to cover a beautiful pasture with gravel. He said personally he does not think it is necessary. He mentioned the provision for a parking study a cover and asked if that could help determine if gravel was necessary if the grass parking was holding up. He also said they would like to have 4-5 events per month. He said he also did not think the reporting requirement was necessary and that they should not have to report to the County what they are doing. He asked if they are in compliance, why is that even necessary and wanted to know what the purpose behind that requirement was. He concluded by once again thanking the Commission.

DIRECTOR MILLER explained that if the provision for one outdoor event per month was eliminated, then the reporting requirement would also be eliminated.

STOCKEMER asked what about the gravel parking requirement.

DIRECTOR MILLER commented that if you have a paved section line road and the parking is unpaved, event goers will be tracking mud onto road and County Engineers don't like that. He commented that this proposal was just a starting point for further discussion.

TODD asked Mr. Stockemer to offer his amendments to the proposal.

STOCKEMER suggested the following: 1) allow five or more events per weekend; and 2) remove the requirement to report to the County.

DIRECTOR MILLER commented that if the Commission does not have an issue with the number of events that is fine, he was just trying to be conservative as a starting point for discussion.

WARREN commented that grass can be an acceptable surface for parking. He asked about enacting a stiff penalty for dumping mud on the highway.

STOCKEMER referenced the parking study referred to in the proposal and said as long as they have a sturdy subsurface that will not create mud, grass parking should be allowed.

DIRECTOR MILLER said the parking study references standards for an event center such as the one space per four occupant's requirement. However, he said they wanted to be flexible and allow facility operators to submit a statement as to how they are meeting the minimum parking requirements. He said there may be a way to expand the parking study to include evaluation of grass parking areas.

STOCKEMER suggested that the County be allowed to do a parking study.

DIRECTOR MILLER explained the way that would work is the facility owner would do the parking study and submit it to County Engineering for review and approval.

WARREN said that still doesn't take care of the facility manager who allows mud to be tracked onto the section line road.

RICHARDSON suggested considering requiring a gravel driveway of a specific length which would probably eliminate most of the mud before event participants made it to the paved road. He also asked about handicapped parking.

DIRECTOR MILLER reported that all handicapped spaces are required to be paved.

GREENE commented that construction sites have minimum requirements for the length of gravel driveways. He asked about adding that as a standard.

DIRECTOR MILLER said he would talk with Public Works.

KIMBERLY STROOPE, 25501 WEST 63rd STREET, VIOLA, KANSAS RUSTIC TIMBERS she said she loves what the Commission is doing. She said they have restrictions because of the PUD they operate under, and asked if the Commission would make some concessions that would release some of those requirements.

WARREN asked if this proposal is approved, what would be the process to amend the Rustic Timbers PUD.

DIRECTOR MILLER explained because Rustic Timbers already has a PUD approved by the Board of County Commissioners this proposal would not remove any restrictions. He said as a courtesy the Planning Commission could direct staff to initiate a review of the PUD.

WARREN said the Planning Commission could approve any of those changes.

DIRECTOR MILLER said the staff can take the request for review now and process a review once the proposal being discussed has been finalized.

STROOPE briefly reviewed limitations on the number of events, times and number of people on site. She added that they are not required to report to the County; however, they do provide a "calendar of events" to Code Enforcement.

RICHARDSON asked about the limitation on the number of events.

DIRECTOR MILLER said staff can revise the proposal to eliminate any reference to number of events and the reporting requirement, add that parking surfaces may be grass; and require a gravel driveway (of whatever length depending on what Engineering suggests).

DAILEY said grass parking depends on the conditions of the field you are parking in. He said he doesn't see the need for everyone to have that provision. He asked that staff work out a parking plan.

DIRECTOR MILLER said staff can revise the proposed language and bring it back to the Planning Commission or if the Commission is comfortable, staff can tweak the proposal and send it to the County Commission.

PATRICIA PARKER, ASSISTANT COUNTY COUNCELOR, said she would prefer that staff prepare the changes and bring the item back to the Planning Commission for final approval.

DAILEY said the Planning Commission doesn't meet again until September 29 and he would like to see the item forwarded to the County Commission as soon as possible.

PARKER said as long as the Commission is specific about the changes in the motion, staff can proceed.

MOTION: To approve subject to staff recommendation and the following changes: unlimited number of events; grass parking; gravel drive (length of which to be determined by Engineering) and no reporting requirement.

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

DOOL asked that Planning Commissioners be e-mailed the revised proposal.

FOSTER said he had quite a few questions. He specifically mentioned "road side selling" and asked about safety and other issues associated with that. He specifically mentioned people backing out onto the roadway.

DIRECTOR MILLER said they will be subject to the same 12 development standards listed on page 19 of the proposal.

FOSTER said the way he is reading the proposal, agriculture is completely separate from event center. He said a "Farmer's Market" is not the same as road side selling of produce.

DIRECTOR MILLER said currently the County does not have a business license for road side produce stands. He said if it was grown on the site, you can sell it from the road side.

FOSTER asked about any requirement for insurance for safety of the public and if that was a civil matter. He also asked about definition of the term interpretive facilities.

DIRECTOR MILLER said insurance would be a civil matter. He said if someone wanted to build a facility to show people for example, how to raise chickens, they could do that. He added that most of the language for the proposal was taken from a State brochure regarding agritourism.

FOSTER asked about non-commercial camping and if people could just set up and camp for the whole summer. He also asked about any limitations on bon fires and camp fires.

DIRECTOR MILLER said non-commercial camping was intended to address participants staying overnight as part of the event. He said they could change the language to read "building and/or event setbacks or activities at least 100 feet from property lines".

FOSTER asked if there was any limit on the number of people permitted for community assembly.

DIRECTOR MILLER said there was no limitation on the number of people, the real limitation is the parking standard and how many parking spaces you have available.

FOSTER clarified so if someone has less than 20 acres they still have to request a Conditional Use permit. He asked what the standards were for that.

DIRECTOR MILLER said this proposal does not include conditions for anything less than 20 acres.

FOSTER asked what number of events it takes to make a facility economically viable.

STOCKEMER said it depends on how many people you employ. He said he needs to do more than \$2,000.00 a month if he is going to employ people. He said small weddings are their current focus; however, they would like to expand that with a pumpkin patch. He said his goal is \$50,000.00 the first year and grow it from there. He said down the road they would like to be able to do an enclosed vegetable facility to produce organic and locally grown produce. He said there are potentially a broad range of activities including arts shows and other things. He said he understands Commissioner Foster's concerns but they want to make this successful as well.

FOSTER said he was not comfortable with an unlimited number of events.

STOCKEMER asked how he classifies an event. He said you can easily do two events per weekend.

FOSTER asked about establishing a yearly number like 100 events per year.

STROOPE briefly commented that they usually hold one wedding per weekend in June but not every weekend in July, August, September or October. She said a rehearsal dinner is considered another event. She said 30 weddings a year is a good number for them.

DIRECTOR MILLER commented that if there is no reporting requirement on events, the County has no way to enforce that. He also mentioned that if it is an indoor event, the Fire Code will establish how many people can be in a building,

FOSTER asked what staff found about reporting in their research for the proposal.

DIRECTOR MILLER commented that neither Riley County nor Douglas County had reporting requirements. He said he doesn't remember if they had a limitation on number of events or size of buildings but the size of events was limited by parking availability.

WARREN said he liked the idea of limiting it to 100 events per year, and suggested it could be monitored that the County be given access to an event log kept by facility operators.

TODD said he would be willing to change the motion. He said every business he knows of complaints about regulatory problems. He said motion will eliminate a lot of regulations. He said he is interested in seeing something that does not have a lot of restrictions, but opens up free trade in the County.

AMENDED MOTION: To approve subject to staff recommendation and the following changes: 100 events per year; grass parking; gravel drive (length of which to be determined by Engineering) and no reporting requirement, but that a log of events be kept and produced as requested.

TODD moved, seconded by **DOOL**, and it carried (8-0).

OFF AGENDA ITEM

WARREN asked as far as public hearings are concerned, is there any way the public can be given three minutes of speaking time (instead of five minutes) and then given extensions.

DIRECTOR MILLER commented that staff can "tweak" the Bylaws to reflect that change. He added that that Commission can set whatever time limit they want on a case-by-case basis.

The Metropolitan Area Planning Commission adjourned at 6:50 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

STAFF REPORT

CASE NUMBER: SUB2016-00028 – THE PADDOCK AT 127TH ADDITION

OWNER/APPLICANT: The Paddock at 127th, LLC, Attn: Miles Millspaugh, 7601 South 103rd Street East, Derby, KS 67037

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

LOCATION: South of Harry, on the East Side of 127th Street East (District II)

SITE SIZE: 20.45 acres

NUMBER OF LOTS

Residential:	53
Office:	
Commercial:	
Industrial:	
Total:	53

MINIMUM LOT AREA: 7,200 square feet

CURRENT ZONING: Planned Unit Development (PUD)

PROPOSED ZONING: Same

VICINITY MAP



SUB2016-00028 – Plat of THE PADDOCK AT 127TH ADDITION
October 20, 2016 - Page 2

NOTE: This is a replat of Lot 1, Block 5 of Equestrian Estates Addition. The applicant has submitted an Administrative Adjustment (PUD2016-00006) to create single-family residences and a neighborhood swimming pool within Parcel 4 of the PUD#12.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department requests the extension of water (distribution) and extension of sewer (laterals).
- 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. Traffic Engineering has approved the access controls. The plat proposes complete access control along the 127th Street East street frontage except for one street opening and complete access control along Stampede.
- E. Farrier/Furlong is a one-block street segment with 26 lots directly accessing this street. The Subdivision Regulations indicate that no more than 24 lots should be served by a 58-foot street segment. The Subdivision Committee recommends a modification of the design criteria in Article 7 of the Subdivision Regulations as it finds that the strict application of the design criteria will create an unwarranted hardship, the proposed modification is in harmony with the intended purpose of the Subdivision Regulations and the public safety and welfare will be protected.
- F. The applicant shall guarantee the paving of the interior streets. The applicant shall guarantee the paving of the private street (Reserve B) to a public street paving standard. As private improvements, such guarantee shall not be provided through the use of a petition.
- G. A restrictive covenant shall be submitted regarding the private street (Reserve B), which sets forth ownership and maintenance responsibilities. The plat's text shall reference the platting of Reserve B for private street purposes
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a restrictive covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. A PUD Certificate shall be submitted identifying the approved Planned Unit Development

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- K. 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.
- L. 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.
- M. GIS has approved the street names.
- N. On the final plat tracing, the MAPC signature block needs to reference “David W. Foster” as Chair.
- O. County Surveying advises the utility and drainage easement along the southwesterly line of Lots 30, 31 and 32, Block A needs dimensioned.
- P. County Surveying advises the 20-foot utility easement on Reserve "B" adjacent to Lot 24, Block A needs located east-west.
- Q. Phillips Pipeline has provided their encroachment guidelines to the applicant regarding their pipeline impacting the plat. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the appropriate governing body.
- R. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted, installed and inspected. The plat shows a well located in the right of way for Paddock Street. Please note that any existing well scheduled for decommissioning, must be properly abandoned and reported per State Code 28-30-7.
- S. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- T. The platator’s text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.
- U. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- V. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.

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- W. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- X. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Y. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Z. Perimeter closure computations shall be submitted with the final plat tracing.
- AA. 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.
- BB. Any and all relocation and removal of any existing equipment made necessary by this plat will be at the applicant's expense
- CC. 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: SUB2016-00031 – EDGEMOOR COMMERCIAL ADDITION

OWNER/APPLICANT: ECD, LLC, 8111 East 32nd Street North, Suite 101, Wichita, KS 67226

SURVEYOR/AGENT: K.E. Miller Engineering, 117 East Lewis Street, Wichita, KS 67202

LOCATION: West of North Woodlawn Boulevard, North of East Central Avenue (District I)

SITE SIZE: 2.45 acres

NUMBER OF LOTS

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

MINIMUM LOT AREA: 2 acres

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

PROPOSED ZONING: Limited Commercial (LC)

VICINITY MAP



SUB2016-00031 -- Plat of EDGEMOOR COMMERCIAL ADDITION
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NOTE: This is an unplatted site located within the City of Wichita. A zone change (ZON2016-00038) was approved from Single-Family Residential (SF-5) to Limited Commercial (LC).

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises the site is currently being served by water and sewer.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) 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. As the plat consists of a commercial lot abutting a non-arterial street, the Subdivision regulations require a sidewalk along the street frontage. A guarantee shall be submitted or a Sidewalk Certificate in lieu of a guarantee may be provided.
- E. On the final plat tracing, the MAPC signature block needs to reference "David W. Foster" as Chair.
- F. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted, installed and inspected.
- G. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- H. 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.)
- I. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- J. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- K. 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.
- L. 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

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contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

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

N. 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.

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

P. 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: VAC2016-00038 - Request to vacate the plattor’s text to amend the uses allowed in a platted reserve

APPLICANT/OWNER: Villas at Crestview Homeowners Association, co Rick Slater, president (applicant/owner) MKEC Engineering Inc. c/o Brian Lindebak

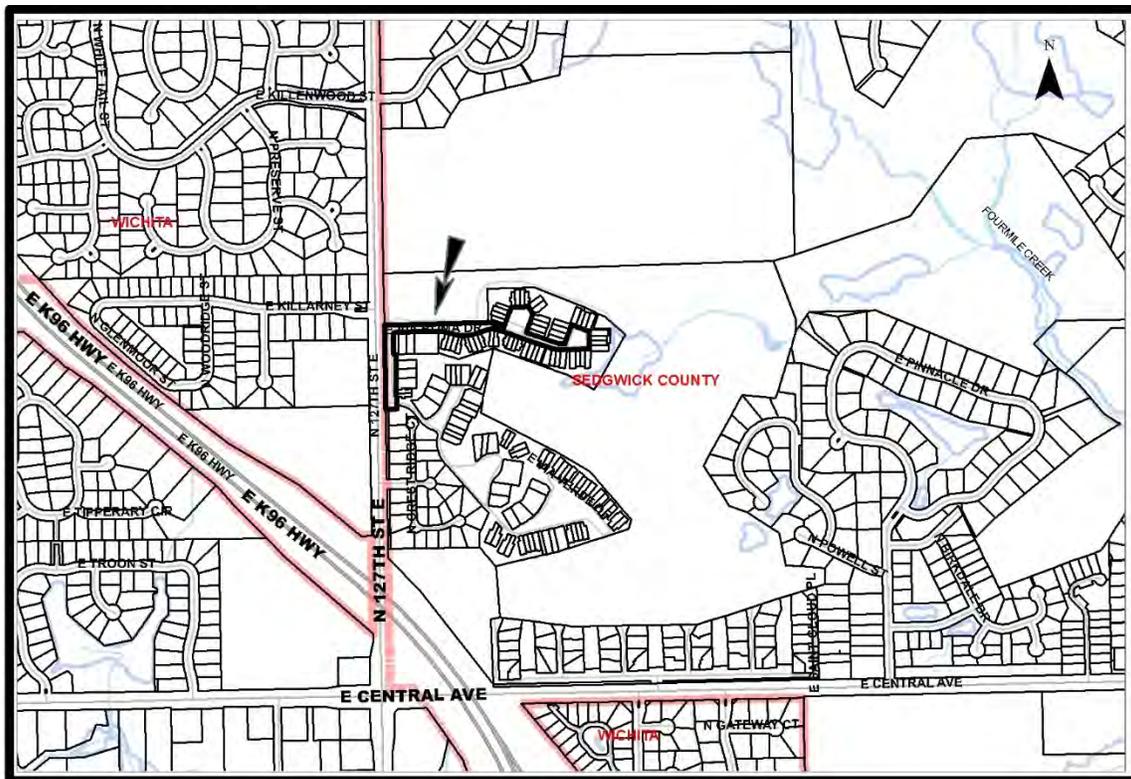
LEGAL DESCRIPTION: Generally described as amending the plattor’s text to allow a wall in the platted Reserve A, Villas at Crestview Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located north of East Central Avenue on the east side of North 127th Street East (BoCC I)

REASON FOR REQUEST: Build a wall

CURRENT ZONING: The site is zoned LC Limited Commercial. The abutting north, east and south properties are zoned SF-20 Single-Family Residential. The abutting and adjacent south and west properties are zoned SF-5 Single-Family Residential

VICINITY MAP:



The applicant is requested the vacation of the plattor’s text to amend the uses allowed in the platted Reserve A, Villas at Crestview Addition. The plattor’s text states that Reserve A is to be used for: private drives, parking areas and open space, and; that and that all private drives are granted as fire lane easement, and; the west 30 is for open space buffer. The plattor’s text does state who owns and is responsible for the maintenance of Reserve A.

The Villas at Crestview Homeowners Association (HOA) is shown as the owner and the applicant. The HOA proposes to allow a wall and has provided a recorded Temporary Construction Easement and a recorded Permanent Wall Easement; Doc/Flm-Pg: 29608110 & Doc/Flm-Pg: 29608111, both recorded May 13, 2016. However the Minneha Township will responsible for the construction and maintenance of the proposed wall and therefore needs to sign the application.

There are public water lines, water valves, water nodes, hydrants and stormwater inlets located in the subject reserve. There are a platted 10-foot wide easement, a platted 10-foot wide drainage easement and a platted 10-foot wide drainage and utility easement located in different portions of the subject reserve. Westar has no existing facilities in the subject easement. Conditions two and three will cover Westar. Becky Thompson is the area representative and can be contacted at 261-6320 for this project. The Villas at Crestview Addition was recorded June 18, 1970.

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

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 - 1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time September 29, 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 plattor’s text to amend the uses allowed in a platted reserve and that the public will suffer no loss or inconvenience thereby.
 - 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request

- (1) Vacate the plattor’s text to allow a wall in the platted Reserve A, Villas at Crestview Addition, while retaining its uses for private drives, parking areas, open space that all private drives are granted as fire lane easement and the west 30 is for open space buffer.
- (2) Provide a document stating that the wall shall be owned and maintained by the Minneha Township. This document will have original signatures of the Minneha Township, approved by Law and provided to Planning prior to proceeding to the County Commission for final action and subsequent recording with the Vacation Order at the Register of Deeds.

- (3) As needed provide easements for public and franchised utilities. As needed provide letters/conformation 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 VAC2016-00038 proceeds to the County Commissioner for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (4) As needed provided Public Works and any other utility located within the subject reserve with a private project plan(s) for walls located within the subject reserve for review and approval. The wall (s) shall be constructed to County Standards and at the Minneha Township’s expense. Relocation/reconstruction of all utilities made necessary by this vacation shall be to County Standards and shall be the responsibility and at the expense of the Minneha Township. Provide an approved project number to Planning prior to VAC2016-00038 proceeds to the County Commissioner for final action.
- (5) All improvements shall be according to County Standards and at the Minneha Township’s 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) Vacate the plattor’s text to allow a wall in the platted Reserve A, Villas at Crestview Addition, while retaining its uses for private drives, parking areas, open space, that all private drives are granted as fire lane easement and the west 30 is for open space buffer.
- (2) Provide a document stating that the wall shall be owned and maintained by the Minneha Township. This document will have original signatures of the Minneha Township, approved by Law and provided to Planning prior to proceeding to the County Commission for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (3) As needed provide easements for public and franchised utilities. As needed provide letters/conformation 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 VAC2016-00038 proceeds to the County Commissioner for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.

- (4) As needed provided Public Works and any other utility located within the subject reserve with a private project plan(s) for walls located within the subject reserve for review and approval. The wall (s) shall be constructed to County Standards and at the Minneha Township’s expense. Relocation/reconstruction of all utilities made necessary by this vacation shall be to County Standards and shall be the responsibility and at the expense of the Minneha Township. Provide an approved project number to Planning prior to VAC2016-00038 proceeds to the County Commissioner for final action.
- (5) All improvements shall be according to County Standards and at the Minneha Township’s 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

STAFF REPORT

CASE NUMBER: VAC2016-00039 - Request to vacate a portion of a platted street side yard setback

APPLICANT/AGENT: Tom George Investments, LLC (applicant/owner) Ferris Consulting c/o Greg Ferris (agent)

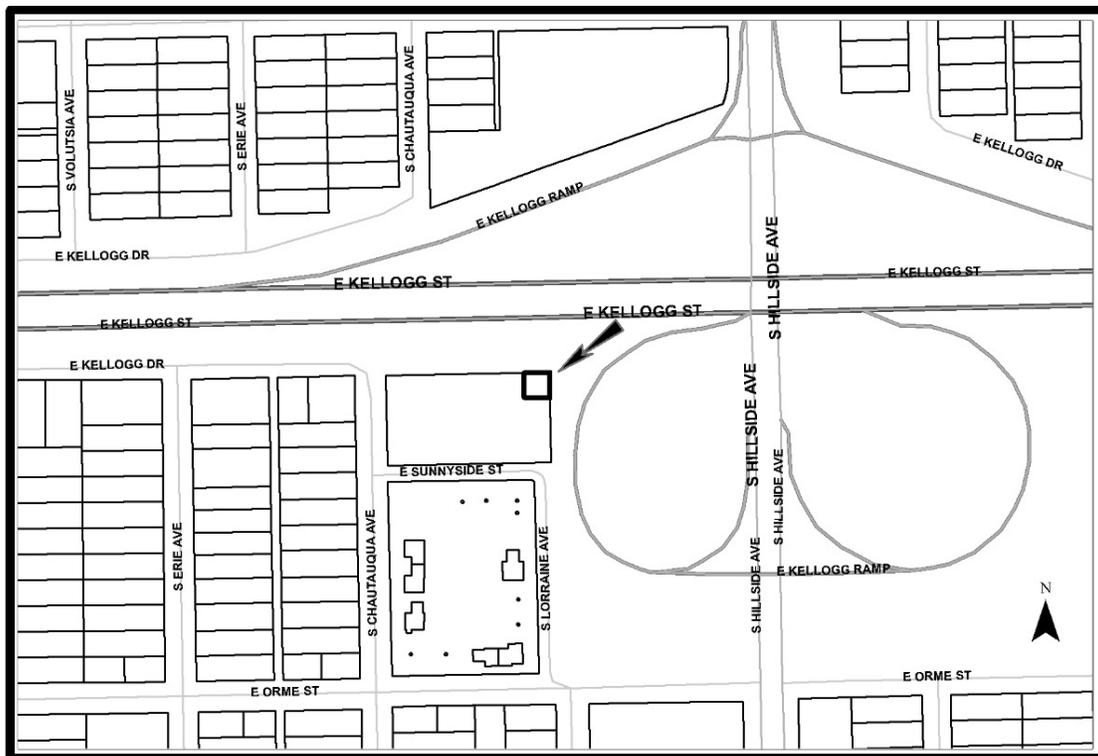
LEGAL DESCRIPTION: Generally described as vacating the south 20 feet of a west portion of the platted 35-foot setback located in the northeast corner of Lot 1, Sunnyside Village Addition, & running parallel to Kellogg Street, Wichita, Sedgwick County, Kansas

LOCATION: Generally located west of Hillside Avenue, on the south side of Kellogg Street, on the northeast side of Sunnyside Street and Lorraine Avenue (WCC I)

REASON FOR REQUEST: Wireless Communication facility site

CURRENT ZONING: The site and the south adjacent property are zoned PUD Planned Unit Development #5. Adjacent west properties are zoned LC Limited Commercial and TF-3 Two-Family Residential. Adjacent north and east properties are K-DOT right-of-way

VICINITY MAP:



The applicant is requested the vacation of the south 20 feet of a west portion of the of the platted 35-foot street side yard setback located in the northeast corner of Lot 1, Sunnyside Village Addition, & running parallel to Kellogg Street. The PUD Planned Unit Development zoning district has no minimum street side yard setback. PUD #5 established a 35-foot building setback line on the north side of the subject lot. There are no utilities or easements located in the subject setback. Sewer is located in Kellogg Street. Westar has no existing facilities in the subject setback. Conditions three and four will cover Westar. LaDonna Vanderford is the area representative and can be contacted at 261-6320 for this item. The Sunnyside Village Addition was recorded March 3, 1999.

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 street side yard setback.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time September 29, 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 street side yard setback and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request

- (1) Provide the order's signature on the Vacation Petition or the application. This must be provided to Planning prior to VAC2016-00039 proceeds to City Council for final action
- (2) Provide a legal description of the vacated platted street side yard setback on a Word document via E-mail for the Vacation Order. This must be provided to Planning prior to VAC2016-00039 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) 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 VAC2016-00039 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.

- (4) Provided Public Works-Sewer (and any other utility located within the subject easement) with a private project plan for the relocation/abandonment of the sewer line and manholes located within the subject easement for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to VAC2016-00039 proceeds to the 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) Provide the order's signature on the Vacation Petition or the application. This must be provided to Planning prior to VAC2016-00039 proceeds to City Council for final action
- (2) Provide a legal description of the vacated platted street side yard setback on a Word document via E-mail for the Vacation Order. This must be provided to Planning prior to VAC2016-00039 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) 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 VAC2016-00039 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (4) Provided Public Works-Sewer (and any other utility located within the subject easement) with a private project plan for the relocation/abandonment of the sewer line and manholes located within the subject easement for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to VAC2016-00039 proceeds to the 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

STAFF REPORT

CASE NUMBER: VAC2016-00040 - Request to vacate a portion of platted public street right-of-way

APPLICANT: Steven Enterprises, LLC. Brandon Steven (applicant) Baughman Company, P.A. c/o Phil Meyer (agent)

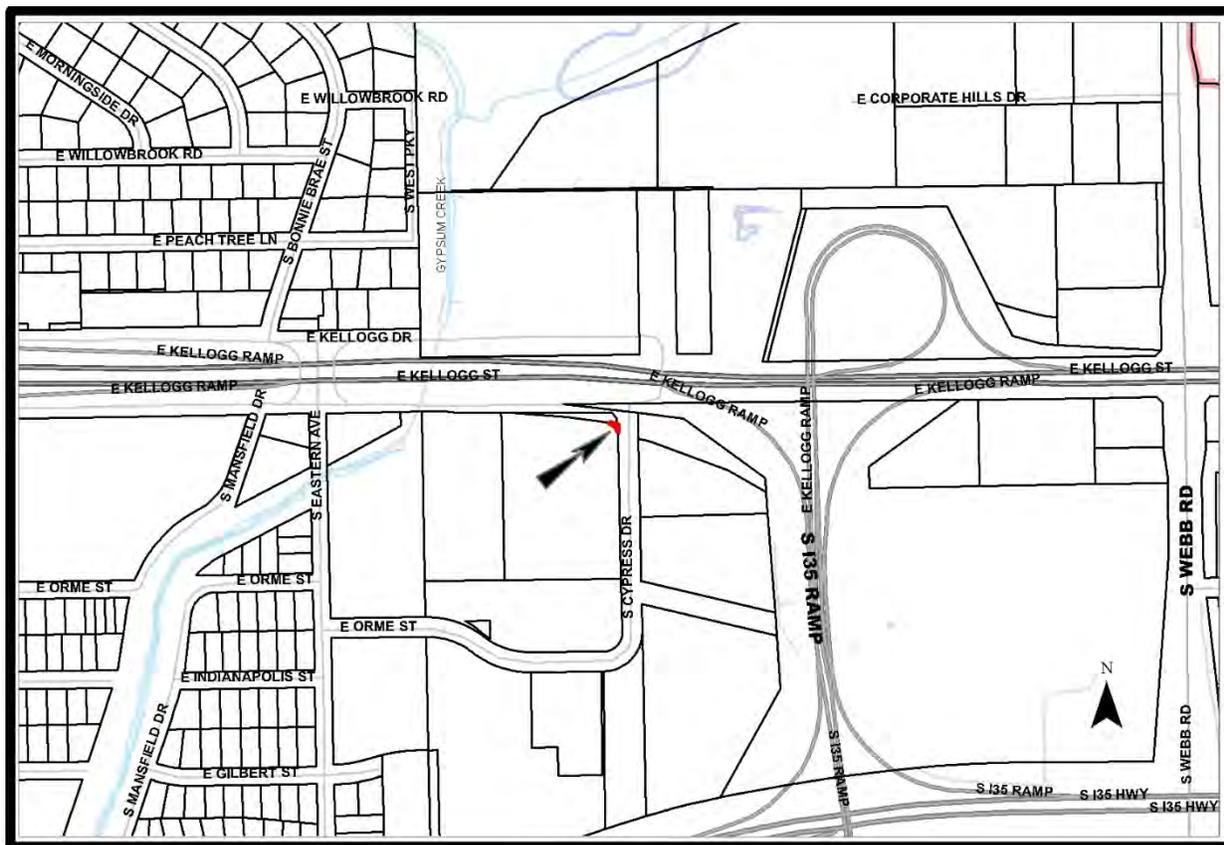
LEGAL DESCRIPTION: Generally described as a vacating a northwest portion of the platted Cypress Drive public street right-of-way dedicated on the Lankin Addition , Wichita, Sedgwick County, Kansas

LOCATION: Generally located at the southwest corner of Kellogg Drive and Cypress Drive (WCC II)

REASON FOR REQUEST: Expansion of Steven Enterprises

CURRENT ZONING: Abutting and adjacent properties are zoned LC Limited Commercial, GC General Commercial, and GO General Office

VICINITY MAP:



The applicant is requesting the vacation of a triangular shaped portion of the platted Cypress Drive public street right-of-way located at its intersection with Kellogg Drive; dedicated on the Lankin Addition. The proposed vacation will not impact the function of the Cypress Drive – Kellogg Intersection. There are no public utilities located in the vacation area. Westar has existing facilities very near the vacation area. The applicant will need to provide easement should they be in that portion of road right-of way where utilities were recently relocated due to the Kellogg expansion in that area and are not able to be relocated again. Conditions three and four will cover Westar. LaDonna Vanderford is the Area representative and can be contacted at 261-6490 for this item. The Lankin Addition was recoded May 27, 1969.

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 September 29, 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 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 Kellogg Drive and Cypress Drive public street right-of-way as approved by the Traffic Engineer and Fire department. 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 VAC2016-00040 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 VAC2016-00040 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) As needed dedicate easements by separate instrument to cover all utilities, including Westar's equipment. The original dedications must be provided to Planning prior to VAC2016-00040 proceeds to City Council for final action and subsequent recording with the Register of Deeds.
- (4) As needed provide utilities with any needed project plans for the relocation of utilities, including Westar's equipment, 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) Vacate the described portion of the Kellogg Drive and Cypress Drive public street right-of-way as approved by the Traffic Engineer and Fire department. 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 VAC2016-00040 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 VAC2016-00040 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) As needed dedicate easements by separate instrument to cover all utilities, including Westar's equipment. The original dedications must be provided to Planning prior to VAC2016-00040 proceeds to City Council for final action and subsequent recording with the Register of Deeds.
- (4) As needed provide utilities with any needed project plans for the relocation of utilities, including Westar's equipment, 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.

STAFF REPORT

CASE NUMBER: VAC2016-00041 - Request to vacate portions of platted setbacks, utility easements and the platlor's text

APPLICANT/AGENT: Perfection Builders LLC, c/o Scott Lehner (applicant/owner) MKEC Engineering, Inc, c/o Brian Lindebak

LEGAL DESCRIPTION: Generally described as vacating the inside 2.38 feet -1.5 feet of the north portion of a platted 15-foot wide drainage and utility easement, and the inside 3.66 by 2.85 feet triangle shaped inside portion of a 15-foot wide platted utility easement and a 15-foot wide platted front building setback all on Lot1, Block 1, Tallgrass Villas Addition, Wichita, Sedgwick County, Kansas (see attached legal and exhibit)

LOCATION: Generally located east of Rock Road, north of 21st Street North on the east side of Tallgrass Street (2268 and 2244 North Tallgrass Street – WCC II)

REASON FOR REQUEST: Remove 3-inch – 7-inch encroachment of the buildings

CURRENT ZONING: The site and all abutting and adjacent properties are zoned SF-5 Single-Family Residential. The site is shown as Parcel 12b in Community Unit Plan CUP DP-96.

VICINITY MAP:



The applicant is requesting the vacation the inside 2.38 feet -1.5 feet of the north portion of a platted 15-foot wide drainage, and the inside 3.66 by 2.85 feet triangle shaped inside portion of a 15-foot wide platted utility easement and a 15-foot wide platted front building setback all on the SF-5 Single-Family (SF-5) zoned Lot1, Block 1, Tallgrass Villas, Addition. There are no public utilities located in the area of the vacations. The applicant has met with Heide Bryan, the Westar Subdivision Representative, on this project in regards to Westar equipment being located in the vacation area. Condition three and four will cover Westar. The site is shown as Parcel 12b in Community Unit Plan CUP DP-96, which established setbacks of 15 feet on the subject site. The SF-5 zoning district has a 25-foot minimum front yard building setback.

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 portions of the platted drainage easement, platted utility easement and 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 September 29, 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 portions of the platted drainage easement, platted utility easement and 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) Review and approval by Public Works, and franchised utilities is required for the proposed vacation. Provide any needed plans for review and approval for the relocation of public and private utilities, including Westar. This must be provided prior to VAC2016-00041 proceeds to City Council for final action.
- (2) Provide a legal description of the vacated portions of the platted drainage easement, platted utility easement and platted front yard setback on a Word document and an exhibit showing the approved vacated portions of the described easements and setback via E-mail for the Vacation Order. This must be provided prior to VAC2016-00041 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.

- (3) As needed provide easements for public and franchised utilities. As needed provide letters/conformation 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 VAC2016-00041 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (4) Relocation/reconstruction of all utilities, including Westar, 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 VAC2016-00041 proceeds to the City Council for final action.
- (5) CUP DP-96 will be posted to reference case VAC2016-00041.
- (6) All improvements shall be according to City Standards and at the applicants' expense.
- (7) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Review and approval by Public Works, and franchised utilities is required for the proposed vacation. Provide any needed plans for review and approval for the relocation of public and private utilities, including Westar. This must be provided prior to VAC2016-00041 proceeds to City Council for final action.
- (2) Provide a legal description of the vacated portions of the platted drainage easement, platted utility easement and platted front yard setback on a Word document and an exhibit showing the approved vacated portions of the described easements and setback via E-mail for the Vacation Order. This must be provided prior to VAC2016-00041 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) As needed provide easements for public and franchised utilities. As needed provide letters/conformation 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 VAC2016-00041 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (4) Relocation/reconstruction of all utilities, including Westar, 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 VAC2016-00041 proceeds to the City Council for final action.

- (5) CUP DP-96 will be posted to reference case VAC2016-00041.
- (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

The applicant is requesting the vacation of the north 8 feet (to be confirmed by a plan prepared by the pool contractor) of the platted 15-foot street side setback yard setback located on and running parallel to the south property line of Lot 17, Highland Springs 3rd Addition, & running parallel to Hardtner Street. The subject site is a corner lot and is zoned SF-5 Single-Family Residential. The Unified Zoning Code (UZY) defines the front of a corner lot as having the shorter of the two street frontages. Hardtner is the longer of the two street frontages, therefore it has the street side yard setback. The SF-5 zoning district has a 15-foot minimum street side yard setback. The applicants' request exceeds the 20% reduction allowed by an Administrative Adjustment. However the MAPD has adopted the policy that vacating a platted setback allows the establishment of a new setback that may exceed what would be allowed by an Administrative Adjustment. There are no public utilities or easements located in the subject setback. Westar has no existing facilities in the vacated portion of the building setback. Conditions 2 and 3 will cover Westar. Richard Aitken is the Westar area representative and can be contacted at 261-6734 for this item. The Highland Springs 3rd Addition was recorded July 18, 2003.

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 street side yard setback.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time September 29, 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 street side yard setback and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request

- (1) Provide a plan provided by the pool contractor that shows all of the proposed structural encroachment, including footing, foundation, pool equipment and attached pool house. This must be provided to Planning prior to VAC2016-00039 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (2) Provide a legal description of the vacated platted street side yard setback on a Word document via E-mail for the Vacation Order. This must be provided to Planning prior to VAC2016-00039 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.

- (3) 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 VAC2016-00042 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (4) Provided Public Works-Sewer (and any other utility located within the subject easement) with a private project plan for the relocation/abandonment of the sewer line and manholes located within the subject easement for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to VAC2016-00042 proceeds to the 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) Provide a plan provided by the pool contractor that shows all of the proposed structural encroachment, including footing, foundation, pool equipment and attached pool house. This must be provided to Planning prior to VAC2016-00039 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (2) Provide a legal description of the vacated platted street side yard setback on a Word document via E-mail for the Vacation Order. This must be provided to Planning prior to VAC2016-00039 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) 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 VAC2016-00042 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.

- (4) Provided Public Works-Sewer (and any other utility located within the subject easement) with a private project plan for the relocation/abandonment of the sewer line and manholes located within the subject easement for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to VAC2016-00042 proceeds to the 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

STAFF REPORT

CASE NUMBER: VAC2016-00043 - City request to vacate a portion of a platted complete access control

OWNER/AGENT Mobile Manor Inc, (owner) ES Development Midwest, LLC (contract purchaser/applicant) Kaw Valley Engineer, Inc., c/o Tim Austin (agent)

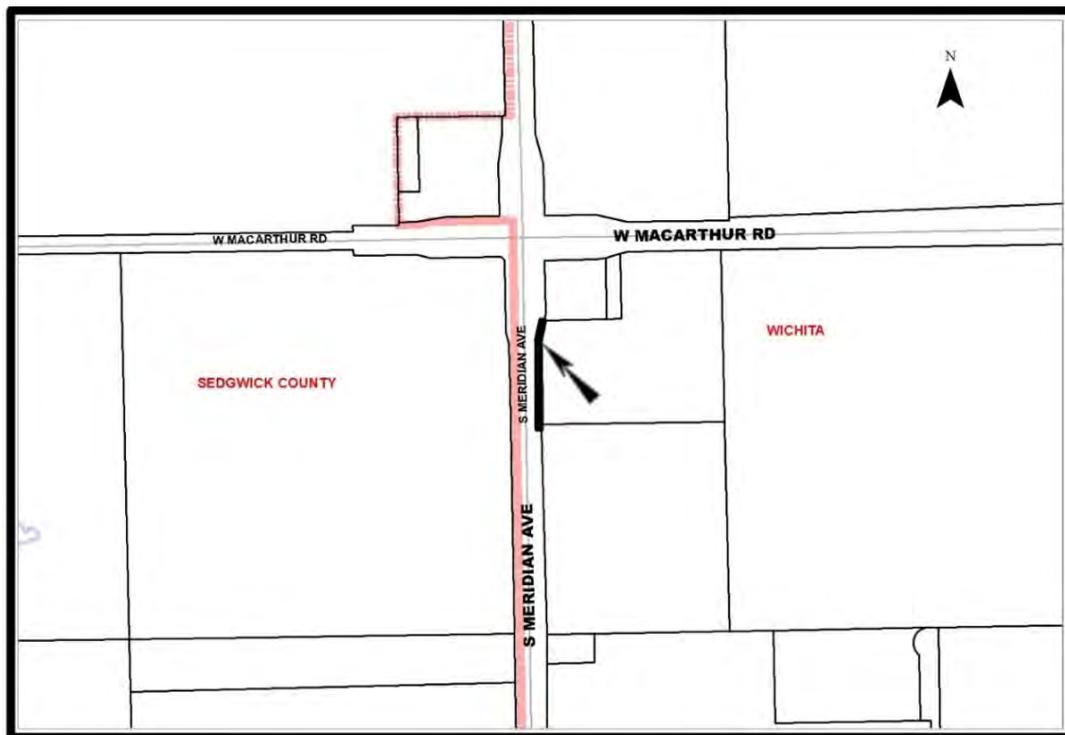
LEGAL DESCRIPTION: Generally described as vacating two portions of the platted 289.94 feet of complete access control located on the west property line (Meridian Avenue frontage) of the west 273.29 feet of Lot 1, Mobile Manor South 2nd Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located south of West MacArthur Road, on the east side of South Meridian Avenue (WCC #IV)

REASON FOR REQUEST: Allow two drives onto Meridian Avenue on what appears to be two different properties

CURRENT ZONING: The site and the abutting west property are zoned GC General Commercial. The abutting south property is zoned MH Manufactured Housing. The abutting north properties are zone GC and LC Limited Commercial. The adjacent west properties (across Meridian Avenue) are zoned LC and SF-20 Single-Family Residential

VICINITY MAP:



The applicant proposes to vacate two parts of the platted 289.94 feet of complete access control located on the west property line of the west 273.29 feet of Lot 1, Mobile Manor South 2nd Addition. The site is not developed. The site plan shows the south portion of the site with a proposed access onto Meridian Avenue via a right-in - right-out drive located approximately 25 feet north of its south property line. Meridian Avenue has a full curbed median strip located in front of the proposed south right-in - right-out drive, which helps insure that it will function as proposed. The platted property abutting the south side of Parcel 1 is developed as a manufactured home park; Lot 2, Mobile Manor South 2nd Addition. This subdivision is platted with one permitted drive on it 684.76 feet of Meridian Avenue frontage, but appears to have not developed the permitted one drive as its streets end in hammerheads before their intersections with Meridian Avenue. There is an existing drive located approximately 700 feet south of the proposed south right-in – right-out drive.

The site also has a proposed full movement drive located 124 feet north of the proposed right-in – right-out. Properties located west of the site, across Meridian Avenue are not platted and are used as agricultural fields with a farmstead, which has one drive onto Meridian Avenue.

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. Per the Subdivision Regulations, Art 10-104, Modification of Design Criteria, Art VII – Design Standards – Part 2 Specific Standards – 7-204, L, the MAPC may modify design criteria. In the past staff has recommended modified design criteria, which has been approved by the MAPC.

Meridian Avenue is paved, full curbed, two-lane arterial with a center turn and a full curbed median strip located at its intersection with MacArthur Road and, as noted, another one located in front of site’s proposed south right-in - right-out drive. There appears to be Stormwater inlet, a phone tower, and a utility box located on the site’s Meridian Avenue frontage or on the site. Condition five will cover Westar. Ennidh Garcia is the Westar area representative and can be contacted at 261-6859 for this item. The Mobile Manor South 2nd Addition was recorded with the Register of Deeds October 8, 1999.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water & Sewer/Stormwater, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portions 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 September 29, 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 portions of 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) Allow the site's proposed south right-in - right-out drive, as approved by the Traffic Engineer and Fire Department. The proposed right-in – right-out drive must be located south of Meridian Avenue's full curbed median strip located directly west of the southern portion of the site.
- (2) Allow a full movement drive as approved by the Traffic Engineer and Fire Department.
- (3) Provide a dedication by separate instrument of access control allowing the two drives with original signatures, to Planning Staff prior to the case going to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (4) Provide a cross lease access easement, dedicated by separate instrument that will allow all development on this described portion of Lot 1, Mobile Manor South 2nd Addition to use the approved full movement drive. This must be provided to Planning prior to the case proceeding to City Council for final action.
- (5) Any relocation or reconstruction of utilities, including, but not limited to, Stromwater, water, sewer, and Westar's equipment, made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide all needed plans for review and approval by utilities. Provide Planning with any plans as approved by the utilities. This must be provided to Planning prior to the case proceeding to City Council for final action.
- (6) All improvements shall be according to City Standards and at the applicant's expense.
- (7) Provide Planning Staff with a legal description of the approved vacated portions of the platted complete access control on a Word document, via e-mail, to be used on the Vacation Order. This must be provided to Planning prior to the request proceeds to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (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) Allow the site's proposed south right-in - right-out drive, as approved by the Traffic Engineer and Fire Department. The proposed right-in – right-out drive must be located south of Meridian Avenue's full curbed median strip located directly west of the southern portion of the site.
- (2) Allow a full movement drive as approved by the Traffic Engineer and Fire Department.

- (3) Provide a dedication by separate instrument of access control allowing the two drives with original signatures, to Planning Staff prior to the case going to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (4) Provide a cross lease access easement, dedicated by separate instrument that will allow all development on this described portion of Lot 1, Mobile Manor South 2nd Addition to use the approved full movement drive. This must be provided to Planning prior to the case proceeding to City Council for final action.
- (5) Any relocation or reconstruction of utilities, including, but not limited to, Stromwater, water, sewer, and Westar's equipment, made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide all needed plans for review and approval by utilities. Provide Planning with any plans as approved by the utilities. This must be provided to Planning prior to the case proceeding to City Council for final action.
- (6) All improvements shall be according to City Standards and at the applicant's expense.
- (7) Provide Planning Staff with a legal description of the approved vacated portions of the platted complete access control on a Word document, via e-mail, to be used on the Vacation Order. This must be provided to Planning prior to the request proceeds to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (8) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

STAFF REPORT

CASE NUMBER: VAC2016-00044 - Request to vacate a portion of platted front setbacks on multiple lots

APPLICANT/AGENT: Sienna Lakes #2, LLC., Jay Russell (owner), Ruggles & Bohm, P.A c/o Will Clevenger (agent)

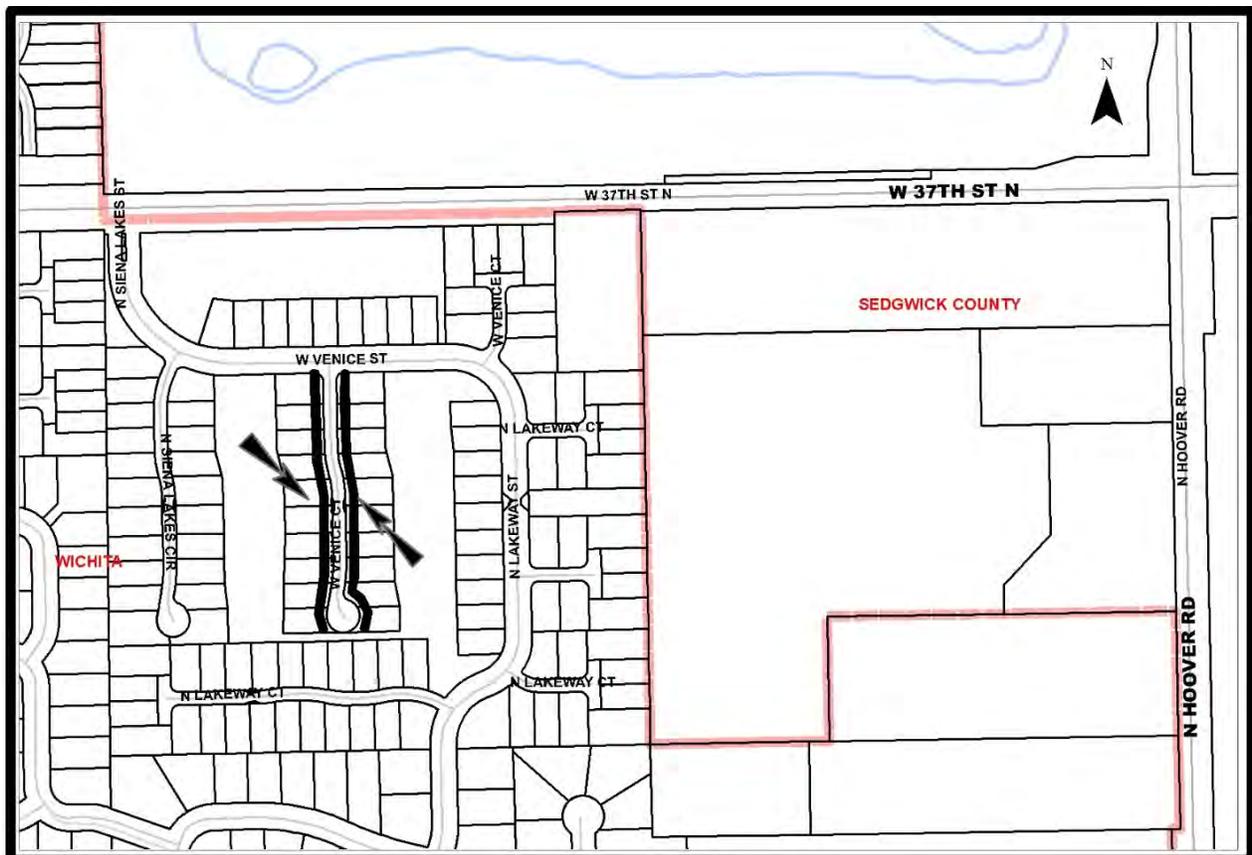
LEGAL DESCRIPTION: Generally described as vacating the inside 5 feet of the platted 25-foot front yard setback located on Lots 22 - 41, Block 1, Siena Lakes Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located south of West 37th Street North, west of North Hoover Road on both sides of Venice Court (WCC #V)

REASON FOR REQUEST: More room to build

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

VICINITY MAP:



The applicant proposes to vacate 20% of the platted 25-foot front yard setback located on Lots 22 - 41, Block 1, Siena Lakes Addition. All of the subject lots are zoned SF-5 Single-Family Residential (SF-5). The Unified Zoning Code's (UZC) minimum front yard setback standard for the SF-5 zoning district is 25 feet. If the setbacks were not platted the applicant could have applied for an Administrative Adjustment that would have reduced the SF-5 zoning district's 25-foot front yard setback by 20% resulting in a 20-foot setback. The applicant's request does not exceed what is permitted by an Administrative Adjustment. There is a platted 15-foot easement located in the subject setback that will remain in effect. There are no public utilities currently installed in said easement. Reserves "D" and "E" shall continue as reserves for irrigation, public sidewalks, landscaping, drainage, drainage structures and utilities. Westar equipment is located in the existing 15' utility easement inside the 25' setback but has no objection to this request. Condition two will cover Westar. Heide Bryan Westar subdivision representative for this area and can be contacted at 261-6554 for this item.

The Sienna Lakes Addition was recorded with the Register of Deeds August 19, 2015.

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

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time July 14, 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 setbacks on multiple lots 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 inside 5 feet of the platted 25-foot front yard setback of Lots 22 - 41, Block 1, Siena Lakes Addition. Provide Planning Staff with a legal description of the approved vacated portion of the setback 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 Council for final action.
- (2) Any relocation or reconstruction of utilities, including Westar equipment, made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Planning an approved private project number for the relocation of public utilities. Provide Planning with any needed easements dedicated by separate instrument with original signatures. These conditions must be completed prior to the case going to Council for final action.
- (3) All improvements shall be according to City Standards and at the applicant's expense.

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

SUBDIVISION COMMITTEE’S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the inside 5 feet of the platted 25-foot front yard setback of Lots 22 - 41, Block 1, Siena Lakes Addition. Provide Planning Staff with a legal description of the approved vacated portion of the setback 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 Council for final action.
- (2) Any relocation or reconstruction of utilities, including Westar equipment, made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Planning an approved private project number for the relocation of public utilities. Provide Planning with any needed easements dedicated by separate instrument with original signatures. These conditions must be completed prior to the case going to Council for final action.
- (3) All improvements shall be according to City Standards and at the applicant’s expense.
- (4) 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: VAC2016-00045 - Request to vacate a portion of Waterman public street right-of-way

APPLICANT/AGENT: City of Wichita, c/o John Philbrick (applicant/owner) MKEC, c/o Brian Lindebak (agent)

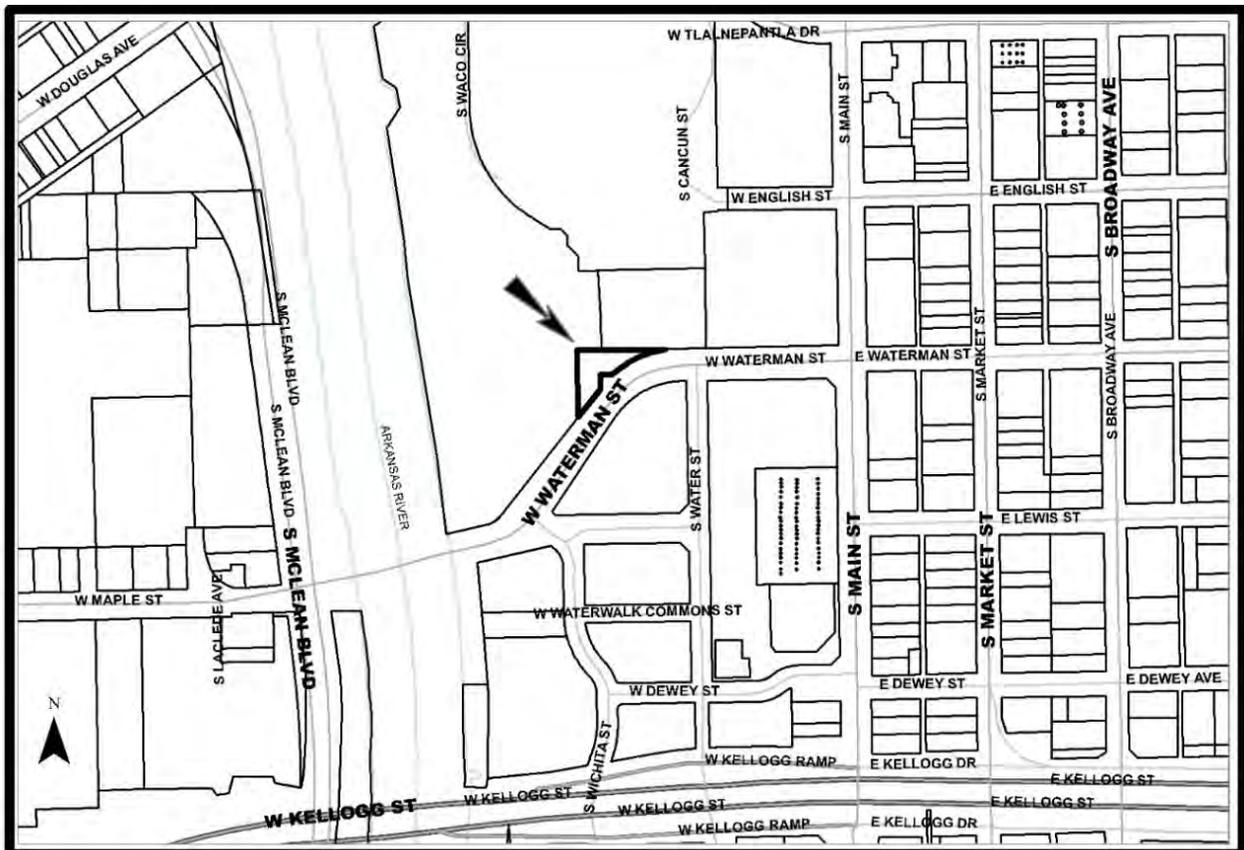
LEGAL DESCRIPTION: Generally described as vacating a triangular shaped portion of Waterman Street that caps the arc of Waterman Street located west of its intersection with Water Street and abuts a south and west portion of Lot 1, Block 1, East Bank Development Addition, Wichita, Sedgwick County, Kansas (see attached legal)

LOCATION: Generally located between Main Street and the Arkansas River and west of Water Street (WCC I)

REASON FOR REQUEST: Right-of-way will be sold to abutting properties

CURRENT ZONING: The abutting north and west properties and the adjacent east property are zoned CBD Central Business District. The adjacent south properties are zoned PUD Planned Unit Development

VICINITYMAP:



The applicant is requesting the vacation of a triangular shaped portion of Waterman Street that is designed and functions like a drive onto the Downtown Merriott Hotel property and parking garage. The remaining portion of Waterman Street will still be a two-way, four-lane, paved, full curbed minor arterial with a center turn lane. Neither the information provided to Planning nor the abutting Lot 1, Block 1, East Bank Development Addition & Waterwalk Phase 2 Addition plats establish how this portion Waterman Street ended up in its current configuration. There is water, sewer and stormwater located in the subject right-of-way. Westar has existing facilities servicing street lights near the vacation area. The applicant will need to maintain it as easement or relocate at their own expense. Conditions three and four cover Westar. Shane Price Construction Services Supervisor will be the Westar contact for this item and can be contacted at 261- 6315.

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 September 29, 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 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 Water Street 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 VAC2016-00045 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 abutting Lot 1, Block 1, East Bank Development Addition. This must be provided to Planning prior to VAC2016-00045 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.
- (3) Dedicate all of the subject portion of Waterman Street as utility – sewer – utility easement by separate instrument to cover all utilities. The original dedication(s) must be provided to Planning prior to VAC2016-00045 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) Provide Planning with a legal description of the vacated Water Street 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 VAC2016-00045 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 abutting Lot 1, Block 1, East Bank Development Addition. This must be provided to Planning prior to VAC2016-00045 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.
- (3) Dedicate all of the subject portion of Waterman Street as utility – sewer – utility easement by separate instrument to cover all utilities. The original dedication(s) must be provided to Planning prior to VAC2016-00045 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.

STAFF REPORT

CASE NUMBER: VAC2016-00046 - Request to vacate a portion of platted complete access control, a portion of a platted front yard building setback and a portion of a drainage and utility easement dedicated by separate instrument

OWNER/APPLICANT: Hawkins Marital Trust, Craig A. Kreiser, Co-Trustee (owner/applicant), Baughman Company, P.A. c/o Phil Meyer (agent)

LEGAL DESCRIPTION: Generally described as vacating the west 35.48 feet of the drainage and utility easement dedicated by separate instrument (Film 2509, Page 14) located Lot 1, Block B, Fossil Rim Estates Addition
&
Vacating the inside (east) 5 feet of the platted 20-foot front yard building setback located on and running parallel with the west property line of Lot 1, Block B, Fossil Rim Estates, and running parallel to Tyler Road Lot 1, Block B, Fossil Rim Estates Addition
&
Vacating the south 30 feet of the north 154 feet of platted complete access control onto Tyler Road located on the west property line of Lot 1, Block B, Fossil Rim Estates Addition, all in Wichita, Sedgwick County, Kansas.

LOCATION: Generally located south of West 29th Street North on the east side of North Tyler Road (WCC #V)

REASON FOR REQUEST: Build a single-family residence

CURRENT ZONING: The site is zoned NO Neighborhood Office. Adjacent north, south and east properties are zoned SF-5 Single-Family Residential. Adjacent west (across Tyler Road) properties are zoned TF-3 Two-Family Residential, NO and SF-5.

VICINITY MAP:



The applicant proposes to vacate the west 35.48 feet portion of the drainage and utility easement dedicated by separate instrument and located on the subject site; Film 2509, Page 14. This portion of the easement is located on the east side of the undeveloped subject site; see exhibit and legal description. There is a sewer line and manhole located in the subject easement. The portion of the subject easement located in the east abutting Reserve G, Fossil Rim Estates will remain in effect.

The applicant is also requesting the vacation of the inside 5 feet of the 20-foot platted front yard building setback lying east of and parallel with the west property line of the NO Neighborhood Office (NO) zoned Lot 1, Block B, Fossil Rim Estates, Wichita, Sedgwick County, Kansas. The NO zoning district has a minimum 20-foot front yard building setback. The applicants' request exceeds the 20% reduction allowed by an Administrative Adjustment, however the MAPD has adopted the policy that vacating a platted setback allows the establishment of a new setback that may exceed what would be allowed by an Administrative Adjustment. The proposed vacation of the subject setback reduces the setback to the NO zoning district's 15-foot street side yard building setback.

In addition, the applicant is requesting vacation of the south 30 feet of the north 154 feet of the platted access control to allow an additional drive onto Tyler Road. Currently the site is permitted one drive onto Tyler Road on its south 100 feet. That permitted drive has not been constructed. The proposed vacation allows an existing drive located in platted complete access control.

Westar has no existing facilities in the building setback they want to vacate. Conditions one and two will cover Westar. Richard Aitken is the Westar area representative and can be contacted at 261-6734 for this item. They will also need to contact him for power to serve this new home as Westar does not show power at this location. The Fossil Rim Estates Addition was recorded May 31st, 2002.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water & Sewer/Stormwater, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portions of the drainage and utility easement dedicated by separate instrument, the platted front yard building setback and the 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 September 29, 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 portions of platted complete access control, a platted front yard building setback and a portion of a drainage and utility easement dedicated by separate instrument and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Abandonment or relocation/reconstruction of any/all utilities, made necessary by the vacation of the described portion of the drainage and utility easement dedicated by separate instrument shall be to City Standards and shall be the responsibility and at the expense of the applicant. As needed provide an approved private project plan number for the abandonment /relocation of public utilities. As needed provide approval from franchised utilities for the relocation of franchised utilities. All to be provided to the Planning Department prior to this case going to City Council for final action.
- (2) As needed provide Planning with dedication of easements by separate instruments with original signatures to go with the Vacation Order to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds. The applicant may also retain a 20-foot by 20-foot portion of the easement dedicated by separate instrument to cover the manhole and sewer line located in said easement. All to be provided to the Planning Department prior to this case going to City Council for final action.
- (3) All improvements shall be according to City Standards and at the applicants' expense.
- (4) Vacate the east, inside 5 of the platted 20-foot front building setback line located on and running parallel with the west property line Lot 1, Block B, Fossil Rim Estates, Wichita, Sedgwick County, Kansas. In consideration of traffic onto Tyler Road, no garage(s) may be located closer than 20 feet to the west property line
- (5) Vacation of the south 30 feet of the north 154 feet of platted complete access control located on and running parallel with the west property line of Lot 1, Block B, Fossil Rim Estates, is contingent on approval by the Traffic Engineer and the Fire Department. Approval may include the dedication of complete access control on the currently permitted but undeveloped platted opening located on the south 100 feet of the subject site. If approved with noted condition provide Planning with a dedication of access control by separate instrument with original signatures to go with the Vacation Order to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds. All to be provided to the Planning Department prior to this case going to City Council for final action.
- (6) Provide Planning with a legal descriptions of the vacated portions of the drainage and utility easement dedicated by separate instrument, the vacated portions of the platted front yard building setback and the vacated portion of platted complete access control on a Word document via E-mail that can be used on the Vacation Order. This must be provided to the Planning Department prior to this case going to City Council for final action.
- (7) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE’S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Abandonment or relocation/reconstruction of any/all utilities, made necessary by the vacation of the described portion of the drainage and utility easement dedicated by separate instrument shall be to City Standards and shall be the responsibility and at the expense of the applicant. As needed provide an approved private project plan number for the abandonment /relocation of public utilities. As needed provide approval from franchised utilities for the relocation of franchised utilities. All to be provided to the Planning Department prior to this case going to City Council for final action.
- (2) As needed provide Planning with dedication of easements by separate instruments with original signatures to go with the Vacation Order to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds. The applicant may also retain a 20-foot by 20-foot portion of the easement dedicated by separate instrument to cover the manhole and sewer line located in said easement. All to be provided to the Planning Department prior to this case going to City Council for final action.
- (3) All improvements shall be according to City Standards and at the applicants’ expense.
- (4) Vacate the east, inside 5 of the platted 20-foot front building setback line located on and running parallel with the west property line Lot 1, Block B, Fossil Rim Estates, Wichita, Sedgwick County, Kansas. In consideration of traffic onto Tyler Road, no garage(s) may be located closer than 20 feet to the west property line
- (5) Vacation of the south 30 feet of the north 154 feet of platted complete access control located on and running parallel with the west property line of Lot 1, Block B, Fossil Rim Estates, is contingent on approval by the Traffic Engineer and the Fire Department. Approval may include the dedication of complete access control on the currently permitted but undeveloped platted opening located on the south 100 feet of the subject site. If approved with noted condition provide Planning with a dedication of access control by separate instrument with original signatures to go with the Vacation Order to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds. All to be provided to the Planning Department prior to this case going to City Council for final action.
- (6) Provide Planning with a legal descriptions of the vacated portions of the drainage and utility easement dedicated by separate instrument, the vacated portions of the platted front yard building setback and the vacated portion of platted complete access control on a Word document via E-mail that can be used on the Vacation Order. This must be provided to the Planning Department prior to this case going to City Council for final action.

VAC2016-00046 – Vacate a portion of platted complete access control, a portion of a platted front yard building setback and a portion of a drainage and utility easement dedicated by separate instrument

October 20, 2016

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- (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 October 20, 2016
DAB V November 7, 2016

CASE NUMBER: ZON2016-00040

APPLICANT/AGENT: Barbara A Palmer Trust (owner/applicant) Calvin Klaassen (agent)

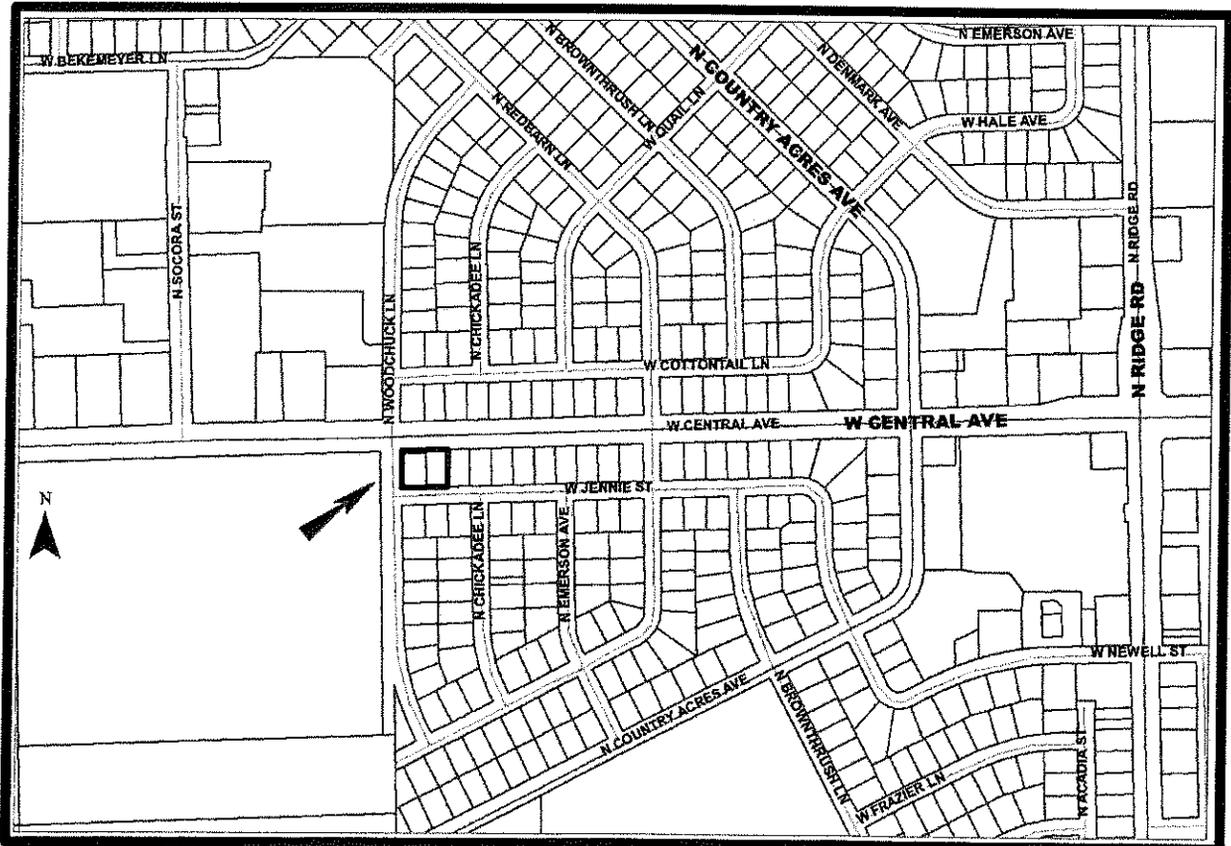
REQUEST: Zone Change to NR Neighborhood Retail

CURRENT ZONING: SF-5 Single-Family Residence and GO General Office

SITE SIZE: 0.47 acre

LOCATION: West of Ridge Road on the South Side of Central

PROPOSED USE: Neighborhood Retail Uses



BACKGROUND: The applicant requests a zone change from GO General Office and SF-5 Single-Family Residential to NR Neighborhood Retail to allow continued operation of a massage therapy business and to bring the subject site into conformity with the current Unified Zoning Code and allow permitted uses within the NR zoning district. The site is located at the southeast corner of West Central and Woodchuck. The property is currently developed with a one-story commercial building on the GO zoned lot with on-site parking located on the SF-5 zoned lot.

Residential uses abut the subject property to the east and south. Bishop Carol High School is located to the west across Woodchuck on SF-5 zoned property and zoning north of the site across Central is GO and NO Neighborhood Office.

CASE HISTORY: A use exception was granted in 1988 to allow parking on an SF-5 zoned lot for the GO use on the adjacent lot to the west (BZA56-88). The adoption of the current UZC in 1996 made this configuration a non-conforming use as SF-5 zoning does not allow parking as a Conditional Use.

The City Council passed Ordinance 50-190 on April 29, 2016 requiring massage therapy business to obtain a City license and show proof of accredited training. The owner of the massage therapy business has operated in this location for several years without complaint.

ADJACENT ZONING AND LAND USE:

NORTH:	GO; NO	Retail
SOUTH:	SF-5	Single-family residences
EAST:	SF-5	Single-family residences
WEST:	SF-5	Major Institutional Use – Bishop Carroll High School

PUBLIC SERVICES: The property is serviced by all publicly supplied municipal services. The site has access to West Jennie Street (local collector), which connects to Woodchuck (local collector.) Woodchuck then connects to West Central, which is a 6/7 lane, two-way arterial at this location. The site does not have access onto Central.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Wichita City Limit. The Future Growth Concept Map identifies the area “Commercial, Residential and Major Institutional.” Commercial encompasses areas that reflect a full diversity of commercial development intensities and types typically found in a large urban municipality. Convenience retail, restaurants, small offices and personal services uses are located in close proximity to, and potentially mixed, with residential uses. Residential uses include a range of housing densities and types. Major Institutional areas include institutional facilities of a significant scale of operation such as a high school.

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

This recommendation is based on the following findings:

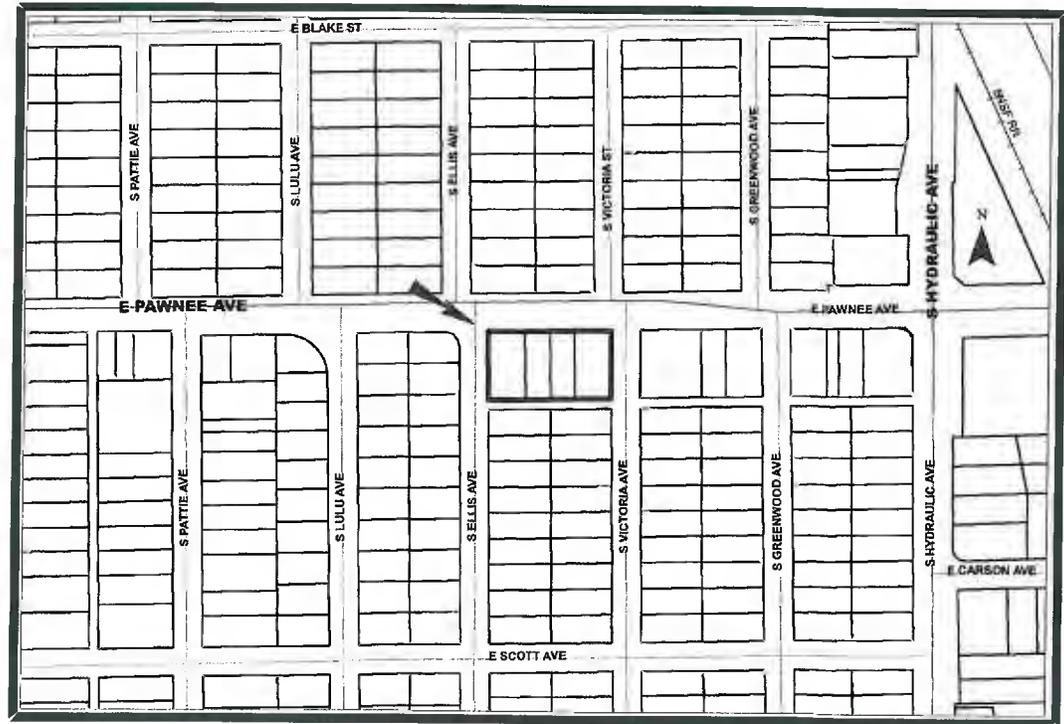
1. The zoning, uses and character of the neighborhood: This location serves as a transition from LC Limited Commercial to the northwest, GO and NO to the north into the single-family residential neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The existing non-conforming parking on SF-5 zoning allowed by BZA56-88 limits the use of the subject site to only permitted uses in GO zoning.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request should not detrimentally impact nearby properties. The site is developed with adequate on-site parking to accommodate the use.
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 Limit. The Future Growth Concept Map identifies the area "Commercial, Residential and Major Institutional." Commercial encompasses areas that reflect a full diversity of commercial development intensities and types typically found in a large urban municipality. Convenience retail, restaurants, small offices and personal services uses are located in close proximity to, and potentially mixed, with residential uses. Residential uses include a range of housing densities and types. Major Institutional areas include institutional facilities of a significant scale of operation such as a high school.
5. Impact of the proposed development on community facilities: No additional community facilities demand will be created by allowing this request.



STAFF REPORT

MAPC October 20, 2016
DAB III November 2, 2016

- CASE NUMBER:** CON2016-00030
- 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 0.8-acres
- LOCATION:** Generally located south of Pawnee and west of Hydraulic Avenues (1507 & 1527 E. Pawnee - WCC #III)
- PROPOSED USE:** Bring a non-conforming nightclub into conformance with the current Unified Zoning Code



BACKGROUND: The LC Limited Commercial zoned site is located west of Hydraulic Avenue on the south side of East Pawnee Avenue, between Ellis and Victoria Avenues. There are two non-conforming nightclubs, a payday loans business and a vacant space located in the site's approximately 11,000-square foot, one story commercial strip building that was built in 1955. One of the nightclubs is vacant, the Ponys Club, while the active nightclub advertises itself as the Elbow Room. The site was annexed into the City between 1942 and 1949. The site has been zoned commercial since 1954. 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 had either taverns, drinking establishments or nightclubs in the commercial strip building for at least 25-years. The nightclubs are considered a nonconforming use, i.e., being established prior to the current Unified Zoning Code (UZC) and perhaps prior to the site being annexed into the City.

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; (UZC), Sec.III-D6.w. TF-3 Two-Family Residential (TF-3) zoned properties are located within 20, 60 and 80 feet of the site; Lots 1-4, Block 1, Archie Adams Addition. The applicant is requesting a Conditional Use to bring the site into compliance with the current UZC, which was adopted by the City of Wichita and Sedgewick County in 1996.

The applicant's site plan is an aerial. The aerial does not show marked parking spaces and a trip to the site showed no discernable parking spaces. The applicant has not provided an occupancy rate of either of the nightclubs. A nightclub is required to have one space per two occupants. The payday loans is considered office use and the vacant space (not the vacant nightclub) could be used as office or retail, which requires one parking space per 333-square feet of the building. The applicant has not provided enough information to determine the parking requirements for the mix of businesses that occupy the commercial strip building. If the 11,000-square foot commercial strip building was occupied by office and retail (no nightclubs) it would need 33 parking spaces. However this parking would have to be shared with an approximately 880-square foot stand-alone office. Parking is probably an issue for this site. There is a paved 20-foot wide alley separating the site from the south adjacent TF-3 single-family residences (built mostly 1940s). These south adjacent residential properties have built 6-foot tall wooden privacy fences as a buffer between them and the site. The site's dumpsters are located in the alley up against the south side of the commercial strip building. The dumpsters are not screened. 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 north side of the site, along Pawnee Avenue, from overlapping into the right-of-way where the sidewalk is located.

LC zoned businesses and a GC General Commercial (GC) zoned property are located along the south side of Pawnee Avenue for four-blocks between Southeast Boulevard/K-15 (east side) and Ellis Avenue (west side). The LC zoned business include, but are not limited to, a convenience store (built 2007) a full service restaurant (built 1956) and other retail or office uses. TF-3 zoned

single-family residential neighborhoods (built mostly 1940s) are adjacent to the site's south, southeast, north and west sides, separated from the site by a 20-foot wide paved alley, or the public streets Pawnee, Ellis and Victoria Avenues. The nearest nightclub or drinking establishment is located approximately a quarter-mile east of the site at 1912 East Pawnee Avenue.

CASE HISTORY: The site is located on Lots 1-4, Block 1, Archie Adams Addition, which was recorded with the Register of Deeds May 5, 1949. The site was annexed into the City between 1942 and 1949. The site has been zoned commercial since 1954. 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 had either taverns, drinking establishments or nightclubs in the commercial strip building for at least 25-years.

ADJACENT ZONING AND LAND USE:

NORTH: TF-3	Single-family residences
SOUTH: TF-3	Single-family residences
EAST: LC, GC	Convenience store, office, full service restaurant, retail
WEST: TF-3	Single-family residences

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 four blocks east of the site. The site also has access onto the paved residential streets Victoria and Ellis Avenues. 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, but it can be a nuisance or worse as a neighbor to single-family residential development that is located as closely as it is in this area.

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. The proposed two nightclubs will generate traffic similar to the area’s restaurants, but the traffic will be coming and

going up to 2 a.m. TF-3 zoned single-family residences are adjacent to the site's north, west and south sides, 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, which are located 20 feet south and 60 feet east and west of the subject site. This proximity could be a potential source of nuisance for the residential zoned properties. The site and the south adjacent single-family residential neighborhood have access onto the residential streets, Victoria and Ellis Avenues, which increase the possibility that the customers of the proposed nightclubs will be parking in the adjacent single-family residential neighborhood. The lack of information of available on-site parking and the occupancy rates of the two nightclubs reinforces this possibility of the nightclubs' customers' parking encroaching into the south, east and west adjacent single-family residential neighborhood. There is no screening of the dumpster(s), which are located in the paved 20-foot wide alley and placed up against the south side of the site's commercial strip building. The dumpsters will have to be moved out of the alley. 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 north 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 and removes its non-conforming status. 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 applicant has failed to provide the needed information for parking, i.e., the occupancy rates of the two nightclubs, the size/floor area of the other tenants of the commercial strip building, the size of the stand-alone office sharing the site with the commercial strip building and the number of on-site parking spaces. The site may not have the required on-site parking for one nightclub, let alone the proposed two nightclubs combined with the site's other businesses. 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 **DENIED**,

This recommendation is based on the following findings

(1)The zoning, uses and character of the neighborhood: LC zoned businesses and a GC General Commercial (GC) zoned property are located along the south side of Pawnee Avenue for four-blocks between South Southeast Boulevard/K-15 (east side) and Ellis Avenue (west side). The LC zoned business include, but are not limited to, a convenience store (built 2007) a full service restaurant (built 1956) and other retail or office uses. TF-3 zoned single-family residential neighborhoods (built mostly 1940s) are adjacent to the site's south, southeast, north and west sides, separated from the site by a 20-foot wide paved alley, or the public streets Pawnee, Ellis and Victoria Avenues. The nearest nightclub or drinking establishment is located approximately a quarter-mile east of the site at 1912 East Pawnee Avenue.

(2) **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned 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 as a conforming to the UZC.

(3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** TF-3 zoned single-family residences are adjacent to the site’s north, west, southeast and south sides. There are no less intrusive businesses or higher density residential uses located between the proposed nightclub and those closest single-family residences, which are located 20 feet south and 60 feet southeast and west of the subject site. This proximity could be a potential source of nuisance for the residential zoned properties. The site and the south adjacent single-family residential neighborhood have common access onto the residential streets, Victoria and Ellis Avenues, which increase the possibility that the customers of the proposed nightclubs will be parking in the adjacent single-family residential neighborhood. The lack of information of the site’s available on-site parking, occupancy rates of the two nightclubs, the size/floor area of the other tenants of the commercial strip building, the size of the stand-alone office sharing the site with the commercial strip building, reinforces this possibility of the nightclubs’ customers’ parking encroaching into the south, east and west adjacent single-family residential neighborhood. 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, but it can be a nuisance or worse as a neighbor to single-family residential development that is located as closely as it is in this area.

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. The proposed two nightclubs will generate traffic similar to the area’s restaurants, but the traffic will be coming and going up to 2 a.m. TF-3 zoned single-family residences are adjacent to the site’s north, west and

south sides, 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, which are located 20 feet south and 60 feet east and west of the subject site. This proximity could be a potential source of nuisance for the residential zoned properties. The site and the south adjacent single-family residential neighborhood have access onto the residential streets, Victoria and Ellis Avenues, which increase the possibility that the customers of the proposed nightclubs will be parking in the adjacent single-family residential neighborhood. The lack of information of available on-site parking and the occupancy rates of the two nightclubs reinforces this possibility of the nightclubs' customers' parking encroaching into the south, east and west adjacent single-family residential neighborhood. There is no screening of the dumpster(s), which are located in the paved 20-foot wide alley and placed up against the south side of the site's commercial strip building. The dumpsters will have to be moved out of the alley. 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 north 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.

Denial of the application will not shut down the nightclubs, they would instead continue to be non-conforming nightclubs. However if the MAPC finds that approval is appropriate, Planning Staff recommends tabling this request until the applicant can provide the following information:

- (1) The site shall provide revised site plan, showing, but not limited to, the existing parking spaces, locating dumpsters 20 feet from the south adjacent TF-3 zoned properties, solid screening with a solid screening gate around the dumpsters, a rail to prevent cars parked on the north/Pawnee side of the site and the east and west sides, from overlapping into the public street right-of-way. No outdoor seating, outdoor speakers or outdoor entertainment is permitted.
- (2) Provide occupancy rates of the nightclub, the size/floor area of the other tenants of the commercial strip building, the size of the stand-alone office sharing the site with the commercial strip building and the number of on-site parking spaces.

Upon receiving these materials Planning Staff will provide another report for consideration by the MAPC.

STATEMENT OF REASONS

One or more of the stores in the shopping center property at 1507 and 1527 E. Pawnee, Wichita, Kansas, have been used as a Tavern and Drinking Establishment and Entertainment Establishment, as those terms are now defined in the Zoning Code (Section II-B.4.I. and Section II-B.13.b.), for more than 25 years. There is one current Drinking Establishment tenant and one vacant.

The property is in an LC district. Tavern and Drinking Establishments and Entertainment Establishments are permitted uses on LC zoning districts, subject to Section III-D.6.w of the Zoning Code (Zoning Code Section III-B.14.c.(3)). Because the property is within 200 feet of a residential zoning district, a conditional use permit is required for use as a Tavern and Drinking Establishment and Entertainment Establishment (Zoning Code Section III-D.6.w).

The use of the property as a Tavern and Drinking Establishment and Entertainment Establishment were permissible prior to this time because those uses were in place at the time the Zoning Code was adopted on March 25, 1996 (Zoning Code section VII-A.3.).

CON 2016-30

June 3, 2016

Scott:

I'm resubmitting the Conditional Use Permit application for the 1507 through 1527 E. Pawnee for Kelly Ast (Ast Investments, LLC) as originally submitted. This is one that you thought should be two applications because there are two drinking establishments in east-west side of the L-shaped center. One is vacant and one is leased. We couldn't figure out a good way to define the two specific bars by legal description without spending a lot of money for a surveyor to come figure it out. As a result, Mr. Ast is willing to take the risk that one of the bars could cost the other bar the CUP through wrongful conduct. In short, this application is the same as the first, except I've change the address from just 1527 E. Pawnee to 1507 and 1527 E. Pawnee.



Steve Joseph

POW2016-30

CON2016-30



SITE PLAN
CONDITIONAL USE:
Tavern and Drinking Establishment and
Entertainment Establishment
APPLICANT:
Homer Morgan, Trustee *Asst Investments LLC*
AGENT
Stephen M. Joseph
LEGAL DESCRIPTION:
Lots, 1, 2, 3, and 4, Archie Adams
Addition to Wichita
ADDRESSES:
1527 E. Pawnee
1507 E. Pawnee
BUSINESSES:
Iron Horse
The Elbow Room

6. **Case No.:** CON2016-00039 (Deferred Indefinitely)
Request: City Conditional Use to permit a Tavern and Drinking Establishment and an Entertainment Establishment within 300 feet of residential zoning in LI Limited Industrial zoning.
General Location: West of Rock Road and south of Harry (7707 E. Harry).
Presenting Planner: Bill Longnecker

STAFF REPORT
 MAPC October 20, 2016

CASE NUMBER: CON2016-00045

APPLICANT/OWNER: Rebecca Nicholson, owner

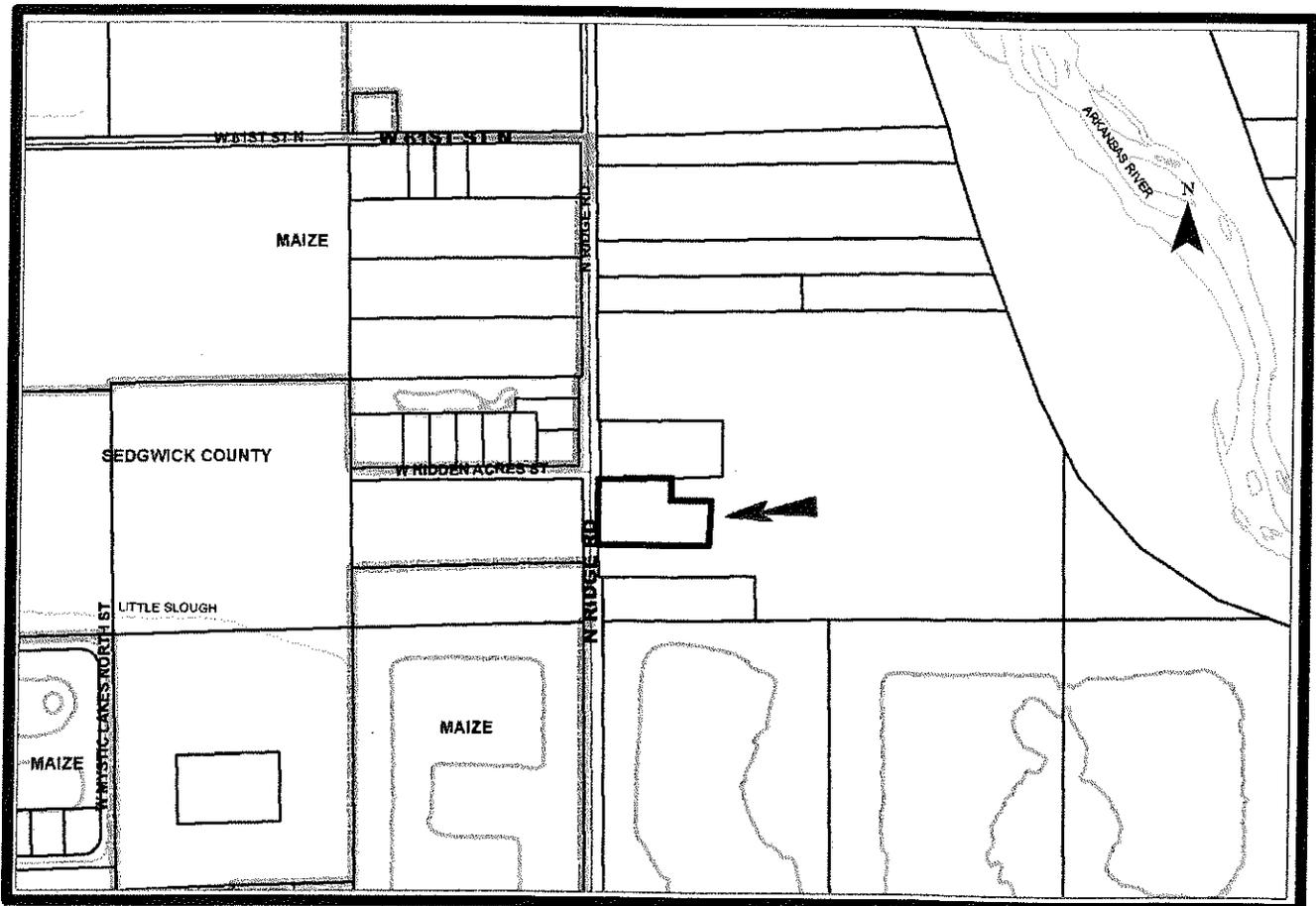
REQUEST: Conditional Use request for an accessory apartment

CURRENT ZONING: RR Rural Residential

SITE SIZE: 5.0 acres

LOCATION: Generally located north of West 53rd Street and east of Ridge 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 5.0 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 Ridge Road, north of West 53rd 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 a site plan showing the location of existing structures and the proposed new 80-foot X 32-foot residential designed manufactured home with a new 25-foot X 25-foot attached garage.

CASE HISTORY: The subject property is an unplatted large lot. Unless the property meets one of the criteria for a platting exemptions contained in Article 3-105 of Subdivision Regulations, the property will need to be platted prior to constructing the accessory apartment.

ADJACENT ZONING AND LAND USE:

NORTH: RR	Large tract, Single-family residence with associated buildings
SOUTH: RR	Large tract, Single-family residence 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 Ridge Road which is an arterial paved street. The property is served by a water well and septic system.

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 attached garage shall remain accessory to and under the same ownership as the principal single-family residence (located at 5902 N. Ridge 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, per an elevation drawing and site plan approved by the Planning Director.
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 septic system.
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.

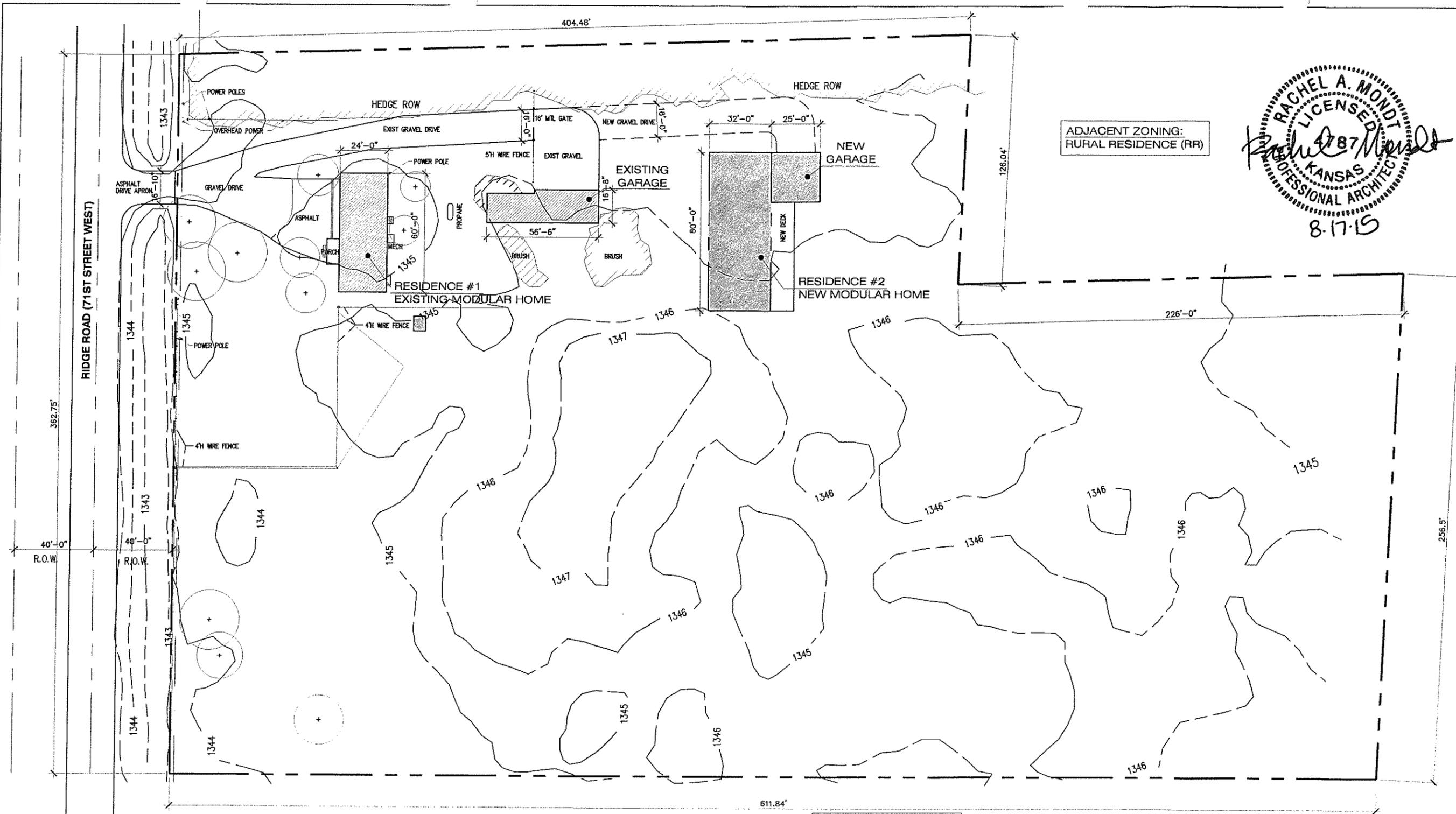
This recommendation is based on the following findings:

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 with an attached garage and additional required parking space. 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.



ADJACENT ZONING:
RURAL RESIDENCE (RR)

ADJACENT ZONING:
RURAL RESIDENCE (RR)

LEGAL DESCRIPTION:
FROM THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 15, T26S, R1W OF THE 6TH P.M. SEDGWICK COUNTY, KANSAS; THENCE NORTH ON THE WEST LINE OF SAID NORTHWEST QUARTER ON AN ASSUMED BEARING OF N0°00'00"E A DISTANCE OF 420.88 FEET TO THE POINT OF BEGINNING THENCE CONTINUING N0°00'00"E, 362.75 FEET; THENCE N88°24'47"E, 444.48 FEET; THENCE S02°45'08"W, 126.40 FEET; THENCE N88°26'15"E, 226.00 FEET; THENCE S02°45'11"W, 256.50 FEET; THENCE N89°53'30"W, 651.84 FEET TO THE POINT OF BEGINNING SAID TRACT OF LAND CONTAINING 5.00 ACRES.

A SITE PLAN
1" = 50'

CON 2016-45

CONDITION USE REQUEST:
ZONING DISTRICT CHANGE OF PROPERTY FROM RURAL RESIDENCE (RR) TO TWO FAMILY (TF-3)

Rachel Mondt, Architect
PO BOX 781341, Wichita, KS 67278
PH 316.641.4159 FAX 316.440.2529

CONDITIONAL USE SITE PLAN FOR:
REBECCA NICHOLSON
5902 N. RIDGE ROAD
WICHITA, KANSAS

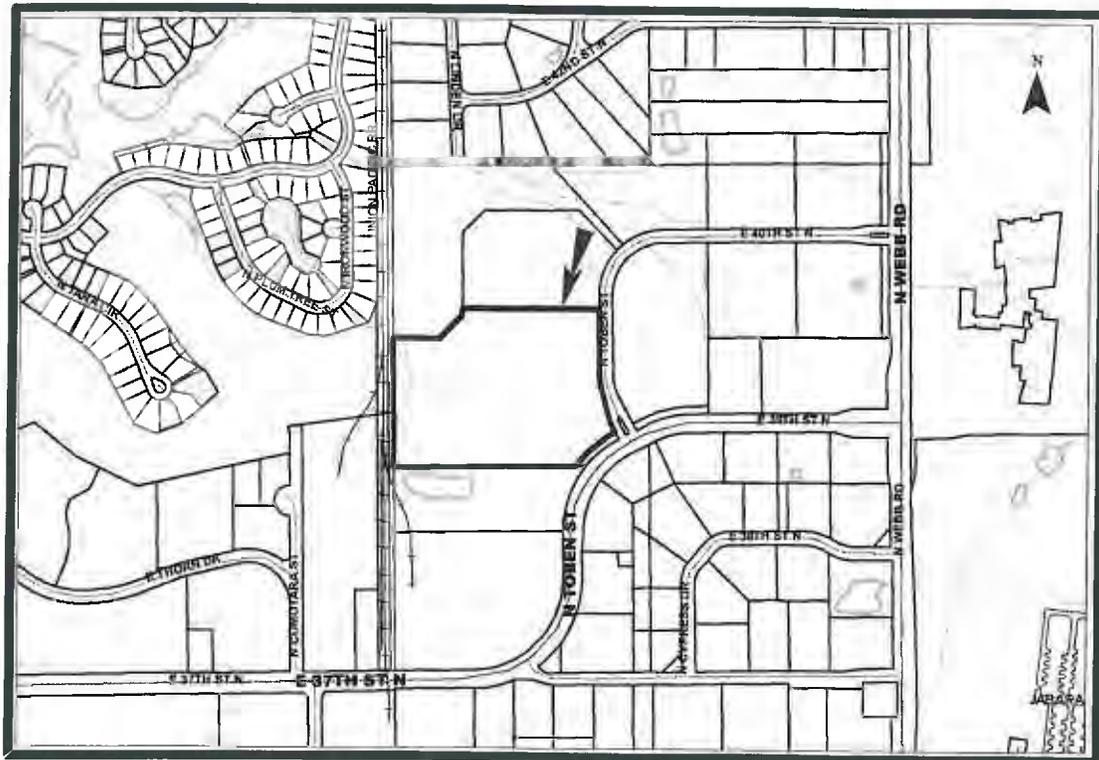
JOB NO.: 716-03
ORIGINAL DATE: 8-17-15
SUBMITTAL: CONDITIONAL USE
REVISIONS:

SHEET NO.
A-1

STAFF REPORT

MAPC October 20, 2016
DAB II November 11, 2016

-
- CASE NUMBER:** CON2016-00047
- APPLICANT/AGENT:** Westar Energy (owner/applicant) Howard & Helmer Architecture, c/o, David White
- REQUEST:** A Conditional Use to permit a Major Utility
- CURRENT ZONING:** LI Limited Industrial
- SITE SIZE:** 18.93-acres
- LOCATION:** Generally located west of North Webb Road on the northwest side of East 39th Street North and Toben Street (WCC II)
- PROPOSED USE:** Westar service center



BACKGROUND: The applicant, Westar Energy, is requesting a Conditional Use for a “major utility”, specifically a service center on the 18.93-acre platted, undeveloped LI Limited Industrial (LI) zoned property. The Unified Zoning Code’s (UZC Art II., Sec. II-B.13.k) definition of a major utility is: “generating plants; electrical switching facilities and primary substations; water and wastewater treatment plants; water tanks; and radio, television and microwave transmission towers; and similar facilities of agencies that are under public franchise or ownership to provide the general public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection or other similar service.” A major utility requires a Conditional Use in all of the zoning districts, except for the AFB Air Force Zoning District (AFB). The LI zoned site is located west of North Webb Road on the northwest side of East 39th Street North and Toben Street.

The site plan shows a 105,654-sqaure foot service center building with office space and multiple bay doors for servicing their fleet, a fuel station, a fleet garage, a storage building, trailer parking, and outdoor storage. The service center will allow Westar to house a fleet of trucks and materials that will be used to maintain and repair their infra-structure. A landscape buffer planted with 6-foot tall Canaerti Eastern Red Cedars platted on 10-foot centers is located on the west side of the site where it abuts SF-5 zoned property. The Canaerti Cedars can grow up to 30 feet with an 8-15 foot spread when mature.

The site is located in an LI zoned area that roughly runs from K-96 Highway to 41st Street North and east from Rock Road to both side of Webb Road. Development in this area includes, but is not limited to, office-warehouses, distributions warehouses, manufacturing, assembly, office, medical, dental, new auto sales, big box retail, and undeveloped land. The LI zoned Jabara Airport is the largest development in the area and the LI zoned Wichita Area Technical College is located north of the Airport. A southwest portion of the site abuts a total of 80-feet of SF-5 Single-Family Residential (SF-5) zoned railroad easement and a curious, narrow strip of undeveloped land. There are mature deciduous trees and evergreens running parallel to the railroad easement/narrow strip of land. The SF-5 zoned Willow Bend golf course and single-family residences (built late 1980s- early-mid 1990s) that are built around the golf course are located west of the railroad easement and strip of land. The SF-5 zoning triggers compatibility setback and height standards.

CASE HISTORY: The site is part of Lot 1, Block 1, Webb Business Park Addition, which was recorded October 4, 2007.

ADJACENT ZONING AND LAND USE:

- NORTH: LI Undeveloped land
- SOUTH: LI Irrigation supply, cell tower, commercial printing, undeveloped land
- EAST: LI Undeveloped land, dry wall supply warehouse, aircraft parts manufacturing
- WEST: SF-5 Private golf course, single-family residences

PUBLIC SERVICES: Access to the site is via Toben Street, a paved, full curbed, two-lane, 80-foot wide public street that brings traffic in and out of the area from 39th Street North and Webb Road. 39th Street North is a paved, full curbed, two-lane, 80-foot wide public street that

functions as a collector street for the area. Webb Road is a major arterial. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The “Community Investment Plan’s 2035 Wichita Future Growth Map”, identifies the application area as “new employment.” 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 conditional use for a major utility, specifically a Westar service center is appropriate for the new employment category.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the Conditional Use be APPROVED, for a major utility, specifically a Westar service center subject to the following conditions:

1. The site shall be developed, maintained and operated in substantial compliance with the approved site plan and in compliance with all applicable laws and regulations.
2. Compatibility height standards shall limit all light poles located with 200-feet of SF-5 zoning to 20 feet, including the base. All lighting shall be directed away from residential uses and zoning.
3. Compatibility height standards and setbacks shall be in effect.
4. 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 site is located in an LI zoned area that roughly runs from K-96 Highway to 41st Street North and east from Rock Road to both side of Webb Road. Development in this area includes, but is not limited to, office-warehouses, distributions warehouses, manufacturing, assembly, office, medical, dental, new auto sales, big box retail, and undeveloped land. The LI zoned Jabara Airport is the largest development in the area and the LI zoned Wichita Area Technical College is located north of the Airport. A southwest portion of the site abuts a total of 80-feet of SF-5 Single-Family Residential zoned railroad easement and a curious, narrow strip of undeveloped land. There are mature deciduous trees and evergreens running parallel to the railroad easement/narrow strip of land. The SF-5 zoned Willow Bend golf course and single-family residences (built late 1980s- early-mid 1990s) that are built around the golf course are located west of the railroad easement and strip of land.

2. **The suitability of the subject property for the uses to which it has been restricted:**
The purpose of the LI zoning district is to accommodate moderate intensity manufacturing, industrial, commercial and complementary land uses. The proposed Westar service center is an appropriate development for this zoning and area.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The west, adjacent SF-5 zoned Single-Family residential zoned properties will have more pole lights in closer proximity to them than they currently do. The compatibility height standards for pole lights shall limit all light poles located with 200-feet of SF-5 zoning to 20 feet, including the base. There is also an additional 80 feet of SF-5 zoned railroad easement and a narrow undeveloped strip of land that pushes the site's pole lights a total of 280 feet from the west adjacent single-family residences.
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 site will enhance Westar Energy's ability to provide its customers with a reliable and adequate supply of electricity. Denial would presumably be an economic loss to the applicant and reduce the utility's efficiency on maintaining and repairing the infrastructure necessary to meet current and future energy demand.
5. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The "Community Investment Plan's 2035 Wichita Future Growth Map", identifies the application area as "new employment." 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 conditional use for a major utility, specifically a Westar service center is appropriate for the new employment category.
6. **Impact of the proposed development on community facilities:** The proposed facility would improve Westar's ability to maintain the infrastructure needed for the energy requirements of Wichita and Sedgwick County.

GENERAL NOTES

1. PAVING IN THE YARD WILL BE 7" REINFORCED CONCRETE.
2. PAVING AT EMPLOYEE/VISITOR PARKING AREAS WILL BE 5-1/2" REINFORCED CONCRETE.

DATE
 UPDATED 9/22/06
 MAPD CONDITIONAL USE
 APPLICATION

Dondlinger
 CONSTRUCTION



HOWARD+HELMER
 architecture

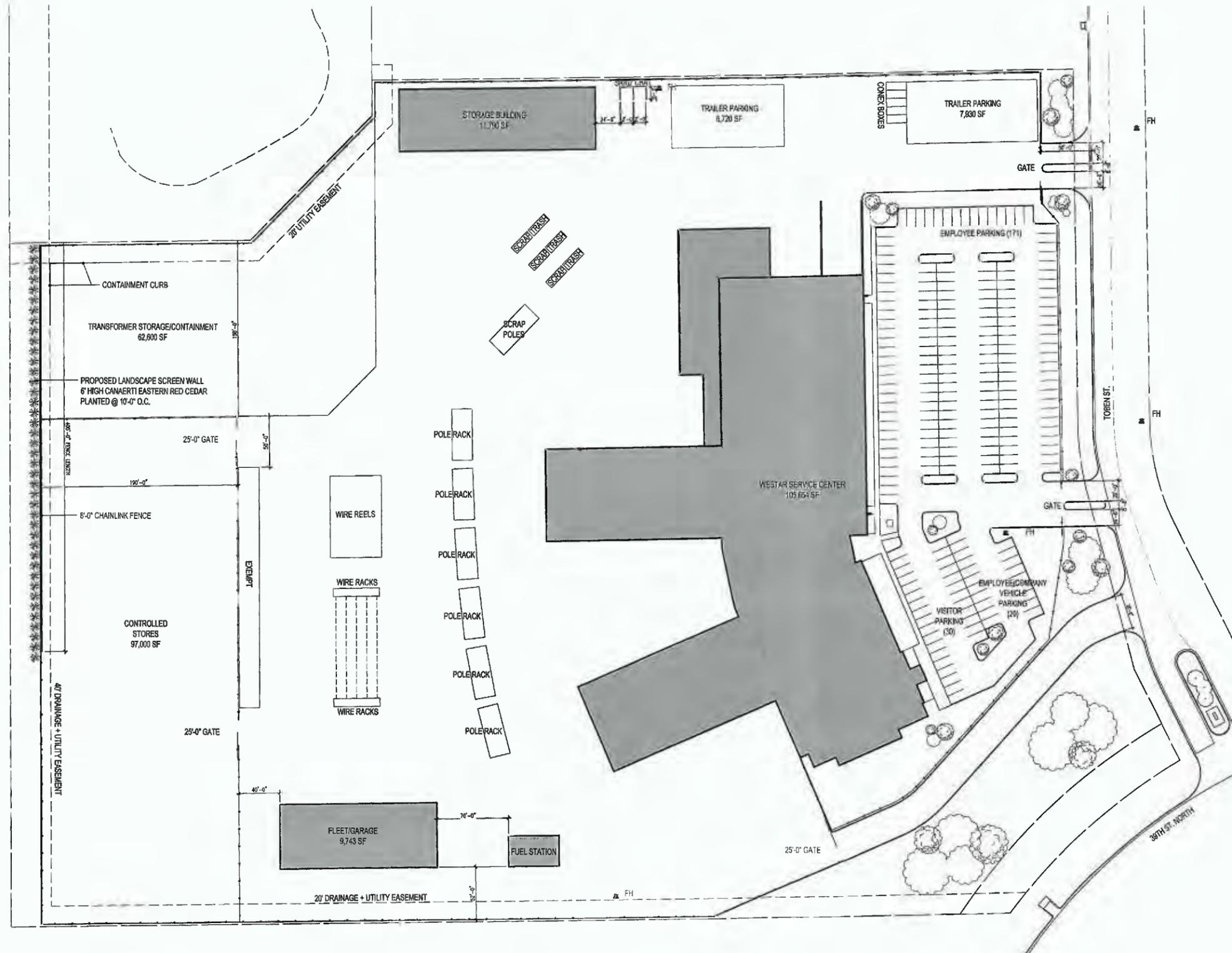
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Westar Energy
 WICHITA SERVICE CENTER
 WICHITA, KANSAS

sheet
A-1.1



ARCHITECTURAL SITE PLAN
 1" = 40'-0"



PARTIAL ARCHITECTURAL SITE PLAN
1" = 40'-0"

DATE:
UPDATED 9/12/2016
HAPPY CONDITIONAL USE
APPLICATION

Dondlinger
CONSTRUCTION



HOWARD+HELMER
ARCHITECTURE

3500 North Star Road
Box 500 Wichita, KS 67226
316.634.1111 (cell) 316.634.1000 (f)

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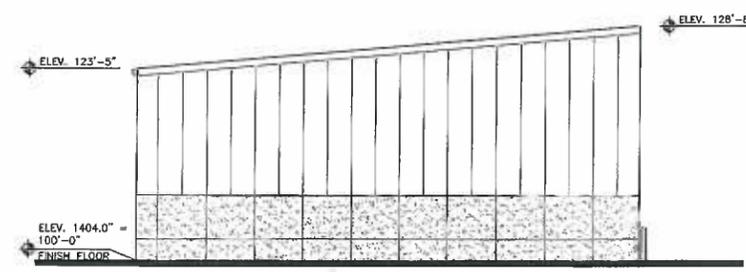
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Westar Energy
WICHITA SERVICE CENTER
WICHITA, KANSAS

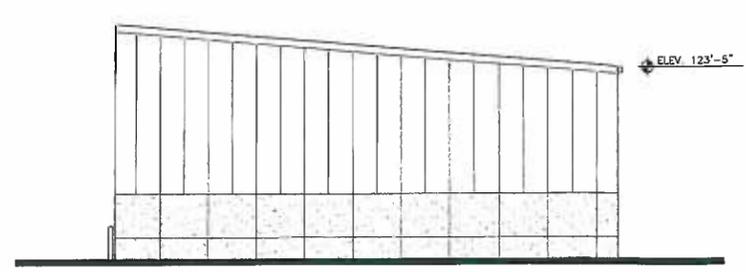
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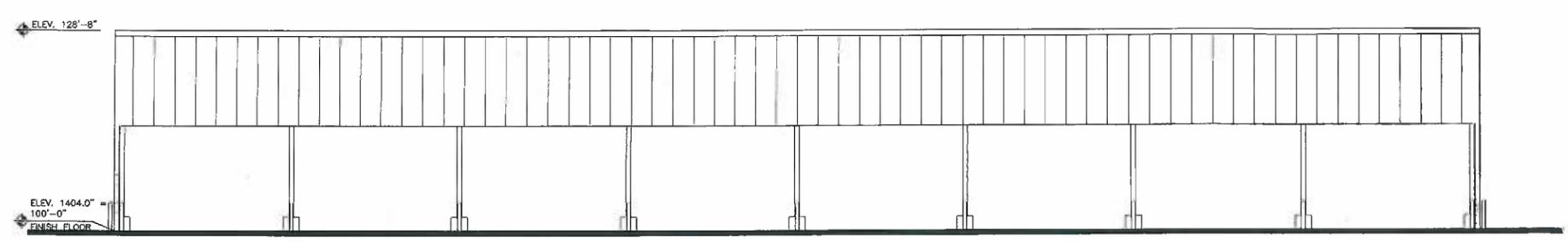
① NORTH ELEVATION - STORAGE BUILDING



② WEST ELEVATION - STORAGE BUILDING



③ EAST ELEVATION - STORAGE BUILDING



④ SOUTH ELEVATION - STORAGE BUILDING

MATERIAL LEGEND

-  PRE-FINISHED FLUSH METAL WALL PANELS, MBCI 'CF ARCHITECTURAL'
-  SITECAST CONCRETE PANEL WITH REVEAL JOINTS, MEDIUM SANDBLAST FINISH
-  PRE-FINISHED ARCHITECTURAL METAL PANELS, CENTRIA 'CONCEPT SERIES' & 'IW SERIES'
-  PRE-FINISHED RAINSCREEN-TYPE ALUMINUM COMPOSITE (ACM) PANELS, ALUCOBOND
-  CLEAR ANODIZED ALUMINUM STOREFRONT OR CURTAIN WALL FRAME WITH 1" GRAY TINT, INSULATED LOW-E GLASS
-  INSULATED TRANSLUCENT SANDWICH PANEL, KALWALL 'WALL SYSTEM'
-  PRE-FINISHED STEEL COILING OVERHEAD DOOR WITH GLASS VISION LITES, CORNELL 'THERMISER MAX'



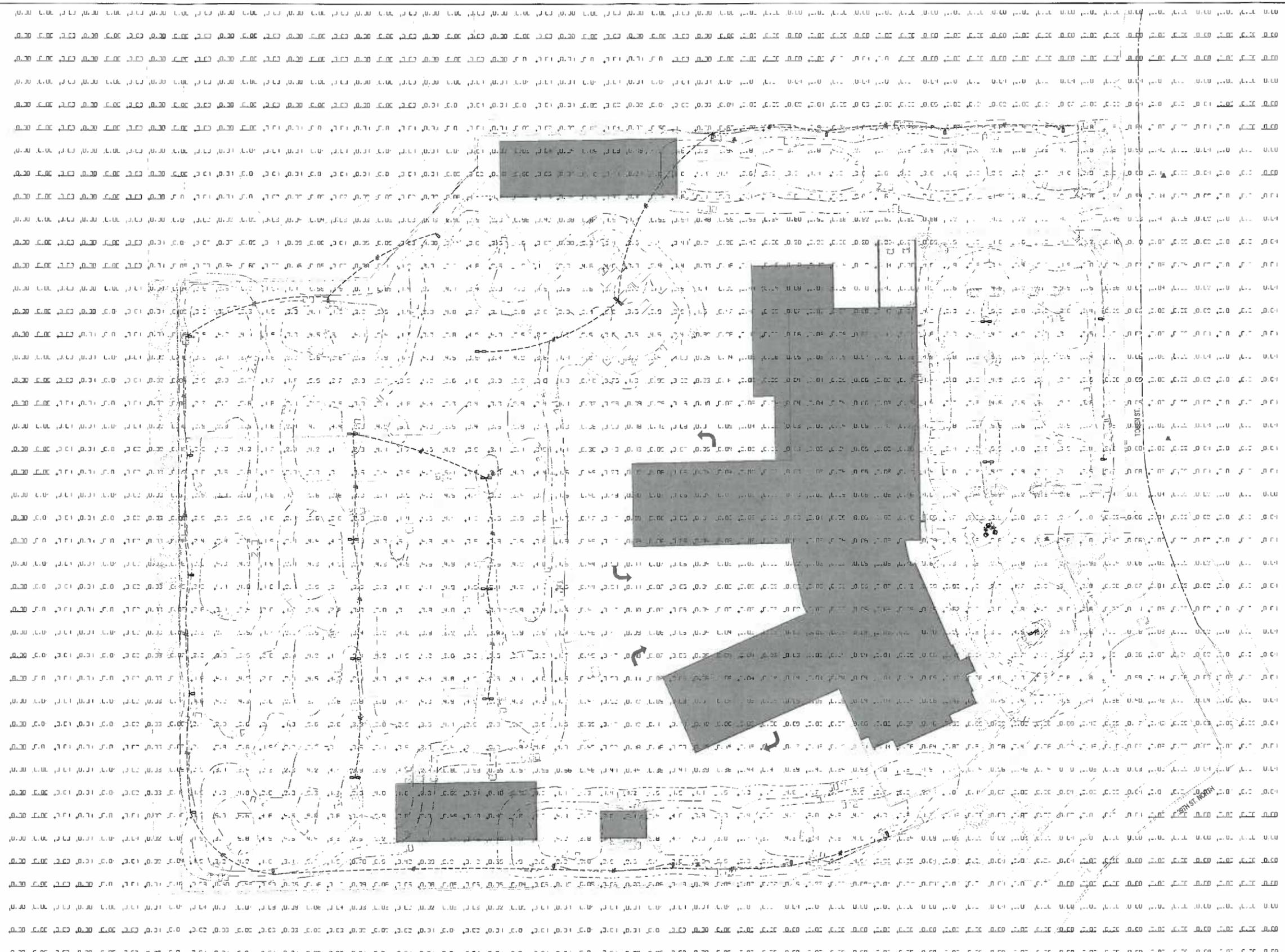
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Luminaire parts list							
Item	Manufacturer	Luminaire type	Item number	Filing	Luminaire Size	Light loss factor	Connected load
1	Sporckling	Access ARAS	ARAS-BA-SK-0-500W-70-0-0C	1x4 LEDS 500W 70-0-0C	44583 lm	0.80	399.5 W
2	Sporckling	Access ARAS	ARAS-BA-SK-0-100W-70-0-0C	1x4 LEDS 100W 70-0-0C	11293 lm	0.80	99.4 W
3	Sporckling	Access ARAS	ARAS-BA-SK-0-300W-70-0-0C	1x4 LEDS 300W 70-0-0C	33879 lm	0.80	299.5 W

#	Name	Parameter	Min	Max	Average	Min/Average	Min/Max
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ELECTRICAL SITE PLAN
 NORTH 1" = 40'-0"

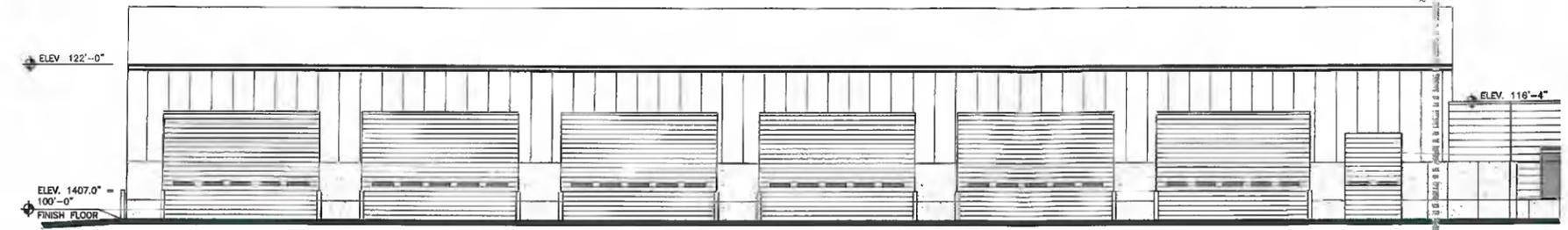


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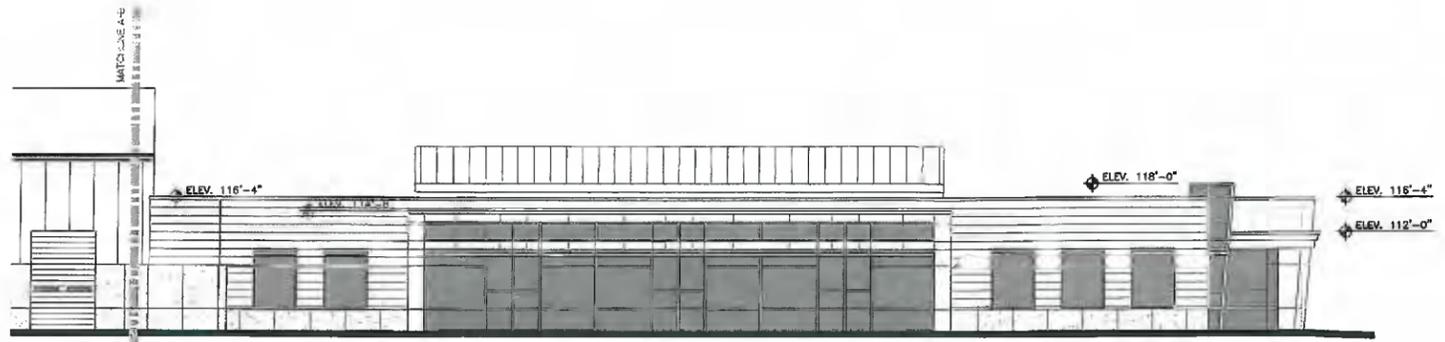


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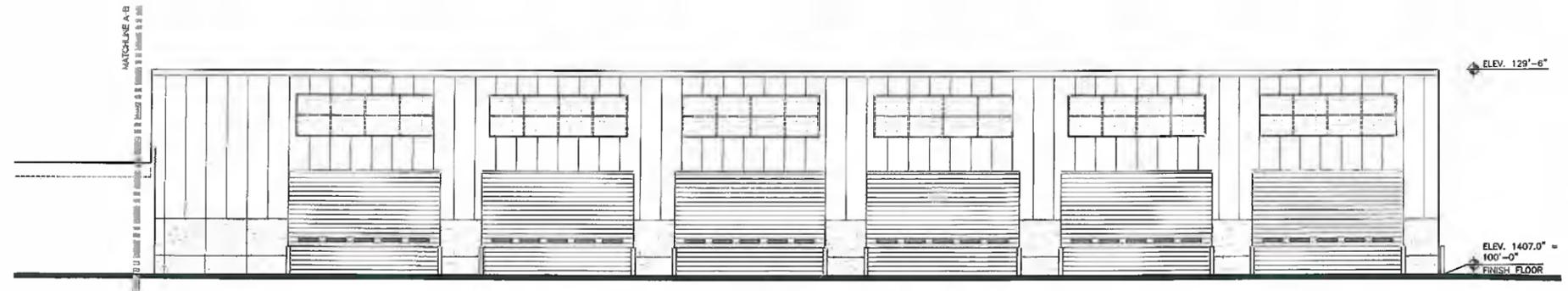
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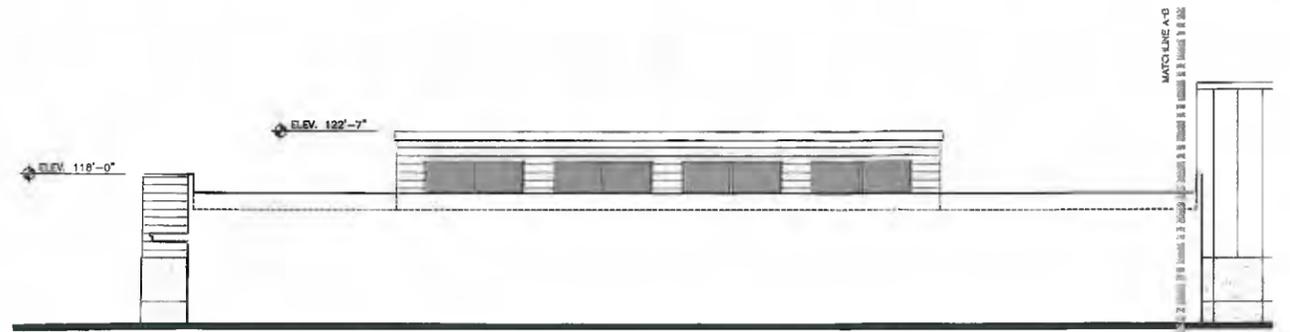
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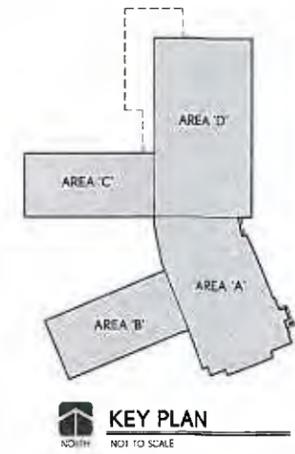
2 SOUTH ELEVATION - AREA 'A'



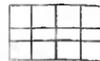
3 NORTH ELEVATION - AREA 'B'



4 NORTH ELEVATION - AREA 'A'

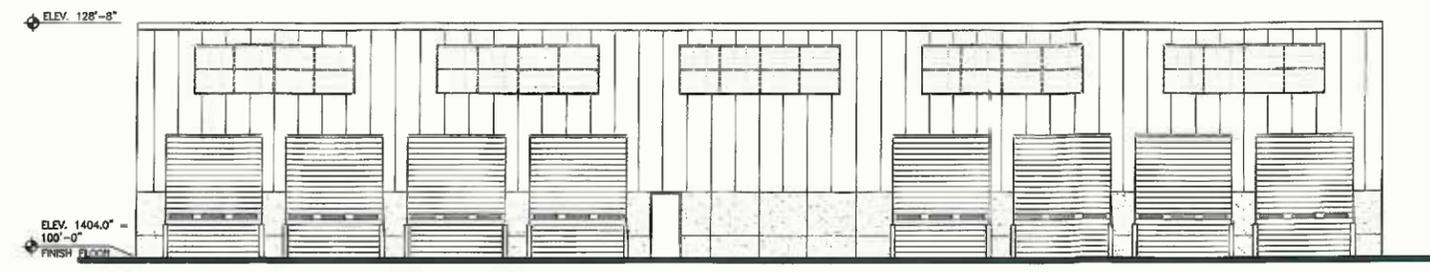


MATERIAL LEGEND

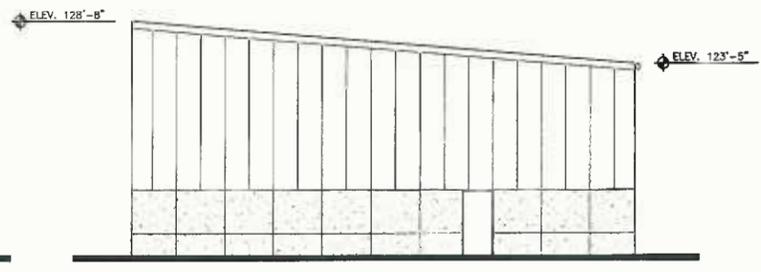
-  PRE-FINISHED FLUSH METAL WALL PANELS, MBCI 'CF ARCHITECTURAL'
-  SITECAST CONCRETE PANEL WITH REVEAL JOINTS, MEDIUM SANDBLAST FINISH
-  PRE-FINISHED ARCHITECTURAL METAL PANELS, CENTRIA 'CONCEPT SERIES' & 'IW SERIES'
-  PRE-FINISHED RAINSCREEN-TYPE ALUMINUM COMPOSITE (ACM) PANELS, ALUCOBOND
-  CLEAR ANODIZED ALUMINUM STOREFRONT OR CURTAIN WALL FRAME WITH 1" GRAY TINT, INSULATED LOW-E GLASS
-  INSULATED TRANSLUCENT SANDWICH PANEL, KALWALL 'WALL SYSTEM'
-  PRE-FINISHED STEEL COILING OVERHEAD DOOR WITH GLASS VISION LITES, CORNELL 'THERMISER MAX'



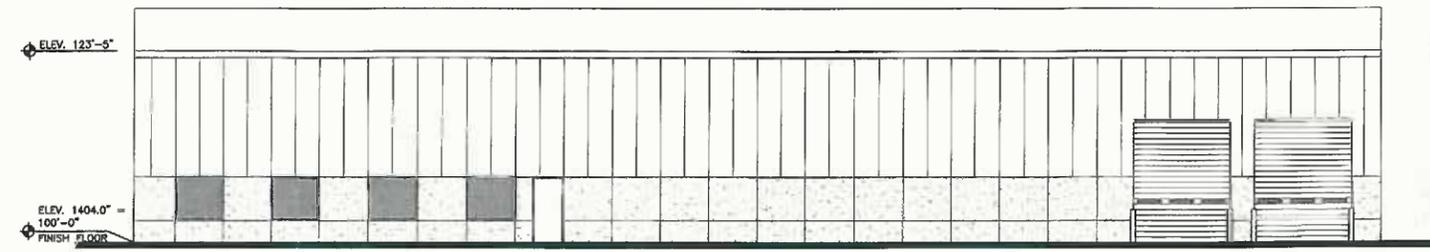
project no
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 This drawing is not to be used for construction without the written consent of the architect. It is the responsibility of the contractor to verify all dimensions and conditions shown on this drawing. The architect is not responsible for any errors or omissions on this drawing. The architect is not responsible for any conditions not shown on this drawing. The architect is not responsible for any conditions not shown on this drawing. The architect is not responsible for any conditions not shown on this drawing.



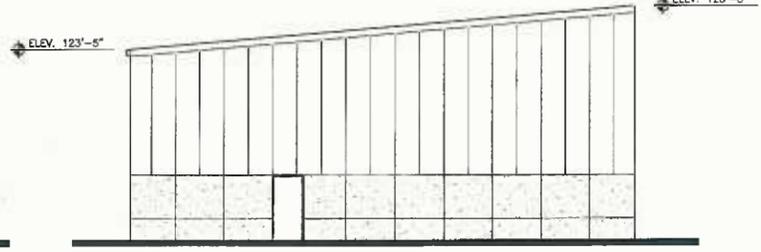
1 NORTH ELEVATION - FLEET / GARAGE



2 WEST ELEVATION - FLEET / GARAGE



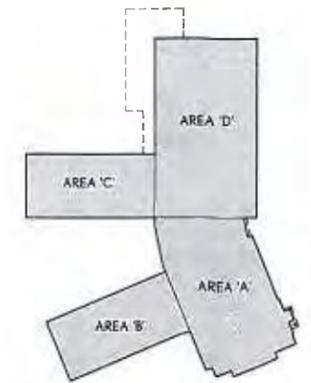
3 SOUTH ELEVATION - FLEET / GARAGE



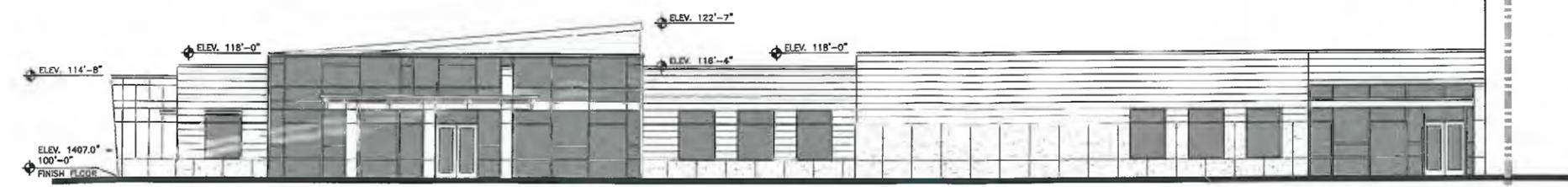
4 EAST ELEVATION - FLEET / GARAGE

MATERIAL LEGEND

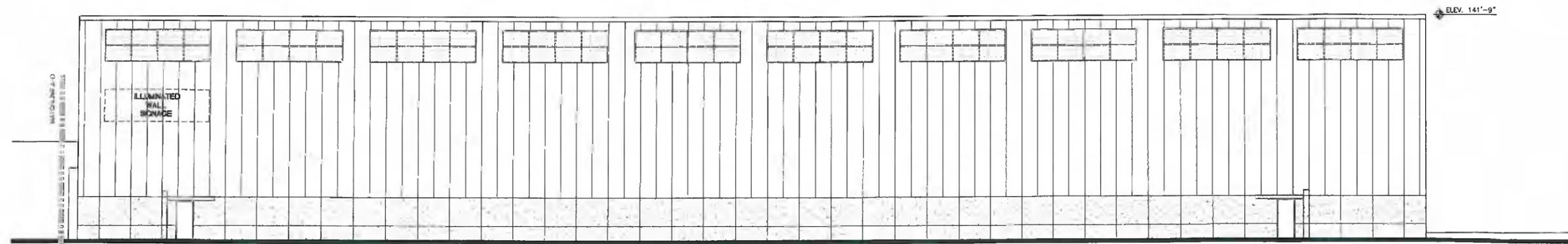
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-  SITECAST CONCRETE PANEL WITH REVEAL JOINTS, MEDIUM SANDBLAST FINISH
-  PRE-FINISHED ARCHITECTURAL METAL PANELS, CENTRIA 'CONCEPT SERIES' & 'IW SERIES'
-  PRE-FINISHED RAINSCREEN-TYPE ALUMINUM COMPOSITE (ACM) PANELS, ALUCOBOND
-  CLEAR ANODIZED ALUMINUM STOREFRONT OR CURTAIN WALL FRAME WITH 1" GRAY TINT, INSULATED LOW-E GLASS
-  INSULATED TRANSLUCENT SANDWICH PANEL, KALWALL 'WALL SYSTEM'
-  PRE-FINISHED STEEL COILING OVERHEAD DOOR WITH GLASS VISION LITES, CORNELL 'THERMISER MAX'



KEY PLAN
 NORTH
 NOT TO SCALE



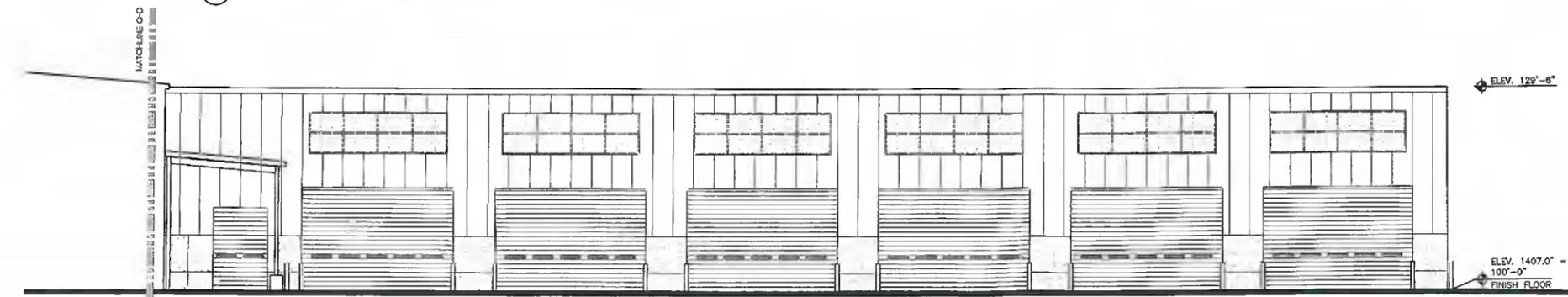
1 EAST ELEVATION - AREA 'A'



2 EAST ELEVATION - AREA 'D'

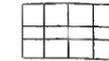
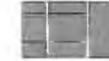


3 NORTH ELEVATION - AREA 'D'



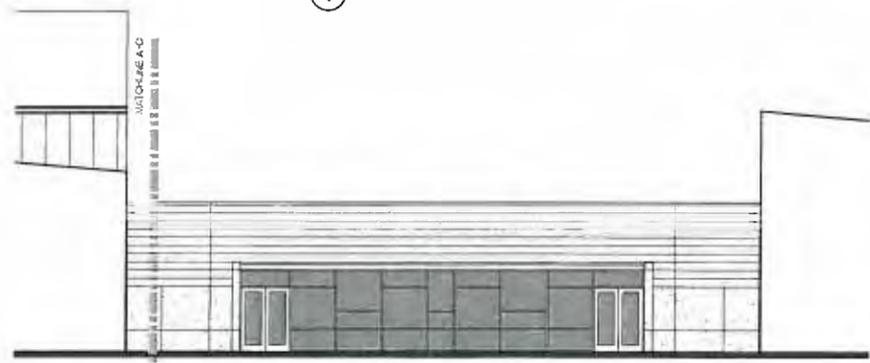
4 NORTH ELEVATION - AREA 'C'

MATERIAL LEGEND

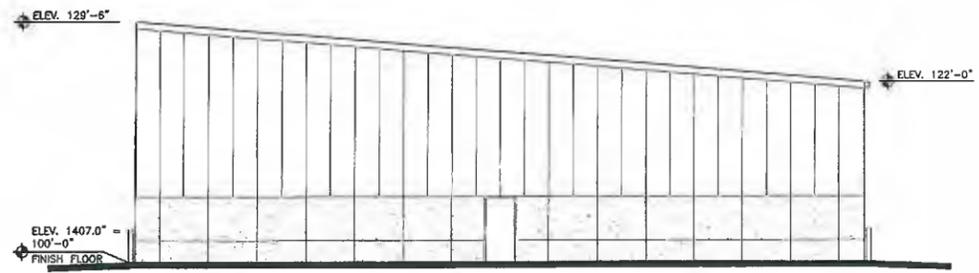
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-  PRE-FINISHED STEEL COILING OVERHEAD DOOR WITH GLASS VISION LITES, CORNELL 'THERMISER MAX'



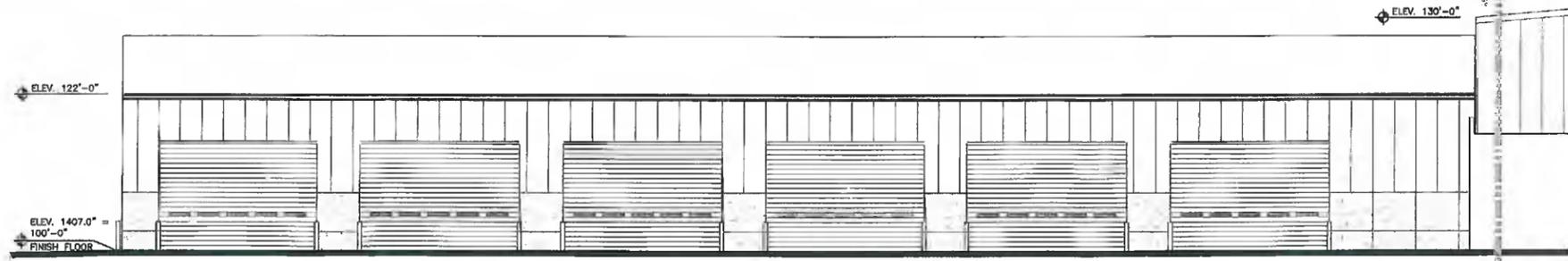
① WEST ELEVATION - AREA 'D'



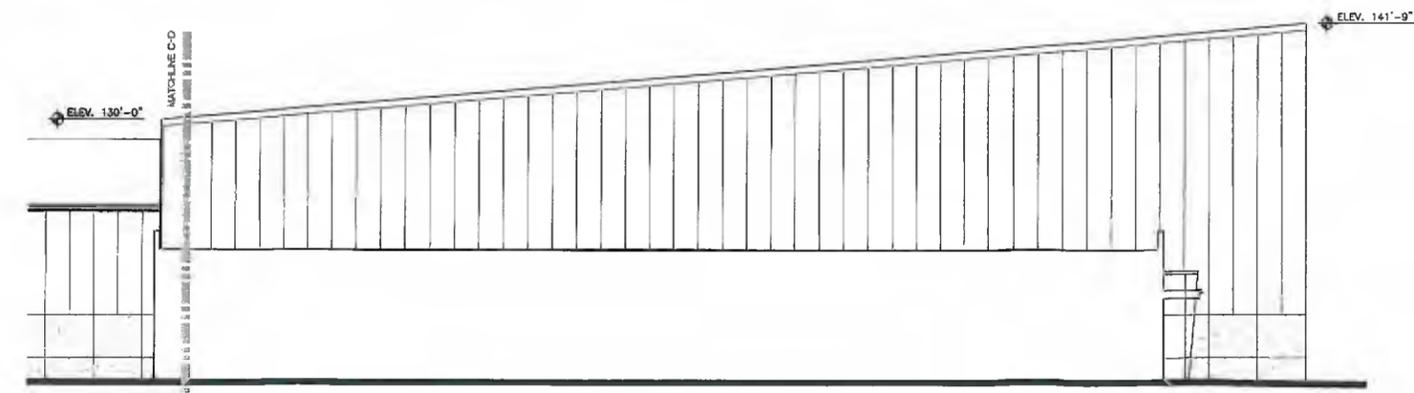
② WEST ELEVATION - AREA 'A'



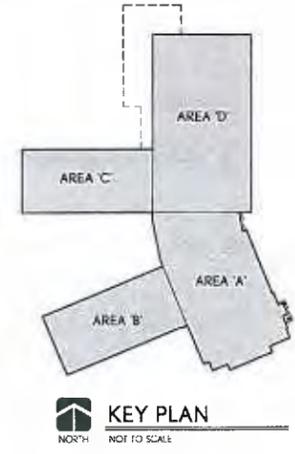
③ WEST ELEVATION - AREA 'B' / 'C'



④ SOUTH ELEVATION - AREA 'C'



⑤ SOUTH ELEVATION - AREA 'D'



MATERIAL LEGEND

- PRE-FINISHED FLUSH METAL WALL PANELS, MBCI 'CF ARCHITECTURAL'
- SITECAST CONCRETE PANEL WITH REVEAL JOINTS, MEDIUM SANDBLAST FINISH
- PRE-FINISHED ARCHITECTURAL METAL PANELS, CENTRIA 'CONCEPT SERIES' & 'IW SERIES'
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- INSULATED TRANSLUCENT SANDWICH PANEL, KALWALL 'WALL SYSTEM'
- PRE-FINISHED STEEL COILING OVERHEAD DOOR WITH GLASS VISION LITES, CORNELL 'THERMISER MAX'

STAFF REPORT

MAPC October 20, 2016
DAB IV November 7, 2016

CASE NUMBER: CON2016-00048

APPLICANT/AGENT: David Jones (owner/applicant)

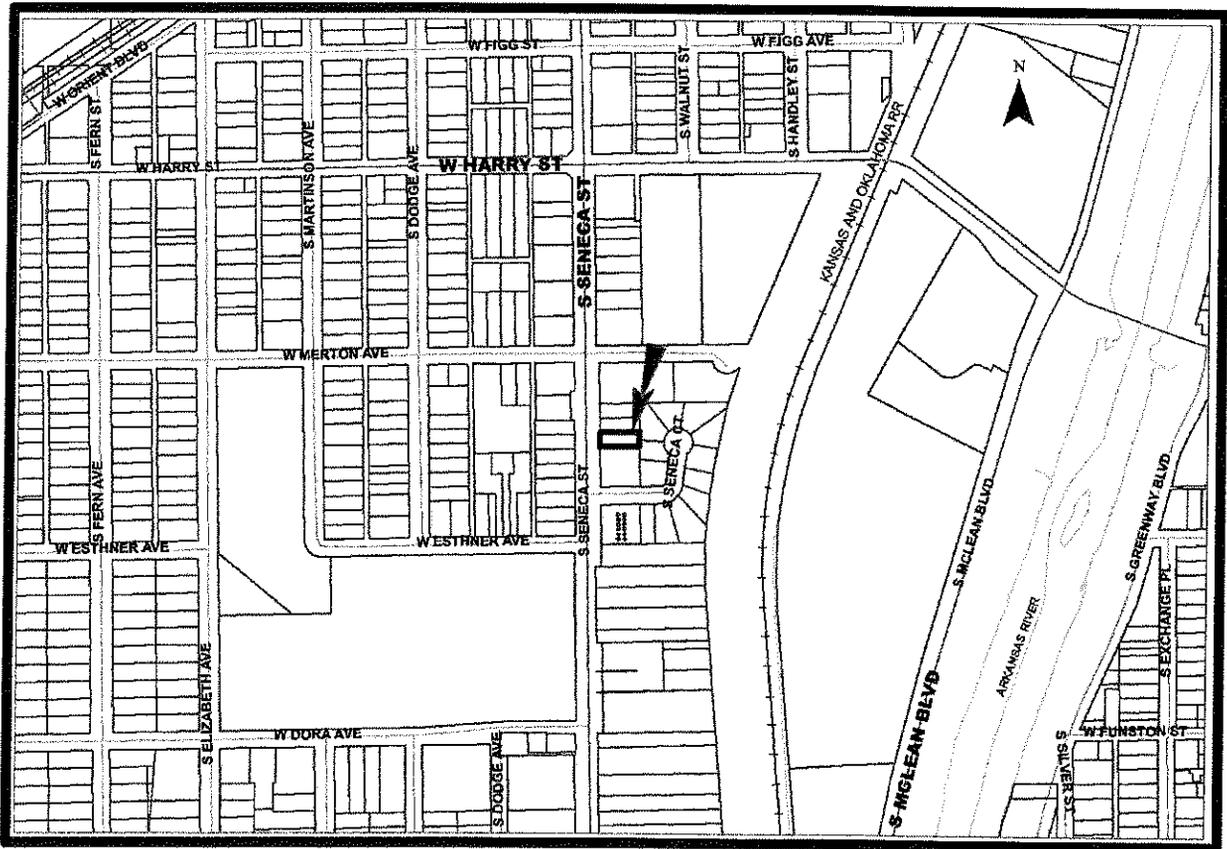
REQUEST: Conditional Use for a Personal Improvement Service

CURRENT ZONING: GO General Office

SITE SIZE: 0.16 acre

LOCATION: South of Harry Street and East of Seneca

PROPOSED USE: Massage Therapy Office



BACKGROUND: The applicant requests a Conditional Use for a “Personal Improvement Service” on property zoned GO General Office to operate a massage therapy business at 1724 S. Seneca. The site is located south of Harry Street on the east side of Seneca. The property is currently developed with a two-story commercial building on the 0.16-acre site with on-site parking, as shown on the attached site plan.

Residential and office uses abut the subject property. North of the site is GO zoning, east is TF-3 Two-Family Residential, west of the site is MF-29 Multi-family zoning and south of the site is NR Neighborhood Retail zoning.

The Wichita-Sedgwick County Unified Zoning Code (“UZC”) defines “Personal Improvement Service” as an establishment primarily engaged in the provision of informational, instructional, personal improvement and similar services of a non-professional nature. Typical uses include portrait shops, photography studios, art and music schools, licensed massage therapists, health and fitness studios, swimming clubs and handicraft or hobby instruction.

CASE HISTORY: The City Council passed Ordinance 50-190 on April 29, 2016 requiring massage therapy business to obtain a City license and show proof of accredited training. The owner of the massage therapy business has operated in this location for several years without complaint. The request for the conditional use is to bring the business into compliance with the Unified Zoning Code.

ADJACENT ZONING AND LAND USE:

NORTH:	GO	Retail
SOUTH:	NR	Strip Retail Center
EAST:	TF-3	Single-family residences
WEST:	MF-29	Single-family residences

PUBLIC SERVICES: The property is serviced by all publicly supplied municipal services. Seneca is a five-lane, two-way, arterial street. The site has one access point to Seneca.

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 downtown core and mature neighborhoods surrounding it in a roughly three-mile radius. The Plan encourages infill development within the Established Central Area that maximizes public investment in existing and planned infrastructure and services. The Future Growth Concept Map identifies the area “Commercial.”

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

1. The site shall be developed and maintained in general conformance with the

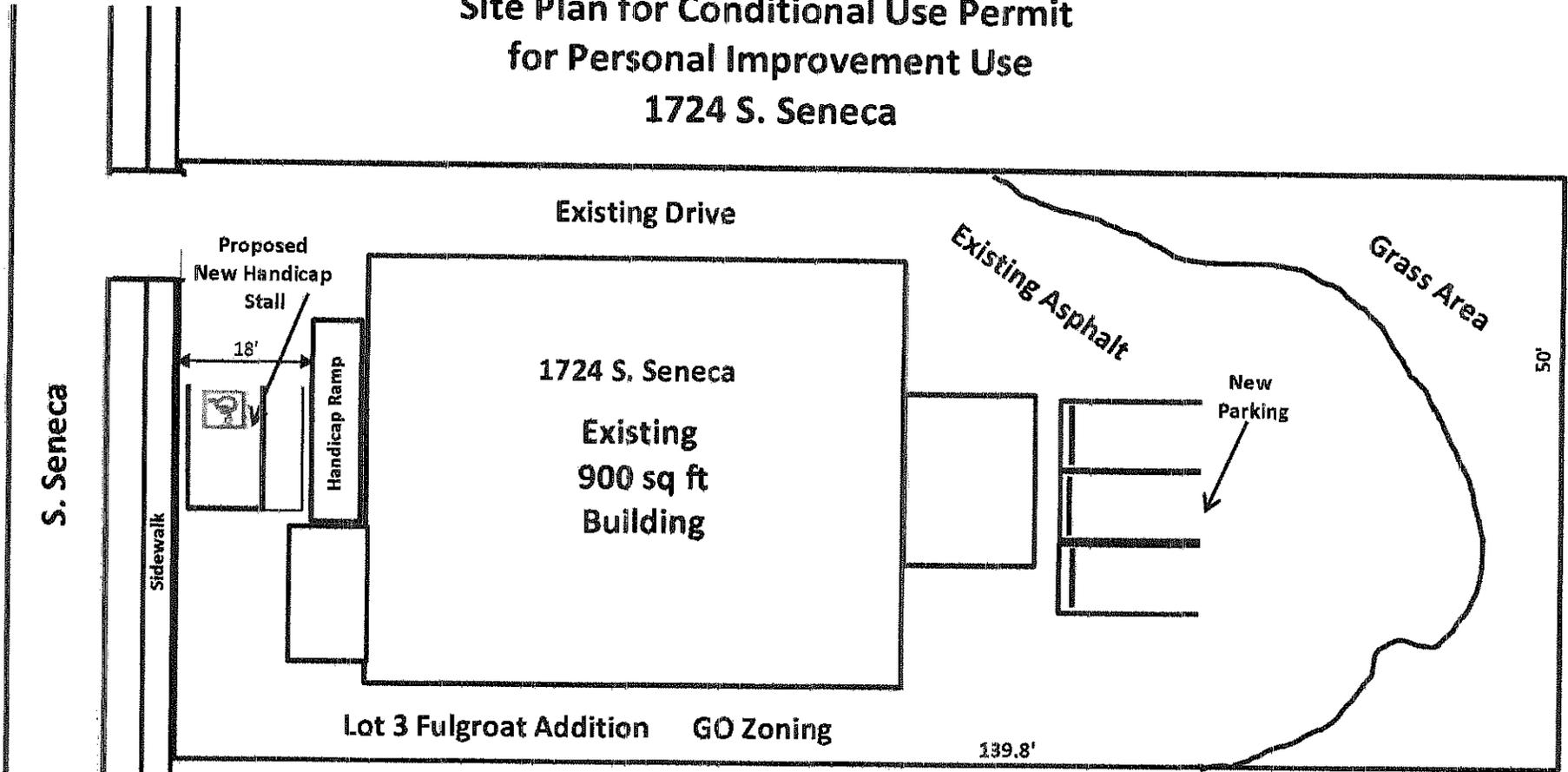
approved site plan, and in conformance with all applicable regulations, including but not limited to: licensing requirements, building, fire and utility regulations or codes.

2. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VII hereof, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Residential and office uses about the subject property. West of the site is zoned TF-3 Two-Family Residential, north is B Multi-Family Residential, east and south of the site is zoned GO.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned GO which allows a conditional use approval for personal improvement services.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request should not detrimentally impact nearby properties. The site is developed with adequate on-site parking to accommodate the use.
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 downtown core and mature neighborhoods surrounding it in a roughly three-mile radius. The Plan encourages infill development within the Established Central Area that maximizes public investment in existing and planned infrastructure and services. The Future Growth Concept Map identifies the area "Commercial".
5. Impact of the proposed development on community facilities: No additional community facilities demand will be created by allowing this request.

Site Plan for Conditional Use Permit
for Personal Improvement Use
1724 S. Seneca



Drawing Not to Scale

STAFF REPORT

MAPC October 20, 2016
DAB I November 7, 2016

CASE NUMBER: CON2016-00049

APPLICANT/AGENT: Christen Skaer and Jack Glaves (owner/applicant)
Derrick Slocum (Agent)

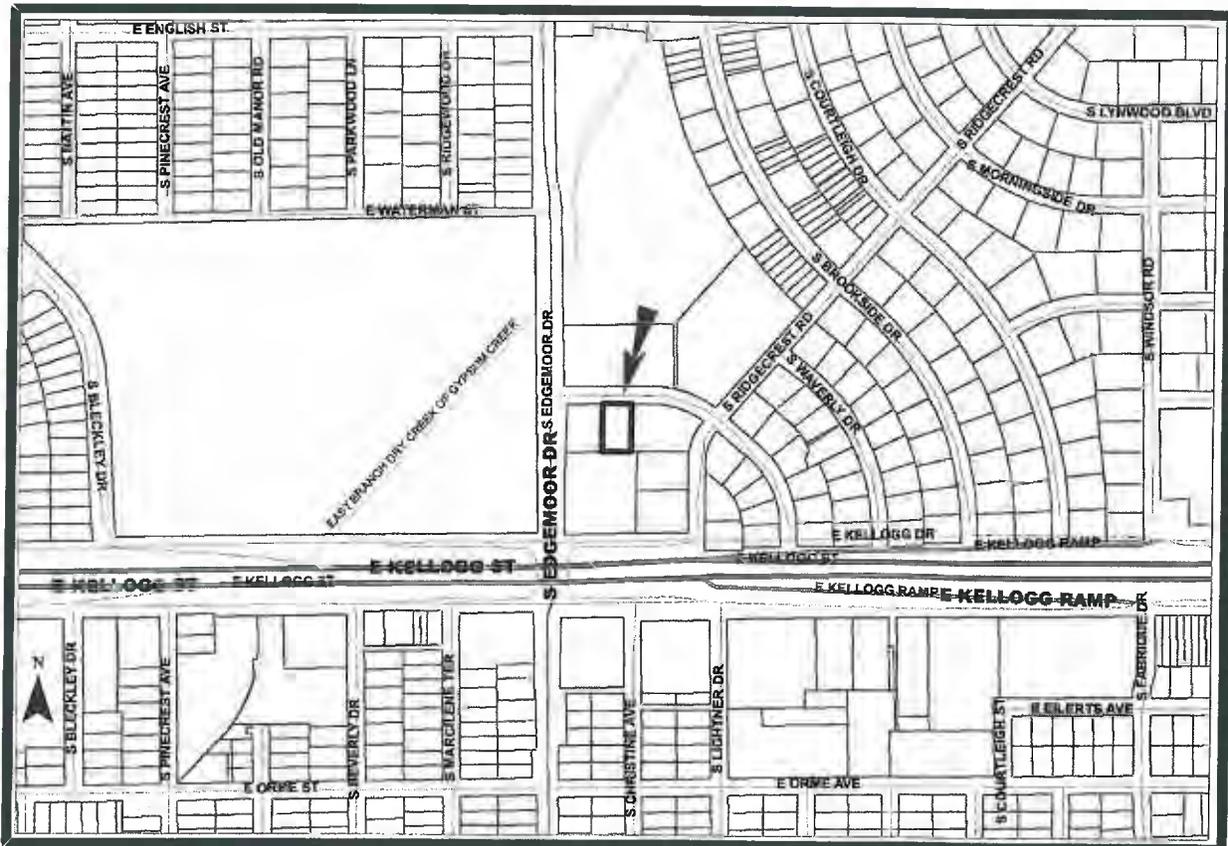
REQUEST: Conditional Use for Animal Care Limited

CURRENT ZONING: GO General Office

SITE SIZE: 0.38 acre

LOCATION: North of Kellogg on the East side of Edgemoor

PROPOSED USE: Expansion of Veterinary Clinic



BACKGROUND: The applicant requests a Conditional Use to provide boarding services and expand an existing veterinary clinic on property zoned GO General Office on at 404 S Edgemoor. The site is located north of Kellogg on the east side of Edgemoor, south of Lexington Drive. Lot 2 is currently vacant and will be the location of the expansion of the one-story commercial building on Lot 1 with on-site parking, as shown on the attached site plan.

Retail office uses abut the subject property. North of the site is SF-5 Single-Family zoning, east and west of the site is GO General Office zoning and south of the site is LC Limited Commercial zoning.

The Wichita-Sedgwick County Unified Zoning Code (“UZC”) defines “Animal Care, Limited” as an establishment providing veterinary services for small animals (household pets) for which there are no outside animal runs, and for which boarding facilities may also be provided. When permitted by Conditional Use in GO district Animal Care, Limited is subject to Supplementary use Regulations (Sec. III-D.6.c) that requires:

1. Noise and odor. No noise or odors shall be discernible at the property line.
2. Animals. Treatment shall be limited to dogs, cats, and other small animals.
3. Outdoor runs. All animals shall be harbored indoors.

CASE HISTORY: The subject property was platted in 1997 as part of the Village Square Addition. Four lots in the addition were developed between 1999 and 2002. Currently two lots are unimproved. The existing veterinary clinic was permitted by Conditional Use (CON2000-00032) in 2000.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Fire and Rescue, Police
SOUTH:	LC	Retail Center
EAST:	GO	Strip Office Center
WEST:	GO	VA Hospital

PUBLIC SERVICES: The property is serviced by all publicly supplied municipal services. Edgemoor is a four-lane, two-way arterial. The site has one access to Edgemoor from South Lexington Drive.

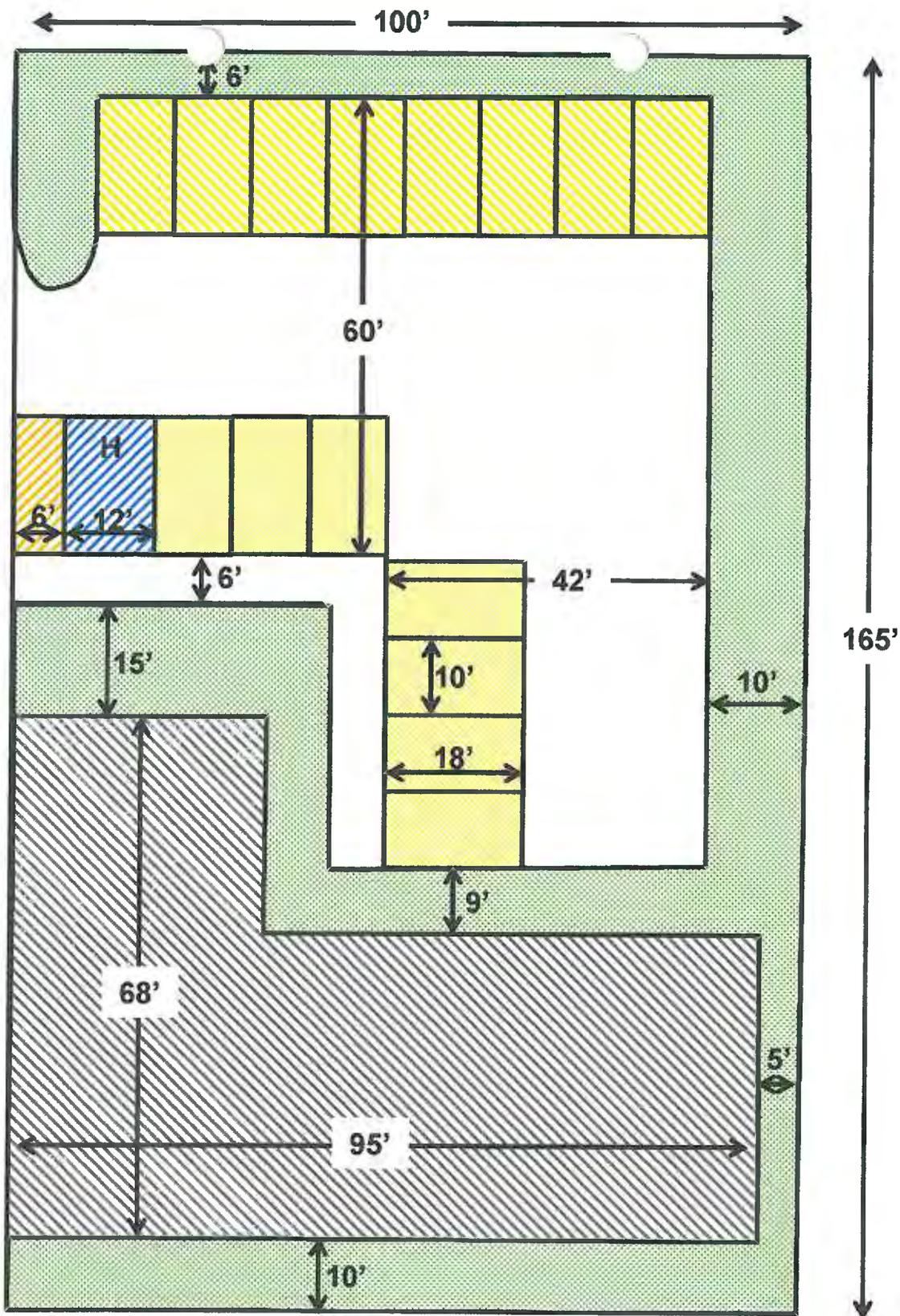
CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the downtown core and mature neighborhoods surrounding it in a roughly three-mile radius. The Plan encourages infill development within the Established Central Area that maximizes public investment in existing and planned infrastructure and services. The Future Growth Concept Map identifies the area “Commercial.” The Locational Guidelines indicate that expansion of existing uses to adjacent area should be supported.

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

1. The site shall be developed and maintained in general conformance with the approved site plan, and in conformance with all applicable regulations, including but not limited to: licensing requirements, building, fire and utility regulations or codes.
2. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VII hereof, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Residential and office uses about the subject property. West of the site is zoned TF-3 Two-Family Residential, north is B Multi-Family Residential, east and south of the site is zoned GO.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned GO which allows a conditional use approval for Animal Care, Limited.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request should not detrimentally impact nearby properties. The site is developed with adequate on-site parking to accommodate the use.
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 downtown core and mature neighborhoods surrounding it in a roughly three-mile radius. The Plan encourages infill development within the Established Central Area that maximizes public investment in existing and planned infrastructure and services. The Future Growth Concept Map identifies the area "Commercial." The Locational Guidelines indicate that expansion of existing uses to adjacent area should be supported.
5. Impact of the proposed development on community facilities: No additional community facilities demand will be created by allowing this request.



Skaer Veterinary Clinic Expansion Conditional Use Site Plan

Scale: 0.30" = 6'
September 10, 2016





AGENDA ITEM NO. 11

STAFF REPORT
MAPC October 20, 2016
DAB II October 10, 2016

CASE NUMBER: CUP2016-00022

APPLICANT/AGENT: Sundance KS Associates LLC c/o Phil Welch (owner/applicant), Klenda Austerman LLC c/o Robert W. Kaplan (agent)

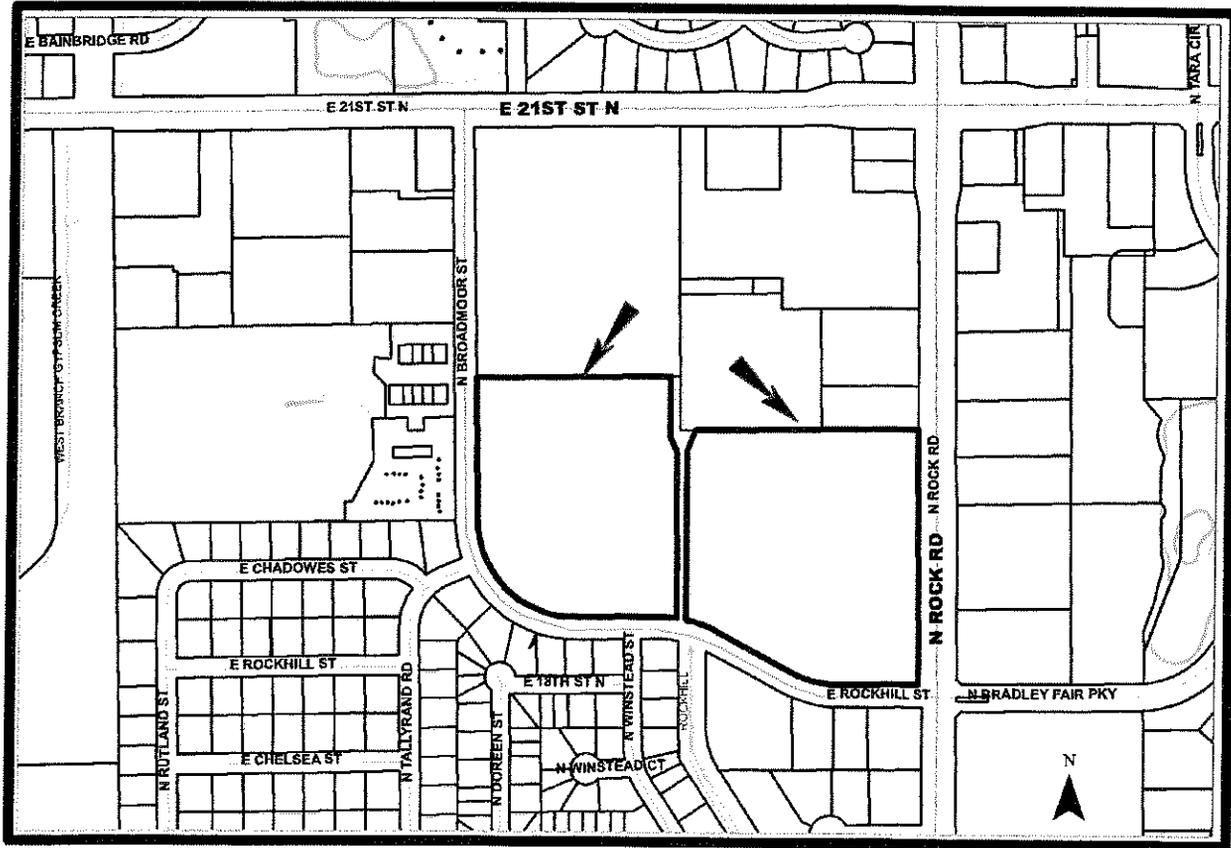
REQUEST: Amendment #11 of DP-62 Chelsea Station Community Unit Plan

CURRENT ZONING: MF-18 Multi-Family Residential

SITE SIZE: 25.44 acres

LOCATION: Generally located south of 21st Street North and west of Rock Road

PROPOSED USE: Expansion of Sundance Apartments



BACKGROUND: The applicant requests an amendment of the Chelsea Station Community Unit Plan (“CUP”) DP-62 on property generally located south of 21st Street North and west of Rock Road. The requested amendment pertains to Parcels 8a, 8b, and 9 of the CUP, which total 25.44 acres located west of Rock Road, north of Rockhill Street, and east of Broadmoor Street (see attached CUP).

The applicant proposes to expand the Sundance Apartments located on the three parcels (see attached development concept). The three parcels are limited by the CUP to a total of 496 units, which is the number of apartments currently located on Parcels 8b and 9. The applicant proposes to construct an additional 168 units on Parcel 8a, bringing the total number of permitted residential units on the three parcels to 664 units, or 26.1 units per acre.

The subject property is zoned MF-18 Multi-Family Residential, which limits residential density for apartments to 17.4 units per acre. However, a CUP allows density to be distributed among parcels as long as the overall density of the entire CUP does not exceed the maximum permitted density of the underlying zoning district. Parcels 5, 6, 7, 8a, 8b, 9, 11, and 11a of the CUP are zoned MF-18. These parcels total 104.64 acres and are permitted 1,118 units, or 10.7 units per acre. With the additional 168 units requested, the overall CUP would be permitted 1,286 units, or an overall density for the entire CUP of 12.3 units per acre. Therefore, the additional 168 units requested can be permitted by CUP amendment.

Properties north of this site are zoned MF-18 and LC Limited Commercial and are developed with apartments and a shopping center. Properties south of the site are zoned MF-18 and GO General Office and are developed with duplexes and office buildings. Property east of the site is zoned LC and is developed with a shopping center. Properties west of the site are zoned MF-18 and are developed with single-family residences and condominiums.

CASE HISTORY: In 1979, Parcels 8 and 9 of the CUP were adjusted administratively to require the two parcels to be developed as a single development with no more than 496 units unless an amendment to the CUP was approved to permit additional units.

ADJACENT ZONING AND LAND USE:

NORTH:	MF-18, LC	Apartments, shopping center
SOUTH:	MF-18, GO	Duplexes, office buildings
EAST:	LC	Shopping center
WEST:	MF-18	Single-family residences, condominiums

PUBLIC SERVICES: The subject property is limited to one access drive to Rock Road, which is limited to right-in/right-out movements by a raised median. Therefore, all ingress and egress to the site except for southbound on Rock Road must use Rockhill Street and Broadmoor Street. Rockhill Street has a signalized intersection with Rock Road, but the intersection of Broadmoor Street with 21st Street North is not signalized. The proposed 168 additional units would generate approximately 1,100 additional vehicular trips per day. City Engineering is concerned that the additional trips generated cannot be adequately handled without improvements, particularly signalization of the intersection of 21st Street North and Broadmoor Street, and has requested a traffic study to determine the improvements made necessary by the proposed apartment expansion. Citizen concerns also have been expressed regarding safety of the intersection of Rock Road and Rock Road Court, future pedestrian and bicycle crossings of Rock Road at a potential Redbud Trail, and transit stops in the area. These issues also could be included in a traffic study.

CONFORMANCE TO PLANS/POLICIES: The adopted 2035 Wichita Future Growth Concept Map of the Wichita-Sedgewick County Comprehensive Plan, the Community Investments Plan, identifies the subject property as “residential.” The “residential” category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing densities and types includes, but is not limited to, single-family detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units. The Locational Guidelines of the Comprehensive Plan support the expansion of existing uses to adjacent areas. The Comprehensive Plan has a Wichita Urban Infill Strategy that is focused on the Established Central Area – comprised of the downtown core and the mature neighborhoods surrounding it in a roughly three mile radius. Increased levels of residential infill/redevelopment are encouraged in the Established Central Area.

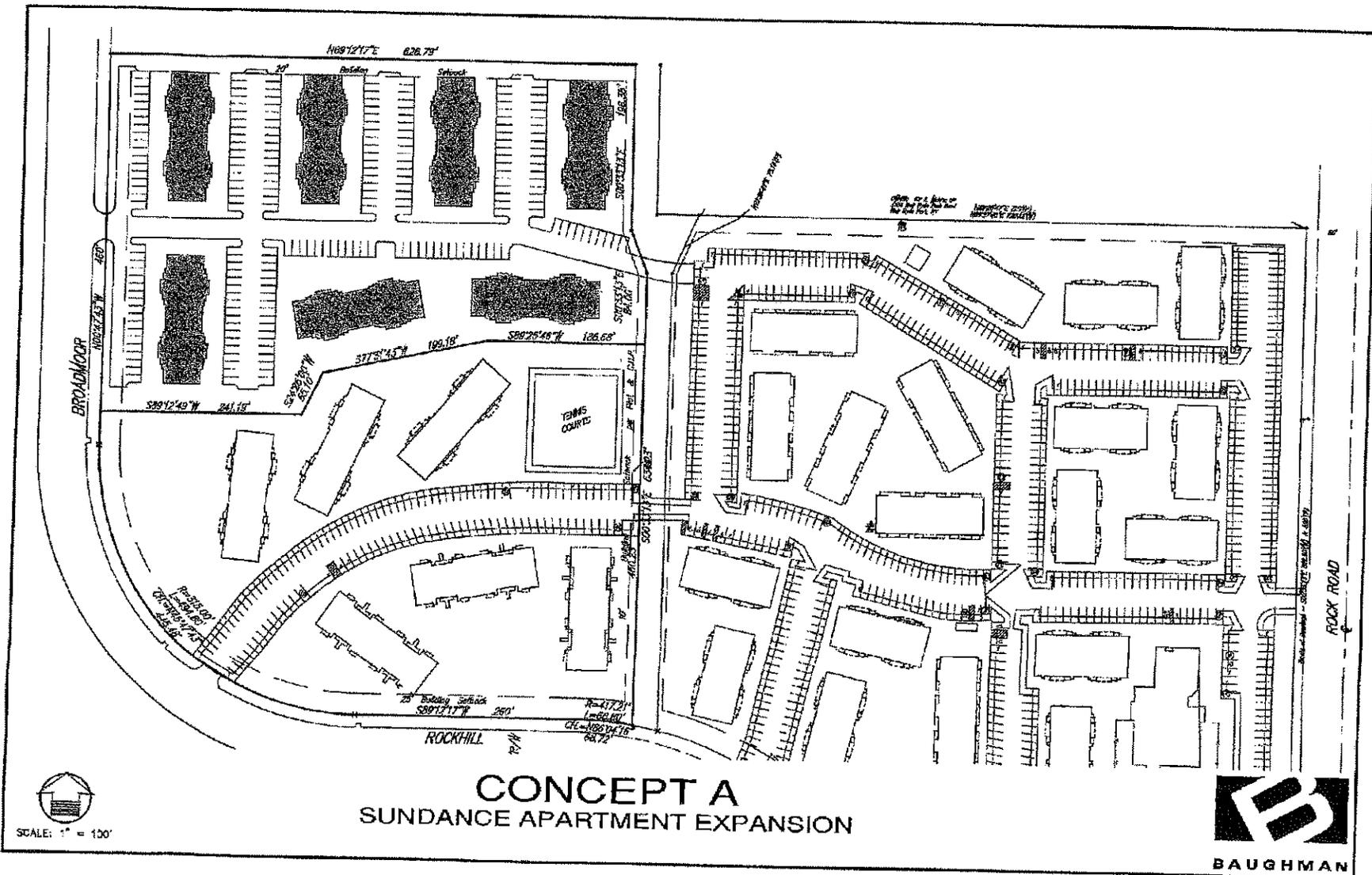
RECOMMENDATION: Staff notes that the provisions of the Unified Zoning Code (UZC) could permit up to 1,820 residential units to be developed within the CUP. The requested overall density of the CUP remains 40 percent below what could be allowed by the underlying MF-18 zoning. Prior to the public hearing, the only issues raised regarding the request concerned potential negative impacts on traffic in the area if the additional 168 units are permitted. The actual traffic impacts of the proposed development cannot be determined without a traffic study. Other developments in the area have been required to pay for improvements to address traffic impacts. It is staff’s opinion that is reasonable to require the same for the proposed apartment expansion. Based upon information available prior to the public hearings, planning staff recommends that the proposed CUP amendment be APPROVED, subject to the following conditions:

- A. The following shall be added to General Provision #10, “Prior to the issuance of a building permit for additional units on Parcel 8a, the applicant shall complete a traffic study of the impacts of the additional units on vehicular, bicycle, pedestrian, and transit transportation in the area and shall guarantee the improvements made necessary by the proposed apartment expansion as approved by the City Engineer.”
- B. The “Density” listed for Parcels 8a, 8b, and 9 shall be removed from the CUP in lieu of the overall permitted density for the three parcels stated in General Provision #10.
- C. Four copies of the approved CUP shall be submitted to the Metropolitan Area Planning Department within 60 days after approval of this case by the MAPC or Governing Body, as applicable, 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: Properties north of this site are zoned MF-18 and LC Limited Commercial and are developed with apartments and a shopping center. Properties south of the site are zoned MF-18 and GO General Office and are developed with duplexes and office buildings. Property east of the site is zoned LC and is developed with a shopping center. Properties west of the site are zoned MF-18 and are developed with single-family residences and condominiums.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned MF-18 and could be developed with the proposed apartments except for an administrative adjustment approved in 1979 that limited the overall apartment development to 496. The administrative adjustment contemplated that additional units could be constructed if an amendment of the CUP was approved. The overall density within the CUP if the requested amendment is approved would remain 40% below the density permitted by the UZC.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The Parcel on which the proposed expansion of the apartment complex would occur is surrounded by existing multi-family development; therefore, detrimental impacts on nearby property are not anticipated.
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 “residential.” The “residential” category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing densities and types includes, but is not limited to, single-family detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units. The Locational Guidelines of the Comprehensive Plan support the expansion of existing uses to adjacent areas. The Comprehensive Plan has a Wichita Urban Infill Strategy that is focused on the Established Central Area – comprised of the downtown core and the mature neighborhoods surrounding it in a roughly three mile radius. Increased levels of residential infill/redevelopment.
5. Impact of the proposed development on community facilities: The applicant will be required to pay for traffic improvements made necessary by the proposed apartment expansion.



BACKGROUND: The applicant proposes a zone change from SF-5 Single-Family Residential (SF-5) to the Dwire Commercial PUD Planned Unit Development (PUD). The 4.59-acre unplatted site is located north of I-235/K-96 and 40th Street North, on the east side of Seneca Street and the southeast end of a sand pit. The site is gated and posted no trespassing, which limits access to the site in regards to describing its current use. The Metropolitan Area Building and Construction Department’s Code Enforcement division (MABCD – OCI) has observed, from Seneca Street, least two “recreation vehicles” (RVs) with a vehicle parked at each RV, a porta-potty, a tractor and a dump truck on the site. The site’s SF-5 zoning does not allow this type of storage.

The PUD would allow a private RV campground for the applicant’s personal use. The site plan shows three existing RVs on the north end of the site with an existing fire pit, two accessory buildings and boat docks. The PUD limits the number of RVs to three and notes that the boat dock will not be open to the public.

The proposed PUD also shows a proposed ‘future event center building’ on the south side of the site. The proposed facility can be rented out for corporate or professional events, life cycle and other special events. Examples of these events include seminars, meetings, lectures, retreats, birthdays, anniversaries, weddings, reunions, charitable events, fund raisers, art shows, holiday festivals, photography shoots and similar events. The consumption of alcohol would be permitted at these events. The site plan’s ‘general provisions’ states that no business that is classified as a drinking establishment, tavern, Class A Club or Class B Club shall be allowed. Live music or music provided by a DJ would be permitted at these events and will be located in the proposed future event center building. Events located in a proposed ‘outdoor activity area’ for the future event center may have outdoor music and serve alcohol and food. The music would subject to the City of Wichita’s noise ordinance.

All events will be scheduled on an as need basis every day of the year, but not repeated on a weekly basis and not be open to the general public. The proposed hours of operation are 8:00 a.m. - 1:00 a.m., Friday thru Saturday and 8:00 a.m. – Midnight, Sunday thru Thursday, with clean-up for these events ending a half hour after the closing times. The outdoor activity area has the slightly different hours of 10:00 a.m. – 10:00 p.m. The outdoor preparation of food and beverages, including alcohol is permitted. Outdoor speakers for the outdoor activity area are permitted 10 a.m. – 8:00 a.m. and will be oriented towards the south side of the site. The PUD would also allow a farmer’s market, office, retail and restaurant.

This area’s development and zoning is divided by the dead-end Seneca Street. Non-residential zoning and development is located on the west side of Seneca Street. Residential zoning (with one exception) and development is located on the east side of Seneca Street. A GC General Commercial (GC) and SF-5 zoned school bus (USD-259) parking and staging area and its offices are located on the west and northwest side of Seneca Street, as are the World of Life Ministries owned GC zoned football field and baseball field and their seating. A former owner of a now vacant vocational school, also constructed a SF-5 zoned training track used for truck drivers that is also located on the west side of Seneca Street. Further northwest are a LI Limited Industrial (LI) zoned warehouse-office combination, a LI zoned a vacant single-family residence,

undeveloped LC Limited Commercial (LC) and SF-5 zoned land.

The applicants' undeveloped SF-5 zoned land and four SF-5 zoned single-family residences (built 1994-2001) are located on the east side of Seneca Street. All of these SF-5 zoned properties are located around built a sand pit. One of the SF-5 zoned single-family residences has a 0.25-acre portion of their 5.63-acre property zoned GC; approved in 1998 for indoor car repair. These four single-family residential properties have called to protest the request. The Big Ditch marks the north and east boundary of the site and the four single-family residences. I-235 and K-96 highways mark the south side of the area.

Seneca Street dead-ends on its north side against the SF-5 zoned Westar Ripley power plant site, which appears to be the oldest development in the area. The Ripley site has not been used as a power plant for decades, but still has power plant infrastructure. It is now used as a Westar training facility. The Ripley site also has a 300-foot tall tower for a wireless communication tower/facility. Beyond the Ripley site are SF-5 zoned non-conforming oil/gas storage tanks.

A MF-18 Multi-Family Residential zoned church is located south of the site, across the bridge the crosses over K-96/I-235. This church is the newest development (built 2015) in the area. Mostly SF-5 and a few MF-29 Multi-Family Residential and TF-3 Two-Family Residential zoned urban density residential developments are located south of the highways and 37th Street North.

CASE HISTORY: The property has been cited by Code Enforcement for having multiple RVs on the SF-5 zoned site. A RV campground is not permitted in the SF-5 zoning district. RVs are still located on the site. Staff has received verbal and e-mail protests to the requested PUD.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5, GC

Undeveloped land, four single-family residences, small engine repair, Westar training facility, oil/gas storage tanks
Multi-lane raised highway right-of-way, church, residential uses

SOUTH: K-96/I-235, SF-5, MF-18, MF-29, TF-3

Major flood control channel, Public Park
Bus parking and staging area, vehicle training track, warehouse, football and baseball playing fields, undeveloped land

EAST: Big Ditch, SF-5

WEST: GC, SF-5, LI, LC

PUBLIC SERVICES: The site's only access is Seneca Street, which is classified as a local street at this location. Seneca is a paved two-lane street with a 70-foot right of way at this location, which ends at the old Westar Ripley Power plant site, which is currently being used as a training facility. Seneca intersects with 37th Street North, a minor arterial, approximately ¼ mile south of the site, after it crosses over the I-235 and K-96 highways. Seneca also intersects the dirt road 40th Street North, which provides no access to other streets/roads, dead ending to the west of Seneca Street. There is no public water or sewer available to the site. All other utilities are available.

CONFORMANCE TO PLANS/POLICIES: The “Community Investment Plan’s 2035 Wichita Future Growth Map”, identifies the application area as “Parks and Open Space.” This category includes major parks, golf courses, public open space, private development reserves and recreational facilities/corridors, including floodplain, natural drainage channels, easements, abandoned railway corridors, etc. All of the sand pit and parts of its shore line are shown in the FEMA proposed 100-year flood plain. Parks and open space could be developed with the site’s current SF-5 zoning, as could a single-family residence. The site’s current use as possibly a non-conforming private RV park and its proposed uses as an event center that permits the consumption of alcohol and music, outdoor activities (including the serving of alcohol and food and outdoor music), a farmer’s market, office, retail and restaurant are not permitted in the SF-5 zoning district. The proposed multiple uses would require LC zoning and multiple Conditional Uses, thus the request for PUD zoning.

The PUD zoning District is a special purpose zoning district that is intended to encourage innovative land planning and design and avoid the monotony sometimes associated with large developments by:

- (1) Reducing or eliminating the inflexibility that sometimes results from strict application of zoning standards that were designed primarily for individual lots. *As previously stated, the proposed multiple uses would require LC zoning and multiple Conditional Uses*
- (2) Allowing greater freedom in selecting the means to provide access, light, open space and design amenities. *The proposed PUD does not provide direction on access, except that the existing drive shall continue to be used until platting determines what is appropriate. A building permit is contingent on platting, so the proposed private RV parking and the farmer’s market could possibly operate upon final action on the PUD. The applicant’s request for 30-foot tall lights is contingent on the applicant’s north, abutting SF-5 undeveloped land remaining under the current ownership or it becoming designated open space upon platting, thus avoiding the compatibility height standards of a maximum 15-foot tall lights (including the base) when located within 200 feet of residential zoning districts. The PUD does not provide design amenities.*
- (3) Promoting quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations and land uses. *The site appears to be used as a non-compliant private RV park, with a porta-potty providing on-site sewage. There is no mention of upgrading to a septic system. The sand pit is the special site characteristic, however ownership of the sand pit is parceled out to the five abutting SF-5 zoned property owners. Four of the property owners have built their homes by the sand pit, while the applicants have not. The proposed PUD does not mention any activities using the sand pit, except for the applicant using the boat dock for their personal use and not being open to the public.*
- (4) Allowing deviations from certain zoning standards that would otherwise apply if not contrary to the general spirit and intent of this Code. *The proposed PUD would allow commercial uses that would allow up to 250 people, which is probably not that different than how many people that use and watch the games on the area’s GC zoned football and baseball fields. The difference is these 250 people would now be allowed on the east side of Seneca Street, which is developed as single-family residences, with the exception of the applicants’ possible non-*

compliant RV campground. Some of the PUD's uses such as retail, office or restaurant are not seasonal in their operation, which is unlike the playing fields. The proposed PUD would also introduce the consumption of alcohol into the area. The bus parking and staging area is almost a year round operation and as such somewhat resembles the proposed PUD, but is located on the west side of Seneca Street with the area's other nonresidential zoning and uses.

The area's LI, GC and LC zoned properties and their corresponding non-residential developments as well as the area's non-conforming industrial uses on SF-5 zoned land all have access only through the local road, Seneca Street, which they share with four (4) SF-5 zoned single-family residences (1994-2001) and the applicants' SF-5 zoned undeveloped/non-conforming RV park. By locational criteria, none of the non-residential uses and non-residential zoning should be located along this portion of Seneca.

RECOMMENDATION: This is an area of incompatible uses in close proximity to each other. Seneca Street separates the residential uses from the non-residential uses, with two exceptions. The SF-5 zoned applicants' property and four SF-5 single-family residences (built 1994-2001) are located on the east side of Seneca Street. One of the exceptions is that one of the SF-5 zoned single-family residences has a 0.25 portion of their 5.63-acre property zoned GC; approved 1998 for indoor car repair and sales. The non-residential zoning located on the west side of Seneca Street was established in 1972 with the approval of GC zoning for the football and baseball fields and their bleachers and concession building. The non-residential development includes GC, LI, and LC zoned football field and baseball field (with their bleachers), the bus parking and staging area, a small warehouse – office and undeveloped or vacant land. The other exception to this east-west division is the 52-acre non-compliant SF-5 zoned Westar Ripley power plant site and further north some SF-5 zoned oil/gas storage tanks. The Ripley site is no longer used as a power plant, but as a Westar training facility. Seneca Street dead-ends at the Ripley site, which abuts one of the SF-5 zoned single-family residences on the east side of Seneca Street and a LI zoned small office warehouse and LC and LI undeveloped or vacant land on the west side of Seneca Street.

The proposed 4.59-acre commercial PUD encroaches into the area's SF-5 zoned single-family residences. The commercial PUD would allow an a private RV park for three RVs, an event center/nightclub, retail use, office use, a restaurant or a farmers market all that would allow 250 people into the single-family residential side of Seneca Street. The applicants could have applied for SF-20 Single-Family Residential zoning with a Conditional Use for a private RV park to resolve their conflict with MABCD and their neighbors. Planning Staff recommends DENIAL.

This recommendation is based on the following findings:

- (1) The zoning, uses and character of the neighborhood: The area is a mix of SF-5, LI, GC and LC zoned lands. SF-5 zoned single-family residences and the applicants' non-conforming private RV park are located on the east side of Seneca Street. The LI, GC and LC non-residential development is located on the west side of Seneca Street and includes a football field and baseball field (with their bleachers), a bus parking and staging area, a small warehouse – office and undeveloped or vacant land. This is an area

of incompatible uses in close proximity to each other. It is also an area that has had a very contiguous zoning case in the 6-years, which allowed a school bus parking, staging area and its offices. The point of contention was the number of buses that would be using Seneca Street. The applicants' request significantly increases the traffic in the area.

- (2) The suitability of the subject property for the uses to which it has been restricted: The site's SF-5 zoning is not out of character with the areas other SF-5 zoned properties located on the east side of Seneca Street. The site could be developed as a single-family residence, like its SF-5 zoned neighbors located on the east side of Seneca Street.
- (3) Extent to which removal of the restrictions will detrimentally affect nearby property: Allowing a commercial PUD, with a private RV park for three RVs and an event center/nightclub, a restaurant, office, retail and farmer's park for up to 250 people is entirely out of character with the SF-5 zoned single-family residences located on the east side of Seneca Street. The proposed PUD would compromise the site's neighbor's ability to enjoy and invest in their property.
- (4) Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Community Investment Plan's 2035 Wichita Future Growth Map", identifies the application area as "Parks and Open Space." This category includes major parks, golf courses, public open space, private development reserves and recreational facilities/corridors, including floodplain, natural drainage channels, easements, abandoned railway corridors, etc. All of the sand pit and parts of its shore line are shown in the FEMA proposed 100-year flood plain. Parks and open space could be developed with the site's current SF-5 zoning, as could a single-family residential. The site's current use as possibly a non-conforming private RV park and its proposed uses as an event center that permits the consumption of alcohol and music, outdoor activities (including the serving of alcohol and food and outdoor music), a farmer's market, office, retail and restaurant are not permitted in the SF-5 zoning district. The proposed multiple uses would require LC zoning and multiple Conditional Uses, thus the request for PUD zoning.

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(5) Impact of the proposed development on community facilities: By locational criteria none of the non-residential uses and non-residential zoning should be located along this portion of Seneca Street, which is a two lane dead-end local street. Seneca Street was not designed or built to convey the additional traffic generated by the proposed commercial PUD when combined with the school bus traffic. There is no public water or sewer available to the site or the area, making the request for a commercial PUD with a cap of 250 people too ambitious for the site, which currently handles on-site sewage with a porta-potty.

However, if the MAPC finds that this is an appropriate use staff recommends the approval of the proposed PUD as presented, with the exception that office, retail, and restaurant not be permitted, all development will be per City Standards and that the PUD not be in effect until on-site sewage is reviewed and approved by Public Works.

1. Total Land Area: 199,909.16 sq.ft. ±
or 4.59 acres
Total Gross Floor Area: 40,000 sq.ft.
Total Floor Area Ratio: 20 percent
2. Parking shall be per the Wichita-Sedgwick County Unified Zoning Code at the time the site is developed for any use except private recreational vehicle campground or farmer's market.
3. Setbacks are as indicated on the P.U.D. drawing.
4. A Drainage Plan shall be submitted to City Engineering for approval at the time the subject property is platted. Required guarantees for drainage shall be provided at the time of platting improvements.
5. Signs shall be in accordance with the City of Wichita Sign Code for the "LC" Limited Commercial district. One off-site sign may be permitted.
6. Parcel 1 shall be limited to the following uses permitted by the "LC" Limited Commercial district: private recreational vehicle campground, event center (as restricted in the PUD), farmer's market, office, restaurant, and retail. All Sexually-Oriented Businesses, and nightclubs open to the public, as currently defined by the Wichita-Sedgwick County Unified Zoning Code, are hereby prohibited.

The use of the subject property as a recreational vehicle campground shall be limited as follows:

- A. The facility shall only permit the location of recreational vehicles for the personal use of owner(s) of the subject property, and shall not be open to the public.
- B. The maximum number of recreational vehicles shall be limited to three.
- C. The existing boat docks are for the personal use of owner(s) of the subject property, and shall not be open to the public.

The use of the subject property as event center shall be limited as follows:

- A. The use of the Event Center shall be limited to 250 persons, and shall be limited exclusively to a venue for rent with the purpose of hosting a variety of gatherings where food, beverages (including alcohol), music or dancing may be offered, such as life cycle events (i.e. birthdays, anniversaries, weddings, reunions); corporate or professional functions (i.e. seminars, meetings, lectures, retreats); other special events including charitable events, fundraisers, and art shows; holiday festivities; or photographic shoots; and other similar events.
- B. All Sexually Oriented Businesses, as currently defined by the Wichita-Sedgwick County Unified Zoning Code, are hereby prohibited.
- C. Facilities may be rented out for the above-described activities that are not repeated on a weekly basis and that are not open to the public on a daily basis at times other than when an event is scheduled.

- D. The Event Center shall obtain, and at all times maintain, a liquor license(s) as are required from the appropriate local and/or State authorities. Outside vendors/caterers shall obtain and maintain at all times while participating in events at the Event Center, a liquor license as required from the appropriate local and/or State authorities. No business that is classified as a Drinking Establishment, Tavern, Class A Club or Class B Club, under current Wichita, Kansas ordinances or codes, shall be allowed.
 - E. The Event Center may be open and operated only from 8:00 a.m. to 1:00 a.m., local time, on Friday and Saturday, and from 8:00 a.m. to Midnight, local time, Sunday through Thursday. Event Center set-up and clean-up shall be allowed only between the hours of 8:00 a.m. to 1:30 a.m., local time, on Friday and Saturday, and only from 8:00 a.m. to 12:30 a.m., local time, Sunday through Thursday.
 - F. Tents may be erected within the area indicated as "Outdoor Activity Area", and subject to compliance with all applicable building and fire code requirements. All tents shall be disassembled and stored indoors within 24 hours of an event.
 - G. Security may be permitted through contracted security services.
 - H. Live music, or music provided by a DJ, is an option for events and shall be located within a building. Music to accompany wedding ceremonies, or other outdoor events, shall be at a low-volume so as not to create a nuisance, and be located within the "Outdoor Activity Area". All outdoor music shall be subject to the Unified Zoning Code's compatibility noise standards.
 - I. The "Outdoor Activity Area" shall be limited to the hours of 10:00 a.m. to 10:00 p.m., local time. Outdoor preparation and service of food, beverages (including alcohol) may be permitted. All applicable license(s) shall be obtained as are required from the appropriate local and/or state authorities.
 - J. Outdoor speakers used in conjunction with outdoor events shall be limited to the hours of 10:00 a.m. to 8:00 p.m. All speakers shall be oriented toward the center of the site as to minimize noise trespass onto neighboring properties to the east and north.
7. Uses are those permitted by the approved P.U.D., and are subject to the development standards contained in the approved P.U.D.
8. Access shall be as indicated on the Plan, and/or as approved during the platting process. The existing drive may continue to be used to access the site in its existing condition until the site is used for any other permitted use except private recreational vehicle campground or farmer's market.
9. Landscaping requirements shall be per the Wichita-Sedgwick County Unified Zoning Code at the time the site is developed for any use except recreational vehicle campground, with the following modifications:
- A. Landscape screening or buffers along the north, east, or south property lines shall not be required. Screening along the west property line may use the existing landscaping to fulfil this requirement.

- B. Screening walls or fences around the perimeter of the P.U.D. shall not be required.
 - C. The property surrounding the P.U.D. is owned by the applicant, and is intended to provide a buffer between the uses allowed by the P.U.D. and neighboring properties. The waiver of standard screening and landscaping requirements are contingent upon this area remaining as open space. The applicant may define this area as a reserve when platted, and/or as a conservation easement, in order to preserve this open space.
10. Trash receptacles shall be appropriately screened to reasonably hide them from ground view. Screening shall be constructed of materials and/or landscaping compatible with the building exterior.
 11. All outdoor lighting shall employ cut-off luminaries to minimize light trespass and glare, and will be aimed or shielded away from neighboring properties. Lighting sources shall be limited to thirty (30) feet in height, including poles and base. No pole lighting shall be located within building setbacks.
 12. Development within Parcel 1 for any use, except for private recreational vehicle campground or farmer's market, shall be contingent upon the platting of the site. At the time of platting the application shall provide guarantees for the extension of municipal services.
 13. All applicable permits, licenses, inspections or change in use shall be obtained prior to occupancy.
 14. Amendments, adjustments or interpretations to this P.U.D. shall be done in accordance with the Unified Zoning Code.
 15. The Transfer of title of all or any portion of land included within the Planned Unit Development (or any amendments thereto) does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land and be binding upon present owners, their successors and assigns.
 16. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator or the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
 17. The design layout shown on the plan illustrates one development concept. Modifications to the size and/or location of improvements, building layout, and/or access locations may be permitted, provided they meet all requirements of this plan. If such modifications are determined by the Planning Director, with the concurrence of the Zoning Administrator, to be significant, the owner shall be required to file for an administrative adjustment to the P.U.D. If the change is considered greater than what can be approved administratively, the owner shall be required to file an amendment to the P.U.D., which shall be submitted to the Planning Commission for their consideration.

