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

Thursday, October 15, 2015

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission will be held on **Thursday, October 15, 2015**, beginning at **1:30 PM** in the Planning Department Conference Room City Hall - 10<sup>th</sup> Floor, 455 N. Main Street, Wichita, Kansas. **If you have any questions regarding the meeting or items on this agenda, please call the Wichita-Sedgwick County Metropolitan Area Planning Department at 316.268.4421.**

1. Approval of the prior MAPCS meeting minutes:

*Meeting Date:* September 17, 2015 and October 1, 2015

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

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

**SUBDIVISION CASE DETAILSSUBDIVISION CASE DETAILS**

- 2-1. **SUB2009-00075: Revised One-Step Final Plat – DOWNWIND ESTATES 2nd ADDITION**, located South side of 71st St. South and on the west side of 143rd St. East.

*Committee Action:* APPROVED 5-0  
*Surveyor:* Abbott Land Survey, P.A.  
*Acreage:* 32  
*Total Lots:* 20

- 2-2. **SUB2015-00027: Final Plat – PEARL BEACH ADDITION**, located on the southeast corner of 29th Street North and Hoover Road.

*Committee Action:* APPROVED 5-0  
*Surveyor:* Baughman Company, P.A.  
*Acreage:* 64.11  
*Total Lots:* 66

- 2-3. **SUB2015-00031: One-Step Final Plat – FOREST HILLS OFFICE PARK 5TH ADDITION**, located on the southwest corner of Central and Webb Road.

*Committee Action:* APPROVED 4-0  
*Surveyor:* MKEC Engineering, Inc.  
*Acreage:* 4.99  
*Total Lots:* 6

- 2-4. **SUB2015-00033: One-Step Final Plat – OATVILLE ELEMENTARY ADDITION**, located on the west side of Hoover, South of MacArthur Road.

*Committee Action:* APPROVED 4-0  
*Surveyor:* MKEC Engineering, Inc.  
*Acreage:* 10  
*Total Lots:* 1

- 2-5. **SUB2015-00034: One-Step Final Plat – RIB CRIB WICHITA ADDITION**, located East of Eisenhower Airport Parkway, on the South side of Taft.

**Committee Action:** APPROVED 4-0  
**Surveyor:** Mark Deal & Associates, P.C.  
**Acreage:** 1.15  
**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 – 10<sup>th</sup> Floor, City Hall, 455 N. Main Street, Wichita, Kansas*

- 3-1. **VAC2015-00041: City request to vacate a portion of a platted front setback**, on property generally located midway between Tyler and Ridge Roads, south of Central Avenue, south of Jennie Street on the east side of Woodchuck Lane.

**Committee Action:** APPROVED 5-0

- 3-2. **VAC2015-00042: County request to vacate a sanitary sewer and water line easement created by vacation of public street right-of-way**, on property generally located east of Oliver Avenue and southeast of Pawnee Avenue and I-35.

**Committee Action:** APPROVED 5-0

- 3-3. **VAC2015-00043: City request to vacate a platted joint drive easement**, generally located midway between Oliver and Hillside Avenues, north of Harry and Wilma Streets on the east side of Bluffview Drive.

**Committee Action:** CASE WITHDRAWN

- 3-4. **VAC2015-00045: City request to vacate a utility easement dedicated by separate instrument**, on property generally located north of Kellogg Street, west of I-35, at the southwest corner of Lewis and Ellison Streets.

**Committee Action:** APPROVED 5-0

**PUBLIC HEARINGS PUBLIC HEARINGS**

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

4. Case No.: ZON2015-00040  
Request: City zone change request from LI Limited Industrial to CBD Central Business District.  
General Location: West of Seneca Street, on the northeast corner of Elizabeth and Douglas Avenues (1420 and 1440 W. Douglas Ave.).  
Presenting Planner: Dale Miller

- 5. Case No.: ZON2015-00041  
Request: City zone change request from LI Limited Industrial to CBD Central Business District.  
General Location: West of Seneca Street, west of Elizabeth Avenue on the north side of Douglas Avenue (1520 W. Douglas Ave.).  
Presenting Planner: Dale Miller
- 6. Case No.: ZON2015-00042  
Request: City zone change request from TF-3 Two-family Residential, MF-29 Multi-family Residential and B Multi-family Residential to LC Limited Commercial.  
General Location: On the southeast of the intersection of East Harry Street and South Oliver Avenue.  
Presenting Planner: Derrick Slocum
- 7. Case No.: ZON2015-00044  
Request: City zone change request from GO General Office to LC Limited Commercial.  
General Location: South of East Harry Street, on the west side of South Webb Road.  
Presenting Planner: Bill Longnecker

**NON-PUBLIC HEARING ITEMSNON-PUBLIC HEARING ITEMS**

**8. Other Matters/Adjournment**

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

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

**MINUTES**

**September 17, 2015**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, September 17, 2015 at 1:30 p.m., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Matt Goolsby; Chair; Carol Neugent, Vice Chair; John Dailey; David Dennis; David Foster; Joe Johnson (In @ 1:35 p.m.); Debra Miller Stevens; M.S. Mitchell; Bill Ramsey; Lowell E. Richardson; John Todd and Chuck Warren. Bill Ellison was absent. Staff members present were: W. David Barber, Interim Director; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Jeff Vanzandt, Assistant City Attorney; and Robert Parnacott, Assistant County Counselor.

1. Approval of the July 23, 2015 Planning Commission Meeting minutes.

**MOTION:** To approve the July 23, 2015 Planning Commission minutes.

**WARREN** moved, **RAMSEY** seconded the motion, and it carried (9-0-4). **DENNIS, DOOL, JOHNSON** and **TODD** – Abstained.

**DAILEY** commented on a remark made in the minutes regarding the Zoning Areas of Influence (ZAOI) and said if the County has jurisdiction then the cities don't per K.S.A. 12-754. So the County didn't actually take anything away, State Law took the jurisdiction away from the Cities.

**NEUGENT** clarified that prior to county-wide zoning in 1985 several small cities had territorial jurisdiction; however, due to the adoption of county-wide zoning and action by the County Commission, that jurisdiction was taken away from the cities.

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**Election of Chair and Vice Chair.**

**MOTION:** To nominate Carol Neugent as Chair.

**GOOLSBY** moved, **WARREN** seconded the nomination, and it was unanimously approved (13-0).

**NEUGENT** in the chair.

**MOTION:** To nominate David Dennis as Vice Chair.

**RAMSEY** moved, **GOOLSBY** seconded the nomination, and it was unanimously approved (13-0).

**VICE CHAIR DENNIS** and **CHAIR NEUGENT** thanked Commissioner Goolsby for his service as Chair.

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## **2. CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

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

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

### **STAFF COMMENTS:**

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

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

**DENNIS** referenced the zoning hearing on this item and asked if the people interested in the replatting in terms of the location of gates, thru drives, etc. were notified of this hearing.

**MILLER** indicated those people were sent notice.

There were no public comments.

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

**GOOLSBY** moved, **RICHARDSON** seconded the motion, and it carried (13-0).

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

NOTE: This is a replat of a portion of Gilder's Gardens Addition.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department requests the applicant extend water (distribution) to serve all lots, extend sewer (lateral) to Lots 5-8 and remove the existing water meter by City of Wichita.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. The plattor's text should accurately reference the drainage and pedestrian easement.
- D. The standard language regarding vacation statutes need to reference "K.S.A. 12-512b, as amended".
- E. City Stormwater Management has approved the drainage plan. A portion of the project site is within the effective floodplain per FEMA Panel No. 20173C0379E. The Base Flood Elevation (BFE) is approximately 1343.50. Minimum building pads shall be at elevation 1345.50. The project will be removed from the FEMA floodplain when new maps become effective in late 2016.
- F. County Surveying advises the legal description needs corrected from "Gilder's Gardens Addition" to "Gilder's Gardens", Sedgwick County, Kansas.
- G. County Surveying advises on the title block "Gilder's Gardens Addition" needs changed to "Gilder's Gardens".
- H. County Surveying advises the 30-foot utility easement along the east line of Lots 4 and 5, Block A needs located east-west.
- I. County Surveying advises the label "PC Lot 5, Gilder's Gardens" is not the PC of said Lot 5.
- J. County Surveying would like to be contacted regarding plat boundary, bearings and distances.
- K. County Surveying advises monuments will need to be set on Jackson Heights Court right-of-way.
- L. The Owner's certificate should reference "Lots, Block, Street and Reserve".

- M. The Applicant shall guarantee the paving of the proposed street, which includes the sidewalk.
- N. Provisions shall be made for ownership and maintenance of the proposed reserves. A restrictive covenant shall be submitted regarding ownership and maintenance responsibilities.
- O. 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.
- P. GIS has approved the plat's street names.
- Q. The dedicated right-of-way which coincides with the west property lines of Lots 1 and 8 should be denoted with a bold line. A bold line is not needed for the current right-of-way. A bold line is also needed for the Jackson Heights Cir right-of-way and the solid vertical line adjoining "58.00" deleted.
- R. "Wichita, Sedgwick County, Kansas" should be referenced in the plat title.
- S. The Applicant has platted a 20-foot building setback along Jackson Heights Ct which represents an adjustment of the Zoning Code standard of 25 feet for the Single-Family District (SF-5). The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission.
- T. 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.
- U. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted and inspected.
- V. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to [tricia.robello@sedgwick.gov](mailto:tricia.robello@sedgwick.gov) and [nstrahl@wichita.gov](mailto:nstrahl@wichita.gov).
- W. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- X. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- Y. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.

- Z. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- AA. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- BB. Perimeter closure computations shall be submitted with the final plat tracing.
- CC. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- DD. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: [kwilson@wichita.gov](mailto:kwilson@wichita.gov)).

There were no public comments.

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

**RICHARDSON** moved, **GOOLSBY** seconded the motion, and it carried (13-0).

### **3. PUBLIC HEARING – VACATION ITEMS**

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

**APPLICANT/AGENT:** Center for Health & Wellness Inc., c/o Teresa Lovelady (owner) Savoy Company, P.A, c/o Mark Savoy (agent)

**LEGAL DESCRIPTION:** Generally described as the platted 5-foot interior side yard setback located on the west 5 feet of Lot 1, Block 1, Center for Health & Wellness Addition, Wichita, Sedgwick County, Kansas

**LOCATION:** Generally located east of Grove Avenue on the southwest corner of 21st Street North and Erie Avenue (WCC #I)

**REASON FOR REQUEST:** Expansion of facility

**CURRENT ZONING:**

Subject property is zoned GO General Office. Abutting west property is zoned LC Limited Commercial. Abutting south properties are zoned TF-3 Two-Family Residential and NR Neighborhood Retail. Adjacent east properties are zoned TF-3. Adjacent north properties are zoned LC, GO, NR and SF-5 Single-Family Residential.

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

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

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

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

- (1) Vacate the platted 5-foot interior side yard setback located on the west 5 feet of Lot 1, Block 1, Center for Health & Wellness Addition. The new interior side yard setback will be zero.

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

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

The Subdivision Committee recommends approval subject to the following conditions:

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

There were no public comments.

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

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

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

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

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

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

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

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

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

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

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

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

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

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

- (1) Dedicate the north 20 feet of Morris Street as a utility-access easement by separate instrument (with original signatures) prior to the case going to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (2) Dedicate an easement for Westar equipment as a utility easement by separate instrument (with original signatures) prior to the case going to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (3) Provide restrictive covenants (with original signatures) binding and tying the vacated described Morris Street right-of-way to the abutting properties. These will go with the Vacation Order to City Council for final action and subsequent recording with the Register of Deeds and the Appraiser's Office.
- (4) Provide a legal description of the vacated street right-of-way, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action and subsequent recording with the Register of Deeds.
- (5) VAC2015-34 will not proceed to City Council for final action until VAC2015-00022 has been to City Council for final action and subsequent recording with the Sedgwick County Register of Deeds.
- (6) All improvements shall be according to City Standards and at the applicant's expense. If needed, provide required guarantees or approved projects to ensure relocation and/or relocation of utilities, including, but not limited to, sewer lines and manholes, stormwater equipment, all and franchise utilities. All provided prior to the vacation case going to City Council for final action.
- (7) Any relocation or reconstruction of utilities, including Westar equipment, made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.

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

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

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Dedicate the north 20 feet of Morris Street as a utility-access easement by separate instrument (with original signatures) prior to the case going to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (2) Dedicate an easement for Westar equipment as a utility easement by separate instrument (with original signatures) prior to the case going to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (3) Provide restrictive covenants (with original signatures) binding and tying the vacated described Morris Street right-of-way to the abutting properties. These will go with the Vacation Order to City Council for final action and subsequent recording with the Register of Deeds and the Appraiser's Office.
- (4) Provide a legal description of the vacated street right-of-way, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action and subsequent recording with the Register of Deeds.
- (5) VAC2015-34 will not proceed to City Council for final action until VAC2015-00022 has been to City Council for final action and subsequent recording with the Sedgwick County Register of Deeds.
- (6) All improvements shall be according to City Standards and at the applicant's expense. If needed, provide required guarantees or approved projects to ensure relocation and/or relocation of utilities, including, but not limited to, sewer lines and manholes, stormwater equipment, all and franchise utilities. All provided prior to the vacation case going to City Council for final action.
- (7) Any relocation or reconstruction of utilities, including Westar equipment, made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (8) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

There were no public comments.

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

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

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**PUBLIC HEARINGS**

4. **Case No.: CON2015-00015 (Referred back from City Council)** - Armando Michel (applicant/owner) and Ted Knopp (agent) request a City Conditional Use request for a nightclub on LI Limited Industrial zoned property described as:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**ADJACENT ZONING AND LAND USE:**

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

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

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

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

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

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

- A. The site for a nightclub shall be developed in conformance with an approved site plan. A site plan must be approved within 90 days of approval by the appropriate governing body for review or the conditional use shall be declared null and void. The site plan shall include, but not limited to, the occupancy of the nightclub (and the size), as posted by the Fire Marshall (see condition E), landscaping, internal circulation and access as approved by the Fire Department, and showing how much parking is required and provided for the night club and the applicant's other buildings and businesses.
- B. No outdoor entertainment, music, no outdoor speakers, recreation, food or drink services are permitted on the site.
- C. Activities for the nightclub shall not be permitted until all required permits and inspections for the facility are finished including the paving and marking of the parking lot. Plans for the paving of the parking lot will include a drainage plan reviewed and approved by the Department of Public Works-Stormwater. All improvements for the night club shall be completed within one year of approval by the appropriate governing body or the conditional use shall be declared null and void.
- D. The applicants shall comply with all applicable development standards of the Unified Zoning Code, including but not limited to parking, screening, and landscaping.
- E. Occupancy for the nightclub hall shall not exceed the required parking for the nightclub and the applicant's other buildings and businesses.
- F. *The nightclub shall close at 11:00 P.M., Sunday-Thursday. The nightclub shall stop selling and serving cereal malt beverage and alcoholic liquor at 12:00 A.M. and close at 12:30 A.M., Friday and Saturday.*
- G. *The nightclub's door located nearest to residential development shall be marked and used as an emergency exit and shall remained closed, except for emergencies, at all times with the intent being to minimize the intrusion of noise, including music, on those residences located closest to the night club.*
- H. The applicant shall obtain, maintain, and comply with all applicable permits and licenses necessary for the operation of a nightclub in the City.
- I. If the Zoning Administrator finds that there is a violation of any of the conditions of the conditional use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

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

2. The suitability of the subject property for the uses to which it has been restricted: The site is currently vacant and zoned LI which can accommodate office, retail, commercial and industrial land uses. Because the proposed night club is located within 300 feet of a church and B zoned single-family residences consideration of a Conditional Use is required.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Currently the sale of alcoholic beverages is prohibited on this site. Approval of this request would allow for unlimited liquor sales, which could have detrimental impacts on the surrounding residences, considering their proximity to the proposed nightclub and associated parking.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide Map of the Comprehensive Plan” identifies the portion of the site where the building is located as appropriate for “local commercial” development and most of the parking area as appropriate for “employment/industrial” development. Local commercial development does not have a significant regional draw that generates a high volume traffic. The range of uses include medical or insurance offices, auto repair and service stations, grocery stores, restaurants and personal service facilities.

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

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

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

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

**BILL LONGNECKER**, Planning Staff presented the Staff Report. He commented that the site plan and information provided as a handout was received after the Staff Report was written and the agenda mailed. He said after a quick analysis the only difference Staff could find with the original proposal is that activities would shut down one hour earlier on Sundays, hours of operation throughout the week and that no alcohol be served on Sundays. He said those are the changes the applicant has proposed. He commented that staff has continued to receive complaints on the site and they have referred them to MABCD. In addition, he understands that WPD Vice is also involved.

**MILLER STEVENS** asked for clarification on the site plan. She said the site plan that was included with the packet that was previously reviewed by the Planning Commission had hash marks on the nightclub area. She said on the new site plan provided as a handout, all the areas are hashed. She asked if the entire structure is now included as the event center.

**LONGNECKER** commented that the first page of the handout is the seating arrangement.

**RICHARDSON** clarified that according to the code information on the site plan, the actual area is 9,000 square feet and it appears that the cross-hatched nightclub area is approximately 6,270 square feet.

**LONGNECKER** suggested that the applicant nail down how large the event center was going to be.

**RICHARDSON** asked how long the site has been zoned industrial and the history of what has been tried in the area. He asked if you could build a single family residence in industrial zoning today. He said there appears to be a conflict in what the City wants this area to become.

**LONGNECKER** said he hasn't looked at the history of the area but commented that the steel fabrication plant has been there a while. He said in this part of town it is not unusual to see single-family residences that have industrial zoning on them. He said no residential (single-family, duplexes or multi-family) is allowed in industrial zoning today. He referred to the Land Use Map and said this was an area in transition.

**DAILEY** asked if the applicant offered up the provision of no alcohol on Sunday or did the City require that provision.

**LONGNECKER** said the applicant offered that.

**TODD** asked staff where the school and church are located in the neighborhood.

**LONGNECKER** said Washington Elementary School is located near Hydraulic. He said there was a church on Cleveland, however, that was outside the 300 foot area. He said what triggers conditional use in this case is the B Multi-family zoning.

**TED KNOPP, 310 WEST CENTRAL, AGENT FOR THE APPLICANTS** Armando Michel and Jorge Rojas. He said one of the items that kept coming up in discussions was that the proposed land use change is permanent and that once this zoning is changed, the next use can be a nightclub. He commented that the proposed business plan removes all practical utility of this conditional use permit

for a nightclub. He said the applicant has said they will be open Friday and Saturday for events. He said during the week they won't be open after 5:00 p.m. except on limited occasions and mentioned four (4) nights during the week. He also mentioned the week long cultural event. He said they are limiting the proposed use to what would be an event center with events on Friday and Saturday nights. He said Sundays it is clear the applicant's intention is to make this a gathering place for families (open until 10:00 p.m.) such as the applicants experienced in communities in Mexico and San Antonio with large Hispanic populations. He said this business plan design will eliminate the value of the site as a nightclub for the next owner. He said from 11:00 a.m. – 4:00 p.m. the applicant will operate the site as a Mexican restaurant. He said at 5:00 p.m. the location will turn into an event center/nightclub one night a week or if it is rented, it can be open all week for cultural events and other celebrations. He concluded by referencing the letters of support for the event center and said they only received protests when it was described as a nightclub. He said as long as there is music, dancing and alcohol, the City describes this as a nightclub. He said even though they are applying for a nightclub permit, they are trying to make it clear that this is an event center and community gathering spot and the permit will never be able to be used for a traditional nightclub. He mentioned that since the strip center is a day time use and the event center is a night time use, they propose to share the parking.

**ARMANDO MICHEL, 6014 WEST 34<sup>TH</sup> STREET, WICHITA, KANSAS, APPLICANT** said they are proposing an event center for families and for people to make reservations in advance. He said no alcohol will be served on Sundays. He said they plan to have a disc jockey and this will be for families and kids. He said this is not a typical nightclub.

**RICHARDSON** requested clarification on how much of the building will be used for the nightclub. He asked how many total square feet. He asked isn't the legal description for the entire area included in the application.

**KNOPP** said the event center will be approximately 6,270 square feet, with an occupant load of 330 people. He said the address at 1320 is the only portion that is included in the application; the rest of the buildings will retain the existing commercial zoning. He referred to the aerial of the property.

**MILLER** explained that the site plan is the determining factor and only the areas shown on the site plan as being the event center or nightclub will be permitted. He said they will have the applicant revise the map.

**OMPAL CHAUHAN, 31 LAUREL** said he owns residential property directly across from the site. He said one thing that is important in this country is you work hard and play by the rules. He said you don't try to con people into believing something you are not. He commented that they serve both food and alcohol at the location now, but when he checked, the applicant doesn't have a license for either. He said he was told people bring their own food and alcohol but he doesn't know if that is right. He said the neighbors don't know what the plan is because the applicant keeps shifting it like sand. He said in order for the Commission to approve the request they must have a concrete plan so everyone can discuss it and see the benefits for the community. He asked what the capacity of the club was and based on that they can determine how many parking spaces are needed. He said if this is approved without a clear capacity he is afraid that the applicant's patrons will park on the street and block his tenants. He said the neighborhood desperately wants some type of family business in that space but they are not so desperate that they want a liquor store or a place that serves alcohol.

**CHAUHAN** said historically, if you look at the statistics, any place that serves alcohol there are shootings, prostitution and other violations that he doesn't want next to his tenants. He said if his tenants move out, he will be left with a lot of vacancies. He said the applicant almost convinced him it was a good idea, but after looking at the facts there is no truth in it. He asked why the applicant didn't open the nightclub in his own neighborhood. He said people who are low income also entitled to a good night's sleep and a safe place to raise a family. He said the applicant claims to have parking, but right now they are open on Friday and Saturday and half of the cars park on the street. He said when the neighbors asked if they can come see the club they were told, no it is a private club. He said the only benefit the neighborhood is getting from this is traffic and drunks running around the neighborhood and keeping people awake all night. He said if people want progress they have to play by rules and see other people's interest before your own. He said the neighborhood doesn't wish the applicant any ill will and wants him to run a business. He said; however, he wants to be able to run his business at the same time. He said the people who live in that neighborhood don't have a choice to move away so they will have to put up with this. He recommended that the Commission deny this request.

**GOOLSBY** commented that as far as the applicant serving alcohol at the site he knows that they had a licensed bartending service, like a caterer who has a liquor license, there this past Saturday night.

**RICHARDSON** asked for the addresses of the properties Mr. Chauhan owns.

**CHAUHAN** referenced several properties along Cleveland, New York and Mathewson.

**TODD** asked if the home along Cleveland with the code violation was one of Mr. Chauhan's houses.

**CHAUHAN** replied no.

**TODD** asked about bringing in a caterer to serve alcohol if the property is improperly zoned.

**VANZANDT** said he believes there is a provision for caterers to obtain liquor licenses to serve alcohol. He said he doesn't know if there is a provision that says you can't do that in certain zoning areas. He mentioned private parties at homes versus going to a certain location for a one time private party and said he doesn't have a specific answer.

**DAILEY** asked for clarification that even if the applicant agreed not to serve alcohol on Sunday, then a caterer could bring alcohol in to serve a private party.

**MILLER** said a ruling has been made, prior to when he was the Zoning Administrator that anytime you have alcohol, live entertainment and dancing that makes it a nightclub no matter who is supplying the alcohol.

**ARMANDO \_\_\_\_\_**, 215 SOUTH GREEN STREET said he represents the Seed House Casa Mia which is a local non-profit organization that he co-founded as well as the local art collective, Wichita Army of Artists. He said the applicant has let the organizations use the site for events. He said he understands that the space is for use by the community for family events and that this is not a

nightclub even though regulations label it as such. He said the space is vital to the work of the Seed House and Army of Artists which is to engage unrepresented populations throughout the City particularly Latino immigrants and African Americans who have historically lived in the northeast neighborhood where this site is located. He said in their three (3) years of existence they have created 15 murals in the north end of the City. He said they will host the 2<sup>nd</sup> Annual Urban Arts Festival in October at Nomar Plaza which is a free event for all ages featuring local artists and vendors.

**ARMANDO** \_\_\_\_\_ commented that they are not able to do their work with youth in a lot of spaces because alcohol is served and that means you have to be 21 years old to enter. He said the space the applicant is requesting is ideal because they will be able to host all age events that include music and visual arts. He said the cultural community needs this space to continue to foster cultural events for community youth and all ages. He said they also plan to open the print shop to work and engage the community. He mentioned a garage sale they hosted at the location recently where they got to meet many of the neighbors who were thrilled to know that this corner could be a cultural center to continue to develop the neighborhood. He said the people they engage are not able to go to City Arts or the Wichita Center for the Arts. He concluded by encouraging everyone who lives in the neighborhood and on the Commission to go look at the inside of the space. He asked the Commission to give them the opportunity to continue to work with the community.

**DAILEY** clarified that the type of events they want to host, they don't want alcohol.

**ARMANDO** \_\_\_\_\_ said that is not what he is saying. He said they need a venue for all ages, particularly for musical festivals. He said right now the only options they have for music are bars which exclude youth 14-18 years of age which is a huge portion of people they work with.

**DENNIS** asked if this is rezoned to a nightclub, can people under 21 years old enter.

**MILLER** said he doesn't know the answer. He mentioned restaurants that sell more food than alcohol, but after a certain time they begin selling hard liquor so you have to be over 21 years of age to enter.

**VANZANDT** commented that anytime they are not serving food and serving alcohol at the site, then underage people would not be allowed into the establishment. He said no alcohol will be sold on Sunday's so all ages would be allowed into the venue at that time.

**DENNIS** clarified then Friday and Saturday after 4:00 p.m. no one under 21 can be at an event.

**VANZANDT** said locations being held out for special events would have to be zoned properly even if a caterer with a liquor license was dispensing alcohol at the location.

**PASTOR JOHN RADIG, 956 NORTH MATHEWSON** said he has lived in the neighborhood for the last 16 years. He said he does not believe the McAdams Neighborhood Revitalization Plan includes any type of nightclub in the neighborhood. He said the neighborhood association is also reaching out to neighborhood youth to give them life skills. He mentioned a motorcycle club located in the area that was also "skating around" the issues of alcohol sales, etc. He said this does not belong in the neighborhood. He mentioned driving by the location at 1:00 a.m. and said the parking lot was full and people were in what was the tee-shirt shop smoking a hookah.

**CURTIS BREWER, 1407 and 1413 EAST CENTRAL** said he was present to request that the Commission decline the liquor license. He said he has owned property in the area for 14 years and it has been his experience that nightclubs down there just do not work. He said very Monday morning he has to contend with broken liquor bottles, vomit and all kinds of trash. He said he likes the applicant and is okay with the family event center, but the bottom line is the applicant can't control where people park. He said the neighborhood has been through this before and mentioned a bar that was open across the street from this location. He mentioned property damage on his property because there is not enough parking in the area to sustain a nightclub. He said to enforce parking on his property he has to get up at 2:00 a.m. in the morning, document the Vehicle Identification Numbers and call the WPD. He said when the applicant approached him with a business plan to have an event center for children's birthday parties, etc. he signed on then the next thing he knows they need a liquor license. He said there is not much family stuff that goes along with the nightclub so that is when he removed his support. He requested that the Commission decline the liquor license part. He said as far as a birthday party venue is concerned, he doesn't have a problem with that. He said the challenge is no one can control what goes on in parking the lot.

**RAYMOND SHELLMAN, 624 NORTH CLEVELAND** said he wanted to speak to some of the general issues he sees living in the neighborhood. He said the local beat officer sent him some statistics on crime and bars, especially when there is more than one bar in an area. He mentioned a liquor retailer and several bars within a short distance of this location at Old Town. He said increased crime and violent crime depreciates property values. He mentioned that he owned two (2) homes in the area and has four (4) children. He said there is an on-going parking problem and mentioned that one of the event center's patrons got hit by a vehicle and injured not too long ago. He said patrons from the event center are parking on his property and he has had to call the WPD out several times. He said he does not feel like the applicant is managing his property responsibly. In addition, he said it is questionable whether the applicant is currently complying with some of the items he has conceded to. He said the club currently shuts down anywhere from 12:00 a.m. to 2:00 a.m. He said every Sunday morning there is litter and debris, alcohol cans and boxes all over the parking lot. He said generally someone shows up sometime Sunday to clean that up, but that shows him the applicant is not able to properly manage or control that. In addition, he said there is very little illumination and no signs on the lot. He said there have been 12 homicides in a three (3) block area of this site since 1989 to date. He said four (4) of those were on club properties. He said the area does not have a good history with clubs. He said making revenue is fine but hopefully they don't have to decrease property values and increase crime to do that.

**WARREN** reminded the audience that although the Commission wants to hear from anyone who has a concern, he requested speakers not repeat the same issues over and over again.

**JANET RADIG, 1510 EAST 9<sup>TH</sup> STREET, PRESIDENT, MCADAMS NEIGHBORHOOD ASSOCIATION** said McAdams is looking forward to doing great things for the youth in the area. He said the Second Chance Program they are starting is staffed by retired teachers. She said they are helping youth 15-25 years old with life skills, job preparation and money management. She also mentioned a new community garden going in at 9<sup>th</sup> and Mathewson. She said the neighborhood needs grocery stores, convenience shops, coffee shops and things of that nature, not nightclubs. She said sometimes it's the right thing to say no, and she urged the Commission to say no to the nightclub today.

An audience member who spoke previously asked to come back to the podium.

**VANZANDT** explained that it is City Policy that each speaker gets five (5) minutes to speak with no additional time, unless it is granted at the time you are speaking. He said you can't come back and speak again after you have left the podium.

**KNOPP** commented that the situation on the property improves with the granting of the conditional use permit. He said they will not be operating in this grey area of BYOB, catered business, etc. He said they need to have the correct zoning to apply for the liquor license. He said once you get a liquor license, you consent to have City WPD walk into the establishment at any moment. He said once the conditional use permit is granted the City WPD can monitor the situation. He said if the permit is granted, alcohol will be dispensed inside the location and that way the applicant can have better control of alcohol consumption and activities of people. He said it is a pity that people park on private property, but you can park on public streets, it is a permitted use. He referred to the additional conditions the applicant attached. He said this is an event center and they would like to have the permit granted.

**DENNIS** asked the agent to respond to some of the comments about the trash, liquor bottles and cans, etc. He said if the applicant is not serving alcohol right now where is all that coming from.

**KNOPP** said evidence is that it is being brought onto the property by event participants.

**DENNIS** mentioned the demonstrated track record at the location. He asked how does the Commission know it will be any better in the future if the permit is granted. He added that if this event center wants a family-type environment and to cater to people under 21, do they truly need alcohol.

**KNOPP** replied that if the alcohol is dispensed by the owners of the venue, it can't be carried outside the premises. He asked if people bring alcohol into a venue; how do you keep them from carrying it out. He said once the venue has a liquor license, there are a whole bunch of rules and regulations that apply. He said there is a regulatory scheme to insure compliance and consequences for non-compliance. He said this will make this venue a clean, safe, family environment which is what the City and neighbors are concerned about.

**KNOPP** said he was not Catholic but he has been to many weddings where alcohol is an important part of the celebration. He said alcohol is sometimes a material part of some family celebrations and what people want when they are looking for a venue. He said the Army of Artists and Seed House Casa Mia are looking for a venue where youth can perform and parents and under age friends can come and listen. He asked what Old Town Club is going to let their place be taken over by people who can't drink.

**DAILEY** commented that there was nothing in the conditions about when patrons left the parking lot.

**KNOPP** said once the center is closed for business, he doesn't know of anyone who wants people to linger in the parking lot.

**MILLER STEVENS** requested clarification that the nightclub designation is only needed for what the applicant proposes on Friday and Saturday nights. Otherwise they could just have a restaurant with a liquor license. She said she is still struggling with the nightclub designation.

**MILLER** clarified that if there is alcohol, dancing and/or live entertainment that is by definition is a nightclub. He said there are three (3) levels: A Drinking Establishment Restaurant (DER) like Applebee's where they sell more food than alcohol. He said the applicant can operate in this location doing that, which he believes is what they are proposing up to 4:00 p.m. He said once they quite selling food and are selling alcohol with no entertainment or dancing, then it becomes a tavern. He said because there is residential zoning within 300 feet, the tavern has the same zoning requirement as a nightclub. Once entertainment or dancing is added, that makes it a nightclub. Since that is the most intense activity the applicant is going to have, that is why the nightclub designation is needed.

**MILLER STEVENS** asked about having alcohol, dancing and entertainment and people under age 21.

**MILLER** said he does not know if they can do that, or if that is a legal activity. He said that is a Code Enforcement issue.

**LONGNECKER** said alcohol can be served Monday through Saturday as part of the event center. He mentioned the Operation Plan that was received after the agenda mail out which indicates the only day alcohol will not be served is Sunday.

**RAMSEY** stated that the first time he heard this he was a little confused. He said when he hears the term event center or community center he is thinking about something like Venue 21 where you hire a caterer to bring in alcohol. He said patrons bringing in alcohol themselves is something different but he thought they were talking about a nightclub because they are mixing the uses. He said what they are truly talking about here is a nightclub, not an event center, even though they are trying to use it as one. He said he did not understand that the applicant was going to be selling alcohol on the premises. He said he also appreciated the input from the adjacent business owner about what he is experiencing now or in the past. He said he is inclined to decline the application at this time.

**DENNIS** said he agreed with Commissioner Ramsey and said when he heard this case before he voted in favor of it. However, the more information he has received this is not an event center like they were led to believe. He said he appreciates the people who came forward to speak today.

**MOTION:** To deny the application.

**DENNIS** moved, **RAMSEY** seconded the motion, and it carried (12-1). **WARREN** – No.

5. **Case No.: ZON2015-00024 (Deferred Indefinitely)** - County Hollow, LLC (applicant) and MKEC Engineering Inc. (c/o Brian Lindebak) (agent) request a City zone change from SF-5 Single-family Residential to MF-18 Multi-family Residential, generally located South of E. Kellogg and east of #. 127<sup>th</sup> Street (north of Gilbert Street).
6. **Case No.: ZON2015-00025 and CUP2015-00011(Deferred Indefinitely)** - County Hollow, LLC (applicant) and MKEC Engineering Inc. (c/o Brian Lindebak) (agent) a City zone change from SF-5 Single family Residential and LC Limited Commercial to GC General Commercial and creation of a CUP Community Unit Plan, generally located East of E. 127<sup>th</sup> Street and south of E. Kellogg (north of Gilbert Street).

7. **Case No.: ZON2015-00032 (Deferred from the 9-3-15 Hearing)** - K & A Holdings, LLC, c/o Rodney Ketzner and Isaiah Ast request a City zone change from SF-5 Single-family Residential to TF-3 Two-family Residential on property described as:

Lot 15, Block 11; Downtain's 1<sup>st</sup> Addition to Wichita, Sedgwick County, Kansas.

**BACKGROUND:** The applicant is requesting TF-3 Two-Family Residential (TF-3) zoning on the platted approximately 75-foot (x) 100-foot SF-5 Single-Family Residential (SF-5) zoned site. The subject site, Lot 15, Block 11, Downtains 1<sup>st</sup> Addition, is located 220 feet east of Sheridan Avenue on the north side of May Street.

Extensive LI limited Industrial (LI) zoned land, active railroad tracks and Kansas Highway K-42 define the boundaries of the subject site's small single-family residential neighborhood. SF-5 zoned single-family residences (built mid and late 1950s and 1970) abut and are adjacent to the east, west and north sides of the subject site. A TF-3 zoned duplex (built 1977) is located the next block northeast of the subject site. LI zoned vacant land and railroad tracks are located three blocks east of the site. The LI zoned Metal Fab steel fabrication facility (built 1972-2007) is located south of the site, across May Street. More LI zoned manufacturing facilities, office-warehousing and similar uses, with some undeveloped lands are located a half a block west of the site, across Sheridan Avenue, and a half block south of the site, across May Street and active railroad tracks.

**CASE HISTORY:** The site is platted as Lot 15, Block 11, Downtains 1<sup>st</sup> Addition, which was recorded with the Register of Deeds on May 11, 1955.

**ADJACENT ZONING AND LAND USE:**

NORTH: SF-5, LI Single-family residences, two duplexes, railroad tracks

SOUTH: LI Steel fabrication building, railroad tracks, manufacturing, office-warehousing, vacant land

WEST: SF-5, LI Single-family residences, office-warehousing

EAST: SF-5, LI Single-family residences, railroad tracks

**PUBLIC SERVICES:** The site has access to May Street, a paved two-lane local street. May Street intersects with K-42 Highway two-blocks west of the site. All utilities are available to the site.

**CONFORMANCE TO PLANS/POLICIES:** The "2013 Land Use Guide of the Comprehensive Plan" identifies the SF-5 zoned site as "urban residential." The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly. Elementary

and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category. The site's current SF-5 zoning allows single-family residential, as well as some institutional uses, but not duplexes, by right. The proposed TF-3 zoning allows a duplex, as well as single-family residential and some institutional uses by right. Both the current SF-5 zoning and the requested TF-3 zoning conform to the urban residential category. If approved, the requested TF-3 zoning will permit the second duplex into the neighborhood.

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

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** Extensive LI zoned land, active railroad tracks and Kansas Highway K-42 define the boundaries of the subject site's small single-family residential neighborhood. SF-5 zoned single-family residences (built mid and late 1950s and 1970) abut and are adjacent to the east, west and north sides of the subject site. A TF-3 zoned duplex (built 1977) is located the next block northeast of the subject site. LI zoned vacant land and railroad tracks are located three blocks east of the site. The LI zoned Metal Fab steel fabrication facility (built 1972-2007) is located south of the site, across May Street. More LI zoned manufacturing facilities, office-warehousing and similar uses, with some undeveloped lands are located a half a block west of the site, across Sheridan Avenue, and a half block south of the site, across May Street and active railroad tracks.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The SF-5 zoned property faces a two-block long, LI zoned metal steel fabrication facility and its parking lot. The site's SF-5 zoned neighborhood is located against the east edge of an extensive area of LI zoned lands, beginning at Kellogg Street (north) to 47<sup>th</sup> Street South, extending to the Big Ditch on its west side and at points to Meridian Avenue on its east side. The site and the neighborhood are located over the All Hollows groundwater contamination plume, which reflects the industrial nature of the surrounding area. The site's location makes it less desirable for any residential development.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The requested TF-3 zoning allows duplexes as well as single-family residences and some institutional uses by right. The request would not introduce TF-3 zoning into the area.
- (4) **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Approval of the request would limit development by right to single-family residential, duplex, and some (but not limited to) institutional uses such as a parks, schools and churches. If approved a duplex would be the first residence built in the neighborhood since 1977, when the only other duplex was built. Denial of the request could impose a financial hardship on the owner.

- (5) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2013 Land Use Guide of the Comprehensive Plan” identifies the SF-5 zoned site as “urban residential.” The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly. Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category. The site’s current SF-5 zoning allows single-family residential, as well as some institutional uses, but not duplexes, by right. The proposed TF-3 zoning allows a duplex, as well as single-family residential and some institutional uses by right. Both the current SF-5 zoning and the requested TF-3 zoning conform to the urban residential category. If approved, the requested TF-3 zoning will permit the second duplex into the neighborhood.
- (6) **Impact of the proposed development on community facilities:** All services are in place and any increased demand on community facilities, as a result of the proposed TF-3 zoning, can be handled by current infrastructure.

**BILL LONGNECKER**, Planning Staff presented the Staff Report.

**RICHARDSON** asked if any protests were received from surrounding property owners.

**LONGNECKER** said he has not received any written or verbal protests on the application. He added that the DAB approved it unanimously.

There were no public comments.

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

**GOOLSBY** moved, **RAMSEY** seconded the motion, and it carried (13-0).

8. **Case No.: ZON2015-00033** - KW Developments, LLC (applicant/owner) request a City zone change from SF-5 Single-family Residential to TF-3 Two-family Residential on property described as:

Lots 19 and 20, Block 17, Fruitvale Park Addition to Wichita, Sedgwick County, Kansas.

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

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

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

**ADJACENT ZONING AND LAND USE:**

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

**PUBLIC SERVICES:** The site has access to Newell Street, a sand and gravel local street and Hoover Avenue, a paved and curbed, two-lane collector street. All utilities are available to the site.

**CONFORMANCE TO PLANS/POLICIES:** The “2013 Land Use Guide of the Comprehensive Plan” identifies the SF-5 zoned site as “urban residential.” The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly. Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category. The site’s current SF-5 zoning allows single-family residential, as well as some institutional uses, but not duplexes, by right. The proposed TF-3 zoning allows a duplex, as well as single-family residential and some institutional uses by right. Both the current SF-5 zoning and the requested TF-3 zoning conform to the urban residential category. If approved, the requested TF-3 zoning will permit another duplex into the neighborhood.

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

This recommendation is based on the following findings:

- (7) **The zoning, uses and character of the neighborhood:** The subject site has SF-5 zoned single-family residences abutting its south and east sides; built 1970, 1931, 1950 and 1954. The site and these abutting properties are part of a mostly SF-5 zoned, single-family residential neighborhood that is located south, east and west of the site. Most of the residences in the neighborhood are small (+/- 1,000-square feet), wood framed homes, having been built in the 1940s. A SF-5 zoned civic organization, the Serenity Club of Wichita, is located directly west of the site, across Hoover Avenue. TF-3 zoned single-family residences (most built in the 1940s) and a few duplexes (built 1970s or later) are located north and northwest of the site, across Newell Street. It appears that the most recent residential development in the area are two duplexes built in 2009, located northwest of the site. The residential development located north of the site eventually ends up against LC Limited Commercial zoned older, small scale commercial development located along the arterial Central Avenue. The immediate area north, west and east of the site, also has some SF-5 zoned properties that appear to have been split by sale, resulting in small properties that are less than 5,000-square feet in area.
- (8) **The suitability of the subject property for the uses to which it has been restricted:** The SF-5 zoned property is located within a mostly SF-5 zoned neighborhood of small (+/- 1,000-square feet) single-family residences, with most of them built in the 1940s. The site could be developed as a single-family residence, like the abutting south property which was built in 1970.
- (9) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The requested TF-3 zoning allows duplexes as well as single-family residences and some institutional uses by right. The request would not introduce TF-3 zoning or duplexes into the area.
- (10) **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Approval of the request would limit development by right to single-family residential, duplex, and some (but not limited to) institutional uses such as a parks, schools and churches. If approved the duplexes would be the first residence built in the neighborhood since 2009, when the two duplexes were built, northwest of the site, across Hoover Avenue and Newell Street. Denial of the request could impose a financial hardship on the owner.
- (11) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The "2013 Land Use Guide of the Comprehensive Plan" identifies the SF-5 zoned site as "urban residential." The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly. Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category. The site's current SF-5 zoning allows single-family residential, as well as some institutional uses, but not duplexes, by right. The proposed TF-3 zoning allows a duplex, as well as single-family residential and some institutional uses by right. Both the current SF-5 zoning and the requested TF-3 zoning conform to the urban residential category. If approved, the requested TF-3 zoning will permit another duplex into the neighborhood.

- (12) **Impact of the proposed development on community facilities:** All services are in place and any increased demand on community facilities, as a result of the proposed TF-3 zoning, can be handled by current infrastructure.

**BILL LONGNECKER**, Planning Staff presented the Staff Report.

He reported that DAB VI approved the application unanimously. He added that he has received no negative comments or protests on the case.

**RICHARDSON** asked about restricting access to Hoover.

**LONGNECKER** said there is no platted access control on this subdivision.

There were no public comments.

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

**TODD** moved, **DENNIS** seconded the motion, and it carried (13-0).

9. **Case No.: ZON2015-00034** - Downtown Investments, LLC & Washington Development, LLC, c/o Paul Gray(owner/applicant) request a City zone change from LC Limited Commercial to CBD Central Business District on property described as:

Lots 84, 86, 88, 90, 92 and 94, Chicago now Douglas Avenue; West Wichita Addition, Sedgwick County, Kansas.

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

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

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

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

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

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

**ADJACENT ZONING AND LAND USE:**

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

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

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

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

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

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

This recommendation is based on the following findings:

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

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

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

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

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

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

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

**BILL LONGNECKER**, Planning Staff presented the Staff Report.

There were no public comments.

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

**GOOLSBY** moved, **RAMSEY** seconded the motion, and it carried (13-0).

10. **Case No.: DER2015-00005 (Deferred from 7-23-15 Hearing)** - Amendment to the Wichita Sedgwick County Unified Zoning Code sections dealing with zoning area of influence.

**BACKGROUND:** On Wednesday June 10, 2015, at its regularly scheduled meeting the Board of Sedgwick County Commissioners (BoCC) directed staff to process an amendment to the Wichita-Sedgwick County Unified Zoning Code (UZC) that would, if approved, eliminate "zoning area of influence" (ZAOI) review authority.

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

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

Mount Hope indicated it was opposed to the proposed amendment.

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

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

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

Maize was opposed to the proposal would be willing to substitute the unanimous vote requirement with a two-thirds super majority requirement; reduce the land area included within a city's territory to one mile beyond its city limits, or to the future growth area as shown on the County's adopted comprehensive plan land use map; and allow the city ZAOI meeting to occur after the MAPC hearing but before BoCC hearing or final approval.

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

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

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

The Wichita-Sedgwick County Unified Zoning Code (UZC) contains provisions that require certain development applications on properties located within specific geographic areas surrounding 17 of Sedgwick County's cities are to be presented to the specified cities' planning commissions prior the applications being presented for consideration by the Metropolitan Area Planning Commission (MAPC) and/or the BoCC. The defined geographic area surrounding the 17 cities that trigger review by a city's planning commission is known as the "zoning area of influence" (ZAOI). Seventeen of the County's cities have ZAOI authority. The cities of Viola, Wichita and Eastborough do not have ZAOI authority.

A map of the current ZAOI boundaries is attached. Only zoning, conditional use, community unit plan and planned unit development applications fall under ZAOI review requirements. Other development applications such as: plats, dedications, administrative adjustments or lot splits are not subject to ZAOI review requirements. The UZC specifies that applications requiring ZAOI review must be presented to the city's planning commission having ZAOI authority prior to review by the MAPC or the BoCC. If the planning commission having ZAOI authority recommends denial the application can only be approved by a unanimous vote of the BoCC. The unanimous vote requirement to override a recommendation of denial by a city having ZAOI review authority is unique to ZAOI procedure. Applications not subject to ZAOI review can be approved with either a simple majority, two-thirds or three-fourths majority vote.

"Zoning area of influence" review was established in 1985 when Sedgwick County adopted county-wide zoning. Presumably the concept of ZAOI was intended as a substitute for those jurisdictions that had enacted "extra-territorial zoning authority." K.S.A. 12-715b allows cities to adopt zoning regulations affecting all or any designated portion of the land located outside the city but within three miles thereof under certain conditions, except that for floodplain regulations in areas designated as a floodplain. K.S.A. 12-715b.(a) states a city may establish three mile ring zoning if: the city has established a planning commission per K.S.A. 12-702, and which provides for the appointment of two commission members who reside outside the city but within the area subject to the zoning regulations of the city or the city has a joint, metropolitan or regional planning commission in cooperation with the county in which the city is located; (b) the land outside the city has been included within a comprehensive plan recommended by either of such planning commissions and has been approved by the city governing body or the board of county commissioners and (c) the county has specifically excluded the land from county zoning regulations or the county does not have in effect zoning regulations for such area. The city wishing to initiate three mile ring zoning must notify the county commissioners in writing 60 days before initiating zoning regulations.

It is also likely that ZAOI was included in the County zoning code as a vehicle to assure cities that county-wide zoning would not be detrimental to the cities' growth and development interests since it is likely that development located on the borders of a city will ultimately be annexed by a city. Once annexed, the city will have to deal with any residual issues associated with the development, such as, nonconforming uses created by different zoning, building or fire codes, or the conversion from on-site sewer or water services to municipal services. Attached is a summary of County applications from June 2010 to present, prepared by the County Counselor's office. The summary notes that there were a total of 86 County cases filed; 34 of which were in a ZAOI. Since October 1991, only four applications have received a recommendation of denial from one of the cities, and then overridden by a unanimous vote of the BoCC.

Since the 1990's there have been three or four reviews of the ZAOI requirements. Most of the reviews have been triggered by requests from one or more of the cities that have ZAOI authority to expand the area covered by a specific city's ZAOI. Some of the requests to enlarge a city's ZAOI have been approved; others have been denied.

Positions against having ZAOI review have traditionally been one of the following: 1) State law grants counties the senior authority to exercise zoning jurisdiction on unincorporated lands, and only provides cities the authority to establish extra-territorial zoning when the county has not established zoning in the area surrounding the city. 2) The unanimous vote requirement of the BoCC to override a recommendation of denial by a city with ZAOI authority is overly onerous. There are not any other development applications that require a unanimous vote to gain approval; therefore, development applications with a ZAOI have more risk than similar applications located outside of ZAOI territory. 3) The ZAOI review process can delay the final disposition of a development application because of the requirement that the cities ZAOI meeting occur before the MAPC can hear the request. Fifteen of the 17 cities with ZAOI authority meet only once a month; while the MAPC meets twice a month. Depending on when an application is filed relative to the meeting dates of the city with ZAOI review authority, an application can be delayed from a typical time frame. The delay can vary from one to three weeks. 4) Property owners living inside a ZAOI do not have an opportunity to vote for or against city council members who make appointments to a city's planning commissions that has ZAOI authority. 5) Courtesy notices could be provided to cities and a representative from a city could appear before the MAPC and/or the BoCC and provide comments.

In the past, the following suggestions to change the existing ZAOI process short of eliminating the procedure completely have been presented (not presented in any order of preference): 1) Modify the unanimous vote requirement to override a recommendation of denial to a simple majority or a two-thirds or three-fourths super majority vote. 2) Reduce the geographic area included in some or all ZAOI territory. 3) Eliminate the requirement that applications are required to go to the planning commission of a city with ZAOI jurisdiction prior to the MAPC hearing. Change the process to allow the case to be presented to the city after MAPC's hearing but before BoCC consideration, or if BoCC consideration is not required, before final approval.

Those opposed to eliminating ZAOI authority have indicated: 1) The process promotes collaboration on development applications between the County's less populace cities and County departments that will be responsible for issuing permits or conducting inspections. 2) The requirement for a hearing before a city's planning commission grants an opportunity for the city to provide an official, voted upon, response, instead of an opinion offered by an individual city representative. 3) All of the planning commissions with ZAOI meet at night, which makes it more convenient for county residents to attend the planning commission meeting. 4) Compared to downtown Wichita, the cities with ZAOI are generally more centrally located to the citizens most impacted by an application and would wish to attend the zoning hearing.

The following UZC sections are proposed to be deleted.

#### Article I, Section I-G. ZONING AREAS OF INFLUENCE

In order to provide for review of zoning map amendment requests by the planning commissions in the second and third class cities of Sedgwick County, the Governing Body of the County has adopted and hereby maintains Zoning Areas of Influence around such communities.

1. Map adopted. The "Zoning Areas of Influence Map," originally adopted January 1, 1985, and amended from time to time, is hereby adopted as part of this Code.
2. Interpretation of boundaries. The rules for interpreting the boundaries of the Zoning Areas of Influence shall be the same as for interpreting the boundaries of

zoning districts, as set forth in Sec. III-A.5.

3. Amendments. The procedures for changing Zoning Area of Influence boundaries are set out in Sec. V-K.

Article II, Section II-B.14.u. Zoning Areas of Influence means the area surrounding second and third class cities in Sedgwick County, as shown on a map originally adopted January 1, 1985, as amended from time to time. See Sec. I-G.

Article V, Section V-K. AMENDMENTS TO AREA OF INFLUENCE BOUNDARIES

1. Initiation of amendment request. Proposed changes to the boundaries of the areas of influence may be initiated through application filed with the Planning Director by any planning commission of a city of the second or third class within the County, by the Metropolitan Area Planning Commission or by the Board of County Commissioners.

2. Planning Commission hearing. The Planning Director will establish a time and date for a hearing before the Metropolitan Area Planning Commission and will notify the mayor and planning commission of any affected city, the Metropolitan Area Planning Commission and the Board of County Commissioners of the date, time and place of said hearing. After consideration of the evidence and arguments presented at the hearing, the Metropolitan Area Planning Commission shall recommend approval, approval with conditions or modifications, or disapproval of the proposed change.

3. Board of County Commissioners' hearing. The Planning Director shall forward the Planning Commission's recommendation to the Board of County Commissioners. The Board of County Commissioners may accept, modify or reject the recommendation of the Planning Commission. The action of the Board of County Commissioners on any proposed change to an area of influence boundary shall be final.

Article VI, Section VI-B.6. Amendments to Area of Influence boundaries. The Governing Body of Sedgwick County shall have the authority to approve, approve with conditions or modifications, or deny applications for amendments to Zoning Area of Influence boundaries. The Governing Body's decision shall be the final local action on such an application.

Article VI, Section VI-C.6. Amendments to Area of Influence boundaries. The Planning Commission shall have the authority to review and recommend to the Governing Body approval, approval with conditions or modifications, or denial of applications to amend Area of Influence boundaries.

Article VI, Section VI-D.4. Amendments to Area of Influence boundaries. The planning commission of a second or third class city shall have the authority to initiate an application to amend the subject city's area of influence boundary.

**CASE HISTORY:** Prior to 1985 Sedgwick County did not have county-wide zoning regulations. Some of the cities in Sedgwick County had been granted Sedgwick County three mile ring extraterritorial zoning - Valley Center (1-17-69), Mulvane (3-16-67), Derby (11-15-63), Haysville (9-8-61), Cheney (11-8-73), Goddard (11-12-69) and Wichita (3-3-58). Grandriver Township was granted zoning authority on September 12, 1963. (The dates of adoption of Sedgwick County extraterritorial zoning previously noted were found in March 11, 1971 and July 28, 1987, memos from Jack Galbraith, Chief Planner, Current Plans.)

In an October 13, 1983, memo from Robert Lakin, Director of Planning, stated in January 1981, the County Commission had received several requests from second and third class cities for extraterritorial subdivision and zoning jurisdiction. Lakin noted in his memo that "at that time County zoning existed around ten cities (including Wichita) and there were four cities with zoning jurisdiction in their own three mile ring with four more cities considering their own three mile ring extraterritorial zoning. It was pointed out that there was a possibility of having eleven or more sets of zoning regulations, five sets of subdivision regulations and one building code regulating development in the unincorporated county." Lakin's memo notes that subdivision regulations cover the entire county, while one-third of the county is unzoned. Metropolitan Area Planning Department staff held meetings with representatives of cities of the second and third class to discuss zoning and subdivision jurisdiction.

The MAPC held public hearings on October 22, 1981, regarding zoning and subdivision authority. Lakin's memo further states "Generally the representatives [from the cities] felt that there was a need to zone the unzoned areas. Representatives from the cities with existing City extraterritorial zoning felt that they should be allowed to keep their zoning. The discussion of subdivision regulations indicated that the existing jurisdictions should be retained." A second public hearing was held on April 22, 1982, at which time the MAPC voted to recommend that the subdivision jurisdictions remain the same; that the entire unincorporated area of Sedgwick County be included under County zoning regulations; and in order to give a stronger voice to the second and third class cities, that areas of influence be established and incorporated into the zoning regulations. Use of the area of influence would mean that when a City Planning Commission recommended denial of a rezoning request in their area of influence, it would require a unanimous vote of the County Commission to approve the change. On June 2, 1982, the County Commission concurred with the recommendation of the MAPC and directed staff to prepare the necessary text changes to incorporate the "area of influence."

Lakin's memo further states that MAPD staff prepared zoning area of influence maps with boundaries that "represent our understanding of the boundaries requested by each city at the meetings." Lakin also notes that "Most of the comments staff has heard have been from those cities that will lose their extraterritorial zoning jurisdictions. They desire to retain their zoning areas and feel that they are better suited to act on development in their area." "Cities currently surrounded by County zoning have not made many comments about the concept of county wide zoning but do not seem to have objections to county wide zoning."

By March, 1984, the cities of Mt. Hope, Andale, Colwich, Maize Sedgwick, Garden Plain and Clearwater had local city three mile ring zoning. Countywide zoning was adopted January 1, 1985.

Prior to 1985, builders, developers and citizens in Sedgwick County had 15 different sets of zoning regulations dealing with land use in force. Therefore, it was desirable to substitute a single set of uniform zoning regulations that applied county wide in place of the multi-jurisdictional situation then in effect. As noted above, state law allows the County to establish zoning regulations in the county that supersede a city's extra-territorial zoning jurisdiction. To make countywide zoning attractive to all the cities in the County, the 1985 Zoning Regulations for the Unincorporated Area of Sedgwick County, Kansas, established the "zoning area of influence" concept and procedures.

Section 1.C.1 of the 1985 County Zoning Code stated that in order to provide for consideration by the City Planning Commissions of the second and third class cities in Sedgwick County of certain rezoning requests, Zoning Areas of Influence, as shown on the Zoning Areas of Influence Map dated January 1, 1985 is hereby established. Section 17.C.4 stated that for changes in zoning classification or district boundaries or for conditional use or special permit use requests for property located within the zoning area of influence for any city of the second and third class within Sedgwick County, the planning commission of that city may hold a public hearing and make a recommendation to the Commission. In making its recommendation, the city's planning commission shall consider the factors listed in Section 17.C.5 (the Golden factors). The MAPC shall hold a public hearing for the zone change request or conditional use or special use request and consider the recommendation of the city's planning commission before issuing its recommendation to the Governing Body. The Governing Body shall not approve the request, except by unanimous vote, when the city's planning commission recommends against the request.

The 1985 County Zoning Code contained a map defining each city's ZAOI boundary. It can be noted that the area covered by each city's individual ZAOI varied considerably. Maize and Bentley had the smallest areas covering approximately one mile around the city. Several of the other cities, Garden Plain, Goddard and Andale, have approximately three miles around the city.

**PUBLIC SERVICES:** "Zoning area of influence" review potentially provides an early notice to a city that development is planned in an area that the city may currently serve or is likely to serve, and may serve to facilitate the planning for, and the delivery of services where multiple jurisdictions may be involved. Methods other than current ZAOI procedures can be implemented to accomplish the same result.

**CONFORMANCE TO PLANS/POLICIES:** As noted above, the authority for ZAOI review is contained within the UZC, and there is not any statutory requirement that a county has to grant a city zoning review authority in areas where a county has established county zoning.

**RECOMMENDATION:** The staff report outlines the history of and the arguments for and against the ZAOI arrangement. The MAPD see little value to be gained by its elimination, but little harm if it is eliminated. Based upon the information available at the time the staff report was prepared the following options are offered (in no order of preference):

- 1) Do nothing, leave the process unchanged.
- 2) Eliminate ZAOI review in its entirety.

- 3) Retain ZAOI review but: a) substitute the unanimous vote override requirement with a two-thirds supermajority requirement; b) reduce the land area included within a city's ZAOI territory to one mile beyond its city limits, or to the future growth area as shown on the County's adopted comprehensive plan land use map; or c) allow the city ZAOI meeting to occur after MAPC hearing but before BoCC hearing or final approval.

(To pass a motion amending the UZC eight positive votes are required.)

**DALE MILLER**, Planning Staff presented the Staff Report.

**CHAIR NEUGENT** said she has had several questions about ex parte communication that she requested be addressed by legal counsel.

**VANZANDT** noted that because the Commission was an executive body and not a legislative body, technically ex parte communication was not required unless it caused you to form an opinion on a case before hearing the evidence.

**COMMISSIONER GOOLSBY** disclosed ex parte communication.

**MILLER** asked the Commission if they wanted an update on the item from the last hearing or a full presentation for the new Commissioners.

**TODD** reported that he read the Staff Report on the item.

**DOOL** commented that an update was fine with him.

**JOHNSON** asked if the item has gone to the Advance Plans Committee, and if so, what was the recommendation?

**BARBER** reported that the item did go to the Advance Plans Committee but there was no recommendation.

**RAMSEY** commented that at the last hearing the Commission was provided with a sheet of potential action options.

**MILLER** referred to the three options listed under Recommendations in the Staff Report.

**ROBERT PARNACOTT, ASSISTANT COUNTY COUNSELOR, 525 NORTH MAIN, Ste 359** indicated that five (5) cities did not respond to the request for a formal response to the proposal; seven (7) cities responded and said don't change anything; and five (5) they didn't want to change anything, but if a change is made here are items they would be able to compromise on including the supermajority vote requirement and the size of the ZAOI. He said the application is for the elimination of ZOAI; however, the Commission had a range of alternatives they could consider.

**MITCHELL** asked what portion of the area now under the city's jurisdictions were they willing to give up.

**PARNACOTT** said generally what has been discussed was going to the Urban Growth Boundaries proposed under the new Comprehensive Plan.

**DENNIS** said when the Board of County Commissioners started this process they said they wanted to hear from interested parties. He asked the agent if he has gotten any feedback and if the BoCC was amenable to the compromises most of the cities are recommending.

**PARNACOTT** said the BoCC hasn't had that discussion and he believes that will happen at an open meeting after the Planning Commission has made its recommendation. He said the process has been to go through the public hearing at the Planning Commission, get a recommendation from this body that will then be presented to the governing body. He said there will also be an opportunity to speak on the proposal at the County Commission hearing as well. He said there may have been contact between the County Commissioners and the respective cities they represent, but he has not been involved in that.

**DENNIS** asked if he was spinning his wheels or did the Planning Commission have input.

**PARNACOTT** commented that the Planning Commission was a recommending body and State Statute states that after the Planning Commission makes a recommendation to the governing body, they have three (3) options: follow the recommendation of the Planning Commission which takes a simple majority vote; override or modify the Planning Commission recommendation which takes a super majority vote; or the governing body can send the item back to the Planning Commission by a simple majority vote. He said if the County Commission sends the issue back to the Planning Commission for reconsideration and it goes back to the County Commission for a second time, it will require a simple majority of the governing body to take whatever action they deem is appropriate.

**JOHNSON** asked what the current procedure was if a small city recommends denial of an application.

**PARNACOTT** said it would require a unanimous vote of the County Commission to override the small city's Planning Commission recommended denial of an application. He clarified that the case would still be heard by the Planning Commission for a recommendation. He added that if the Planning Commission recommends elimination of the ZAOI, small city representatives would still be able to attend the Planning Commission and County Commission hearings and make comments on an application.

**MILLER STEVENS** asked what happens if the proposed Comprehensive Plan is not adopted; if the Planning Commission recommends going to the Urban Growth Areas recommended in the Plan. How would that work?

**PARNACOTT** replied then it would be the Urban Growth Areas in the current Comprehensive Plan.

**RICHARDSON** requested clarification on how the ZAOI's are currently set.

**PARNACOTT** said the ZAOI's are set by adoption of a map by the County Commission. He said those boundaries are set after review and input between staff and the small cities. He said the Planning Commission then makes a recommendation to the County Commission. He commented that the last update of the map was in 2007 and cities can request that their ZAOI boundaries be reviewed at any time.

**DAILEY** asked if the ZAOI are completely eliminated, can a small city renegotiate an area in the future.

**PARNACOTT** said the UZC is always subject to amendment.

**CHAIR NEUGENT** commented that since this item has been heard by the Commission previously, she was going to defer to legal counsel to see how public comment should be handled.

**VANZANDT** said since this was a continuation of the last hearing, they would request that if you spoke at the last hearing that you not speak again; however, that doesn't preclude anyone else from speaking, they just want to avoid a duplication of what was said previously.

**MARCEY GREGORY, 11 NORTH HOPPER COURT, MAYOR OF GODDARD** commented that she served two (2) years on the Goddard Planning Commission before being elected Mayor. She said she wanted to strongly urge the Commission not to recommend completely eliminating ZAOI's. She mentioned the State imposing regulations on cities and said State Legislators she has spoken with complain about the Federal government imposing regulations on States. She said a basic tenant of State Statutes in Kansas is the idea of home rule, which is neighbors governing neighbors and making decisions about their own communities. She said neighbors will communicate with local Planning Commissioners on proposals. She said as a Mayor and someone who was involved in the planning process she urged the Planning Commission to let them keep that in place. She said she would be open to talking about going to the Urban Growth Areas. She asked the Commission to reach out to the cities who did not write letters to voice their support or opposition. She strongly urged the Commission not to completely do away with the ZAOI because it is valuable to small cities.

**JOHNSON** asked how the speaker suggested the dialogue take place.

**GREGORY** commented that it can be difficult for people in small communities to take time off work to come address the Planning Commission. She said it is important that cases are reviewed by the small city Planning Commissions or governing bodies for valuable input because they need to have some say in the development of their communities.

**JOHNSON** clarified so she is asking Planning Staff to come to the each of the small cities.

**RAMSEY** clarified that Ms. Gregory wanted the small cities to continue to have input and the Planning Commission is giving them that opportunity with this hearing.

**GREGORY** commented that she could have packed the room but her Planning Commissioners couldn't get off work. She explained that many small city officials are volunteers and have day jobs.

**DAILEY** commented that they can still have input at the Planning Commission and County Commission hearings, that they could send City staff to attend the Planning Commission meeting.

**TODD** asked if the people located in Goddard's ZAOI (the unincorporated area of the County) have input on who is elected to the Goddard City Council.

**GREGORY** said no; however, two Planning Commissioners are elected "at large."

**VANZANDT** said technically this is a continuation of a previous public meeting; however, the Commission could vote to open it up for further public comment.

**MOTION:** To open the matter up for discussion and public input.

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

**WARREN** said he would vote in favor of the motion but he asked in the interest of time, that the Commission not try to debate each speaker and hold questions to the end.

The **MOTION** carried (11-1). **MITCHELL** – No.

**CHAIR NEUGENT** asked members of the audience to come to the podium but not repeat what was said at the last hearing.

**DIANA BROOKS, COLWICH, KANSAS** she said it was important for the Commission to understand that if the smaller communities send staff to attend the Planning Commission hearing that leaves their offices unmanned which is inconvenient for their citizens. She commented that two of the cities that did not respond have new City Clerks. She said their communities rely on them to provide information on zoning cases. She urged the Planning Commission to recommend denial of this request from the Board of County Commissioners.

**JUSTIN GIVENS, CLEARWATER, KANSAS** reiterated that Clearwater would like the Commission to take no action or make a negative recommendation on this item to the Board of County Commissioners. He said let it go to the Board of County Commissioners with a recommendation from every small city and small City Planning Commission that this is not a good idea. He said the cities are comfortable with the way things are now and that the process is working fine. He said being the statesmen that the County Commissioners are, maybe they will recognize that this is not the best avenue to approach this and that further discussion about adjusting small city growth boundaries should happen at the staff level. He mentioned that Clearwater has a large growth area boundary and still have their own Fire District. He said to take away input on what happens in their Fire District could be harmful to their community. He also mentioned that they provide water to the DeBruce Grain Elevator and that location is not within their growth area. He said they have issues to work through at the staff level concerning the Urban Growth Area Map and said there are more things that go into discussion than just the Comprehensive Plan and the map. He concluded by strongly urging the Planning Commission to make a negative recommendation on the request.

**MILLER STEVENS** clarified that the Fire District currently provides services outside the ZAOI. She asked what kind of contract they had and how it worked. She said they are already providing services outside the ZAOI.

**GIVENS** said if the ZAOI shrinks, they may still have Fire Districts outside the ZAOI. He said the small municipalities themselves should be talked to about municipal services such as water and fire versus just looking at the Comprehensive Plan.

**DAILEY** asked what Sedgwick County Fire District was located near Clearwater and if Clearwater had an agreement with them.

**GIVENS** said Clearwater is in Sedgwick County Fire District #1 and they have an interlocal agreement with them but added that the Clearwater Fire Department is the primary responder to their district.

**DOOL** clarified that DeBruce Grain is primarily looking at the Clearwater volunteer Fire Department for their protection.

**GIVENS** said Clearwater provides water to the elevator.

**DAILEY** clarified that the City chose to supply water to the elevator, they weren't forced to provide it.

**GIVEN** responded yes.

**GOOLSBY** clarified then Clearwater is not in favor of reducing the ZAOI to the Urban Growth Boundaries because of municipal services.

**GIVENS** said that was correct. He said if the ZAOI is going to be reduced, they felt like staff, County Commissioners, City Councils and Planning Staff needed to come together and determine what is in the best interest of each community because each community is different. He said using a map from the Comprehensive Plan is a bit short sighted.

**DENNIS** commented that the Planning Commission will be making a recommendation based on the concerns expressed to them and then the County Commission can then make a decision based on that recommendation.

**RAMSEY** asked staff, aren't cities allowed to renegotiate Urban Growth Area boundaries?

**MILLER** commented that the procedure for modifying the Urban Growth Area Map in the UZC is to following the process that the Commission is going through now. He said cities can request and suggest their own boundaries as part of this process. He said it is then up to the County Commission do adopt whatever they feel is appropriate.

**BARBER** clarified that this is a ZAOI map, not an Urban Growth Area Map although sometimes the terms are used interchangeably. He said some cities are not growing; however, they are still concerned about what is going on at their doorstep and near their community. He said that is a different issue than the urban growth aspiration.

**MILLER** said if the ZAOI's are eliminated then the language would be removed from the UZC so he doesn't know what procedure would be used to reinstate it other than starting over.

**PARNACOTT** said he believes there has been a long and full discussion about the item over a couple of meetings. He offered to answer any questions. He mentioned that different cities have unique characteristics and if the Commission is going to recommend that Urban Growth Areas be used, he suggested that they leave it open to amendment.

**JOHNSON** asked if he were a developer, would it be more restrictive for him to have to go to the small city or directly to the Planning Commission.

**MILLER** briefly explained the current process for various zoning requests both in and out of a city's ZAOI. He said there is an extra step and a unanimous vote requirement for cases that go before small city Planning Commissions.

**JOHNSON** commented so ZAOI's limit developer's property rights and it is more restrictive.

**WARREN** said he was going make a motion for discussion. He said the motion can be amended or changed but it will be a beginning point.

**MOTION:** To retain the process, change boundaries to the Urban Growth Boundaries as laid out in the Comprehensive Plan adopted by the Planning Commission, subject to the City's right to request an adjusted boundary, that the requirement of a unanimous vote be changed to a super majority vote, and that the cities in the affected area would have to respond to a request within 30 days of notification of a zoning application. If the city does not respond then the default position is that it is approved by that community.

**WARREN** moved. **RAMSEY** seconded the motion.

**WARREN** said he has heard that part of the reason for the suggestion to eliminate ZAOI was to speed up the process. He said if it is that important for the small city to have input, they can hold a special Planning Commission meeting. He said the super majority vote could override what a community recommended. And added that a unanimous vote is difficult. He said he thinks it is good that processes are being looked at. He said the Urban Growth Boundary is a starting point and communities can request amendments of that if they feel they have other areas that should be included. He concluded by stating that the reason he is in favor of keeping the current process is he feels it is important for communities to ask the kinds of questions this Planning Commission asks people who submit applications. He said he does not feel it is enough for a representative from the community to come and testify before this body and not be able to engage in the debate and questions and answers about the application.

**RAMSEY** commented that although he was vehemently opposed to this proposal, realistically he understands that there has to be a compromise so he will second the motion.

**CHAIR NEUGENT** asked for clarification purposes, when does the 30-day period started from.

**MILLER** explained the current process when cases that have been filed are divided up among the Planners after a closing date, which is always on a Monday. He said the Planner assigned to a case calls the small City and finds out when their Planning Commission meets. He said the filing date is a known date for staff.

**CHAIR NEUGENT** suggested that the 30 days start from the date the City is notified that a planning application has been filed within their ZAOI.

**WARREN** and **RAMSEY** agreed to amend the motion that the 30 days begins once the City is notified of a zoning application.

**SUBSTITUTE MOTION:** To eliminate the Zoning Areas of Influence (ZAOI) in its entirety.

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

**TODD** said it bothers him that property owners in the unincorporated areas of Sedgwick County can be regulated by City Councils and other appointed boards and committees when they have no voice in electing or appointing the people who serve on those boards, councils or commissions. He said this country has a long history of being opposed to taxation without representation. He said essentially what they have here is regulation without representation which is an issue for him. He said representatives from these boards, councils or commissions can come before the Planning Commission and County Commission to address their appeals and concerns. He said he views this as a private property issue and that repealing it is the appropriate course.

**DENNIS** said he will not support the substitute motion because he believes there is a reason the Planning Commission wants small communities to have input because they are going to have to live with decisions made outside of their community. He concluded by stating that as a member of the Advance Plans Committee he was disappointed that the Committee did not make a recommendation on this issue.

**MITCHELL** said he believes the Planning Commission needs to make decisions and not leave it up to the local community as shown on the map. He said some areas are not even close to cities but this makes it difficult to rezone outside those city boundaries. He said he knows of no other act that requires a unanimous vote in order to overturn the action of a local body so he will not be supporting the original motion.

The **SUBSTITUTE MOTION** failed (7-5). **NEUGENT, DENNIS, GOOLSBY, RAMSEY WARREN, JOHNSON** and **FOSTER** – No.

**DENNIS** said since this is a change to the UZC does the motion need to include something that the City can ask for an exemption to the standard. He said he didn't want to tie the cities to the Urban Growth Area if there is a valid need for an exemption.

**WARREN** said the Cities have the right to amend the Urban Growth Areas.

**BARBER** said the last time the Urban Growth Areas was amended was in May, 2005 so as staff has developed the proposed Comprehensive Plan those areas have adjusted with input from the cities and reflect new growth areas. He said as they move forward the intention is to revisit those on an annual basis. He said there may also be issues independent of each city's Urban Growth Area that are reflected on the ZAOI Map. He said there needs to be a process where the ZAOI Map can be tweaked independent of the Urban Growth Area Map.

**WARREN** asked if the Commission could approve the proposed motion but leave the door open to adjust maps due to unique circumstance surrounding cities.

**MILLER** clarified that he understood that they would start with the Urban Growth Areas but if one of the cities wants different boundaries that could be negotiated. He said the only problem with that is if most of the cities want different growth boundaries, there will be multiple cases.

**BARBER** suggested that there could be a two-fold process which would be an annual update of the Urban Growth Areas and adjustments to the ZAOI as part of that same process so other factors could be considered, not just what is in the Comprehensive Plan for long term growth.

**WARREN** asked how he can make that part of the motion.

**VANZANDT** said he doesn't know exactly how that can be worded.

**WARREN** suggested leaving the motion as it is with the caveat subject to the city's ability to request an expanded boundary for extenuating circumstances.

**BARBER** said the default would be the Urban Growth Areas.

The **ORIGINAL MOTION** was amended to read "subject to the City's right to request an adjusted boundary" with agreement of the second.

**MILLER STEVENS** commented that she thinks the Commission needs to be careful because the Urban Growth Boundaries will change if and when the new the Comprehensive Plan is adopted.

**RAMSEY** suggested Urban Growth Boundaries as adopted by the Planning Commission subject to the city's ability to request an adjusted boundary.

**MILLER STEVENS** said she doesn't want it tied to the Urban Growth Boundary but call it the Urban Area of Influence.

**MILLER** clarified that the motion was to use the boundaries adopted in the most recent Comprehensive Plan.

**DOOL** clarified that if a small city declines an application it still takes a unanimous vote by the Board of County Commissioners to override that.

**RAMSEY** clarified it would take a supermajority, or four (4) out of the five (5) County Commissioners.

**FOSTER** said he thinks they are setting themselves up for a lot of confusion relative to the boundaries and approved Comprehensive Plan, he sees a problem with that; however, in the interest of moving forward, he will support the motion.

**DENNIS** asked that the question be called.

**VANZANDT** said they need a vote to call the question because that might cut someone off who wants further discussion on the motion.

**CHAIR NEUGENT** asked the Commissioners if they wanted to call the question or continue further discussion because she was willing to forego her comments.

The **MOTION** to call the question and end discussion carried (11-1). **TODD** - No.

**FOSTER** said suppose for some unknown reason a City is unable to respond. He said they should still have that time before it is heard by the County Commission to provide their recommendation.

**VANZANDT** said his understanding of the 30 day response time was so an application wouldn't sit. He said a default approval would not preclude a city from coming back and saying that they have changed their mind on a case.

**MILLER** clarified that the 30-day response time starts running from the time Planning Staff notifies the City, probably by e-mail which is traceable. He said basically staff calls the City to find out when their Planning Commission meets and then staff will back up seven (7) days from that date and are supposed to have the Staff Report completed by then. He asked does a response mean the city has scheduled a date for the application to be heard by their Planning Commission or does it mean someone has to give an answer within 30 days of being notified of the application and Planning Staff no longer needs to attend the small city Planning Commission meeting.

**VANZANDT** said staff would go through the normal process and go to the small city Planning Commission meeting.

**MILLER** said the way he understood it is that small city Planning Commission date has to be within 30 days of the City being notified of an application.

**WARREN** acknowledged that was the intent of the motion.

**TODD** asked Mr. Parnacott to what actions the County Commission can take on the Planning Commission's recommendation.

**PARNACOTT** explained that the Planning Commission is making a recommendation to the Board of County Commissioners. He said if the proposed motion passes with at least eight (8) votes, which is what is required to amend the UZC, then the Board of County Commissioners can either adopt the Planning Commission's recommendation by a simple majority vote; override the recommendation by a super majority vote and make any changes they feel are appropriate; or they can send it back to the Planning Commission for further consideration by a simple majority vote.

The **ORIGINAL MOTION** carried (11-1). **DAILEY** – No.

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## **NON-PUBLIC HEARING ITEMS**

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

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

**BARBER** explained that due to Commissioner McKay's departure from the Planning Commission, there was vacancy on the Quad-County Planning Forum for a County appointee. He mentioned that the Forum meets once a quarter. Commissioner Joe Johnson was appointed to the Quad-County Planning Forum.

The Metropolitan Area Planning Commission adjourned at 4:40 p.m.

State of Kansas            )  
Sedgwick County        ) ss

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

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

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

(SEAL)

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

**Minutes**

**October 1, 2015**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, October 1, 2015 at 1:30 p.m., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Carol Neugent, Chair; David Dennis, Vice Chair; John Dailey; Bill Ellison; David Foster; Joe Johnson; Debra Miller Stevens; M.S. Mitchell; Bill Ramsey; John Todd and Chuck Warren. Matt Goolsby; M.S. Mitchell and Lowell Richardson were absent. Staff members present were: W. David Barber, Interim Director; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Jeff Vanzandt, Assistant City Attorney.

**CHAIR NEUGENT** welcomed Commissioner Bill Ellison.

1. Approved of the August 20, 2015 Planning Commission Minutes.

**MOTION:** To approve the August 20, 2015 Planning Commission minutes.

**DENNIS** moved, **RAMSEY** seconded the motion, and it carried (7-4). **DOOL, ELLISON, NEUGENT** and **TODD** - Abstained.

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB2015-00011: Final Plat – SILVER SPRINGS 2ND ADDITION**, located on the north side of Central, east of Ridge.

**NOTE:** This is an unplatted site located within the City. The site (with the exception of the north 110 feet) has been approved for a zone change (ZON2008-00033) from Single-Family Residential (SF-5) to Multi-Family Residential (MF-29).

**STAFF COMMENTS:**

- A. City of Wichita Public Works and Utilities Department requests the applicant extend water (distribution) and extend sewer (laterals) to serve the lots. In-lieu-of-assessment fees are due for sewer mains and water transmission.
- B. The platlor's text references utility easements and drainage easements which are not shown on the face of the plat.
- C. The platlor's text shall reference "a Lot, a Block and Reserves".
- D. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- E. City Stormwater Management has approved the drainage plan.

- F. The plat denotes an existing off-site ingress/egress easement along Central within the adjoining flood control right-of-way. An access easement by separate instrument has also been denoted along the adjoining flood control right-of-way. A copy of the easements shall be provided. The final plat tracing shall denote complete access control along the flood control right-of-way line except for one opening per the ingress/egress easement.
- G. 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.
- 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 2013 Wichita Bicycle Master Plan recommends a shared use path along the west, east, and north property lines of this property. The plat's text states that Reserve B – along the west line of the plat - will be dedicated to the City upon the need for construction of a bike path.
- L. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted and inspected.
- M. Approval of this plat will require a waiver of the lot depth-to-width ratio of the Subdivision Regulations. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. 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.
- N. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- O. County Surveying advises that a minimum pad should also be shown on the face of the plat.
- P. County Surveying advises that a site benchmark is needed.

- Q. County Surveying advises that a dimension needs added on the north line of Reserve A.
- R. County Surveying advises that dimension needs added on the north line of Reserve B.
- S. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to [tricia.robello@sedgwick.gov](mailto:tricia.robello@sedgwick.gov) and [nstrahl@wichita.gov](mailto:nstrahl@wichita.gov).
- T. The plat'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.
- 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. Any and all relocation and removal of any existing equipment made necessary by this plat will be at the applicant's expense.

BB. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: [kwilson@wichita.gov](mailto:kwilson@wichita.gov)).

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

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

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**CHAIR NEUGENT** announced that since Subdivision Committee action on vacation items 3-1 through 3-5 was 1-0, it has been requested that the vacation items be heard.

**3. PUBLIC HEARING – VACATION ITEMS**

**3-1. VAC2015-00035: City request to vacate contingent dedication of street, from the contingent dedication drainage, utility and street easement dedicated by separate instrument**, on property located on the southwest corner of the 47th Street South and the I-135 interchange.

**APPLICANT/AGENT:**

Southfork Investment, LLC (applicant) Kaw Valley Engineering, c/o Tim Austin (agent)

**LEGAL DESCRIPTION:**

Generally described as vacating the street function from the contingent dedication by separate of 15-foot wide street, drainage and utility easements running parallel to both sides of the platted and contingent dedication (by separate instrument) of 32-foot wide street right-of-way running from its intersection with 47<sup>th</sup> Street South, thru the length of the Southfork Commercial Addition, Wichita, Sedgwick County, Kansas.

**LOCATION:**

Located on the southwest corner of the 47th Street South and the I-135 interchange (WCC III)

**REASON FOR REQUEST:**

Waiver of the narrow street standards

**CURRENT ZONING:**

The subject contingent street, utility and drainage easements runs thru the GC General Commercial zoned (CUP DP-49) Southfork Commercial Addition. I-135 abuts the east side of the site. The I-135 and 47th Street South interchange abuts the northeast side of the site. SF-5 Single-Family Residential zoned property abuts the south side of the site. The Riverside drainage easement abuts the west side do the site.

The applicant is requesting the vacation of the street function from the contingent dedication by separate instrument of 15-foot wide street, drainage and utility easements running parallel to both sides of the platted and contingent dedication (by separate instrument) of 32-foot wide street right-of-way. The subject easement and the right-of-way run from their intersection with 47<sup>th</sup> Street South, thru the length

of the GC General Commercial zoned Southfork Commercial Addition. The Subdivision Regulations requires 58 feet of street right-of-way width for business, office, commercial and industrial areas without parking lanes. The Subdivision Regulations for narrow residential streets requires 32 feet of street right-of-way with 15-foot wide street, drainage and utility easements running parallel to both sides of the street right-of-way; Subdivision Regulations Art 7-201.G. In the past, Public Works/Traffic Engineer has applied the narrow street standards to commercial development. Per the Subdivision Regulations, Art 10-104, Modification of Design Criteria, the MAPC may modify design criteria. The subject contingent dedication of street easement and street right-of-way is designed to join the abutting 33-foot wide Custy Street right-of-way recorded on the Orchard Parks Lake Estates Addition; recorded September 28, 1983. Custy Street dead-ends at the Riverside drainage easement; there are no plans to extend Custy Street over the Riverside drainage easement.

Per the information currently available on the City's GIS program, there are public utilities are located in the contingent dedication of a drainage, utility and street easement. These utilities will continue to be covered by the 15-foot wide street, drainage and utility easements. Comments from franchised utilities have not been received and are needed to determine if they have utilities located within the described easements. The Southfork Commercial Addition was recorded with the Register of Deeds October 3, 2014.

NOTE: VAC2015-00035 was deferred from the advertised September 10, 2015, Subdivision Committee meeting at the applicant's request.

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 contingent dedication (by separate instrument) of street from the described 15-foot wide street, drainage and utility easements.

- 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 10, 2015, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by vacating the described contingent dedication (by separate instrument) of street from the described 15-foot wide street, drainage and utility easements 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) Approval of the vacation of the contingent dedication (by separate instrument) of street from the 15-foot wide street, drainage and utility easements running parallel to both sides of the platted

and contingent dedication (by separate instrument) of 32-foot wide street right-of-way running from its intersection with 47<sup>th</sup> Street South, thru the length of the GC General Commercial zoned Southfork Commercial Addition, must be given by the Traffic Engineer.

- (2) If approved, provide a legal description of the vacated contingent dedication (by separate instrument) of street from subject the 15-foot wide street, drainage and utility easements, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action and subsequent recording with the Register of Deeds.
- (3) All improvements shall be according to City Standards and at the applicant's expense. If needed, provide required guarantees or approved projects to ensure relocation and/or relocation of utilities, including, but not limited to, sewer lines and manholes, stormwater equipment, all and franchise utilities. All provided prior to the vacation case going to City Council for final action.
- (4) Any relocation or reconstruction of utilities, made necessary by this vacation shall be the responsibility of the applicants 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) Approval of the vacation of the contingent dedication (by separate instrument) of street from the 15-foot wide street, drainage and utility easements running parallel to both sides of the platted and contingent dedication (by separate instrument) of 32-foot wide street right-of-way running from its intersection with 47<sup>th</sup> Street South, thru the length of the GC General Commercial zoned Southfork Commercial Addition, must be given by the Traffic Engineer.
- (2) If approved, provide a legal description of the vacated contingent dedication (by separate instrument) of street from subject the 15-foot wide street, drainage and utility easements, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action and subsequent recording with the Register of Deeds.
- (3) All improvements shall be according to City Standards and at the applicant's expense. If needed, provide required guarantees or approved projects to ensure relocation and/or relocation of utilities, including, but not limited to, sewer lines and manholes, stormwater equipment, all and franchise utilities. All provided prior to the vacation case going to City Council for final action.
- (4) Any relocation or reconstruction of utilities, made necessary by this vacation shall be the responsibility of the applicants 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.

**BILL LONGNECKER**, Planning Staff presented the Staff Report.

There were no public comments.

**TODD** asked about the rules on the Subdivision Committee, how many Commissioners are on the Committee, etc.

**BARBER** said he believes there are seven (7) appointees to the Subdivision Committee. He explained that the Bylaws allow that a quorum of one is sufficient to take action.

**TODD** suggested the Commission take a look at that because he thinks that is too few people.

**LONGNECKER** commented that this is only the second time in fourteen years that has happened.

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

**WARREN** moved, **DOOL** seconded the motion, and it carried (11-0).

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3-2. **VAC2015-00036: City request to vacate a setback established by a vacation order**, on property generally located on the south side of Central Avenue and west of Waco Avenue.

**OWNER/AGENT:** City of Wichita, Property Management, c/o John Philbrick (owners)  
Kaw Valley Engineering, c/o Tim Austin (agent)

**LEGAL DESCRIPTION:** Generally described as vacating the 20-foot front building setback, established by Vacation Order VAC2015-00008, that runs parallel to the north property line of a portion of Lot 2, Emerson Addition, Wichita, Sedgwick County, Kansas

**LOCATION:** Generally located west of Waco Avenue on the south side of Central Avenue (WCC #VI)

**REASON FOR REQUEST:** Future development

**CURRENT ZONING:** Subject property, abutting south and east properties are zoned CBD Central Business District. Adjacent north and west properties are zoned B Multi-Family Residential.

The applicants are requesting consideration to vacate the 20-foot front building setback, established by Vacation Order VAC2015-00008 (approved by City Council July 7, 2015), which runs parallel to the north property line of a portion of Parcel B, Lot 2, Emerson Addition. The site is zoned CBD Central Business District. The CBD zoning district has a zero front building setback, which is what the applicant is requesting. Westar does not appear to have any facilities in the vacation area. However Westar does have street lights in the right-of-way that butts up to setback and wants to make sure adequate clearance is provided. Condition #2 covers Westar. Shane Price is the Westar Construction Services Supervisor for the area can be contacted at 261-6315. The Emerson Addition was recorded with the Register of Deeds May 12, 1980. Commercial Lot Split SUB2004-2004 created Parcels A, Lot 2 and Parcel B Lot 2 (the subject site), Emerson Addition.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water & Sewer/Storm Water, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the describe front building setback established by a vacation order.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time September 10, 2015, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by vacating the described front building setback established by a vacation order and that the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Vacate the 20-foot front building setback, established by Vacation Order VAC2015-00008, which runs parallel to the north property line of a portion of Parcel B, Lot 2, Emerson Addition. The front setback will be zero, as allowed by the subject site's CBD Central Business District zoning. Provide Planning with a legal description of the vacated portion of complete access control on a Word document via e-mail to be used on the Vacation Order. This must be provided prior to the case going to City Council for final action.
- (2) Any relocation or reconstruction of utilities, including Westar, made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide franchised utilities, including Westar, with any needed plans for review for relocation of utilities. Provide a guarantee or approved plans for the relocation of any utilities. This must be provided to Planning prior to this case going to City Council for final action.

- (3) Provide a legal description of the vacated 20-foot front building setback, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action and subsequent recording with the Register of Deeds. The legal description will be used on the Vacation Order.
- (4) All improvements shall be according to City Standards and at the applicant's expense.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the 20-foot front building setback, established by Vacation Order VAC2015-00008, which runs parallel to the north property line of a portion of Parcel B, Lot 2, Emerson Addition. The front setback will be zero, as allowed by the subject site's CBD Central Business District zoning. Provide Planning with a legal description of the vacated portion of complete access control on a Word document via e-mail to be used on the Vacation Order. This must be provided prior to the case going to City Council for final action.
- (2) Any relocation or reconstruction of utilities, including Westar, made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide franchised utilities, including Westar, with any needed plans for review for relocation of utilities. Provide a guarantee or approved plans for the relocation of any utilities. This must be provided to Planning prior to this case going to City Council for final action.
- (3) Provide a legal description of the vacated 20-foot front building setback, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action and subsequent recording with the Register of Deeds. The legal description will be used on the Vacation Order.
- (4) All improvements shall be according to City Standards and at the applicant's expense.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**BILL LONGNECKER**, Planning Staff presented the Staff Report.

There were no public comments.

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

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

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3-3. **VAC2015-00037: City request to vacate a platted access easement and a platted utility easement**, on property generally located west of Maize Road on the north side of 29th Street North.

**OWNER/APPLICANT:** Newmarket Office, LLC, c/o David Hambrick (owner) Oxford Senior Living c/o George Sherman

**LEGAL DESCRIPTION:** Generally described as vacating the platted 30-foot access easement located along the west side of Lot 4, Block 1 & the platted 20-foot utility easement located along the common line of Lot 4, Block 1, and Reserve B, all in the New Market Office 2<sup>nd</sup> Addition, Wichita, Sedgwick County, Kansas

**LOCATION:** Generally located west of Maize Road on the north side of 29th Street North, on the east side of North Parkdale Circle (WCC #V)

**REASON FOR REQUEST:** Access is provided elsewhere on the subject site and carports are proposed to be built over subject platted easement

**CURRENT ZONING:** The site and the abutting north, west and south properties are zoned GO General Office. Abutting west properties are zoned SF-5 Single-Family Residential.

The applicant is requesting the vacation of the platted 30-foot access easement located along the west side of Lot 4, Block 1 & the platted 20-foot utility easement located along the common line of Lot 4, Block 1, and Reserve B, all in the New Market Office 2<sup>nd</sup> Addition. Vacation of the subject access easement needs approval by the Traffic Engineer and the Fire Department. There are no public utilities located in the subject access easement, nor in the subject utility easement. Westar does not appear to have any facilities in the vacation area. Condition 4 and 5 covers Westar. Richard Aitken is the Construction Services Representative for this area and can be contacted at 261-6734. The New Market Office 2<sup>nd</sup> Addition was recorded May 19, 2011.

NOTE: VAC2015-00024 vacated the plattor's text to amend the uses allowed in platted Reserves A and B, New Market Office 2<sup>nd</sup> Addition.

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

- 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 10, 2015, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by vacating the described access easement and the platted utility easement and that the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Vacate the platted 30-foot access easement located along the west side of Lot 4, Block 1 & the platted 20-foot utility easement located along the common line of Lot 4, Block 1, and Reserve B, all in the New Market Office 2<sup>nd</sup> Addition as approved by City Public Works, Water & Sewer, Stormwater, Traffic, Fire, and franchised utilities.
- (2) As needed provide easements for public utilities, including fire hydrants, a water line and water valves. These must be provided to Planning prior to the case going to the City Council for final action and subsequent recording with the Register of Deeds.
- (3) As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council for final action.
- (4) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council for final action.
- (5) Provide a legal description of the vacated 30-foot access easement and the platted 20-foot utility easement, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action and subsequent recording with the Register of Deeds. The legal description will be used on the Vacation Order.
- (6) All improvements shall be according to City Standards and at the applicants' expense.

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

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

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the platted 30-foot access easement located along the west side of Lot 4, Block 1 & the platted 20-foot utility easement located along the common line of Lot 4, Block 1, and Reserve B, all in the New Market Office 2<sup>nd</sup> Addition as approved by City Public Works, Water & Sewer, Stormwater, Traffic, Fire, and franchised utilities.
- (2) As needed provide easements for public utilities, including fire hydrants, a water line and water valves. These must be provided to Planning prior to the case going to the City Council for final action and subsequent recording with the Register of Deeds.
- (3) As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council for final action.
- (4) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council for final action.
- (5) Provide a legal description of the vacated 30-foot access easement and the platted 20-foot utility easement, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action and subsequent recording with the Register of Deeds. The legal description will be used on the Vacation Order.
- (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.

**BILL LONGNECKER**, Planning Staff presented the Staff Report.

There were no public comments.

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

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

- 3-4. **VAC2015-00039: City request to vacate a platted easement**, on properties generally located northeast of 151st Street West and Maple Street, north of Country View Court, on the east side of Country View Lane.

**OWNER/APPLICANT:** Christopher J. Dugan & Maple Group LLC (owners) Baughman Company, c/o Russ Ewy (agent)

**LEGAL DESCRIPTION:** Generally described as vacating the platted 20-foot drainage and utility easement located along the east sides/rear yard of Lots 19, 20 & 21, Block B, the Woods Addition, Wichita, Sedgwick County, Kansas

**LOCATION:** Generally located northeast of 151st Street West and Maple Street, north of Country View Court, on the east side of Country View Lane (WCC #V)

**REASON FOR REQUEST:** Future development

**CURRENT ZONING:** The site and all abutting properties are zoned SF-5 Single-Family Residential.

The applicant is requesting the vacation of the platted 20-foot drainage and utility easement located along the east sides/rear yard of Lots 19, 20 & 21, Block B, the Woods Addition. There are no hydrants, water or sewer equipment located in the subject drainage and utility easement. The subject easement abuts platted Reserve C, the Woods Addition. A function of Reserve C is drainage; Stormwater needs to comment on the request. Westar appears to have no facilities in the vacation area. Condition 3 and 4 covers Westar. Richard Aitken, is the Construction Services Representative for the area and can be contacted at 261-6734. The Woods Addition was recorded March 15, 2006.

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 platted drainage and utility easement.

- 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 10, 2015, which was at least 20 days prior to this public hearing.

2. That no private rights will be injured or endangered by vacating the described platted drainage and utility easement and that the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Vacate the platted 20-foot drainage and utility easement located along the east sides/rear yard of Lots 19, 20 & 21, Block B, the Woods Addition as approved by City Public Works, Water & Sewer, Stormwater, Traffic, Fire, and franchised utilities.
- (2) As needed provide easements for public utilities, including stormwater. These must be provided to Planning prior to the case going to the City Council for final action and subsequent recording with the Register of Deeds.
- (3) As needed provide letters from franchised utility representatives stating that there utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council for final action.
- (4) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council for final action.
- (5) Provide a legal description of the vacated platted 20-foot drainage and utility easement, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action and subsequent recording with the Register of Deeds. The legal description will be used on the Vacation Order.
- (6) All improvements shall be according to City Standards and at the applicants' expense.
- (7) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the platted 20-foot drainage and utility easement located along the east sides/rear yard of Lots 19, 20 & 21, Block B, the Woods Addition as approved by City Public Works, Water & Sewer, Stormwater, Traffic, Fire, and franchised utilities.

- (2) As needed provide easements for public utilities, including stormwater. These must be provided to Planning prior to the case going to the City Council for final action and subsequent recording with the Register of Deeds.
- (3) As needed provide letters from franchised utility representatives stating that there utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council for final action.
- (4) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council for final action.
- (5) Provide a legal description of the vacated platted 20-foot drainage and utility easement, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action and subsequent recording with the Register of Deeds. The legal description will be used on the Vacation Order.
- (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.

**BILL LONGNECKER**, Planning Staff presented the Staff Report.

There were no public comments.

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

**TODD** moved, **JOHNSON** seconded the motion, and it carried (11-0).

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- 3-5. **VAC2015-00040: City request to vacate a platted drainage & utility easement**, on property generally located on the north side of 13th Street North and west of Greenwich Road.

**OWNER/APPLICANT:** Apex Realty, LLC (owners) MKEC, c/o Brian Lindebak

**LEGAL DESCRIPTION:** Generally described as vacating the platted 20-foot drainage and utility easement located on the east side of Lot 2, Block 1, and abutting the west side of Reserve A, all in the Berkley Square Third Addition, Wichita, Sedgwick County, Kansas

**LOCATION:** Generally located on the north side of 13th Street North and west of Greenwich Road (WCC #II)

**REASON FOR REQUEST:** Future development

**CURRENT ZONING:** The site and abutting and adjacent east, west and north properties are zoned LI Limited Industrial. The abutting south property is zoned LC Limited Commercial.

The applicant is requesting the vacation of the platted 20-foot drainage and utility easement located on the east side of Lot 2, Block 1, and abutting the west side of Reserve A, all in the Berkley Square Third Addition. There is stormwater equipment located in the subject drainage and utility easement. The subject easement abuts platted Reserve A, the Woods Addition. Drainage is not listed as a function of Reserve A in the plattor's text. Westar may have a service stub located in that area that was set in place to provide power to future development to the west. There is power just out of that easement to the east. Conditions 2, 3 and 4 covers Westar. Becky Thompson is the Construction Services Representative for this area and can be contacted at 261-632. The Berkley Square Third Addition was recorded November 19, 2014.

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 platted drainage and utility easement.

- 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 10, 2015, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by vacating the described platted drainage and utility easement and that the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Vacate the platted 20-foot drainage and utility easement located on the east side of Lot 2, Block 1, and abutting the west side of Reserve A, all in the Berkley Square Third Addition by City Public Works, Water & Sewer, Stormwater, Traffic, Fire, and franchised utilities.
- (2) As needed provide easements for public utilities, including stormwater. These must be provided to Planning prior to the case going to the City Council for final action and subsequent recording with the Register of Deeds.

- (3) As needed provide letters from franchised utility representatives stating that there utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council for final action.
- (4) Provide utilities with any needed project plans for the relocation of utilities, including stormwater, 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.
- (5) Provide a legal description of the vacated platted 20-foot drainage and utility easement, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action and subsequent recording with the Register of Deeds. The legal description will be used on the Vacation Order.
- (6) All improvements shall be according to City Standards and at the applicants' expense.
- (7) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the platted 20-foot drainage and utility easement located on the east side of Lot 2, Block 1, and abutting the west side of Reserve A, all in the Berkley Square Third Addition by City Public Works, Water & Sewer, Stormwater, Traffic, Fire, and franchised utilities.
- (2) As needed provide easements for public utilities, including stormwater. These must be provided to Planning prior to the case going to the City Council for final action and subsequent recording with the Register of Deeds.
- (3) As needed provide letters from franchised utility representatives stating that there utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council for final action.
- (4) Provide utilities with any needed project plans for the relocation of utilities, including stormwater, 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.

- (5) Provide a legal description of the vacated platted 20-foot drainage and utility easement, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action and subsequent recording with the Register of Deeds. The legal description will be used on the Vacation Order.
- (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.

**BILL LONGNECKER**, Planning Staff presented the Staff Report.

There were no public comments.

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

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

**TODD** asked how title companies and the County Clerk are notified of vacations.

**LONGNECKER** briefly explained the administrative process where vacations approved by the governing body are recorded by the Register of Deeds.

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4. **Case No.: ZON2015-00035** - Arch Partner's LLC (Paul Gray) request a City zone change from LC Limited Commercial to CBD Central Business District on property described as:

Lots 26, 28 and 30, Chicago now Douglas Avenue along with the vacated alley adjacent on the East, West Wichita Addition, Sedgwick County, Kansas.

**BACKGROUND:** The applicant is seeking Central Business District (CBD) zoning for .61 platted acre located 75 feet east of the southeast corner of West Douglas Avenue and South Walnut Street. The subject site is currently zoned Limited Commercial (LC), and is developed with a row of commercial buildings that are built up to the property line and have zero side setbacks. The application area is currently occupied by restaurants. The site is located in and subject to the Delano Overlay Neighborhood District (D-O) that establishes land use and site development policies specific to the district.

The Delano District was initially developed in the 1870's and then redeveloped in the early 1900's when there were no requirements for off-street parking. Therefore, many of the uses in the Delano District do not have, or have only minimal, off-street parking and rely upon public parking located in the street right-of-way. Central Business District zoning mitigates site development issues for older portions of the core area, such as the requirement to provide off-street parking (off-street parking is not required of CBD zoned property) and reduced setback requirements (the CBD district permits zero setbacks; setbacks in the LC district vary from zero to 20 feet).

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

Land located north of the site, across West Douglas Avenue, is zoned LC, CBD and General Commercial (GC), and is developed with row commercial buildings. East of the site the property is zoned LC and GC, and is developed with parking lot owned by the applicant. South of the site the property is zoned GC, and developed with parking and commercial buildings. West of the subject property is land zoned Limited Industrial (LI) and LC, and developed with row commercial buildings. There have been at least two previous requests for CBD zoning in Delano that have been approved (ZON2015-00038 and ZON2014-00030). Since 1871, the Delano District is a commercial district that has been serving "west" Wichita with a variety of commercial, personal service and entertainment uses.

**CASE HISTORY:** The property is platted as the West Wichita Addition. The property was included in the Delano Neighborhood Revitalization Plan and Delano Overlay Neighborhood District (D-O) in 2001.

**ADJACENT ZONING AND LAND USE:**

North: LC, CBD and GC; retail and commercial uses  
South: GC; parking and retail and commercial uses  
East: LC, GC; parking and retail and commercial uses  
West: LI and LC; retail and commercial uses

**PUBLIC SERVICES:** The site is served by all normally supplied municipal services. The site has access to the arterial street, West Douglas Avenue, which has 100 feet of right-of-way. In 2007, Douglas Avenue east of Seneca carried approximately 10,000 vehicle trips on a daily basis.

**CONFORMANCE TO PLANS/POLICIES:** The Delano Neighborhood Plan map depicts the site as appropriate for "commercial mixed use."

The purpose of the CBD zoning district is to accommodate retail, commercial, office and other complementary land uses within the downtown core area of Wichita. Central Business District zoning is generally compatible with the "Downtown Regional Center" designation of the "Wichita-Sedgwick County Comprehensive Plan." It is intended for application only within the City of Wichita and only within the downtown core area and certain nearby areas being redeveloped with similar patterns of uses and site development standards such as but not limited to zero lot setbacks, shared parking, public

streetscapes as landscaping and urban design elements and mixed uses within a building. The requested CBD zoning is the appropriate zoning for the subject site, which is located west, across the Arkansas River from the original CBD zoned core of downtown Wichita. The application area shares some similar patterns of development and uses as the original core CBD area.

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

**RECOMMENDATION:** Based upon the information available at the time the staff report was prepared it is recommended that the request for CBD be approved.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The properties surrounding the subject site are zoned LC, GC, CBD and LI subject to the D-O district that permits a very wide range of land uses: residential, office, personal service, entertainment and commercial.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned LC which permits a wide range of residential, office and retail uses, but requires the provision of off-street parking, which the applicants own. The site has economic value as currently zoned. Approval of CBD zoning would eliminate the requirement for off-street parking modify building setback and height requirements and potentially add a few additional uses not permitted in the LC district.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request should not detrimentally impact nearby property owners in that the site is currently developed and has its own parking. The D-O district restrictions should minimize known impacts created by the proposed zone change.
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 would make the property more marketable, which should make a wider range of use possible thereby improving choice in the marketplace. Denial would presumably represent a loss of economic opportunity to the applicant or property owner.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Delano Neighborhood Plan map depicts the site as appropriate for “commercial mixed use.” The purpose of the CBD zoning district is to accommodate retail, commercial, office and other complementary land uses within the downtown core area of Wichita. Central Business District zoning is generally compatible with the “Downtown Regional Center” designation of the “Wichita-Sedgwick County Comprehensive Plan.” It is intended for application only within the City of Wichita and only within the downtown core area and certain nearby areas being redeveloped with similar patterns of uses and site development standards such as but not limited to zero lot setbacks, shared parking, public streetscapes as landscaping

and urban design elements and mixed uses within a building. The requested CBD zoning is the appropriate zoning for the subject site, which is located west, across the Arkansas River from the original CBD zoned core of downtown Wichita. The application area shares some similar patterns of development and uses as the original core CBD area.

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

6. Impact of the proposed development on community facilities: None identified as the site is located in an area of town that has had full public services for a long period of time and is served by an arterial street.

**DALE MILLER**, Planning Staff presented the Staff Report.

There were no public comments.

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

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

5. **Case No.: ZON2015-00036** - Lena P. Peeblee Rev. Trust/Mennonite Housing Deatrea Schuimscher request a City zone change from SF-5 Single-family Residential to B Multi-family Residential on property described as:

The North 7 acres, more or less, of the following described tract: The Southwest Quarter of the Southwest Quarter of Section 18, Township 28 South, Range 1 East of the 6<sup>th</sup> P.M., Sedgwick County, Kansas, except the West 263.6 feet of the South half of the North half of the Southwest Quarter of said Southwest Quarter, and except the East half of the Southwest Quarter of said Southwest Quarter, and except that part dedicated for street, and except that part deeded to the City of Wichita for street purposes.

**BACKGROUND:** The applicant is requesting to rezone from the SF-5 Single-Family Residential (SF-5) district to the B Multi-Family Residential (B) approximately seven unplatted acres located at the southeast corner of South Meridian Avenue and West 45<sup>th</sup> Street South. The property is currently undeveloped. The applicant proposes to develop 42 townhome units with a mix of two, three and four-bedrooms.

North of the application area, across West 45<sup>th</sup> Street South, the land is zoned SF-5 and Manufactured Housing (MH) district, and is developed with single-family residences and a manufactured home park or subdivision. East of the manufactured home park/subdivision, north of West 45<sup>th</sup> Street, there is land zoned B, developed with baseball fields, and undeveloped land zoned MF-29 Multi-Family Residential (MF-29). East of the application area is the SF-5 zoned City of Wichita Southview Park. South of the application area is SF-5 zoned farmland and LC Limited Commercial (LC) zoning that contains a single-family residence and farmland. Not included in the application area, located on the east side of South Meridian Avenue, approximately mid-way between West 45<sup>th</sup> Street South and West 47<sup>th</sup> Street South,

are two single-family residences zoned SF-5. There also is a vacant platted lot owned by the City of Wichita that has a conditional use to permit a sanitary sewer utility facility. West of South Meridian Avenue are single-family residences zoned SF-5 and SF-20 Single-Family Residential (SF-20).

The B zoning district permits a wide range of uses, such as: single-family, two-family and multi-family (three or more dwelling units in one structure), assisted living, group home, church, community assembly, nursing facility or school. The minimum lot area for multi-family dwelling units is 580 square feet per unit with a maximum density of 75.1 dwelling units per acre. The applicant's proposal equals approximately 7,260 gross square feet per dwelling unit. The B zoning district has a minimum front setback of 20 feet; rear setback of 15 feet; interior side setback of five feet and a minimum street side setback of five feet. A maximum height of 55 is permitted with an additional one foot of additional height for each additional foot of setback.

Trash receptacles, mechanical equipment and outdoor work and storage areas in multi-family uses are required to be screened from ground level view from any residential zoning district and cannot be located within 20 feet of property zoned TF-3 or more restrictive. Compatibility building setbacks of 15 feet up to 25 feet, depending on the size of the use, located along rear and side property lines of multi-family developments abutting TF-3 or more restrictive zoning are required. Building height for multi-family use is limited to 35 feet when it is located within 50 feet of a TF-3 or more restrictive zoned lot. Multi-family uses are required to screen with a six-foot high fence, berm, solid landscaping or some combination of the three along its side and rear property line where it abuts TF-3 or more restrictive zoning. A landscape buffer is required between multi-family zoning districts and one and two-family zoning districts. At a minimum the landscape buffer with a screening fence must have one tree every 40 feet.

**CASE HISTORY:** The site was annexed by the City in the 1960s and the site's SF-5 zoning would have been established at that time.

**ADJACENT ZONING AND LAND USE:**

North: SF-5, MH; single-family residences, manufactured home park/subdivision  
South: SF-5, LC, single-family residence/farmstead  
East: SF-5; Southview Park  
West: SF-5; single-family residences

**PUBLIC SERVICES:** South Meridian Avenue at this location is paved, has a right-of-way width that varies from 80 to 90 feet and has four-through lanes with a center-turn lane. West 45<sup>th</sup> Street South has 60 feet of full right-of-way and is a paved two-lane street. The closest sanitary sewer manhole is located on the north side of West 45 Street South. Water lines and stormwater improvements are located on both South Meridian Avenue and West 45 Street South.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for "urban residential" uses. The "urban residential" category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large municipality. The range of housing types found include: single-family detached homes, duplexes, townhouses, apartments or multi-family units and special residential accommodations

for the elderly. Medium and high density residential uses should be located within walking distance of neighborhood commercial centers, parks schools and public transportation routes. These uses should also be in close proximity to concentrations of employment, major thoroughfares and utility trunk lines. Medium and high-density residential uses should be directly accessible to arterial or collector streets. Medium and high-density residential uses should be sited where they will not overload or create congestion in existing and planned facilities/utilities. Multi-family uses generate approximately 6.6 average daily vehicle trips per dwelling unit or an estimated 277 average daily trips.

**RECOMMENDATION:** Based upon the information available at the time the staff report was prepared it is recommended that the request be approved subject to platting within one year of final approval.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: North of the application area, across West 45<sup>th</sup> Street South, the land is zoned SF-5 and Manufactured Housing (MH) district and is developed with single-family residences and a manufactured home park or subdivision. East of the application area is the SF-5 zoned City of Wichita Southview Park. South of the application area is LC Limited Commercial (LC) zoning used that contains a single-family residence or farmstead. Not included in the application area, located on the east side of South Meridian Avenue, approximately mid-way between West 45<sup>th</sup> Street South and West 47<sup>th</sup> Street South, are two single-family residences zoned SF-5. West of South Meridian Avenue are single-family residences zoned SF-5 and SF-20 Single-Family Residential (SF-20).
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned SF-5 which primarily permits single-family residential and a few civic and institutional uses, such as a school, park or church by right. There are other single-family residences located in the general area, presumably the application area would have economic value as currently zoned. However, due to the presence of LC zoning located south of the site, it would be consistent with typical development patterns for office or multi-family zoning to be used as transition zoning between the LC zoning and SF-5 zoning. The requested zoning would provide such a transition.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Code requirements, such as buffering, height, screening and landscape standards, minimize known detrimental impacts. A manufactured home park is located on the north side of West 45<sup>th</sup> Street South, east of South Meridian Avenue.
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 zoning request would potentially add to the inventory of multi-family units available in south-central Wichita. Denial would presumably represent a loss of economic opportunity to the property owner and/or the developer.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for "urban residential" uses. The "urban residential" category encompasses areas that reflect the full

diversity of residential development densities and types typically found in a large municipality. The range of housing types found include: single-family detached homes, duplexes, townhouses, apartments or multi-family units and special residential accommodations for the elderly. Medium and high density residential uses should be located within walking distance of neighborhood commercial centers, parks schools and public transportation routes. These uses should also be in close proximity to concentrations of employment, major thoroughfares and utility trunk lines. Medium and high-density residential uses should be directly accessible to arterial or collector streets. Medium and high-density residential uses should be sited where they will not overload or create congestion in existing and planned facilities/utilities. Multi-family uses generate approximately 6.6 average daily vehicle trips per dwelling unit or an estimated 277 average daily trips.

6. Impact of the proposed development on community facilities: At the time of platting any improvements needed to serve the site can be obtained.

DALE MILLER, Planning Staff presented the Staff Report.

There were no public comments.

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

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

6. Case No.: ZON2015-00039 - Winchester Investments, LLC, c/o Paul Gray (owner/applicant) requests a City zone change from LC Limited Commercial to CBD Central Business District on property described as:

Lot 15, Douglas Avenue, Martinson's 3<sup>rd</sup> Addition to Wichita, Sedgwick County, Kansas.

**BACKGROUND:** The applicant is requesting a zone change from LC Limited Commercial to CBD Central Business District on the subject site located west of Seneca Street, east of Dodge Avenue on the south side of Douglas Avenue; Lot 15, Douglas Avenue, Martinson's 3<sup>rd</sup> Addition. The site is located in (and subject to) the D-O Delano Overlay Neighborhood District. If CBD zoning is approved the site will still be subject to the D-O. The site's brick-stucco one-story downtown row store (built 1920) is currently occupied by a dry cleaners pick-up and drop-off store. In anticipation of any change of use triggering the parking requirements, the applicant is applying for CBD zoning. The applicant owns the abutting LC zoned 25-foot (x) 125-foot west property, which functions as a paved drive-thru and unmarked parallel parking (perhaps five vehicles) for the subject site. In the past parking issues were addressed by applications for a variance. The CBD zoning district more effectively resolves such issues as parking (no minimum parking standards) that could be triggered by a change in occupancy. This is the latest application for CBD zoning in the D-O along Douglas Avenue; ZON2013-00038, ZON2014-00030, ZON2015-00023, ZON2015-00034 and ZON2015-00035. In the previous zoning cases a lack of on-site parking was an issue.

The Delano District was initially developed in the 1870's and then redeveloped in the early 1900's when there were no requirements for property owners to provide on-site parking; production of the Ford Model T began in 1908. Therefore, many of the uses in the Delano District do not have on-site parking, but have relied on parking located on public street right-of-way to support their businesses. There is parallel parking on Douglas Avenue in front of the site.

A Metropolitan Area Planning Department (MAPD) parking study of West Douglas Avenue between Sycamore Street and Seneca Street reveals that most of the businesses fronting this described portion of Douglas Avenue do not provide the current code required number of off-street parking spaces. The MAPD analysis estimates that 5,373 off-street spaces are required, but an estimated 3,989 spaces have been provided. Although the site is located one block west of Seneca Street, the development patterns are similar to the study's area.

This section of Douglas Avenue is characterized by the prevalence of brick one to two-story downtown row stores mostly built in the early 1900s. Most of the downtown row stores along this section of Douglas Avenue were built up to the property lines, with no setbacks. It is not uncommon to have apartments located in the second or third story of these buildings, with the commercial uses located on the ground floor. However, the development located west of Seneca Street along Douglas Avenue does begin to introduce more small commercial buildings built after the 1920s and the commercial development begins to be interrupted by detached single-family residences.

As previously noted the LC zoned site is occupied by a dry cleaners pick-up and drop-off store. As previously noted the applicant owns the abutting LC zoned 25-foot (x) 125-foot west property, which functions as a paved drive-thru and unmarked parallel parking (perhaps five vehicles) for the subject site. A LC zoned one-story downtown row store (built 1900) occupied by a recording studio and tax service office is located west of the site's parking and drive-thru lot. A LC zoned one-story commercial building (currently a yoga studio) with an attached two-story residence (built 1940) and a vacant one-story commercial building (built 1960) are located further west of site, across Dodge Street. A LC zoned one-story downtown row store (built 1922) and (separated by a platted 15-foot alley) a small one-story commercial strip building (built 1982) are abutting and adjacent to the east side of the site. North of the site, across Douglas Avenue is a LC, LI Limited Industrial and GC General Commercial zoned QuikTrip convenience store (built 2008), a LC vacant one-story building (built 1985) with its parking lot and a LI zoned one-story commercial building (built 1999, currently a thrift store). A 15-foot wide alley separates the site from the south adjacent GC zoned one-story funeral home-mortuary (built 1956), its parking lot and a three-story apartment building (built 1925). A B Multi-Family Residential zoned duplex (built 1945) and undeveloped MF-18 Multi-Family Residential property are located southwest of the site, across Dodge Avenue. A block southeast of the site is a SF-5 Single-Family Residential zoned USD-259 school site (built 1921, 1948, 2003 and 2012).

**CASE HISTORY:** The site, Lot 15, Douglas Avenue, Martinson's 3<sup>rd</sup> Addition, which was recorded with the Register of Deeds on October 17, 1885.

**ADJACENT ZONING AND LAND USE:**

NORTH: LC, GC, LI

SOUTH: GC, MF-18, B, SF-5

Convenience store, thrift store, vacant commercial building

Funeral home- mortuary, apartment, duplex, vacant land, public school

EAST: LC  
WEST: LC

Commercial building, small commercial strip  
Recording studio, tax service, residence, yoga studio, vacant  
commercial building

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

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

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

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

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

This recommendation is based on the following findings:

(1) **The zoning, uses and character of the neighborhood:** This section of Douglas Avenue is characterized by the prevalence of brick one to two-story downtown row stores mostly built in the early 1900s. However, the development located west of Seneca Street along Douglas Avenue does begin to introduce more small commercial buildings built after the 1920s and the commercial development begins to be interrupted by detached single-family residences.

The LC zoned site is occupied by a dry cleaners pick-up and drop-off store. The applicant owns the abutting LC zoned 25-foot (x) 125-foot west property, which functions as a paved drive-thru and unmarked parallel parking (perhaps five vehicles) for the subject site. A LC zoned one-story downtown row store (built 1900) occupied by a recording studio and tax service office is located

west of the site. A LC zoned one-story commercial building (currently a yoga studio) with an attached two-story residence (both built 1940) and a vacant one-story commercial building (built 1960) are located further west of site, across Dodge Street. A LC zoned one-story downtown row store (built 1922) and (separated by a platted 15-foot alley) a small one-story commercial strip building (built 1982) are abutting and adjacent to the east side of the site. North of the site, across Douglas Avenue is a LC, LI Limited Industrial and GC General Commercial zoned QuikTrip convenience store (built 2008), a LC vacant one-story building (formerly a Braum's ice cream store, built 1985) with its parking lot and a LI zoned one-story commercial building (built 1999, currently a thrift store). A 15-foot wide alley separates the site from the south adjacent GC zoned one-story funeral home-mortuary (built 1956), its parking lot and a three-story apartment building (built 1925). A B Multi-Family Residential zoned duplex (built 1945) and undeveloped MF-18 Multi-Family Residential are located southwest of the site, across Dodge Avenue. A block southeast of the site is a SF-5 Single-Family Residential zoned USD-259 school site (built 1921, 1948, 2003 and 2012).

(2) The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC, subject to the D-O Delano Overlay, which permits a wide range of uses including residential, office and retail sales, subject to the Delano Overlay. Surrounding property is zoned similarly as the subject site. As currently zoned, the site could continue to be used as dry cleaners pick-up and drop-off store.

(3) Extent to which removal of the restrictions will detrimentally affect nearby property: The CBD district permits a broader range of commercial uses; however, the D-O district prohibits a significant range of uses regardless of a site's base zoning. The D-O district also requires a substantial number of uses to obtain "conditional use" approval even though the use may be a permitted use by the base zoning district: car wash, manufacturing, warehousing or wholesale or business services. Because of the overlay zoning district, approval of the request should not negatively impact nearby uses. However, the requested CBD zoning could allow a change of uses (subject to the D-O) without triggering the current parking standards, which could require a variance to resolve as had been done in the past.

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

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

elements and mixed uses within a building. Douglas Avenue is the main east-west street in downtown Wichita and is located in the middle of the downtown core of Wichita. The requested CBD zoning is the appropriate zoning for this Douglas Avenue site, which is located west (across the Arkansas River) of the original CBD zoned downtown core of Wichita. The area the site is located in shares some similar patterns of uses as the original CBD core area.

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

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

**BILL LONGNECKER**, Planning Staff presented the Staff Report.

There were no public comments.

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

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

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**Other Matters**

**CHAIR NEUGENT** announced that Committee reappointments is due. She asked Mr. Barber to explain a little about each Committee. She said the Bylaws dictate that the Vice Chair serves on the Advance Plans Committee, and the Chair does not need to serve on any committee.

**BARBER** gave a brief overview of each Committee. He said the Subdivision Committee meets twice a month on alternating Thursdays from the Planning Commission Hearings at 10:00 a.m. He said the meetings usually last anywhere from 1 to 1 ½ hours. He said this hearing covers fairly detailed and technical review of subdivision (platting) and vacation cases.

**BARBER** said the Advance Plans Committee meets on an “as required basis.” He said this Committee deals more with policy issues related to the Comprehensive Plan, various Neighborhood Plans, and other planning initiatives which may require changes to the UZC. He commented that recently the Committee has been meeting on a more regular basis to finalize the Comprehensive. He said as they move forward with the Plan and monitoring of it, he will be recommending that the Committee meet at least once a month.

**DAILEY** brought up the possibility of changing the Subdivision Committee meeting date and time. There was brief discussion regarding why the meeting is scheduled on that date and time and other scheduling conflicts.

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The Metropolitan Area Planning Commission adjourned at 2:00 p.m.

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

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

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

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

(SEAL)

DRAFT



**STAFF REPORT**

**CASE NUMBER:** SUB 2009-00075 – DOWNWIND ESTATES SECOND ADDITION

**OWNER/APPLICANT:** Crosswinds Aviation, P.O. Box 574, Rose Hill, KS 67133; Paul and Tasha Brackeen, 11821 East 79<sup>th</sup> Street South, Derby, KS 67037

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

**LOCATION:** South side of 71<sup>st</sup> St. South, West side of 143<sup>rd</sup> St. East (County District V)

**SITE SIZE:** 32 acres

**NUMBER OF LOTS**

Residential:	20
Office:	
Commercial:	
Industrial:	
Total:	<u>20</u>

**MINIMUM LOT AREA:** 1 acre

**CURRENT ZONING:** Rural Residential (RR)

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

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**VICINITY MAP**



**SUB2009-00075 – Plat of DOWNWIND ESTATES SECOND ADDITION**  
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**NOTE:** This site is located in the County in an area designated as “rural” by the Wichita-Sedgwick County Comprehensive Plan. The site has been approved for a zone change (ZON2010-00040) from Rural Residential (RR) to Single-Family Residential (SF-20) along with a Conditional Use (CON2010-00038) to allow expansion of an existing airport. This plat includes the vacation of a portion of 71<sup>st</sup> Street South.

**STAFF COMMENTS:**

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact Metropolitan Area Building and Construction Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval.
- B. The site is currently located within the Sedgwick County Rural Water District Number 3. If service is available, feasible and the property is eligible for service, County Code Enforcement recommends connection.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. The taxiway easement needs to be referenced in the plat's text.
- E. The plat denotes a public street and a private street opening along 143<sup>rd</sup> Street East. Complete access control has been denoted along 73<sup>rd</sup> Street South and two openings along 139<sup>th</sup> Street East. County Engineering has approved the access controls.
- F. Since the vacation of 71st Street South has created a dead end extending from 143rd Street South, County Public Works recommends a temporary cul-de-sac easement within Downwind Estates Addition to the north that would automatically become void upon vacation of 71st Street South. The turnaround shall be in accordance with the Sedgwick County Service Drive Code and a guarantee submitted for its construction.
- G. County Public Works has approved the drainage plan.
- H. County Public Works advises that Reserve C needs to indicate drainage and utility easements.
- I. The applicant will be platting Lots 19 and 20, Block 1 as a reserve.
- J. The emergency access easement located within Reserve B shall be established by separate instrument. The text of the instrument shall indicate the type of driving surface to be installed and address installation and maintenance. Standard gating and signing are required per County Fire Department standards.
- K. The applicant informed Staff that he proposes off-site private streets north of 71st Street South connecting with Reserve B and extending to 143rd Street East. County Fire Department and County Public Works request a detailed access plan for this adjoining property to the north. In the event the private street system to the north does not connect with 143rd Street East, a turnaround will be needed in conformance with the Sedgwick County Service Drive Code.
- L. Sedgwick County Fire Department has advised the plat and off-site roads will need to comply with the Sedgwick County Service Drive Code.

**SUB2009-00075 – Plat of DOWNWIND ESTATES SECOND ADDITION**  
**October 15, 2015 - Page 3**

- M. A restrictive covenant shall be submitted regarding the proposed reserves, which sets forth ownership and maintenance responsibilities. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a 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. Reserve A shall include a landscape screen as a use listed in the plat's text.
- N. The applicant shall guarantee the construction of the private street (Reserve B) to a suburban street standard. As private improvements, such guarantee shall not be provided through the use of a petition. The applicant shall guarantee the construction of 139th Street East and 73rd Street South. A guarantee is also required for the closure of the 71<sup>ST</sup> Street South street return abutting Lot 7.
- O. On the final plat tracing, the MAPC signature block needs to reference "Carol Chapman Neugent" as Chair.
- P. County Surveying advises all the curve data needs shown on the final plat.
- Q. County Surveying advises the section line along the north line of the northeast quarter of the northeast quarter needs shown with a bearing and a distance.
- R. County Surveying advises the monument at the southwest corner of the northwest quarter of the northeast quarter needs to be shown as set or found, or the theory of location shall be shown on the final plat.
- S. County Surveying advises the dimensions for the exception of the east 467.00 feet of the north 653.56 feet needs to be shown.
- T. County Surveying advises a dimension needs added on the west line of Lot 2, Block 1.
- U. County Surveying advises the dimension on the east line of Lot 3, Block 1 needs corrected.
- V. County Surveying advises all the recording data for the existing street right-of-way needs to be shown.
- W. County Surveying advises the notary for "Greg Thomas" needs corrected to "Greg O. Thomas".
- X. The standard language regarding vacation statutes need to reference "K.S.A. 12-512b, as amended".
- Y. The plat's text shall reference "lots, a block, reserves and streets".
- Z. The MAPC signature block needs to reference "W. David Barber – Interim Secretary".
- AA. The platting binder indicates a party holding a mortgage on the site. This party's name must be included as a signatory on the plat, or else documentation provided indicating that such mortgage has been released.
- BB. The plat'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.

**SUB2009-00075 – Plat of DOWNWIND ESTATES SECOND ADDITION**  
**October 15, 2015 - Page 4**

- CC. 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.)
- DD. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- EE. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- FF. 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.
- GG. 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.
- HH. Perimeter closure computations shall be submitted with the final plat tracing.
- II. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- JJ. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: [kwilson@wichita.gov](mailto:kwilson@wichita.gov)).

**STAFF REPORT**

**CASE NUMBER:** SUB2015-00027 – PEARL BEACH ADDITION

**OWNER/APPLICANT:** Cornejo & Sons, LLC, Attn: Morgan Koon, PO Box 161032, Wichita, KS 67216; (contract purchaser) Russell Hangar, LLC, Attn: Jay Russell, PO Box 75337, Wichita, KS 67275

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

**LOCATION:** Southeast corner of 29<sup>th</sup> Street North and Hoover Road (District V)

**SITE SIZE:** 64.11 acres

**NUMBER OF LOTS**

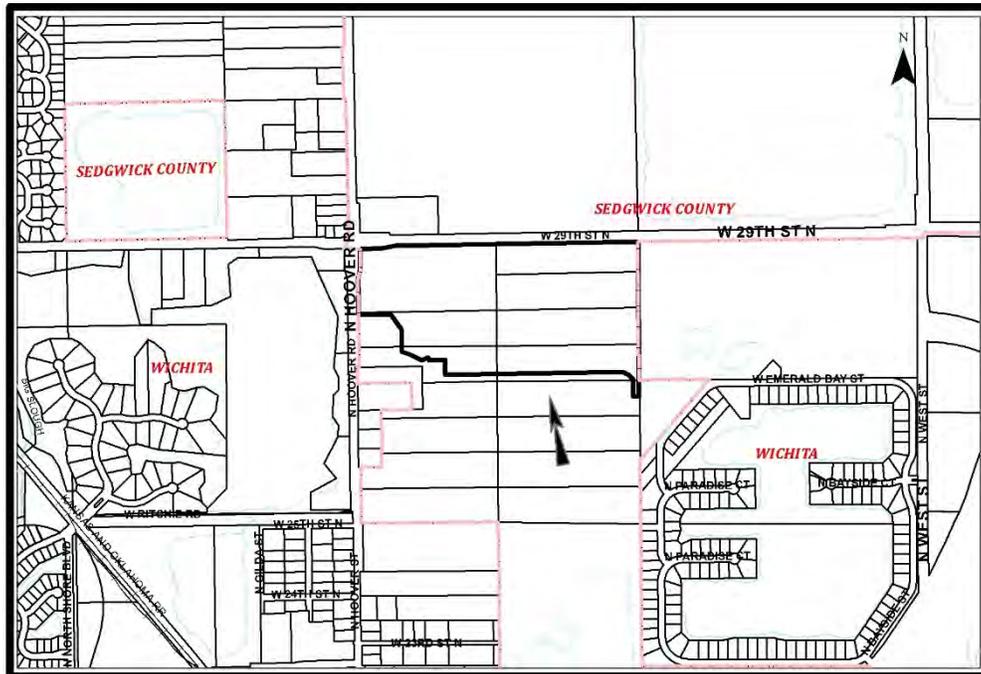
Residential:	66
Office:	
Commercial:	
Industrial:	
Total:	<u>66</u>

**MINIMUM LOT AREA:** 11,200 square feet

**CURRENT ZONING:** Single-Family Residential (SF-20), Limited Commercial (LC)

**PROPOSED ZONING:** Single-Family Residential (SF-5), Limited Commercial (LC)

**VICINITY MAP**



**SUB2015-00027 – Plat of PEARL BEACH ADDITION**  
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**NOTE:** This site is located in the County adjoining Wichita's municipal boundaries and annexation is required. The site is currently zoned Single-Family Residential (SF-20) and Limited Commercial (LC). The residential portion of the property will be converted to Single-Family Residential (SF-5) upon annexation. This final plat is a portion of the overall preliminary plat, covering the northern portion of the site - and represents the first phase of development. The final plat is consistent with the preliminary plat in regards to lot configuration and street layout.

**STAFF COMMENTS:**

- A. As this site is adjacent to Wichita's municipal boundaries, the applicant shall submit a request for annexation. Upon annexation, the residential portion of the property will be zoned Single-Family Residential (SF-5) and allow for the lot sizes being platted. The final plat shall not be scheduled for City Council review until annexation has occurred.
- B. City of Wichita Public Works and Utilities Department advises that the applicant needs to extend water (transmission and distribution) and sewer (main and lateral) to serve all lots being platted.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. City Stormwater Management has approved the drainage plan.
- E. The plat proposes one street opening along Hoover and one street opening along 29<sup>th</sup> Street North. Traffic Engineering has approved the access controls.
- F. City Fire Department has approved the street lengths of Gulf Breeze Cir (839 feet) and Wavecrest Cir (2150 feet). The Subdivision Regulations limit urban cul-de-sacs to 800 feet in length unless an emergency access easement is proposed. 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.
- G. City Fire Department advises the turnarounds must meet the minimum 38-foot paved radius requirement for cul-de-sacs over 150 feet contingent upon approval of the City of Wichita. The turnaround for Wavecrest Circle shall be a 35-foot paved radius contingent upon a paved emergency access connection to the south.
- H. 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. Traffic Engineering requests the easements be labeled as "street, sidewalk, drainage and utility easements" or sidewalks referenced in the plat's text.
- I. Sedgwick County Public Works requests that if 29th Street is not required to be annexed, the use of Curtis Street be restricted to gated emergency access until such time as 29th Street North is paved. The applicant has submitted a revised plat denoting a 60-foot emergency access opening for Curtis Street with a Note that the opening shall become a full movement opening at such time as 29<sup>th</sup> Street North is paved.

**SUB2015-00027 – Plat of PEARL BEACH ADDITION**  
**October 15, 2015 - Page 3**

- J. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.
- K. The Applicant shall guarantee the paving of the proposed streets and the emergency access easement. The guarantee shall also provide for sidewalks on at least one side of Pearlbeach Street and Curtis Street.
- L. The emergency access easement shall be established by separate instrument. The text of the instrument shall indicate the type of driving surface to be installed and address installation and maintenance. Standard gating and signing are required per City/County Fire Department standards.
- M. Since Reserve J includes a swimming pool, a site plan shall be submitted with the final plat for review by MAPD. The site plan shall include the information indicated in the Subdivision Regulations. The design for the pool must be submitted to Environmental Services for review prior to issuing a building permit for the pool.
- N. 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 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.
- O. 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.
- P. The Applicant has submitted a revised plat with a 15-foot building setback for Lots 19 and 20, Block A, which represents an adjustment of the Zoning Code standard of 25 feet for the Single-Family District (SF-5). The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission. 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.
- Q. This property is within a zone identified by the City Engineer's office as likely to have groundwater at some or all times within 10 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 Engineers' office.
- R. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted and inspected.
- S. GIS has approved the street names.

**SUB2015-00027 – Plat of PEARL BEACH ADDITION**  
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- T. Due to the northwest corner of the plat zoned Limited Commercial (LC), a zone change to SF-5 Single-Family Residential is needed. In the alternative, a restrictive covenant may be provided limiting the site to SF-5 uses.
- U. 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.
- V. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- W. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- X. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- Y. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- Z. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- AA. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- BB. Perimeter closure computations shall be submitted with the final plat tracing.
- CC. Any and all relocation and removal of any existing equipment made necessary by this plat will be at the applicant's expense.
- DD. A compact disc (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 disc. If a disc is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: [kwilson@wichita.gov](mailto:kwilson@wichita.gov)).

**STAFF REPORT**

**CASE NUMBER:** SUB2015-00031 – FOREST HILLS OFFICE PARK 5<sup>TH</sup> ADDITION

**OWNER/APPLICANT:** MKRE, LC; MK Group Investments, LC, Attn: Matt Bengston, 411 North Webb Road, Wichita, KS 67206; Investment Properties, LC; Webb Road Investments, LC, Attn: Matt Bengston, 411 North Webb Road, Wichita, KS 67206

**SURVEYOR/AGENT:** MKEC Engineering, Inc., Attn: Brian Lindebak, 411 North Webb Road, Wichita, KS 67206

**LOCATION:** Southwest corner of Central and Webb Road (District II)

**SITE SIZE:** 4.99 acres

**NUMBER OF LOTS**

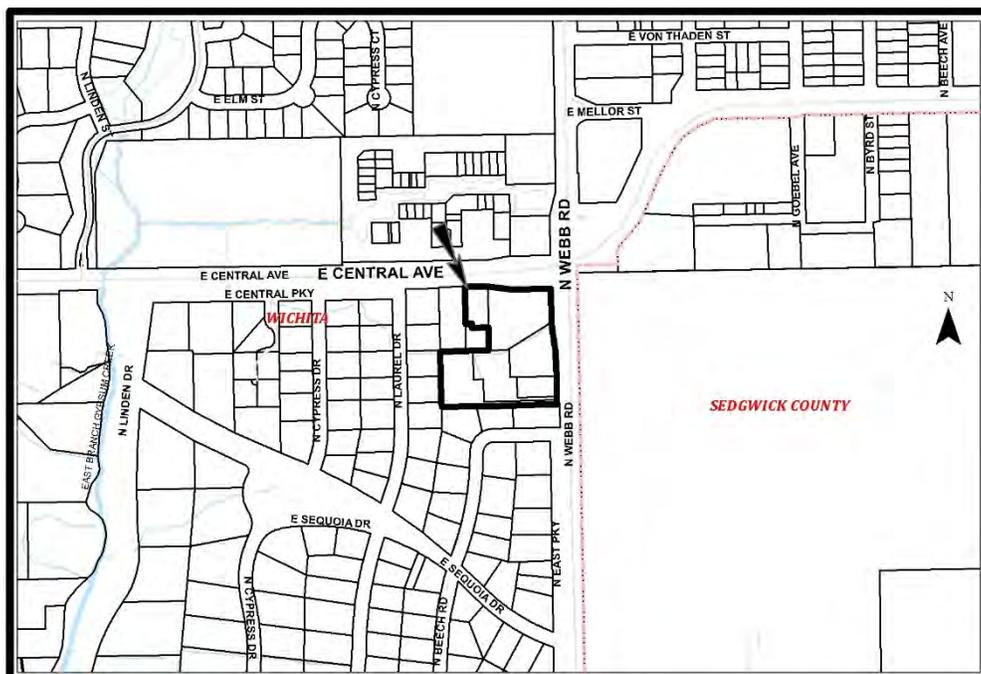
Residential:	
Office:	
Commercial:	6
Industrial:	
Total:	<u>6</u>

**MINIMUM LOT AREA:** 17,958 square feet

**CURRENT ZONING:** Limited Commercial (LC)

**PROPOSED ZONING:** Same

**VICINITY MAP**



**SUB2015-00031 -- Plat of FOREST HILLS OFFICE PARK 5<sup>TH</sup> ADDITION  
October 15, 2015 - Page 2**

**NOTE:** This is a replat of Forest Hills Office Park 2<sup>nd</sup> Addition, Forest Hills Office Park 3<sup>rd</sup> Addition, Forest Hills Office Park 4<sup>th</sup> Addition and Forest Park Shops Addition.

**STAFF COMMENTS:**

- A. City of Wichita Public Works and Utilities Department advises that all lots are currently being served by water and sewer.
- B. City Stormwater Management has approved the applicant's drainage plan.
- C. The plat proposes two openings along Central and two openings along Webb Road. Traffic Engineering has approved the access controls subject to correcting the dimension along the northerly access control along Webb Road.
- D. Cross-lot circulation is needed to assure internal vehicular movement between the lots. In the event the existing driveway easements do not address Lot 5, then a cross-lot circulation agreement shall be provided.
- E. County Surveying requests to be sent the closure calculations for the contiguous portion of the legal description, and to be contacted thereafter.
- F. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to [tricia.robello@sedgwick.gov](mailto:tricia.robello@sedgwick.gov) and [nstrahl@wichita.gov](mailto:nstrahl@wichita.gov).
- G. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted and inspected.
- H. 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 (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.
- 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

**SUB2015-00031 -- Plat of FOREST HILLS OFFICE PARK 5<sup>TH</sup> ADDITION**  
**October 15, 2015 - Page 3**

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. Kansas Gas Service (KGS) advises of existing facilities within the area being replatted. KGS Engineering would like to review the proposed plat and identify any potential issues with KGS facilities. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.

O. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: [kwilson@wichita.gov](mailto:kwilson@wichita.gov)).

**STAFF REPORT**

**CASE NUMBER:** SUB2015-00033 – OATVILLE ELEMENTARY ADDITION

**OWNER/APPLICANT:** Unified School District #261 of Sedgwick County, Attn: Dr. Clint Schutte, 1745 West Grand Avenue, Haysville, KS 67060

**SURVEYOR/AGENT:** MKEC Inc., Attn: Brian Lindebak, 411 North Webb Road, Wichita, KS 67206

**LOCATION:** West side of Hoover, North of 47<sup>th</sup> Street South (District IV)

**SITE SIZE:** 10 acres

**NUMBER OF LOTS**

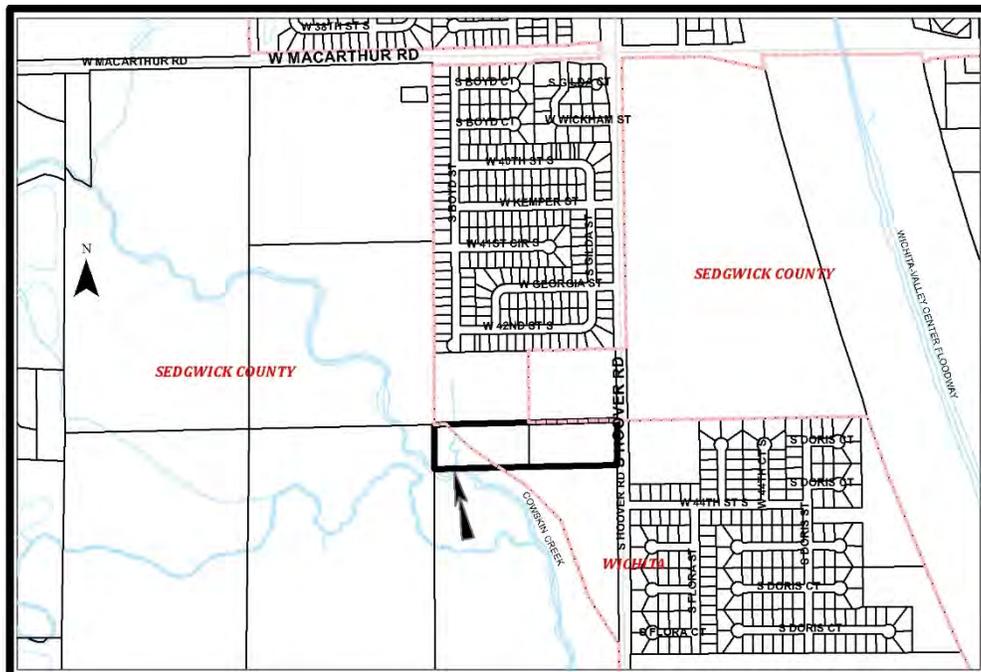
Residential:	1
Office:	
Commercial:	
Industrial:	
Total:	<u>1</u>

**MINIMUM LOT AREA:** 4.63 acres

**CURRENT ZONING:** Single-Family Residential (SF-20), Single-Family Residential (SF-5)

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

**VICINITY MAP**



**SUB2015-00033 -- Plat of OATVILLE ELEMENTARY ADDITION**  
**October 15, 2015 - Page 2**

**NOTE:** This unplatted site is zoned Single-Family Residential (SF-5) and Single-Family Residential (SF-20). A portion of this site is located in the County adjoining Wichita's boundaries and annexation is required.

**STAFF COMMENTS:**

- A. As a portion of this site is adjacent to Wichita's municipal boundaries, the applicant shall submit a request for annexation. Upon annexation, that portion of the property will be zoned Single-Family Residential (SF-5). The final plat shall not be scheduled for City Council review until annexation has occurred.
- B. City of Wichita Public Works and Utilities Department advises that water is available. In-lieu-of-assessment fees are due (transmission and distribution). A No protest for future sanitary sewer extension is needed.
- C. City Environmental Health Division advises that the property is more than 150 feet from existing sanitary sewer. If the lot is developed, it will need to have a septic system that is approved by Environmental Health.
- D. City Stormwater Management has approved the applicant's drainage plan.
- E. The plat proposes one access opening along Hoover Road. Traffic Engineering has approved the access controls.
- F. Provisions shall be made for ownership and maintenance of the proposed reserves. A restrictive covenant shall be submitted regarding ownership and maintenance responsibilities.
- G. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- H. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted and inspected.
- I. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to [tricia.robello@sedgwick.gov](mailto:tricia.robello@sedgwick.gov) and [nstrahl@wichita.gov](mailto:nstrahl@wichita.gov).
- J. The face of the plat indicates that a blanket pipeline easement exists for the area involved in this plat. County Surveying advises that the Applicant shall obtain a partial release of this easement. The pipeline easement shall be located by the surveyor and shown as a contingent pipeline easement. The plat's text shall state that the easement is "in the process of being confined as shown and contingent upon recording of necessary documents".
- K. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

**SUB2015-00033 -- Plat of OATVILLE ELEMENTARY ADDITION**  
**October 15, 2015 - Page 3**

- L. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- M. 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.
- N. 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.
- O. 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.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- R. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: [kwilson@wichita.gov](mailto:kwilson@wichita.gov)).

**STAFF REPORT**

**CASE NUMBER:** SUB2015-00034 – RIB CRIB WICHITA ADDITION

**OWNER/APPLICANT:** Reichenberger Revocable Family Trust, 501 Summitlawn, Wichita, KS 67209; Sandra K. Reichenberger, 500 South Ridge Road, Wichita, KS 67209

**AGENT:** PlanScape Partners, Attn: Ronald Fiscus, 333 North Washington Avenue, Suite 337, Minneapolis, MN 55401

**SURVEYOR:** Mark Deal and Associates, P.O. Box 6578, Norman, OK 73116

**LOCATION:** East of Eisenhower Airport Parkway, on the South Side of Taft Avenue (District IV)

**SITE SIZE:** 1.15 acres

**NUMBER OF LOTS**

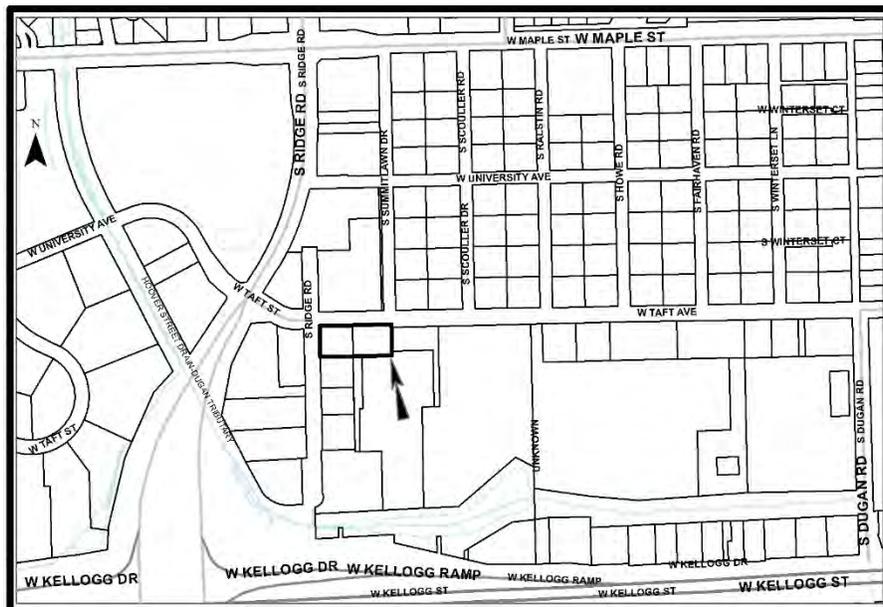
Residential:	
Office:	
Commercial:	1
Industrial:	
Total:	<u>1</u>

**MINIMUM LOT AREA:** 1.07 acres

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

**PROPOSED ZONING:** Limited Commercial (LC)

**VICINITY MAP**



**SUB2015-00034 -- Plat of RIB CRIB WICHITA ADDITION  
October 15, 2015 - Page 2**

**NOTE:** This is a replat of the Mary Ellen Addition in addition to unplatted property to the west. The applicant requests a zone change (ZON2015-00045) from Single-Family Residential (SF-5) to Limited Commercial (LC).

**STAFF COMMENTS:**

- A. City of Wichita Public Works and Utilities Department advises that the site is currently being served by water and sewer.
- B. The platlor's text shall include the language "The utility easement is hereby granted as indicated for the construction and maintenance of all public utilities."
- C. The platlor's text shall include the language "Existing public easements and dedications being vacated by virtue of K.S.A. 12-512b, as amended."
- D. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- E. City Stormwater Management has approved the applicant's drainage plan.
- F. The owner's certificate shall begin with the following sentence: "Know all men by these presents that We, the undersigned, have caused the land described in the surveyor's certificate to be platted into a lot, a block and a street to be known as "Rib Crib Wichita Addition", Sedgwick County. Kansas."
- G. Traffic Engineering has required access controls along Taft denoting the westerly opening as shown on the site plan. A restrictive covenant will be needed consenting to closure of the easterly drive along Taft upon mutually agreeable future cross-lot access granted from the adjoining property to the east when and if the adjoining property is rezoned or replatted. The final plat shall reference the dedication of access controls in the platlor's text: "All access controls are hereby dedicated to the City of Wichita".
- H. The applicant has dedicated an additional 15 feet of right-of-way along Taft resulting in a 45-foot half street right-of-way. The 50' label shall be replaced with 45'.
- I. "Formerly Mary Ellen Addition" needs to be removed from the face of the final plat.
- J. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.
- K. As the plat consists of a commercial lot abutting non-arterial streets, the Subdivision regulations require sidewalks along the street frontage of both Taft and Ridge Road. A guarantee shall be submitted or a Sidewalk Certificate in lieu of a guarantee may be provided.
- L. "Annexed Plat" referenced in the owner's certificate and surveyor's certificate shall be replaced with "plat".
- M. County Surveying advises there is a recorded sewer easement that lies within the now platted utility easement.

**SUB2015-00034 -- Plat of RIB CRIB WICHITA ADDITION**  
**October 15, 2015 - Page 3**

- N. The County Commissioner Certificate may be deleted since this is a City plat.
- O. 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.
- P. On the final plat tracing, the MAPC signature block needs to reference "Carol Chapman Neugent" as Chair.
- Q. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted and inspected.
- R. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to [tricia.robello@sedgwick.gov](mailto:tricia.robello@sedgwick.gov) and [nstrahl@wichita.gov](mailto:nstrahl@wichita.gov).
- S. 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.
- T. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.
- 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.
- 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.

**SUB2015-00034 -- Plat of RIB CRIB WICHITA ADDITION**  
**October 15, 2015 - Page 4**

- Z. Perimeter closure computations shall be submitted with the final plat tracing.
- AA. Kansas Gas Service (KGS) advises of existing facilities within the area being replatted. KGS Engineering would like to review the proposed plat and identify any potential issues with KGS facilities. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- BB. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: [kwilson@wichita.gov](mailto:kwilson@wichita.gov)).
- CC. The surveyor's certificate shall be revised to reference "City of Wichita, Sedgwick County, Kansas"
- DD. The MAPC signature block needs to reference "W. David Barber – Interim Secretary".

**STAFF REPORT**

**CASE NUMBER:** VAC2015-00041 - Request to vacate a portion of a platted front setback

**APPLICANT/AGENT:** Genaro & Brandi Arroyo (owners)

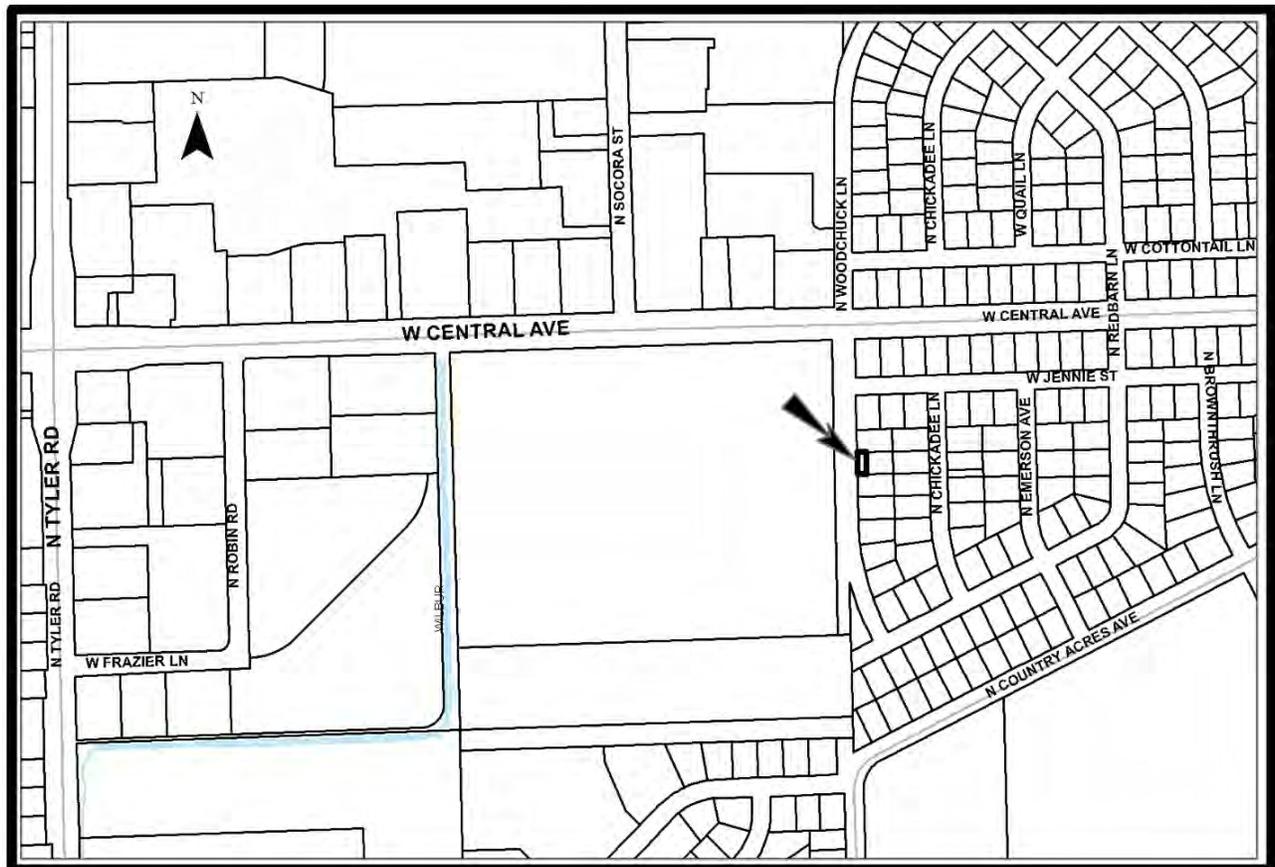
**LEGAL DESCRIPTION:** Generally described as the inside 10 feet of the platted 30-foot front yard setback of Lot 5, Block D, Meadowview Estates Addition, Wichita, Sedgwick County, Kansas

**LOCATION:** Generally located midway between Tyler and Ridge Roads, south of Central Avenue, south of Jennie Street on the east side of Woodchuck Lane (WCC #V)

**REASON FOR REQUEST:** Remove existing encroachment

**CURRENT ZONING:** Subject property, all abutting and adjacent properties are zoned SF-5 Single-Family Residential

**VICINITY MAP:**



The applicants propose to vacate the inside 10 feet of the platted 30-foot front yard setback on Lots 1, 5, Block D, Meadowview Estates Addition. The subject site is zoned SF-5 Single-Family Residential. The Unified Zoning Code's (UZC) minimum front yard setback standard for the SF-5 zoning district is 25 feet. If the setback was 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 applicants' request does not exceed what is permitted by an Administrative Adjustment. There are no platted easements in the described portion of the platted front yard setback. There are no utilities within the described portion of the platted front yard setback; water is located in the Woodchuck Lane right-of-way and sewer is located in the platted easement located in the rear/back yard. The Meadowview Estates Addition was recorded with the Register of Deeds June 20, 1955.

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 the platted front 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 24, 2015, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by vacating the described platted 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 inside 10 feet of the platted 30-foot front yard setback on Lot 5, Block D, Meadowview Estates 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 made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide any needed easements prior to the case going to Council for final action.
- (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 10 feet of the platted 30-foot front yard setback on Lot 5, Block D, Meadowview Estates 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 made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide any needed easements prior to the case going to Council for final action.
- (3) All improvements shall be according to City Standards and at the applicant’s expense.
- (4) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**STAFF REPORT**

**CASE NUMBER:** VAC2015-00042 - County request to vacate a water line and sanitary sewer easement via Quit Claim and a public utility easement created by vacation of public street right-of-ways

**OWNER/AGENT:** Cessna Aircraft Company (owner) PEC, c/o Charlie Brown (agent)

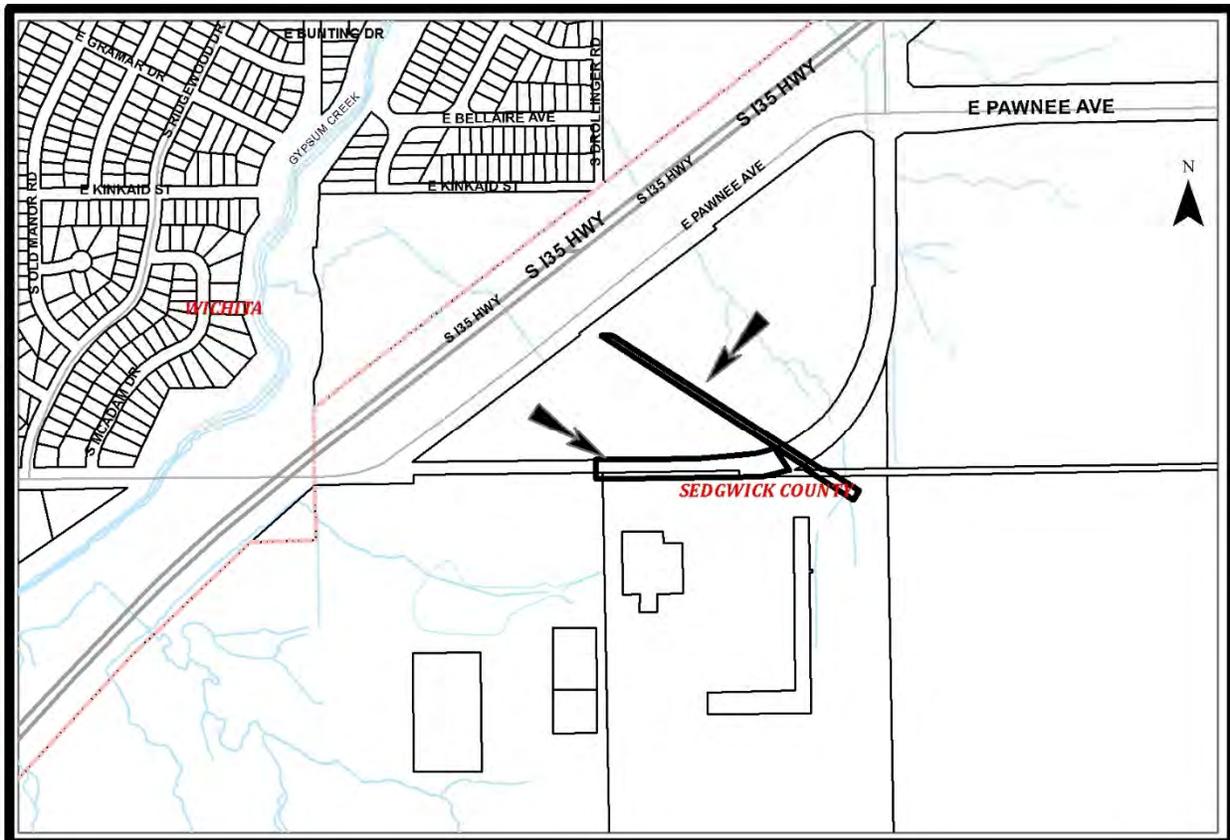
**LEGAL DESCRIPTION:** Generally described as vacating the sanitary sewer and water line easement via Quit Claim and a public utility easement created by the vacation (V-2015) of portions of Woodlawn Boulevard and Pawnee Avenue Addition, Sedgwick County, Kansas

**LOCATION:** Generally located east of Oliver Avenue and southeast of Pawnee Avenue and I-135 (BoCC #5)

**REASON FOR REQUEST:** Relocation of utilities for expansion of Cessna facilities

**CURRENT ZONING:** The unplatted site and abutting western and southern properties are zoned LI Limited Industrial. I-135 abuts the north and east sides of the site.

**VICINITY MAP:**



The applicant proposes to vacate the 30-foot wide water and sanitary sewer easement (Misc. Record 290-Pg. 53, Quit Claim Deed Bk 1445-Pg. 150) and a portion of a 90-foot wide public utility easement created by the vacation of portions of Pawnee Avenue and Woodlawn Boulevard; V-2015, FLM 1687-Pg. 216. The applicant has provided dedications of a water line easement and a sanitary sewer easement proposed to cover re-located utilities; provide approved private project plan number for relocated utilities. Shane Price is the Westar Construction Services Supervisor for this area and can be contacted at 261-6315. Any and all relocation and removal of any existing Westar equipment made necessary by this vacation request will be at the applicant's expense.

Because the site is located in Sedgwick County, but within the City of Wichita's three-mile ring subdivision jurisdiction, consideration and recommendation by the Wichita City Council, and consideration and final action by the Sedgwick County Board of County Commissioners is required.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from County Public Works, 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 sanitary sewer and water line easement via Quit Claim and the public utility easement created by the vacation 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 24, 2015, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by vacating the described sanitary sewer and water line easement via Quit Claim and the public utility easement created by the vacation of public street right-of-way and that the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Abandonment or relocation/reconstruction of any/all utilities, made necessary by this vacation shall be to County 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 County Commission for final action.
- (2) Provide Planning with any needed easements, with original signatures, for relocated utilities, prior to this case going to the County Commission for final action and subsequent recording with the Vacation Order at the register of Deeds.

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

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

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Abandonment or relocation/reconstruction of any/all utilities, made necessary by this vacation shall be to County 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 County Commission for final action.
- (2) Provide Planning with any needed easements, with original signatures, for relocated utilities, prior to this case going to the County Commission for final action and subsequent recording with the Vacation Order at the register of Deeds.
- (3) Provide Planning with a legal description of the vacated portion of the platted utility easement 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 County Commission 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.

**STAFF REPORT**

**CASE NUMBER:** VAC2015-00045 - City request to vacate a utility easement reference in the platlor’s text and a platted utility easement

**OWNER/AGENT:** HD Realty (owner) Baughman Company c/o Russ Ewy (agent)

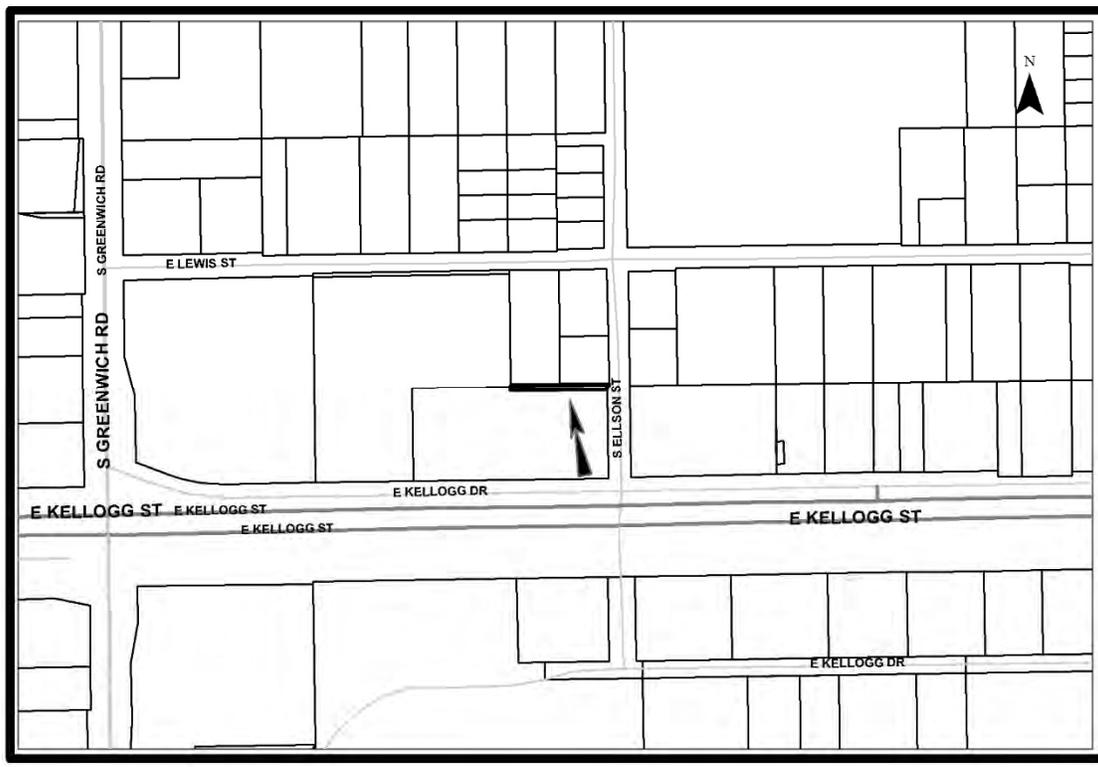
**LEGAL DESCRIPTION:** Generally described as vacating the 5-foot wide utility easement referenced in the platlor’s text and located parallel to the south lot lines of Lots 51 & 52, Linwood Acres Addition and the east 254 feet of the 10-foot wide platted utility easement running parallel to the north lot line of Lot 1, Scholfield Brothers Addition, Sedgwick County, Kansas.

**LOCATION:** Generally located north of Kellogg Street, west of I-35, at the southwest corner of Lewis and Ellison Streets (WCC #II)

**REASON FOR REQUEST:** Relocation of utilities for expansion of facilities

**CURRENT ZONING:** The site is zoned LC Limited Commercial and GC General Commercial. Abutting and adjacent western, southern and eastern properties are zoned GC. Adjacent north properties, across Lewis Street, are zoned SF-5 Single-Family Residential, MF-18 Multi-Family Residential, TF-3 Two-Family Residential and MH Manufactured Housing.

**VICINITY MAP:**



The applicant proposes to vacate the 5-foot wide utility easement referenced in the plattor’s text and located parallel to the south lot lines of Lots 51 & 52, Linwood Acres Addition and the east 254 feet of the 10-foot wide platted utility easement running parallel to the north lot line of Lot 1, Scholfield Brothers Addition. There is a sewer line located in the subject easements. The applicant will need to provide an approved private project plan number for relocated utilities. Westar has existing equipment in the area of the vacation. LaDonna Vanderford is the Westar Construction Services Representative for this area and can be contacted at 261-6490. Any and all relocation and removal of any existing Westar equipment made necessary by this vacation request will be at the applicant’s expense. The Linwood Acres Addition was recorded with the Register of Deeds October 7, 1929. The Scholfield Brothers Addition was recorded with the Register of Deeds July 29, 1981.

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

- 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 24, 2015, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by vacating the described utility easement referenced in the plattor’s text and the platted utility easement and that the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Abandonment or relocation/reconstruction of any/all utilities, made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. As needed provide an approved private project plan number for the abandonment /relocation of public utilities. 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 County Commission for final action.
- (2) Provide Planning with any needed easements, with original signatures, for relocated utilities, prior to this case going to the City Council for final action and subsequent recording with the Vacation Order at the register of Deeds.
- (3) Provide Planning with a legal description of the vacated portion of the platted utility easement 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 County Commission for final action.

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

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

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Abandonment or relocation/reconstruction of any/all utilities, made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. As needed provide an approved private project plan number for the abandonment /relocation of public utilities. 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 County Commission for final action.
- (2) Provide Planning with any needed easements, with original signatures, for relocated utilities, prior to this case going to the City Council for final action and subsequent recording with the Vacation Order at the register of Deeds.
- (3) Provide Planning with a legal description of the vacated portion of the platted utility easement 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 County Commission 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.

**STAFF REPORT**  
 MAPC 10-15-2015  
 DAB VI 10-21-2015

CASE NUMBER: ZON2015-00040

APPLICANT/AGENT: 1400 Douglas Group, LLC (Paul Grey)

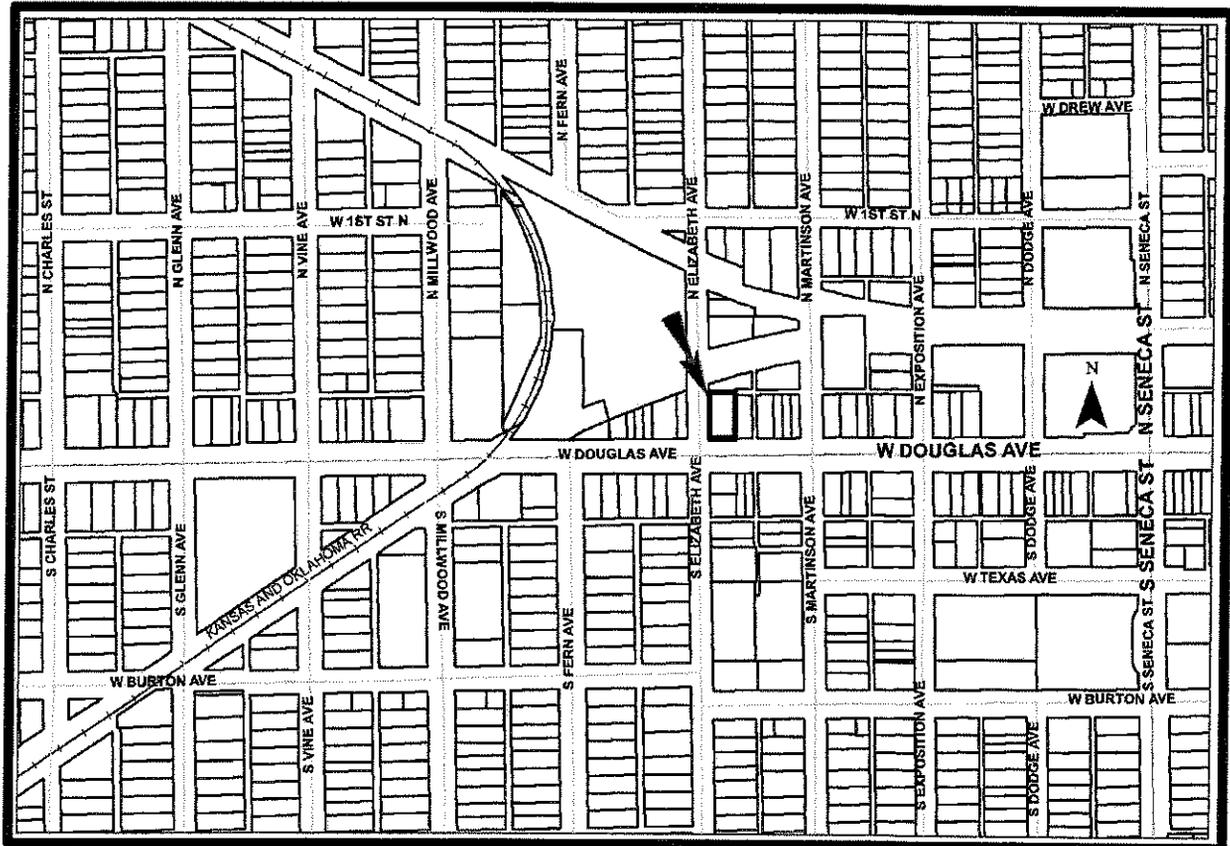
REQUEST: CBD Central Business District

CURRENT ZONING: Limited Industrial, subject to the Delano Overlay District

SITE SIZE: .23018 acre (10,026.64 square feet)

LOCATION: Northeast corner of West Douglas Avenue and North Elizabeth Avenue (1420 and 1440 West Douglas Avenue)

PROPOSED USE: Unidentified



**BACKGROUND:** The applicant is seeking a zone change from Limited Industrial (LI), subject to the Delano Overlay (D-O) district for property located at the northeast corner of West Douglas Avenue and North Elizabeth Avenue (1420 and 1440 West Douglas Avenue). The property is developed with a commercial building used for warehouse distribution and storage with associated parking. The property is platted as Lots 76, 78 and 80 Supplemental Plat to Martinson's 1<sup>st</sup> Addition, recorded in 1912. The property contains approximately 10,026.64 square feet. A 15-foot east-west alley was originally platted along the north line of Lots 76-80; however, that segment of the alley was vacated by Ordinance 11-471, and is owned by the applicant. The applicant is seeking the zone change to allow for increased flexibility in uses and the elimination of the requirement for the property to have to provide off-street parking.

Property located north of the site is developed with warehouse distribution/storage, and is zoned LI. Lots located to the east are zoned Limited Commercial (LC) and LI, and are developed with a fast food restaurant. South, across West Douglas Avenue, the land is zoned LC, and is developed with retail and commercial uses. Land located to the southwest is zoned LC, and is an auto repair establishment. West of the site, across Elizabeth Avenue are row commercial, retail and office uses zoned LC and LI.

The site is located in and subject to the Delano Overlay Neighborhood District (D-O) that established land use and site development policies specific to the district.

The Delano District was initially developed in the 1870's and then redeveloped in the early 1900's when there were no requirements for off-street parking. Therefore, many of the uses in the Delano District do not have, or have only minimal, off-street parking and rely upon public parking located in the street right-of-way. Central Business District zoning mitigates site development issues for older portions of the core area, such as the requirement to provide off-street parking (off-street parking is not required of CBD zoned property) and reduced setback requirements (the CBD district permits zero setbacks; setbacks in the LI district vary from zero to 20 feet).

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

**CASE HISTORY:** The property was included in the Delano Neighborhood Revitalization Plan (2001) and Delano Overlay Neighborhood District (D-O) (DR2003-00009).

**ADJACENT ZONING AND LAND USE:**

North: LI; warehouse distribution/storage  
South: LC; retail  
East: LC and LI; fast food restaurant  
West: LC; row retail/commercial

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

**CONFORMANCE TO PLANS/POLICIES:** The Delano Neighborhood Plan map depicts the site as appropriate for "commercial mixed use."

The purpose of the CBD zoning district is to accommodate retail, commercial, office and other complementary land uses within the downtown core area of Wichita. Central Business District zoning is

generally compatible with the “Downtown Regional Center” designation of the “Wichita-Sedgwick County Comprehensive Plan.” It is intended for application only within the City of Wichita and only within the downtown core area and certain nearby areas being redeveloped with similar patterns of uses and site development standards such as but not limited to zero lot setbacks, shared parking, public streetscapes as landscaping and urban design elements and mixed uses within a building. The requested CBD zoning is the appropriate zoning for the subject site, which is located west, across the Arkansas River from the original CBD zoned core of downtown Wichita. The application area shares some similar patterns of development and uses as the original core CBD area.

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

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

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property located north of the site is developed with warehouse distribution/storage, and is zoned LI. Lots located to the east are zoned Limited Commercial (LC) and LI, and are developed with a fast food restaurant. South, across West Douglas Avenue, the land is zoned LC, and is developed with retail and commercial uses. Land located to the southwest is zoned LC, and is an auto repair establishment. West of the site, across Elizabeth Avenue are row commercial, retail and office uses zoned LC and LI.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned LI subject to the Delano Overlay development standards, which permits a wide range of office, commercial and industrial uses by right. The property can be economically viable as currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The CBD district permits a broader range of uses than the surrounding LI and LC zoned properties; however, the site will still be subject to the Delano Overlay district development standards that should minimize any known negative impacts. Primarily, the zone change will eliminate the requirement to provide off-street parking.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Rezoning the site to CBD would potentially offer a wider range of uses which should make the property more valuable, which, in turn, should aid in keeping the site occupied with services or uses utilized by neighborhood residents.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Delano Neighborhood Plan map depicts the site as appropriate for “commercial mixed use.”

The purpose of the CBD zoning district is to accommodate retail, commercial, office and other complementary land uses within the downtown core area of Wichita. Central Business District zoning is generally compatible with the “Downtown Regional Center” designation of the “Wichita-Sedgwick County Comprehensive Plan.” It is intended for application only within the City of Wichita and only within the downtown core area and certain nearby areas being

redeveloped with similar patterns of uses and site development standards such as but not limited to zero lot setbacks, shared parking, public streetscapes as landscaping and urban design elements and mixed uses within a building. The requested CBD zoning is the appropriate zoning for the subject site, which is located west, across the Arkansas River from the original CBD zoned core of downtown Wichita. The application area shares some similar patterns of development and uses as the original core CBD area.

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

6. Impact of the proposed development on community facilities: None identified. The site has had access to public services for many years.

**STAFF REPORT**  
 MAPC 10-15-2015  
 DAB VI 10-21-2015

CASE NUMBER: ZON2015-00041

APPLICANT/AGENT: F&T Properties, LLC and 1520 W. Douglas, LLC / Paul Grey

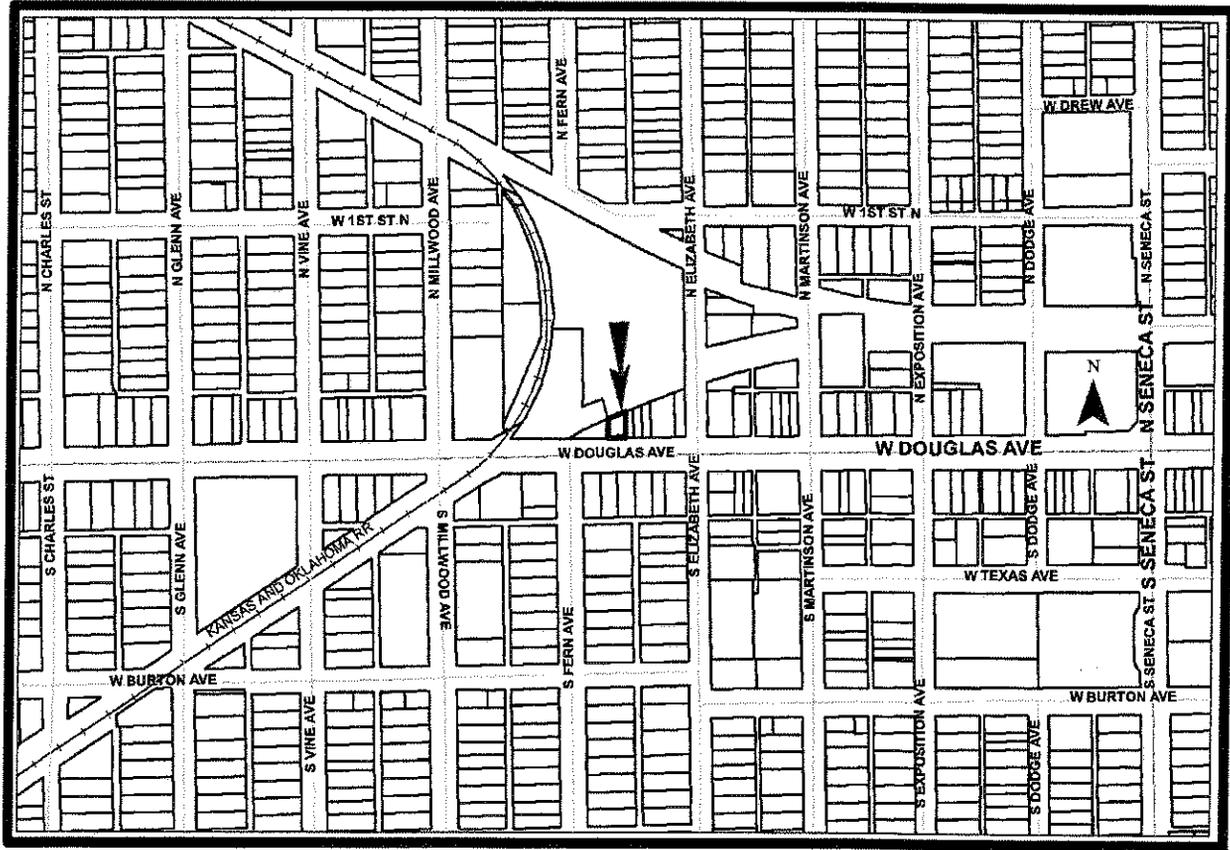
REQUEST: Central Business District

CURRENT ZONING: LI Limited Industrial subject to the Delano Overlay District

SITE SIZE: 3,232.58 square feet (.07421 acre)

LOCATION: North side of West Douglas Avenue, 233 feet west of North Elizabeth Avenue (1520 West Douglas Avenue; west of North Seneca Street)

PROPOSED USE: Commercial



**BACKGROUND:** The applicant is seeking to rezone 1520 West Douglas Avenue from Limited Industrial (LI) to the Central Business District (CBD). The site contains 3,232.58 square feet, and is developed with a row commercial building. The subject site is platted as Lots 21 and 22, Block 8, Junction Town Company Addition. The applicant is seeking the zone change to allow for increased flexibility in uses and the elimination of the requirement for the property to provide off-street parking. Central Business District zoning is the only zoning district that does not require off-street parking. There have been other requests for CBD zoning in the Delano District that have been approved or are pending a decision: ZON2013-00038, ZON2014-00030, ZON2015-00023, ZON2015-00034, ZON2015-00035, ZON2015-00039, ZON2015-00040 and ZON2015-00041.

Land located north of the application area is zoned General Commercial (GC) and LI, and is used for parking, office and outdoor storage. Land located east, south (across West Douglas Avenue) and west of the subject site is zoned Limited Commercial (LC), and is developed with either row commercial or single-family residential uses.

The site is located in and subject to the Delano Overlay Neighborhood District (D-O) that established land use and site development policies specific to the district. For example, even though a car wash or car sales are permitted by right in some zoning districts, the D-O district requires conditional use approval.

The Delano District was initially developed in the 1870's, and then redeveloped in the early 1900's when there were no requirements for off-street parking. Therefore, many of the uses in the Delano District do not have, or have only minimal, off-street parking, and rely upon public parking located in the street right-of-way. Central Business District zoning mitigates site development issues for older portions of the core area, such as the requirement to provide off-street parking and reduced building setback requirements (the CBD district permits zero setbacks; setbacks in the LI district vary from zero to 20 feet).

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

**CASE HISTORY:** The property was included in the Delano Neighborhood Revitalization Plan (2001) and Delano Overlay Neighborhood District (D-O) (DR2003-00009).

**ADJACENT ZONING AND LAND USE:**

North: GC, LI; parking, office, outside storage  
South: LC; single-family residences  
East: LC; row commercial uses  
West: LC; row commercial uses

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

**CONFORMANCE TO PLANS/POLICIES:** The Delano Neighborhood Plan map depicts the site as appropriate for "commercial mixed use."

The purpose of the CBD zoning district is to accommodate retail, commercial, office and other complementary land uses within the downtown core area of Wichita. Central Business District zoning is generally compatible with the "Downtown Regional Center" designation of the "Wichita-Sedgwick

County Comprehensive Plan.” It is intended for application only within the City of Wichita and only within the downtown core area and certain nearby areas being redeveloped with similar patterns of uses and site development standards such as but not limited to zero lot setbacks, shared parking, public streetscapes as landscaping and urban design elements and mixed uses within a building. The requested CBD zoning is the appropriate zoning for the subject site, which is located west, across the Arkansas River from the original CBD zoned core of downtown Wichita. The application area shares some similar patterns of development and uses as the original core CBD area.

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

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

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Land located to the north of the application area is zoned GC and LI, and is used for parking, office and outdoor storage. Land located to the east, south (across West Douglas Avenue) and west is zoned LC, and is developed with either row commercial or single-family residential uses. The application area and the land surrounding it are part of the Delano District, one of the older developed areas in Wichita. The site and the property surrounding it are subject to the Delano Overlay district that contain unique development standards.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned LI subject to the Delano Overlay district. The LI zoning district and the D-O district permit a wide range of industrial, commercial and office uses, which presumably provide the site with economic value. Property zoned LI is required to provide off-street parking, which the CBD district does not require.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The CBD district permits a broader range of uses than the surrounding LI and LC zoned properties; however, the site will still be subject to the Delano Overlay district development standards that should minimize any known negative impacts. Primarily, the zone change will eliminate the requirement to provide off-street parking.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Rezoning the site to CBD would potentially offer a wider range of uses which should make the property more valuable, which, in turn, should aid in keeping the site occupied with services or uses utilized by neighborhood residents.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Delano Neighborhood Plan map depicts the site as appropriate for “commercial mixed use.”

The purpose of the CBD zoning district is to accommodate retail, commercial, office and other complementary land uses within the downtown core area of Wichita. Central Business District zoning is generally compatible with the “Downtown Regional Center” designation of the “Wichita-Sedgwick County Comprehensive Plan.” It is intended for application only within the

City of Wichita and only within the downtown core area and certain nearby areas being redeveloped with similar patterns of uses and site development standards such as but not limited to zero lot setbacks, shared parking, public streetscapes as landscaping and urban design elements and mixed uses within a building. The requested CBD zoning is the appropriate zoning for the subject site, which is located west, across the Arkansas River from the original CBD zoned core of downtown Wichita. The application area shares some similar patterns of development and uses as the original core CBD area.

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

6. Impact of the proposed development on community facilities: The application area is located in an area of town that has been served by community facilities for many years. Approval of the request will not negatively impact community facilities.

### STAFF REPORT

DAB III 10-7-15  
MAPC 10-15-15

**CASE NUMBER:** ZON2015-00042

**APPLICANT/AGENT:** City of Wichita, Susan Nguyen, Johnson and Anna Tieu  
(Owner(s)/Applicants)  
MKEC Engineering, c/o Brian Lindebak (Agent)

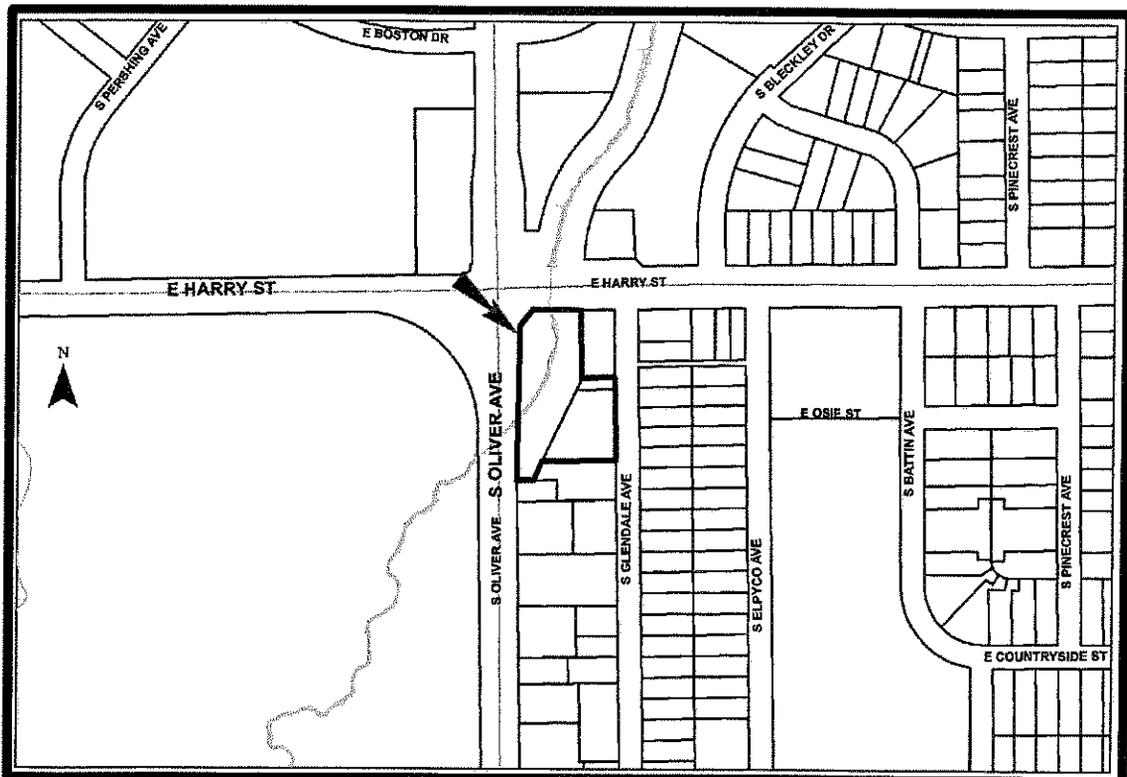
**REQUEST:** LC Limited Commercial (“LC”)

**CURRENT ZONING:** TF-3 Two-family Residential, MF-29 Multi-family Residential and  
B Multi-family

**SITE SIZE:** 1.79 acres

**LOCATION:** Southeast corner of the intersection of South Oliver Avenue and  
East Harry Street (4805 E. Harry St. and 1641 S. Glendale Ave.)

**PROPOSED USE:** New convenience store



**BACKGROUND:** The application area is located at the southeast corner of the intersection of South Oliver Avenue and East Harry Street (4805 E. Harry St. and 1641 S. Glendale Ave.) The subject property is 1.14 acres of unplatted land currently owned by the City of Wichita, .062 acres described as the north 30 feet of lot 2, McGovney Addition and .58 acres of lot 1, in Replat of lots 3 and 4 and part of lot 2, McGovney Addition, Wichita, Sedgwick County, Kansas. The unplatted portion of the subject site is zoned TF-3 Two-family Residential, the north 30 feet of lot 2 is zoned MF-29 Multi-family Residential and the Replat of lots 3 and 4 is zoned B Multi-family Residential. The applicant is seeking LC Limited Commercial (“LC”) zoning for the property. The majority of the property is currently undeveloped, while .58 acres of the property currently zoned B is developed with a garden apartment complex. It is proposed that this site will be redeveloped into a new convenience store.

East Harry Street at this location has sixty five-feet of half-street right-of-way, and is developed as a four-lane (turning to seven lanes with turn lanes) arterial. South Oliver Avenue at this location has fifty five-feet of half-street right-of-way, and is developed as a four-lane (turning to seven lanes with turn lanes) arterial. South Glendale Avenue at this location has thirty-feet of half-street right-of-way, and is developed as a two-lane residential/local road.

The property will have frontage along Harry Street and Oliver Avenue, which are significant commercial arterials, which in July 2015 carried in both directions approximately 37,000 (Harry Street) and 26,500 (Oliver Avenue) vehicles on an average day. A number of properties fronting Oliver Avenue and Harry Street are zoned LC and developed with restaurants, retail sales, personal service or personal care uses and offices. Land to the east are zoned TF-3 and are developed with residential uses. Property to the south is zoned both TF-3 and LC Limited Commercial and is developed with offices and an electrical substation. Property north (across Harry Street) of the site is zoned LC and is developed with offices. Property west of the site (Across Oliver Avenue) is zoned SF-5 Single-family Residential and is developed with a golf course.

**CASE HISTORY:** A portion of the subject area is platted as McGovney Addition Replat Lots 3 and 4 platted on February 11, 1963. Another portion of the subject site is platted as the north 30 feet of Lot 2, McGovney Addition platted on August 29, 1962. The remaining area (approx. 1.15 acres) is unplatted right-of way owned by the City of Wichita.

**ADJACENT ZONING AND LAND USE:**

NORTH:	LC	Offices
SOUTH:	LC and TF-3	Office and Substation
EAST:	LC and TF-3	Retail and Residences
WEST:	SF-5	Golf Course

**PUBLIC SERVICES:** East Harry Street at this location has sixty five-feet of half-street right-of-way, and is developed as a four-lane (turning to seven lanes with turn lanes) arterial. South Oliver Avenue at this location has fifty five-feet of half-street right-of-way, and is developed as a four-lane (turning to seven lanes with turn lanes) arterial. South Glendale Avenue at this location has thirty-feet of half-street right-of-way, and is developed as a two-lane

residential/local road. The site is located in an area that is fully served by municipal and private utilities.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide map depicts the property as being appropriate for “local commercial” uses. The “local commercial” designation contains concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities.

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

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The property will have frontage along Harry Street and Oliver Avenue, which are significant commercial arterials, which in July 2015 carried in both directions approximately 37,000 (Harry Street) and 26,500 (Oliver Avenue) vehicles on an average day. A number of properties fronting Oliver Avenue and Harry Street are zoned LC and developed with restaurants, retail sales, personal service or personal care uses and offices. Land to the east are zoned TF-3 and are developed with residential uses.
2. **The suitability of the subject property for the uses to which it has been restricted:** The property is currently zoned TF-3, MF-29 and B. Those residential zoning districts are less suited to the location today given the amount of LC zoning found on lots fronting Harry Street and Oliver Avenue north, south and east of the application area. Also, the site’s split zoning probably limits the property’s development potential.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The development standards required by the various codes should minimize anticipated impacts should the request is approved.
4. **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Denial would presumably be an economic loss to the applicant. Approval would provide the public with a new and upgraded convenience store along Harry Street and Oliver Avenue.
5. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The 2030 Wichita Functional Land Use Guide map depicts the property as being appropriate for “local commercial” uses. The “local commercial” designation contains concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities.

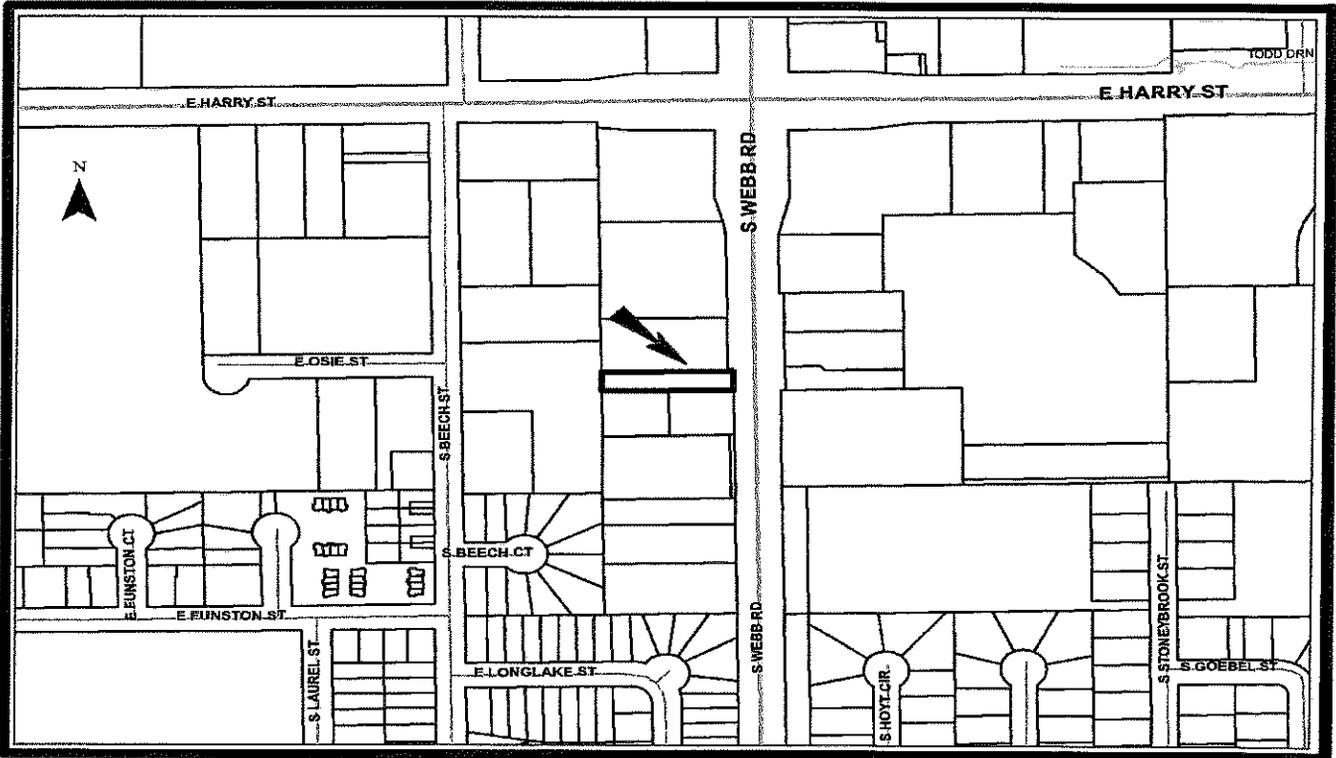
6. **Impact of the proposed development on community facilities:** Existing community facilities are in place or can be guaranteed as part of the subdivision process.



# STAFF REPORT

MAPC October 15, 2015  
DAB II October 12, 2015

- CASE NUMBER:** ZON2015-00044
- OWNER/APPLICANT:** J. Larry Fugate Revocable Trust (owner) Jeff and Melinda Bannon (applicant) Mark Savoy (agent)
- REQUEST:** LC Limited Commercial
- CURRENT ZONING:** GO General Office
- SITE SIZE:** Approximately 0.3-acres
- LOCATION:** Generally located south of Harry Street, on the west side of Webb Road
- PROPOSED USE:** Expanding LC zoning to match larger LC zoned lot



**BACKGROUND:** The applicant is requesting a zone change from GO General Office (GO) to LC Limited Commercial on the 50-foot (x) 278.8-foot subject site located approximately 510 feet south of Harry Street on the west side of Webb Road; the north 30 feet of Lot 3, Caliendo 11th Addition. The undeveloped subject site will be added to the undeveloped, north, abutting LC zoned property (ZON2015-00017) to create a larger site.

Most, if not all of the area's LC zoned commercial development is contained in single-story buildings and all of it is local commercial in character. The subject site is part of the LC zoned commercial development located around the four corners of the arterial street intersection of Webb Road and Harry Street. LC zoned property located north of the site includes a Walgreens drug store, a McDonalds fast food restaurant and the already noted abutting undeveloped property. LC zoned development located further north and northeast of the site, across Harry Street, includes (but is not limited to) a Dillons grocery store with a gas island (built 1995 and 2000), a bank with drive thru service (built 1978) and small to mid-size commercial strip buildings (built 1981 and 1989). LC development located east of the site, across Webb Road, include a QuikTrip convenience store (built 2013), a Walmart Neighborhood Market store (built 2011), a Subway fast food restaurant (built 2006), a Taco Shop fast food restaurant (built 1996) and a national/regional auto supply store (built 1996). SF-5 Single-Family Residential zoned undeveloped, unplatted land, a church (built 1976, 1987 and 2011) and single-family residential neighborhoods (Brentwood Village Addition, platted 1997) are also located east and southeast of the site. Development located south of the site include an abutting undeveloped GO zoned property, then a LC zoned national/regional auto supply store (the newest development, built 2014) and undeveloped LC and SF-5 zoned properties. TF-3 Two-Family Residential zoned single-family residential development (Cedar Ridge Addition, platted 1981) is located further south of the site. Abutting and adjacent western properties are LC and GO zoned office strip buildings (built 1983, 1993, 1998 and 2002) and a TF-3 zoned single-family residential subdivision (Caliendo 11<sup>th</sup> Addition, platted 1990).

**CASE HISTORY:** The site, the north 30 feet of Lot 3, Caliendo 11th Addition was recorded with the Register of Deeds on May 16, 1990.

**ADJACENT ZONING AND LAND USE:**

NORTH: LC	Undeveloped land, fast food restaurant, drug store, grocery store
EAST: LC	Convenience store, grocery store, fast food restaurants, auto supply, church, undeveloped land, single-family
SOUTH: GO, LC, SF-5, TF-3	Undeveloped land, auto supply store, single-family residences
WEST: LC, GO, TF-3	Office strips, single-family residential

**PUBLIC SERVICES:** The site is served by all normally supplied municipal services. The site has access to the arterial street, Webb Road, which has 50 or 60 feet of right-of-way. The more recent zoned/developed sites with Webb Road frontage, including the north abutting LC zoning property (ZON2015-00017) that will be part of the subject site has 60 feet of right-of-way.

**CONFORMANCE TO PLANS/POLICIES:** The purpose of the LC zoning district is to

accommodate retail, commercial, office and other complementary land uses. LC zoning is generally compatible with the "local commercial" designation of the "Wichita-Sedgwick County Comprehensive Plan." It is intended for application primarily within the City of Wichita, although it may be appropriate for application in areas of unincorporated Sedgwick County that have been designated as "Wichita 2030 Urban Growth Area." The "2030 Wichita Functional Land Use Guide Map" classifies the site as local commercial. The requested LC zoning is a match with the Comprehensive Plan and the Land Use local commercial classification.

**RECOMMENDATION:** Based upon the information available prior to the public hearings, planning staff recommends that the request for CBD zoning be **APPROVED**, with the dedication of 10 feet of Webb Road right-of-way.

This recommendation is based on the following findings:

(1) The zoning, uses and character of the neighborhood: Most, if not all of the area's LC zoned commercial development is contained in single-story buildings and all of it is local commercial in character. The subject site is part of the LC zoned commercial development located around the four corners of the arterial street intersection of Webb Road and Harry Street. LC zoned property located north of the site includes a Walgreens drug store, a McDonalds fast food restaurant and the already noted abutting undeveloped property. LC zoned development located further north and northeast of the site, across Harry Street, includes (but is not limited to) a Dillons grocery store with a gas island (built 1995 and 2000), a bank with drive thru service (built 1978) and small to mid-size commercial strip buildings (built 1981 and 1989). LC development located east of the site, across Webb Road, include a QuikTrip convenience store (built 2013), a Walmart Neighborhood Market store (built 2011), a Subway fast food restaurant (built 2006), a Taco Shop fast food restaurant (built 1996) and a national/regional auto supply store (built 1996). SF-5 Single-Family Residential zoned undeveloped, unplatted land, a church (built 1976, 1987 and 2011) and single-family residential neighborhoods (Brentwood Village Addition, platted 1997) are also located east and southeast of the site. Development located south of the site include an abutting undeveloped GO zoned property, then a LC zoned national/regional auto supply store (the newest development, built 2014) and undeveloped LC and SF-5 zoned properties. TF-3 Two-Family Residential zoned single-family residential development (Cedar Ridge Addition, platted 1981) is located further south of the site. Abutting and adjacent western properties are LC and GO zoned office strip buildings (built 1983, 1993, 1998 and 2002) and a TF-3 zoned single-family residential subdivision (Caliendo 11<sup>th</sup> Addition, platted 1990).

(2) The suitability of the subject property for the uses to which it has been restricted: The site is zoned GO, which permits residential, civic and public, office, and some commercial uses. However, the GO zoning district does not permit retail sales, which is the predominant type of development on those properties with frontage on the arterial streets Harry Street and Webb Road. The requested LC zoning matches up with the existing LC zoned retail businesses in the area.

(3) Extent to which removal of the restrictions will detrimentally affect nearby property: If approved the LC zoning and it's permitted by right development would have minimal impact on nearby properties, including the abutting west LC and GO zoning office strip buildings.

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

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