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WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION AGENDA

Thursday, January 21, 2016

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission will be held on **Thursday, January 21, 2016**, beginning at **1:30 PM** in the Planning Department Conference Room City Hall - 10th Floor, 455 N. Main Street, Wichita, Kansas. **If you have any questions regarding the meeting or items on this agenda, please call the Wichita-Sedgwick County Metropolitan Area Planning Department at 316.268.4421.**

1. Approval of the prior MAPC meeting minutes:

Meeting Date: December 17, 2015 and January 7, 2016

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

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

SUBDIVISION CASE DETAILS

- 2-1. **SUB2015-00029: Final Plat - SOUTHBOROUGH ESTATES 2ND SUBDIVISION ADDITION**, located south of 47th Street South, on the West side of Meridian.

Committee Action: APPROVED 3-0-1. Foster - Abstained.
Surveyor: Poe & Associates
Acreage: 1.98 acres
Total Lots: 2 lots

- 2-2. **SUB4025-00044: One-Step Final Plat - QUIK TRIP 20TH ADDITION**, located on the northwest corner of Pawnee and Meridian

Committee Action: APPROVED 4-0.
Surveyor: MKEC Engineering, Inc.
Acreage: 2.40 acres
Total Lots: 1 lot

- 2-3. **SUB2015-00045: One-Step Final Plat - HIEGER EAST 2ND ADDITION**, located east of 247th Street West, on the North side of 61st Street North (COUNTY)

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

- 2-4. **SUB2015-00048: One-Step Final Plat - REGENCY LAKES COMMERCIAL 4TH ADDITION**, located on the northeast corner of 21st Street North and Greenwich.

Committee Action: APPROVED 4-0.
Surveyor: MKEC Engineering, Inc.
Acreage: 1.73 acres
Total Lots: 1 lot

3. PUBLIC HEARING – VACATION ITEMS

ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 PM

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

Complete legal descriptions are available for public inspection at the Metropolitan Area Planning Department – 10th Floor, City Hall, 455 N. Main Street, Wichita, Kansas

3-1. VAC2015-00061: City request to vacate a portion of McComas Avenue public street right-of-way, generally located between Harry Street and Walker Avenue

Committee Action: APPROVED 4-0.

PUBLIC HEARINGS

ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 PM

- 4. Case No.: CON2015-00037 (Deferred from 1-7-16 MAPC)
Request: County Conditional Use request for an Asphalt Plant or Concrete Plan on LI Limited Industrial zoned property.
General Location: On the west side of Woodlawn Boulevard/63rd Street East and 1/2 mile north of K-254.
Presenting Planner: Bill Longnecker
- 5. Case No.: ZON2015-00052
Request: City request for a zone change from SF-5 Single-family Residential and GC General Commercial to LI Limited Industrial.
General Location: West of Greenwich Road, on the north side of I 35 and the west side of Trig Street.
Presenting Planner: Bill Longnecker
- 6. Case No.: CON2015-00039
Request: City Conditional Use request to allow outdoor vehicle and equipment sales on LC Limited Commercial zoned property.
General Location: North of 31st Street South, on the west side of Hillside Avenue and north of Ross Parkway (2817 S. Hillside Ave.).
Presenting Planner: Derrick Slocum

NON-PUBLIC HEARING ITEMS

7. Other Matters/Adjournment

7-1. Workshop

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

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

MINUTES

December 17, 2015

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, December 17, 2015 at 1:34 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: David Dennis, Vice Chair; John Dailey; Bob Dool; David Foster; Matt Goolsby (out @ 4:40 p.m.); Joe Johnson (Out @4:25 p.m.); John McKay Jr. (Out @4:25 p.m.); Debra Miller Stevens; Bill Ramsey; Lowell Richardson; John Todd and Chuck Warren (Out @5:00 p.m.). Bill Ellison and Carol Neugent were absent. Staff members present were: Dale Miller, Director; Jess McNeely, Senior Planner; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Jeff Vanzandt, Assistant City Attorney; Justin Waggoner, Assistant County Counselor and Maryann Crockett, Recording Secretary.

1. Approval of the November 19, 2015 Planning Commission Minutes.

MOTION: To approve the November 19, 2015 minutes.

JOHNSON moved. **WARREN** seconded the motion, and it carried (11-0-1). **DOOL** – Abstained.

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

2-1. **SUB2015-00025: One-Step Final Plat – RWANA ESTATES ADDITION**, located south of 45th Street North on the west side of Webb Road.

NOTE: This is an unplatted site located within the City. The site has been approved for a zone change (ZON2015-00022) from Single-Family Residential (SF-5) to Two-Family Residential (TF-3). The applicant proposes single-family residential units.

This revised plat has enlarged the lots, reducing the total number of lots from 37 to 29. The street right-of-way has been increased from a narrow street right-of-way to the standard residential street right-of-way.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department requests the extension of water (distribution) and sewer (laterals). In-lieu-of-assessment fees are due on sewer (mains) and water (transmission).
- 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 applicant's drainage plan.
- D. Traffic Engineering has approved the access controls. The plat proposes complete access control along Webb Road except for one street opening.

- E. 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.
- F. The applicant shall guarantee the paving of the proposed interior street. The paving of Plumthicket needs to extend to connect with the existing Plumthicket pavement in Sand Plum Addition.
- G. City Fire Department advises the turnaround must meet the minimum 38-foot paved radius requirement for cul-de-sacs over 150 feet or the current standards at time of construction.
- H. The owner's name will need to be shown under the plat's text.
- I. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a restrictive covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- J. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- K. County Surveying advises the existing road right-of-way needs shown with the recording data. The existing road right-of-way along the north line should also show the recording data.
- L. The Applicant has platted a 20-foot building setback which represents an adjustment of the Zoning Code standard of 25 feet for the Two-Family Residential District (TF-3). The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission.
- M. GIS requests a new name for 44th St. The street types need added to the road names: "Champions Cir" and "Plumthicket St".
- N. County Surveying advises the legal description needs corrected to match the deeds.
- O. All parties having interest in the property shall sign the final plat including their spouses.
- P. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineers (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.

- Q. 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.
- R. The year "2016" needs to replace "2015" within the MAPC signature block.
- S. City Environmental Health Division advises that any wells installed on the properties for irrigation purposes will have to be properly permitted and inspected.
- T. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- 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 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.)
- W. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- X. 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.
- Y. 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.
- Z. 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.
- AA. Perimeter closure computations shall be submitted with the final plat tracing.
- BB. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.

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

MCKAY asked staff to explain Items 2-1 and 2-5.

STRAHL explained that both cases contain residential cul-de-sacs. He said staff has been requesting that the pavement radius be enlarged from 35 to 38 feet to accommodate fire trucks. He said standard language has been “a radius of 38 feet or the current standard at time of construction.” He said it was announced that the current City Policy is 35 feet for standard residential streets which is how it is stated in the current Subdivision Regulations. He said the change will not affect the right-of-way, just the pavement radius which is not shown on the plat.

There were no public comments.

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

RICHARDSON moved, **TODD** seconded the motion, and it carried (12-0).

2-2. **SUB2015-00042: One-Step Final Plat – SUNSTONE AT 135TH ADDITION**, located on the East side of 135th Street West, south of Kellogg.

NOTE: This unplatted site is located in the County adjoining Wichita’s boundary. The site was approved for a zone change (PUD2015-00004) from Single-Family Residential (SF-20) to Planned Unit Development (PUD-47).

STAFF COMMENTS:

- A. As this site is adjacent to Wichita’s municipal boundaries, the applicant shall submit a request for annexation. The final plat shall not be scheduled for City Council review until annexation has occurred.
- B. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted and inspected.
- C. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- D. City of Wichita Public Works and Utilities Department requests a petition for extension of water (transmission and distribution) and extension of sewer (mains and laterals).
- E. The plat’s text shall include language that “No signs, light poles, private drainage systems, masonry trash enclosures or other structures shall be located within public utility easements.”

- F. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- G. City Stormwater Management has approved the applicant's drainage plan.
- H. Traffic Engineering has approved the access controls. The plat proposes two openings along 135th Street West in accordance with the PUD site plan.
- I. The MAPC signature block needs to reference "Dale Miller – Secretary".
- J. The year "2016" needs to replace "2015" within the City Council and Register of Deeds signature blocks.
- K. The plattor's text shall reference "A lot, block, reserve and street".
- L. Provisions shall be made for ownership and maintenance of the proposed reserves. A restrictive covenant shall be submitted regarding ownership and maintenance responsibilities.
- M. 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.
- N. A note shall be placed on the final plat, indicating that this Addition is subject to the conditions of the Sunstone at 135th Planned Unit Development PUD2015-00004.
- O. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- Q. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Westar Energy has requested additional utility easements to be platted on this property. Heide Bryan, Subdivision Representative, will be the contact for this plat. She can be reached at 316-261-6554. Any and all relocation and removal of any existing equipment made necessary by this plat will be at the applicant's expense.
- V. 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).

There were no public comments.

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

RICHARDSON moved, **TODD** seconded the motion, and it carried (12-0).

2-3. SUB2015-00043: One-Step Final Plat – KALB ADDITION, located north of 13th Street North on the east side of 167th Street West. (COUNTY 3-MILE RING)

NOTE: This unplatted site is located in the County within three miles of the City of Wichita. It is in an area designated as "Wichita Growth Area" by the Community Investments Plan 2015-2035. The applicant proposes a conditional use (CON2015-00036) for agricultural sales and services.

STAFF COMMENTS:

- A. Since neither sanitary sewer nor municipal water is available 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 and water wells. A memorandum shall be obtained specifying approval.
- B. City of Wichita Public Works and Utilities Department has requested a No Protest Agreement for future extension of sanitary sewer and water.
- C. The signature block for the Board of Commissioners Chairman should be revised to read underneath the signature line, "Richard Ranzau, Fourth District"

- D. The plattor's text shall include language that "No signs, light poles, private drainage systems, masonry trash enclosures or other structures shall be located within public utility easements."
- E. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- F. The plat denotes two openings along 167th Street West. County Engineering requests the access controls be labelled as "Per access management standards". Applicant is advised coordination with existing pipeline owner may be necessary for a second entrance.
- G. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.
- H. The Reserve shall be labelled as Reserve A.
- I. County Stormwater has received a preliminary drainage plan. County Stormwater is requesting the required detention reserve be shown on the plat.
- J. The plat needs a lot and block number denoted.
- K. In the plattor's text, City Engineer needs to be changed to County Engineer.
- L. County Surveying advises the need for a property corner set or found at the southwest corner of the plat.
- M. The applicant is advised that due to encroachment of a portion of the proposed K-96/Northwest Bypass on this plat, the property is subject to meeting the requirements of the Corridor Preservation Plan Overlay District (CP-O) prior to the issuance of any building permits. KDOT has advised that the final design for the future right-of-way will require an expansion of the Reserve.
- 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. The year "2016" needs to replace "2015" within the City Council and Register of Deeds signature blocks.
- Q. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.

- R. 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.
- S. 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.)
- T. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- U. 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.
- V. 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.
- W. 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.
- X. Perimeter closure computations shall be submitted with the final plat tracing.
- Y. Westar Energy advises of a transmission line located inside the platted area along the north property line. The plat has been forwarded to the Transmission Engineering Department for any comments they may have for the applicant. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- Z. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

TIM AUSTIN, KAW VALLEY ENGINEERING, 200 NORTH EMPORIA, AGENT FOR THE APPLICANT said they are in agreement with staff recommendations.

MARGARET MANN'S, 1818 NORTH 167TH STREET WEST, GODDARD said they live just north of the site. She said the area has always had an issue with water drainage and they are wondering what is going to happen if the applicant builds this big building with all the asphalt. She asked where that water is going to drain. She said their property has already been designated as one to be taken over by the highway. She said they are concerned what this is going to do to their property values and if they will be treated fairly when KDOT takes their home.

STRAHL said the County has received the preliminary drainage plan but the final plan is subject to review. He suggested that the applicant or agent discuss drainage.

AUSTIN said the plan is consistent with drainage requirements. He said they have submitted a drainage study to County Engineering for review. He mentioned that there will be on site detention and they will address drainage issues as they develop the site.

FOSTER asked Mr. Austin to describe the on-site drainage.

AUSTIN commented that the northwest corner is a low area that pools water. He said they got that area released as a "non-jurisdictional wetland" from the Army Corp. of Engineers. He said when the water pools and goes over the top it drains to the northeast corner. He said that will be the site of the detention. He mentioned a swell that comes back to the Southwest corner.

WARREN asked what happens if KDOT wants a bigger easement.

AUSTIN commented that County Engineering had given them those dimensions which will take an additional 70 feet. He said the final plat will reflect that.

RICHARDSON clarified that any drainage from buildings or pavement will be redirected to the detention pond. He clarified that the water will go to the back of the property.

VICE CHAIR DENNIS commented that property values are not something the Commission considers as part of zoning and platting process, so they Commission can't answer that.

RICHARDSON explained that the Commission will be hearing a Conditional Use request on the property later on in the meeting. He explained that this case was just for platting, not the uses on the property.

MANN'S asked if anyone had any indication as to when the highway is going to be built. She said their business is currently "on hold" because they are not allowed to build a garage.

KENNETH MANN'S, 1818 NORTH 167TH STREET WEST, GODDARD said they are also concerned about the truck traffic and noise this is going to create.

RICHARDSON said he saw a quote from the Secretary of Transportation that said the only way the Northwest Bypass is going to be built is if it is a turnpike or toll road for whatever that's worth. He said it looks to him like the bypass is a long way off.

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

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

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- 2-4. **SUB2015-00045: One-Step Final Plat – HIEGER EAST 2ND ADDITION**, located east of 247th Street West, on the North side of 61st Street North. (COUNTY)

VICE CHAIR DENNIS announced that the item was deferred.

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- 2-5. **SUB2015-00046: One-Step Final Plat – HARRY’S LANDING ADDITION**, located east of Rock on the north side of Harry.

NOTE: This is an unplatted site located within the City. The property was approved for a zone change to Planned Unit Development (PUD2008-00008), Moussavi Office Park (PUD #29). The plat proposes lots for single-family residential units with the exception of office uses for Lots 1 and 17.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department requests a petition for extension of sewer (laterals) on all lots and extension of water (distribution) for Lots 1-17. In-lieu-of-assessment fees for water (distribution) is needed for Lots 18-24 and Reserve “A”. Water meters at 8724 and 8728 East Harry need to be terminated and removed by the 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. City Stormwater Management has approved the applicant’s drainage plan.
- D. Traffic Engineering has approved the access controls. The plat proposes one street opening along Harry and complete access control along the Harry street frontage.
- E. City Fire Department advises the turnaround must meet the minimum 38-foot paved radius requirement for cul-de-sacs over 150 feet or the current standards at time of construction. City Public Works requests a three-foot utility easement around the cul-de-sac.
- F. 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.
- G. The Applicant shall guarantee the paving of the proposed street.

- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a restrictive covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. The property is subject to PUD2008-00008 Moussavi Office Park Development. A PUD revision is needed to coincide with the plat in regards to parcel boundaries and setbacks.
- K. 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.
- L. A PUD Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved PUD and its special conditions for development on this property.
- M. GIS has approved the plat's street names.
- N. The owner's company name will need to be shown under the plattor's text.
- O. County Surveying advises the final plat shall show the distance and direction to the monuments used to locate the land described in the certificate of survey.
- P. All parties having interest in the property shall sign the final plat including their spouses.
- 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 and 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 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.)
- U. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.

- V. 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.
- W. 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.
- X. 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.
- Y. Perimeter closure computations shall be submitted with the final plat tracing.
- Z. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- AA. 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).

There were no public comments.

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

RICHARDSON moved, **TODD** seconded the motion, and it carried (12-0).

3. PUBLIC HEARING – VACATION ITEMS

- 3-1. **VAC2014-00038 (Deferred from 11-19-15): City request to vacate a portion of Platted Lakeway Street right-of-way, generally located south of 37th Street North and west of Hoover Road.**

OWNER/AGENT:

Sienna Lakes #2 LLC, C/O Jay Russell, Ruggles & Bohm, P.A., c/o
Chris Bohm (agent)

LEGAL DESCRIPTION: Generally described as vacating a south portion of the platted Lakeway Street public right-of-way, located between Lot 75, Block 1, & Lot 44, Block 2, all in the Siena Lakes Addition, and ending at the abutting portion of Lakeway Street located in the Ridge Port North 4th Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located south of 37th Street North and west of Hoover Road (WCC #V)

REASON FOR REQUEST: Reduce traffic through the south abutting properties

CURRENT ZONING: The site is public street right-of-way. All abutting and adjacent properties are zoned SF-5 Single-Family Residential or TF-3 Two-Family Residential

VICE CHAIR DENNIS announced that the item was deferred.

-
- 3-2. **VAC2015-00054: City request to vacate platted access control on property**, generally located north of Central Avenue, on the east side of Webb Road, between Chamberlin and Von Thaden Streets (660 N Webb Rd).

OWNER/APPLICANT/ AGENT: R & B Webb Road, c/o Steve Blasdel & Triple J of Wichita LLC (owners/applicants) Kaw Valley Engineering, Inc., c/o Scott Servis (agent)

LEGAL DESCRIPTION: Generally described as vacating the platted complete access control located on the north 80 feet and the south 80 feet of the west property line of Lot 1, Travel Air City 2nd Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located north of Central Avenue, on the east side of Webb Road, between Chamberlin and Von Thaden Streets (660 N Webb Road) WCC #II

REASON FOR REQUEST: To allow two drives onto Webb Road Associated with commercial lot split LSP2015-00036

CURRENT ZONING: The site and the adjacent north properties are zoned GC General Commercial. The abutting east and adjacent west properties are zoned SF-5 Single-Family Residential. The adjacent south property is zoned LI Limited Industrial.

The applicants propose to vacate the platted complete access control located on the north 80 feet and the south 80 feet of the west property line of Lot 1, Travel Air City 2nd Addition, to allow a total of two drives onto Webb Road. Currently the subject lot is allowed one drive in the middle 100-feet of its Webb Road frontage located between the north 80 feet and the south 80 feet of its Webb Road frontage. LSP2015-00036, is a commercial lot split that divides the subject lot into two parcels, with two different owners. The applicants' site plan shows the north parcel's building being located on its south end, where a common drive would have been located, per platted access control. The applicants propose to dedicate complete access control in the middle 100 feet of its Webb Road frontage to allow each parcel its drive.

Webb Road has four-lanes at this location. The USD-259's Minneha Elementary School is located west of the site across Webb Road. The school site, Minneha Elementary School Addition, is permitted four drives onto Webb Road, none of which are located across from the subject site's Webb frontage. There is a signaled school crossing going from the subject site to Minneha Elementary School, which is a consideration in the proposed relocated drives. The closest drive north of the site is located approximately 95 feet away, separated from the subject area by Chamberlin Street. The closest drive south of the site is located approximately 190 feet away, separated from the subject area by Von Thaden Street.

The current Access Management Regulations standard for a right-in – right-out drive is 200 feet between drives or arterial intersections and 400 feet between full movement drives or arterial intersections. Per the Subdivision Regulations, Art 10-104, Modification of Design Criteria, Art VII – Design Standards – Part 2 Specific Standards – 7-204, L, the MAPC may modify design criteria. In the past staff has recommended modified design criteria, which has been approved by the MAPC. There does not appear to be public utilities in the area of the vacation. There are utility poles located in the area of the vacation. The installation of the drives may require the relocation of utility poles at the applicant's expense. Westar has equipment in an easement in the area of the vacation, but it should not be affected by the request; condition #2 will cover that equipment. Becky Thompson, is the Construction Services Representative for this area is working with the applicant on this project. She can be reached at 316/261-6320. There are at least three curb cuts from previous development on the subject site that will need to be reconstructed to a full curb, at the applicants; expense. The Travel Air City 2nd Addition was recorded with the Register of Deeds May 20, 2015.

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

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

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time November 25, 2015, which was at least 20 days prior to this public hearing.

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

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

- (1) Per the approval of the Traffic Engineer, vacate the platted access control on Lot 1, Travel Air City 2nd Addition to allow one drive for each of the two parcels created by commercial lot split LSP2015-00036. Provide a dedication of access control allowing a total of two drives with original signatures, to Planning Staff prior to the case going to City Council for final action and subsequent recording at the Register of Deeds.
- (2) The applicant must improve the lighting on the signaled school crossing going from the subject site across Webb Road to Minneha Elementary School, at their own expense, as approved by the Traffic Engineer. The lighting must be approved prior to the case going to City Council for final action.
- (3) Any relocation or reconstruction of utilities, including, but not limited to, Westar's equipment, made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide all needed plans for review and approval by utilities. Provide Planning with any plans as approved by the utilities. This must be provided to Planning prior to the case going to City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicant's expense, including the reconstruction of a full curb closing curb cuts from previous development on the subject site.
- (5) Provide Planning Staff with a legal description of the approved vacated portion of the platted complete access control on a Word document, via e-mail, to be used on the Vacation Order. This must be provided prior to the request proceeds to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Per the approval of the Traffic Engineer, vacate the platted access control on Lot 1, Travel Air City 2nd Addition to allow one drive for each of the two parcels created by commercial lot split LSP2015-00036. Provide a dedication of access control allowing a total of two drives with original signatures, to Planning Staff prior to the case going to City Council for final action and subsequent recording at the Register of Deeds.
- (2) The applicant must improve the lighting on the signaled school crossing going from the subject site across Webb Road to Minneha Elementary School, at their own expense, as approved by the Traffic Engineer. The lighting must be approved prior to the case going to City Council for final action.
- (3) Any relocation or reconstruction of utilities, including, but not limited to, Westar's equipment, made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide all needed plans for review and approval by utilities. Provide Planning with any plans as approved by the utilities. This must be provided to Planning prior to the case going to City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicant's expense, including the reconstruction of a full curb closing curb cuts from previous development on the subject site.
- (5) Provide Planning Staff with a legal description of the approved vacated portion of the platted complete access control on a Word document, via e-mail, to be used on the Vacation Order. This must be provided prior to the request proceeds to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

There were no public comments.

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

DAILEY moved, **FOSTER** seconded the motion, and it carried (12-0).

3-3. **VAC2015-00055: City request to vacate a portion of platted access control, on property, generally located on the southeast side of Greenwich Road and 27th Street North (2746 N. Greenwich Ct.).**

OWNER/APPLICANT/

Wichita Destination Developers, Inc. (owner/applicant) KE Miller
Engineering,

AGENT:

PA, c/o Kirk Miller (agent)

LEGAL DESCRIPTION: Generally described as vacating a portion of the south 353.86 feet of platted complete access control located north of Greenwich Court of the west property line of Lot 1, Wichita Destination Development Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located on the southeast side of Greenwich Road and 27th Street North (2746 N. Greenwich Court) WCC #II

REASON FOR REQUEST: Allowing an additional right-in – right-out drive

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

The applicant proposes to vacate a portion of the south 353.86 feet of platted complete access control located north of Greenwich Court of the west property line of Lot 1, Wichita Destination Development Addition. Currently the subject lot is allowed one platted full movement drive onto Greenwich Road, located between Greenwich Court and 27th Street North; the applicant proposes to keep the platted drive. The applicant proposes a right-in – right-out drive located 178.44 feet north of Greenwich Court and 125.42 feet south of the permitted full movement drive. 27th Street North is located approximately 740 feet north of the site. A portion of the K-96-Greenwich Road interchange is located approximately 180 feet south of the proposed drive.

Greenwich Road has four-lanes at this location, with a full curbed landscaped median located directly across from the proposed right-in – right-out drive. The full curbed landscaped median would allow only a right-in – right-out drive and prevents conflict with the traffic entering and exiting the properties located west of the site, across Greenwich Road.

The current Access Management Regulations standard for a right-in – right-out drive is 200 feet between drives or arterial intersections and 400 feet between full movement drives or arterial intersections. Per the Subdivision Regulations, Art 10-104, Modification of Design Criteria, Art VII – Design Standards – Part 2 Specific Standards – 7-204, L, the MAPC may modify design criteria. In the past staff has recommended modified design criteria, which has been approved by the MAPC. Stormwater inlets and line appear to be in the area of the vacation. There are utility poles and Westar equipment located in the area of the vacation. The installation of the drives may require the relocation of utility poles at the applicant's expense. Westar has equipment in an easement in the area of the vacation, but it should not be affected by the request; condition #2 will cover that equipment. Becky Thompson, is the Construction Services Representative for this area is working with the applicant on this project. She can be reached at 316/261-6320. There is a curb cut in the area of the vacation, that will need to be reconstructed to a full curb, at the applicants; expense. The Wichita Destination Development Addition was recorded with the Register of Deeds October 19, 2013.

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

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time November 25, 2015, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described portion of platted complete access control and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Per the approval of the Traffic Engineer, vacate a portion of the south 353.86 feet of platted complete access control located north of Greenwich Court of the west property line of Lot 1, Wichita Destination Development Addition to allow one right-in – right-out drive onto Greenwich Road. Provide a dedication of access control allowing the drive with original signatures, to Planning Staff prior to the case going to City Council for final action and subsequent recording at the Register of Deeds.
- (2) If the full curbed landscaped median does not extend to the approved additional drive, the applicant will provide a private project plan to extend the full curbed landscaped median to the approved additional drive to ensure that it functions as a right-in – right-out drive. The private project will include a sign stating that the drive is a right-in – right-out drive. The private project must be approved by Public Works prior to the case going to City Council for final action.
- (3) Any relocation or reconstruction of utilities, including, but not limited to, Stormwater and Westar's equipment, made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide all needed plans for review and approval by utilities. Provide Planning with any plans as approved by the utilities. This must be provided to Planning prior to the case going to City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicant's expense, including the reconstruction of a full curb closing the existing curb cut on the subject site.

- (5) Provide Planning Staff with a legal description of the approved vacated portion of the platted complete access control on a Word document, via e-mail, to be used on the Vacation Order. This must be provided prior to the request proceeds to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Per the approval of the Traffic Engineer, vacate a portion of the south 353.86 feet of platted complete access control located north of Greenwich Court of the west property line of Lot 1, Wichita Destination Development Addition to allow one right-in – right-out drive onto Greenwich Road. Provide a dedication of access control allowing the drive with original signatures, to Planning Staff prior to the case going to City Council for final action and subsequent recording at the Register of Deeds.
- (2) If the full curbed landscaped median does not extend to the approved additional drive, the applicant will provide a private project plan to extend the full curbed landscaped median to the approved additional drive to ensure that it functions as a right-in – right-out drive. The private project will include a sign stating that the drive is a right-in – right-out drive. The private project must be approved by Public Works prior to the case going to City Council for final action.
- (3) Any relocation or reconstruction of utilities, including, but not limited to, Stormwater and Westar's equipment, made necessary by this vacation shall be the responsibility of the applicants and at the applicants expense. Provide all needed plans for review and approval by utilities. Provide Planning with any plans as approved by the utilities. This must be provided to Planning prior to the case going to City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicant's expense, including the reconstruction of a full curb closing the existing curb cut on the subject site.
- (5) Provide Planning Staff with a legal description of the approved vacated portion of the platted complete access control on a Word document, via e-mail, to be used on the Vacation Order. This must be provided prior to the request proceeds to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.

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

There were no public comments.

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

DAILEY moved, **FOSTER** seconded the motion, and it carried (12-0).

- 3-4. **VAC2015-00056: City request to vacate a platted fire lane easement on property,** generally located on the northwest side of Kellogg Street and Webb Road (453 S. Webb).

OWNER/AGENT: Ruffin Hotel of Wichita LLC (owner) KE Miller Engineering PA, c/o Kirk Miller (agent)

LEGAL DESCRIPTION: Generally described as vacating that portion of a platted 20-foot fire lane easement located on Lot 2, F.N.I.C. Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located on the northwest side of Kellogg Street and Webb Road (453 S. Webb Road) WCC II

REASON FOR REQUEST: Redevelopment of the site

CURRENT ZONING: The site and the abutting north and west properties are zoned LC Limited Commercial. Abutting east properties are zoned LC and GC General Commercial. A portion of the US 54 – I-35 interchange abuts the south side of the site.

The applicant is requesting the vacation of that portion of a platted 20-foot fire lane easement located on Lot 2, F.N.I.C. Addition. Vacation of the subject fire lane easement needs approval by the Fire Department. There are no public utilities located in the subject fire lane easement. Condition #4 will cover Westar. LaDonna Vanderford is the Construction Services Area representative and will be the contact on this request. She can be reached at 316-261-6490. The F.N.I.C. Addition was recorded May 22, 1973.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the platted fire lane 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 November 25, 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 fire lane 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) As approved by the Fire Department vacate that portion of the platted 20-foot fire lane easement located in Lot 2, F.N.I.C. Addition.
- (2) As needed provide any needed easements for emergency access. 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 portion of the platted 20-foot fire lane easement located in Lot 2, F.N.I.C. Addition, 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) As approved by the Fire Department vacate that portion of the platted 20-foot fire lane easement located in Lot 2, F.N.I.C. Addition.
- (2) As needed provide any needed easements for emergency access. 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 portion of the platted 20-foot fire lane easement located in Lot 2, F.N.I.C. Addition, 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.

There were no public comments.

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

DAILEY moved, **FOSTER** seconded the motion, and it carried (12-0).

3-5. **VAC2015-00057: City request to vacate a platted utility easement on property,** generally located north of Central Avenue on the east of Hydraulic Avenue (602 N. Hydraulic).

OWNER/AGENT:

Tim McGinty (owner) KE Miller Engineering PA, c/o Kirk Miller (agent)

LEGAL DESCRIPTION: Generally described as vacating the platted 188.79-foot long (x) 25-foot wide utility easement running parallel to the south property line of Lot 3, McGinty Addition, Sedgwick County, Kansas.

LOCATION: Generally located on the east side of Hydraulic Avenue and north of Central Avenue (WCC #1)

REASON FOR REQUEST: Building expansion

CURRENT ZONING: The site and the abutting and adjacent, northern and western properties are zoned LI Limited Industrial. Abutting southern properties are zoned GC General Commercial. Railroad right-of-way separate the site from the adjacent eastern B Multi-Family Residential zoned properties.

The applicant proposes to vacate the platted 188.79-foot long (x) 25-foot wide utility easement running parallel to the south property line of Lot 3, McGinty Addition. There is a sewer line and manhole in the subject easement. Westar has equipment in easement in the vacation area but condition #2 will cover that equipment. Becky Thompson, is the Construction Services Representative for this area is working with the applicant on this project. She can be reached at 316-261-6320. The McGinty Addition was recorded with the Register of Deeds August 12, 1983.

NOTE: VAC2015-00011 vacated the 404.72-foot (x) 20-foot platted utility easement running parallel to the east property lines of Lots 1, 2 and 3 (the subject site), McGinty Addition; approved by the City Council June 23, 2015.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water & Sewer/Stormwater, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described 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 November 25, 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 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 City Council for final action.
- (2) Provide Planning with any needed easements, including easement to cover the existing sewer line and manhole, with original signatures, for other existing or relocated utilities, prior to this case going to City Council for final action and subsequent recording with the Vacation Order at the register of Deeds.
- (3) Provide Planning with a legal description of the vacated portion of the platted utility easement on a Word document that can be used on the Vacation Order. This must be provided to the Planning Department prior to this case going to City Council for final action.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Abandonment or relocation/reconstruction of any/all utilities, made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. As needed provide an approved private project plan number for the abandonment /relocation of public utilities. As needed provide approval from franchised utilities for the relocation of franchised utilities. All to be provided to the Planning Department prior to this case going to City Council for final action.
- (2) Provide Planning with any needed easements, including easement to cover the existing sewer line and manhole, with original signatures, for other existing or relocated utilities, prior to this case going to City Council for final action and subsequent recording with the Vacation Order at the register of Deeds.
- (3) Provide Planning with a legal description of the vacated portion of the platted utility easement on a Word document that can be used on the Vacation Order. This must be provided to the Planning Department prior to this case going to City Council for final action.

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

There were no public comments.

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

DAILEY moved, **FOSTER** seconded the motion, and it carried (12-0).

- 3-6. **VAC2015-00058: City request to vacate a platted wall easement on property,** generally located on-half mile north of 21st Street North on the east of side of Ridge Road, north of Clear Meadow Circle, on the northwest side of Clear Meadow Court (7118 W Clear Meadow Court).

OWNER/AGENT:

Mark E and Mary S Hutton (owners) Baughman Company, PA, c/o Russ Ewy (agent)

LEGAL DESCRIPTION:

Generally described as vacating the platted 240.40-foot long (x) 5-foot wide wall easement running parallel to the south property line of Lot 3, Block 1, Mere Ridge Addition, Sedgwick County, Kansas

LOCATION:

Generally located on-half mile north of 21st Street North on the east of side of Ridge Road, north of Clear Meadow Circle, on the northwest side of Clear Meadow Court (7118 W Clear Meadow Court) WCC VI

REASON FOR REQUEST: Not needed

CURRENT ZONING:

The site and all abutting and adjacent properties are zoned SF-5 Single-Family Residential

The applicant proposes to vacate the platted 240.40-foot long (x) 5-foot wide wall easement running parallel to the south property line of Lot 3, Block 1, Mere Ridge Addition. Per the plattor's text the wall easement is for the construction and maintenance of a private wall and utilities may cross the wall easement. There is no wall located in the platted wall easement. There does not appear to be any public utilities located in the subject easement. Condition #1 will cover Westar. Richard Aitken is the Construction Services Representative for this area and will be the contact on this request. He can be reached at 316-261-6734. The applicant proposes to dedicate a substitute easement to cover those utilities located within the current wall easement. The Mere Ridge Addition was recorded with the Register of Deeds November 29, 1988.

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 wall 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 November 25, 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 wall 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 City Council for final action.
- (2) Provide Planning with any needed easements, with original signatures, for relocated utilities, prior to this case going to City Council for final action and subsequent recording with the Vacation Order at the register of Deeds.
- (3) Provide Planning with a legal description of the vacated portion of the platted wall easement on a Word document that can be used on the Vacation Order. This must be provided to the Planning Department prior to this case going to City Council for final action.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Abandonment or relocation/reconstruction of any/all utilities, made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. As needed provide an approved private project plan number for the abandonment /relocation of public utilities. As needed provide approval from franchised utilities for the relocation of franchised utilities. All to be provided to the Planning Department prior to this case going to City Council for final action.
- (2) Provide Planning with any needed easements, with original signatures, for relocated utilities, prior to this case going to City Council for final action and subsequent recording with the Vacation Order at the register of Deeds.
- (3) Provide Planning with a legal description of the vacated portion of the platted wall easement on a Word document that can be used on the Vacation Order. This must be provided to the Planning Department prior to this case going to City Council for final action.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

There were no public comments.

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

DAILEY moved, **FOSTER** seconded the motion, and it carried (12-0).

3-7. **VAC2015-00059: City request to vacate a platted utility easement on property,** generally located west of Maize Road, on the north side of 29th Street North and the west side of Parkdale Circle.

OWNER/APPLICANT/ AGENT: Newmarket Office, LLC, c/o David Hambrick (owner/applicant)
Professional Engineering Consultants, c/o Charles Brown

LEGAL DESCRIPTION: Generally described as vacating the platted 330.02-foot long (x) 20-foot wide utility easement located 40 feet west and running parallel to the west property lines of Parcels A & B, Lot 1, Block 1, New Market Office 2nd Addition, Wichita, Sedgwick County, Kansas

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

REASON FOR REQUEST: Replace with another utility easement

CURRENT ZONING:

The site and the abutting north, east 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 330.02-foot long (x) 20-foot wide utility easement located 40 feet west and running parallel to the west property lines of Parcels A & B, Lot 1, Block 1, New Market Office 2nd Addition. There are no public utilities located in the subject utility easement. Condition #3 will cover Westar. Richard Aitken is the Construction Services Representative for this area and will be the contact on this request. He can be reached at 316-261-6734. However, there are franchise utilities located west of and outside of the subject easement. The applicant proposes to replace the subject easement with a 20-foot utility easement that abuts and runs parallel to the west property lines of the subject sites. There is a parallel 20-foot wide utility easement located in the west abutting Fontana 3rd Addition; a sewer line is located in that easement. The combined easements will provide a total width of 40 feet to cover existing and future utilities. There may be a landscaped berm (cedar trees) located within the proposed replacement utility easement; if it is located on the subject properties dedicate a landscape easement to protect the landscaped berm. The New Market Office 2nd Addition was recorded May 19, 2011.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the platted 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 November 25, 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 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) Provide a utility easement dedicated by separate instrument with original signatures for utilities. The original dedication 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.
- (2) Provide a landscape easement dedicated by separate instrument with original signatures to protect a landscaped berm (appears to be running parallel to the west side of the subject site) if it is located on the subject properties. The original dedication 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 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) Provide a utility easement dedicated by separate instrument with original signatures for utilities. The original dedication 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.
- (2) Provide a landscape easement dedicated by separate instrument with original signatures to protect a landscaped berm (appears to be running parallel to the west side of the subject site) if it is located on the subject properties. The original dedication 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 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.

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.

DAILEY moved, **FOSTER** seconded the motion, and it carried (12-0).

PUBLIC HEARINGS

4. **Case No.: CUP2015-00041 (Deferred from 11-19-15)** - Ronald D. Ryan Living Trust (Owner); and Paul Gray (Agent) request a City Community Unit Plan CUP DP-134 amendment to increase residential density on property described as:

Lot 2 EXCEPT beginning at the Northwest corner; thence South 305 feet; thence Southwest 164.44 feet; thence South 135.95 feet; thence East 299.99 feet to the East line; thence North 439.62 feet; thence West 10 feet; thence North 100 feet; thence West 150.51 feet to the point of beginning an EXCEPT part deeded for sidewalk, Timber Grove Lakes Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The application area is undeveloped property within Parcel 2a of DP-134, The Timber Groves Lakes Community Unit Plan (CUP), a 6.65-acre site at the northwest corner of North Maize Road and West Central Avenue. The vacant site currently has a detention water feature on the south and east side of the site, along Maize Road. The applicants wish to build three multi-family buildings, three stories each, with 24 dwelling units per building for a total of 72 dwelling units (10.87 dwelling units per acre) with no architectural restrictions (see the attached site plan). The CUP currently limits Parcel 2a to a total of 15 dwelling units, six dwelling units per building, townhouse units, two-story buildings, and requires architectural compatibility with nearby office and residential buildings using fieldstone. Therefore, the applicants request an amendment to DP-134 Parcel 2a to eliminate the stated restrictions. The application area is zoned GO General Office (GO), which permits 75 dwelling units per acre.

The application area, Parcel 2a, is the only undeveloped parcel within the CUP. Immediately north of the site is a two-story office building on the GO zoned Parcel 2. North and west of the site is the SF-5 Single-family Residential (SF-5) zoned Parcel 3, developed with the Timber Groves Lakes residential development. Parcel 3 has 45 existing residences, a mixture of single-family residences and attached duplexes. The CUP allows Parcel 3 to develop a total of 416 dwelling units, in a mixture of single and multi-family housing types, at a maximum density of 7 units per acre. Parcel 1, south of the site, is zoned LC Limited Commercial (LC) and developed with retail, restaurant and banking uses. The CUP grants the application area cross lot access to the north to Maize, using the one access point to Maize currently used by the office building to the north and the Timber Grove Lakes residences. The CUP also grants this site cross lot access to Central to the south, across the commercially developed Parcel 1. A bridge across the detention water feature exists between the southwest corner of the application area and Parcel 1, and a drive aisle exists on the west side of the Wal-mart Neighborhood Market, connecting to Central. The CUP requires a landscape buffer between this site and Parcel 3 at a rate of 1 shade tree or equivalent per 30 linear feet. The CUP requires a masonry wall between the application area and Parcel 3, the wall is already constructed. Beyond the boundaries of DP-134, surrounding uses include an SF-5 zoned park to the north and west, an SF-5 zoned church and houses east of the CUP across Maize Road, and LC zoned commercial development south of the CUP across Central.

CASE HISTORY: The site was rezoned to GO with DP-134 in 1983 and was platted as the Timber Grove Lakes Addition in 1984. A 2008 CUP Amendment split the application area, Parcel 2a, from Parcel 2 and permitted multi-family residential development with the above stated restrictions.

ADJACENT ZONING AND LAND USE:

NORTH:	GO, SF-5	Offices, single and two-family residences, park
SOUTH:	LC	Commercial development
EAST:	SF-5	Church, single-family residences
WEST:	SF-5	Single and two-family residences, park

PUBLIC SERVICES: The CUP grants this site cross lot access to Maize and Central. Maize is a four-lane arterial with a 110-foot right of way (ROW) at the access point and a southbound right turn decel lane. This portion of Maize has a traffic count of 21,505 vehicles per day. Central is a five-lane arterial with a 124-foot ROW at the access point; this portion of Central has both east and west bound accel/decel lanes. This portion of Central has a traffic count of 13,449 vehicles per day. Per the City Traffic Engineer, the proposed multi-family development would generate 6.59 vehicle trips per day per unit, for a total of 474 daily trips. The City Traffic Engineer recommends requiring this development to maintain cross lot access to Central to the south, reducing the impact on the Maize access point. Sidewalks are available on both adjacent Maize and Central, the site is on the West Central transit bus route. All typical urban services are available.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “local commercial.” The local commercial category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The UZC and Comprehensive Plan consider residential development less intense than commercial development. The Comprehensive Plan locational guidelines consider this request “high density” residential development as it exceeds 10 units per acre. The Comprehensive Plan Residential Locational Guidelines recommend that medium and high density residential uses locate within walking distance of neighborhood commercial centers, parks, schools and public transportation routes. The Comprehensive Plan also recommends close proximity to concentrations of employment, major thoroughfares and utility trunk lines. They should be directly accessible to arterial or collector streets, in order to avoid high traffic volumes in lower density residential neighborhoods. And, they should be sited where they will not overload or create congestion in existing and planned facilities/utilities.

RECOMMENDATION: The applicant’s request is to increase the permitted residential density on this vacant CUP parcel, and to eliminate other development restrictions. Planning staff notes that peak hour traffic from this development could be a concern, and recommends that the CUP amendment require a connection to Central through the commercial development drive aisle to the south. Several residential neighbors from Timber Grove Lakes contacted staff opposed to this request. Opposition appears primarily against the three-story building request, visual compatibility, the total number of units and associated traffic, noise, trash and light. Staff feels that the CUP’s existing architectural compatibility requirement with fieldstone, along with the existing landscape buffer requirement and screening wall should mitigate the visual concerns. The UZC limits light pole height to 15 feet when within 200 feet of residential zoning, and requires cut-off luminaries to minimize light trespass and glare. The UZC also requires trash receptacle screening. Therefore, staff feels that the potential impacts generated by this request can be mitigated with existing CUP and code requirements along with staff recommended conditions.

Based upon the information available prior to the public hearings, planning staff recommends that the request for an amendment to DP-134 2a to remove CUP architectural compatibility with fieldstone be **DENIED**. Planning staff further recommends that the request to increase multi-family units to 72, to increase the number of units in a building to 24, to increase the number of building stories to three, and to allow apartment buildings be **APPROVED** subject to the following conditions:

- (1) The CUP shall be amended to require multi-family residential development on Parcel 2a to maintain cross lot access to both Parcel 1 and Parcel 2. The applicant shall construct access improvements from Parcel 2a to Parcel 1 prior to obtaining residential building permits.
- (2) The applicant shall submit a site plan demonstrating access from Parcel 2a to Parcel 1, to be approved by planning staff and the City Traffic Engineer.
- (3) The applicant shall submit building elevations, to be approved by planning staff, demonstrating architectural compatibility per the CUP requirements.
- (4) The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days of approval or the request shall be considered denied and closed.

- (5) If the Zoning Administrator finds that there is a violation of any of the conditions of the CUP amendment, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the CUP amendment null and void.

This recommendation is based on the following findings:

- (1) The zoning, uses and character of the neighborhood: The application area, Parcel 2a, is the only un-developed parcel within the CUP. Immediately north of the site is a two-story office building on the GO zoned Parcel 2. North and west of the site is the SF-5 zoned Parcel 3, developed with the Timber Groves Lakes residential development. Parcel 3 has 45 existing residences, a mixture of single-family residences and attached duplexes. Parcel 1, south of the site, is zoned LC and developed with retail, restaurant and banking uses. Beyond the boundaries of DP-134, surrounding uses include an SF-5 zoned park to the north and west, an SF-5 zoned church and houses east of the CUP across Maize Road, and LC zoned commercial development south of the CUP across Central.
- (2) The suitability of the subject property for the uses to which it has been restricted: The site is zoned GO with DP-134 use restrictions and development standards, and could be developed for a number of uses under those restrictions. However, the site has been vacant as zoned for GO since 1984, and has been vacant with the 15-unit multi-family restrictions since 2008.
- (3) Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed amendment would increase the total number of dwellings permitted on the site, and would increase the permitted number of building floors from two to three. The proposed development could impact adjacent residences with increased traffic, noise, and visual changes. These impacts should be mitigated by the existing screening wall, CUP requirements for a landscape buffer and architectural compatibility, and UZC light and screening compatibility requirements.
- (4) Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request will add housing at an urban infill location with existing infrastructure, utilities, nearby park and commercial amenities. Vehicle traffic from the site could negatively impact access to the arterial street network, particularly if only once access point is made available. Denial of this request would presumably be a loss of economic opportunity for the land owner or developer.
- (5) Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "local commercial." The local commercial category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The UZC and Comprehensive Plan consider residential

development less intense than commercial development. The Comprehensive Plan locational guidelines consider this request "high density" residential development as it exceeds 10 units per acre. The Comprehensive Plan Residential Locational Guidelines recommend that medium and high density residential uses locate within walking distance of neighborhood commercial centers, parks, schools and public transportation routes. The Comprehensive Plan also recommends close proximity to concentrations of employment, major thoroughfares and utility trunk lines. They should be directly accessible to arterial or collector streets, in order to avoid high traffic volumes in lower density residential neighborhoods. And, they should be sited where they will not overload or create congestion in existing and planned facilities/utilities.

- (6) Impact of the proposed development on community facilities: The requested CUP amendment could negatively impact access to the arterial street network. The proposed cross lot access requirement to both Maize and Central should mitigate that concern.

JESS MCNEELY, Planning Staff presented the Staff Report. He said DAB V voted to approve the request per staff comments at the December 7, 2015 meeting. He said DAB also requested that the applicant meet with the HOA opposed to the request (Timber Grove Lakes) to work out issues. He said that meeting took place on December 10, 2015. He referred Commissioners to a Handout dated December 5, 2015 addressed to Paul Gray which was the HOA's request going into that meeting. He said he felt there was some common ground as far as concepts on screening, landscaping, and placement of buildings, architectural detail and stone on the buildings to meet the CUP architectural requirements. He said that the main point of issue is the total number of units being requested. He mentioned that the current CUP (dated 2008) restricts the property to 15 units in two-story townhouse type buildings. He said the applicant is asking for 72 total units and to stay within the height limit of 35 feet but asking for three-story buildings. He referred to the Handout and said the HOA is proposing a total of 48 units. He concluded by stating that the applicant and HOA have not come to a resolution on the number of units. He concluded by stating that the applicant and surrounding neighbors were present to speak to the Commission.

RICHARDSON asked if any of the property was covered by the HOA.

MCNEELY replied no.

RICHARDSON asked if the flood requirements discussed at the last hearing had been worked out.

MCNEELY stated nothing has changed since the last meeting. He added that the applicant has not done engineering to determine how much additional capacity and where that will go on the site. He suggested letting the applicant discuss how he is going to achieve the increased detention that will be required as he increases impervious surface on the site.

RICHARDSON asked who was responsible for the bridge, and if there was some document requiring joint maintenance. He also asked who was responsible for enforcing screening requirements such as tree replacement, etc. on the northwest part of the property.

MCNEELY replied that he would let the applicant discuss that issue; however, he added that it appeared that the bridge was on the application area. He added that maintenance of the wall, bridge and access to the office property were discussed at the meeting that was held with the HOA. He said as far as screening, if CUP or other standards are not being met, that is an issue for MABCD.

JOHNSON indicated he had an ex parte conversation regarding the application that has not changed his mind. Several other Commissioners revealed ex parte communications including **GOOLSBY**, **MCKAY** and **RAMSEY**.

PAUL GRAY, 1861 NORTH ROCK ROAD, #200, APPLICANT said a lot has taken place since the project was proposed. He said his groups sees this as an opportunity to bring in-fill development on an undeveloped piece of property in West Wichita. He said they feel this proposed use would be a great buffer between the residential and the high density commercial use in the area. He said the highest and best use for this property is multi-family residential. He said the amendment in 2008 for the townhomes was not economically feasible and it did not make the highest and best use of the property. He said the proposed site plan maximizes the potential of the site. He said as developers, one of the most valuable assets of the property is the seclusion from arterial traffic and the two large water features. He said they wanted to take advantage of the water features and put the parking and drive lane on the opposite side of it.

GRAY mentioned the meeting with the neighbors and along with other issues like size and density of the building he said another concern was residences being out on their third story balconies being disruptive in the evening. He said they took those sentiments to heart and redesigned the property. He said originally the buildings were double stacked with apartments on both sides facing the neighborhood and the water with breezeways between the buildings. He said they redesigned the complex to make it a single-stacked facility with every apartment facing the water. He said the side facing the neighborhood will only have a common entrance into the building that you and five other residences would share. He said there would be an internal staircase and all windows facing the neighborhood were bedroom windows, which most people keep the blinds in their bedrooms drawn at night that would cut down light and noise pollution. He said one of the ancillary benefits of the redesign was that the buildings became narrower which allowed them more room for landscaping, parking and drive lanes between buildings and the existing residential wall. He said they are proposing about an 8-foot buffer between the drive lane and the existing fence where they would put in trees. He said they believe all these improvements make the property more compatible with the neighbors than commercial development that could be up to six stories tall. He said there are no requirements for setbacks so the building could be much closer to the residential properties making the view more restrictive. He said they feel this use benefits everyone. He mentioned opening up the access to Central Avenue which they feel will be beneficial to their residents. He concluded by stating that they were excited about the property and it was a way to develop additional residences in the City.

DENNIS referred to the correspondence dated December 10, 2015 and asked Mr. Gray to respond to item #1 which was that the number of units be limited to a maximum of 48 and building height limited to a maximum of 35'.

GRAY said they are not open to that as an option. He said it was difficult to develop an apartment complex under 100 units. He said economic viability becomes challenging the smaller the complex becomes because static costs like paving, drive lanes, etc. have to be spread over few units.

DENNIS asked Mr. Gray to respond to #2 of the correspondence regarding the easement.

GRAY said the site plan they designed has 8 feet of landscape buffer in it which is close to the 10 feet requested in the letter. He said the building is constrained by a 45-foot easement on buildings site paths and the lake. He said in addition they need to have enough room for parking, room between the parking and the buildings and drive lanes large enough to meet Fire department standards.

DENNIS asked about the landscaping.

GRAY said only a small portion of the requested 15-foot landscaping barrier is feasible. He said traffic needs to be able to get straightened out safely and in line with the bridge. He said he did not think it was feasible to put a 15-foot buffer across that area.

DENNIS asked Mr. Gray to respond #3 regarding building spacing and fieldstone.

GRAY said they will put fieldstone on the buildings; however, he noted that 50% stone masonry was not common in this area because there was a significant cost difference between that and brick. He estimated that they will install masonry on the side of the facility that faces the neighborhood. He said that number was rather large and unachievable for the scope of the project.

DENNIS asked about #4 with regarding to lighting.

GRAY said they will stay within zoning requirements.

DENNIS asked about #5 with regard to costs to maintain the stone wall and lights.

GRAY said if any other development went in without being in a CUP there would not even be a conversation about sharing maintenance of the existing wall. He said the wall has been given a price tag of \$1 million. He said they do not feel it is fair that they be obligated to share 50% of the cost of maintenance just because of a CUP adjustment. He said they believe they will be liable for any damage to the wall from people on their side of it; they would consider that fair. He said if a driver damages the bridge he believes the liability for any repairs would be on the driver, not the property owner. He said they will not arbitrarily sign an agreement for perpetual maintenance of the wall separating the facilities.

DENNIS asked about #6 which was a maintenance agreement for the pond and the parking lot.

GRAY said they have been in discussion with the owners of the office facility and they have agreed to develop a shared maintenance agreement for the parking drive lanes.

RICHARDSON asked who was responsible for the bridge and pond.

GRAY said they own the bridge and will have to maintain and update it as needed. He said they also own the pond. He commented that the owners have to maintain the property such as mowing, etc.

RICHARDSON asked if the wall was on the property.

GRAY said they don't believe the wall is on their property; however, he added they have not done a survey to verify that. He said the neighborhood built that for themselves so maybe one of the neighbors could speak to that issue.

JOHNSON asked Commissioner Richardson if he got his question about detention answered.

RICHARDSON said the only response he got was that detention had not been engineered yet. He asked about enlarging the north/south pond for detention purposes.

GRAY said they have a pond already located on the 6 acre parcel that they can widen banks as needed for additional retention requirements.

FOSTER asked for clarification on the height of 35 feet and asked if that was to the peak of the gables.

GRAY said that would be measured however zoning dictates heights of buildings. He said he didn't know how that was derived and referred to staff.

FOSTER commented that he didn't know if he agreed with Mr. Gray's statement on the percentage of masonry. He said residences located in the Central and Maize area are well above 20% masonry.

MIKE HILL, 909 NORTH MAIZE ROAD, #720 said the Timber Grove Lakes HOA came into being in 1992 under the Kansas Townhouse Act when 22 homeowners purchased the development from a distressed developer. In addition he said there are now single family homes between the twin homes with a totaling 45 homes in all. He referred to the aerial of the area.

HILL mentioned the office building located directly to east of the neighborhood and the intended similarity to the design of their homes. He commented that his home is 70% stone masonry. He said in 2008 an agent representing the owner approached the HOA requesting a change in zoning of DP-134 to allow construction of 15 units called the Ryan townhouses. He referred to a depiction site plan of the units with double car garages. He said they agreed with the owner that the proposed townhomes would probably fit into the community, He noted that no protests were filed at that time because they came to an agreement. He said they always thought something like that would be developed. He said the owner is now asking for a 500% increase from 15 versus 72. He said there are a lot of other issues other than traffic that just goes on and on. He said the proposal is a serious deviation of density and a breach of the prior compromise. He referred to language in the CUP, which he said is a City document, which stated that "...the development should be appropriate to the neighborhood and that safeguards should be provided to insure that the development would minimize the diminution and value of surrounding property and that the proposed development can be adequately served by public features." He asked the Commission to ponder on this for that reason and other reasons that the neighbors will bring before them. He concluded by respectfully requesting asked that the density of 72 plus units on this property be denied.

FOSTER asked with 48 units do they still envision three buildings.

HILL said they have yet to see an actual architectural design on how this proposal would pan out. He said going from 15 units to 72 units, a 500% increase is not acceptable to him personally. He mentioned that the west side of the bridge is a stone wall. He said if you own the bridge, then you own the stone wall separating the two properties. He commented on using the pond for detention and mentioned an incident where it rained heavily up north and water came down the Cowskin Creek, backed up and raised out of the banks. He said water is an issue and that it has come within 10 feet of his home. He said they built a wall around their walk out so they don't get water in it.

WARREN asked if Mr. Hill had any knowledge why the 14 unit project did not happen.

HILL said just hearsay that the manufacturer of the building product the owner was going to use had a fire and the product was no longer available to the builder.

GOOLSBY asked Mr. Hill if the wall was located on HOA property.

HILL said he would have to refer that question to another resident because he didn't know whose property the wall was located on.

GOOLSBY asked Mr. Hill if he thought it was reasonable to ask the applicant to maintain the wall that the HOA built.

HILL said the original property developer built the wall.

ED PLOPPA 606 NORTH MAIZE ROAD, #726 said he and his wife have has lived in the area since 1986 and were one of the original homeowners who saw the developer go bankrupt. He said they lost quite a bit of money in equity when that happened. He said he was involved in rescuing the property from foreclosure from Bank IV. He said their unit is located 100 feet away from the western most portion of the property being discussed. He said as far as being a buffer between residential and commercial, a 35 foot tall structure behind his house will definitely do that. He said this community was developed to accommodate empty nesters and retirees, which is the composition of the residents in the HOA. He said whether or not property values will decline is a controversial matter; however, and he believes the Staff Report opens that up for conversation. He mentioned the recommendation on page five that denial of the application would present a loss of economic opportunity for the land owner." He asked why the Staff Report did not take into consideration the potential loss of value for adjacent landowners. He asked why that wasn't considered. He said the report also fails to mention that the property owner had an opportunity to develop the property under the 2008 agreement and failed to do so. He asked why the responsibility for the property owners ultimate loss falls to the owners of Timber Grove Lakes. He said he does not see that as being reasonable. He said the potential loss to surrounding homeowners can't be estimated. He said there are 45 residents and their homes average \$200,000 in value. He mentioned the possibility of a 5% decline by which would equal approximately \$450,000. He said a significant portion of a retirees net worth is the equity in their residences. He said that cannot replenish that value. He asked the Commission to think about the significant loss of value to

the surrounding neighbors and the fact that the applicant had an opportunity to develop the property in 2008 and didn't when they decide to approve or disapprove the requested.

JOHNSON asked if Mr. Ploppa knew anything about the berming and trees behind the Walmart.

PLOPPA said Walmart worked with the HOA on that and added that they have been a good neighbor.

GOOLSBY asked Mr. Ploppa if his property depreciated in value when the Walmart was built.

PLOPPA said he didn't know if the Walmart caused the property to appreciate or depreciate. He mentioned that there was a significant decrease in property values at the time the developer went broke and they had to refinance their home. He mentioned that this is a very stable community with little turnover in the units. He said the area is considered a hidden gem in Wichita and it would be a travesty for this development to occur.

RICHARDSON asked Mr. Ploppa if he had any feelings about the necessity of the connection to the south to Central.

PLOPPA said he believe the connection to the south is going to be problematic. He said the connection will be directly across the entrance/exit of the Dillons at Maize and Central. He said Central to the west is coming over a bridge over the Cowskin Creek, so there is a small hump in the road that causes very limited vision.

DEB PLOPPA, 909 NORTH MAIZE ROAD, #726 said they area original owners of their unit in Timber Grove Lakes and it is adjacent to the retention ponds that flow into the Cowskin Creek. She asked if there was a requirement for a hydrology study to determine the impact of the proposed density on run off. She noted that it was important to be aware that there are increasing demands on the capacity of the floodway caused by continuing development along Maize Road. She said they have experienced the effects of flooding twice since living at the location. She mentioned problems with their insurance company increasing their deductible because of flooding.

G. JOHNSON, 909 NORTH MAIZE ROAD, #718 said she recently moved in and one of the things that attracted her was the community plan. She said she was confused and asked why have a CUP if changes are allowed without the permission of all the other parcel owners. She said she understands that business plans come and go and certain realities change with time. She said many of the adjacent homeowners purchases what will be their final home based on what they thought their neighborhood could be. She said the use of the area has been changed once which was agreed to, now the same people want to increase the density 5-6 times what was agreed upon. She ask why is it that big business has non-stop opportunities to change the design of the neighborhood but the individual homeowners that live there have to accept whatever is decided. She asked the Commission to consider what they would do if the roles were reversed and she was in their position.

RICHARDSON asked if she was at the meeting with the developer. He asked if she was simply against the project.

JOHNSON said she was at the meeting; however, she has read over the HOA's requests. She said it doesn't seem like the homeowners in the area have much involvement but they are the ones that get what comes out of this.

RAMSEY said he lives on a lake with in a \$500,000 dollar home and apartments are going up right in front of him.

JUDY HILL, 909 NORTH MAIZE ROAD, #720 said she has live in this community for 15 years. She said she was one of the people who dealt with Walmart, the flood people and zoning. She said her biggest problem she had with this proposal is emotional. She said she is a homeowner who lives in a CUP that has been in existence 33 years. She said she didn't buy a home or property that was zoned different. She commented that the agent said at the DAB meeting that they were building luxury apartments to provide rentals in the area. She said they are giving no consideration to luxury living for those apartment dwellers by jamming a giant property taking up all the ground in the area. She said there is no pool and no outdoor court area. She said enlarging the drainage area will just make for more water. She asked the Commission to thoughtfully consider their decision. She said she knows something is going to be built there and that the owner has a right to build. But, she said to take up every ounce of land in an established CUP with this giant project isn't right. She said they were excited about the twin homes proposed in 2008 because they looked lovely. She said this proposal is not lovely and they are not looking forward to it. She mentioned the comment about half million dollar homes on Maize Road with commercial development next to them, but those homeowners bought those homes knowing how the land was zoned. She said the people who bought into Timber Grove Lakes had the anticipation that they had rights due to the CUP. She asked the Commission to look at all the loose ends of the project including the water retention, number of units and traffic. She asked the Commission not to give the agent and owner free will to do what they want with the property.

FOSTER asked about the previous flooding event where the water came within ten feet of her home.

HILL said it was scary. She said the water starts up north runs down Maize on one side, and then the other towards the Cowskin Creek. She said the westbound water reversed in flow and came back like a broken dam running the other way. She said she was out on her patio and it kept creeping up and got within four feet of their retention wall. She said the water seeped under the retention wall into the foundation through the wall ruined their new carpet. She said that has happened twice. She said the HOA's common ground hooks up to Swanson Park. She said when the waters from the north come they don't always make the turn and race across Swanson Park covering the HOA's tennis courts and swimming pool. She said the project along Maple Road didn't straighten out the quantity of water coming down the Cowskin Creek and they still have major water issues. She said their insurance was cancelled. She concluded by saying that it just wasn't thoughtful or good business for the community to increase something by 500%.

RON BOGLE, 909 NORTH MAIZE ROAD, #732 said he wanted to speak about water and the bridge. He mentioned the bridge has not had any preventive maintenance done on it in 30 years. He said one of the abutments is broke; the approach has fallen at least four inches on the northeast corner and there are voids on both the southeast and northeast corners. He said the walls of the bridge are intact now but rerouting that all that traffic will affect it. He said if the development goes through they

would be placing an additional burden on the homeowners to maintain the wall because each car would cause a mini earthquake each time one drives on the bridge. He said he does not believe the bridge was constructed for the density of traffic they are talking about. He said water run off needs to go under the bridge in any area 4" X 12'. He said the improvements south along Maple did not include Swanson Park and their area. He said he was not a structural engineering and doesn't claim to be one but added that there are a lot of engineering issues to be considered on this project.

RICHARDSON asked if he was in agreement with the correspondence dated December 10, especially reducing the number of units from 72 to 49.

BOGGLE said he was all about compromise and establishing common ground. He said he would agree to the compromise of 48 units, but he doesn't want to and thinks the original 2008 amendment to the CUP should be honored. He said he doesn't believe this development should impose maintenance costs on the HOA.

FOSTER asked about the wall location of the wall and if it on HOA property.

BOGGLE said he didn't know but he hoped the applicant owned it.

SUZANNE JONES, 909 NORTH MAIZE ROAD, #210 said she just bought into this place 17 months ago as a great place to retire and that is why she moved there. She said her big concern is the building being three stories so all she will be looking is a big blank wall with windows. She said there are very little trees and she is unable to plant trees because the area is marked with utility easements and a big green box. She also mentioned the traffic lights with people parking against the wall on the east and south sides. She said if the wall is only 5 feet tall those lights will bounce against the wall straight into her bedroom, living room and kitchen all night long because people work second and third shifts. She asked the Commission to stop and go back to the original 2008 plan.

GUY MCCORMICK, 909 NORTH MAIZE ROAD, #214 clarified that the stone wall is 4 foot tall and he believes today's zoning requirement is a 6 foot wall. He said it doesn't seem reasonable that since the development backs right up to the wall that the owner wouldn't be able to help with maintenance. He said the HOA has done an enormous amount of work along the wall removing shrubs and trees in order to maintain the integrity of the wall. He mentioned that they don't have to do that along the Walmart area because Walmart does a beautiful job of maintaining that area. He said it would be difficult if not impossible for the members of the HOA to go over to the other side of the wall to do maintenance or if the wall itself needs repair. He said there is no space whatsoever between the bridge and the wall; they abut each other. He said they believe vehicles using the bridge will cause vibrations and opportunities to hit the wall which would be a problem. He concluded by clarifying that the original CUP on this parcel limits the height of any office buildings to 35 feet so the comment about building a 6 story building was incorrect.

GOOLSBY clarified that the speaker thinks the applicant should participate in the expense of maintaining the wall.

MCCORMICK responded yes, that the wall was an important feature of the development.

GOOLSBY commented that the handout sounds like financial extortion when they indicate they will drop all protests if the applicant agrees to participate in the maintenance of the wall.

MCCORMICK commented that the wall was one point in the list

RAMSEY asked why a section of the wall was white.

ED PLOPPA, 909 NORTH MAIZE ROAD, #726 said at one time a wrought iron gate was installed for emergencies and that was subsequently closed off with the cinder block.

RAMSEY commented that they haven't followed their own architectural regulations.

PLOPPA conceded probably not and that was a good point.

DAILEY asked if they should ask legal about ownership of the wall. He asked if legal had any comments on maintenance of an existing wall and the demand to make a neighbor take care of that.

VANZANDT said he had nothing specific to add and commented that many times there are a variety of issues including was the wall located on a homeowners property or was it located on a reserve. He said there were a variety of answers to that question.

DAILEY asked what if the applicant does not own the land under the wall. He clarified that there was no State law that dictates that the applicant has to maintain it.

VANZANDT commented that was correct and stated if the wall was not located on the applicant's property, they would have to be in total agreement to provide maintenance.

LARRY SHOUF, 909 NORTH MAIZE ROAD, #312 said he believes they have the right to rely on a promise. He said they purchased their home in 2013 they asked the realtor what about the land that was on the other side of the wall, particularly since their living room and family room have large windows that face that view. He said the realtor informed them that the area would be developed into townhouses. He said that was why they bought the property. He referred to the draconian changes between the Staff Report from 2008 and current Staff Report. He reviewed differences between the Staff Reports including references to "low density designation" and that the amendment would allow for 5.3 units per acre. He said the report emphasized the importance of the density back then, but the current Staff Report does not say that. He mentioned that they were told that it is a total of 6.5 acres, which staff divides by the number of units. He said in the 2008 the report focused on the amount of "buildable land" which is 2.5 acres. He commented that he had a series of these changes of emphasis. He said the 2008 Staff Report emphasis 4 times that the proposed amendment for 15 units was the appropriate density.

MOTION: To give the speaker one additional minute.

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

SHOUF said the differences in the staff reports was draconian. He commented that staff indicated the proposal is within the legal density. He asked when do they get an adjudicator to consider that from his point of view, when he has made bargains in his lifetime if someone comes back and says they can't fulfill the bargain, he gets to ask why.

RICHARDSON asked if he was at the 12-10-15 meeting and if he agreed with the request for 48 units.

SHOUF said he was not at that meeting. He said he wanted someone to tell him why they can't do what they promised to do in 2008. He said he would probably go with 48 units so they can get something.

SUSAN OSBORNE, 909 NORTH MAIZE ROAD, #214 commented that she was at the 10-12-15 meeting. She said she was on the Planning Commission for 10 years so she was used to being on the Commissioner's side of the table. She said part of her has looked at the issue from that perspective. She said the neighbors don't want the area left as a park, they have always wanted to see something developed there and anticipated an office building. She commented that the parcel, although zoned GO, has many restrictions developed with the initial CUP. She said the neighbors supported the amendment requested in 2008 and noted that it was the first time the applicant asked for residences with additional landscaping and compatible design. She said the Commission has heard the neighbor's reasons for opposing the proposal.

OSBORNE stated that the neighbors most affected by the proposed met with the developer's agent and planning staff and presented the 6 point proposal before the Commission as a Handout. She said the developer asked for neighbors input and exactly what he would need to win their support. She added that two representatives from the adjacent office building who also have concerns about density and traffic also attended the meeting. She said it was a congenial meeting and they believed the agent was going to accept most of the points. She mentioned #2 and said the agent agreed to that if they could have 60% covered parking near the stone wall. She said a lot of the neighbors were mixed on that issue. She said point #3 was already accepted and referred to the redesign of the buildings which the neighbors appreciated. She said the agent also agreed to concentrate most of the stone on the units facing the neighbors. She said he admitted that they could not meet the 50% request but thought they could meet between 30-35%. She said the agent also agreed to #4 regarding lighting. She said as far as #5 regarding the shared maintenance, the agent never disagreed or brought that up. She said the sticking point at the meeting was item #1 regarding the number of units. She said they left the meeting thinking the applicant would share in the maintenance of the wall. She added that she doesn't know who the wall belongs to but considers it part of the CUP. She commented that she does not know how the neighborhood is going to take care of the wall, particularly if the area is gated. She said she does not believe the neighbors are trying to extort the developer; that is not how they meant that statement. She mentioned item #6 and commented that the office building representatives request that be included.

OSBORNE said her major point was that she believes a CUP is like a family and that all the units need to work together for things to work well. She said one parcel should not be detrimental to the other. She said this is not just a case of one development butting up to another. She mentioned the neighbors concern regarding increased congestion.

MOTION: To give the speaker two additional minutes.

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

OSBORNE said they reason they asked for a total of 48 units was to limit the congestion and ingress/egress. She said although they reluctantly asked for 48 units, they felt it was a fair and workable compromise. She said when she was on the Planning Commission they focused on congestion so that Maize Road would not be as bad as Rock Road. She said the neighbors have seen the increase due to the Neighborhood Walmart, but they also recognize they use ingress/egress built into the original CUP. She said the original CUP did not account for the traffic that 72 residences generates. She said she suspects that is why Parcel 2 did not allow residential housing with all the other restrictions because of the concern for traffic. She reiterated that the neighbors built or bought their homes with the knowledge that Parcel 2 would be restricted for an office building of 15 residence and have low traffic. She concluded by requesting that the Commission deny proposal unless the number of units is reduced to 48.

FOSTER asked if the neighbors were talking about 3 buildings, with 16 units per building.

OSBORNE said it could be 2 or 3 buildings.

RICHARDSON clarified they would be flexible with the number of stories of the buildings.

OSBORNE said yes.

RICHARDSON asked Ms. Osborne what were her feelings about the necessity of a connection to the south with just 48 units.

OSBORNE said she understood 2 ways in and out were needed. She said it is going to be expensive to add another ingress/egress. She added that both of the entrances into this parcel area though parking lots.

GOOLSBY said the developer already stated that the development would not be feasible at 48 units.

OSBORNE said the neighbors are willing to accept a 300% increase with the 48 units.

MILLER STEVENS said she does not believe the Planning Commission is present to argue with folks giving testimony. She said the Commission's job is to listen to the testimony and accept it whether they like it or don't like it. She said she does not believe it is the Commission's position to argue with them.

GRAY said obviously there were a lot of point made in opposition to the project. He commented that there has been so much discussion about an agreement made in 2008. He said that amendment did not take away the owner's right to develop the CUP with any of the restrictions at that time, it just amended his ability to add residential to a CUP that prohibited it. He commented that they could build 3 office buildings similar to what is shown on the site plan without adding access to Central and without any consideration to setbacks to residential property. He said there was a staff report from engineering that estimated that approximately 450 cars come through the parcel a day, he said this is not a high density

commercial development even though the owner could do that with the same site plan they submitted. He said they do not see how they are being incompatible with the neighborhood by proposing residential usage on a building site that could be commercial.

GRAY said they agree to taking care of the wall as part of the bridge.

MOTION: To give the speaker one additional minute.

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

GRAY said a lot of discussion has been given to the bridge and flooding. He said it is unfortunate and he is sympathetic with the people who have lived on the property and encountered flooding for 20-30 years, but the flooding exists there now because of factors way beyond the development of the last 6 acre parcel. He said the impact on flooding caused by this development is inconsequential. He said they will have to mitigate the impact the footprint will have on the existing flooding. He commented that the resident's properties will continue to flood if something doesn't happen more globally with the Cowskin Creek. He summarized concerns as visual aesthetics, density and flooding.

JOHNSON asked about the comment about a building 6 stories high.

GRAY said he was referring to the GO zoning, but added that the CUP restrictions limited the building height to 35 feet.

TODD mentioned the 6 items in the 12-10-15 correspondence and clarified that the applicant's only sticking point was #1 the number of units.

GRAY answered that he wouldn't say that was their only sticking point, it was the significant sticking point. He said he would itemize each point on the correspondence. He stated that item #1 makes the project economically unviable. #2 they can maintain a 10 foot easement on the two bends of the leg on the northern portion. He said they cannot accommodate the 15 feet because there is not enough room. He mentioned that they have agreed to a tree every 15 feet for additional screening in exchange for strategically locating covered parking so it was not right out the view of a resident's window. #3 he said they would agree to 30% masonry on the neighbors but only 20% of that being flagstone and 10% brick. #4 he said they are in agreement with. #5 said they would like some idea of what a "maintenance agreement" might be in relationship to the fence. He said they would be willing to keep brush and vines from overgrowing it, but if there is an earthquake would they be willing to cover 50% of the cost to repair or replace it, he said that was a heavy question and they couldn't sign onto that liability at this time. But caring for the wall so it doesn't not become overgrown they feel would be advantageous, but liability of the structural integrity of the fence unless it was damaged by a resident of the property, he didn't think they could take that responsibility on. #6 he said they are in agreement with doing that and have discussed entering into a maintenance agreement for the lake and parking lot with the office building.

RICHARDSON asked if the covered parking was enclosed or carports and if that would necessitate removal of the landscape screening.

GRAY said the covered parking would be carports and there had been discussion about a garage here and there but that would depend on how much room they had left after having to give up land for a landscape easement.

DAILEY asked the applicant to comment on the condition of the bridge and maintenance and how they would improve it for this project.

GRAY said the bridge is actually quite attractive, it has some age just like the wall. He said someone built a 25-foot wide bridge there for a reason, because they intended to have vehicle traffic go across it. He said the applicant will have to have a structural assessment of bridge itself. He mentioned that the pavement going up to the bridge has settled and washed out but the bridge itself still looks like it is in good condition. He noted the comments about the rusted plate on the underside but that plate was probably the forming plate to hold the concrete on top of. He said at this time they feel the bridge is adequate until a structural engineer fully assesses it and tells them otherwise. In addition, he added that since staff requiring access to Central, they will have to fix the bridge. He said regardless of what condition the bridge is in, it will be the applicant's burden to make it safe for commuter travel.

DENNIS he understood where the applicant and neighbors were on the number of units and asked if there was a compromise.

GRAY said if he was not a general contractor and the property owner wasn't a partner of his, the property would be difficult to develop at 72 units and make it economically feasible. But, he is a general contractor and his partner owns the land which gives them a greater ability to make the project successful. He said they still have to maintain minimum numbers of staffing, property management and maintenance and the financial burden of capital costs. He said he does not believe it is viable at a number less than what they are asking for.

RICHARDSON asked for clarification of uses for Parcel 2.

MCNEELY said the 2008 CUP amendment added residential development but the Parcel still retained the ability for office development.

JOHNSON asked how the 35 feet building height is measured and what was the landscape requirement as far as separation between single and multi-family residences.

MCNEELY said according to the UZC on a flat roof it is typically to the top of the parapet and on a pitched roof it is the half way point from the eaves to the ridge of the roof. He said the CUP landscape requirement was one shade tree or equivalent every 30 feet. He mentioned the discussion about changing that to every 15 feet but mixing in parking structures.

GOOLSBY clarified that the proposed development would not be any taller than the office building to the north.

MCKNEELY replied that is correct.

WARREN asked how Traffic Engineering evaluated the additional traffic.

MCNEELY said Traffic Engineering was okay with the two points of access. He said they estimated 6.5 vehicles trips per day per unit from the multi-family residential.

RICHARDSON said he lives in a subdivision with 200 houses and two ways in and out. He said this is approximately 100 dwelling units and there are two driveways along Maize road. He said it seems that would be sufficient. He said he was not convinced they needed that connection to the south if the number of units was reduced. He said he takes exception and believes they can eliminate the connection to the south and eliminate the problem with the bridge if they are talking about 40 units.

DIRECTOR MILLER clarified the location of the entrances along Maize Road and explained that if for some reason you could not go south on the existing road from the office complex, there would be no second way to get into the complex. He said from a safety stand point, staff felt a second point of access was needed to the south.

FOSTER asked about parking requirements which appeared to be 1 ½ stalls per unit and if that would be reduced if this were developed as commercial.

MCNEELY said for office development it would be 3 spaces per thousand square foot of office space. He said multi-family residential is 1.25 spaces per one bedroom and 1.75 spaces per two bedroom.

FOSTER asked if 8 foot for landscaping was sufficient and said he felt the 10 foot minimum should be required. He asked if it was appropriate to require a five foot wall easement in the plat to provide for maintenance access. He also asked about the height of the wall being 4 feet and clarified that if the wall was not in existence, the applicant would be required to provide a 6 foot fence in addition to the landscaping.

MCNEELY responded that the CUP already shows a 5 foot wall easement on the office side. He said staff is comfortable that the additional landscaping will mitigate the height of the wall, which he said is nice and staff doubts someone would spend that much money today to build a similar wall. He said if they tried to increase the height of the wall they may cause damage that will cause it to deteriorate more quickly.

DENNIS mentioned staff being responsible to see that detention requirements are met and he said has a problem with that because he lived through the Halloween flood and other floods that have come through the area. He said he doesn't know if he agrees with leaving it up to staff to resolve detention issues on flooding.

MCNEELY explained that when the applicant goes through the building process, if they add more than one acre of impervious structure or pavement on the property, City Storm Water Engineering reviews the increased detention requirement.

DENNIS clarified that staff wants the Commission to approve the application without knowing what the impact will be.

MCNEELY said it is common practice that zoning be approved prior to doing a drainage plan for a property. He said staff has confirmed with Storm Water Engineering that when the applicant goes to the building permitting phase, and calculations are done on the impervious surface area, they will be required to provide a plan to meet City Storm Water requirements. He added that he did not believe staff was in a position to recommend a change in policy to require that engineering be done on a property prior to zoning.

RICHARDSON suggested that any changes in the site plan to be brought back to the Commission for review.

DENNIS referred to the Staff's recommendation on architectural compatibility and asked what was staff's recommendation on the percentage of field stone and brick.

MCNEELY responded that the language in the CUP, like most CUP's, requires that there is an architectural consistency requirement. He said this CUP specifies use of the stone that is used throughout the CUP. He said most other CUP's don't include a percentage, they just require that the material be included. He said if he were asked, his recommendation would probably be between 25 – 30%, something that would cover the bottom story of the building.

RICHARDSON asked if this application would go to City Council for final approval.

MCNEELY said after the Planning Commission's decision today, there is a 2 week protest period. He said if property owners protest the Planning Commission's decision, the application will go to City Council.

MOTION: To approve subject to staff recommendation and the compromises agreed to by the developer, that the number of units be limited to 72 units; building height to a maximum of 35 feet; 10 foot easement to the north; strike 15 foot easement to the west; maintenance of the wall but no financial burden as far as the structural integrity; lighting facing away from the wall and that the building be covered by no less than 25% field stone facing the neighborhood.

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

VANZANDT asked for clarification on the easements. He said he believed it was 10 foot to the north and 15 foot to the west.

DENNIS asked about detention.

GOOLSBY said he was satisfied with staff's explanation that the issue would be covered by Storm Water Engineering.

JOHNSON said he was probably going to oppose this. He said he can't support 500% increase. He said everyone has a right to ask for a zoning change but the Planning Commission does not have to grant it.

RICHARDSON said he agreed with Commissioner Johnson. He commented that the Commission approves dozens of duplex lots that developers seem to want and that seems to be feasible, but 16 units per building for a total of 48 units is not feasible. He said he couldn't get his head around that. He said he can't support 72 units at this location.

TODD said having been involved in development there are financial considerations. He said this is an infill project that he felt was appropriate between the residential units and the commercial development so he was going to support the motion.

DENNIS said he was concerned about density of 72, the character of the neighborhood and detention. He said this proposal is a big change from what the neighborhood thought they were going to get. He said he will not support the motion.

FOSTER commented that one of the tenants of zoning is surety of land use. He said the neighbors have demonstrated that is important to them.

SUBSTITUTE MOTION: 48 units maximum; 35 foot building height; easement on the north side for enough room for a tree every 15 feet; 10 feet screening on the north; 10 feet or whatever will work on the west side; minimum 30% masonry on the neighbor's side and 20% on the south side; lighting as agreed to in item #4; #5 recommend a survey be done and once the location of wall is known negotiate requirements for maintenance between the two parties; pond and parking lot maintenance agreement as stated in item #6.

FOSTER asked legal if he should request the applicant agree to his motion.

GOOLSBY mentioned that the applicant clearly stated 48 units will not work.

DIRECTOR MILLER said he believed it was up to the Planning Commission to approve what it thinks is reasonable and prudent and then it is up to the applicant to decide whether or not they can make that work or not.

FOSTER moved, **RICHARDSON** seconded the substitute motion.

RAMSEY said he can't support something putting the burden of cost on the developer when the homeowners can't take care of the wall themselves or follow their own regulations. He said he does not see why the Commission would put the cost of that on the developer.

FOSTER commented that if it is found that the wall is clearly on the applicant's property and they are benefiting by not having to spend \$-30-\$45 a lineal foot to provide screening, he feels it is appropriate.

DAILEY commented that large businesses, restaurants, and chain stores don't build unless they have enough support in an area. He said the applicant already states that 48 units would not work so it kills the project right there.

DENNIS said he does not know if it is the Planning Commission's position to decide what is economically feasible or not they have to live by the Golden Rules and economic feasibility is not one of them. He said character of the neighborhood and neighborhood opposition are factors to be considered under the Golden Rules and that is why he will be supporting the substitute motion.

The **SUBSTITUTE MOTION** failed (6-6) **GOOLSBY, MCKAY, DAILEY, TODD, RAMSEY, WARREN** - No.

The **ORIGINAL MOTION** failed (6-6). **DENNIS, DOOL, FOSTER, JOHNSON, MILLER STEVENS** and **RICHARDSON** – No.

MCKAY said he has a problem with the agent's statement that anything less than 72 units wasn't economically feasible without seeing a breakdown of the costs. He asked if there was a compromise anywhere between 72 and 48. He asked how about splitting the difference with 60 units.

GRAY said he was in a situation that he didn't have support either way.

SECOND SUBSTITUTE MOTION: All the elements mentioned in the original motion with a maximum of 60 units.

MCKAY moved. **GOOLSBY** seconded the motion.

GRAY commented that he agreed with the motion as it stands.

FOSTER said he does not believe it is appropriate to negate maintenance responsibility if the wall is fully on the applicant's property.

MCKAY clarified that wall maintenance could be split it 50/50. He said the applicant and neighbors are going to have to sit down and settle that as neighbors to make it work. He said the Commission can't make that agreement.

There was considerable discussion regarding maintenance whose responsibility it was for maintenance of the wall.

JOHNSON suggested the Commission put in a requirement that the applicant build a 6 foot wall. He said he is not buying the argument. Since the applicant is getting something they would have to otherwise build themselves at their expense, they should share in the cost of maintenance.

WARREN suggested that Commissioner Mckay make it part of his motion that the applicant enter into an agreement for the costs of maintenance of the shared wall.

GRAY agreed to enter into an agreement for maintenance of the wall.

The **SECOND SUBSTITUTE MOTION WAS AMENDED** to include that the applicant enter into a maintenance agreement for the wall.

FOSTER asked for a clarification on the percentage of masonry facing the neighbors.

MCKAY said 25% masonry facing the neighbors but no masonry on the south side.

The **SECOND SUBSTITUTE MOTION AS AMENDED** carried (8-4). **FOSTER, JOHNSON, MILLER STEVENS** and **RICHARDSON** – No.

MCKAY (Out @4:25 p.m.)

JOHNSON (Out @4:25 p.m.)

5. **Case No.: CON2015-00036** - Kenny Kalb (Applicant/Owner) and Kaw Valley Engineering, c/o Tim Austin (Agent) request a County Conditional Use for Agricultural Sales and Services in RR Rural Residential zoning on property described as:

The North half of the Southwest Quarter of Section 10, Township 27, Range 2 West of the 6th P.M., Sedgwick County, Kansas.

BACKGROUND: The applicant is requesting a conditional use for “agricultural sales and services” on the unplatted RR Rural Residential (RR) zoned site. The site is currently an agricultural field. The applicant’s business, Blick’s Phosphate Conversions, LLC, delivers fertilizer to the area’s farms and proposes the RR zoned site be used as a staging, parking and maintenance area for the business’s trucks and parking for the employees; the applicant has not indicated how many trucks or employees will be on the site. The site will not be used for the storage of fertilizer nor the sale and display of the fertilizer.

The UZC Unified Zoning Code (UZC), Sec II-B.1.h., defines agricultural sales and services as an establishment primarily engaged in the sale or rental of farm tools and implements, feed and grain, tack, animal care products, propane, butane, anhydrous ammonia, farm supplies and the like, and including accessory food sales and machinery repair services. This definition shall also include greenhouses that are used for wholesale and/or retail purposes. The UZC, Sec.III-D., requires a conditional use for agricultural sales and services in the RR zoning district.

The applicant’s trucks will depart from the site, pick up the fertilizer at an off-site location, then take the fertilizer to the properties that have ordered the product and when finished and empty return to the site. The trucks will not have their holding and dispensing portions cleaned at the site, however road grim on the trucks will be washed off at the site, on an outdoor concrete or asphalt pad. The site plan’s drawing shows a 9,600 foot maintenance storage building, but the text references a 12,000-square foot maintenance storage building. Regardless of the size, the proposed maintenance shop will be used for tune-ups, brake repair, transmission and engine repair, lubrication, etc., but will not include painting or body repair work.

The Wichita-Sedgwick County Metropolitan Area Building and Construction Department (MABCD) and Kansas Department of Health and Environment (KDHE) policies prohibit any commercially generated waste, to include chemical waste from commercial floor drains, from being discharged into lagoons or septic systems. The storage and disposal of waste oil, transmission fluids, lubricants, batteries, cleaning

solvents and any other similar types of chemicals/oils used in the maintenance of the trucks must be done according to both the MABCD and KDHE policies. The MABCD and the Sedgwick County Fire Department require building approval for the proposed maintenance shop.

The applicants' site plan shows a 850-foot (x) 418-foot (8.16-acre) northwest portion of the 80-acre site as the agricultural sales and services site. The site plan shows the rest of the 80-acre subject property as 'future expansion,' including a proposed detention area located in the northeast corner of the site. The MAPC can consider approving the entire site for the requested use; however, the detail (8.16-acres) on the site plan would define the area of activity. If the proposed detention is needed for initial use it can be use that part of the site. Before the applicant could use the part of the site plan labeled future expansion they would need to file an adjustment to the site plan to provide more detail.

The site plan also proposes that those uses permitted by right in the RR zoning district be allowed. The site plan proposes that a pumpkin patch, a corn maize and agricultural activities that allow the sale or use of agricultural product grown on the site. The UZC, Sec.II-B.1.h., defines "agriculture" as the use of any land for the purpose of growing plants, crops, trees and other agricultural or forestry products or for the purpose of raising livestock. This definition shall include, as a permitted accessory use, the sales of nursery stock, firewood, Christmas trees and other plants and produce raised on-site. However, because of a lack of details on a corn maize or a pumpkin patch, those uses may require a conditional use for outdoor entertainment. A revised site plan needs to show, but not limited to, setbacks, proposed lighting, screening, signs, any outdoor storage and fencing. The site plan shows a proposed K-DOT reserve, the result of a portion of the northwest corner of the site being located within the proposed Northwest Bypass/Corridor Protective Overlay.

RR zoned farming and ranching operations, agricultural fields and large tract single-family residences are located on all sides of the county site. An exception to development in the area is the 14 half-acre lots of the Marksdale Addition, which is located approximately a half-mile east of the site; recorded June 28, 1968. Wichita and SF-5 Single-Family Residential (SF-5) zoned single-family residential subdivision development is located approximately three-quarters of a mile east of the site. CON2014-00020, a county conditional use request to permit mining and quarrying on 88.32-acres of SF-20 Single-Family Residential (SF-20) zoned unplatted land is located approximately a half-mile east of the site.

CASE HISTORY: The site is being platted as SUB2015-00043, the Kalb Addition. SUB2015-00043 was approved by the Subdivision Committee December 10, 2015 and will be considered at the December 17, 2015. MAPC meeting.

ADJACENT ZONING AND LAND USE:

NORTH:	RR, LC	Large tract single-family residences, agricultural fields
SOUTH:	RR	Agricultural fields, farming and ranching operations,
EAST:	RR	Agricultural fields, farming and ranching operations, 1/2-acre single-family residences
WEST:	RR	Agricultural fields, farming and ranching operations

PUBLIC SERVICES: There is no public sewer nor water available. The site will be served by an on-site sewer and well water. The site has direct access onto 167th Street West a paved two-lane County Highway. There can be an anticipated increase in industrial truck traffic to the area generated from the site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” shows the site to be located within the Wichita 2030 Urban Growth area and categorized as “urban development mix.” The urban development mix category encompasses areas of land that will likely be developed or redeveloped within the next 30-years with uses predominately found in the “urban residential use” category. However, there is a strong likelihood that concentrations and pockets of “major institutional uses” “local commercial uses,” and “open space uses” will ultimately be developed within this area as well, based on market driven location factors. In certain areas, especially those with close proximity to the future Northwest Bypass, there is the possibility that future uses may include “regional commercial” and “employment industry center.”

The site’s and area’s current development and RR zoning is more characteristic of the “rural” category , which is intended for those agricultural uses commonly found in Sedgwick County and predominately large (two-acres or more) tract single-family residential development. The applicant’s proposed staging, parking and maintenance area for the business’s trucks and parking for the employees (agricultural sales and services) is placed in close proximity to the mostly rural half of Sedgwick County (its customer base) as well as the railroad lines located in Wichita and the county, where the applicant gets its product for distribution. Consideration of a conditional use is required for agricultural sales and services. The site has a portion of the Northwest Bypass on its northwest corner, which is anticipated to change the character of the area into a mix of commercial and urban scale residential development.

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

1. As shown on an approved site plan the agricultural sales and services is a staging, parking and maintenance area for the business’s trucks and parking for the employees and those uses permitted by right in the RR Rural Residential zoning district outside of the area used for the approved agricultural sales and services .
2. The applicant shall develop a hazardous material waste storage and disposal plan to meet all applicable Wichita-Sedgwick County Metropolitan Area Building and Construction Department (MABCD) and Kansas Department of Health and Environment (KDHE) policies codes, policies and standards. This plan shall include the safe storage and disposal of all commercial waste, the prevention of any commercial waste from entering the application area’s lagoon, to include floor drains from the garage or a proposed outside concrete/asphalt pad, and the safe containment of any spilled commercial waste. This approved plan must be submitted to the MABCD prior to the issuance of any building permits.
3. The applicant shall submit the “Regulated Waste Activity Notification” form to KDHE, and obtain a regulated waste license from the KDHE. This approved license must be submitted to the County prior to the issuance of any building permits.

4. Development and maintenance of the site shall be in conformance with the approved site plan, which shall include all structures to be set back behind all current building line, location of the lagoon, parking for the trucks and employees, lights, signs, outdoor storage, screening, fencing and an approved surface for the parking and circulation area. The approved site plan shall be submitted prior to the issuance of any building permits.
5. Before the applicant can use the part of the site plan labeled future expansion they would need to file an adjustment to the site plan.
6. No outside storage of salvage vehicles, parts chemicals, oils, or solvents.
7. No bodywork or painting of vehicles.
8. All maintenance work on vehicles shall take place inside the maintenance shop, which shall have a concrete floor.
9. The maintenance shop shall be used for the trucks used in the applicant's staging, parking and maintenance area only and the shop shall not be advertised as a maintenance repair shop for trucks or vehicles not used by the applicant in this business.
10. MABCD and Sedgwick County Fire shall approve maintenance building plans, prior to the issuance of a building permit.
11. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the surrounding area:** The RR zoned farming and ranching operations, agricultural fields and large tract single-family residences are located on all sides of the county site. An exception to development in the area is the 14 half-acre lots of the Marksdale Addition, which is located approximately a half-mile east of the site; recorded June 28, 1968. Wichita and SF-5 Single-Family Residential (SF-5) zoned single-family residential subdivision development is located approximately three-quarters of a mile east of the site. CON2014-00020, a county conditional use request to permit mining and quarrying on 88.32-acres of SF-20 Single-Family Residential (SF-20) zoned unplatted land is located approximately a half-mile east of the site.
2. **The suitability of the subject property for the uses to which it has been restricted:** The rural Sedgwick County site is zoned RR, which primarily permits agriculture uses and large lot residential uses. The site is currently an agricultural field and could continue to be used in this manner.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** There can be an anticipated increase in industrial truck traffic to the area generated from the site. The conditions attached to the conditional use should minimize negative impact of the development.

4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2030 Wichita Functional Land Use Guide” shows the site to be located within the Wichita 2030 Urban Growth area and categorized as “urban development mix.” The urban development mix category encompasses areas of land that will likely be developed or redeveloped within the next 30-years with uses predominately found in the “urban residential use” category. However, there is a strong likelihood that concentrations and pockets of “major institutional uses” “local commercial uses,” and “open space uses” will ultimately be developed within this area as well, based on market driven location factors. In certain areas, especially those with close proximity to the future Northwest Bypass, there is the possibility that future uses may include “regional commercial” and “employment industry center.”

The site’s and area’s current development and RR zoning is more characteristic of the “rural” category, which is intended for those agricultural uses commonly found in Sedgwick County and predominately large (two-acres or more) tract single-family residential development. The applicant’s proposed staging, parking and maintenance area for the business’s trucks and parking for the employees (agricultural sales and services) is placed in close proximity to the mostly rural half of Sedgwick County (its customer base) as well as the railroad lines located in Wichita and the county, where the applicant gets its product for distribution. Consideration of a conditional use is required for agricultural sales and services. The site has a portion of the Northwest Bypass on its northwest corner, which is anticipated to change the character of the area into a mix of commercial and urban scale residential development.

5. **Impact of the proposed development on community facilities:** There will be an increase in industrial truck traffic.

BILL LONGNECKER, Planning Staff presented the Staff Report.

RICHARDSON asked if the street was paved.

LONGNECKER responded that the road is a two-lane paved arterial.

RICHARDSON asked if the staging area is also paved.

LONGNECKER responded no, the staging area is not paved because County standards allow that to be crushed gravel.

RICHARDSON suggested taking the future expansion area off of the site plan drawing since it is not allowed until the applicant does something else. He said showing it on the site plan implies that it is already approved. He also asked about the screening requirements.

LONGNECKER stated that the County does not have screening requirements as far as landscaping so staff did not look at screening as a critical component of this site.

RICHARDSON asked if staff has had comments from any other citizens.

LONGNECKER replied no, staff has received no other comments.

TIM AUSTIN, KAW VALLEY ENGINEERING, 200 NORTH EMPORIA, AGENT FOR THE APPLICANT said they are in agreement with staff comments and recommendations. He said as far as traffic is concerned, it will be infrequent because the applicant has a limited inventory of vehicles and they travel to multi-states so they are here locally periodically.

KENNY KALB, 9512 WEST MOSS ROAD, MAIZE, APPLICANT said he makes fertilizer and fire retardant for a living. He said he currently owns four units and there is a semi-truck and a pickup truck with each unit. He said his crews are on the road 235 days of the year. He said they spend approximately 30 days a year in the shop. He said they need a place to do maintenance and there will be 25 employees. He said they do not haul fertilizer locally but cover 14 states. He said they are gone more than they are home but they need a home base and are trying to move the business from western Kansas to Wichita.

TODD asked if limiting the application area to eight acres will work for the client.

KALB indicated he picked this property because Colwich Road is a pretty major corridor to get onto highways 96 or 54. He said he didn't want to use the rest of the property for anything but farming. He said the other corner has a pipeline easement. He said as long as they can stay in the northwest corner they think they can make it work. He said that all depends on how much land KDOT may possibly take because they don't want to be right next to the highway if the bypass goes through.

AUSTIN said in reference to Commissioner Richardson's comment about the future expansion being shown on the site plan, they would like to leave that in there and just indicate subject to further approvals and conditions, etc.

There was further discussion regarding the size of the proposed site and if eight acres would be sufficient.

KALB said he would probably rather say 10 acres.

RICHARDSON suggested a net usable area of 10 acres after the highway takes off acreage.

AUSTIN suggested keeping it flexible and saying the west half of the property. He said that way it makes it easy if they need to move things around.

FOSTER said he didn't see a side yard setback relative to the neighbors to the north.

AUSTIN said there is a 25 foot utility easement on the north line. He also mentioned drainage along the north line.

MARGARET MANN, 1818 NORTH 167TH STREET WEST, GODDARD said according to the drawing they were sent, the business is going to go in 40 feet from their property line. She said to clarify the easement, it is 10 feet on their side and 15 feet on the applicant's side for a total of 25 feet. She said another concern she has, in addition to the concerns she mentioned previously, is that she has a small organic gardening business where she sells produce at the Wichita, Kansas Grown Farm Market.

She said although she is not certified organic, she can assure her customers that she does not use any chemicals. She said many of her customers depend on that because of health issues they have. She said she is asking for some assurance from the applicant that they will not be bothered with chemicals. She said that was important to her. She said they are still concerned about the drainage because the building will be raised up because the northwest corner stands in water. She said although most of the water will be diverted to the east what about the water that will come north.

GOOLSBY (Out@ 4:40 p.m.)

FOSTER referred to the site plan and mentioned that the current setback to the building is approximately 120 feet. He asked if they would be able to see the facility from their home.

MANNS responded yes they will see the facility because it is all open area. She mentioned that their sons are hunters and also like to shoot their rifles in that direction into a dirt hill that stops the bullets so that will have to change.

FOSTER clarified that the Planning Commission did approve the Comprehensive Plan that goes out to 2035 and implementation of the northwest bypass is not recommended within that timeframe.

MANNS said when they asked for permission to build a garage they were denied, unless they wanted to build it in the southeast corner of their property. She said they have been living with the possibility of the bypass for 7-10 years now.

LONGNECKER said any setbacks or screening will have to be within the UZC.

AUSTIN said he would be happy to meet with the neighbors any time regarding the KDOT matter.

RICHARDSON asked for clarification that the building was approximately 120-150 feet from the property. He said the 40 feet is from the paved area to the building itself.

DENNIS asked the applicant to confirm that fertilizer would not be going into the ground in the area and would not contaminate the neighbor's crops.

AUSTIN said that was correct and added that they have met with County staff concerning County code on that issue. He mentioned language on how the hazardous waste would be dealt with and that any wash water has to be treated.

LONGNECKER asked what the final determination on site acreage was. He said he's heard the west half of the property which is approximately 40 acres and the applicant requested 10 acres.

RICHARDSON said a net of 10 acres after acreage for the highway is taken out to give the applicant some flexibility for expansion.

FOSTER asked about screening requirements.

LONGNECKER said since this is a non-residential activity, it will have to meet the UZC. He said there will have to be some type of landscape buffer, which he believes is preferable to putting up a fence. He said staff will request a revised site plan with more dimensional control and landscaping.

MOTION: To approve subject to staff recommendation with a net of 10 acres.

TODD moved, **DOOL** seconded the motion, and it carried (9-0).

WARREN commented that they don't know what KDOT is going to do or when they are going to do it.

LONGNECKER stated that the plat will confirm the KDOT reserve which will be reflected on the site plan.

AUSTIN said it sounds reasonable but he felt designating the west half of the property would be good.

TODD said they can determine where they want the lines that is why he worded the motion like he did.

6. **Case No.: DER2015-00009** - Proposed amendments to Section IV-E.7. of the Wichita-Sedgwick County Unified Zoning Code regarding minimum lot size and separation requirements for rural home occupations.

Background: On September 6, 2012, the MAPC recommended amendments to the rural home occupation regulations. The recommendations included reducing the minimum lot size for a rural home occupation to two acres and reducing the required separation distance between a rural home occupation and a residence to 40 feet.

On November 21, 2012, the County Commission returned the recommended amendments to the MAPC for reconsideration of the minimum lot size and separation requirements. On March 21, 2013, the MAPC reconsidered the amendments to the rural home occupation regulations and recommended a minimum lot size of five acres and a separation requirement of 120 feet. On April 17, 2013, the County Commission approved the MAPC recommended amendments to the rural home occupation regulations.

During the review process, some County Commissioners expressed support for the minimum lot size and separation requirements originally recommended by MAPC. At a recent County Commission staff meeting, Commissioners discussed the potential to promote economic development in rural areas by making it easier to establish a rural home occupation. To that end, Chairman Ranzau asked staff to place an item on the MAPC agenda to consider amendments that would reduce the minimum lot size and separation requirements for rural home occupations.

The proposed amendments (attached) would reduce the minimum lot size for a rural home occupation from five acres to two acres by right and from two acres to 20,000 square feet with a Conditional Use. The proposed amendments also would reduce the required separation distance between a rural home occupation and a residence from 120 to 75 feet.

On November 19, 2015, the MAPC voted (12-0) to set a public hearing for December 17, 2015, to consider the proposed amendments. The MAPC also directed the Advanced Plans Committee to consider the proposed amendments and make a recommendation.

On December 3, 2015, the Advanced Plans Committee considered the proposed amendments and voted (5-0) to recommend approval. The summary of the Advanced Plans Committee meeting is attached.

Recommended Action: Based on the information available prior to the public hearing, staff recommends approval of the proposed amendments to Section IV-E.7 of the Wichita-Sedgwick County Unified Zoning Code regarding minimum lot size and separation requirements for rural home occupations. This recommendation is based on the following findings.

1. **The zoning, uses, and character of the neighborhood:** The “RR” Rural Residential and “SF-20” Single-Family Residential are the zoning districts in which rural home occupations are permitted. The purpose of these districts is to support large-lot residential development and complementary land uses. Rural home occupations are a complementary land use in rural areas.
2. **The suitability of the subject property for the uses to which it has been restricted:** Large lots in unincorporated areas are suitable for the types of uses permitted as rural home occupations.
3. **The extent to which removal of the restrictions will detrimentally affect nearby property:** While the proposed amendments reduce the minimum lot size and separation requirements for rural home occupations, additional development standards for rural home occupations such as screening requirements and limitations on building size and the number of employees should limit the detrimental affect of rural home occupations on nearby properties.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan:** The Wichita and Small Cities 2030 Urban Growth Areas map indicates that rural areas are appropriate for rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County.

Attachments: Proposed Amendments to Section IV-E.7.
Advanced Plans Committee Summary of Meeting, December 3, 2015

SCOTT KNEBEL, Planning Staff presented the Staff Report.

MILLER STEVENS asked if there were any changes in screening requirements.

KNEBEL responded no, just separation distance.

MILLER STEVENS asked if there was any limitation on how many of these you can have in a consecutive area.

KNEBEL replied that there were no limitations on the number of rural home occupations in any geographic area.

FOSTER asked about analysis on how this proposal relates to sewage facilities and water requirements. He asked what conditions exist in the infrastructure to allow this.

KNEBEL said the base zonings for RR and SF-20 have restrictions on minimum lot size based on the availability of water and sewer and those still apply. As an example, he said if an applicant had a lagoon, they would still be required to have a 4.5 acre lot.

FOSTER asked about minim side yard setbacks for RR.

KNEBEL said 20 feet on the side and 25 feet on the rear.

FOSTER referred to Item B. and asked if a rural home occupation would it be 55 feet from the property line to the residence or 75 feet as the crow flies.

KNEBEL said 55 feet from the subject property line would be required. He added it was a building to building separation.

There were no public comments.

MOTION: To approve subject to staff recommendation.

RICHARDSON moved, **RAMSEY** seconded the motion, and it carried (8-1).

FOSTER – No.

FOSTER said he believes this proposal is going more towards an urban condition and that is not what Rural Residential is about. He said he felt he should mention that.

7. **Case No.: DER2015-00011** - The City of Derby seeks Unilateral Annexation of Tracts located in the Huckleberry Addition adjacent to the City of Derby – Resolution No. 30-2015.

Background: On November 10, 2015, the City of Derby passed Resolution No. 30-2015 authorizing a public hearing on January 12, 2016 for the purposes of considering the unilateral annexation of properties in the Huckleberry Addition located west of K-15 Highway, eligible for annexation under KSA 12-520(a) and situated immediately adjacent to the City of Derby.

Prior to unilaterally annexing property, Kansas statutes require that a plan be prepared indicating the means by which city services will be extended to the area proposed for annexation. The City of Derby has submitted to the MAPD, a copy of the service plan that describes in a very thorough and comprehensive way the extension of services to the annexation area.

Analysis: Kansas statutes governing unilateral annexations provide for official notification to certain local officials, including planning commissions having jurisdiction in the area. Additionally, Kansas statutes require that the planning commission review the proposal and make a finding of compatibility or incompatibility with any adopted land use or comprehensive plans related to the area and the annexing city.

After review by staff, it has been determined that all tracts proposed for unilateral annexation fall within the City of Derby 2030 Urban Growth Area as designated within the Wichita-Sedgwick County Comprehensive Plan *Preparing for Change*, adopted and updated by the Metropolitan Area Planning Commission and the Board of County Commission in May 2005. The annexation properties also fall within the City of Derby 2035 Urban Growth Area as designated in the Community Investments Plan 2015-2035, adopted by the MAPC on November 19, 2015. All annexation properties fall within Derby's future urban growth area as identified in the City of Derby Comprehensive Plan Growth Areas Map.

Recommended Action: That the Metropolitan Area Planning Commission pass a motion finding the unilateral annexation proposed by Resolution No. 30-2015 of the City of Derby to be consistent with the adopted Wichita-Sedgwick County Comprehensive Plan.

Attachments: Attachment No. 1 - Resolution No. 30-2015 and Annexation Area
Attachment No. 2 - 2030 Urban Growth Areas Map, May 2005
Attachment No. 3 - 2035 Urban Growth Areas Map, November 19, 2015

SCOTT KNEBEL, Planning Staff presented the Staff Report.

WARREN recused himself from the item saying he was on the Derby City Council and it may appear he has a conflict of interest. He added that he has also had ex part communication on the item.

WARREN (Out a@5:00 p.m.)

MILLER STEVENS asked if Derby provided utilities.

KNEBEL said only to a limited number of lots in the southeast corner. He said it is a rural water district and they are proposing that stay the same.

RICHARDSON asked if this was the normal process when a City wants to annex an area.

KNEBEL said this is the typical procedure by which cities expand their boundaries.

RICHARDSON asked if the affected residents are given notice since no one was present at the meeting.

KNEBEL said they are not notified of this meeting but they are notified when it goes to the Derby City Council.

RICHARDSON said so if citizens are not in agreement with the annexation, they would make their case to the City of Derby not the Planning Commission.

KNEBEL responded that is correct. He mentioned that he has done several unilateral annexations and he has never met anyone who is in favor of one.

DAILEY clarified that the section being annexed is in the City's growth area?

KNEBEL referred to the map and said it is located in the growth area.

There were no public comments.

MOTION: That the unilateral annexation is consistent with the Comprehensive Plan.

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

NON-PUBLIC HEARING ITEMS

DIRECTOR MILLER announced that Scott Knebel will be assisting the Current Plans Division as the Acting Current Plans Manager so he invited Commissioners to contact him with any zoning questions.

DIRECTOR MILLER introduced Justin Waggoner, Assistant County Counselor who he said would be taking over for Bob Parnacott. He also introduced Jon Von Achen, Assistant County Counselor.

The Metropolitan Area Planning Commission adjourned at 5:05 p.m.

State of Kansas)
Sedgwick County) ^{SS}

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

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

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

(SEAL)

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

MINUTES

January 7, 2016

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, January 7, 2016 at 1:30 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Carol Neugent, Chair; David Dennis, Vice Chair; John Dailey, Bob Dool, Bill Ellison; David Foster; Matt Goolsby; Joe Johnson; John McKay Jr.; Debra Miller Stevens; Bill Ramsey, Lowell Richardson; John Todd and Chuck Warren. Staff members present were: Dale Miller, Director; Jess McNeely, Senior Planner; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Derrick Slocum, Associate Planner; Jeff Vanzandt, Assistant City Attorney; Justin Waggoner, Assistant County Counselor and Maryann Crockett, Recording Secretary.

1. Approval of the December 3, 2015 Planning Commission Minutes

MOTION: To approve the December 3, 2015 minutes.

JOHNSON moved, **RAMSEY** seconded the motion, and it carried (9-0-2). **DENNIS** and **RICHARDSON** – Abstained.

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

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

CHAIR NEUGENT announced that the item had been deferred.

3. **PUBLIC HEARING – VACATION ITEMS**

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

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

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

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

REASON FOR REQUEST: To allow for detached garage

CURRENT ZONING:

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

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

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

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

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time December 17, 2015, which was at least 20 days prior to this public hearing.

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

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

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

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the five-foot wide public utility easement (as referenced in the plattor's text) located in the west five feet of Lots 9, 10, 11 and 12, Pershing Terrace Addition.

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

There were no public comments.

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

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

PUBLIC HEARINGS

4. **Case No.: ZON2015-00043** – HD Realty, LLC, Attn: Brian Happy (Owner/Applicant) and Baughman Company, PA, Attn: Russ Ewy (Agent) request a City zone change request from LC Limited Commercial to GC General Commercial with a Protective Overlay, generally located at the southwest corner of Lewis Street and Ellison Streets (north of Kellogg and Ease of Greenwich).

CHAIR NUEGENT announced that the item had been withdrawn.

5. **Case No.: ZON2015-00050** - F & R Investments (Applicant/Owner) and Kim Edgington (Agent) request a City zone change from NR Neighborhood Retail to LC Limited Commercial on property described as:

Lots 1, 2 and 3, Rebecca Addition to Wichita, Sedgwick County, Kansas.

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

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

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

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

ADJACENT ZONING AND LAND USE:

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

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

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

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

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

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

- (1) All uses allowed as permitted uses in the LC Limited Commercial (“LC”) zone district except the following: adult bookstores; pawn shops; payday loan operations; funeral home; adult entertainment; convenience stores; hotel or motel; night club; recreation and entertainment, indoor; service station; tavern and drinking establishment; vehicle and equipment sales, outdoor and wireless communication facility;
- (2) The site shall be developed in conformance with code required noise, setback and height standards, zoning screening and buffering and landscaping requirements unless modified by this Protective Overlay;
- (3) No outdoor storage shall be permitted on the site;
- (4) Outdoor lighting on the site shall be restricted to 12 feet in height, including the base, and shall be shielded away from residential zoning;
- (5) Outdoor speakers and sound amplification systems shall not be permitted.
- (6) Access Control will be determined through Traffic Engineering approval.

This recommendation is based on the following findings:

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

- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site could be developed with residential and light commercial uses under the current NR zoning.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Rezoning and commercial development could have negative effects on the single-family residences north of the application area. Existing codes would require compatibility setbacks, screening, landscaping, limit noise, and prohibit certain uses within 200 feet of residences.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies this site as appropriate for Local Commercial category of uses. This category of use encompasses areas that contain concentrations of predominantly commercial, office, and personal service uses that do not have a predominately regional market draw. The range of uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. The purpose of the requested LC zoning district is to accommodate retail, commercial, office and other complementary land uses. The LC and NR zoning districts are generally compatible with the Local Commercial or Regional Commercial designations of the Wichita-Sedgwick County Comprehensive Plan.
- (5) **Impact of the proposed development on community facilities:** Traffic on the existing residential street could increase as a result of the proposed development. The site currently has a curb cut for access to Old Manor Road, a classified local street and two other access points along Central Avenue.

DERRICK SLOCUM, Planning Staff presented the Staff Report. He briefly reviewed changes that were made at the DAB I hearing. He said the PO in the Staff Report prohibited a number of items including a restaurant with drive up service or in vehicle food service. He also mentioned provision #2 limiting signage to what was allowed under NR zoning. He said DAB recommended restaurants with drive ups be removed from the PO restrictions and they also requested that provision #2 be completely eliminated. He said staff and the agent spoke regarding access control and they thought language to the effect that access control would be as approved by Traffic Engineering would be sufficient. He said they do not believe they need five openings along Central Avenue. He said DAB also requested adding that no Pay Day Loan businesses be allowed under provision #1. He said the application was approved by the DAB 8-0 with the changes outlined.

MILLER STEVENS asked what type of signage would be allowed.

SLOCUM said the same as allowed in LC zoning.

RICHARDSON asked what was the reasoning for adding a restaurant but not allowing a Pay Day Loan office.

SLOCUM said he couldn't answer that. He said the agent did want to leave the restaurant option open but the Pay Day Loan request came from the DAB.

JEFF VANZANDT, ASSISTANT CITY ATTORNEY said if a financial institution is authorized in the zoning he doesn't think you can then say except for this type of financial institution whether you like it or not. As an example he said it would be the equivalent of saying churches are allowed, but not Baptists. He said he did not believe you can restrict the specific type of business.

MCKAY asked if the Planning Commission could change the DAB recommendation to say no financial institutions or eliminate it entirely.

VANZANDT commented that the Planning Commission does not have to accept the DAB recommendation. He said the Planning Commission could modify the request to fall in line with the intent.

JOHNSON said he seemed to recall a case at Oliver and Central where the Planning Commission put a restriction that there be no Pay Day Loans.

VANZANDT admitted that it has been done in past and so far it has not been challenged. He said he would have a hard time defending that in court. He said Pay Day Loans are a legal business recognized by the state.

DOOL asked doesn't LC zoning include restaurants with drive up windows so if this is approved as LC zoning isn't that automatically included.

SLOCUM explained that the original PO prohibited that use.

KIM EDGINGTON, 2532 NORTH CARDINAL DRIVE, AGENT FOR THE APPLICANT said the applicant is fine with restricting Pay Day Loans as a use; however, they would prefer not to restrict all financial institutions to leave open some options. She said they are also asking that restaurants with drive thru service be removed from the PO restrictions. She added that they would like to keep the signage to what would be allowed in LC zoning.

MOTION: To approve subject to staff recommendation and take out restrictions in PO regarding drive thru restaurants and restaurants with in-vehicle food service, let the applicant voluntarily restrict Pay Day Loans and allow LC restrictions on signage.

JOHNSON moved, **GOOLSBY** seconded the motion, and it carried (12-1). **TODD** – No.

CHAIR NEUGENT asked for a legal opinion on letting the applicant voluntarily restrict Pay Day Loan operations.

VANZANDT said anyone can voluntarily put restrictions on their property. He said he didn't want the applicant to feel they were compelled to because of the DAB recommendation.

6. **Case No.: ZON2015-00051** - Fidelity Bank, c/o Terri Rosenhammer (Owner/Applicant) and Baughman Company, PA, c/o Russ Ewy (Agent) request a City zone change from SF-5 Single-family Residential and GO General Office to LC Limited Commercial for a bank expansion on property described as:

Lot 3 EXCEPT the North 137.51 feet together with the South half of lots 4 and 5 EXCEPT the North 6 feet thereof, Robson Heights Addition to Wichita, Sedgwick County, Kansas.

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

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

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

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family Residences
SOUTH:	LC	Retail Store
EAST:	SF-5	Single-family Residence

WEST: LC Retail Stores and Strip Mall

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

CONFORMANCE TO PLANS/POLICIES: The *2030 Wichita Functional Land Use Guide* of the Comprehensive Plan identifies the site as “urban residential.” The urban residential category encompasses areas that reflect the full diversity of residential development densities and types, including multi-family units, typically found in large urban municipality. The *Land Use Guide* identifies property west of the site along Seneca as “local commercial.” The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials, should locate in compact clusters or nodes versus extended strip developments, should not put commercially generated traffic on residential streets, and should have site design features which limit noise, lighting and other activity from adversely impacting surrounding residential areas.

RECOMMENDATION: Staff notes that these lots, other than the westernmost lot (Lot 3), has remained vacant since platting in 1950. The requested zone change would extend contiguous LC zoning from the Seneca frontage to expand area available for a future bank location. Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The three lots north of the application area are zoned SF-5 and developed with single-family residences. Property east of the site is also zoned SF-5 and developed with a single-family residence. South of the site, across Diane Street, is zoned LC and developed with a retail store (Walgreens). West of the site is property zoned LC and developed with a strip mall, with larger and more concentrated retail uses across Seneca Street.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned SF-5 and could be developed with single-family residences. However, the site has remained vacant since platting, and existing commercial development bordering the site to the west and south may reduce the site’s desirability for future single-family residential development.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Residential neighbors to the north and east could be impacted with increased noise, light, trash, traffic and activity from development under LC zoning. These impacts would not be new to the area as significant commercial zoning and development already exists in the immediate area. The compatibility standards of the UZC should mitigate these impacts on nearby residences.

- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The *2030 Wichita Functional Land Use Guide* of the Comprehensive Plan identifies the site as “urban residential.” The urban residential category encompasses areas that reflect the full diversity of residential development densities and types, including multi-family units, typically found in large urban municipality. The *Land Use Guide* identifies property east of the site along Seneca as “local commercial.” The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials, should locate in compact clusters or nodes versus extended strip developments, should not put commercially generated traffic on residential streets, and should have site design features which limit noise, lighting and other activity from adversely impacting surrounding residential areas.
- (5) **Impact of the proposed development on community facilities:** The proposed zone change could bring increased commercial traffic one lot further east on this portion of Diane Street. All other services are in place, any increased demand on community facilities can be handled by existing infrastructure.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

FOSTER mentioned these transitional areas that have some nice residential backing up to them. He said LC zoning would allow a nightclub as a conditional use. He asked wouldn't NR be more appropriate zoning for this item.

SLOCUM replied that staff wouldn't have a problem with that; however, it would be up to the agent and applicant since they applied for LC zoning.

ELLISON commented that the Staff Report refers to the expansion of the bank, but there is no bank at the site.

SLOCUM indicated that was a typographical error. He said they are relocating the bank from the other side of the road.

DAILEY asked for clarification on the possibility of a nightclub with residential zoning is so close.

SLOCUM said a nightclub would require a Conditional Use permit.

JOSHUA BLICK, 2039 S. EVERETT, PRESIDENT, SOUTHWEST NEIGHBORHOOD ASSOCIATION said they don't see any problem and have no objections to the request. He added that Fidelity Bank has been great.

MOTION: To approve subject to staff recommendation.

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

7. **Case No.: CON2015-00037** - BOOP, LLC (Owner) Flint Hills Materials (Applicant) and K.E. Miller Engineering, c/o Kirk Miller (Agent) request a County Conditional Use permit for an Asphalt Plant or Concrete Plant on LI Limited Industrial zoned property, generally located on the west side of Woodlawn Boulevard/63rd Street East and 1/2 mile north of K-254.

CHAIR NEUGENT announced that the item had been deferred.

8. **Case No.: CON2015-00038** - Murfin, Inc. (Applicant) requests a City Conditional Use for Ancillary Parking in TF-3 Two-family Residential zoning on property described as:

Lots 2 and 4 EXCEPT the East 50 feet, Poplar Street, 2nd Subdivision of lots 3 & 4 Richland Addition to Wichita, Sedgwick County, Kansas.

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

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

Per the Unified Zoning Code (UZC) Sec.III-D.6.p., ancillary parking may be permitted with a Conditional Use in the TF-3 zoning district. The UZC supplementary use conditions for ancillary parking in TF-3 include: parking must be within 600 feet of the supported use, must be for passenger vehicles only, shall not permit parking spaces within the required front setback, must meet city paving and design standards, must be screened in accordance with the UZC and meet the Landscape Code, must meet UZC lighting requirements, is limited to signage for the orientation of the parking area, and is prohibited from being a fee based parking area. The UZC also allows for an Administrative Adjustment (Sec.V-I.2.1.) to allow parking in residential zoning districts within the front setback but no closer to the property line than eight feet.

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

ADJACENT ZONING AND LAND USE:

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

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

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

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

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

The staff recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** Property north of the site is zoned LC and developed with apartment buildings fronting East Douglas. Property south of the site is zoned TF-3 and primarily developed with single-family residences. East of the site is GO zoning along the alley, and TF-3 zoning further south. Property immediately east of the site is developed with a single-family residence, but also has ancillary parking along the alley. Property west of the site is zoned GO and is used for parking in support of commercial buildings fronting Douglas.

2. **The suitability of the subject property for the uses to which it has been restricted:** The property is zoned TF-3 and was developed with a single-family residence in 1910. The non-residential zoning and uses abutting this site to the north provide the opportunity for consideration of ancillary parking on the site.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Ancillary parking on a site this size, when developed with the UZC supplementary conditions, should have little impact on nearby property. The proposed parking will support the abutting multi-family residential uses, alleviating on-street parking in the neighborhood.
4. **Conformance of the requested change to adopted or recognized Plans/Policies:** The '2030 Land Use Guide of the Comprehensive Plan' (Plan) identifies the site as "Urban Residential." The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in large urban municipality.
5. **Impact on Community Facilities:** Impact on community facilities will be minimal.

JESS MCNEELY, Planning Staff presented the Staff Report. He reported that DAB I approved the request unanimously subject to staff recommendation.

RICHARDSON clarified that the house would be torn down and the lot used for parking. He said they do not have the right site plan that reflects that.

ELLISON asked if the home being torn down was historical.

MCNEELY said the structure is at least 50 years old, but he did not know if it was in a designated Historical District.

MILLER STEVENS asked if there would be access to the parking from Poplar.

MCNEELY replied there would be no access to the parking from Poplar; just from the ally.

JEREMY HURT, 12305 EAST TIPPERARY CIRCLE, APPLICANT referred to the site plan and said what was reflected was the most parking that could be fit on that lot. He said they cannot access the lot from Poplar unless they applied to vacate the ally. He said they had engineers double check that for them. He concluded by saying it was their intent to get as many parking spaces on the lot as possible. He said there is no parking at the apartment complex so some of their tenants are forced to park along Poplar. He said all utilities have been shut off and taken care of and they will be applying tomorrow to tear down the building. He said the vacant house has been broken into at least a dozen times in addition to vandalism. He said it is an eyesore for the neighborhood.

DAILEY asked how much of the lot was going to be paved.

HURT referred to the site plan and indicated that they would pave just where the parking stalls are located. He said there is not enough room to get two sides of parking on the lot.

STEPHANIE COFFEY, OWNER OF 121 AND 128 SOUTH POPLAR said she is excited about this. She said it sounds like there will be a privacy fence between her property and the parking lot. She asked for clarification about access routes to the parking lot. She asked what will they do to keep high school students from parking in there.

HURT clarified that the only access to the parking lot was the ally to the north. He said most of the traffic is going to come from Poplar and Green Streets. He said as far as policing the cars and parking, they will rely on their tenants and management company to keep an eye on that. He said they will also post a sign and just do the best they can.

MOTION: To approve subject to staff recommendation.

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

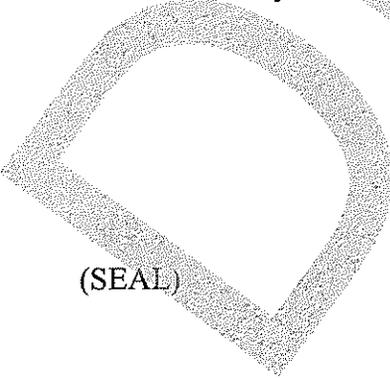
DIRECTOR MILLER referred to the "Draft Workshop Agenda" he forwarded to the Commission. He said the Workshop is scheduled for January 21, 2016, right after the Planning Commission Meeting. He asked if there were any further comments.

The Metropolitan Area Planning Commission adjourned at 2:05 p.m.

State of Kansas)
Sedgwick County) ss

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

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



(SEAL)

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

STAFF REPORT

CASE NUMBER: SUB2015-00029 – SOUTHBOROUGH ESTATES 2ND SUBDIVISION ADDITION

OWNER/APPLICANT: Welcome Home, LLC, 5111 South Meridian, Wichita, KS 67217

SURVEYOR/AGENT: Poe and Associates, Attn: Bill Fox, 544 West Douglas Avenue, Wichita, KS 67203

LOCATION: South of 47th Street South, on the West side of Meridian (District IV)

SITE SIZE: 1.98 acres

NUMBER OF LOTS

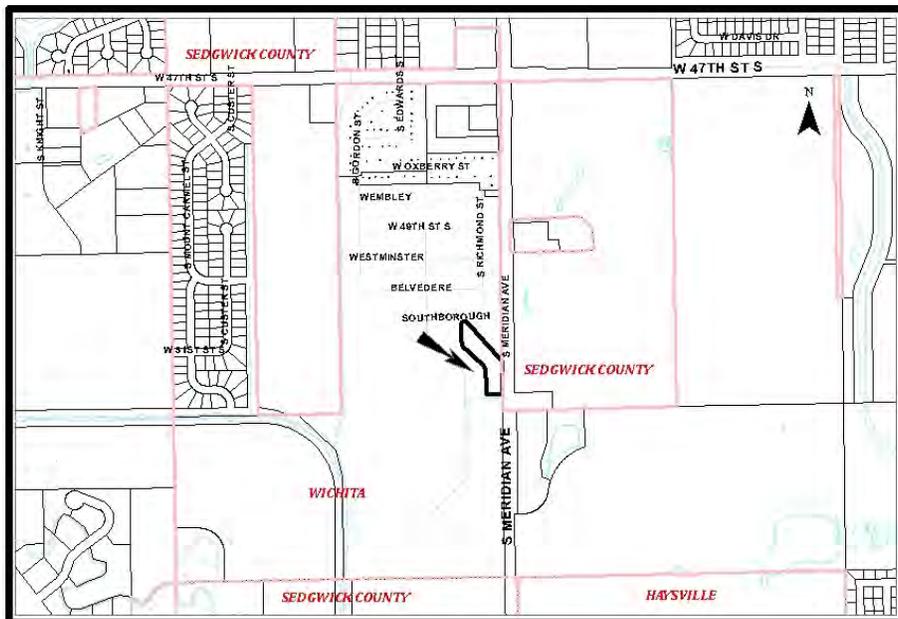
Residential:	
Office:	
Commercial:	2
Industrial:	—
Total:	2

MINIMUM LOT AREA: .75 acres

CURRENT ZONING: Manufactured Home (MH)

PROPOSED ZONING: Limited Commercial (LC)

VICINITY MAP



**SUB2015-00029 – Plat of SOUTHBOROUGH ESTATES 2ND SUBDIVISION ADDITION
January 21, 2016 - Page 2**

NOTE: This is a replat of a portion of Southborough Estates Addition. A zone change (ZON2015-00046) has been approved from Manufactured Home (MH) to Limited Commercial (LC) and a conditional use (CON2015-00034) for manufactured home sales.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department requests the extension of water (distribution) and sewer (laterals). In-lieu-of-assessment fees are needed on mains and transmission.
- B. The plat proposes one opening along Meridian. County Public Works has approved the access controls.
- 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 and grading concept. County Stormwater requests the drainage plan.
- E. The 20-foot building setback needs to extend to the west property line of Lot 1.
- F. An access agreement has been submitted regarding the private street.
- G. In the signature blocks, the year 2015 needs changed to 2016.
- H. "Stormwater" needs to be spelled as one word in the plattor's text.
- 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. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted and inspected.
- K. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- L. The plattor'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.
- M. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.

**SUB2015-00029 – Plat of SOUTHBOROUGH ESTATES 2ND SUBDIVISION ADDITION
January 21, 2016 - Page 3**

- O. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- T. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

STAFF REPORT

CASE NUMBER: SUB2015-00044 – QUIKTRIP 20TH ADDITION

OWNER/APPLICANT: Douglas R. and Jeannie D. Maryott, P.O. Box 3475, Tulsa, OK 74101-3475

SURVEYOR/AGENT: MKEC Engineering, Inc., Attn: Brian Lindebak, 411 North Webb Road, Wichita, KS 67206-2521

LOCATION: Northwest corner of Pawnee and Meridian Avenue (District IV)

SITE SIZE: 2.49 acres

NUMBER OF LOTS

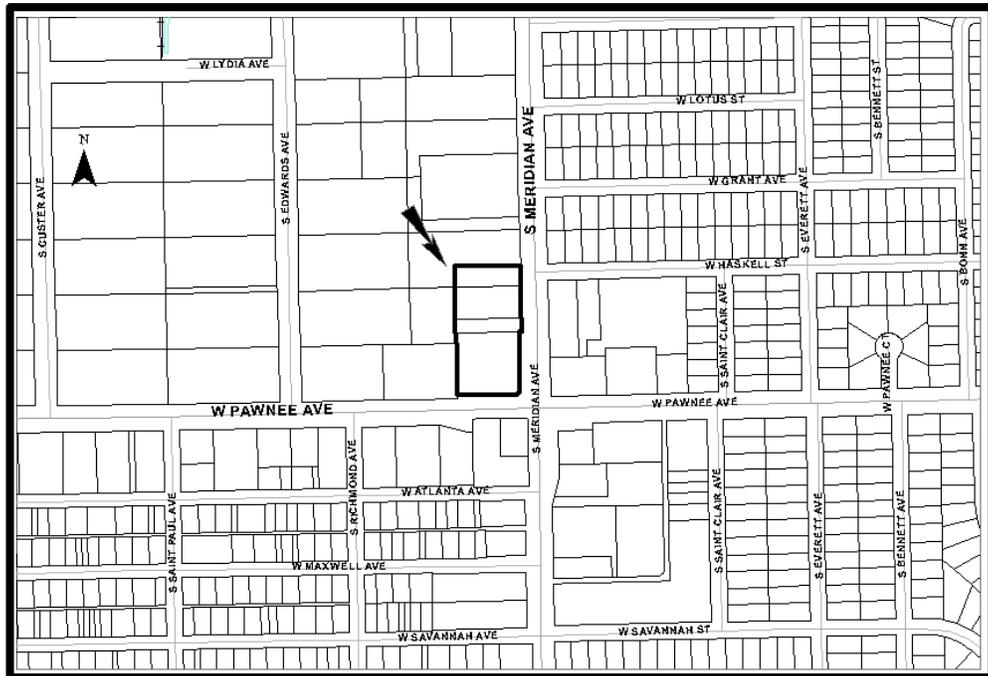
Residential:
Office:
Commercial:
Industrial: $\frac{1}{1}$
Total: $\frac{1}{1}$

MINIMUM LOT AREA: 2.49 acres

CURRENT ZONING: Limited Industrial (LI)

PROPOSED ZONING: Same

VICINITY MAP



SUB2015-00044 -- Plat of QUIKTRIP 20TH ADDITION
January 21, 2016 - Page 2

NOTE: This is a replat of the QuikTrip 7th Addition and the Southwest Industrial Addition.

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 applicant's drainage plan.
- D. The plat proposes one opening along Pawnee and three openings along Meridian. Traffic Engineering has approved access controls subject to a cross-lot access agreement with the property owner to the north. In lieu of a cross-lot access agreement, a unilateral agreement or restrictive covenant may be submitted.
- E. Traffic Engineering has approved the 50-foot right-of-way along Pawnee and Meridian with an adjoining 10-foot sidewalk, drainage and utility easement. The easement along Meridian needs labelled accordingly.
- F. 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.
- G. 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.
- 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 and nstrahl@wichita.gov.
- J. 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.
- 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.)
- 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

SUB2015-00044 -- Plat of QUIKTRIP 20TH ADDITION
January 21, 2016 - Page 3

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).

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

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

STAFF COMMENTS:

- A. The applicant shall contact Metropolitan Area Building and Construction Department to find out what tests may be necessary and what standards are to be met for approval of on-site water wells. A memorandum shall be obtained specifying approval.
- B. The plat proposes connection to City of Andale’s sanitary sewer in accordance with that city’s standards. A letter of confirmation shall be provided from Andale.
- C. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.
- D. The plat proposes three openings along 61st Street North. County Engineering has approved the access controls subject to a letter from Andale approving the access controls.
- E. County Stormwater advises the drainage plan is approved contingent on revisions.
- F. County Stormwater requires limitations on impervious area and has requested language on the plat’s text. A restrictive covenant regarding water quality requirements should also be filed and referenced in the plat’s text. County Stormwater will work with the applicant’s engineer on the covenant. A stormwater permit and a Notice of Intent are needed.
- G. A restrictive covenant shall be submitted regarding the reserves, which sets forth ownership and maintenance responsibilities of the private drives.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners’ association prior to recording the plat or shall submit a restrictive covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- K. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- L. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

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

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

STAFF REPORT

CASE NUMBER: SUB2015-00048 – REGENCY LAKES COMMERCIAL 4TH ADDITION

OWNER/APPLICANT: Regency 21, LLC, Attn: Amy J. Liebau, 150 North Market, Wichita, KS 67202-1900

SURVEYOR/AGENT: MKEC Engineering, Inc. Attn: Brian Lindebak, 411 North Webb Road, Wichita, KS 67206-2521

LOCATION: Northeast corner of 21st Street North and Greenwich (District II)

SITE SIZE: 1.73 acres

NUMBER OF LOTS

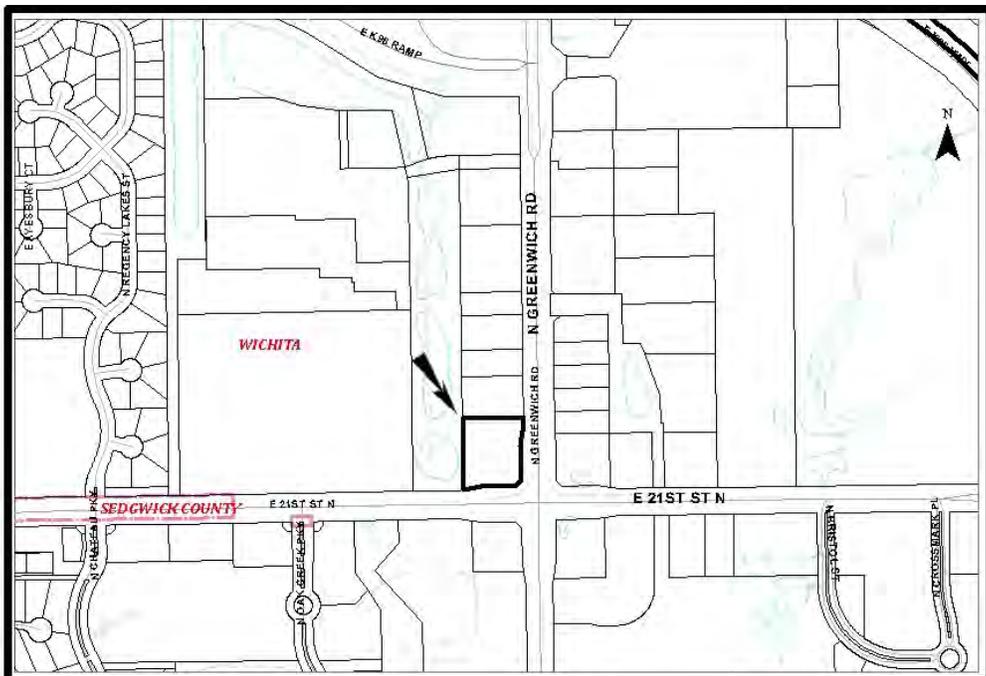
Residential:	
Office:	
Commercial:	1
Industrial:	—
Total:	1

MINIMUM LOT AREA: 1.42 acres

CURRENT ZONING: Limited Commercial (LC)

PROPOSED ZONING: Same

VICINITY MAP



**SUB2015-00048 -- Plat of REGENCY LAKES COMMERCIAL 4TH ADDITION
January 21, 2016 - Page 2**

NOTE: This is a replat of Lot 1 of the Regency Lakes Commercial 3rd Addition to add a reserve within the lot. This site is subject to the Regency Lakes Commercial Community Unit Plan (CUP DP-234).

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 applicant's drainage plan.
- D. Traffic Engineering has approved the access controls. The plat proposes a right-in/right-out drive along both 21st Street North and Greenwich. A cross-lot access agreement has been recorded with the property to the north.
- E. Provisions shall be made for ownership and maintenance of the proposed reserves. A restrictive covenant shall be submitted regarding ownership and maintenance responsibilities.
- F. 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.
- G. 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.
- H. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- I. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted and inspected.
- J. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- K. 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.
- 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.

**SUB2015-00048 -- Plat of REGENCY LAKES COMMERCIAL 4TH ADDITION
January 21, 2016 - Page 3**

- 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).

The applicant is requesting the vacation of that portion of the 60-foot wide McComas Avenue public street right-of-way located between Harry Street and Walker Avenue, except the north 150 feet. The applicant owns all of the abutting property except the property located on the southwest corner of Walker Street and McComas Avenue. The vacation request would not deny any properties access to public street right-of-way. The applicant proposes to fence off this portion of McComas to allow the moving of materials and machinery across McComas, without contending with thru traffic. The vacation will also provide additional security on their site. Public water lines, water valves, water nodes, sewer lines, sewer manholes and hydrants are located in the McComas right-of-way. Utility poles are located in the McComas right-of-way.

McComas Avenue is a paved two-lane road with a full curb and is the longest north-south street in the section of LI Limited Industrial zoned land located between Harry Street (south end) – West Street (west side) – railroad right-of-way (east side) - Kellogg/US-54 . McComas Avenue allows vehicular traffic access to the intersection of Harry and West Streets, which is a controlled intersection with traffic lights. Harry Street is an east-west, paved, curbed two-lane arterial. West Streets is a north-south, paved four-lane arterial. The Harry and West Streets intersection is the only intersection with traffic lights on this portion of West Street located between the Kellogg/US-54–West Street interchange (located approximately ½-mile north) and the West Street-K-42 intersection (located approximately a mile south).

Beginning the week of January 4 – January 8, the Kellogg/US-54–West Street interchange will be closed for up to a year or longer. The temporary closure of the Kellogg/US-54–West Street interchange leaves the nearest access onto Kellogg/US-54 located east via McCormick Avenue or Harry Street to the Southwest Boulevard/Edwards Avenue- Kellogg/US-54 interchange. This portion of McCormick Avenue is a local street that runs through the Newman University campus. McCormick is designed to slow vehicular traffic as it goes through the Newman campus to the Southwest Boulevard/Edwards Avenue- Kellogg/US-54 interchange. The two-lane arterial Harry Street provides the best route to the Southwest Boulevard/Edwards Avenue- Kellogg/US-54 interchange. During the time that the Kellogg/US-54–West Street interchange is closed the City will be studying improvements to traffic circulation in this area disrupted by the temporary closure of the Kellogg/US-54–West Street interchange. These improvements may be temporary or permanent, all with the goal of improving circulation for the businesses in this area including, but not limited to, Foleys, Star Lumber’s receiving and shipping center, Concrete Accessories, Helten Enterprises, P B Hoidale Company, and Atlas Spring & Axle Company. One temporary improvement will include placing traffic lights at the Walker – West Streets intersection.

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

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time December 17, 2015, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described public street right-of-way and that the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request

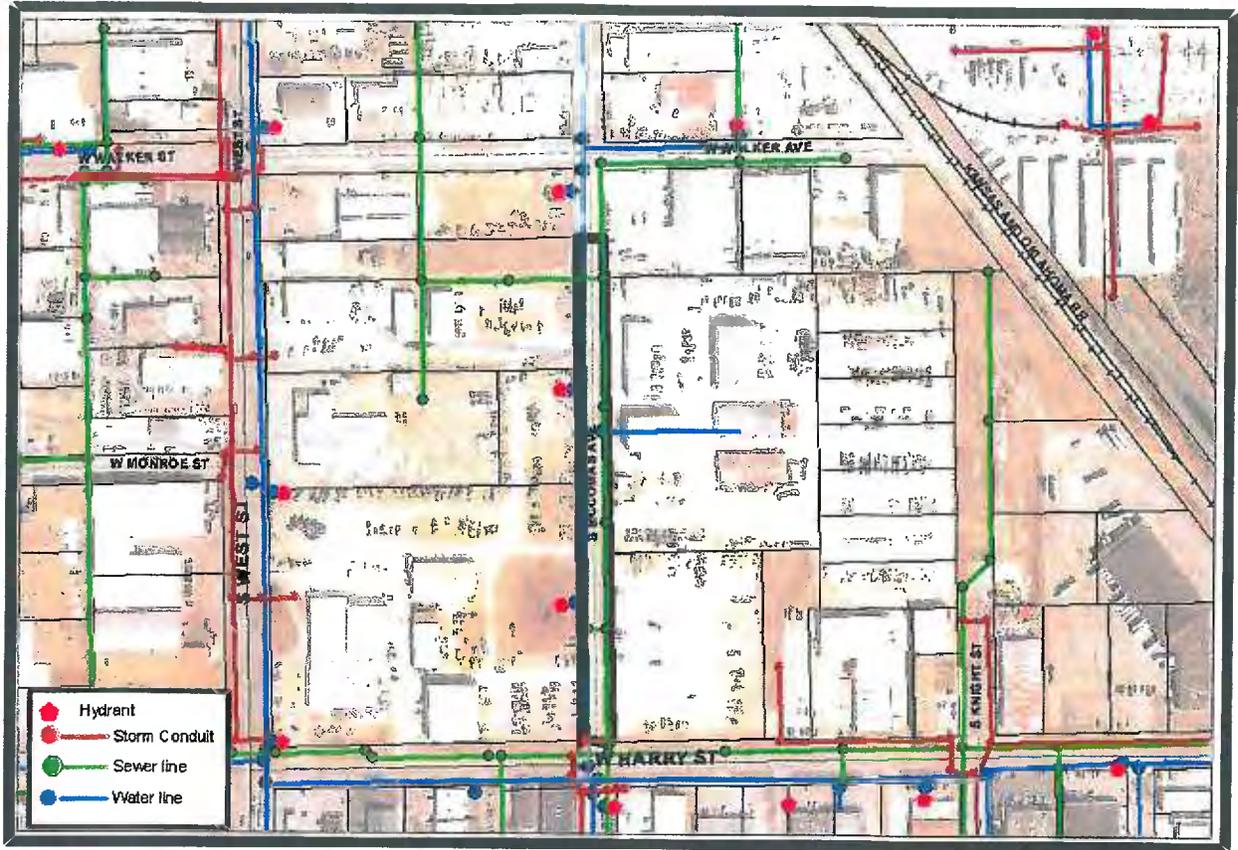
- (1) Vacate the described portion of the McComas Avenue public street right-of-way. Provide Planning with a legal description of the vacated right-of-way on a Word document, via E-mail to be used on the Vacation Order. This must be provided to Planning prior to VAC2015-00061 proceeding to City Council for final action
- (2) Provide a covenant, with original signatures, binding and tying the described vacated public street eight-of-way dedicated by separate instrument to the applicant's abutting property. This must be provided to Planning prior to VAC2015-00061 proceeding to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds and the Sedgwick County Appraisers Office.
- (3) Dedicate the described vacated portion of McComas Avenue as a drainage-utility easements by separate instrument to cover all utilities. The original dedication must be provided to Planning prior to VAC2015-00016 proceeds to City Council for final action and subsequent recording with the Register of Deeds.
- (4) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Any relocation/reconstruction of utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number(s) to Planning prior to the case going to City Council for final action.
- (5) All improvements on the vacated portion of McComas Avenue shall be according to City Standards and at the applicants' expense.
- (6) The described vacated portion of McComas Avenue will remain open until the temporary traffic lights are installed and operating at the Walker and West Streets intersection.
- (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 described portion of the McComas Avenue public street right-of-way. Provide Planning with a legal description of the vacated right-of-way on a Word document, via E-mail to be used on the Vacation Order. This must be provided to Planning prior to VAC2015-00061 proceeding to City Council for final action

- (2) Provide a covenant, with original signatures, binding and tying the described vacated public street eight-of-way dedicated by separate instrument to the applicant's abutting property. This must be provided to Planning prior to VAC2015-00061 proceeding to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds and the Sedgwick County Appraisers Office.
- (3) Dedicate the described vacated portion of McComas Avenue as a drainage-utility easements by separate instrument to cover all utilities. The original dedication must be provided to Planning prior to VAC2015-00016 proceeds to City Council for final action and subsequent recording with the Register of Deeds.
- (4) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Any relocation/reconstruction of utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number(s) to Planning prior to the case going to City Council for final action.
- (5) All improvements on the vacated portion of McComas Avenue shall be according to City Standards and at the applicants' expense.
- (6) The described vacated portion of McComas Avenue will remain open until the temporary traffic lights are installed and operating at the Walker and West Streets intersection.
- (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.



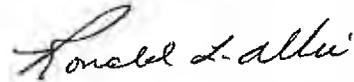
January 5, 2016

RE: Foley Industries, Inc. Request to Vacate S. McComas Street

To whom it may concern:

I am the owner of Atlas Spring and Axle Co., Inc, which is the owner of the property at 1100 S. West Street here in Wichita, Kansas. Foley Industries, Inc., has made me aware that they have requested the City of Wichita to vacate South McComas Street beginning at approximately Harry Street and ending at a point along my southern property boundary line, as illustrated on the below map. As I have stated to Foley previously, I do not oppose the vacating of South McComas Street as depicted on this map.

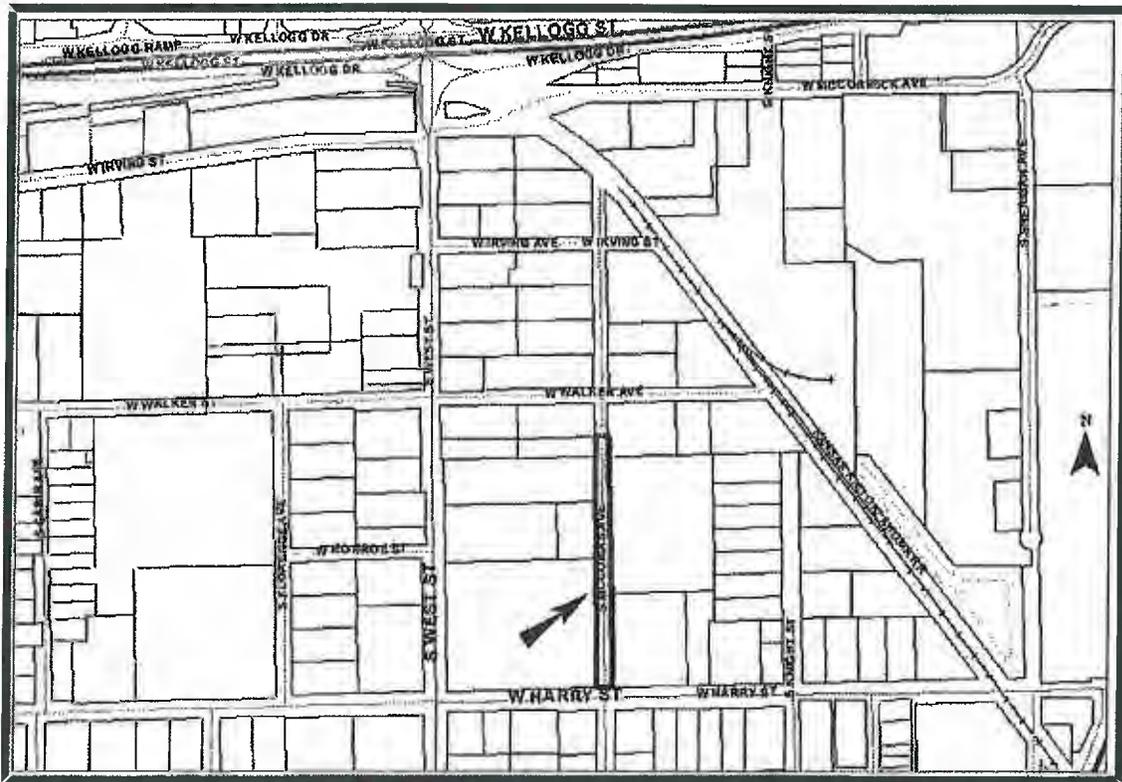
Sincerely,



Ron Alee

Owner

Atlas Spring and Axle Co., Inc.



STAFF REPORT
MAPC January 21, 2016
Kechi Planning Commission January 12, 2016

- CASE NUMBER:** CON2015-00037
- APPLICANT/AGENT:** BOOP, LLC (owner) Flint Hills Materials (applicant) KE Miller Engineering, c/o Kirk Miller (agent)
- REQUEST:** Conditional Use for an Asphalt Plant, General
- CURRENT ZONING:** LI Limited Industrial
- SITE SIZE:** Approximately 10.4-acres
- LOCATION:** Generally located on the west side of Woodlawn Boulevard/63rd Street East and 1/2 mile north of K-254 (BoCC #1)
- PROPOSED USE:** Permanent asphalt plant



BACKGROUND: The applicant is requesting a conditional use for a permanent asphalt plant (“asphalt plant, general”) on the 10.4-acre unplatted LI Limited Industrial (LI) zoned site located approximately 1/2 mile north of K-254 on the west side of Woodlawn Boulevard/63rd Street East (63rd Street East). The site is currently developed as a masonry contractor’s yard, with the outdoor storage of brick, stone and other masonry materials, equipment, parking, two large accessory buildings and multiple smaller accessory buildings used for an office, warehousing and equipment storage. The Unified Zoning Code (UZC), Sec.II-B.1.t., defines an asphalt or concrete plant, general, as an establishment engaged in the manufacture, mixing, batching or recycling of asphalt, asphaltic cement, cement or concrete products. The UZC, Sec.III-D., requires a conditional use for an asphalt plant in the LI zoning district.

The following standards shall apply to “limited asphalt or concrete plants” in all zoning districts where permitted, except that they shall not apply in the GI General Industrial (GI) zoning district. If any one of these standards cannot be complied with, the plant shall be classified as a “general asphalt or concrete plant.”

- (1) The limited asphalt or concrete plant and related materials and equipment shall be located no closer than 1,000 feet to any residence other than the residence of the owner of the land upon which the temporary plant is to be located. *There are large tract single-family residences located approximately 330 and 620 feet southeast of the site (across 63rd Street East), 730 feet south of the site, and 565 feet north of the site. Non-compliance to this supplemental use regulation means this request will proceed to the Sedgwick County Board of County Commissioners for final action.*
- (2) The asphalt or concrete plant shall comply with state air pollution regulations and shall obtain a permit from the Kansas Department of Health and Environment (KDHE).
- (3) No contaminated soils may be stockpiled on the site, used for remediation or used in the operation of the asphalt or concrete plant.
- (4) All fuel tanks shall include fuel/spill containment systems as approved by the appropriate local and state agency.
- (5) Any spills of materials capable of contaminating groundwater shall be cleaned up immediately to the satisfaction of the appropriate local and state agency.
- (6) No washing or cleaning of trucks or truck beds shall be allowed onsite unless a wastewater containment system is used to the satisfaction of the appropriate local and state agency.
- (7) No waste, production materials, discarded equipment or other such items shall be buried onsite.
- (8) All equipment and materials utilized in the operation of the limited asphalt or concrete plant shall be removed from the site and the site returned to its original condition, or better, within 30 days following completion of the construction project for which the plant was established.

The applicant has stated that all areas of operations, including trucks and loaders, will be located on a paved surface of either asphalt or concrete, thus eliminating a source of dust for this operation. Sedgwick County Public Works has advised the applicant that they will be responsible for the paving of 63rd Street East, from the subject site’s north most drive to the beginning of the paving on this arterial road. The paving will be at the applicant’s expense to Sedgwick County industrial standards. No generators or diesel engines will be used to provide power. Electric power will be provided by Westar. Natural gas or propane* (*see KDHE*

observations, page 3, below) will be used to operate the asphalt burner. All parts of the asphalt production process will be controlled by electric motors and rubber belts using the latest technology and will be regularly updated to use the industry's latest cleanest and quietest technology. A water truck will be on site and available at all times to assure dust control. The applicant is also proposing to store and sell stone and rock products brought in from a quarry located near Howard, Kansas, to the private and public sector; this is permitted by right in the LI zoning district.

Emissions from the asphalt plant must meet KDHE minimum standards as well as yearly inspections. A review of the material provided by the applicant to Planning by KDHE (David Butler, Bureau of Environmental Field Services and Air Quality Compliance) provides the following observations:

- (a) The proposed plant will use a 'bag house' instead of a 'wet scrubber,' which eliminates particle emissions more effectively and eliminates most of the white vapor plume that is generated by a wet scrubber.
- (b) The bag house fan and the burner for the asphalt will probably be the noisiest components of the proposed plant. To cut down on noise no generators or diesel engines will be used to provide power and all parts of the asphalt production process will be controlled by electric motors and rubber belts.
- (c) Natural gas will be used to operate the asphalt burner, which reduces emission and produces less odor than using fuel oil. **Note: During the Kechi Planning Commission hearing it was revealed that the availability of natural gas is uncertain and propane was offered as an alternative. The material reviewed by KDHE (as well as at the Kechi meeting and today's MAPC meeting) did not have data on propane and associated emissions and odor.*
- (d) The proposed plant seems to be using the most modern equipment, thus making it cleaner and quieter than the other known asphalt or concrete plants (maybe seven) operating in Sedgwick County, Wichita or small cities.

Please note that these observations are not the result of the applicant making an application with KDHE for a permit to operate an asphalt plant, which the applicant must still do if the conditional use is approved.

The area is a mix of existing industrial zoning and some industrial development abutting RR zoned agricultural fields and large (two-acres or more) tract single-family residential development. The LI zoned county site is located less than 1,200 feet north and west from industrial zoned land located in Kechi and along the 63rd Street East – K-254 interchange. The site's LI zoning is not out of character for the area. But neither is the abutting and adjacent RR zoned lands, which are more characteristic of the "rural" category found in the county.

Approximately 10-acres of undeveloped LI zoned county land abuts the north side of the site. RR zoned agricultural fields and two large tract single-family residences (built 1989) are located approximately 565 feet and 1,880 feet further north of the site. An RR zoned agricultural field abuts the west side of the site. Some of the masonry materials from the current contractor's yard has spilled over into the abutting RR zoned land (outdoor storage is not allowed in the RR zoning district), which also contains a wireless communication facility with a guy-lined lattice tower.

Planning has found no case history on the tower, which may indicate that it was in place prior to the adoption of County wide zoning in 1985 and the 1996 adoption of the UZC. There is scattered debris located west of the communication tower. An active railroad tract and RR zoned agricultural fields are located further west of the subject site. There is a flood zone running through and over the western RR lands and the railroad tracks. Urban scale single-family residential development in Kechi is located less than a half-mile west of the site. RR zoned large tract single-family residences (built 1978 and 1996) are located approximately 330 and 620 feet east-southeast of the site, across 63rd Street East. Industrial zoned land located in Kechi is located approximately 1,200 feet southeast of the site, across 63rd Street East, along the K-254 interchange. This is the largest group of industrial zoned land located in Kechi and the area. Development for a manufacturing business is currently occurring on a portion of this area. RR zoned agricultural fields and large tract single-family residences (built 1974, 1977 and 1997) are located approximately 730, 1,550 and 1,850 feet south of the site.

CASE HISTORY: On September 25, 1980, Sedgwick County zoning case SCZ-0442, approved E Light Industrial (E zoning is now LI zoning) zoning for an existing contractor's storage yard, Caster's Excavation, on the subject site. The rezoning was the result of the extension of the three-mile ring around the City of Wichita. On May 31, 1982, another expansion of the three-mile ring around the City of Wichita rezoned the rest of the Caster's property E Light Industrial; SCZ-0499. In both county zoning cases, the remaining Caster properties were zoned R Rural Residential; R zoning is now RR zoning. Today those properties are the LI zoned 10.4-acre subject site, the north abutting approximately 10-acre LI zoned property and the owner's west RR zoned properties.

Litigation History: In May 1998, County Code Enforcement notified a prior landowner that certain activities onsite violated county zoning regulations. The owner appealed that determination to the County BZA, CoBZA-98, which upheld the Code Enforcement decision. The owner filed a lawsuit in November 1998, challenging the enforcement of that decision in the Sedgwick County District Court. The Court, in April 2000, awarded judgment in favor of the County, and enjoined the landowner from conducting metal recycling on the property; from dumping construction debris on the property; and then ordered the activities on the property to be limited to matters generally related to the owner's excavating, demolition and construction business. In addition to the court order, in August 1999, the landowner filed a restrictive covenant as part of the settlement of the litigation, in which the owner agreed to certain restrictions on activities on part of the property. Questions regarding the interpretation and application of these documents can be addressed by the County Counselor's office but should be considered as separate from the issue of the reasonableness of the conditional use application. The conditional use was advertised for the January 7, 2016, MAPC meeting but was deferred to the January 21, 2016, MAPC meeting at the request of staff in regards to a review of the litigation history on the site.

Staff has received a list of protesters to the proposed asphalt plant. Their concerns include, but are not limited to noise, air born pollutants and associated negative impacts on the environment and health of the residences in the area, a decrease of property values and inadequate local, state and federal regulations to protect the environment and the health of the area's population. The

Metropolitan Area Building and Construction Department (MABCD) has received complaints and confirmed that the applicant has moved the unassembled asphalt plant onto the site.

The Kechi Planning Commission considered CON2015-00037 at their January 12, 2016, meeting. There were protesters at the meeting. Issues associated with the case, but not limited to, included air born pollutants and their associated negative impacts on the environment and health of the residences in the area, a decrease of property values, inadequate local, state and federal regulations to protect the environment, the safety and the health of the area's population, noise, truck traffic going through Kechi, if the City of Kechi would provide gas to the site and the proposed plant being out of character with the Kechi community. There were also complaints and concerns about the unassembled asphalt plant being located on the subject site and the west butting RR zoned property. On Monday, January 11, 2016, the applicant and the property owner had met with County Law, Code Enforcement and Planning about the current violations. The applicant explained that the portions of the unassembled plant located on the abutting RR zoned land had unintentionally spilled over from the LI zoned subject site. The applicant was directed to move the parts of the unassembled plant located on the abutting RR zoned land onto the LI zoned site (outdoor storage on LI zoned land is permitted) and that no other action would be taken until final action on CON2015-00037. If the conditional use request was denied the applicant would move the unassembled plant. The Kechi Planning Commission voted 6-0-1 to deny the application; see attached findings from the Kechi Planning Commission.

ADJACENT ZONING AND LAND USE:

NORTH:	LI, RR	Agricultural fields, large tract single-family residence with scattered vehicles, large tract single-family residence
SOUTH:	RR, Kechi	Large tract single-family residences, undeveloped commercial zoned land and a warehouse located in Kechi
EAST:	RR, Kechi	Agricultural fields, large tract single-family residences, undeveloped and developing industrial zoned land located in Kechi
WEST:	RR, Kechi	Active railroad tracks, agricultural fields with scattered debris and material spilled-over from masonry contractor's yard

PUBLIC SERVICES: The site is served by a lagoon for sewer. Water to the site is supplied by Rural Water District #1. Westar provides electricity to the site. The site has direct access onto Woodlawn Boulevard/63rd Street East, a sand and gravel county arterial road at his location. Approximately ¼-mile south of the site, Woodlawn Boulevard is paved to its interchange with Kansas State Highway K-254.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” shows the site to be located within the Kechi “small city 2030 urban growth area.” The small city urban growth area category encompasses areas of land that are generally located adjacent to a small city’s municipal boundaries and indicates the reasonable direction and magnitude of growth the small city can expect out to the year 2030. Determination of growth direction and amount is based upon municipal political considerations, anticipated municipal population growth, efficient patterns of municipal growth, current infrastructure limitations, cost of effective delivery of future municipal services and environmental factors.

Sedgwick County Resolution 185-2015 (approved October 21, 2015) defined the small cities' "urban area of influence" as comprising the small cities' urban growth area as set out in the current joint city-county comprehensive plan adopted by the MAPC.

Sec.V-D.9. of the UZC states notes that if a proposed conditional use involves property within the Urban Area of Influence of a small city in Sedgwick County, the small city's planning commission shall have an opportunity to make a recommendation on the case and if the planning commission of that city has recommended against the conditional use, but the Metropolitan Area Planning Commission (MAPC) approved the conditional use the Governing Body shall have final action, which may include returning the case to the MAPC for further consideration. The Kechi Planning Commission will consider this case at their January 12, 2016, meeting.

The purpose of the LI zoning district is to accommodate moderate intensity manufacturing, industrial, commercial and complementary land uses. The LI zoning district is generally compatible with the "employment/industry center" designation of the "Wichita-Sedgwick County Comprehensive Plan." It is intended for application primarily within 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 site is located outside the Wichita urban growth area, but within the Kechi urban growth area. The UZC requires a conditional use on a site by site consideration for a permanent asphalt plant in the LI zoning district. The UZC also requires a conditional use for a permeant asphalt plant can be considered in the RR zoning district. Activity that is obnoxious, offensive or a nuisance due to odor, dust, smoke, noise, vibration or other similar causes, are prohibited in the LI zoning district. The applicant has provided information that may address some of these concerns. The site has direct access onto 63rd Street East, a county arterial road, and does not go through a residential neighborhood.

The City of Kechi's "2040 comprehensive plan" shows the site located in a "mixed/transitional" area; adopted February 12, 2015. The mixed/transitional area is a mix of compatible housing and small businesses at suburban densities. The area functions as a buffer between residential and commercial development. The subject site's and the abutting north property's LI zoning, established in 1980 and 1982, is not compatible with the city of Kechi's mixed/transitional area. The proposed asphalt plant is not compatible with the city of Kechi's mixed/transitional area. The Kechi comprehensive plan also shows the site located within the Kechi primary growth area.

However, the Kechi comprehensive plan also projects the land located east, southeast and northeast of the subject site, across 63rd Street East, to be appropriate for industrial uses. These properties are currently RR zoned land located in the county or industrial zoned land located in Kechi. The Kechi comprehensive plan's projected industrial zoning and development reflects the plan's preferred location for large commercial and industrial development to be located east along the K-254 corridor. The exception is the plan's recognition of two large tract single-family residences and an undeveloped church site (CON2012-0009) located southeast of the site. The plan shows these RR zoned county properties as mixed/transitional surrounded by projected industrial zoning and uses. The 20-acres of LI zoned county land, which includes the subject site, located on the west side of 63rd Street East is not recognized by the Kechi comprehensive

plan.

RECOMMENDATION: Staff has identified at least seven asphalt/concrete plants located in Wichita, the county or in a small city. The 16.07-acre MF-18 Multi-Family Residential (MF-18) and LI zoned Cornejo and Sons concrete plant located in Wichita at 2460 North Shore Drive is notable for the abutting and adjacent TF-3 Two-Family Residential (TF-3) and MF-18 zoned moderate density - urban scale duplex and single-family residential development on its south, northeast and east sides. Industrial uses developed around sand pits abut the east and north sides of the Cornejo plant. The single-family residences and duplexes are developed around spent sand pits and appeared to have been built in the mid-1990s to 2015. The County has appraised the value from \$162,000 for a duplex to \$370,000 for a single-family residence; taken from a random sampling of the residences located within 1,000 feet of the plant. The closest residence to the Cornejo plant is a single-family residence located approximately 530 feet west of it, across North Shore Drive. Based on historical aerials the concrete plant appears to have been in place since 1983. The residential development came despite the close proximity of an existing asphalt/concrete plant.

The Kechi area's existing LI and RR zoning pattern was initially established in 1980 and 1982. At that time the 20-acres of industrial zoned land, which the site is part of, was located in an area dominated by rural zoning and development. Because of the opposing uses promoted by the area's zoning pattern conflicting land uses were probable. The LI zoned 10.4-acre subject site was part of a 1998 conflict (see Litigation History) of rural and industrial land uses. Subsequently the area's zoning has evolved into today's expansion of Kechi's current industrial zoning and its comprehensive plan's projected industrial zoning along 63rd Street East's abutting RR zoned lands. These LI zoned lands located within Kechi may be a more suitable location for the asphalt plant as they provided other LI lands that could buffer the neighboring properties. Activity that is obnoxious, offensive or a nuisance due to odor, dust, smoke, noise, vibration or other similar causes, are prohibited in the LI zoning district. The applicant has provided information that may address some of these concerns.

Based upon information available prior to the public hearings, planning staff recommends that the proposed conditional use be APPROVED, subject to platting within a year and the following conditions:

1. The asphalt plant will be permitted for 15 years, after which the applicant may apply for an extension through an adjustment the conditional use.
2. The applicant will be responsible for the paving of 63rd Street East, from the subject site's north most drive to the beginning of the paving on this arterial road. The paving will be at the applicant's expense to Sedgwick County industrial standards.
3. Prior to building permits being issued by the Wichita-Sedgwick County Metropolitan Area Building and Construction Department (MABCD) the applicant will submit for review and approval to the Kansas Department of Health and Environment (KDHE) all required plans and performance specification for the proposed asphalt plant. The asphalt plant will be as proposed to the City of Kechi Planning Commission and the Wichita-Sedgwick County Metropolitan Area Planning Commission (MAPC) and will have no generators or diesel engines being used to provide power. Electric power will be provided

by Westar. Natural gas or propane will be used to operate the burner. The proposed plant will use a 'bag house' instead of a 'wet scrubber. All parts of the asphalt production process will be controlled by electric motors and rubber belts using the latest technology and will be regularly updated to use the industry's latest cleanest and quietest technology.

Rock crushers are not permitted. Silos shall be no taller than 58 feet. Stock piles will be no taller than 20 feet and will be contained by walls on three sides. An automatic sprinkler system will be used to control dust on the stock piles. Hours of operations will be from 6:00 a.m. to 8:00 p.m. March – November and 8:00 a.m. to 5:00 p.m. December – February. No outdoor speakers.

4. Development and maintenance of the site shall be in conformance with the approved site plan, which shall include, but not limited to: All areas of operations for the asphalt plant, including parking, queuing and circulation for trucks and loaders, stockpiles of rock, sand and millings will be located on a paved surface of either asphalt or concrete. Show the required screening or landscaping that may substitute for the required solid screening. The landscaping will include a berm with landscaping placed along the site's 63rd Street East frontage that will be constructed to meet the solid screening requirement. Six-eight-foot tall evergreens (using the types listed in the City of Wichita's Landscape Ordinance) at the time of planting will be planted at 15-foot centers along the site's south and west property lines. All structures to be set back behind a 40-foot landscape buffer on the south side, behind the compatibility setback on its west side and behind the existing pole barn on its east side. All outdoor light, including pole lights, shall not exceed 15 feet (including the base for pole lights) in height & shall employ cut-off luminaries to minimize light trespass and glare & shall not be located in setbacks or landscape buffers.
5. The applicant shall develop a hazardous material waste storage and disposal plan to meet all applicable Wichita-Sedgwick County Metropolitan Area Building and Construction Department (MABCD) and KDHE policies codes, policies and standards. This plan shall include the safe storage and disposal of all commercial waste, the prevention of any commercial waste from entering the application area's lagoon, to include floor drains from the garage or a proposed outside concrete/asphalt pad, and the safe containment of any spilled commercial waste. This approved plan must be submitted to the MABCD prior to the issuance of any building permits.
6. The applicant shall submit the "Regulated Waste Activity Notification" form to KDHE, and obtain a regulated waste license from the KDHE. This approved license must be submitted to the County prior to the issuance of any building permits.
7. The approved site plan shall be submitted prior to the issuance of any building permits.
8. No bodywork or painting of vehicles. All maintenance work on vehicles shall take place inside the maintenance shop, which shall have a concrete floor.
9. MABCD and Sedgwick County Fire shall approve maintenance building plans, prior to the issuance of a building permit.
10. 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 UZC, may, with the concurrence of the Planning Director, declare that the conditional use is null and void.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the surrounding area:** The 10.4-acre LI zoned county site and the north abutting 10-acre LI property are located in an area of mixed existing industrial zoning and some industrial development abutting RR zoned agricultural fields and scattered large (two-acres or more) tract single-family residential development. The LI zoned county site is located less than 1,200 feet north and west from industrial zoned land located in in the City of Kechi and along the 63rd Street East – K-254 interchange. The site’s LI zoning is not out of character for the area. But neither is the abutting and adjacent RR zoned lands, which are more characteristic of the “rural” category found in the county.
2. **The suitability of the subject property for the uses to which it has been restricted:** The county site is zoned LI, which primarily permits moderate intensity manufacturing, industrial, commercial and complementary land uses. The site is currently a developed as a masonry contractor’s yard, with the outdoor storage of brick, stone and other masonry materials, equipment, parking, two large accessory buildings and multiple smaller accessory buildings used for an office, warehousing and equipment storage. A contractor’s yard with outdoor storage is permitted by right in the LI zoning district and the site could continue to be used in this manner.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** An asphalt plant requires approval of a conditional use in the LI zoning district, which means a more intense use is being proposed for the LI zoned site. Activity that is obnoxious, offensive or a nuisance due to odor, dust, smoke, noise, vibration or other similar causes, are prohibited in the LI zoning district. The applicant has provided information that may address some of these concerns. Staff has identified a concrete plant located in Wichita at 2460 North Shore Drive that is notable for the abutting and adjacent TF-3 Two-Family Residential (TF-3) and MF-18 zoned moderate density - urban scale duplex and single-family residential development on its south, northeast and east sides. Staff noted that the residential development came despite the close proximity of an existing concrete plant. There can be an anticipated increase in industrial truck traffic to the area generated from the site. The conditions attached to the conditional use should minimize negative impact of the development.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2030 Wichita Functional Land Use Guide” shows the site to be located within the Kechi “small city 2030 urban growth area.” The small city urban growth area category encompasses areas of land that are generally located adjacent to a small city’s municipal boundaries and indicates the reasonable direction and magnitude of growth the small city can expect out to the year 2030. Determination of growth direction and amount is based upon municipal political considerations, anticipated municipal population growth, efficient patterns of municipal growth, current infrastructure limitations, cost of effective delivery of future municipal services and environmental factors.

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The City of Kechi's 2040 Comprehensive Plan shows the site located in a "mixed/transitional" area; adopted February 12, 2015. The mixed/transitional area is a mix of compatible housing and small businesses at suburban densities. The area functions as a buffer between residential and commercial development. The subject site's and the abutting north property's LI zoning, established in 1980 and 1982, is not compatible with the city of Kechi's mixed/transitional area. The proposed asphalt plant is not compatible with the city of Kechi's mixed/transitional area. The Kechi comprehensive plan also shows the site located within the Kechi primary growth area.

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20-acres of LI zoned county land, which includes the subject site, located on the west side of 63rd Street East is not recognized by the Kechi comprehensive plan.

5. **Impact of the proposed development on community facilities:** The site will generate an increase in in industrial truck traffic onto 63rd Street East, which the applicant estimates to be 48 trucks per day, March – November and 16 trucks per day, December – February. Future increases in industrial truck traffic onto 63rd Street East can be anticipated by current industrial zoning and industrial development located 1,200 feet south of the site located in Kechi, plus the development of the 10-acre LI zoned land abutting the north side to the site.

KECHI PLANNING COMMISSION & BOARD OF ZONING APPEALS

Minutes January 12, 2016

Deliberations on CON2015-0037

1. The proposed conditional use complies with all applicable regulations, including lot size requirements, bulk regulations, use limitations and performance standards based on the information provided.
2. The proposed conditional use will cause substantial injury to the value of the property in the neighborhood.
3. The location and size of the conditional use, the nature and intensity of the operation involved or conducted in connection with it and the location of the site with respect to streets giving access to it are such that the conditional use will dominate the immediate neighborhood, based on traffic, noise and smell, and could prevent development and use of neighboring property in accordance with the applicable zoning district regulations.
4. Off street parking and loading areas will be provided in accordance to county standards based on the provided site plan. Such areas will be screened from adjoining residential uses.
5. Adequate utility, drainage and other such necessary facilities have not been installed or will be not be provided by platting, dedications and/ or guarantees.
6. Adequate access roads, entrance and exit drives and/or access control is available or will be provided by platting, dedications and /or guarantees and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and roads.

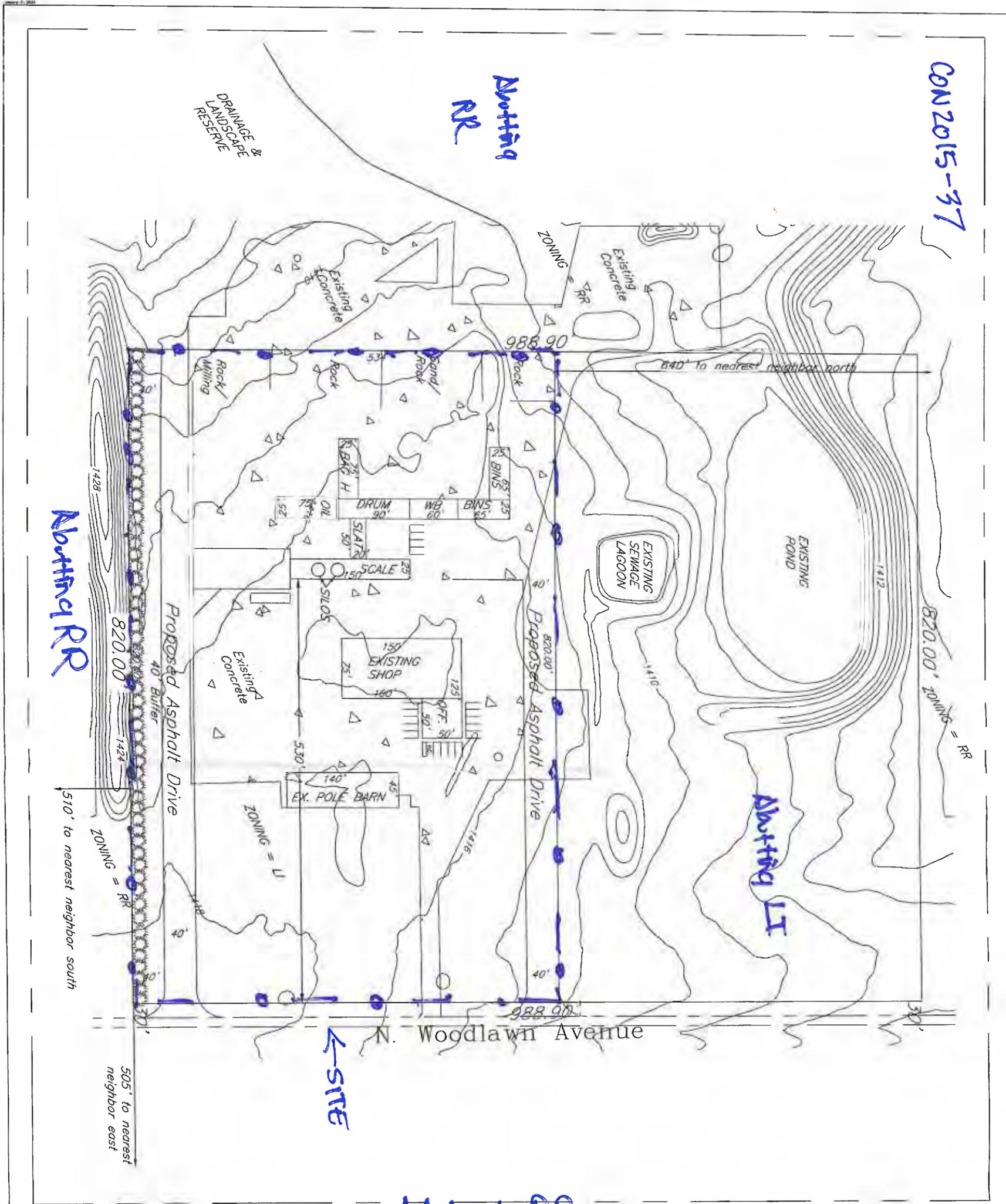
Motion:

Having considered the evidence at the hearing for Case No. CON2015-0037, I, Richard Wolf, move the Kechi Planning Commission recommend to the Metropolitan Area Planning Commission and County Commission this request for a Conditional Use for an Asphalt Plant not be granted based on the following reasons:

1. No data supports pollutants given off with recycled materials.
2. Possibility of offensive odors.
3. Negative public opinion.
4. Proximity to existing residents.

Motion was seconded by Bill Moss. Motion carried 6-0 with Buddy Pressnell abstaining.

CON2015-37



Site Development Details:

Hours of Operation
 March thru November 6 AM - 8 PM
 December thru February 8 AM - 5 PM

Utilities
 Water Service RWD#1 (plant does not use water)
 Sanitary Sewer Existing Lagoon

Truck Traffic
 March thru November 48 trucks per day
 December thru February 16 trucks per day

Parking
 19 spaces provided (1 HC)

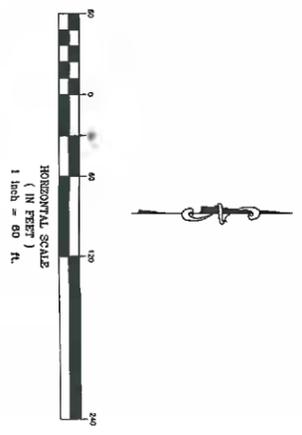
Hazardous Materials
 Asphalt Oil (contained in tank with concrete containment bin surrounding it)

Heights
 The silos are 58 feet high.
 The rock and sand piles will be no taller than 20 feet in height. The north berm is 8' high, the south berm is 14' high on the west end, and 10' high on the east end.

Miscellaneous
 Rock sores will be from rock bins
 No rock crushing operations
 Wash boy in shop will drain to tank and be pumped
 Existing lighting on existing building will remain. Two additional lights will be added on the west side of the scale at a height of 15' maximum.
 There will be no outdoor speakers.
 Inside the south boundary will be a row of 55 cedar trees with 15 spacing.

Legal Description:

THE SOUTH 534 FEET OF THE EAST 850 FEET OF THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 26 SOUTH, RANGE 1 EAST OF THE SIXTH PRINCIPAL MERIDIAN, SEDGWICK COUNTY, KANSAS.



Alt. Site Plan - 6609 N. Woodlawn
 Conditional Use for Asphalt Plant
 Kechi, Kansas

KEMILLER ENGINEERING PA 117 E. Linn, Wichita, KS 67202 (316)584-0282		PROJECT NUMBER		SHEET	
NO. NO.	FILE	DATE			
15192		11/2015			
ISSUED	DRAWN	REVISED			
KM	DM		2.0		

APPLICATION
FOR
CONDITIONAL USE PERMIT

SEDGWICK COUNTY, KANSAS

JANUARY, 2016

APPLICANT

FLINT HILLS MATERIALS
6609 N WOODLAWN
KECHI, KS 67067

Flint Hills Materials, an asphalt production company, will do sealing, patching, crack repair, milling and overlay work. The company will supply asphalt to our own jobs as well as supplying asphalt products for other paving companies. This site will also provide a range of stone and rock products for public and private sector use, including a stone yard and multiple-quality rock products from the Black Quarry located near Howard, Kansas.

Flint Hills Materials intends to operate the company and asphalt facility to meet and exceed the highest standards in the industry. We will achieve this goal by surpassing all KDHE and Federal regulations. The following information highlights the standards for our company practices and plant operations with some details that set us apart and go beyond state and federal requirements.

DUST CONTROL

1. In order to provide a dust-free hard surface for all traffic coming in and out of our facility, we will pave Woodlawn from the Woodlawn exit on U.S. Highway 254 to the northernmost entrance of the proposed property. This new surface will also provide improved driving conditions for all homeowners in the area.
2. All areas of operation around the plant will be hard surfaces – either concrete or asphalt. All trucks and loaders will operate on these hard surfaces, eliminating almost all dust created by operating on dirt or rock. Point of comparison: Every other asphalt plant in Sedgwick County operates on rock and dirt at the present time.
3. A water truck will be on site and available at all times in the event of a prolonged hot and dry spell to assure dust control in extreme weather conditions.
4. Flint Hills Materials will mitigate environmental and aesthetic concerns, applying appropriate techniques and technology to comply with all federal, state and local

regulations. These same efforts will also ensure the general welfare and protect the legitimate interests of nearby property owners. The resulting benefits of responsible operation are mutual because dust and dirt are very hard on our equipment and must be kept to a minimum for the safety of our employees and customers.

Relevant considerations:

- Large earth berms on both the north and south sides of the property provide natural barriers.
- The flood plain on the west side of the property ensures that there will be no further development within 1000 feet in that direction.
- The existing railroad crossing the northwest portion of the property provides another natural barrier.
- The location of this property within ½ mile of U.S. Highway 254 is a distinct advantage for both the company and local residents. This proximity provides quick and easy access to a major highway, almost eliminating business customer traffic on county and city roads.
- The two existing ponds on the proposed site will collect storm water runoff.

NOISE & SMELL

1. This asphalt plant will operate on power from Westar Energy. Using power from Westar eliminates the need for a generator(s), thus eliminating noise from one of the loudest components of most plant operations. No diesel engines will be used to operate the plant.
2. The burner will operate on natural gas. Many asphalt plants in the area operate with burners using fuel oil. Natural gas is the cleanest and most odor-free way to produce asphalt that is currently available. Using natural gas will reduce emissions by over 95%.
See Attachment A.

3. All parts of the asphalt production process are controlled by electric motors and rubber belts that operate at very low noise levels. These motors and controls are designed using the latest technology, eliminating many noisy moving parts.
4. All asphalt and fluids will be stored in enclosed tanks. The two silos where asphalt is stored are insulated and have enclosed tops and bottoms. The conveyor and drum used in this asphalt production process are completely sealed and enclosed.
5. Flint Hills Materials will be the newest asphalt plant in Sedgwick County. The plant will be located behind the buildings on the proposed property, making only the top of the silos visible from the road. Railroad tracks form a barrier to the west of the property. Sound from the plant will not be audible outside of the property.
6. We use the latest technology for emission controls that exceed KDHE and Federal standards by 63%, 2/3 less emissions than required by law. KDHE will test and inspect the plant prior to operation.

See Attachment B.

COMPANY FACTS

CPB Materials and Harshman Construction collectively have 57 + years of experience in plant operations – CPB materials, 20+ years in the asphalt business and Harshman Construction, 37+ years in rock crushing and related operations. Their individual and particular background experiences provide unique strength for operating Flint Hills Materials.

CPB Materials

5114 W. 87th St. S
Haysville, KS

- Chad Bledsoe has owned and operated his own paving company for the past 7 years, purchasing asphalt materials from other companies that he used to pave with his own equipment and crew.
 - o Projects include:
 - Mill and overlays
 - Complete new construction projects
 - Parking lot maintenance
 - o Services include:
 - Cold milling
 - Asphalt paving
 - Striping
 - Crack filling
 - Seal coating
 - Rock base
 - o Current operations include business relationships with:
 - L. Keeley Construction
 - Walmart
 - Home Depot
 - Lowes
 - Kohl's

- Target
 - Menards
 - Sam’s Club
 - USD Schools: #375 – Circle; #382 – Pratt, KS; #490 – El Dorado, KS; #385 – Andover, KS; #470 – Arkansas City, KS; #460 - Hesston, KS; #261 - Haysville, KS; #313 – Buhler, KS
 - City of Wichita, KS
 - City of Newton, KS
 - City of Derby, KS
 - City of Valley Center, KS
 - City of Hays, KS
 - City of Fredonia, KS
 - City of Cottonwood Falls, KS
 - City of Strong City, KS
 - City of Haysville, KS
- Chad’s previous experience in the asphalt industry includes project manager and superintendent for APAC Kansas.
 - His four KDOT partnering awards include first place on a total reconstruction, paving project with KDOT.

Harshman Construction

Harshman Construction is located in Cedar Point, Kansas and has crushed rock for 37 years – operating 16 quarry locations in south central and southeast Kansas that supply rock for federal, state and county jobs as well as for the private sector. The company has received numerous awards over the years, including:

- 2014: Morgison Safety Award – given to one company each year with the best safety program and record in the state.
- Governor’s Mined Land Reclamation Award: demonstrating excellence in implementing mined

- land reclamation and conveying a positive image of mining in Kansas – one award per year at the state level.
- Outstanding Reclamation Award from NASLR (National Association of State Land Reclamationists): One selected per year at the national level. *See Attachment C.*
- On the local level: Worked with the Cornejo Company to develop their stone yard in south Wichita by supplying rock from Harshman quarries, using rail transportation.
- Warren Harshman, managing member, served as president of KAPA (Kansas Aggregate Producers Association) for two years.

Flint Hills Materials will:

- Employ 20 – 30 people.
- Purchase natural gas in high volumes from the City of Kechi during the summer, giving the city the benefit of more revenue.
- Provide a stone yard for the area to offer high-quality rock products – available locally at a very competitive price, a benefit to both public and private sectors.
- Lower the cost of paving projects in the area. Asphalt material is a high-bulk (volume), low-cost product that cannot be transported very far without greatly increasing the cost to the purchaser. The addition of a production plant in this area will help to reduce the cost of all asphalt paving projects in the area.
- Purchase high volumes of electricity and water, again increasing revenue for those utility providers.
- Pay all federal, state and local taxes associated with operating a company.

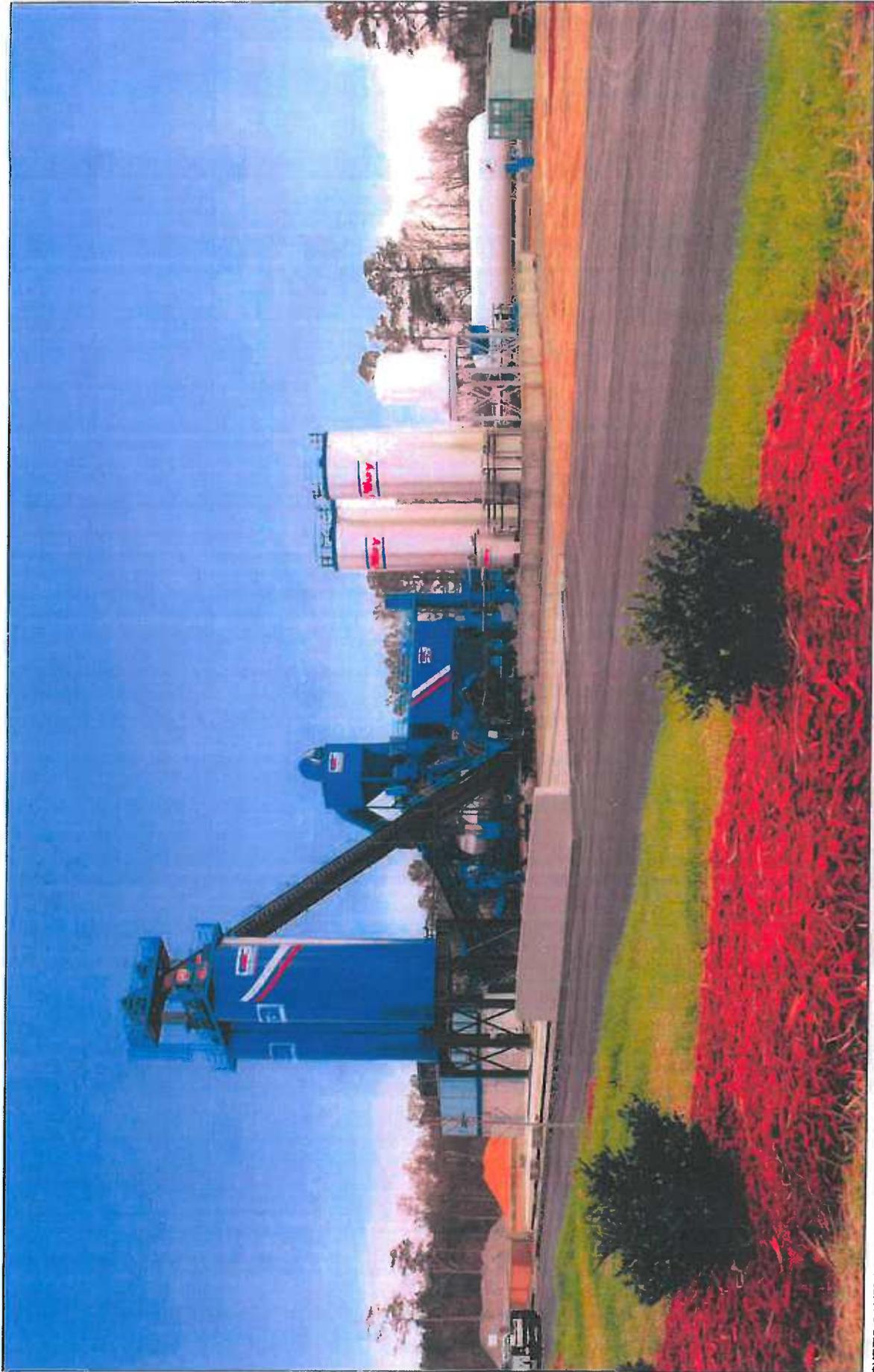
In summary:

Chad Bledsoe and Warren Harshman hold an expectation of business that is held to the highest standards. We are proud of a history that puts us in a position to require very professional and clean operations at this proposed facility. We believe that both our customers and the community will benefit from our commitment to these high standards.

Thank you,

Warren Harshman, Managing Member

Chad Bledsoe, Managing Member



Sample of the Asphalt Plant

CURTIS CONTRACTING - 300 Skidded Ultraplant ■ Ivor, VA



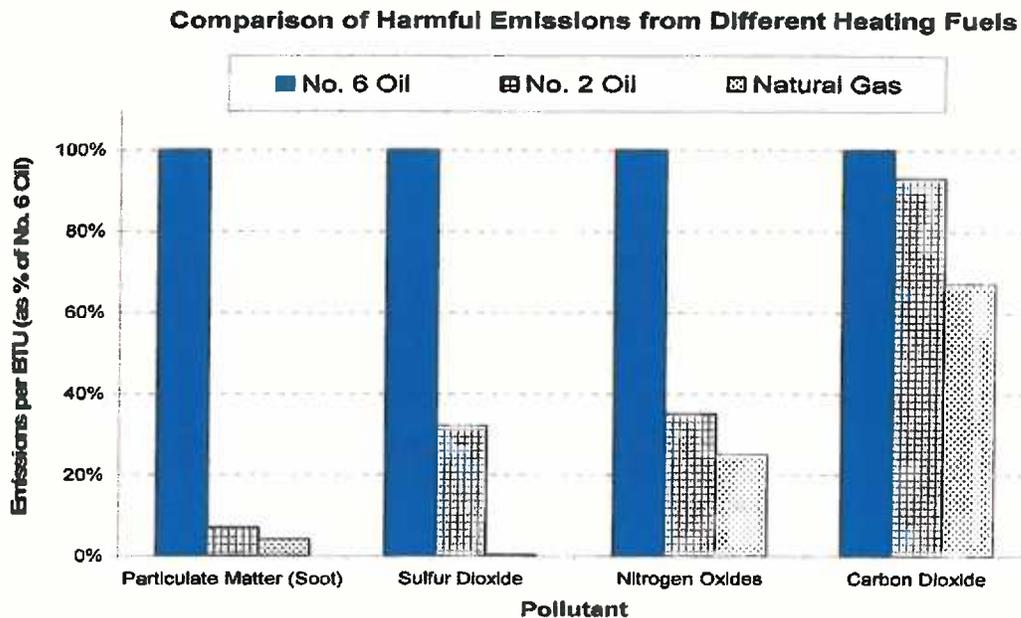
asthma hospitalizations alone cost government and individuals more than \$240 million a year.¹³ Medicaid and Medicare paid about 72% of these costs.

In addition, the soot pollution spewed out in disproportionate amounts by buildings burning No. 4 or No. 6 oil not only contributes to unhealthy air but also to climate change. Recent studies have shown that soot pollution (black carbon) is the second-largest contributor (after CO₂) to climate change. So reducing soot pollution will also have an immediate impact on mitigating climate change.¹⁴

The heating oil sector has been entirely ignored by the federal government and largely remains neglected by the state government, which has not yet acted on various proposals to make its sulfur caps protective enough for public health.^{15,16} Nevertheless, the city has left this air pollution problem unaddressed. Air pollutants from No. 4 and 6 heating oil boilers are uncontrolled, contribute to unhealthy air quality and are a quality of life issue when New Yorkers open their windows to let in “fresh” breezes.

Switching from No. 6 oil to No. 2 heating oil reduces PM emissions by about 95%, SO₂ by about 68% and nitrogen oxides (NO_x) by about 65%. Switching from No. 6 oil to natural gas reduces PM emissions by about 96%, SO₂ by over 99% and NO_x by about 75%. In terms of global warming pollution, switching from No. 6 oil to No. 2 heating oil reduces heat-trapping CO₂ emissions by about 7%, and natural gas reduces CO₂ emissions by about 30% compared to No. 6 oil.¹⁷ Switching to No. 2 heating oil or natural gas will also eliminate harmful nickel emissions as No. 4 and 6 oil spew out high levels of toxic nickel. Not surprisingly, New York City’s nickel levels are on average nine times higher than average nickel levels in other U.S. cities. Nickel is a metal that when airborne has been linked to cardiovascular disease and premature death.¹⁸

Figure 2: This Figure depicts the dramatic difference in pollutants generated by No. 6 oil compared to No. 2 heating oil or natural gas. No. 4 oil is typically a 50/50 mix of No. 6 oil and No. 2 heating oil.





North Dakota Department of Health
Air Pollution Control
Air Quality Effects Analysis
Permit to Operate

Applicant Information

Missouri River Asphalt, LLC
204 N Main Street, PMB #21
Watford City, ND 58854

Introduction

Missouri River Asphalt, LLC submitted an application dated March 26, 2013 for a Permit to Operate for a portable hot-mix asphalt plant rated at 400 tons/hr. The plant was manufactured in 2006 and is described as follows:

- A. Aesco Madsen Model GB400PB dryer-drum mixer rated at 400 tons/hr. Heat is supplied by a LPG-fired Hauck Model 580 55 burner rated at 120×10^6 Btu/hr.
- B. Particulate emissions from the dryer-drum are controlled by an Aesco Madsen Model HRB-816P baghouse with an operating efficiency of 99%. The exhaust stack for the baghouse has a height of 24 feet above-grade with an exhaust fan rated at 43,550 scfm at 1,190 rpm.
- C. Electricity for normal operations is supplied by a the local commercial power company.
- D. Miscellaneous equipment includes four cold aggregate bins, each at 18 ton capacity, one cold aggregate conveyor rated a 380 tons/hr, one hot-mix elevator rated at 400 tons/hr, and one hot-mix storage bin with a 80 ton capacity.

The purpose of this analysis is to determine the expected compliance status of the plant, calculate expected annual emissions and calculate a maximum annual production limit to classify the facility as a minor source.

Applicable Rules:

- A. Chapter 33-15-02 - Ambient Air Quality Standards
- B. Chapter 33-15-03 - Restriction of Emission of Visible Air Contaminants

Environmental Health
Section Chief's Office
701.328.5150

Division of
Air Quality
701.328.5188

Division of
Municipal Facilities
701.328.5211

Division of
Waste Management
701.328.5166

Division of
Water Quality
701.328.5210

- C. Chapter 33-15-05 - Emissions of Particulate Matter Restricted
- D. Chapter 33-15-06 - Emissions of Sulfur Compounds Restricted
- E. Chapter 33-15-12 - Standards of Performance for New Stationary Sources (40 CFR 60, Subpart I)
- F. Chapter 33-15-17 - Restriction of Fugitive Emissions

Allowable Emissions (E_A) Dryer Drum Mixer/Burner:

Particulate Matter:

New Source Performance Standard Limit (40 CFR 60, Subpart I):

$$E_A = 0.04 \text{ gr/dscf}$$

$$E_A = 0.04 \text{ gr/dscf} \times 2,613,000 \text{ dscf/hr}^* \times 1 \text{ lb/7000 gr} = \underline{14.9 \text{ lb/hr}}$$

*obtained from the permit application

Allowable State Limit (NDAC Chapter 33-15-05):

For process rates greater than 30 tons/hr, the following equation is used:

$$E_A = 55.0 (p^{0.11}) - 40$$

Where E_A = allowable particulate emission rate in lb/hr
 p = process weight rate in tons/hr = 400

$$E_A = 55.0 (400^{0.11}) - 40 = \underline{66.3 \text{ lb/hr}}$$

Opacity:

New Source Performance Standard Limit: Opacity = 20%

Sulfur Dioxide:

According to NDAC 33-15-06 for fuel burning installations, a maximum of three pounds of sulfur dioxide (SO_2) per million British thermal units is allowed. However, the burner will be propane-fired so an SO_2 limit is not applicable per 33-15-06-01.1.e and 40 CFR 60, Subpart I.

Expected Emissions (EE): A process rate of 400 tons/hr is used for the following calculations:

Drum Dryer Mixer/Burner: The maximum expected emissions from burning gaseous fuels will be calculated using AP-42 , Section 11.1, Tables 11.1-3, 11.1-7, 11.1-8 (03/04).

Emission Factors:

$EF_{NO_x} = 0.026 \text{ lb/ton}$
 $EF_{CO} = 0.13 \text{ lb/ton}$
 $EF_{SO_2} = 0.0034 \text{ lb/ton}$
 $EF_{PM} = 0.014 \text{ lb/ton}$ Assume PM = PM₁₀
 $EF_{VOC} = 0.032 \text{ lb/ton}$

Expected Emission Rates:

$$EE_{NO_x} = 0.026 \text{ lb/ton} \times 400 \text{ ton/hr} = \underline{10.4 \text{ lb/hr}}$$

$$EE_{CO} = 0.13 \text{ lb/ton} \times 400 \text{ ton/hr} = \underline{52.0 \text{ lb/hr}}$$

$$EE_{SO_2} = 0.0034 \text{ lb/ton} \times 400 \text{ ton/hr} = \underline{1.4 \text{ lb/hr}}$$

$$EE_{PM} = 0.014 \text{ lb/ton} \times 400 \text{ ton/hr} = \underline{5.6 \text{ lb/hr}}$$

$$EE_{VOC} = 0.032 \text{ lb/ton} \times 400 \text{ ton/hr} = \underline{12.8 \text{ lb/hr}}$$

Potential Emissions (8,760 hr/yr):

- A sample calculation for CO emissions from the dryer drum is:

$$EE_{CO} = 52.0 \text{ lb/hr} \times 8,760 \text{ hr/yr} \times 1 \text{ ton}/2000 \text{ lb} = 227.8 \text{ tons/yr}$$

Pollutant	Drum/Burner (tons/yr)	Total (tons/yr)
NO _x	45.6	45.6
CO	227.8	227.8
SO ₂	6.1	6.1
PM	24.5	24.5
VOC	56.1	56.1

Expected Emissions (625 hr/yr):

Missouri River Asphalt, LLC has agreed to limit the production of this facility to 250,000 tons/yr which allows this source to be classified “Minor Source by Rule.” At a maximum production rate of 400 tons/hr, the expected operation will be based on 625 hr/yr.

- A sample calculation for CO emissions from the dryer drum is:

$$EE_{CO} = 52.0 \text{ lb/hr} \times 625 \text{ hr/yr} \times 1 \text{ ton}/2000 \text{ lb} = 16.3 \text{ tons/yr}$$

Pollutant	Drum/Burner (tons/yr)	Total (tons/yr)
NO _x	3.3	3.3
CO	16.3	16.3
SO ₂	0.4	0.4
PM	1.8	1.8
VOC	4.0	4.0

Conclusions:

Expected Versus Allowable:

PM and Opacity

The expected emission rate for particulate matter from the dryer is 5.6 lb/hr; this is less than the 14.9 lb/hr calculated using the 0.04 gr/dscf limit specified in NSPS Subpart I. Based on the use of a baghouse, it is expected that the unit will also comply with 20% opacity standard.

From the analysis, it is apparent that based on 8,760 hours per year of operation, CO emissions will exceed 100 tons/yr. However, the applicant has agreed to limit the production of this facility to 250,000 ton/yr. Enacting this limit will allow the facility to operate as a Minor Source by Rule (NDAC 33-15-14-07); CO emissions will be less than 20 tons/yr.

Based on the amount of emissions, the facility should comply with the applicable Ambient Air Quality Standards. Also, based on the planned watering of haul roads, fugitive emissions will be minimized.

Recommendations:

Based on the information provided in the application and results of the Air Quality Effects Analysis, it is recommended that a draft Permit to Operate be issued to this facility. A final Permit to Operate will be issued after a satisfactory inspection is conducted by the Department.

Date of Analysis: April 19, 2013

Submitted By:



Todd Peterson, CHMM
Environmental Scientist
Division of Air Quality

TP:saj

Hot-mix asphalt plants: Do you need an air operating permit?



Introduction

To protect public health and the environment, industries are required to take steps to protect air quality. This fact sheet summarizes air quality requirements that hot-mix asphalt plants may have to meet.

Emissions from hot-mix asphalt plants may come from pre-production fugitive dust emissions, ducted production emissions, and other production-related fugitive emissions. Ducted sources are those vented to the atmosphere through some type of stack, vent, or pipe, such as from a rotary drum dryer. Fugitive sources are those emitted directly from the source to the ambient air. Examples of fugitive emissions include dust on roads and aggregate processing operations.

Overview of air quality requirements

The Kansas Department of Health and Environment (KDHE) administers the following three primary programs under provisions of the Kansas Air Quality Act:

1. Construction permit program
2. Operating permit program
3. Annual emissions fee program

If you want to construct, set up, or modify a hot-mix asphalt plant, you may need an air construction permit or approval from KDHE before you begin. Under the construction permit program, a permit is required before construction may begin on proposed new or modified sources of air emissions, if increases in potential emissions from the emission source exceed certain thresholds. Construction permit and approval regulations are found in K.A.R. 28-19-300.

Potential to emit is calculated by assuming maximum capacity operation (24-hour operation, 365 days per year) and no pollution control devices. If you would like to learn more about how to calculate your potential to emit (PTE), refer to the SBEAP fact sheet *Here's how to figure your potential to emit* at www.sbeap.org.

In addition to needing a construction permit or approval, in Kansas, hot-mix asphalt plants may require a Class I or a Class II operating permit. Requirements of the Kansas operating permit program are found in the K.A.R. 28-19-500 series of regulations. Whether an operating permit is required depends upon a facility's potential to emit.

Your plant will need a Class I operating permit if it has the potential to emit 10 tons per year or more of a single hazardous air pollutant (HAP), 25 tons per year or more of any combination of HAPs, or 100 tons per year or more of a regulated pollutant. Regulated pollutants include sulfur oxides (SO_x), nitrogen oxides (NO_x), carbon monoxide (CO), volatile organic compounds (VOCs), and particulate matter (PM). If your *actual* annual emissions fall below these thresholds, you may be able to apply for the simpler Class II permit.

If you would like to learn more about Class I or Class II operating permits, see the Kansas Small Business Environmental Assistance Program (SBEAP) fact sheet *What is the Kansas Air Quality Act?* at www.sbeap.org.

Class I operating permit forms and instructions, and Class II permit applications are available on the KDHE Bureau of Air website at www.kdheks.gov/air-permit/download.html.

Class II permit-by-rule regulation

Certain air emission sources, such as hot-mix asphalt facilities (manufactures hot-mix asphalt by heating and drying aggregate and mixing the aggregate with asphalt cement), are eligible to operate under the KDHE Class II permit-by-rule regulation (KAR 28-19-563). The permit-by-rule application process is easier than the typical Class II application. The permit by rule for hot-mix asphalt facilities is available to plants that restrict their production rate to 250,000 tons or less of asphalt during each consecutive 12-month period. In order for the regulation to apply, your facility cannot contain other emission sources that alone, or in combination with the hot-mix asphalt facility, would require you to obtain a Class I operating permit solely because of the facility's PTE.

The requirements apply to a hot-mix asphalt facility that uses venturi scrubbers, a baghouse, or equivalent particulate emission controls to limit particulate emissions to no more than 0.04 grains per dry standard cubic foot of exhaust gas.

What are my requirements?

In addition to limiting production to not more than 250,000 tons of hot-mix asphalt during each consecutive 12-month period, a facility that wants to operate under the Class II permit-by-rule must do the following:

- Maintain records demonstrating that production restrictions and particulate emission limits specified in this regulation have not been exceeded.
- Update records monthly, not later than the last day of the month following the month to which the records relate.
- Retain records on site for at least two years.
- Submit an air emission report by April 1 of each year. Required information shall be submitted on forms provided by KDHE.

This publication was created by Kansas State University's Pollution Prevention Institute through the Small Business Environmental Assistance Program (SBEAP). SBEAP's mission is to help Kansas small businesses comply with environmental regulations and identify pollution prevention opportunities. SBEAP is funded through a contract with the Kansas Department of Health and Environment. SBEAP services are free and confidential. For more information, call 800-576-8698, send an e-mail to sbeap@ksu.edu, or visit our Web site at www.sbeap.org. Kansas State University is an EEO/AA provider.

Additionally, if at the end of any calendar quarter a facility has produced hot-mix asphalt during the previous four consecutive calendar quarters in an amount that exceeds 212,500 tons (85% of the 250,000 ton restriction), the owner or operator of the facility must report in writing to KDHE actual production numbers during the previous four consecutive calendar quarters. The report must be submitted within 45 days of the last day of that calendar quarter.

What if I exceed operational limits?

If at any time your facility produces more than 250,000 tons of hot-mix asphalt in any consecutive 12-month period, you must do the following:

- On or before the first working day after discovery of the exceedance, notify KDHE in writing.
- Within 60 days after discovery, submit a written plan to KDHE describing actions taken and that will be taken to return to and remain in compliance with Kansas air quality regulations.
- Within 180 days after the discovery, apply for an appropriate operating permit, if required.

Plan ahead

Getting permits takes time. Consider permitting time frames when you bid on or contract for jobs, especially if it is a complex permit with public participation and a public hearing. It is important that you understand and follow the requirements that apply to your plant. If you can limit production to 250,000 tons or less of asphalt each consecutive 12-month period, then consider the Class II permit-by-rule.

The Kansas Small Business Environmental Assistance Program (SBEAP) operates a toll-free hotline, if you have questions or need additional information on environmental regulations.



Notice of nondiscrimination

Kansas State University is committed to nondiscrimination on the basis of race, color, ethnic or national origin, sex, sexual orientation, gender identity, religion, age, ancestry, disability, military status, veteran status, or other non-merit reasons, in admissions, educational programs or activities and employment, including employment of disabled veterans and veterans of the Vietnam Era, as required by applicable laws and regulations. Responsibility for coordination of compliance efforts and receipt of inquiries concerning Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and the Americans With Disabilities Act of 1990, has been delegated to the Director of Affirmative Action, Kansas State University, 214 Anderson Hall, Manhattan, KS 66506-0124, (Phone) 785-532-6220; (TTY) 785-532-4807.

Emission Summary

DEBCO Construction

ASECO/Madsen GB400PM HMA

June 2, 2008

Test	acfm	dscf/m	H2O%	Temp F	Front	Back	Particulate Total	ib/hr	Production ton / hour	Bag House Pressure in H2O
1	54,418	25,562	24.12	253.44	0.0172	0.0079	0.0251	5.50	391.9	2.7
2	58,625	29,453	19.04	251.72	0.0144	0.0100	0.0244	6.45	323.6	2.6
3	61,191	29575	22.23	250.64	0.0159	0.0065	0.0224	5.69	387.5	3.7
Average	58,078	28,197	21.80	251.9	0.0158	0.0084	0.0240	5.88	367.7	3.0



SOURCE TEST RESULTS

CLIENT: DEBCO Construction
 SOURCE: AESCO/MADSEN 400 IMA
 DATE: 6/2/08 RUN NUMBER: 1

Calculated Using Front-Half Particulate Catch

V_m	(volume metered)	38.360 cubic feet
T_m	(meter temperature)	71.26 deg. F
ΔH_{ave}	(average meter flow rate)	1.6904 inches H ₂ O
P_b	(barometric pressure)	25.00 in. Hg
P_s	(absolute stack gas pressure)	25.037 in. Hg
V_1	(volume of water collected)	217.20 ml
M_d	(dry molecular weight)	29.34 lb/lb-mole
M_s	(molecular weight of stack gas)	26.608 lb/lb-mole
$(\sqrt{\Delta P})_{ave}$	(average of ΔP square roots)	0.6886 inches H ₂ O
C_p	(pitot tube calibration factor)	0.84
Y_c	(meter correction factor)	1.0045
A_s	(area of stack)	17.7222 ft ²
T_s	(average stack temperature)	253.44 °F
D_n	(nozzle diameter)	0.250 inches
A_n	(area of nozzle)	3.4088E-04 ft ²
Θ	(test time)	62.50 minutes
M_n	(weight of particulate collected)	35.80 milligrams
$V_{w(std)}$	(volume of water collected, standard)	10.217 scf
$V_{m(std)}$	(volume of gas metered, standard)	32.145 dscf
B_{ws}	(moisture content)	0.2412 vol/vol
%	Moisture	24.12 %
V_s	(velocity of stack gas)	51.1766 ft./sec.
Q_a	(actual flow of stack gas)	54,417.77 acfm
Q_s	(standard flow of stack gas)	25,562.08 dscf/min
% I	(percent isokinetic)	104.62 %
eg	(particulate grain loading)	0.0172 gr/dscf
et	(particulate emission rate)	3.77 lb/hr

SOURCE TEST RESULTS

CLIENT: DEBCO Construction
 SOURCE: AESCO/MADSEN 400 HMA
 DATE: 6/2/08 RUN NUMBER: 1

Calculated Using Back-Half Particulate Catch

V_m	(volume metered)	38.360 cubic feet
T_m	(meter temperature)	71.26 deg. F
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P_b	(barometric pressure)	25.00 in. Hg
P_s	(absolute stack gas pressure)	25.037 in. Hg
V_1	(volume of water collected)	217.20 ml
M_d	(dry molecular weight)	29.34 lb/lb-mole
M_s	(molecular weight of stack gas)	26.608 lb/lb-mole
$(\sqrt{\Delta P})_{zvc}$	(average of ΔP square roots)	0.6886 inches H ₂ O
C_p	(pitot tube calibration factor)	0.84
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A_s	(area of stack)	17.7222 ft ²
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D_n	(nozzle diameter)	0.250 inches
A_n	(area of nozzle)	3.4088E-04 ft ²
\odot	(test time)	62.50 minutes
M_u	(weight of particulate collected)	16.50 milligrams
$V_{vr(std)}$	(volume of water collected, standard)	10.217 scf
$V_{ia(std)}$	(volume of gas metered, standard)	32.145 dscf
B_{ws}	(moisture content)	0.2412 vol/vol
%	Moisture	24.12 %
V_s	(velocity of stack gas)	51.1766 ft./sec.
Q_a	(actual flow of stack gas)	54,417.77 acfm
Q_s	(standard flow of stack gas)	25,562.08 dscf/min
% I	(percent isokinetic)	104.62 %
cg	(particulate grain loading)	0.0079 gr/dscf
et	(particulate emission rate)	1.74 lb/hr

SOURCE TEST RESULTS

CLIENT: DEBCO Construction
 SOURCE: AESCO/MADSEN 400 HMA
 DATE: 6/2/08 RUN NUMBER: 1

Calculated Using Total Particulate Catch

V_m	(volume metered)	38.360 cubic feet
T_m	(meter temperature)	71.26 deg. F
ΔH_{ave}	(average meter flow rate)	1.6904 inches H ₂ O
P_b	(barometric pressure)	25.00 in. Hg
P_s	(absolute stack gas pressure)	25.037 in. Hg
V_l	(volume of water collected)	217.20 ml
M_d	(dry molecular weight)	29.34 lb/lb-mole
M_g	(molecular weight of stack gas)	26.608 lb/lb-mole
$(\sqrt{\Delta P})_{ave}$	(average of ΔP square roots)	0.6886 inches H ₂ O
C_p	(pitot tube calibration factor)	0.84
Y_d	(meter correction factor)	1.0045
A_s	(area of stack)	17.7222 ft ²
T_s	(average stack temperature)	253.44 °F
D_n	(nozzle diameter)	0.250 inches
A_n	(area of nozzle)	3.4088E-04 ft ²
Θ	(test time)	62.50 minutes
M_n	(weight of particulate collected)	52.30 milligrams
$V_{w(std)}$	(volume of water collected, standard)	10.217 scf
$V_{m(std)}$	(volume of gas metered, standard)	32.145 dscf
B_{ws}	(moisture content)	0.2412 vol/vol
%	Moisture	24.12 %
V_s	(velocity of stack gas)	51.1766 ft./sec.
Q_n	(actual flow of stack gas)	54,417.77 acfm
Q_s	(standard flow of stack gas)	25,562.08 dscf/min
% I	(percent isokinetic)	104.62 %
cg	(particulate grain loading)	0.0251 gr/dscf
et	(particulate emission rate)	5.50 lb/br

SOURCE TEST RESULTS

CLIENT: DEBCO Construction
 SOURCE: AESCO/MADSEN 400 HMA
 DATE: 6/2/08 RUN NUMBER: 2

Calculated Using Front-Half Particulate Catch

V_m	(volume metered)	40.095 cubic feet
T_m	(meter temperature)	66.06 deg. F
ΔH_{ave}	(average meter flow rate)	1.4200 inches H ₂ O
P_b	(barometric pressure)	25.00 in. Hg
P_s	(absolute stack gas pressure)	25.037 in. Hg
V_l	(volume of water collected)	169.50 ml
M_H	(dry molecular weight)	29.41 lb/lb-mole
M_s	(molecular weight of stack gas)	27.236 lb/lb-mole
$(\sqrt{\Delta P})_{ave}$	(average of ΔP square roots)	0.7515 inches H ₂ O
C_p	(pitot tube calibration factor)	0.84
Y_d	(meter correction factor)	1.0045
A_s	(area of stack)	17.7222 ft ²
T_s	(average stack temperature)	251.72 °F
D_n	(nozzle diameter)	0.250 inches
A_n	(area of nozzle)	3.4088E-04 ft ²
Θ	(test time)	62.50 minutes
M_n	(weight of particulate collected)	31.60 milligrams
$V_{w(std)}$	(volume of water collected, standard)	7.973 scf
$V_{m(std)}$	(volume of gas metered, standard)	33.904 dscf
B_{ws}	(moisture content)	0.1904 vol/vol
%	Moisture	19.04 %
V_s	(velocity of stack gas)	55.1334 ft./sec.
Q_a	(actual flow of stack gas)	58,625.08 acfm
Q_s	(standard flow of stack gas)	29,452.62 dscf/min
% I	(percent isokinetic)	95.77 %
cg	(particulate grain loading)	0.0144 gr/dscf
ct	(particulate emission rate)	3.63 lb/hr

SOURCE TEST RESULTS

CLIENT: DEBCO Construction
 SOURCE: AESCO/MADSEN 400 HMA
 DATE: 6/2/08 RUN NUMBER: 2

Calculated Using Back-Half Particulate Catch

V_m	(volume metered)	40.095 cubic feet
T_m	(meter temperature)	66.06 deg. F
ΔH_{ave}	(average meter flow rate)	1.4200 inches H ₂ O
P_b	(barometric pressure)	25.00 in. Hg
P_s	(absolute stack gas pressure)	25.037 in. Hg
V_l	(volume of water collected)	169.50 ml
M_d	(dry molecular weight)	29.41 lb/lb-mole
M_s	(molecular weight of stack gas)	27.236 lb/lb-mole
$(\sqrt{\Delta P})_{ave}$	(average of ΔP square roots)	0.7515 inches H ₂ O
C_p	(pitot tube calibration factor)	0.84
Y_d	(meter correction factor)	1.0045
A_s	(area of stack)	17.7222 ft ²
T_s	(average stack temperature)	251.72 °F
D_n	(nozzle diameter)	0.250 inches
A_n	(area of nozzle)	3.4088E-04 ft ²
Θ	(test time)	62.50 minutes
M_n	(weight of particulate collected)	22.00 milligrams
$V_{w(std)}$	(volume of water collected, standard)	7.973 scf
$V_{m(std)}$	(volume of gas metered, standard)	33.904 dscf
B_{ws}	(moisture content)	0.1904 vol/vol
%	Moisture	19.04 %
V_s	(velocity of stack gas)	55.1334 ft./sec.
Q_a	(actual flow of stack gas)	58,625.08 acfm
Q_s	(standard flow of stack gas)	29,452.62 dscf/min
% I	(percent isokinetic)	95.77 %
eg	(particulate grain loading)	0.0100 gr/dscf
et	(particulate emission rate)	2.53 lb/hr

SOURCE TEST RESULTS

CLIENT: DEBCO Construction
 SOURCE: AESCO/MADSEN 400 HMA
 DATE: 6/2/08 RUN NUMBER: 2

Calculated Using Total Particulate Catch

V_m	(volume metered)	40.095 cubic feet
T_m	(meter temperature)	66.06 deg. F
ΔH_{ave}	(average meter flow rate)	1.4200 inches H ₂ O
P_b	(barometric pressure)	25.00 in. Hg
P_s	(absolute stack gas pressure)	25.037 in. Hg
V_1	(volume of water collected)	169.50 ml
M_d	(dry molecular weight)	29.41 lb/lb-mole
M_s	(molecular weight of stack gas)	27.236 lb/lb-mole
$(\sqrt{\Delta P})_{ave}$	(average of ΔP square roots)	0.7515 inches H ₂ O
C_p	(pitot tube calibration factor)	0.84
Y_d	(meter correction factor)	1.0045
A_s	(area of stack)	17.7222 ft ²
T_s	(average stack temperature)	251.72 °F
D_n	(nozzle diameter)	0.250 inches
A_n	(area of nozzle)	3.4088E-04 ft ²
Θ	(test time)	62.50 minutes
M_n	(weight of particulate collected)	53.60 milligrams
$V_{w(std)}$	(volume of water collected, standard)	7.973 scf
$V_{m(std)}$	(volume of gas metered, standard)	33.904 dscf
B_{ws}	(moisture content)	0.1904 vol/vol
% Moisture		19.04 %
V_s	(velocity of stack gas)	55.1334 ft./sec.
Q_a	(actual flow of stack gas)	58,625.08 acfm
Q_s	(standard flow of stack gas)	29,452.62 dscf/min
% I	(percent isokinetic)	95.77 %
cg	(particulate grain loading)	0.0244 gr/dscf
ct	(particulate emission rate)	6.16 lb/hr

SOURCE TEST RESULTS

CLIENT: DEBCO Construction
 SOURCE: AESCO/MADSEN 400 HMA
 DATE: 6/2/08 RUN NUMBER: 3

Calculated Using Back-Half Particulate Catch

V_m	(volume metered)	42.550 cubic feet
T_m	(meter temperature)	66.48 deg. F
ΔH_{avg}	(average meter flow rate)	1.4880 inches H ₂ O
P_b	(barometric pressure)	25.00 in. Hg
P_s	(absolute stack gas pressure)	25.037 in. Hg
V_l	(volume of water collected)	218.50 ml
M_d	(dry molecular weight)	29.43 lb/lb-mole
M_s	(molecular weight of stack gas)	26.891 lb/lb-mole
$(\sqrt{\Delta P})_{avg}$	(average of ΔP square roots)	0.7800 inches H ₂ O
C_p	(pitot tube calibration factor)	0.84
Y_d	(meter correction factor)	1.0045
A_s	(area of stack)	17.7222 ft ²
T_s	(average stack temperature)	250.64 °F
D_n	(nozzle diameter)	0.250 inches
A_n	(area of nozzle)	3.4088E-04 ft ²
Θ	(test time)	62.50 minutes
M_n	(weight of particulate collected)	15.20 milligrams
$V_{w(std)}$	(volume of water collected, standard)	10.278 scf
$V_{m(std)}$	(volume of gas metered, standard)	35.959 dscf
B_{ws}	(moisture content)	0.2223 vol/vol
%	Moisture	22.23 %
V_s	(velocity of stack gas)	57.5469 ft./sec.
Q_a	(actual flow of stack gas)	61,191.43 acfm
Q_s	(standard flow of stack gas)	29,575.52 dscf/min
% I	(percent isokinetic)	101.16 %
cg	(particulate grain loading)	0.0065 gr/dscf
ct	(particulate emission rate)	1.65 lb/hr

SOURCE TEST RESULTS

CLIENT: DEBCO Construction
 SOURCE: AESCO/MADSEN 400 HMA
 DATE: 6/2/08 RUN NUMBER: 3

Calculated Using Front-Half Particulate Catch

V_m	(volume metered)	42.550 cubic feet
T_m	(meter temperature)	66.48 deg. F
ΔH_{ave}	(average meter flow rate)	1.4880 inches H ₂ O
P_b	(barometric pressure)	25.00 in. Hg
P_s	(absolute stack gas pressure)	25.037 in. Hg
V_l	(volume of water collected)	218.50 ml
M_d	(dry molecular weight)	29.43 lb/lb-mole
M_s	(molecular weight of stack gas)	26.891 lb/lb-mole
$(\sqrt{\Delta P})_{ave}$	(average of ΔP square roots)	0.7800 inches H ₂ O
C_p	(pitot tube calibration factor)	0.84
Y_d	(meter correction factor)	1.0045
A_s	(area of stack)	17.7222 ft ²
T_s	(average stack temperature)	250.64 °F
D_n	(nozzle diameter)	0.250 inches
A_n	(area of nozzle)	3.4088E-04 ft ²
Θ	(test time)	62.50 minutes
M_p	(weight of particulate collected)	37.10 milligrams
$V_{w(std)}$	(volume of water collected, standard)	10.278 scf
$V_{ra(std)}$	(volume of gas metered, standard)	35.959 dscf
B_{ws}	(moisture content)	0.2223 vol/vol
%	Moisture	22.23 %
V_s	(velocity of stack gas)	57.5469 ft./sec.
Q_a	(actual flow of stack gas)	61,191.43 acfm
Q_s	(standard flow of stack gas)	29,575.52 dscf/min
% I	(percent isokinetic)	101.16 %
cg	(particulate grain loading)	0.0159 gr/dscf
ct	(particulate emission rate)	4.04 lb/hr

SOURCE TEST RESULTS

CLIENT: DEBCO Construction
 SOURCE: AESCO/MADSEN 400 HMA
 DATE: 6/2/08 RUN NUMBER: 3

Calculated Using Total Particulate Catch

V_m	(volume metered)	42.550 cubic feet
T_m	(meter temperature)	66.48 deg. F
ΔH_{ave}	(average meter flow rate)	1.4880 inches H ₂ O
P_b	(barometric pressure)	25.00 in. Hg
P_s	(absolute stack gas pressure)	25.037 in. Hg
V_l	(volume of water collected)	218.50 ml
M_d	(dry molecular weight)	29.43 lb/lb-mole
M_s	(molecular weight of stack gas)	26.891 lb/lb-mole
$(\sqrt{\Delta P})_{ave}$	(average of ΔP square roots)	0.7800 inches H ₂ O
C_p	(pitot tube calibration factor)	0.84
Y_d	(meter correction factor)	1.0045
A_s	(area of stack)	17.7222 ft ²
T_s	(average stack temperature)	250.64 °F
D_n	(nozzle diameter)	0.250 inches
A_n	(area of nozzle)	3.4088E-04 ft ²
Θ	(test time)	62.50 minutes
M_n	(weight of particulate collected)	52.30 milligrams
$V_{w(std)}$	(volume of water collected, standard)	10.278 scf
$V_{m(std)}$	(volume of gas metered, standard)	35.959 dscf
B_{ws}	(moisture content)	0.2223 vol/vol
%	Moisture	22.23 %
V_s	(velocity of stack gas)	57.5469 ft./sec.
Q_a	(actual flow of stack gas)	61,191.43 acfm
Q_s	(standard flow of stack gas)	29,575.52 dscf/min
% I	(percent isokinetic)	101.16 %
cg	(particulate grain loading)	0.0224 gr/dscf
ct	(particulate emission rate)	5.69 lb/hr

CALCULATED RESULTSCLIENT: DEBCO ConstructionSOURCE: AESCO/MADSEN 400 HMADATE: 06/02/2008RUN NUMBER: 3Calculated Using Total Particulate CatchVOLUME OF WATER VAPOR COLLECTED (Standard):

$$V_{w(\text{std})} = (0.04707 \text{ ft}^3/\text{ml} @ 68^\circ\text{F}) (V_k) = (0.04704) (218.50) = \underline{10.278 \text{ scf}}$$

VOLUME OF GAS METERED (Standard):

$$V_{w(\text{std})} = \frac{(17.64 \text{ }^\circ\text{R} / \text{in. Hg}) (V_m) (P_b + (\Delta H_{\text{H}_2\text{O}} / 13.6)) (Y_d)}{(T_m + 460)} = \frac{(17.64) (42.550) (25.00 + (1.488 / 13.6)) (1.0045)}{(66.48 + 460)} = \underline{35.959 \text{ dscf}}$$

MOISTURE CONTENT:

$$\eta_{w_s} = \frac{V_{w(\text{std})}}{V_{w(\text{std})} + V_{v(\text{std})}} = \frac{10.278}{35.959 + 10.278} = \underline{0.2223 \text{ vol/vol}}$$

STACK GAS MOLECULAR WEIGHT:

$$M_s = M_d (1 - B_{w_s}) + 18 (B_{w_s}) = 29.43 (1 - 0.2223) + 18 (0.2223) = \underline{26.891 \text{ lb/lb-mole}}$$

ABSOLUTE STACK GAS PRESSURE:

$$P_s = P_b + (P_{\text{static}} / 13.6) = 25.00 + (0.50 / 13.6) = \underline{25.037 \text{ in. Hg}}$$

STACK GAS VELOCITY:

$$V_s = (85.49) (C_p) \sqrt{\frac{T_s + 460}{(M_s) (P_s)}} (\sqrt{\Delta P})_{\text{ave}} = (85.49) (0.84) \sqrt{\frac{250.64 + 460}{(26.891) (25.037)}} (0.7800) = \underline{57.5469 \text{ ft./sec.}}$$

ACTUAL STACK GAS VOLUMETRIC FLOW RATE:

$$Q_s = (60 \text{ sec./min.}) (A_p) (V_s) = (60) (17.7222) (57.5469) = \underline{61,191.43 \text{ acfm}}$$

STANDARD STACK GAS VOLUMETRIC FLOW RATE (Dry Standard Cubic Feet):

$$Q_s = \frac{(Q_s) (P_s) (17.64 \text{ }^\circ\text{R}/\text{in. Hg}) (1 - B_{w_s})}{T_s + 460} = \frac{(61191.43) (25.037) (17.64) (1 - 0.2223)}{250.64 + 460} = \underline{29,575.52 \text{ dscf/min}}$$

PERCENT ISOKINETIC:

$$\% I = \frac{(0.09450) (T_s + 460) (V_{w(\text{std})})}{(P_s) (V_s) (A_n) (\Theta) (1 - B_{w_s})} = \frac{(0.09450) (250.64 + 460) (35.959)}{(25.037) (57.5469) (3.4088E-04) (62.50) (1 - 0.2223)} = \underline{101.16 \text{ \%}}$$

PARTICULATE GRAIN LOADING:

$$cg = \frac{(0.01543 \text{ grains/milligram}) (M_p)}{V_{w(\text{std})}} = \frac{(0.01543) (52.30)}{(35.9586)} = \underline{0.0224 \text{ gr/dscf}}$$

EMISSION RATE:

$$er = \frac{(\text{gr/dscf}) (Q_s) (60 \text{ min./hr.})}{7000 \text{ grains/lb.}} * \frac{(0.0224) (29575.52) (60)}{7000} = \underline{5.69 \text{ lb/hr}}$$



Protest



Asphalt plants mix gravel and sand with crude oil derivatives to make the asphalt used to pave roads, highways, and parking lots across the U.S. These plants release millions of pounds of chemicals to the air during production each year, including many cancer-causing toxic air pollutants such as arsenic, benzene, formaldehyde, and cadmium. Other toxic chemicals are released into the air as the asphalt is loaded into trucks and hauled from the plant site, including volatile organic compounds, polycyclic aromatic hydrocarbons (PAHs), and very fine condensed particulates. [EPA]

The federal Environmental Protection Agency (EPA) states "Asphalt processing and asphalt roofing manufacturing facilities are major sources of hazardous air pollutants such as formaldehyde, hexane, phenol, polycyclic organic matter, and toluene. Exposure to these air toxics may cause cancer, central nervous system problems, liver damage, respiratory problems and skin irritation." [EPA]. According to one health agency, asphalt fumes contain substances known to cause cancer, can cause coughing, wheezing or shortness of breath, severe irritation of the skin, headaches, dizziness, and nausea. [NJDHSS] Animal studies show PAHs affect reproduction, cause birth defects and are harmful to the immune system. [NJDHSS] The US Department of Health and Human Services has determined that PAHs may be carcinogenic to humans. [DHHS]

The Blue Ridge Environmental Defense League (BREDL), a regional environmental organization, has done two studies on the adverse impacts on property values and health for residents living near asphalt plants. A property value study documented losses of up to 56% because of the presence of a nearby asphalt plant. In another study, nearly half of the residents reported negative impacts on their health from a new asphalt plant. The door-to-door health survey found 45% of residents living within a half mile of the plant reported a deterioration of their health, which began after the plant opened. The most frequent health problems cited were high blood pressure (18% of people surveyed), sinus problems (18%), headaches (14%), and shortness of breath (9%). [BREDL]

In addition to smokestack emissions, large amounts of harmful "fugitive emissions" are released as the asphalt is moved around in trucks and conveyor belts, and is stored in stockpiles. A small asphalt plant producing 100 thousand tons of asphalt a year may release up to 50 tons of toxic fugitive emissions into the air. [Dr. R. Nadkarni] Stagnant air and local weather patterns often increase the level of exposure to local communities. In fact, most asphalt plants are not even tested for toxic emissions. The amounts of these pollutants that are released from a facility are estimated by computers and mathematical formulas rather than by actual stack testing, estimates that experts agree do not accurately predict the amount of toxic fugitive emissions released and the risks they pose. According to Dr. Luanne Williams, a North Carolina state toxicologist, 40% of the toxins from asphalt plant smokestacks even meet air quality standards—and for the other 60% of these emissions, the state lacks sufficient data to determine safe levels.

There is documented evidence from health experts and federal and state regulators of the serious health effects of asphalt plant emissions. We must heed these early warning signs and take action to prevent communities from further exposure to cancer-causing substances released by asphalt plants. The following actions are needed:

on asphalt plant construction and operation in communities where people live and go to school;

and enforcement of air quality standards at asphalt plants; and

that address all toxic contaminants—including fugitive emissions.

Even if an asphalt plant meets all state and federal air pollution standards, people living nearby are still exposed to cancer-causing substances that can cause long-term damage. These standards are based on the principle of "acceptable risk", and assume each state will enforce the standards, the plants will operate perfectly, and the owners can be trusted to operate on an honor system where they are expected to follow all the laws and regulations that apply to their facility without any government oversight. In the majority of cases, it is unknown whether the 'theoretical' air emissions predicted by computer models and used by plant owners accurately reflect air emissions from a plant's daily operations. We must put safety first and shut down or overhaul the current system that fails to protect communities from the daily health hazards of asphalt plant pollution.

Federal regulations based on the "acceptable risk" model and self-regulating honor systems are inadequate to protect public health. Many states rely on inadequate federal standards that do not take into account local factors such as how close an industrial facility is to homes and schools, local weather patterns, and additional 'nuisance' factors such as the effect acid and nauseating smells have on the quality of life in these communities.

Organizations are working to improve federal and state standards and add asphalt plant fumes to the hazardous air pollutant (HAP) list under the federal Clean Air Act. Communities can take advantage of any state laws aimed at protecting local values that allow counties to determine where new industrial facilities will be located. These communities can band together to work with their county governments to prevent new asphalt plants from being located in their neighborhoods and prevent existing plants from renewing their permits until further evaluation of public health risks are conducted.

BE SAFE is coordinated by the Center for Health, Environment & Justice. To sign the platform or for more information, contact us at CHEJ, P.O. Box 6806, Falls Church, VA 22040, 703-237-2249, or 518-732-4538, or visit www.beasafenet.com

December 28, 2015

In 1996 a metal shredding operation was established on the subject property located at 6609 N Woodlawn. An operation like this required Heavy Industrial zoning plus a conditional use permit, neither of which existed. The subject property is surrounded on all sides by Rural Residential zoning.

The operation created considerable truck traffic on Woodlawn and considerable noise and dust. Which ever neighbors were downwind on a particular day were the primary recipients of said dust and noise.

The effect on surrounding property values was very definite. Trying to sell a residence within a mile of this would not have gone well. One adjoining property owners property was re-evaluated by the Sedgwick County Appraisers office and detirmined to be worth \$49,000 less in one year because of the shredding operation.

After a year of court hearings and investigations by various authorities, the Sedgwick County Board of Zoning Appeals upheld the ruling of the Sedgwick County Zoning Administrator that a Heavy Industrial business did not belong in this Rural Residential neighborhood. The operation was moved to a Heavy Industrial area.

The surrounding neighbors of the subject property (including seven families that have lived here eighteen years or more) ask that the requested conditional use permit to allow a Heavy Industrial business to operate in a Rural Residential neighborhood, not be granted.

Thank you

We the undersigned, residents of the Kechi vicinity, here by object to the rezoning of the proposed property located on Woodlawn St. north of highway 254 for the purpose of a asphalt and concrete plant. We find the noise, orders, and dust generated by such a plant to not be well suited to the requested area.

Name

Address

- 1. Jane C. Matson
- 2. Richard Roach
- 3. [Signature]
- 4. [Signature]
- 5. Maria Jackie Clune
- 6. _____
- 7. _____
- 8. _____
- 9. _____
- 10. _____
- 11. _____
- 12. _____
- 13. _____
- 14. _____
- 15. _____
- 16. _____
- 17. _____
- 18. _____
- 19. _____
- 20. _____
- 21. _____

- 7101 E. 69th St. N
- 7213 E 69TH ST. N.
- 4710 E 69th ST N
- 6544 N Woodlawn St
- 1020 E 69th N.

We the undersigned, residents of the Kechi vicinity, here by object to the rezoning of the proposed property located on Woodlawn St. north of highway 254 for the purpose of a asphalt and concrete plant. We find the noise, odors, and dust generated by such a plant to not be well suited to the requested area.

Name	Address
1. <i>[Signature]</i>	6921 N. Woodlawn St. Kechi
2. <i>[Signature]</i>	6921 N Woodlawn St Kechi
3. <i>Tim McGinness</i>	6700 E 69 th St N, VALLEY CENTER
4. <i>Linda J. McGinness</i>	6700 E. 69 th St. N, Valley Center
5. <i>Jeff V. Mulla</i>	6800 E. 69 th St. N. Valley Center
6. <i>Jana Mulla</i>	6800 E 69 th St N. Valley Center Ks 67147
7. -----	-----
8. -----	-----
9. -----	-----
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20. -----	-----
21. -----	-----

We the undersigned, residents of the Kechi vicinity, here by object to the rezoning of the proposed property located on Woodlawn St. north of highway 254 for the purpose of a asphalt and concrete plant. We find the noise, orders, and dust generated by such a plant to not be well suited to the requested area.

Name	Address
1. <i>Dr. Joel Helms</i>	<i>5700 East 69th N</i>
2. <i>SUSU Adams</i>	<i>5700 E. 69th St N.</i>
3. <i>Steven C Lee</i>	<i>5300 E. 69th N</i>
4. <i>Cheryl A. Lee</i>	<i>5300 E. 69th St. North</i>
5. <i>Matthew P. Fager</i>	<i>111 N. Prairie Creek Dr</i>
6. <i>Janice Fager</i>	<i>111 N Prairie Creek Drive</i>
7. <i>Mindy Herberts</i>	<i>121 N. Prairie Creek Drive</i>
8. <i>Allen Haber</i>	<i>121 N. Prairie Creek Drive</i>
9. <i>[Signature]</i>	<i>431 Creek Trail</i>
10. <i>[Signature]</i>	<i>441 N Creek Trail</i>
11. <i>[Signature]</i>	<i>451 N Creek Trail</i>
12. <i>Russel Cantrell</i>	<i>461 N Creek trail st</i>
13. <i>Nick-ly Cantrell</i>	<i>461 N Creek Trail St</i>
14. _____	_____
15. _____	_____
16. _____	_____
17. _____	_____
18. _____	_____
19. _____	_____
20. _____	_____
21. _____	_____

Frank Dungan - 316-992-5954

We the undersigned, residents of the Kechi vicinity, here by object to the rezoning of the proposed property located on Woodlawn St. north of highway 254 for the purpose of a asphalt and concrete plant. We find the noise, orders, and dust generated by such a plant to not be well suited to the requested area.

Name	Address
1. Frank Jungue	6522 N. WOODLAWN
2. Patrick Matson	7101 E. 69TH N.
3. Gerald Seibel	6401 N Woodlawn
4. Gereta Seibel	6401 N Woodlawn
5. Julia Seibel	6401 N Woodlawn
6. Jessica Seibel	6401 N Woodlawn
7. Ben Blythe	6811 N. Woodlawn St.
8. Debra Dungan	6522 N Woodlawn
9. Ryan Dungan	
10. Joe Chin	6301 N. Woodlawn
11. Jared Wilson	6301 N. Woodlawn
12. Dona Cook	6325 N Woodlawn
13.	
14.	
15.	
16.	
17.	
18.	
19.	
20.	
21.	

From: Jill Miller <jillannmiller@live.com>
Sent: Sunday, January 10, 2016 2:13 PM
To: Crockett, Maryann
Subject: Case CON2015-00037

I was surprised to find out at a recent trip to Leekers that an asphalt plant may move to the kechi area. I am thankful that Mr. Leeker took it upon himself to let the public know what is going on. So many families are in this area. I have a daughter that is highly allergic to many things and fights with asthma from many common irritants. I can keep her from cigarette fumes, but only moving out of the area can keep her from asphalt fumes. Such a quiet, family friendly area will change. Is there not another place to put one? I do understand the reasons they are needed, but this just doesn't seem to be the place for it. I, for one, may not be able to make a difference, but my family can choose to leave this area as soon as we can.

Jill Miller
Resident, Park City

Sent from my Windows Phone

Longnecker, William

From: Longnecker, William
Sent: Tuesday, January 12, 2016 10:45 AM
To: 'Carol Enix'; dave.unruh@sedgwick.gov
Cc: Crockett, Maryann
Subject: RE: Zoning Case on North Woodlawn CON2015-00037
Attachments: CON2015-37 mapc.doc

Carol we have received your protest and will place it in the case file...it will be presented as an attachment to the Kechi & MAPC...I've attached the Staff report that will be used at the Kechi & MAPC meeting..>Kechi is tonight at 6 & PM , Kechi City hall
Bill Longnecker

From: Carol Enix [mailto:bcenix@comcast.net]
Sent: Monday, January 11, 2016 9:00 AM
To: Longnecker, William <WLongnecker@wichita.gov>; dave.unruh@sedgwick.gov
Subject: Zoning Case on North Woodlawn CON2015-00037

I am writing to weigh-in and make my concerns known about the County Conditional Use request for an Asphalt plant in a limited industrial zoned property near Kechi KS. REF: CON2015-0037. I am an adjoining land owner with 126 acres that fronts 69th St and has an east border that runs along the railroad right away south to the half section line. I purchased the property to farm, hunt, and on which to eventually build a home. I anticipate building my home there within the next three to five years.

I am concerned that my property will lose much of it's value and enjoyment with something as big as an Asphalt Plant going in. I believe the size, noise, smell, and traffic caused by such a Plant will significantly harm my property and the ability to use it as I intended.

In addition, I have the right to shoot guns on the property and I often do, including high powered rifles. I do not want this right effected by concerns raised by an employer or a group of employees hearing these shots and wanting them restricted in anyway.

Lastly, I am very concerned that although it is intended that the heavy trucks and employee traffic should not be off Woodlawn they will, in fact, take alternate routes from time to time; without proper enforcement, 69th street and Woodlawn going north will receive significant additional wear and tear and further evaluate my property and way of life.

I am writing to ask that you do NOT approve the request based on the above concerns.

Thank you for your consideration.

My contact information is:

Byron Enix
3405 W Crystal Beech St
Wichita KS 67204
316-295-6007

City of Kechi
January 12, 2016

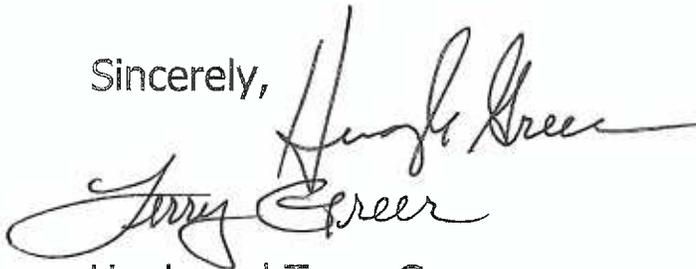
To whom it may concern,

We want to formally OBJECT to the proposed Flint Hills Materials asphalt plant. The following are just a few reasons the proposed asphalt plant in Kechi is objectionable:

1. It is too close to existing housing developments. Property values will plummet.
2. NO ONE will build a new house anywhere near the proposed plant.
3. NO ONE will move to Kechi with an asphalt plant nearby.
4. Why would anyone intentionally agree to subject themselves to more air and odor pollution?
5. Why spoil Kechi's reputation as being a sleepy, friendly bedroom community?

Don't let "big ideas" get in the way of common sense. We like things the way they are.

Sincerely,

The image shows two handwritten signatures in cursive. The top signature is 'Hugh Greer' and the bottom signature is 'Terry Greer'. Both are written in black ink.

Hugh and Terry Greer
6140 N. Hillside
Kechi residents

ADD

DATE: January 12, 2016

PAGE ONE OF TWO PAGES

TO: City of Kechi Kansas Planning Commission

Chairman Dan Clark

Vice Chairman Richard Wolfe

RE: Meeting January 12, 2016 - Kechi City Hall

RE: Asphalt Plant on N. Woodlawn Ave. Consideration
for proposed, potential construction.

FROM: Ronald L. Partridge and wife Christine L. Partridge

Address: 411 E. Arapaho St - Kechi, KS. 67067

Phone: Cell - Christine 316.648.5553

Attachment: PDF Copy from Website: chej.or/.../Be%20Safe/about-precaution/documents/asphalt_plants.pdf (151KB)
4 (FOUR) pages attached.

NOTE: We are unable to attend this meeting in person due to earlier
commitment. We would like to voice our opinion in this manner.

First of all, why have we, as the residents of Sedgwick County and City of Kechi, not heard of this proposed asphalt plant construction? We, Ronald and Christine, just learned of the proposal on January 11th, last night. We feel more people would make their opinions known to you tonight, if they knew the proposal. Perhaps the Kechi Commission should hold another meeting, after announcing the reason for your meeting. We understand the Kechi Commission needs to make a decision before the Sedgwick Co. meeting on January 21st at 1:30pm.

We, Ron and Christine Partridge, residents of Sedgwick County and city of Kechi, residents for over seven years, do hereby go on record to object to the construction of an asphalt plant on property on Woodlawn Ave., north of 61st street, on the west side of Woodlawn Ave. We own property and house in Prairie Creek subdivision of Kechi, KS. which is south west of above property, in the same section mile, and in close proximity to the proposed asphalt plant.

I, Christine L. Partridge, have medical documentation stating I am allergic/sensitive to hydrocarbons, formaldehyde, and phenol. I have systemic lupus disease, sinus and cardiac disease. I object to having these contaminants deliberately put into the air from proposed asphalt plant, in extreme proximately to my house in Sedgwick County, City of Kechi. I believe the EPA statements in attached documents, show that such an asphalt plant would discharge toxic fumes and could lead to causing more health deterioration for me.

I, Ronald L. Partridge, have medical documentation stating I have severe cardiac and pulmonary disease and am allergic/sensitive to above known toxins. I also am in complete agreement with statement(s) by my wife Christine, above.

We believe the construction of above asphalt plant could lead to lowering of our property value of owned property/house, at 411 E. Arapaho St. Kechi, KS. Prairie Creek.

ADD TO PROTEST

1

Here are some questions for the Commission to consider before you make a decision.

- 1 - is the proposed plant for HOT MIX ASPAHT?
is the proposed plant a batch plant?
is the proposed plant a drum mix plant?
- 2 - Has the Kechi Commission spoke to or contacted Mr. David Butler?
If not, why not? He is the Air Compliance person at the So. Central Office
of the Environmental Division. Is there someone else in Sedgwick Co.
that you should get any advice on this decision from? Who?
- 3 - What hours would the proposed plant operate at? 24 hours a day?
- 4 - What are the proposed plant owners/operators plans for:
 1. Storage Piles
 2. Fuel tanks
 3. Heaters
 4. Haul roads
 5. Left-over waste.
5. Who will do the storage inspections? How often? Report it to who?
Who will label their waste products? How often? Report it to who?

Signed: Ronald L. Partridge Ronald L Partridge Date 01-12-16
Signed: Christine L. Partridge Christine L Partridge Date 01-12-16

CC to Ronald and Christine Partridge

ATTACHMENT: Four (4) page PDF entitled "ASPHALT PLANT POLLUTION"
FOR YOUR CONSIDERATION IN YOUR DECISION, PLEASE READ.

Thank you very much. We appreciate your willingness to serve us.

CC: Richard Wolf , Vice Chairman

ASPHALT PLANT POLLUTION



Asphalt plants mix gravel and sand with crude oil derivatives to make the asphalt used to pave roads, highways, and parking lots across the U.S. These plants release millions of pounds of chemicals to the air during production each year, including many cancer-causing toxic air pollutants such as arsenic, benzene, formaldehyde, and cadmium. Other toxic chemicals are released into the air as the asphalt is loaded into trucks and hauled from the plant site, including volatile organic compounds, polycyclic aromatic hydrocarbons (PAHs), and very fine condensed particulates. [EPA]

■ **Asphalt Fumes are Known Toxins.** The federal Environmental Protection Agency (EPA) states “Asphalt processing and asphalt roofing manufacturing facilities are major sources of hazardous air pollutants such as formaldehyde, hexane, phenol, polycyclic organic matter, and toluene. Exposure to these air toxics may cause cancer, central nervous system problems, liver damage, respiratory problems and skin irritation.” [EPA]. According to one health agency, asphalt fumes contain substances known to cause cancer, can cause coughing, wheezing or shortness of breath, severe irritation of the skin, headaches, dizziness, and nausea. [NJDHSS] Animal studies show PAHs affect reproduction, cause birth defects and are harmful to the immune system. [NJDHSS] The US Department of Health and Human Services has determined that PAHs may be carcinogenic to humans. [DHHS]

■ **Health Impacts & Loss of Property Value.** The Blue Ridge Environmental Defense League (BREDL), a regional environmental organization, has done two studies on the adverse impacts on property values and health for residents living near asphalt plants. A property value study documented losses of up to 56% because of the presence of a nearby asphalt plant. In another study, nearly half of the residents reported negative impacts on their health from a new asphalt plant. The door-to-door health survey found 45% of residents living within a half mile of the plant reported a deterioration of their health, which began after the plant opened. The most frequent health problems cited were high blood pressure (18% of people surveyed), sinus problems (18%), headaches (14%), and shortness of breath (9%). [BREDL]

■ **Flawed Tests Underestimate Health Risks.** In addition to smokestack emissions, large amounts of harmful “fugitive emissions” are released as the asphalt is moved around in trucks and conveyor belts, and is stored in stockpiles. A small asphalt plant producing 100 thousand tons of asphalt a year may release up to 50 tons of toxic fugitive emissions into the air. [Dr. R. Nadkarni] Stagnant air and local weather patterns often increase the level of exposure to local communities. In fact, most asphalt plants are not even tested for toxic emissions. The amounts of these pollutants that are released from a facility are estimated by computers and mathematical formulas rather than by actual stack testing, estimates that experts agree do not accurately predict the amount of toxic fugitive emissions released and the risks they pose. According to Dr. Luanne Williams, a North Carolina state toxicologist, 40% of the toxins from asphalt plant smokestacks even meet air quality standards—and for the other 60% of these emissions, the state lacks sufficient data to determine safe levels.

**BE SAFE: Take Precautionary Action to Protect
Our Communities from Asphalt Plant Air Pollution**

BE SAFE's FOUR PRINCIPLES

1. HEED EARLY WARNING SIGNS

There is documented evidence from health experts and federal and state regulators of the serious health effects of asphalt plant emissions. We must heed these early warning signs and take action to prevent communities from further exposure to cancer-causing substances released by asphalt plants. The following actions are needed:

Moratoriums on asphalt plant construction and operation in communities where people live and go to school;

Stricter testing and enforcement of air quality standards at asphalt plants; and

Improved air standards that address all toxic contaminants—including fugitive emissions.

2. PUT SAFETY FIRST

Even if an asphalt plant meets all state and federal air pollution standards, people living nearby are still exposed to cancer-causing substances that can cause long-term damage. These standards are based on the principle of "acceptable risk", and assume each state will enforce the standards, the plants will operate perfectly, and the owners can be trusted to operate on an honor system where they are expected to follow all the laws and regulations that apply to their facility without any government oversight. In the majority of cases, it is unknown whether the 'theoretical' air emissions predicted by computer models and used by plant owners accurately reflect air emissions from a plant's daily operations. We must put safety first and shut down or overhaul the current system that fails to protect communities from the daily health hazards of asphalt plant pollution.

3. EXERCISE DEMOCRACY

Federal regulations based on the "acceptable risk" model and self-regulating honor systems are inadequate to protect public health. Many states rely on inadequate federal standards that do not take into account local factors such as how close an industrial facility is to homes and schools, local weather patterns, and additional 'nuisance' factors such as the effect acrid and nauseating smells have on the quality of life in these communities.

Organizations are working to improve federal and state standards and add asphalt plant fumes to the hazardous air pollutant (HAP) list under the federal Clean Air Act. Communities can take advantage of any state laws aimed at protecting local values that allow counties to determine where new industrial facilities will be located. These communities can band together to work with their county governments to prevent new asphalt plants from being located in their neighborhoods and prevent existing plants from renewing their permits until further evaluation of public health risks are conducted.

BE SAFE is coordinated by the Center for Health, Environment & Justice. To sign the platform or for more information, contact us at CHEJ, P.O. Box 6806, Falls Church, VA 22040, 703-237-2249, or 518-732-4538, or visit www.besafenet.com

4. CHOOSE THE SAFEST SOLUTIONS

Communities faced with an asphalt plant proposal should push for setbacks from residences and community buildings, site specific health-based air pollution modeling and monitoring, enclosures for loading zones, and preferably a zero emissions asphalt plant, with total containment of air pollutants.

■ Investigate Pollution in Your Area.

To find out more about asphalt plant pollution in your area, go to www.scorecard.org

■ Join the Clean Air Campaign.

Support the campaign on asphalt plant pollution. To find out more, contact the Blue Ridge Environmental Defense League at www.bredl.org.

■ BE SAFE.

Take precautionary action to prevent asphalt plant pollution. Sign on to the BE SAFE Platform on the next page. Be counted when we deliver this national Platform to the White House in 2005. Endorse the BE SAFE Platform today at www.besafenet.com.

■ Your Vote Counts.

The next election will set the country's course on asphalt plant regulations. For information on environmental voting records, contact www.sierraclub.org and www.lcv.org. To register to vote, contact www.earthday.net

Clean Air Campaign Halts Asphalt Pollution & Improves Air Policies

"Nothing could have prepared us for the horrors of that plant; we cannot be outside when it operates, we are prisoners."

Jerry Starr, Macon County, NC

Blue Ridge Environmental Defense League (BREDL) has been leading a Clean Air Campaign to reduce toxic pollution from asphalt plants in North Carolina. In partnership with many community groups, BREDL defeated numerous asphalt plant proposals, spearheaded a trend of countywide moratoriums on asphalt plant construction and operation, and mounted plant permit challenges. The campaigns included radio ads, posted yard signs, newspaper display ads, and stories in local newspapers.

BREDL and the Clean Air Campaign have succeeded in reducing asphalt pollution and improving air quality policies. North Carolina and Tennessee signed an agreement to protect air quality in the Great Smoky Mountain National Park and other wilderness areas. North Carolina has improved methods to analyze fugitive toxic air emissions and expanded the Toxic Air Pollutant program to include all operating and proposed asphalt plants.

References:

US EPA Office of Air Quality Planning & Standards, AP-42, Fifth Edition, Volume I, Chapter 11: Mineral Products Industry, [EPA] <http://www.epa.gov/ttn/chieff/ap42/ch11/final/c11s01.pdf>. Final Rule to Reduce Toxic Air Emissions From Asphalt Processing & Asphalt Roofing Manufacturing Facilities, Environmental Protection Agency, June 2000 [EPA]. Hazardous Substance Fact Sheet, Asphalt Fumes. New Jersey Department of Health and Senior Services, January 2001 [NJDHSS]. Agency for Toxic Substances and Disease Registry (ATSDR). 1995. Toxicological Profile for Polycyclic Aromatic Hydrocarbons (PAHs). Atlanta, GA: U.S. Department of Health and Human Services, Public Health Service [DHHS]. Blue Ridge Environmental Defense League Asphalt Health Survey, [BREDL]. Dr. R. Nadkarni developed mass balance equation to estimate total fugitive emissions and his comments to Virginia Dept. of Environmental Quality are at www.bredl.org/pdf/DEQ072503.pdf. [Dr. R. Nadkarni].

Primary Contributor: Lou Zeller, Blue Ridge Environmental Defense League.

BE SAFE Platform

In the 21st century, we envision a world in which our food, water and air are clean, and our children grow up healthy and thrive. Everyone needs a protected, safe community and workplace, and natural environment to enjoy. We can make this world vision a reality. The tools we bring to this work are prevention, safety, responsibility and democracy.

Our goal is to prevent pollution and environmental destruction before it happens. We support this precautionary approach because it is preventive medicine for our environment and health. It makes sense to:

- *Prevent pollution and make polluters, not taxpayers, pay and assume responsibility for the damage they cause;*
- *Protect our children from chemical and radioactive exposures to avoid illness and suffering;*
- *Promote use of safe, renewable, non-toxic technologies;*
- *Provide a natural environment we can all enjoy with clean air, swimmable, fishable water and stewardship for our national forests.*

We choose a “better safe than sorry” approach motivated by caution and prevention. We endorse the common-sense approach outlined in the BE SAFE’s four principles listed below.

Platform Principles

HEED EARLY WARNINGS

Government and industry have a duty to prevent harm, when there is credible evidence that harm is occurring or is likely to occur—even when the exact nature and full magnitude of harm is not yet proven.

PUT SAFETY FIRST

Industry and government have a responsibility to thoroughly study the potential for harm from a new chemical or technology before it is used—rather than assume it is harmless until proven otherwise. We need to ensure it is safe now, or we will be sorry later. Research on impacts to workers and the public needs to be confirmed by independent third parties.

EXERCISE DEMOCRACY

Precautionary decisions place the highest priority on protecting health and the environment, and help develop cleaner technologies and industries with effective safeguards and enforcement. Government and industry decisions should be based on meaningful citizen input and mutual respect (the golden rule), with the highest regard for those whose health may be affected and for our irreplaceable natural resources—not for those with financial interests. Uncompromised science should inform public policy.

CHOOSE THE SAFEST SOLUTION

Decision-making by government, industry and individuals must include an evaluation of alternatives, and the choice of the safest, technically feasible solutions. We support innovation and promotion of technologies and solutions that create a healthy environment and economy, and protect our natural resources.

**Take precautionary action to prevent asphalt plant pollution.
Sign onto the BE SAFE Platform.**

Be counted when we deliver this national platform to the White House in 2005.

Endorse the platform today at www.besafenet.com

BE SAFE is coordinated by the Center for Health, Environment & Justice. To sign the platform or for more information, contact us at CHEJ, P.O. Box 6806, Falls Church, VA 22040, 703-237-2249, or 518-732-4538, or visit www.besafenet.com



Theresa Morlan

From: Debbie Harp <harphome@hotmail.com>
Sent: Tuesday, January 12, 2016 4:30 PM
To: Theresa Morlan
Subject: Re: Kechi Planning Commission meeting

I am opposed to this plant. I read that there should be no concern for odors. I do not see how that can be avoided. I do not want to step outside and smell fumes from this company. This would be of great concern when I want to sell my home. I am concerned about the value going down. Also, the increase of traffic of large trucks is a huge draw back.

I love living in Kechi. Please keep our city and surrounding area free of an asphalt company.

Please do not allow this to move forward.

Sent from my iPhone

On Jan 12, 2016, at 1:37 PM, Theresa Morlan <TMorlan@kechiks.com> wrote:

Debbie,

Attached is the documents that pertain to the Conditional Use Request for the asphalt plant.

Theresa Morlan

Deputy City Clerk

<image001.png>

City Of Kechi

PO Box 88

Kechi KS 67067

(316)744-9287

<CON2015-00037 Condition Use Information Packet Flint Hills Materials 2015-12.pdf>

<CON2015-00037 MAPC hearing deferred date.pdf>

<CON2015-00037 mapc.doc>

<CON2015-00037 Sh 1_0 Site Plan - ALT-Model (002).pdf>

ADD

Theresa Morlan

From: William Bakker <wrb1744@yahoo.com>
Sent: Tuesday, January 12, 2016 7:37 AM
To: Theresa Morlan
Subject: Re: Kechi Planning Commission Asphalt Plant public hearing

Theresa:

Thanks for sending along this information.

Unfortunately I won't be able to attend the commission meeting this evening, but please pass along my opinion. I don't think this type of use is a positive addition for Kechi, the close proximity to residential property (right across the street), the heavy truck traffic, the environmental impact, and the uses conflict to the 2040 plan all make this an undesirable asset.

One of the main reasons I purchased a home in Kechi was quite residential lifestyle, heavy industrial uses directly conflict with that.

Thanks,
Will Bakker

On Monday, January 11, 2016 12:48 PM, Theresa Morlan <TMorlan@kechiks.com> wrote:

Attached are the documents and materials that will be considered at the public hearing on Tuesday Jan. 12 Kechi Planning Commission meeting.

Theresa Morlan
Deputy City Clerk



City Of Kechi
PO Box 88
Kechi KS 67067
(316)744-9287

ADD

Theresa Morlan

From: Benita Coffman <dcoffman4@cox.net>
Sent: Tuesday, January 12, 2016 10:27 AM
To: council Opat; Council Member McConnaughay; Council Member Adams; Margaret McCormick; rwolf7@cox.net; Theresa Morlan
Subject: Asphalt plant

We live in the Northwoods area and recently a fellow Kechi resident came to our door with a handout explaining the proposed asphalt plant in the Caster Excavation location on Woodlawn. She spoke with my husband and suggested that folks should attend the meeting for more information and to voice concerns. Unfortunately, we are both unable to attend the city planning commission meeting this evening. Our initial response to the information is one of disapproval of the asphalt plant. It seems like at the very least property values might suffer, as well as air quality and noise pollution.

Thank you for the time you put in to making Kechi a great place to live. We trust your leadership and feel like you've made good decisions for our wonderful little city, and will continue to do so.

Benita and DeWayne Coffman

ADD

Important

An Asphalt Plant is being planned for East Kechi.
This will adversely affect Kechi residences.

Let your voice be heard:

- Boop, LLC and Kent Miller Engineering has applied for a conditional use permit for the installation of an asphalt plant to be located on the former Caster Excavation property located ½ mile north of highway 254 on Woodlawn, on the east border of Kechi (at the radio tower near the railroad tracks).
- This plant will create strong objectionable odors, toxic pollutants, and noise in our area.
- This permit will be considered at the next meeting of the Kechi Planning Commission – January 12th at 7:00 pm.
- This permit will be considered before the Sedgwick County - Metropolitan Area Planning Commission (MAPC) on: January 21st 1:30 PM.
- Please attend if possible or let our commissions know that an asphalt plant this close to the city is not acceptable.

ADD TO PROTEST

Frank Dungan 316-253-0292

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

A large GC zoned drainage easement abuts the north side of the site. The current improvements to Kellogg/US-54 will remove the north, adjacent GC zoned western clothing store. GC zoned undeveloped land and what appears to be unimproved parking abut the west side of the site. GC zoned Nissan and Mazda car sales lots are located further west. Six SF-5 zoned single-family residences (built 1954 and early 1970s) are located east, across Trig Street, of the site, as is a GC zoned single-family residence (built 1954) and undeveloped GC zoned land. A GC zoned Green Lantern car wash, undeveloped GC zoned land, a LC Limited Commercial (LC) zoned small commercial strip building, and SF-5 zoned cleared lots and two single-family residences are located a short block east of the site, along the east side of Greenwich Road. The noted SF-5 zoned single-family residences in area are the remnants of 18 single-family lots that were platted in the East Kellogg Addition, which was recorded December 23, 1953.

The closest LI zoned properties to the site are located east of the site, across Greenwich Road., approximately 740 feet east of the site. The LI zoned properties have covenant COV-6 and community plan CUP DP-196 overlays, which have provisions for uses, screening, outdoor storage, signs, lighting, building height, landscaping, etc.

CASE HISTORY: The site is undeveloped and based on historical aerials appears to have been undeveloped since the 1970s.

ADJACENT ZONING AND LAND USE:

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

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

CONFORMANCE TO PLANS/POLICIES: The “2035 Wichita Growth Concept Map” of the Comprehensive Plan identifies the general location as appropriate for “new employment” development. This category encompasses areas likely to be developed or re-developed by 2035

with uses that constitute centers or concentrations of employment primarily in manufacturing, warehousing, distribution, construction, research, technology, business services, or corporate offices. Major shopping centers and office parks are likely to be developed as well, based on market driven factors. Higher density housing and convenience centers are also development possibilities. In areas of existing industrial uses associated with extraction, processing or refinement of natural resources or recycling of waste materials like will be developed.

The purpose of the LI zoning district is to accommodate moderate intensity manufacturing, industrial, commercial and complementary land uses. The requested LI zoning district can be compatible with the new employment classification

RECOMMENDATION: Applying provisions of a protective overlay to the request for LI zoning will allow the applicants the opportunity for commercial development on the site as well as eliminating some of the industrial uses permitted by right that are out of character with the existing development in the area, most which has occurred since 2000 and has been anchored by the big box stores Wal-Mart and Lowes. Based upon information available prior to the public hearings, planning staff recommends that the proposed conditional use be APPROVED, subject to platting within a year and the following provisions of a protective overlay:

- 1) The following uses are prohibited: correctional facility, correctional placement residence, nightclub in the city, pawn shop, private and public recycling collection stations, recycling processing center, reverse vending machine, rodeo in the city, sexually oriented business, tattooing and body piercing facility, tavern or drinking establishment, asphalt or concrete plant, vehicle storage yard, landfill, mining or quarrying, oil and gas drilling, rock crushing, solid waste incinerator, transfer station, wrecking/salvage yard.
- 2) Trig Street will be paved per the City's industrial standards, at the applicant's expense, from the site's entrances to Kellogg/US-54. No vehicular traffic generated from the site will use Trig Street from the site's south-most entrance to Gilbert Street. No vehicular traffic on Greenwich Road going to the site will use Gilbert Street and then Trig Street to get to the site.
- 3) An 8-foot wall will be built along the site's east side, its Trig Street frontage and along its south side where the site abuts I-35. A landscaped berm that equals the wall can be used. All loading, docking areas, and trash receptacles shall be screened from ground level view and along I-35 as approved by the Planning Director.
- 4) All roof top mechanical equipment shall be screened from ground level view per the UZC.
- 5) Landscaping will be per the City of Wichita's Landscape Ordinance, including landscaping along its south side where the site abuts I-35.
- 6) Signage shall be as permitted in the GC zoning district with the following standards. One building sign along I-35. No free standing signs along I-35. One 20-foot tall, 250-square foot free standing monument sign along Kellogg/US-54. Portable and off site signs, including billboards are not permitted. Back lit canopies and neon or fluorescent tube lighting on buildings is not permitted.
- 7) A 35-foot setback along the site's east side. No pole lights allowed in the 35-foot setback.
- 8) All exterior lighting shall be shielding to direct light downward. Pole lights, including

- the base shall be no taller 15 feet.
- 9) Compatibility height standards shall be apply.
 - 10) All utilities shall be underground.

This recommendation is based on the following findings:

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

The purpose of the LI zoning district is to accommodate moderate intensity manufacturing, industrial, commercial and complementary land uses. The requested LI zoning district can be compatible with the new employment classification.

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

STAFF REPORT

DAB III: February 3, 2016

MAPC: January 21, 2016

CASE NUMBER: CON2015-00039

OWNER/APPLICANT: Gordon Norris and Hanh Norris

AGENT: Ruggles & Bohm, c/o Will Clevenger

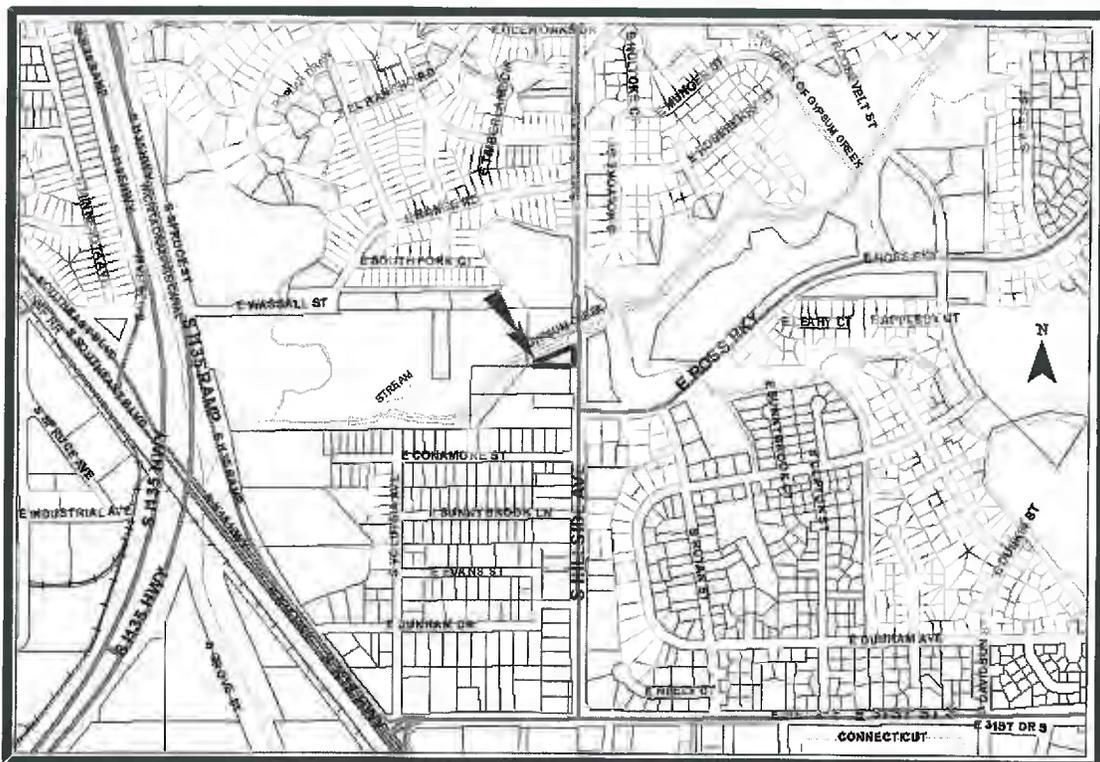
REQUEST: Conditional Use for Outdoor Vehicle Sales

CURRENT ZONING: LC Limited Commercial

SITE SIZE: 0.45 acre

LOCATION: Northwest of the intersection of South Hillside Avenue and East Ross Parkway (2817 S. Hillside.)

PROPOSED USE: Outdoor Vehicle Sales



BACKGROUND: The applicant is requesting a Conditional Use to allow outdoor vehicle and equipment sales on property currently zoned LC Limited Commercial (“LC”). The site is located north and west of the intersection of South Hillside Avenue and East Ross Parkway. The subject site is developed with a limited vehicle repair operation and vehicle sales. The applicant proposes to retain the site’s limited vehicle repair shop, which is permitted by right, and continue to sell pre-owned vehicles. Per the Unified Zoning Code (UZC), outdoor vehicle and equipment sales may be permitted with a Conditional Use in the LC zoning district.

The applicant’s site plan shows the existing limited vehicle repair operation structure, one existing drive onto South Hillside and the parking/display area. If approved, the applicant needs to provide a revised site plan giving more detail including any proposed light poles, identification of vehicle display area and customer/employee parking. The UZC will require two parking spaces for the first 10,000-square feet of lot area used for sales, display or storage purposes, plus one parking space for each 10,000-square feet of lot area used for sales, display or storage purposes thereafter.

Property north and west of the site is zoned LC and SF-5, respectively, and contains Gypsum Creek. Property south of the site is zoned LC and is developed with a charitable service/social assistance use (Lord’s Diner). Property east of the site is zoned LC and is developed with a nursing facility.

CASE HISTORY: The site is currently unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Gypsum Creek
SOUTH:	LC	Charitable Service/Social Assistance
EAST:	LC	Nursing Facility
WEST:	SF-5	Gypsum Creek

PUBLIC SERVICES: The subject property has access to South Hillside Avenue, a four-lane arterial at this location. Municipal water and sewer services and all other utilities are currently provided to the subject property.

CONFORMANCE TO PLANS/POLICIES: The 2035 Wichita Future Growth Concept Map of the Community Investments Plan identifies this site as appropriate for industrial types of uses. This identification encompasses areas that reflect the full diversity of industrial development intensities and types typically found in a large urban municipality.

The Locational Guidelines of the Community Investment Plan indicates that primary outdoor sales uses should be located along highway corridors or in areas where the uses have already been established and support expansion of existing uses to adjacent areas.

The use is existing and the present location and design abides by the Future Land Policies for Design (1e) with the creek running to the north and west of the site providing an appropriate buffer to the nearest low-density residential uses and the remaining uses surrounding the site already commercial or industrial in nature.

RECOMMENDATION: This site has housed a vehicle repair use, with some vehicle sales, for years with no apparent impact on surrounding properties. The property immediately south of the site is zoned LC, therefore the UZC does not require solid screening along the south property line. The building placement on the south side of the application area screens most of the site from the south. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within one year and the following conditions:

- 1) Obtain all permits and inspection as required by the Metropolitan Area Building and Construction Department. All development will be per City Code including landscaping, code compliance and any other applicable standards.
- 2) In addition to uses permitted by right in the “LC” Limited Commercial district, the site is permitted “vehicle and equipment sales, outdoor” as long as the sale of vehicles is associated with a legal vehicle repair use. The sale or rental of trailers and vehicles or trucks larger than pickups is not permitted.
- 3) No body or fender work shall be permitted without first obtaining “GC” General Commercial zoning.
- 4) The applicant shall submit a revised site plan for review and approval by the Planning Director, prior to the issuance of a building permit, per City Standards, within one year of approval by the MAPC or the City Council. The site will be developed according to the revised site plan.
- 5) The applicant shall install and maintain landscaping in accordance with the landscape plan submitted with the revised site plan, within one year of approval by the MAPC or the City Council. The landscaping plan will be submitted for review by the Planning Director, and approval of the landscape plan shall be obtained prior to the issuance of any permits. The applicant will remove any asphalt needed to come into compliance with the Landscape Ordinance and to ensure that development does not encroach into right-of-way.
- 6) A parking barrier, such as bumper blocks or a pipe railing, shall be installed along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public right-of-way.
- 7) No temporary display signs are permitted, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons.
- 8) There shall be no use of elevated platforms for the display of vehicles. All vehicles for sale or for repair must be on a concrete, asphalt or an approved all weather surface.
- 9) No outdoor amplification system shall be permitted.

- 10) No outside storage of salvaged vehicles or vehicles waiting for repair shall be permitted in association with this use. Outside storage of parts, including tires, associated with the car repair, limited, operation shall be within a 6-foot solid screened area.
- 11) The lighting standards of Section IV-B.4 of the Unified Zoning Code shall be complied with. No string-type lighting shall be permitted.
- 12) All trash receptacles, oil containers or any similar type of receptacles for new or used petroleum products or trash shall have solid 6-foot screening around it. The gate shall be of similar materials as the screening.
- 13) All improvements shall be completed within one year of the approval of the Conditional Use by the MAPC or the City Council. No selling of cars shall be allowed until all permits have been acquired and all improvements to the site have been made.
- 14) The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- 15) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

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

1. **The zoning, uses and character of the neighborhood:** Property north and west of the site is zoned LC and SF-5, respectively, and contains Gypsum Creek. Property south of the site is zoned LC and is developed with a charitable service/social assistance use (Lord's Diner). Property east of the site is zoned LC and is developed with a nursing facility.
2. **The suitability of the subject property for the uses to which it has been restricted:** The property is zoned LC. The property is suitable for the commercial uses to which it has been restricted, including its current use as vehicle repair, limited.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Vehicle sales on a site this size when developed with the Conditional Use, will have a minimum negative effect on the area and at best improve the property, with the application of access control, landscaping, screening and the other conditions on the site.
4. **Conformance of the requested change to adopted or recognized Plans/Policies:** The 2035 Wichita Future Growth Concept Map of the Community Investments Plan identifies this site as appropriate for industrial types of uses. This identification encompasses areas that reflect the full diversity of industrial development intensities and types typically

found in a large urban municipality. The Locational Guidelines of the Community Investment Plan indicates that primary outdoor sales uses should be located along highway corridors or in areas where the uses have already been established and support expansion of existing uses to adjacent areas. The use is existing and the present location and design abides by the Future Land Policies for Design (1e) with the creek running to the north and west of the site providing an appropriate buffer to the nearest low-density residential uses and the remaining uses surrounding the site already commercial or industrial in nature.

5. **Impact on Community Facilities:** All public facilities are available and existing road facilities are adequate.

SITE PLAN

CONDITIONAL USE TO ALLOW VEHICLE AND EQUIPMENT SALES



APPLICANT

Gordon Junior Norris and Hanh Thi Norris Joint Revocable Living Trust
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 Derby, KS 67037-9724
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AGENT

Ruggles & Bohm, P.A., (Will Clevenger)
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 (316) 264-8008 wclevenger@rbkansas.com

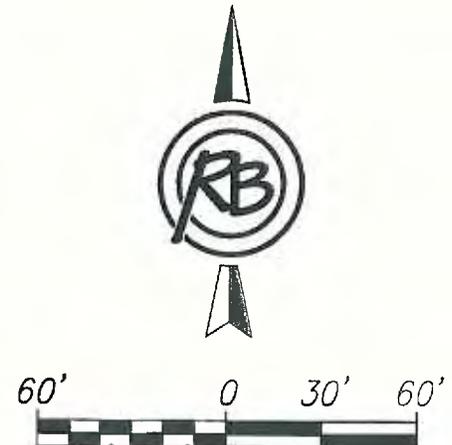
LEGAL DESCRIPTION OF ENTIRE PARCEL

Beginning at a point 185 feet south of the Northeast corner of the Southeast corner of Section 3, Township 28 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas; thence West, 342 feet; thence South, 185 feet; thence East, 342 feet; thence North to the point of beginning, EXCEPT the east 40 feet thereof for street, AND EXCEPT that part condemned in District Court Case B-1306.

LEGAL DESCRIPTION OF PROPOSED CONDITIONAL USE AND LC ZONING

The East 299 feet of the following described parcel, Beginning at a point 185 feet south of the Northeast corner of the Southeast corner of Section 3, Township 28 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas; thence West, 342 feet; thence South, 185 feet; thence East, 342 feet; thence North to the point of beginning, EXCEPT the east 40 feet thereof for street, AND EXCEPT that part condemned in District Court Case B-1306.

DWG FILE: SITE PLAN
 PROJECT NO. 4667Z



Agenda
Metropolitan Area Planning Commission Workshop
January 21, 2016

1. Review what notices are sent to surrounding property owners for various kinds of cases (D. Miller)
2. How were access control guidelines decided? (Brian Coon)
 1. When were they adopted and last reviewed. (B. Coon)
 2. What dictates the number of curb cuts. (B. Coon)
 3. Current standards seem to be based solely on distance with no consideration of traffic volumes except in rare instances. (B. Coon)
3. How to use the city website to find schedules, agendas etc. (Jim Schiffelbein)
4. How to use the County GIS website. (Jim Schiffelbein)
5. Review what kinds of cases go to the DABs. (Scott Knebel)
6. Review ex parte communications and how we can/cannot discuss cases with other members of the commission. (City/County Law)
7. Discuss what needs to be done to have live Internet access during the meetings.
 1. It seems really restricting not to be able to GIS, City website or Google maps with street view etc. (Jim Schiffelbein)
8. Discussion regarding appropriate time for Commissioners to ask questions versus making statements. (D. Miller)