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WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION AGENDA

Thursday, March 17, 2016

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission will be held on **Thursday, March 17, 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: February 4, 2016 and February 18, 2016

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

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

SUBDIVISION CASE DETAILS

- 2-1. **SUB2016-00004: One-Step Final Plat – NINNESCAH SUBDIVISION ADDITION**, located on the north side of West 13th Street North, West of North 279th Street West.

Committee Action: APPROVED 5-0-1 (D.Foster abstained)
Surveyor: Atwell, LLC
Acreage: 53.55
Total Lots: 1

- 2-2. **SUB2016-00010: One-Step Final Plat – TALLGRASS EAST COMMERCIAL 2ND ADDITION**, located on the north side of East 21st Street North, east of North Webb Road.

Committee Action: Approved 5-0
Surveyor: Professional Engineering Consultants, P.A.
Acreage: 9.835
Total Lots: 5

3. **PUBLIC HEARING – VACATION ITEMS**

ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 PM

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

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

- 3-1. **VAC2016-00005: City request to vacate a portion of platted complete access control on property**, generally located between 34th and 35th Streets North on the west side of Webb Road.

Committee Action: Approved 5-0

- 3-2. **VAC2016-00006: County request to vacate that portion of 93rd Street North public right-of-way**, located between Greenwich Road and 127th Street East.

Committee Action: Approved 5-0

PUBLIC HEARINGS

ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 PM

- 4. Case No.: ZON2016-00008
Request: City zone change request from B Multi-family Residential to LC Limited Commercial.
General Location: East of I-135, north of First Street, on the east side of Minnesota Street.
Presenting Planner: Bill Longnecker

- 5. Case No.: CON2016-00004
Request: County Conditional Use for mining or quarrying (sand extraction) on 82.7 acres in RR Rural Residential zoning.
General Location: South of West 61st Street North and west of Ridge Road.
Presenting Planner: Derrick Slocum

- 6. Case No.: PUD2016-00001
Request: City rezoning request for a Planned Unit Development (PUD) to allow GC General Commercial uses with restrictions and an offsite billboard sign.
General Location: North of E. Kellogg and 1/2 mile east of 143rd Street East.
Presenting Planner: Jess McNeely

- 7. Case No.: DER2016-00001
Request: Elimination of the requirement that platting be a condition of granting a zone change as specified in MAPC Policy No. 5
General Location: City and County-wide
Presenting Planner: Dale Miller

NON-PUBLIC HEARING ITEMS

- 8. Other Matters/Adjournment

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

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

MINUTES

February 4, 2016

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, February 4, 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; John McKay Jr. (Out @2:45 p.m.); Lowell Richardson; John Todd and Chuck Warren. Matt Goolsby; Joe Johnson; Debra Miller Stevens; and Bill Ramsey were absent. Staff members present were: Dale Miller, Director; 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. There were no minutes for approval

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 case was deferred indefinitely.

2-2. **SUB2016-00001: One-Step Final Plat – LIGHTHOUSE ADDITION**, located on the West side of Hoover Road, North of 21st Street North.

NOTE: This is an unplatted site located within the City of Wichita. The applicant requests a zone change (ZON2016-00001) from Single-Family Residential (SF-5) and Limited Commercial (LC) to Limited Industrial (LI).

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises the applicant needs to extend sewer to serve both lots (laterals). Water is available to both lots. In-lieu-of-assessment fees are due (transmission and distribution).
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) along with the corresponding dollar amounts shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the applicant's drainage plan.
- D. Traffic Engineering has approved the access controls. The plat proposes two access openings along Hoover.
- E. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.

- F. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted, installed and inspected.
- G. 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. Approval of this plat will require a waiver of the lot depth-to-width ratio of the Subdivision Regulations. The Subdivision Regulations state that the maximum depth of all non-residential lots shall not exceed three times the width. The Subdivision Committee recommends a modification of the design criteria in Article 7 of the Subdivision Regulations as it finds that the strict application of the design criteria will create an unwarranted hardship, the proposed modification is in harmony with the intended purpose of the Subdivision Regulations and the public safety and welfare will be protected.
- I. The total dimensions of the access controls should coincide with the lot frontage.
- J. Stormwater should be spelled as one word.
- 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 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).

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

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

2-3. SUB2016-00002: One-Step Final Plat – FONTANA 5TH ADDITION, located North of 29th Street North, on the east side of 119th Street West.

NOTE: This is a replat of a portion of the Fontana 4th Addition. The street right-of-way width of Judith has been reduced and the depths of lots adjoining reserves have been reduced.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises the applicant needs to extend water to serve all lots (transmission and distribution). The applicant needs to extend sewer to serve all lots (laterals). Special assessments will be recalculated on a square foot basis unless a Respread Agreement is filed with the Finance Department and approved by the Law Department.
- B. 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."
- C. The plattor's text shall include language that the drainage and utility easements are hereby granted as indicated for drainage purposes and for the construction and maintenance of all public utilities.
- D. On the final plat, the plattor's text shall note the dedication of the streets to and for the use of the public.

- E. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) along with the corresponding dollar amounts shall be submitted to the Planning Department for recording.
- F. City Stormwater Management has approved the applicant's drainage plan.
- G. Traffic Engineering has approved the street right-of-way. The 58-foot street right-of-way for Judith Street contains 15 single-family lots in Block 3 exceeding the 12-lot limit. The Subdivision Committee recommends a modification of the design criteria in Article 7 of the Subdivision Regulations as it finds that the strict application of the design criteria will create an unwarranted hardship, the proposed modification is in harmony with the intended purpose of the Subdivision Regulations and the public safety and welfare will be protected.
- H. The Applicant shall guarantee the paving of the proposed streets. In accordance with the Subdivision Regulations, the cul-de-sacs must meet the minimum 35-foot paved radius requirement. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- I. Since this is a replat of a previous Addition involved with the ownership and maintenance of reserves for that Addition, but not being replatted by this Addition, a restrictive covenant shall be provided which provides for this Addition to continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.
- J. 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.
- K. 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.
- L. GIS needs to verify the street name of "Westlakes Cir".
- M. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted, installed and inspected.
- N. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- O. The Applicant 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.

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

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

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

3. **PUBLIC HEARING – VACATION ITEMS**

- 3-1. **VAC2015-00063: City request to vacate a platted utility easement**, generally located west of 159th Street East, south of Central Avenue, on the east side of Timber Ridge Circle.

OWNER/APPLICANT/ Charles R Green Revocable Trust, c/o Charles R and Shelly R Green
(owner/applicant)

LEGAL DESCRIPTION: Generally described as vacating the west 9 feet of the platted 20-foot (x) 75.5-foot long drainage-utility easement running parallel to the east property line of Lot 12, excluding the north 5 feet, Woodlawn Place Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located west of 159th Street East, south of Central Avenue, on the east side of Timberridge Circle (WCC II)

REASON FOR REQUEST: Wanting to build a pool

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

The applicant is requesting the vacation of the west 9 feet of the platted 20-foot (x) 75.5-foot long drainage-utility easement running parallel to the east, rear property line of Lot 12, excluding the north 5 feet, Woodlawn Place Addition. Water is located in the Timberridge Circle right-of-way. Sewer is located in a platted 20-foot wide sewer easement running parallel to the west, front property line of the subject site. There appears to be no public utilities located in the subject utility easement. There is a platted 20-foot utility easement abutting the east, rear side of the site located on Lot 6, Block 1, Belle Terre Addition; there appears to be no public utilities located in this easement. The applicant has been given direction by Westar for construction of the pool; Westar has equipment in the east 10-feet of the subject easement. AT&T has equipment in the east 11 feet of the subject easement. The applicant has made an application for an administrative adjustment to reduce the SF-5 Single-Family Residential (SF-5) zoned site's 20-foot rear setback to 11 feet. The Woodlawn Place Addition was recorded July 23, 1996.

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 drainage-utility easement.

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 drainage-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 January 14, 2016, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by vacating the described portion of the drainage-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) As needed provide letters/comments 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.
- (2) 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.
- (3) Provide a drainage plan for review to Stormwater. The approved drainage plan must be confirmed by Stormwater to Planning prior to the request going to City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) As needed provide letters/comments 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.
- (2) 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.

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

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

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

PUBLIC HEARINGS

4. **Case No.: ZON2015-00052 (Deferred from 1-21-16)** - Paul D. & Virginia M. Treadwell; R. Brandon Wilson; H. Wayne & Glenda R. Foster and Robert & Jeanneane M. Hall (owners/applicants) and MKEC, c/o Brian Lindebak (agent) request a City a zone change from SF-5 Single-family Residential and GC General Commercial to LI Limited Industrial on property described as:

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

AND

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

BACKGROUND: The applicant is requesting LI Limited Industrial (LI) zoning on the 11.21-acre, unplatted SF-5 Single-Family Residential (SF-5) and GC General Commercial (GC) site. The site is located a block west of Greenwich Road, abuts the north side of I-35 on the northwest side of the Gilbert and Trig Streets intersection. 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.

BILL LONGNECKER, Planning Staff presented the Staff Report.

FOSTER recused himself from the item and left the bench.

He provided revised conditions (#'s 1-10) as a handout and reviewed each item.

RICHARDSON asked staff to define storage yard.

LONGNECKER said the definition is in the Unified Zoning Code (UZC). He clarified that storage yard allows for storage of recreational vehicles, boats, trailers or cars but all vehicles have to be operable. He said if the vehicles aren't operable it would be considered a wrecking and salvage yard.

RICHARDSON asked how no traffic on Gilbert would be enforced. He said anyone coming from the north or east will have to go all the way to Webb Road and come back on the frontage road in order to use Trig Street. He added or someone could come south on Greenwich Road and turn onto Gilbert.

LONGNECKER said a “no truck traffic” sign could be posted. He said traffic on Gilbert is a public safety issue as it is. He said other than posting a sign he was not sure what could be done.

RICHARDSON said if there is going to be industrial traffic, the street needs to be paved. He said you can't keep traffic off of Gilbert unless you block the street. He asked about the reference to the lots to the east remaining zoned single-family and asked if the property could be developed across from any of the lots that were rezoned.

LONGNECKER clarified that the intent was if “any” of the lots remain SF-5 Single-family zoning then the prohibition would apply.

RICHARDSON commented then he thinks the language needs to be changed.

LONGNECKER said staff could do that.

ELLISON asked staff to explain again how truck traffic off of Kellogg would get to the site.

LONGNECKER said the trucks could take the frontage road into Trig Street.

RICHARDSON said the frontage road will be one-way like it is all along Kellogg and reiterated that people will have to go clear to Webb Road and circle back.

LONGNECKER said he would check with Public Works because he was not sure of that. He said he did check with Public Works and it was his impression that drivers could use the frontage road and go down to Webb Road and turn around. He said access issues will be addressed at platting which was scheduled to be within four years.

RICHARDSON questioned giving the applicant four years to plat the property instead of the usual year.

LONGNECKER said the extended platting time is to see how traffic along Kellogg settles down after the improvements are made.

MCKAY clarified staff and Commissioner Richardson were talking about the same thing, going to Webb Road and coming back to Trig Street. He asked about fire protection, with only one way in and out of the area.

LONGNECKER said Public Works agreed that Trig Street would be the primary point of access. He said they were not keen about allowing truck traffic onto Gilbert due to the sight restrictions because of the overpass and railings. He said those issues will be sorted out at the platting phase.

BRIAN LINDEBAK, MKEC ENGINEERING, 411 NORTH WEBB ROAD, AGENT FOR THE OWNERS said they have worked with staff diligently to come up with a workable solution because there are some complicated issues on the site. He said the amended language will be beneficial to the single-family homes to the east of the site. In reference to the four year platting extension, he said although it is not a policy yet, there is a policy change coming through channels to change platting requirements to five years as opposed to one year. He said the highway is being developed and there is a lot of turmoil in the area as far as creating access issues. He said they do not know if the site will develop immediately and that is why they are asking for the platting extension. He said he would be happy to answer any questions.

MCKAY asked who owned the property to the north.

LINDEBAK said the City owns the ditch and the former Dandales Western Store location.

MCKAY asked about possible access from the frontage road via the northwest corner of the property to the north.

LINDEBAK stated he didn't know about access along the frontage road.

MCKAY commented that if the ownership was the same access to the property could be via the northwest corner and then they would not have to worry about issues along Trig Street.

LINDEBAK said that may be a plausible solution; however, it was his understanding that there would be no direct access to the frontage road from that location. He said Trig Street will have direct access to the frontage road.

DENNIS asked if construction has started on the site.

LINDEBAK said no construction has started but he understands there is an agreement for some soil to be placed on the property. He said the applicant intends to preserve the east side of the property as it is today.

DENNIS asked if he has seen the photos provided to the Commission.

LINDEBAK said no one has provided those photos to him. He said he has talked to the homeowner across the street to the east who he understands was not happy with the Kellogg expansion project prior to the new owners purchasing the property so they are probably not happy today either.

RICHARDSON said he was at the site yesterday and two big back hoes are working in there not 25 feet from Trig Street.

LINDEBAK commented that the back hoes are taking down some of the trees.

RICHARDSON asked didn't Lindebak just say the applicant was going to leave that area alone.

LINDEBAK reiterated that the applicant indicated they would leave the east edge of the property alone.

RICHARDSON asked how the applicant proposed to keep the industrial traffic on Trig Street and not Gilbert. He asked how they were going to enforce that.

LINDEBAK said the intent was to access the site from the north along Trig Street. He said Gilbert is a public road so he didn't know how they could keep traffic off of it. He said they do not know if they can do anything about that but he understands from conversations with staff that Gilbert is not the most ideal road to access onto Greenwich Road. He said the intent is not to use Gilbert.

RICHARDSON commented that the preference was not to use Gilbert but there is no way to enforce that.

WARREN commented that the City can post weight limit signage on Gilbert so traffic restrictions can be done, but not by the developer. He said the city can then fine anyone who violates the weight limit.

LINDEBAK commented that he understood that the Gilbert and Greenwich Road intersection is being improved as part of the Kellogg expansion project.

RICHARDSON clarified that it was the agent's understanding was that zoning on all the houses needs to be changed before any of the other uses kick in.

LINDEBAK responded that was right, they were trying to show some respect to the houses to the east of the location by not allowing certain uses such as signs beyond a certain capacity and adding a landscape buffer. He said they are trying to co-habitate with the neighbors.

KARMEN GIOUX, 640 SOUTH TRIG STREET said she has been in her home 20 years. She referred to pictures of the back hoes knocking down trees and said that started between 6:00 - 7:00 a.m. yesterday morning and they are still at it. In addition, she said there is an ugly plastic fence all along Trig Street, and there has been machinery in and out of the area all day long. She said all summer they dealt with heavy equipment and fully loaded semi-trucks with rock, gravel, etc. approximately four times an hour on their little one lane road. She said none of the neighbors want to see an ugly 8-foot concrete fence when they are used to looking at wildlife so there is no way that this proposal is improving the area. She said the only way out is on Gilbert and you have to pull out into the road because of visibility issues. She said pulling out on Trig Street trying to go north is very dangerous and mentioned numerous accidents and wrecks. She said the neighbors don't want this. She said if they are going to build something, take the whole street including their homes. She said they don't want to be stuck in a commercial bubble, with the turnpike on one side and 54 Highway on the other and all the riffraff that comes into an area with commercial development. She mentioned that crime has increased in the area because of the surrounding development. She said she is sure the applicant knows what they want to build there, but they are not informing the neighbors. She concluded by saying that the neighbors will protest the proposal.

WARREN asked the speaker since she was opposed to the proposed use, what kind of development would she like to see at the location?

GIOUX responded no development if she has to look out her window and see semi-trucks going by on a single lane road or look at an 8-foot ugly concrete wall.

ELLISION asked about development of an apartment complex at the site.

GIOUX asked why they would need industrial zoning to build an apartment complex. She said the property has been for sale for probably 40 plus years.

ELLISON commented that the speaker seems quite passionate about her stance and he is trying to understand where she is coming from. He added that it would also help him to understand what the applicant is trying to develop on the property.

CHAIR NEUGENT suggested Commissioner Ellison pursue that line of questioning with the appropriate people.

BRAIDEN FIENE, 556 SOUTH TRIG STREET said he has put quite a bit of work into his home. He said he has completely rebuilt and remodeled the house, added a shop and put almost \$50,000 into it. He asked how this would benefit him if the appraised value of his house goes down because of commercial property across the street. He asked why the property is being rezoned for LI. He said 90% of the traffic that comes through the neighborhood is not the nine people that live on the street. He added that the average speed is 40-45 miles per hour, which is very dangerous. He said Gilbert dies off at the stop sign into gravel on concrete that is hard to stop on. In addition he said you can't see south to turn onto Greenwich Road. He also mentioned how dangerous it was to try to turn left onto Kellogg. He said when traffic gets backed up, you can sit there for 15 minutes so that is also a major concern. He mentioned that when there is a lot of rain, the water comes up and over the top of Trig Street and onto the Dandales property. He added that outside storage also brings down the value of other properties in the area. He concluded by saying that safety is a big concern and as a homeowner, he would rather have a washboard road than pavement with the speed that people go down Trig Street now.

WARREN asked the speaker since he was opposed to what was being proposed, what kind of development he would like to see.

FIENE said he hasn't thought about it a whole lot, but he would just like to know what is going on. He said there are a lot of gray areas but he can't imagine the traffic if an apartment complex went in there. He said no one is going to want to live across the street.

RICHARDSON asked the speaker how he would feel about the idea of closing Gilbert and turning Trig Street into a cul-de-sac.

FIENE replied if Gilbert were closed, the house on the corner would have no access since they come out onto Gilbert.

LINDEBAK introduced **MIKE BRAND, PROPERTY OWNER** who is said might be able to give the Commission some vision about how the property could be developed. He said long-term development is unknown at this point in time. He said most of the concerns seem to be related to existing traffic

generated by the Kellogg project. He said drainage issues will be handled as part of the platting process as required. He said they will provide the required screening for any outdoor storage.

MIKE BRAND, 2709 NORTH WILDROSE said to clarify screening along Trig Street; they are not taking down any trees for 25 feet. He said they are scraping the balance of the lot to clean it up. He said they have no future plans and bought the ground under speculation. He said he has some things in his head but no future plans on the thing.

TODD asked why they were requesting LI instead of GC zoning.

BRAND said they didn't know if they would turn the area into an office park or apartments. He said he had no future plans at the present moment.

ELLISON asked about drainage on the property and possible flooding of Trig Street.

LINDEBAK reported that drainage on the property was to the north and east. He said one of the ideas discussed was the possibility of having a catch basin that would release the water at a metered rate. He mentioned that LI zoning does not allow for residential use and he wanted to make that clear. He said they do not feel residential development is a good long range plan. He said zoning is all GC to the north and with the nature of the Kellogg work the area will be redeveloped.

BRAND mentioned that the only building to the north of the area was the Dandales Western Store, he said the rest of buildings have been taken by the Kellogg project. He mentioned that Sherwood Construction is doing the work on the roadway and they have taken half of the parking lot at the former Dandales location. He also mentioned that the property to the west of them is under contract although it has not closed yet, so there will be a change there too.

LONGNECKER clarified that LI zoning does not allow residential uses.

WARREN asked staff about the possibility of turning Trig Street into a cul-de-sac or is the street too long.

BRIAN KOON, TRAFFIC ENGINEER, PUBLIC WORKS said it is a long street and could probably be a cul-de-sac if it had an appropriate turn around radius. He said it would need a larger turn-around radius in anticipation of the trucks that would be using it.

RICHARDSON clarified that the frontage road would be one way to the east.

KOON said that was correct.

There was considerable discussion concerning possible traffic solutions in the area including installation of a cul-de-sac on Trig Street; closing Gilbert; installation of a street on the west side of the application area; and access to the property from the north, etc.

MCKAY commented that there were a lot of unanswered questions and suggested that the application be deferred. He said because there are so many ifs, ands and buts about the street, he believes the item should be deferred to let the applicant/agent try to work something out. He asked if Trig Street was paved who would pay the special assessments; the other families who live on the street.

BRAND mentioned that they were hoping to build a street along the south end of the property. He said they would pay for the street and hoped the City would continue it to Gilbert so traffic could get away from the neighborhood.

MCKAY said that was a lot of speculation and if the applicant has a plan, he suggested they bring that back to the Commission for review.

LINDEBAK commented that a lot of the loose ends such as access, drainage, and access to utilities and water would be sorted out at the time of platting. He said the Planning Commission will see the item again.

KNEBEL suggested language changes to condition #3 to include "until Trig Street is paved or alternative access is provided". He said he does not believe the Commission is going to figure out how access is provided until the property is rezoned. He said he does not believe the applicant is going to go to the trouble of coming up with an access plan until the property is rezoned.

DENNIS asked if the item had been to the District Advisory Board (DAB) yet.

LONGNECKER said no, it was scheduled for the following Monday.

TODD commented that the overall scope of this corner is moving towards commercial use. He said he questions LI and thinks GC would be sufficient. He said he spoke with a realtor and was told that GC property is more valuable.

MOTION: To defer the request for 90 days.

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

CHAIR NEUGENT asked if Commissioner McKay had specific items he wanted to see worked out or a specific time to defer the item to. She said a specific date would be better.

LINDEBAK asked what specifically the Commission wants worked out; access to the site?

MCKAY said paving the south side of the property, paving Trig Street and responsibility for special assessments going to the neighbors to the east.

LINDEBAK commented that those items would be worked out at platting. He said the intent was that the applicant would pay to pave Trig Street to their drive. He said a lot of thing can change in the amount of time it takes to develop the property. He reminded the Commission that the zoning doesn't become effective until the property is platted.

RICHARDSON he said another reason to defer this is the Commissioners walk in the door and they are handed the revised conditions as though no one had time to work on this before today. He said his point was the Commission has not had chance to absorb this and he believes that is a bad policy.

The **MOTION** was **AMENDED** to defer the request for 90 days.

DENNIS requested that the Traffic Engineer provide something solid to make a decision on. He said he would also like to know exactly what the DAB has to say on this issue because he feels that is important input. He said as far as platting in four years, he said half of the Commissioners won't remember what they did here today. He said he supports the motion to defer this request 90 days.

DAILEY said he agreed with Commissioner Dennis and added that he would like to see access directly from the northwest corner out to Kellogg.

WARREN said a lot of the nitty gritty details will happen at the platting process, but some broad strokes about intentions and minimum agreements to address neighborhood concerns are needed. He said when you live across from an open field you would like to see that forever, but that just isn't reality because it will eventually be developed.

TODD said this was an opportunity to visit with the neighbors and said communication is the key.

CHAIR NEUGENT said she wanted to recognize the City Traffic Engineering who was literally pulled away from his desk to try and answer some very off the cuff inquiries. She said she also appreciated that staff is trying to move development requests through in a timely manner. She said this was one of those times she felt they were not ready to do this in a timely manner. She said she is in support of the motion to defer, but after what she has heard today, she will probably not support rezoning of the area to LI.

The **MOTION** to defer the request for 90 days carried (9-0-1). **FOSTER** – Abstained.

MCKAY (Out @2.45 p.m.)

5. **Case No.: ZON2015-00053** - Leonard Rau (owner) requests a City zone change from SF-5 Single-family Residential to TF-3 Two-family Residential on property described as:

The South half of lot 14 EXCEPT the West 498 feet AND EXCEPT the South 33 feet for street; R.A. Morris Tracts Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant requests TF-3 Two-Family Residential (TF-3) zoning on a 0.41-acre platted lot. The site has 132 feet of frontage along West 9th Street North with a single-family house built on the west half of the lot. The applicant intends to split the oversize lot to accommodate a duplex on the eastern half of the site. Both lots will meet Unified Zoning Code (UZC) minimum lot dimensions and sizes, see the attached site plan and lot split document submitted by the applicant.

The surrounding neighborhood is primarily zoned SF-5 Single-family Residential (SF-5) and developed with single-family residences. However, over a dozen pockets of TF-3 zoning exist within this neighborhood bordered by 13th Street North, Central Avenue, I-235 and Zoo Boulevard. North of the site on West Edminster Street are SF-5 zoned single-family residences. South of the site are SF-5 zoned single-family residences. East of the site are SF-5 zoned single-family residences; three blocks further east are TF-3 zoned duplexes on North Clara Street. West of the site are SF-5 zoned single-family residences, MF-29 Multi-family Residential (MF-29) zoned duplexes within the same block as the application area, and six TF-3 zoned duplexes one block to the west along North Hoover Street.

CASE HISTORY: The site was platted as a portion of Lot 14 of the R.A. Morris Tracts Addition in 1928.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family residences
SOUTH:	SF-5	Single-family residences
EAST:	SF-5, TF-3	Single-family residences, duplexes
WEST:	SF-5, TF-3, MF-29	Single-family residences, duplexes

PUBLIC SERVICES: West 9th Street North is a paved, two-lane local street at this location with a 75-foot right-of-way and sidewalks on both sides of the street. All public services are available to the site.

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

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

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The surrounding neighborhood is primarily zoned SF-5 and developed with single-family residences. A mixture of TF-3 and multi-family zoning exists within surrounding blocks. North of the site on West Edminster Street are SF-5 zoned single-family residences. South of the site are SF-5 zoned single-family residences. East of the site are SF-5 zoned single-family residences; three blocks further east are TF-3 zoned duplexes on North Clara Street. West of the site are SF-5 zoned single-family residences, MF-29 zoned duplexes within the same block as the application area, and six TF-3 zoned duplexes one block to the west along North Hoover 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 with a lot split could be developed with an additional single-family residence.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Impact on surrounding property due to the requested zone change should be minimal; duplexes and TF-3 zoning are common within the surrounding blocks. A duplex on the site could be better for the neighborhood than an underutilized lot.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the mature neighborhoods within an approximate three-mile radius of the downtown core. The Plan encourages infill development within the Established Central Area that maximizes public investment in existing and planned infrastructure and services. The Plan also encourages development of a variety of lot sizes and housing types within the Established Central Area. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential," encompassing areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality.
- (5) **Impact of the proposed development on community facilities:** All services are in place, any increased demand on community facilities can be handled by existing infrastructure.

BILL LONGNECKER, Planning Staff presented the Staff Report.

FOSTER asked how the encroachment of the property to the west into the 25-foot setback was going to be dealt with.

LONGNECKER referenced a lot split on the property, but said he was not sure if the encroachment was addressed when that was approved. He said he was presenting the application for another planner. He said that issue could be handled through an administrative adjustment to reduce the side yard setback by 20%.

FOSTER asked how many off street parking spaces were required for the proposed duplexes and if the garage counted as one space.

LONGNECKER said he believed the parking requirement was the same as single-family residential which was two spaces per unit. He asked other Planning staff to verify that.

KNEBEL verified that the requirement was one parking space per unit and added that the garage counted as one.

FOSTER mentioned that the Commission has approved these types of zonings in the past and when he has driven by the locations there is anywhere from 2-4 cars parked in the street.

RICHARDSON asked is there a reason why the entire lot is being rezoned instead of just Parcel B.

LONGNECKER indicated that was what the applicant requested. He said the location of the existing residence could be used for future development of another duplex.

LEONARD RAU, 5204 WEST 9TH STREET, PROPERTY OWNER/APPLICANT said this residence was one of the original homes in the area and that it was built before the street was put in. He said the new development will accommodate the 25-foot front setback.

MOTION: To approve subject to staff recommendation.

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

6. **Case No.: CON2015-00040** - Natalin Perez (owners/applicant) requests a City Conditional Use for Vehicle Sales in LC Limited Commercial zoning on property described as:

Lots 2, 4, 6, 8, 10 and 12, Block 1, Mc Intyre's Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant is requesting a Conditional Use to allow car and light truck sales on the LC Limited Commercial (LC) zoned site. Per the Unified Zoning Code (UZC, Sec.III-D.6.x), outdoor vehicle and equipment sales may be permitted after consideration and approval of a Conditional Use on a site by site basis in the LC zoning district. The site is located at the southwest corner of North Arkansas Avenue and West 22nd Street North. The 0.45-acre site has an approximately 2,900-square foot commercial building (built 1959, 1960) occupied by a liquor store. At the time this report was written two semi-trucks with trailers advertising a towing and recovery services were parked on the west side of the site, as was an inoperable small SUV. A van was parked in the grass strip located along the west side of the site.

The area is characterized by LC zoned small local commercial business and older single-family residences located along both sides of Arkansas Avenue. Single-family residential neighborhoods zoned TF-3 Two-Family Residential (TF-3) and SF-5 Single-Family Residential (SF-5) abut or are adjacent to the LC zoning along Arkansas. A LC zoned full service restaurant, El Paisa (built 1958, 2003), is located south of the site, separated by what appears to be unimproved parking. A LC zoned hair salon (built 1950) and an O'Reilly's auto parts store (built 1996) are located south of the restaurant, ending on the north side of West 21st Street North and North Arkansas Avenue. A LC zoned commercial building (built 1930) and LC zoned single-family residences (built 1920, 1930) are located east and southeast of the site, across Arkansas Avenue. A QuikTrip (built 1996) convenience store is located southeast of the site on the north side of West 21st Street North and North Arkansas Avenue. A LC zoned vacant Kentucky Fried Chicken (built 1956) restaurant and a car wash (built 2006) finish out development at the 21st Street – Arkansas Avenue intersection. A LC zoned single-family residence (built 1920) is located north of the site, across 22nd Street. A GC (one of a kind) and LC zoned commercial strip building (built 1958, 1970) and a LC zoned Post Office (built 1970) are located further north. A vacant LC zoned commercial building (built 1925), single-family residences (built 1920) and a church (built 1962) are located northeast, across Arkansas Avenue, from the site. TF-3 zoned single-family residences (built 1930) are located west of the site, across a dirt alley.

The nearest outdoor car sales lot appears to be located on the southeast corner of West 25th Street North and North Arkansas Avenue. This car sales lot used to be a gas station with a two-bay garage for service. There are several dealerships located over three-quarters of a mile southeast of the site on at the 16th Street North – Broadway Avenue intersection. One of these sales lots is associated with a Pawn Shop. The MAPC has recommended that buildings that had been used in the past for automobile activities, such as vehicle repair garages, be considered as possible sites for car sales. The site is currently occupied by a 2,786-square foot liquor store. The applicant's site plan shows 226-square feet of it converted to an office for the car sales.

The applicant's site plan that also shows eight parking spaces for the liquor store, three parking spaces for customers and employees, 10 spaces for the display of the cars for sales, two existing drives onto Arkansas Avenue, an existing drive onto 22nd Street, an existing (pole) sign, an existing parking barrier, a trash receptacle, a grass area, an existing chain link fence and sewer and gas utilities.

CASE HISTORY: The site is platted as Lots 2, 4, 6, 8, 10 and 12, Block 1, Mc Intyre's Addition, which was recorded with the Register of Deeds March 8, 1887. A conditional use for a car sales lot, CU-450, was approved by the MAPC, August 28, 1997. A condition of CU-450 was that the car sales lot would operate for 5-years, after which the property owner could re-apply for an extension of the conditional use. There is no record of a request to extend the operational time of CU-450. The site plan for CU-450 shows the building occupied by an existing liquor store and the proposed car sales office. The CU-450 site plan shows the existing liquor store being smaller than the proposed car sales office. The CU-450 site plan shows 20 display slots for cars as opposed to CON2015-00040's 10 display slots.

ADJACENT ZONING AND LAND USE:

NORTH: LC,GC	Single-family residence, small commercial strip building, post office
SOUTH: LC	Full service restaurant, hair salon, auto parts store, vacant fast food building
EAST: LC	Single-family residences, commercial building, vacant commercial building, convenience store, church
WEST: TF-3	Single-family residences

PUBLIC SERVICES: The subject property has access to Arkansas Avenue, a two-lane arterial street and 22nd Street, a paved two-lane local street. Municipal water and sewer services and all other utilities are currently provided to the subject property.

CONFORMANCE TO PLANS/POLICIES: The "2035 Wichita Growth Concept Map" of the Comprehensive Plan identifies the general location as appropriate for "residential" types of use. The site's LC zoning allows a diversity of residential development, but it also allows commercial uses. The site has been used for commercial uses since at least 1997, when CU-450 was applied for, and probably before then considering that (per the Appraisers Office information) the commercial building was built in 1959 and 1960. The UZC allows consideration of outdoor car sales on LC zoned lots as a conditional use on a site by site basis, which this site was approved for with a five-year sunset date beginning in 1997. There is no record of a request to extend the five-year sunset date.

The Locational Guidelines of the Comprehensive Plan recommend that outdoor sales uses should be located along highway corridors or in areas where the uses have been established. The Locational Guidelines also recommend that high intensity uses should be discouraged from locating in areas of existing lower intensity development. The area does not have an established pattern of outdoor sales uses and the development pattern of the area is pre-dominantly low intensity.

In the past the MAPC has identified smaller car sales lots as being more of a local commercial use in their nature, as opposed to the cluster of larger car sales lots located primarily along Kellogg Avenue, Broadway Avenue or more recently along arterial intersections located in the northeast and northwest parts of the City, all which are more regional in their draw. The nearest car sales lot located at 25th Street and Arkansas Avenue and the other nearest car lots, located around 16th Street North and Broadway Avenue, are more of a local commercial nature. Consideration of a conditional use to allow car sales on a site that is an active retail operation, such as the subject site, is not common. The applicant is not proposing to convert the liquor store (retail) site to a stand-alone car sales lot. The applicant's proposal is out of character for this area, even though the site was approved for a car sales lot for a five-year period, beginning in 1997 and ending in 2002.

The site is located on the north-most edge of the "21st Street North Corridor Plan (Plan)" in effect as of January 2005. The site is located within the Plan's "West Sub-Area." The Plan's 20-year preferred land use map shows the site being single-family residential, which fits with the 2035 Wichita Growth Concept Map's showing the site as residential. The Plan also shows the site as being just outside the "Half-Mile Neighborhood Commercial Core." The proposed conditional use for a car sales lot on the site is an expansion of commercial activity on the site, which does not match the 21st Street North Corridor Plan.

RECOMMENDATION: Development in the area appears to have remained close to what was in place since the 1997 approval of CU-450, with the newest development being the car wash (built 2006) at the 21st Street – Arkansas Avenue arterial intersection. The proposed conditional use for a car sales lot on the site is an expansion of commercial activity on the site, which does not match the 21st Street North Corridor Plan nor the 2035 Wichita Growth Concept Map, therefore based on the information available prior to the public hearing, MAPD staff recommends the application be **DENIED**, based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The area is characterized by LC zoned small local commercial business and older single-family residences located along both sides of Arkansas Avenue. Single-family residential neighborhoods zoned TF-3 and SF-5 abut or adjacent to the LC zoning along Arkansas. The area is predominantly single-family residential in character.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned LC, which allows many local oriented commercial businesses, office uses, and a diversity of residential uses by right. The site's existing liquor store, which the UZC considers a retail use, is permitted by right in the LC zoning district.

- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Approval of CON2015-00040 could encourage the application for more conditional use request for car sales on other properties on this section of Arkansas Avenue that are currently used for commercial/retail uses. The request is out of character with the current local commercial/retail activity, including the site's liquor store, a full service restaurant, small commercial strips, small office, and a hair salon. The most intense commercial activities are located on the 21st Street North and Arkansas Avenue arterial intersection, those being a convenience store and a car wash.
- (4) **Conformance of the requested change to adopted or recognized Plans/Policies:** The site is located on the north-most edge of the "21st Street North Corridor Plan (Plan)" in effect as of January 2005. The site is located within the Plan's "West Sub-Area." The Plan's 20-year preferred land use map shows the site being single-family residential, which fits with the 2035 Wichita Growth Concept Map's showing the site as residential. The Plan also shows the site as being just outside the "Half-Mile Neighborhood Commercial Core." The proposed conditional use for a car sales lot on the site is an expansion of commercial activity on the site, which does not match the 21st Street North Corridor Plan.
- a. The Locational Guidelines of the Comprehensive Plan recommend that outdoor sales uses should be located along highway corridors or in areas where the uses have been established. The Locational Guidelines also recommend that high intensity uses should be discouraged from locating in areas of existing lower intensity development. The area does not have an established pattern of outdoor sales uses and the development pattern of the area is pre-dominantly low intensity.
 - b. Consideration of a conditional use to allow car sales as on a site that is an active retail operation, such as the subject site, is not common. The applicant is not proposing to convert the liquor store (retail) site to a stand-alone car sales lot. The applicant's proposal is out of character for this area, even though the site was approved for a car sales lot for a five-year period, beginning in 1997 and ending in 2002.
- (5) **Impact on Community Facilities:** All public facilities are available. Existing road facilities are adequate.

However, if the MAPC considers the conditional use request for a car sales lot on this site appropriate, the following conditions are recommended, with the MAPC's findings:

1. The Conditional Use shall be limited to the sales of cars and pick-up (light) trucks. No sale or rental of trailers, boats, motorcycles/scooters, recreational vehicles or trucks larger than pick-ups are permitted. All conditions of the Unified Zoning Code, Section III-D.6.x, outdoor vehicle and equipment sales shall be in effect.
2. Because the site has no building for any automotive service or repair work, none shall be conducted on the site. No outside storage of salvaged vehicles or vehicles waiting for repair shall be permitted in association with this use. No outside storage of parts, including tires, oil containers or any similar type of receptacles for new or used petroleum products.

3. All improvements to the property must be finished before car sales is permitted. Those improvements include a six-eight foot wooden fence erected on the west property line of the site, landscaping, per the Landscape Ordinance, planted in the grass area on the west side of the site.
4. No display or parking allowed on the west grass area of the site.
5. The applicant shall submit a revised site plan for review and approval by the Planning Director, prior to the selling of any cars or light trucks, within 45 days of approval by the MAPC or the City Council. The site plan will include, but not be limited to, internal circulation that will remain open at all time to allow access and connection to the 22nd Street North and Arkansas Avenue driveways, a six-eight foot tall solid wooden fence along the east property line and landscaping. The site will be developed according to the revised site plan. No car sales will be allowed until the revised site plan is approved.
6. 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. All other signage will be per the "LC" zoning district.
7. There shall be no use of elevated platforms for the display of vehicles. All parking areas, areas where vehicles are displayed for sale must be on a concrete, asphalt or an approved all weather surface.
8. No outdoor amplification system shall be permitted.
9. The lighting standards of Section IV-B.4 of the Unified Zoning Code shall be complied with. No string-type lighting shall be permitted. Outside pole lighting shall be no taller than 14-feet, including the base, and directed onto the site and away from the residential development north and east of the site.
10. All trash receptacles shall have solid 6-foot screening around it. The gate shall be of similar materials as the screening.
11. No selling of cars and pick-up (light) trucks shall be allowed until all permits have been acquired and all improvements to the site have been made.
12. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
13. 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.

BILL LONGNECKER, Planning Staff presented the Staff Report.

He reported that DAB VI voted to deny the request 6-1 per staff recommendation.

FOSTER asked staff to describe how the 21st Street Corridor Plan impacts this area.

LONGNECKER reiterated that the 20 year land use map and 2035 Wichita Growth Plan shows this area as being appropriate for residential development. He added that it was located just one half mile outside the commercial core area. He said this is a more intensive use than what is permitted by right in this zoning which was the basis for staff's recommendation of denial. He said banks have applied for car sales; however, those are usually vehicles that they have financed. He said this is an unusual application in that there is another use at the site.

ELLISON asked where the business office was going to be located. He also asked for clarification regarding screening.

LONGNECKER said a 200 square foot office will be located on the southwest corner of the lot. He said solid screening will be required along the west per the UZC because of TF-3 zoning. He said the current site plan shows all vehicle display on the south side of the property, which abuts the restaurant. He added that the south side also has the "barriers" required on car lots.

TONY COPE, 2247 NORTH ARKANSAS said they are proposing a very low impact maybe 5-10 cars at the most, special order, internet based car dealership. He said they expect that the overall impact will be much less than what the liquor store creates for the neighborhood now. He explained that they will leasing part of the space from the liquor store owner who will also be a part owner of the car dealership. He gave a brief history of the site stating that there were two different properties with two different address. He said years ago this was a car dealership and a liquor store but in 2007 the properties flip-flopped and the liquor store enlarged and took the north half of the property. He said they would like to re-activate the car dealership portion of the property with a 200 square foot office area with facilities such as sewer, water and internet shared with the liquor store. He said with a 10 space area to park cars they do not don't expect a lot of foot traffic and that is not what their business model is. He mentioned the DAB meeting and said items that came up included the barrier fence and that the trash container be enclosed, which he said would be the responsibility of the building owner. He mentioned that the two trucks in the picture were purchased the day before and they have since been removed from the property.

DAILEY commented that he drove by the location on the way to this meeting and one of the tow trucks is still there. He asked who owns that truck.

COPE replied that the owner of the building owns the tow truck.

DAILEY also asked who owns the cars parked on the north side of the building. He said there were three cars parked on the site with prices on the windshields. He also asked about the van and pickup truck parked.

COPE commented that the vehicles on the north side of the building were just purchased from another dealership and ultimately they would like to have those for sale; however, right now there is no one to sell them. He added that currently they do not have a car dealer's license because that is contingent upon having a site for car sales. He said he does not know who owns the van and pickup truck. He suggested asking the property owner. He said once they lease the property for the car dealership, they will comply with all requirements.

DAILEY referred to item #13 under conditions and commented that if any violations occur after the applicant takes charge they can be shut down.

COPE said they understand that without a doubt.

ELLISON commented that this seemed like an odd place to have car sales.

COPE said they are not looking for high impact sales. He said these car sales will be by appointment, special order and internet. He said the business office will be open by appointment only and that it will be a part-time car sales situation. He said the owner of the building is sponsoring them by offering them a lower than normal price to lease the property on a monthly basis.

ELLISON clarified that there would be no car repair at the site.

COPE said there will be no car repair and that the vehicles will be "ready to go" cars. He said they have a verbal agreement with a shop on Broadway for clean-up and detail, oil changes, etc. and delivery of the vehicles. He added that there will be no tire changing or car washing on site.

DIRECTOR MILLER asked the applicant if they thought they could use the liquor store's sewer and water for the car sales office.

COPE commented that the bathroom is already there.

DIRECTOR MILLER clarified that the car sales office would not have a restroom or sewer. He advised the applicant that they needed to check with the water and sewer department to make sure a separate meter was not required for a separate business.

FOSTER asked for clarification on the west side of the site diagram which showed the grass area paved in the future. He asked if the applicant was comfortable if the application was limited to the 10 car location on the south. He said he is concerned that a future paved area might increase the number of vehicles on the lot.

COPE said the area used to be paved, but the current owner ripped out the black top and repaved the area and re-stuccoed the entire building. He said the reason they would like to pave that area is they would like to move the 10 cars from the south to that area on the north. He said that is assuming the business model survives and works. He said they don't plan on having any more than 10 cars at the site regardless of where they are located. He said they would accept a stipulation that they cannot exceed 10 cars. He added that the owner of the building was not willing to pave that area, so they would have to come up with the funds themselves.

DENNIS asked what was the status of the car dealership license.

COPE said they have started the paperwork, but they need an address and City approval prior to submitting the application for the dealer's license. He said the tax bond has been approved, but they have not purchased that either.

There was brief discussion concerning State requirements for a dealer's license.

MOTION: To deny the application subject to staff recommendation.

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

SUBSTITUTE MOTION: To approve the application subject to the alternate staff recommendation.

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

FOSTER said this was a tough one. He mentioned a 10 car limit and that it was just an expansion of the parking so he doesn't see a big concern. However, he said he was concerned about possible expansion to the west. He asked if substitute motion could include limiting the car sales to 10 vehicles.

The **SUBSTITUTE MOTION WAS AMENDED** to include a limit of 10 vehicles at the site.

DOOL said his concerns were based on staff's initial recommendation that the request was not consistent with the 21st Street Corridor development or future development plans for the area. He also mentioned that the owner of the property was not present so he couldn't support the request.

The **SUBSTITUTE MOTION** to approve the request failed (4-5). **DENNIS, DAILEY, DOOL, FOSTER** and **RICHARDSON** – No.

The **ORIGINAL MOTION** to deny the request carried (5-4). **ELLISON, NEUGENT, TODD** and **WARREN** – No.

NON-PUBLIC HEARING ITEMS

DIRECTOR MILLER mentioned the practice of staff putting written changes or amendments to Staff Report conditions and/or recommendations (handouts) on the table for Commission review the day of the Planning Commission Hearing. He said there have been comments made in the past and he understands the Commissioner's frustration. He asked is there some policy guidance the Commission would like to give staff such as that can only happen with minor changes; or, does the Commission want to address that issue on a case-by-case basis as they have been doing and defer anything they are not comfortable acting on.

CHAIR NEUGENT said her personal opinion is the way staff is handling that issue works because staff and the Commission are trying to get applications processed in a timely manner.

RICHARDSON said he disagreed with that and said the Commission needs at least a couple of days to review material if they take this job seriously. He said just walking in the door and being presented with a whole sheet of changes with everything else that is going on does not make any sense.

CHAIR NEUGENT responded that she does take this job seriously. She added that sometimes the Commission does not know all the issues until they have had a hearing and items are brought up that the Commission didn't necessarily know existed. She said that was just her opinion.

DENNIS said he agreed with both Commissioners Neugent and Richardson. He said he does not have a problem getting information the day of the hearing depending on the scope of the changes and said he thinks the Commission can deal with it on a case-by-case basis. He said he wants as much information as possible in order to make an informed decision.

DOOL said he looks at it two different ways. He said if staff is providing additional information presented or information that was overlooked that is one thing. He said if the applicant is providing additional information at the eleventh hour there should be some kind of a deadline.

DIRECTOR MILLER clarified that the consensus was to continue the process of providing additional information the day of the Planning Hearing and the Commission can decide on a case-by-case basis how they want to handle the case.

DIRECTOR MILLER commented that there has been ongoing discussion about the current policy of approving zoning changes subject to platting within one year. He said staff has been asked to create a new policy for Planning Commission review that would give commercial projects five years to plat, with an opportunity for an additional 5 year extension. He commented that the argument being presented is commercial property needs rooftops to be developed and sometimes that is not happening until three, four or sometimes five years down the road. He said when the property is platted, the developer loses the agricultural exemption and it costs more money for the developer. He said that policy change will be brought to the Commission for their consideration at a future date.

The Metropolitan Area Planning Commission adjourned at 3:38 p.m.

State of Kansas)
Sedgwick County) SS

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

Given under my hand and official seal this _____ day of _____, 2016.

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

(SEAL)

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

MINUTES

February 18, 2016

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

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

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

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

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

There were no Subdivision Cases.

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

3. **PUBLIC HEARING – VACATION ITEMS**

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

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

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

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

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

REASON FOR REQUEST: Building addition

CURRENT ZONING:

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

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

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

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

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

Conditions (but not limited to) associated with the request

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

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

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

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

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

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

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

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

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

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

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

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

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

REASON FOR REQUEST: Remove existing building encroachments

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

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

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

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

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

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

Conditions (but not limited to) associated with the request

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

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

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

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

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

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

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

PUBLIC HEARINGS

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

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

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

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

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

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

ADJACENT ZONING AND LAND USE:

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

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

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

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

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

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

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

This recommendation is based on the following findings:

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

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

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

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

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

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

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

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

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

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

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

SAVOY said yes they agreed.

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

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

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

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

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

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

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

ADJACENT ZONING AND LAND USE:

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

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

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

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

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

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

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

This recommendation is based on the following findings:

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

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

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

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

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

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

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

BILL LONGNECKER presented the Staff Report.

MOTION: To approve subject to staff recommendation.

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

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

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

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

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

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

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

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

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

ADJACENT ZONING AND LAND USE:

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

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

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

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

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

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

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

This recommendation is based on the following findings:

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

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

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

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

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

LONGNECKER indicated that would be a question for the applicant.

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

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

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

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

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

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

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

LONGNECKER said that would take another conditional use application.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

LONGNECKER replied no.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DAVE BARBER, Planning Staff presented the Staff Report.

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

BARBER replied not that Planning Staff is aware of.

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

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

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

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

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

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

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

MOTION: To allow the speaker an additional two minutes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

HUBERT commented that they would be pleased with that.

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

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

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

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

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

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

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

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

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

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

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

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

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

MOTION: To approve subject to staff recommendation.

RICHARDSON moved, **GOOLSBY** seconded the motion, and it failed (7-2).
DAILEY and **TODD** – No.

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

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

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

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

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

State of Kansas)
Sedgwick County) ss

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

Given under my hand and official seal this _____ day of _____, 2016.

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

(SEAL)

DRAFT

STAFF REPORT

CASE NUMBER: SUB2016-00004 – NINNESCAH SUBDIVISION ADDITION

OWNER/APPLICANT: Kevin R. and Krystal K. Klein, 2143 Sunrise Street, Wichita, KS 67235; Sylvester L. and Joan K. Stuhlsatz, 719 North 279th Street West, Garden Plain, KS 67050; (contract purchaser) Ninnescah Wind Energy, 700 Universe Boulevard, Juno Beach, Florida 33408

SURVEYOR: Atwell LLC, Attn: Paul W. Smith, 143 Union Boulevard, Suite700, Lakewood, Colorado 80228

AGENT: NextEra Energy Resources, Attn: Sam Massey, 700 Universe Boulevard, Juno Beach, Florida 33408

LOCATION: North side of West 13th Street North, West of North 279th Street West (County District III)

SITE SIZE: 53.55 acres

NUMBER OF LOTS

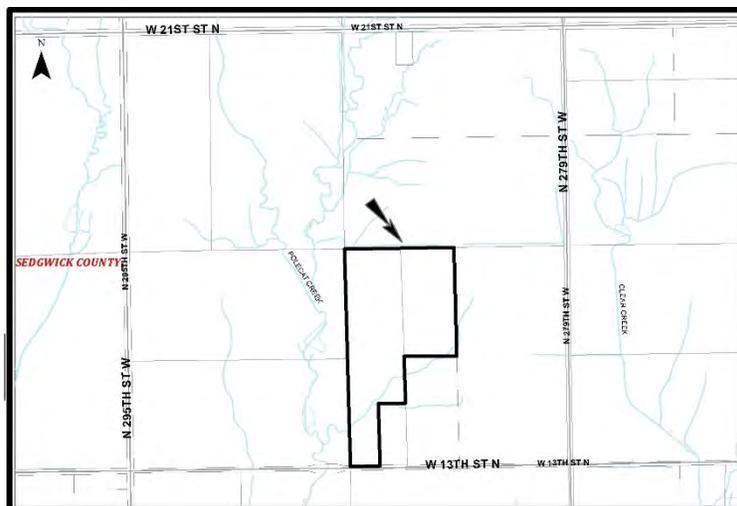
Residential:	1
Office:	
Commercial:	
Industrial:	
Total:	1

MINIMUM LOT AREA: 53.55 acres

CURRENT ZONING: Rural Residential (RR)

PROPOSED ZONING: Same

VICINITY MAP



SUB2016-00004 -- Plat of NINNESCAH SUBDIVISION ADDITION
March 17, 2016 - Page 2

NOTE: This unplatted property is located in the County and designated as “rural area” by the Community Investments Plan 2015-2035. The applicant has proposed a conditional use (CON-2016-00001) for a Major Utility.

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 has been obtained specifying approval. The applicant has informed staff that neither on-site sewerage facilities nor water wells will be needed to serve the site.
- B. Sedgwick County Public Works has approved the drainage plan. Earthwork disturbing more than one acre also requires a County Stormwater Permit.
- C. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.
- D. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- E. 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.)
- F. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- G. 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.
- H. 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.
- I. 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.
- J. Perimeter closure computations shall be submitted with the final plat tracing.

SUB2016-00004 -- Plat of NINNESCAH SUBDIVISION ADDITION
March 17, 2016 - Page 3

- K. Westar Energy Transmission Engineering advises of two easements, a KG&E original easement (150-feet) and the Prairie Wind Transmission which is a double circuit of two 345kV lines (150-feet) and Westar cannot permit anything inside that 300 feet. 345kV lines are the largest voltage in the system and hence can be most dangerous. It is very important that no permanent structures of any kind go anywhere inside that 300 feet.
- L. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- M. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

STAFF REPORT

CASE NUMBER: SUB2016-00010 – TALLGRASS EAST COMMERCIAL 2ND ADDITION

OWNER/APPLICANT: Slawson Investment Corporation, 727 North Waco, Wichita, KS 67203

SURVEYOR/AGENT: Professional Engineering Consultants, P.A., 303 South Topeka, Wichita, KS 67202

LOCATION: North side of East 21st Street North, East of North Webb Road (District II)

SITE SIZE: 9.84 acres

NUMBER OF LOTS

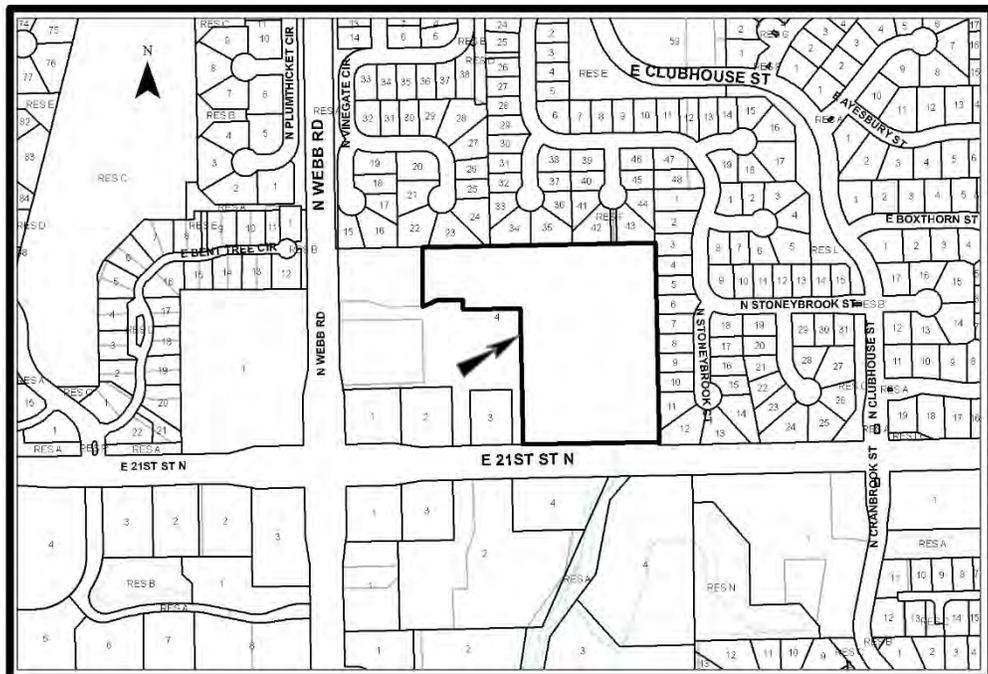
Residential:	
Office:	
Commercial:	5
Industrial:	—
Total:	5

MINIMUM LOT AREA: 30,928 square feet

CURRENT ZONING: Limited Commercial (LC)

PROPOSED ZONING: Same

VICINITY MAP



**SUB2016-00010 -- Plat of TALLGRASS EAST COMMERCIAL 2ND ADDITION
March 17, 2016 - Page 2**

NOTE: This is a replat of Tallgrass East Commercial Addition. The property is subject to the Tallgrass East Commercial CUP (DP-168).

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department requests the applicant extend sewer (laterals) and extend water (distribution). All water meters from tap to meter need to be in a utility easement. A utility plan and conceptual site plan is requested.
- B. The platlor'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."
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) along with the corresponding dollar amounts shall be submitted to the Planning Department for recording.
- D. City Stormwater Management has approved the drainage plan. The platlor's text shall state that no development can be issued a certificate of occupancy until the drainage system identified on the plat has started construction.
- E. Traffic Engineering has requested access controls along 21st Street North.
- F. A block number or letter shall be denoted on the face of the plat.
- G. City Fire Department advises the drive surface of the private drive needs to meet standard regulations for the Fire Department access road.
- H. A cross-lot circulation agreement is requested to assure internal vehicular movement between the lots.
- I. A restrictive covenant shall be submitted regarding Reserve A, platted for private drive purposes, which sets forth ownership and maintenance responsibilities of the private drive.
- J. Provisions shall be made for ownership and maintenance of the proposed reserves. A restrictive covenant shall be submitted regarding ownership and maintenance responsibilities.
- K. 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.
- L. The wall easement shall be referenced in the platlor's text.
- M. The surveyor's certificate shall reference "Tallgrass East Commercial Addition".
- N. In the title block "An Addition to Wichita, Sedgwick County" needs to be added.
- O. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.

SUB2016-00010 -- Plat of TALLGRASS EAST COMMERCIAL 2ND ADDITION
March 17, 2016 - Page 3

- P. The perimeters of the proposed lots shall match the perimeters of the CUP boundaries. A CUP adjustment will need to be approved.
- Q. 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.
- R. "Lots, a Block, Reserves" shall be referenced in the plat's text.
- S. A bold line is needed along the south line of Reserve A.
- T. The applicant has indicated that he is in the process of having the 20-foot Cooperative Refinery Association pipeline easement released. A recorded copy of the release of the easement shall be submitted.
- U. The applicant shall submit a copy of the Farmland pipeline easement instrument, which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the appropriate governing body.
- V. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.
- W. City Environmental Health Division (EHD) advises that any wells installed on the property for irrigation purposes will have to be properly permitted, installed and inspected. EHD notes that there are easements for several petroleum pipelines. EHD urges caution and the implementation of appropriate safety measures in the event of any planned excavations in the vicinity of these identified pipeline easements, especially during the extension of water and sewer services to these parcels.
- X. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- Y. 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.)
- Z. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- AA. 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.

SUB2016-00010 -- Plat of TALLGRASS EAST COMMERCIAL 2ND ADDITION
March 17, 2016 - Page 4

- BB. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- AA. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- BB. Perimeter closure computations shall be submitted with the final plat tracing.
- CC. Westar Energy requests additional easements which have been denoted on the revised final plat. Becky Thompson, Construction Services Representative for the northeast area, will be the contact for this plat and can be reached at 261-6320. Any relocation or removal of service due to this plat will be at the applicant's expense.
- DD. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

STAFF REPORT

CASE NUMBER: VAC2016-00005 - City request to vacate a portion of a plated access control

OWNER/APPLICANT/ AGENT: Sedgwick County, c/o Rob Lawrence (owner/applicant) Baughman Company, PA, c/o Phil Meyer (agent)

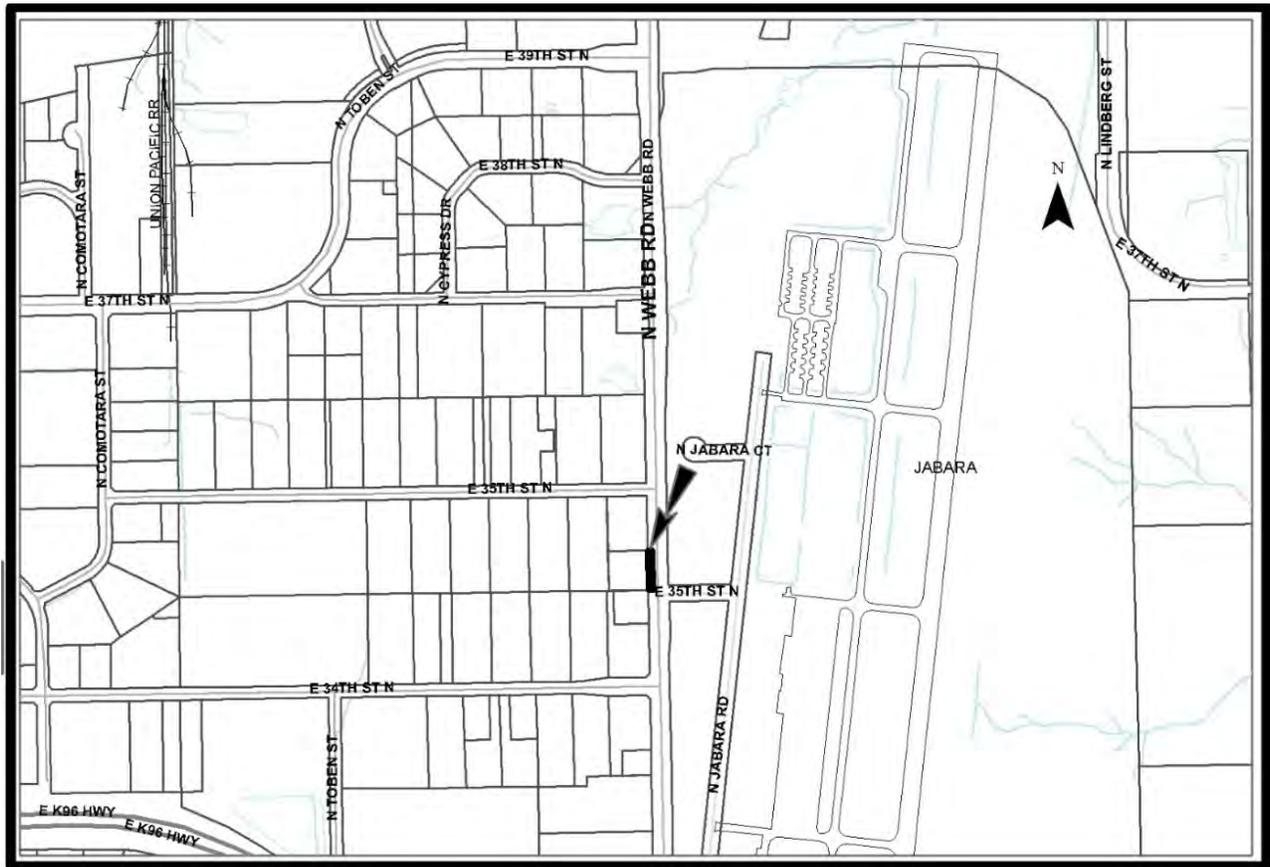
LEGAL DESCRIPTION: Generally described as vacating a portion of the south 219.65 feet of plated complete access control located on Parcel B of Lot 35, Comotara Industrial Park Fourth Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located on the west side of North Webb Road between East 34th and 35th Streets North (WCC #II)

REASON FOR REQUEST: Allow a full movement drive for a Sedgwick County Emergency Medical Service

CURRENT ZONING: The site, abutting south and adjacent west properties are zoned LI Limited Industrial

VICINITY MAP:



The applicant proposes to vacate a portion of the south 219.65 feet of platted complete access control located on what the applicant has described as Parcel B of Lot 35, Comotara Industrial Park Fourth Addition. The Comotara Industrial Park Fourth Addition was recorded with the Sedgwick County Register of Deeds October 16, 1978. The Comotara Industrial Park Fourth Addition established complete access control along Lot 35's 522.56 feet of Webb Road frontage except for one opening. On January 7, 2016 (approval date), Lot Split LSP2016-00001 divided Lot 35, Comotara Industrial Park Fourth Addition into a north Parcel A and the subject site into a south Parcel B. The north Parcel A is developed with an office building (built 1982) with parking and the permitted drive/access onto Webb Road. Parcels A and B have different owners and the owner of Parcel B, Sedgwick County, is requesting full movement access onto Webb Road for a County Emergency Medical Service facility (EMS).

Webb Road has (full curbed) four-lanes at this location. Parcel A's drive/access is located approximately 160 feet north of the common property line it shares with Parcel B. The south abutting, undeveloped Lot 12, Comotara Industrial Park Fifth Addition has a permitted drive/access onto Webb Road located approximately 80 feet south of the common property line it shares with Parcel B; recorded December 1, 1978. Public street right-of way (that portion of 35th Street North located on the east side of Webb Road) lines up with the south approximately 35 feet of the subject Parcel B. There is 225 feet of platted complete access control located north the public street right-of-way that eliminates a drive/access being located east, across Webb Road, of the subject site; Colonel James Jabra Airport Addition, recorded August 22, 1983.

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 and a water line are located in Webb Road along the subject site's frontage. A sewer line is located in the south 20 feet of the subject site within a platted 20-foot wide drainage and utility easement. There are utility poles and power lines located in the area of the vacation. The installation of the drive may require the relocation of utilities at the applicant's expense. Westar has equipment along the west side of Webb Rd between 34th and 35th streets north. Westar has no objection to this request as condition # 2 will cover any equipment that may need to be removed or relocated to accommodate the new full movement drive for the applicant. Becky Thompson is the Construction Services Representative for the northeast area and will be the contact for this vacation request. Ms Thompson can be reached at 261-6320.

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 February 25, 2016, which was at least 20 days prior to this public hearing.

2. That no private rights will be injured or endangered by vacating the described 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 219.65 feet of platted complete access control located on Parcel B of Lot 35, Comotara Industrial Park Fourth Addition. Provide a dedication by separate instrument 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) Any relocation or reconstruction of utilities, including, but not limited to, Stromwater, water, sewer, and Westar's equipment, made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Westar has equipment along the west side of Webb Rd between 34th and 35th streets north. Westar has no objection to this request as condition # 2 will cover any equipment that may need to be removed or relocated to accommodate the new full movement drive for the applicant. Becky Thompson is the Construction Services Representative for the northeast area and will be the contact for this vacation request. Ms Thompson can be reached at 261-6320. 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.
- (3) All improvements shall be according to City Standards and at the applicant's expense.
- (4) 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.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

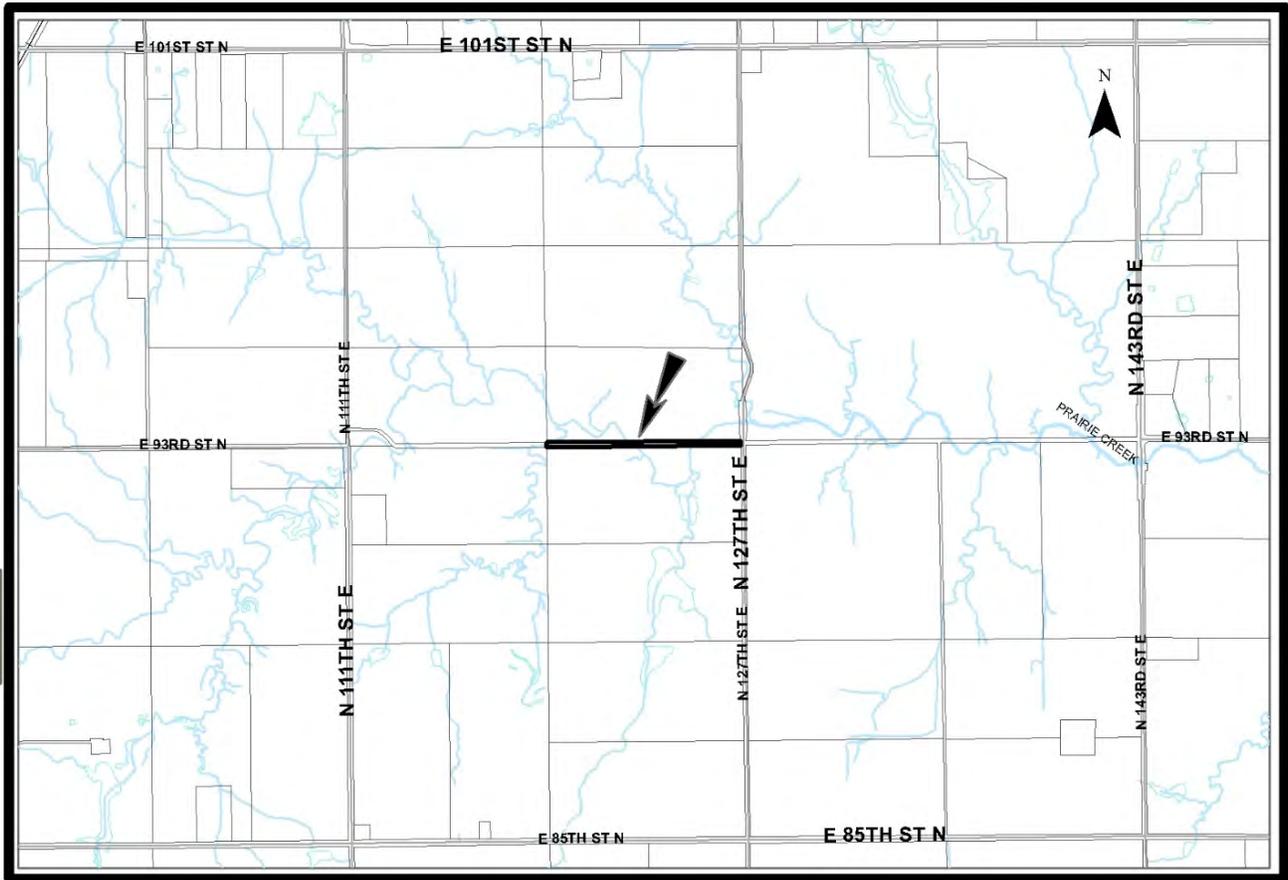
The Subdivision Committee recommends approval subject to the following conditions:

- (1) Per the approval of the Traffic Engineer, vacate a portion of the south 219.65 feet of platted complete access control located on Parcel B of Lot 35, Comotara Industrial Park Fourth Addition. Provide a dedication by separate instrument 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) Any relocation or reconstruction of utilities, including, but not limited to, Stormwater, water, sewer, and Westar's equipment, made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Westar has equipment along the west side of Webb Rd between 34th and 35th streets north. Westar has no objection to this request as condition # 2 will cover any equipment that may need to be removed or relocated to accommodate the new full movement drive for the applicant. Becky Thompson is the Construction Services Representative for the northeast area and will be the contact for this vacation request. Ms Thompson can be reached at 261-6320. 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 County Commission for final action.
- (3) All improvements shall be according to City Standards and at the applicant's expense.
- (4) 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.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

STAFF REPORT

- CASE NUMBER:** VAC2016-00006 - Request to vacate public road right-of-way
- APPLICANT/AGENT:** Corrigan Family Farms LLC (applicant) Ken W. Dannenberg & Zach K Wiggins
- LEGAL DESCRIPTION:** Generally described as vacating that portion of East 93rd Street North public right-of-way located from North 127th Street East to a point 1/2-mile west, Sedgwick County, Kansas
- LOCATION:** Generally located midway between East 101st Street North and 85th Streets North (BoCC 1)
- REASON FOR REQUEST:** Road was never improved and is not in use
- CURRENT ZONING:** All abutting and adjacent properties are zoned RR Rural Residential
- VICINITY MAP:**



The applicant is requesting the vacation of what generally can be described as the 60-foot wide, east half-mile of East 93rd Street North, beginning at its intersection with the west side of North 127th Street East. 93rd Street North appears to have been established in 1884, which is prior to the 1908 mass production of the Ford Model T. A 1938 aerial (the oldest found) shows that the road was no longer in public usage. Given the number of creek crossings, it is unlikely that the township wanted to try to maintain the road in any condition that would be useful to motorized vehicles. Property ownerships or cooperation between owners may have made the road less important well before 1938. The applicant owns all of the abutting property along the east, half-mile section of 93rd Street North. The west half of 93rd has two different abutting ownership. The vacation would create a dead-end road, but keep in mind that no road exist except on paper and the expense of building bridges across the many creeks running over it makes its development unlikely. The vacation request would not deny any properties access to public street right-of-way. The vacation will not alter traffic patterns, as there is no visible road and thus no vehicular traffic. The surrounding properties are agricultural fields. There are no utilities located within the described road right-of-way. There was a road viewing at the time the right-of-way was established in 1884. There was a decision made at that time to relocate the west end of the road to the north.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from County Public Works, 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 road right-of-way.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time February 25, 2016, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described portion of public road 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 East 93rd Street North public road right-of-way. Provide Planning with a legal description of the vacated right-of-way on a Word document, via E-mail to be used on the Vacation Order. This must be provided to Planning prior to VAC2016-00006 proceeding to County Commission for final action
- (2) Provide a covenant, with original signatures, binding and tying the described vacated public road right-of-way to the applicant's abutting property. This must be provided to Planning prior to VAC2016-00006 proceeding to County Commission for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds and the Sedgwick County Appraisers Office.

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

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the described portion of the East 93rd Street North public road right-of-way. Provide Planning with a legal description of the vacated right-of-way on a Word document, via E-mail to be used on the Vacation Order. This must be provided to Planning prior to VAC2016-00006 proceeding to County Commission for final action
- (2) Provide a covenant, with original signatures, binding and tying the described vacated public road right-of-way to the applicant's abutting property. This must be provided to Planning prior to VAC2016-00006 proceeding to County Commission for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds and the Sedgwick County Appraisers Office.
- (3) 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 County 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 County Commission for final action.
- (4) All improvements shall be according to County Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

STAFF REPORT
 MAPC March 17, 2016
 DAB I April 4, 2016

CASE NUMBER: ZON2016-00008

APPLICANT/AGENT: Import Auto Center, Inc., Venture Realty, Inc., (applicants/owners)
 Kaw Valley Engineering, c/o Tim Austin (agent)

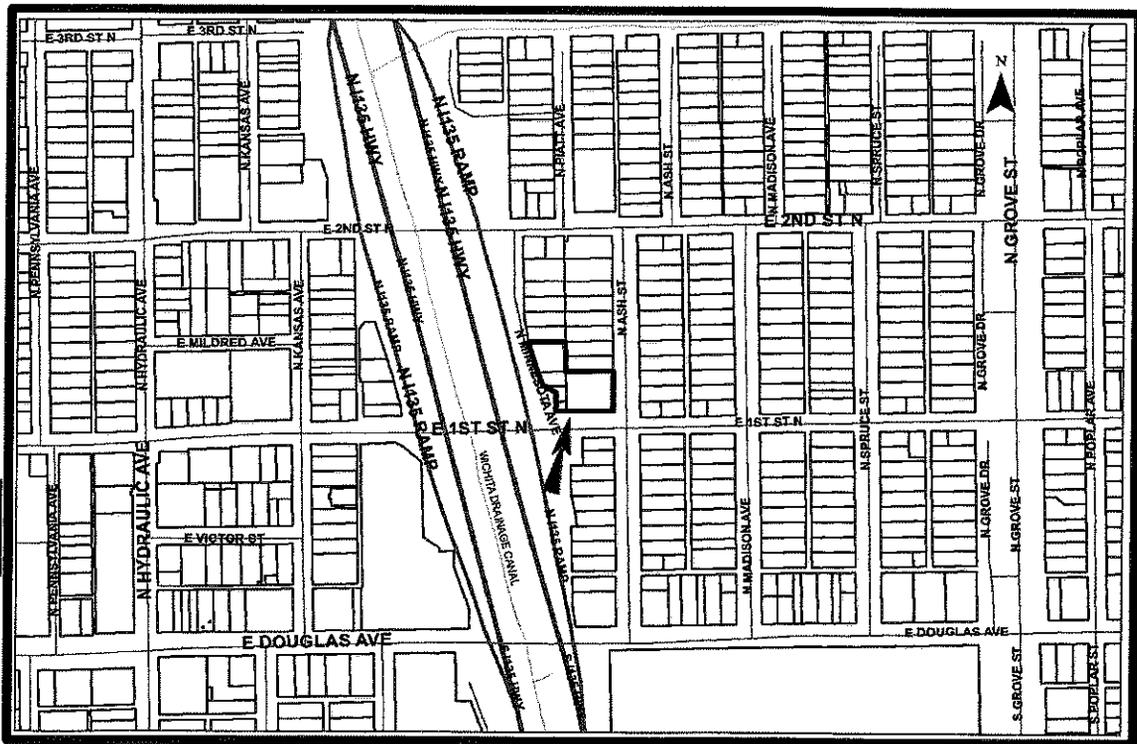
REQUEST: LC Limited Commercial

CURRENT ZONING: B Multi-Family Residential

SITE SIZE: Approximately 0.32-acres

LOCATION: Generally located east of I-135, north of 1st Street, on the east side of Minnesota Avenue (WCC I)

PROPOSED USE: Allow commercial development



BACKGROUND: The applicants are requesting LC Limited Commercial (LC) zoning on the 0.32-acre, platted B Multi-Family Residential (B) zoned site located north of 1st Street, on the east side of Minnesota Avenue. The south part of the site is developed as a paved parking lot for one of the applicants abutting LC zoned auto repair business. Ancillary parking requires a Conditional Use in the B zoning district. Staff found no Conditional Use for ancillary parking on the B zoned parking, the zone change would permit the parking by right. The north portion of the site is developed as a triplex (built 1935).

One of the applicants' LC zoned auto repair business (built 1988) abuts the east side of the site. Indoor auto display and sales was permitted, with conditions, by Use Exception BZA12-87 on this east abutting LC zoned property; approved April 28, 1987 by the Board of Zoning Appeals. The same east abutting LC zoned property also had a variance approved, BZA13-87, to reduce the required parking from 41 parking spaces to 31 parking spaces with conditions; approved April 28, 1987 by the Board of Zoning Appeals. The proposed LC zoning would provide additional parking for the east abutting LC zoned property.

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

CASE HISTORY: The site is platted as Lots 30-32-34-36, except that part deeded to the City & Lots 38-40, except that part lying west of a line starting at a point 59 feet east of the southwest corner of Lot 40 and ending at a point 47.2 feet east of the northwest corner of Lot 38 deeded to the City for highway purposes, all in Block 1, Minneapolis Addition. The 'highway' referenced is the west, abutting section of I-135, which was constructed between 1971 and 1978. The construction of I-135 required additional right-of-way and re-routed and re-configured Minnesota Avenue into a cul-de-sac on its south end. The Minneapolis Addition was recorded with the Register of Deeds June 9, 1886. Vacation case V-1523, approved March 1, 1988, vacated with conditions, the east abutting north-south alley from 2nd Street to 1st Street. VAC2016-00004, a request to vacate the west abutting portion of Minnesota Avenue was approved, with conditions, by the Subdivision Committee at their March 10, 2016, meeting and is on the March 17, 2016, MAPC meeting for consideration. Staff has received calls inquiring about the zoning request.

ADJACENT ZONING AND LAND USE:

NORTH: B	Single-family residences
SOUTH: B, LC	Parking, single-family residences, scattered duplexes, tri-plexes, and four-plexes
EAST: B, LC	Auto repair and indoor display and auto sales, scattered duplexes, tri-plexes, and four-plexes

WEST: I-135 Interstate Highway I-135

PUBLIC SERVICES: Public water is located in Minnesota Avenue. Sewer is located in the vacated alley that was retained as a utility easement. The site currently has a driveway onto Minnesota Avenue on its north end where a tri-plex is located. Minnesota Avenue is a residential street ending as a cul-de-sac on its south side before it intersects with 1st Street. The only access to this portion of Minnesota Avenue is on its north side with its intersection with the one-way west, two-lane arterial 2nd Street.

CONFORMANCE TO PLANS/POLICIES: The “2035 Wichita Future Growth Concept Map” of the “Comprehensive Plan” identifies the site as appropriate for “residential development.” The site’s residential development designation appears to confirm the site’s and neighborhood’s development mix of single-family residences, scattered duplexes, tri-plexes, and four-plexes. The Concept Map does not recognize the LC zoning abutting the east and south sides of the site. The requested LC zoning is not a match for the site’s residential development designation

The “2035 Urban Growth Areas Map” identifies the site as being in the “Established Central Area.” The Established Central Area is comprised of the downtown core and the mature neighborhoods surrounding it in a roughly three mile radius. The Established Central Area is the focus area for the Wichita Urban Infill Strategy. Commercial development in the Established Central Area should be neighborhood-serving retail and office uses and high-density residential uses can be appropriate along arterial streets on small infill sites near residential uses or through conversions of residential structures if appropriate site design features that limit traffic, noise, lighting, and adverse impacts on surrounding residential are provided and the scale of the development is appropriate for its context. The proposed LC zoning would allow the expansion of an existing LC zoned auto repair business, which can be considered a neighborhood serving business.

The locational criteria for commercial development states that it should be located at the intersection of arterial streets and along highways and commercial corridors. The site is adjacent to I-135. If VAC2016-00004 is approved the site would abut the east side of the I-135 right-of-way. The site does not require direct access onto the residential Minnesota Avenue, as access can be provided through the applicant’s east abutting LC zoned auto repair business. The locational guidelines of the Comprehensive Plan also supports the expansion of existing uses to adjacent areas. The proposed LC zoning would allow the expansion of an existing LC zoned auto repair business.

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

RECOMMENDATION: In the past the MAPC has supported the expansion of established businesses after a case by case consideration. The proposed LC zoning would allow the expansion of the an existing LC zoned auto repair business, which was built in 1988 making it perhaps the most recent development in the area. A Protective Overlay (PO) could eliminate some permitted uses in the LC zoning district that do not match up well with this older, established residential neighborhood, which is impacted by its close proximity to I-135. Based upon information available prior to the public hearings, planning staff recommends that the proposed zoning be APPROVED, subject to the following provisions of a Protected Overlay:

- (1) Dedicate complete access control onto Minnesota Avenue.
- (2) Dedicate cross lot access to allow access to the existing access located on the east side of Ash Street.
- (3) The site shall be subject to the development standards of the Unified Zoning Code, including, but not limited to a drainage study, screening and landscaping.
- (4) The following uses are prohibited: Correctional placement limited and general, recycling collection station private and public, reverse vending machine, animal care limited and general, construction sales and service, event center, farmer's market, kennel, car wash, hobby/boarding/breeding/training, marine facility recreational, nightclub, nurseries and garden centers, commercial parking, pawnshop, indoor recreation and entertainment, tavern and drinking establishment, asphalt plant limited and general, manufacturing limited, mining and quarrying, oil and gas drilling, rock crusher, solid waste incinerator, agricultural sales and service.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the surrounding area:** An older B zoned residential neighborhood made up of single-family residences, a few duplexes, tri-plexes, and four-plexes (mostly built in the 1920s) are abutting and adjacent to the north, east, and northeast sides of the site. An older B zoned residential neighborhood made up of mostly single-family residences, scattered duplexes, tri-plexes, and four-plexus (built 1872-1940s) is located south of the site, across 1st Street. One of the applicant's LC zoning parking abuts the south side of the site. The same applicant's LC zoned auto repair business (built 1988) abuts the east side of the site. This is the only LC zoning in the neighborhood. The I-135 right-of-way is located approximately 40-50 feet west of the site.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site's B zoning allows the current triplex development by right and the ancillary parking by a Conditional Use, as well as any potential duplex, multi-family residential and some office development. The site is located within 40-50 feet of I-135, which makes residential development less attractive, as the traffic generated by the I-135 compromises the value of residential development.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The requested LC zoning allows for commercial development that is more

suitable for this location and its close proximity to I-135. The proposed PO is intended to eliminate uses that would negatively impact the older established residential neighborhood and possibly leave a negative visual impact of the community from I-135.

- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2035 Wichita Future Growth Concept Map” of the “Comprehensive Plan” identifies the site as appropriate for “residential development.” The site’s residential development designation appears to confirm the site’s and neighborhood’s mix of development single-family residences, scattered duplexes, triplexes, and four-plexes. The Concept Map does not recognize the LC zoning abutting the east and south sides of the site. The requested LC zoning is not a match for the site’s residential development designation

The “2035 Urban Growth Areas Map” identifies the site as being in the “Established Central Area.” The Established Central Area is comprised of the downtown core and the mature neighborhoods surrounding it in a roughly three mile radius. The Established Central Area is the focus area for the Wichita Urban Infill Strategy. Commercial development in the Established Central Area should be neighborhood-serving retail and office uses and high-density residential uses can be appropriate along arterial streets on small infill sites near residential uses or through conversions of residential structures if appropriate site design features that limit traffic, noise, lighting, and adverse impacts on surrounding residential are provided and the scale of the development is appropriate for its context. The proposed LC zoning would allow the expansion of an existing LC zoned auto repair business, which can be considered a neighborhood serving business.

The locational criteria for commercial development states that it should be located at the intersection of arterial streets and along highways and commercial corridors. The site is adjacent to I-135. If VAC2016-00004 is approved the site would abut the east side of the I-135 right-of-way. The site does not require direct access onto the residential Minnesota Avenue, as access can be provided through the applicant’s east abutting LC zoned auto repair business. The locational guidelines of the Comprehensive Plan also supports the expansion of existing uses to adjacent areas. The proposed LC zoning would allow the expansion of an existing LC zoned auto repair business.

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

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

STAFF REPORT

MAPC March 17, 2016
Maize P.C. April 7, 2016
BoCC (if necessary) April 20, 2016

CASE NUMBER: CON2016-00004

APPLICANT/AGENT: Kristopher Nicholson and Fred Nicholson
(Owner(s)/Applicant(s))
MKEC Engineering Consultants Inc. c/o Brian Lindebak
(Agent)

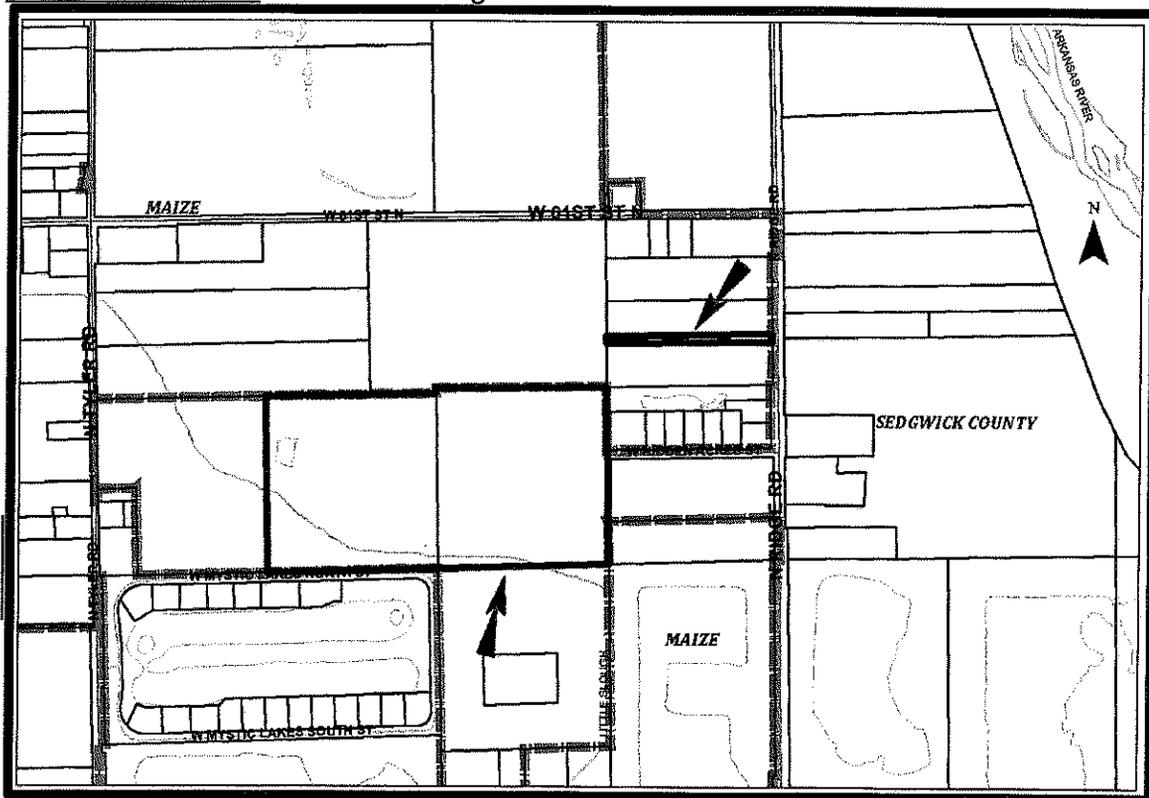
REQUEST: Mining or Quarrying (Sand Extraction)

CURRENT ZONING: RR Rural Residential

SITE SIZE: Approximately 83 acres

LOCATION: South of West 61st Street North and west of North Ridge Road

PROPOSED USE: Sand/gravel extraction



BACKGROUND: The applicant is seeking a conditional use to permit sand extraction on approximately 83 acres located south of West 61st Street North and west of North Ridge Road. Access to the site is proposed to be along an existing off-site private drive from North Ridge Road, that is owned by the applicant and is currently being used for the existing sand extraction operation abutting the north part of the subject site (see attached Operational Plan). Vehicles would enter and exit this driveway from North Ridge Road. The existing operation to the north of the subject site and the access drive are located in the city limits of the City of Maize.

The applicants propose a conditional use permit to mine sand/gravel from the ground on unincorporated land. The applicants previously achieved a Conditional Use (CU-01-009) in the City of Maize on the site directly north and adjoining the subject site. The applicants have previously obtained the necessary water rights for both the proposed groundwater pond and the existing groundwater pond depicted as CU-01-009 Sandpit. The applicants are nearing the maximum size of their pond (22 +/- acres) and propose to continue their operations on their lands to the south as per this application. They propose to utilize the same haul road route, as previously approved, and propose to retain the existing scales, sand washing/sifting and office locations on the land as approved on CU-01-0009 until the completion within the next 5 to 10 years. The hours of operation are proposed to be 7:00 AM to 5:00 PM for trucking and from 6:00 AM to sunset for dredging operations. A 100-year floodplain runs along the south and west section of the proposed pond. The edges of the excavations are to be located at least 150 feet from the north, south and east property line, and at least 70 feet from the west property line. The redevelopment plan indicates a large lot with three residences surrounding the proposed pond, accessed by the existing access road and private drives through the subject site.

The application area is currently used for agricultural production, and is zoned RR Rural Residential. Surrounding land is divided into large-lot tracts with a mix of large-lot residential, agricultural uses and a sand/gravel extraction operation that are either zoned RR Rural Residential or within the city limits of the City of Maize. There are approximately 10 homes located east of the application area, most of which have frontage or access to North Ridge Road. South of the application area is the Mystic Lakes residential development that currently contains approximately 20 residences with access off of North Tyler Road and within the city limits of Maize. There is one residence to the west of the site on a large lot residential/agricultural property, zoned RR. Directly north of the site is an existing sand/gravel extraction operation that is within the City of Maize city limits and was approved by a Conditional Use (CU-01-009). Surrounding, property owners rely on on-site wells for water supplies. If approved, the applicant will have to obtain any required permits dealing with ground water from the Groundwater Management District and any other agency charged with managing groundwater resources.

CASE HISTORY: Property north of the subject site (under the same ownership as the subject site) is currently being used as a sand extraction operation, with a Conditional Use for the operation and the access road, approved by the City of Maize in 2009. The

subject site's current RR zoning was probably granted in 1985 with the adoption of countywide zoning. The site is currently unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	City of Maize	Sand/gravel Extraction
SOUTH:	RR and City of Maize	Farmland and Residential
EAST:	RR and City of Maize	Farmland and Residential
WEST:	RR	Farmland and Residential

PUBLIC SERVICES: West 53rd Street North and North Ridge Road are both paved rural major collectors, section line roads. 61st Street North is a paved, two lane, local serving section line road. Staff believes these roads are maintained by Park Township. Significant truck traffic will lead to increased maintenance requirements, and will trigger a need for additional improvements to mitigate the impact. No City of Wichita served public sewer or water is available in this area.

CONFORMANCE TO PLANS/POLICIES: The Community Investments Plan 2035 Urban Growth Areas Map depicts this site as being located within the City of Maize's 2035 "Small City Urban Growth Area." These areas are generally located adjacent to existing municipal boundaries and indicate the likely direction and magnitude of growth these communities can expect to experience out to the year 2035. Determination of growth direction and amount is based upon municipal political considerations, anticipated municipal population growth, efficient patterns of municipal growth, current infrastructure limitations, cost effective delivery of future municipal services and environmental factors. Commercial/industrial development should be limited to the following: agricultural-oriented uses; rural home occupations; natural resource dependent; convenience services; highway-oriented services at interchange areas; or uses that need significant buffering from residential areas (to mitigate nuisance or hazard impacts). Industrial and major commercial land uses that generate pollution, odor, noise, light, safety hazards, and high levels of traffic should be located away from residential areas and developed with screening, buffering, and site design features sufficient to mitigate adverse impacts. The site is located within the City of Maize's "urban area of influence" and they are scheduled to hear the request on April 7, 2016. The City of Maize Land Use Plan depicts this site where the excavations will occur for "agricultural uses."

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

1. The extraction operation on the site shall proceed in accordance with the approved site plan (including any modifications to limitations on the scope of excavations required by other regulating agencies), and be subject to the supplementary use regulations found in the *Unified Zoning Code* at Article III, Section III-D, gg (attached), unless specifically modified by conditions contained in this conditional use. If additional limitations on the scope of excavation are

required after final approval, the applicant shall provide a revised site plan depicting those restrictions.

2. In addition to the standard specified in Sec. III-D.gg.(6) and (22), interior roads, work areas and stockpiles shall be treated to minimize dust from blowing from the site. If requested by Metropolitan Area Building and Construction Department (MABCD), the applicant shall maintain a log detailing the type of dust retardant and how often and when the retardant was used and the log shall be provided to MABCD inspectors upon request.
3. The Conditional Use for sand extraction shall be valid for ten years following the date of final action (either MAPC or County Commission) approving extraction operations. The applicant may apply for an administrative adjustment for an additional two years should extraction operations not be completed at the end of the ten year time period.
4. The hours of operation are proposed to be 7:00 AM to 5:00 PM for trucking and from 6:00 AM to sunset for dredging operations.
5. The edges of the excavations are to be located at least 150 feet from the north, south and east property line, and at least 70 feet from the west property line.
6. The Operational Plan and the Post Operational plan shall be revised to reflect newer floodplain mapping as shown in the Preliminary Floodplain maps.
7. Floodplain development permits shall be acquired from the Kansas Division of Water Resources and Sedgwick County prior to any work to develop the site for sand extraction.
8. A Notice of Intent shall be acquired from the Kansas Department of Health and Environment and a Stormwater Permit shall be acquired from Sedgwick County prior to any work to develop the site for sand extraction.
9. The property is within the boundary of Groundwater Management District No. 2. GMD2 shall be contacted to see how their regulations affect the routing of drainage through the site, and the applicant shall implement the steps directed by GMD2 to protect the groundwater quality.
10. In order to insure that all permit requirements can be met, that improvements in the floodplain will not create adverse impacts in the area, that the channel of the Little Slough will not be interrupted, that the requirements of GMD2 can be met and that the completed site can be redeveloped; the applicant shall be required to obtain approval of a drainage plan by Sedgwick county Public Works prior to any work to develop the site for sand/gravel extraction.

11. The Operational Plan shall reflect that no materials, including overburden or spoil materials, may be placed in the floodplain unless specifically allowed by floodplain permits and the drainage plan. The boundaries of the floodplain shall be delineated with durable markings, such as posts with signs, prior to any work to develop the sand extraction operation.
12. The Conditional Use shall not allow the use of Hidden Acres Street to access the property until the sand extraction operation is complete and closed out.
13. The proposed site encompass properties owned by three different owners. The applicant shall provide and file, with the Register of Deeds, a private access easement encompassing all of the properties involved in the sand extraction to insure that the site can be served from the existing private drive throughout the period of operation.
14. The existing entrance to the sand extraction operation was not constructed according to county permit requirements and standards. Loaded trucks from the current operation predominantly turn south from the site and are tracking off of the shoulder of the drive and the shoulder of Ridge Road. Prior to commencing any work to develop the new site for sand extraction, the applicant shall be required to reconstruct the culvert to County standards and pave the drive with sufficient asphalt or concrete to withstand the heavy truck traffic. A right turn acceleration lane shall be constructed, to County standards, south of the entrance to provide for turning movements that do not obstruct northbound traffic and allow trucks to track on pavement throughout the turn.
15. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The application area is currently used for agricultural production, and is zoned RR Rural Residential. Surrounding land is divided into large-lot tracts with a mix of large-lot residential, agricultural uses and a sand/gravel extraction operation that are either zoned RR Rural Residential or within the city limits of the City of Maize. There are approximately 10 homes located east of the application area, most of which have frontage or access to North Ridge Road. South of the application area is the Mystic Lakes residential development that currently contains approximately 20 residences with access off of North Tyler Road and within the city limits of Maize. There is one residence to the west of the site on a large lot residential and agricultural property, zoned RR. Directly north of the site is an existing sand/gravel extraction operation that is within the City of Maize city limits and was approved by a Conditional Use (CU-01-009). Surrounding property owners rely on on-site wells for water supplies. If approved, the applicant will have to obtain

any required permits dealing with ground water from the Groundwater Management District and any other agency charged with managing groundwater resources.

2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned RR Rural Residential, which is one of the more restrictive districts found in the code. The site could be developed as currently zoned for low-density residential uses with a two-acre minimum zoning lot size. However these homes would have to use on-site sewer systems or extend sewer service since sewer service is not available.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: During excavation there will be additional noise, truck traffic and blowing dust when compared to residential development. When excavation is completed, the resulting lake could be seen as an enhancement as water features are generally viewed as positive additions to residential settings. The conditions of approval will help to mitigate detrimental affects.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The construction industry requires sand. The applicant is in the aggregate business and cannot operate his business without sand. When one is dependent upon a resourced based material like sand, one must go where the sand is located. If the request is denied, presumably the applicant will suffer an economic loss, as he will need to find another site. Since sand is used in many public and private projects a shortage of sand could negatively impact these projects by raising the cost or increasing the time to complete these projects. When completed the resulting lake can be seen as an amenity to the community.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Community Investments Plan 2035 Urban Growth Areas Map depicts this site as being located within the City of Maize's 2035 "Small City Urban Growth Area." These areas are generally located adjacent to existing municipal boundaries and indicate the likely direction and magnitude of growth these communities can expect to experience out to the year 2035. Determination of growth direction and amount is based upon municipal political considerations, anticipated municipal population growth, efficient patterns of municipal growth, current infrastructure limitations, cost effective delivery of future municipal services and environmental factors. Commercial/industrial development should be limited to the following: agricultural-oriented uses; rural home occupations; natural resource dependent; convenience services; highway-oriented services at interchange areas; or uses that need significant buffering from residential areas (to mitigate nuisance or hazard impacts). Industrial and major commercial land uses that generate pollution, odor, noise, light, safety hazards, and high levels of traffic should be located away from residential areas and developed with screening, buffering,

and site design features sufficient to mitigate adverse impacts. The site is located within the City of Maize's "urban area of influence" and they are scheduled to hear the request on April 7, 2016. The City of Maize Land Use Plan depicts this site where the excavations will occur for "agricultural uses."

6. Impact of the proposed development on community facilities: Increased truck traffic on section line roads will likely increase maintenance requirements. The conditions of approval requiring County standard road improvements will help mitigate the maintenance impacts. Sand extraction does not require publicly supplied sewer or water services.

Sec. III-D.gg. of the Unified Zoning Code (UZC) supplementary regulations for Mining or Quarrying, sand and gravel extraction.

Sand and gravel extraction operations shall be subject to the following conditions:

- (1) The extraction operation on the Site shall proceed in accordance with an operational plan approved by the Planning Commission. The perimeter of the lake excavation shall conform to the approximate size and shape indicated on the approved operational plan. To assist in the enforcement of the operational plan, a copy of the approved operational plan shall be posted in the extraction office.
- (2) The operational plan shall illustrate which area is to be excavated and at what time.
- (3) As part of the Conditional Use approval, the development plan for Uses after the conclusion of the extraction operation shall be submitted to the Planning Director for review and a recommendation to the Planning Commission as to whether or not the development plan is compatible with surrounding land uses, the Comprehensive Plan or other plans or policies being utilized by the City or County.
- (4) Abutting the perimeter of the application area, a minimum 60-inch high Fence shall be constructed prior to the beginning of any extraction operation and shall be maintained at the locations depicted on the approved operational plan. Said Fence shall be placed on steel posts that are not less than seven feet tall. The posts shall not be set more than 16 feet apart. The Fence shall be a minimum height of 60 inches and shall be of the following types of construction:
 - (a) a 48-inch high or higher chain link Fence with three or more strands of barbed wire; or
 - (b) a 48-inch high or higher solid metal or solid masonry Screening Wall with three or more strands of barbed wire; or
 - (c) a 48-inch high or higher wood Fence that may have cracks or openings not in excess of five percent of the area of such Fence, with three or more strands of barbed wire; whereby
 - (d) the term "barbed wire" shall mean any twisted wire with barbs spaced a minimum of four inches apart and placed at the top of the Fence and gate at an angle not to exceed 160 degrees facing away from the excavation.
- (5) The extraction shall be to at least a minimum depth of six feet below the normal water table, as determined by the Director of Sedgwick County Code Enforcement.

- (6) The Owner of the property shall be responsible for minimizing blowing dust from the Site. To minimize blowing soil, overburden shall not be removed more than six months in advance of the lake being expanded into an area, unless the ground is covered within the next planting season with a perennial drought-resistant grass or combination of which will permit the establishment of sod cover to help prevent erosion. As part of the required operational plan, the site shall be divided into at least two distinct areas for the purpose of showing phased excavation over time.
- (7) All slopes shall have vegetative covering consisting of a perennial drought-resistant grass or combination of grasses that will permit the establishment of sod cover to help prevent erosion.
- (8) To provide for bank stabilization and safety of future uses, the side slopes of the extraction shall be no steeper than five horizontal to one vertical.
- (9) Sufficient overburden material shall be retained in the area of extraction to grade and construct the banks so they are formed with overburden material rather than sand.
- (10) The property shall be platted prior to the issuance of any zoning or Building Permits, except those permits necessary for the extraction operation.
- (11) No commercial recreational activities, such as boating, fishing, skiing, etc., shall be permitted in the development area, unless duly authorized under provisions of this Code and amendments thereto.
- (12) The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the City or County legal counsel (as applicable), prior to the commencement of any extraction operation, providing that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the application area or within the extraction area.
- (13) The storage of equipment or stockpiling of sand or overburden is not permitted closer than 100 feet to any public right-of-way or closer than 50 feet to any property line.
- (14) Nothing in the approval of a Conditional Use shall be construed to permit a contractor's material and equipment storage yard. Within 60 days after completion of the extraction operation, the land surrounding the lake shall be properly graded and planted with a vegetative cover. Also, all stockpiled sand or overburden and sand pumping and related equipment shall be removed from the subject site.
- (15) The length of time for the extraction operation and the hours of operation for removal of the overburden shall be set at the time of approval of the Conditional Use. Subject operation is to cease after that period of time with all equipment and materials associated with the operation removed from the premises.

- (16) Hours of operation for the removal of overburden shall be limited to 6:00 a.m. to sunset. The same hours of operation shall apply if sand removal is conducted with the use of non-electric driven equipment. If sand is removed with the use of an electrical pump, sand extraction may operate 24 hours a day.
- (17) All on-site water and sewage facilities shall be approved by and constructed to the standards of the Department of Code Enforcement for the County or Department of Environmental Services for the City.
- (18) Any water wells needed to operate the facility must comply with the Water Well Construction Standards contained in Article 30 of the Kansas Department of Health and Environment rules and regulations.
- (19) The applicant shall make the Site available to the Department of Code Enforcement for land in the County or Department of Environmental Services for land in the City for the installation and management of groundwater monitoring wells.
- (20) Any on-site storage of fuels or chemicals must be approved by the Sedgwick County Department of Environmental Resources for land in the County or Department of Environmental Services for land in the City.
- (21) A drainage plan shall be submitted to and approved by City or County Public Works (as applicable) prior to starting the extraction operation. All of the area included within the fenced sand extraction operation shall be graded in accordance with the approved drainage plan. Additional requirements, such as a public drainage easement, a floodway reserve, or a covenant authorizing the area of the Site for use as a detention storage facility for public drainage purposes, may be required as a condition of approval for the drainage plan.
- (22) All operational roads shall be maintained in a sand or graveled condition and shall be treated water or other acceptable dust retardant to minimize blowing dust.
- (23) All applicable local, state, and federal permits necessary for the extraction operation shall be obtained and maintained.

Slocum, Derrick

From: Weber, Jim <Jim.Weber@sedgwick.gov>
Sent: Wednesday, March 02, 2016 10:38 AM
To: Brian Lindebak
Cc: Adam Koster; Greg Allison; Slocum, Derrick; kedgington@cityofmaize.org; Dixon, Kelly; Erlenwein, Susan; Schrant, Daniel
Subject: Nicholson Sand Extraction

Follow Up Flag: Follow up
Flag Status: Flagged

Brian,

We have a number of concerns that we feel should be addressed as part of the zoning approval process. Development of the site will be complicated due to its interaction with the floodplain and groundwater. I've listed a number of items that we would like to see addressed if the case is approved.

1. Approximately half of the site is in the floodplain of the Little Slough and the channel of the slough will cross through the sand pit as shown on the Operational Plan. The Operational Plan depicts the floodplain as shown in the effective maps. At this point, it would be more appropriate for the Operational Plan and the Post Operational plan to reflect newer floodplain mapping as shown in the Preliminary Floodplain maps.
2. The applicant is advised that floodplain development permits will be needed from the Kansas Division of Water Resources and Sedgwick County prior to any work to develop the site for sand extraction.
3. The applicant is advised that a Notice of Intent will be required from KDHE and a Stormwater Permit will be required from Sedgwick County prior to any work to develop the site for sand extraction.
4. The applicant is advised that the property is within the boundary of Groundwater Management District No. 2 and that GMD2 should be contacted to see how their regulations affect the routing of drainage through the site and what steps might need to be taken to protect the groundwater quality.
5. In order to insure that all permit requirements can be met, that improvements in the floodplain will not create adverse impacts in the area, that the channel of the Little Slough will not be interrupted, that the requirements of GMD2 can be met and that the completed site can be redeveloped; Sedgwick County requests that the applicant be required to obtain approval of a drainage plan for the site prior to scheduling a hearing of the case by the Board of County Commissioners. (May need to discuss this timing some with Planning staff, there may be a better time to do this.)
6. The Operational Plan should reflect that no materials, including overburden or spoil materials, may be placed in the floodplain unless specifically allowed by floodplain permits and the drainage plan. The boundaries of the floodplain should be delineated with durable markings, such as posts with signs, prior to any work to develop the sand extraction operation.
7. The Conditional Use should not allow the use of Hidden Acres Street to access the property until the sand extraction operation is complete and closed out.
8. The proposed site encompass properties owned by three different owners. The applicant should provide and file a private access easement encompassing all of the properties involved in the sand extraction to insure that the site can be served from the existing private drive throughout the period of operation.

9. The existing entrance to the sand extraction operation was not constructed according to county permit requirements and standards. Loaded trucks from the current operation predominantly turn south from the site and are tracking off of the shoulder of the drive and the shoulder of Ridge Road. Prior to commencing any work to develop the new site for sand extraction, the applicant should be required to reconstruct the culvert to county standards and pave the drive with sufficient asphalt or concrete to withstand the heavy truck traffic. A right turn acceleration lane should be constructed south of the entrance to provide for turning movements that do not obstruct northbound traffic and allow trucks to track on pavement throughout the turn.

Let me know if you have any questions.

James Weber, P.E. | Deputy Director | Sedgwick County Public Works
p: (316) 660-1773 | f: (316) 660-1876 | Jim.Weber@sedgwick.gov
1144 S. Seneca | Wichita, KS 67213-4443 | www.sedgwickcounty.org | Facebook | Twitter



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From: Brian Lindebak [<mailto:blindebak@Mkec.com>]
Sent: Monday, February 29, 2016 10:57 AM
To: Weber, Jim; Derrick Slocum
Cc: Adam Koster; Greg Allison
Subject: RE: Nicholson Sand Extraction

Thanks Jim. I am eager to hear your comments.

Thank you,

Brian Lindebak

Development Agent, Cartography/GIS

MKEC ENGINEERING SUCCESS

T 316.684.9600 • F 316.684.5100
411 N. Webb Rd. • Wichita, KS 67206
blindebak@mkec.com • www.mkec.com

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From: Weber, Jim [<mailto:Jim.Weber@sedgwick.gov>]
Sent: Monday, February 29, 2016 10:55 AM
To: Brian Lindebak; Derrick Slocum
Cc: Adam Koster; Greg Allison
Subject: RE: Nicholson Sand Extraction

Brian – Thanks, I think we will have comments on several issues. I am circulating in the building and hope to have comments together in a day or two.

James Weber, P.E. | Deputy Director | Sedgwick County Public Works
p: (316) 660-1773 | f: (316) 660-1876 | Jim.Weber@sedgwick.gov
1144 S. Seneca | Wichita, KS 67213-4443 | www.sedgwickcounty.org | Facebook | Twitter



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From: Brian Lindebak [mailto:blindebak@mkec.com]
Sent: Monday, February 29, 2016 10:48 AM
To: Weber, Jim; Derrick Slocum
Cc: Adam Koster; Greg Allison
Subject: RE: Nicholson Sand Extraction

Jim –
Please use the following link to download file(s) using MKEC's WebFTP.

Click this link to download:
<https://webftp.mkec.com/app?operation=pubopp&id=-1456764433899X172A16A5A150BsXzl>
File(s) will be available for download until **3/14/16 11:47 AM**

Thanks,
Brian Lindebak
Development Agent, Cartography/GIS

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411 N. Webb Rd. • Wichita, KS 67206
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From: Brian Lindebak
Sent: Monday, February 29, 2016 10:46 AM
To: Weber, Jim; Derrick Slocum
Cc: Adam Koster; Greg Allison
Subject: RE: Nicholson Sand Extraction

Jim –
I am sending you the traffic report in a separate email... it was apparently too big.

Brian Lindebak
Development Agent, Cartography/GIS

MKEC ENGINEERING SUCCESS
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blindebak@mkec.com • www.mkec.com

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From: Brian Lindebak
Sent: Monday, February 29, 2016 10:43 AM
To: Weber, Jim; Derrick Slocum
Cc: Adam Koster; Greg Allison
Subject: RE: Nicholson Sand Extraction

Good morning Jim –

Back in 2009 we obtained a conditional use for the sand pit north of this proposed site. This conditional use permit was approved through the City of Maize. We prepared the attached traffic report at that time (attached). The plan is to simple move the mining activity south of the existing conditional use area and proceed as per the operational plan depicted on the attached ...O Site Plan.pdf.

The same haul road is being proposed.

Please call me with any questions or concerns you may have.

Thank you,

Brian Lindebak

Development Agent, Cartography/GIS

MKEC ENGINEERING SUCCESS

T 316.684.9600 • F 316.684.5100

411 N. Webb Rd. • Wichita, KS 67206

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From: Weber, Jim [<mailto:Jim.Weber@sedgwick.gov>]

Sent: Monday, February 29, 2016 10:24 AM

To: Brian Lindebak

Subject: Nicholson Sand Extraction

Brian,

We just received notice on this case. Ridge Road is on the county system and I am interested in knowing how the sand operation will access the road. Can you send me a site plan or provide some details?

James Weber, P.E. | Deputy Director | Sedgwick County Public Works

p: (316) 660-1773 | f: (316) 660-1876 | Jim.Weber@sedgwick.gov

1144 S. Seneca | Wichita, KS 67213-4443 | www.sedgwickcounty.org | Facebook | Twitter



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CONDITIONAL USE DESCRIPTION

The applicants desire a conditional use permit to mine sand from the ground on unincorporated land. The applicants previously achieved a Conditional Use (CU-01-009) in the City of Maize Kansas on the site directly north and adjoining the subject property. The applicants have previously obtained the necessary water rights for both the proposed groundwater pond and the existing groundwater pond depicted as CU-01-009 Sandpit. The applicants are nearing the maximum size of their pond (22+/- acres) and desire to continue their operations on their lands to the south as per this application. They desire to utilize the same haul road route as previously approved and desire to retain the existing scales, sand washing / sifting, and office locations on the land as approved on CU-01-009 until the completion within the next five-ten years. The hours of operation is proposed to be 7:00 AM to 5:00 PM for trucking and from 6:00 AM to sunset for dredging operations.

LEGAL DESCRIPTION:

The Southeast Quarter of the Northwest Quarter Except Road on West AND the Southwest Quarter of the Northeast Quarter all in Section 16, Township 26 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas.

PROPERTY OWNERS / CO-APPLICANTS

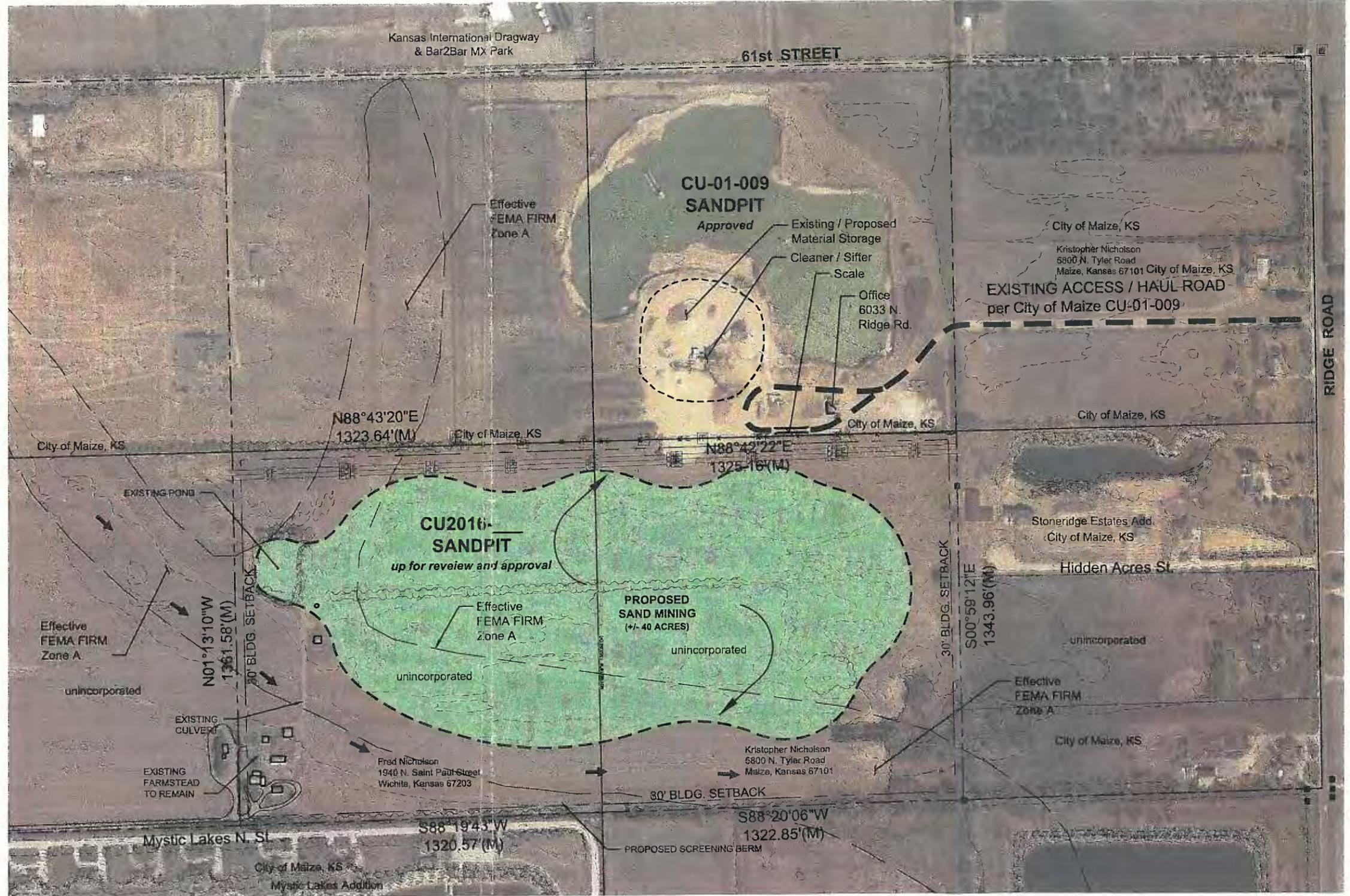
Kristopher Nicholson 5800 N. Tyler Road Maize, Kansas 67101	Fred Nicholson 1940 N. Saint Paul Street Wichita, Kansas 67203
---	--

PROPOSED OPERATOR

Northridge Sand, LLC
6033 N. Ridge Rd.
Maize, Kansas 67101
316-721-3862

PROPERTY AGENTS

Brian Lindebak MKEC Engineering, Inc. 411 N. Webb Rd. Wichita, KS 67206	Sabrina K. Standifer, esq Morris Laing Evans Brock & Kennedy Chartered Old Town Square 300 N. Mead, Suite 200 Wichita, KS 67202-2722
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02.08.2016



OPERATIONAL PLAN
Nicholson Property - 61st and Ridge Road

CONDITIONAL USE DESCRIPTION

The applicants desire a conditional use permit to mine sand from the ground on unincorporated land. The applicants previously achieved a Conditional Use (CU-01-009) in the City of Maize Kansas on the site directly north and adjoining the subject property. The applicants have previously obtained the necessary water rights for both the proposed groundwater pond and the existing groundwater pond depicted as CU-01-009 Sandpit. The applicants are nearing the maximum size of their pond (22+/- acres) and desire to continue their operations on their lands to the south as per this application. They desire to utilize the same haul road route as previously approved and desire to retain the existing scales, sand washing / sifting, and office locations on the land as approved on CU-01-009 until the completion within the next five-ten years. The hours of operation is proposed to be 7:00 AM to 5:00 PM for trucking and from 6:00 AM to sunset for dredging operations.

LEGAL DESCRIPTION:

The Southeast Quarter of the Northwest Quarter Except Road on West AND the Southwest Quarter of the Northeast Quarter all in Section 16, Township 26 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas

PROPERTY OWNERS / CO-APPLICANTS

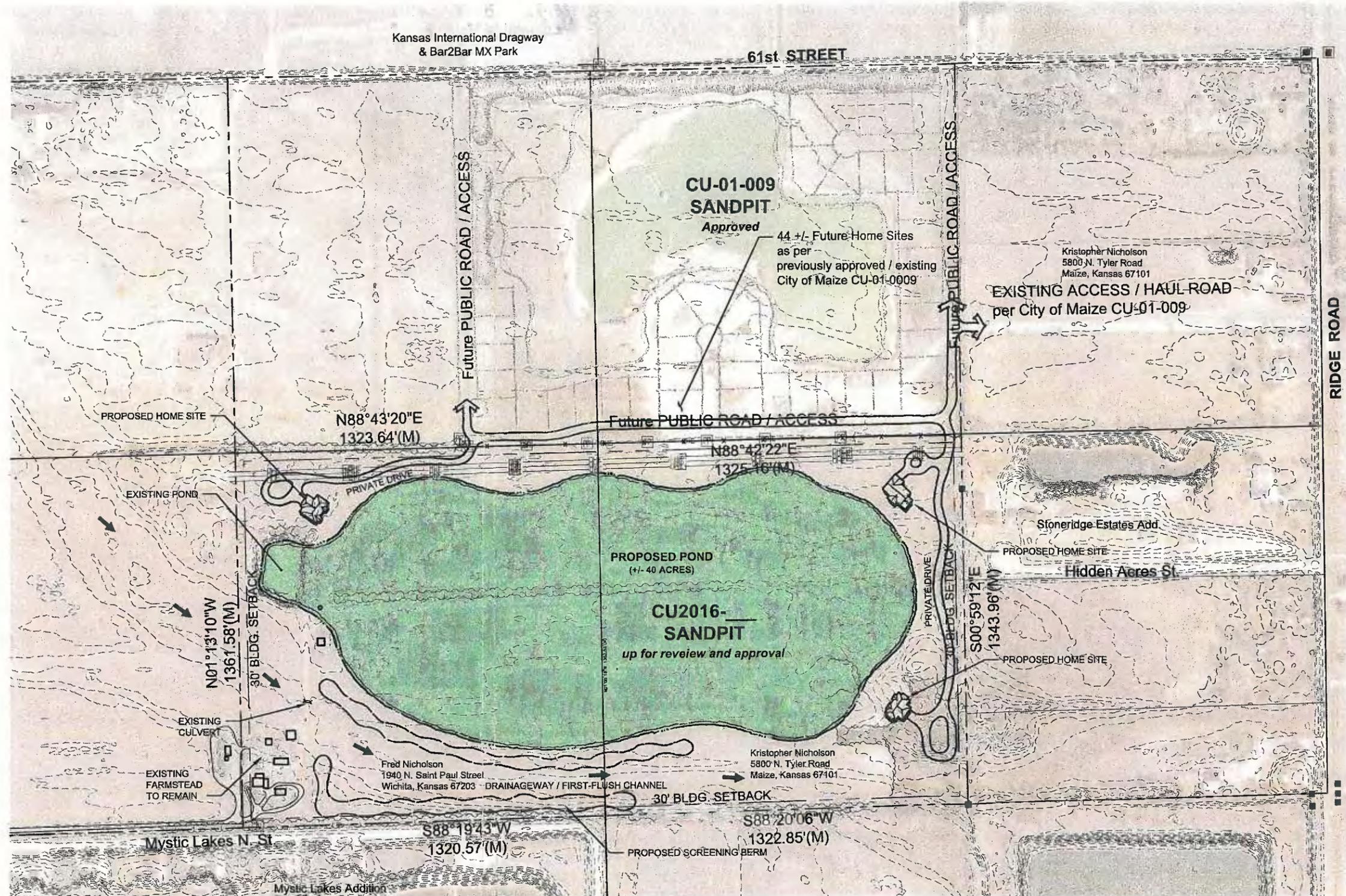
Kristopher Nicholson 5800 N. Tyler Road Maize, Kansas 67101	Fred Nicholson 1940 N. Saint Paul Street Wichita, Kansas 67203
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PROPOSED OPERATOR

Northridge Sand, LLC
6033 N. Ridge Rd.
Maize, Kansas 67101
316-721-3862

PROPERTY AGENTS

Brian Lindebak MKEC Engineering, Inc. 411 N. Webb Rd. Wichita, KS 67206	Sabrina K. Standifer, esq Morris Laing Evans Brock & Kennedy Chartered Old Town Square 300 N. Mead, Suite 200 Wichita, KS 67202-2722
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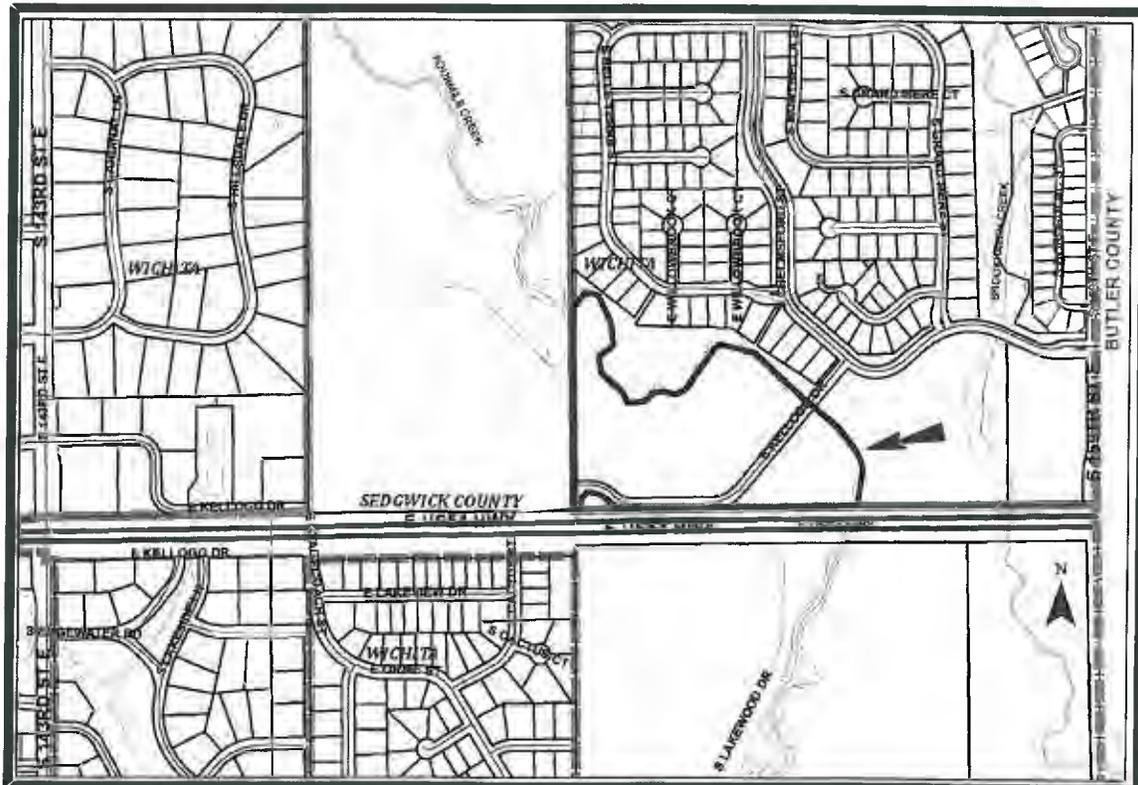
POST OPERATIONAL PLAN
Nicholson Property - 61st and Ridge Road



STAFF REPORT

DAB II March 14, 2016
MAPC March 17, 2016

- CASE NUMBER:** PUD2016-01
- APPLICANT/OWNER:** Jesri Investments LLC (applicant/owner); KE Miller Engineering P.A. c/o Kirk Miller (agent)
- REQUEST:** Create PUD #49 the Belle Terre Commercial Planned Unit Development
- CURRENT ZONING:** LC Limited Commercial (LC) under Community Unit Plan (CUP) DP 226
- SITE SIZE:** 19.4 acres
- LOCATION:** Generally located north of East Kellogg and ½ mile east of 143rd Street East
- PROPOSED USE:** Restricted GC General Commercial uses, off-site billboard



BACKGROUND: The undeveloped application area is located north of East Kellogg (US 54 Highway), at the half-mile location between South 143rd Street East and South 159th Street East. The applicants propose rezoning this property from LC Limited Commercial (LC) to PUD #49, the Belle Terre Commercial Planned Unit Development. In addition to rezoning, the PUD would remove this site from the existing CUP DP-226 and associated restrictions. The remaining DP-226 will continue to exist east of the site. The applicants operate a construction sales and service business and an equipment rental and sales business; both businesses require outdoor storage and display. The applicants propose to relocate their businesses to this site. The applicants also own a digital billboard which they propose to place on this site and use for on and off-site advertising. According to the Unified Zoning Code (UZC), a PUD is intended to:

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

The platted 19.4-acre site is undeveloped with a heavily wooded floodway and landscape buffer along the north and east boundaries following Four Mile Creek. An irregular shaped reserve (Reserve L) sits at the southwest corner of the site; it is an exception as it is not owned by the applicant. The platted Kellogg Drive on the site is unimproved. The site currently has one 35-foot wide access point to the Kellogg Expressway at the west boundary. The proposed PUD requires re-platting the site, closing this one access point and establishing a right-in right-out only access point east of Reserve L. The right-in right-out access point will have acceleration and deceleration lane improvements guaranteed by the developer. Re-platting will also include re-routing Kellogg Drive to function as a frontage road along US-54 and eliminating its northern connection to a residential subdivision, and determination of dedication for the future expansion of the Kellogg Expressway. The proposed PUD includes two parcels and two reserves for the floodway and landscape buffer and storm water control. The PUD has a 5-foot wall easement along the west property line, 35-foot building setbacks from the west and south property lines, and a designated display area along the Kellogg Drive frontage.

Proposed PUD specifications include signage limited to LC zoning, restricted to 20 feet in height, must be monument signs, and prohibits portable signs. The PUD proposes one off-site, LED, billboard sign which may advertise on or off-site purposes. The off-site sign must be setback 150 feet from the Kellogg Expressway and 300 feet from the west property line, it is limited to 14 by 48 feet in size and 30 feet in height, and requires permitting from state authorities. Without the proposed PUD, this off-site sign would

not be permitted by the Sign Code, as adequate commercial zoning (without CUP prohibitions) does not exist in this mile of frontage. The existing CUP, DP-226, prohibits off-site signs. The Sign Code prohibits off-site signs from being used for on-site advertising.

The PUD limits light pole height to 15 feet, requires underground utilities, requires a masonry wall on the west boundary when development occurs within 300 feet, prohibits outdoor speakers and noise trespass beyond property lines, and requires screening of rooftop mechanical equipment and trash receptacles. The PUD requires architectural consistency between buildings and site circulation approval for new buildings. The PUD requires that outdoor storage of materials and equipment be 150 feet from surrounding property or right-of-way. Outdoor storage must be visually screened from all surrounding properties and from all public right-of-way, to include US 54, and may not be stacked or piled higher than screening walls or landscaping. The PUD requires a landscape plan which may use existing vegetation to contribute towards the 25-foot landscape buffer separating this site from residential zoning. Evergreen screening, meeting the code definition of solid screening, may be used in lieu of a screening wall along the north property line. The PUD requires paving of all internal circulation to mitigate dust.

The proposed PUD would allow GC General Commercial (GC) uses with the following prohibitions: manufactured/mobile homes, assisted living, group residence, auditorium, cemetery, community assembly, correctional placement residence, golf course, library, entertainment establishment, event center, farmers market, kennel, hobby and boarding/breeding/training, recreational marine facility, indoor and outdoor recreation and entertainment, rodeo, riding academy or stable, sexually oriented business in the city, tattooing and body piercing facility, teen club, vocational school, hospital, recycling collection stations, reverse vending machine, school (elementary, middle and high), car wash, convenience stores, night club, pawn shop, service stations, tavern and drinking establishments, vehicle repair, adult entertainment, recycling processing, second hand store, microbrewery, self-service warehouse, RV campground, outdoor vehicle sales, manufacturing (limited and general), vehicle storage yard, warehousing, and welding or machine shop. No hotels or motels are permitted on the west 300 feet. Any use requiring a conditional use in GC zoning requires a PUD amendment. The land use differences between this PUD and the existing CUP are: outdoor equipment rental and sales, contractor sales and services (to include associated outdoor storage), retail, restaurants, animal care and banking.

Property north of the site, across the floodway and landscape buffer, is zoned SF-5 Single-family Residential (SF-5) and developed with single-family residences. South of the site is US-54, further south is an SF-5 zoned neighborhood to the southwest, and an unincorporated, SF-20 Single-family Residential (SF-20) zoned large-lot residence. East of the site is the LC zoned remainder of the undeveloped CUP, DP-226. West of the site is another unincorporated, SF-20 zoned large-lot residence.

CASE HISTORY: The property was rezoned to LC with DP-226 in 1997 and platted as a portion of the Belle Terre South Addition in 1997. Approval of this PUD would require re-platting the site.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family residential, floodway reserve
SOUTH:	SF-20, SF-5	US-54, Single-family residential
EAST:	LC, DP-226	Undeveloped
WEST:	SF-20	Large lot residential

PUBLIC SERVICES: The site has frontage along the Kellogg Expressway. The PUD proposes complete access control except for one right-in right-out only access point east of Reserve L. All other utilities are available to the site. The PUD requires connection to public water and sewer for development.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies this location on the *2035 Wichita Future Growth Concept Map* as “Residential and Employment Mix.” The Locational Guidelines of the Comprehensive Plan encourage major commercial development in close proximity to highways. This application meets the Comprehensive Plan Land Use Compatibility and Design recommendations regarding screening, buffering, shared internal vehicular and pedestrian circulation, access controls, noise and lighting controls and aesthetic considerations. The Plan’s *Priority Enhancement Areas for Wichita Infrastructure Projects Map* identifies this portion of Kellogg as a “Wichita Primary Gateway,” and recommends considering the inclusion of site design features that increase the sense of quality of life through emphasis of visual character and aesthetic improvements.

RECOMMENDATION: Planning Staff worked with the agent for the applicant to modify this PUD request. Staff’s recommendation takes in consideration the existing CUP on the site and staff’s recommendation for similar requests and uses along Kellogg frontage. Staff notes that while this request is more intense than what was previously permitted under DP-226, highway frontage is where one would expect contractor sales and services and billboards. Staff feels that the extensive floodway landscape buffer, along with other PUD requirements, will protect surrounding residential areas and the Kellogg Expressway from negative impacts. Staff notes that the proposed off-site sign would not be allowed without this PUD, and the Sign Code prohibits use of off-site signs for on-site advertising. The PUD allows for other adequate on-site signage. Based on information available prior to the public hearing, staff recommends the request be **APPROVED** subject to the following conditions:

- A. The PUD is subject to re-platting to include: complete access control except for one right-in right-out only access point to US-54 located east of Reserve L, guarantee of acceleration and deceleration lane improvements, reconfiguration of Kellogg Drive to a frontage road with emergency access to the vacated portion

- of Kellogg Drive if required, dedications for the future Kellogg Expressway will be determined, and a drainage plan and associated guarantees will be required.
- B. The off-site sign shall be permitted for off-site advertising only; on-site advertising is prohibited per the Sign Code on the off-site sign.
 - C. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

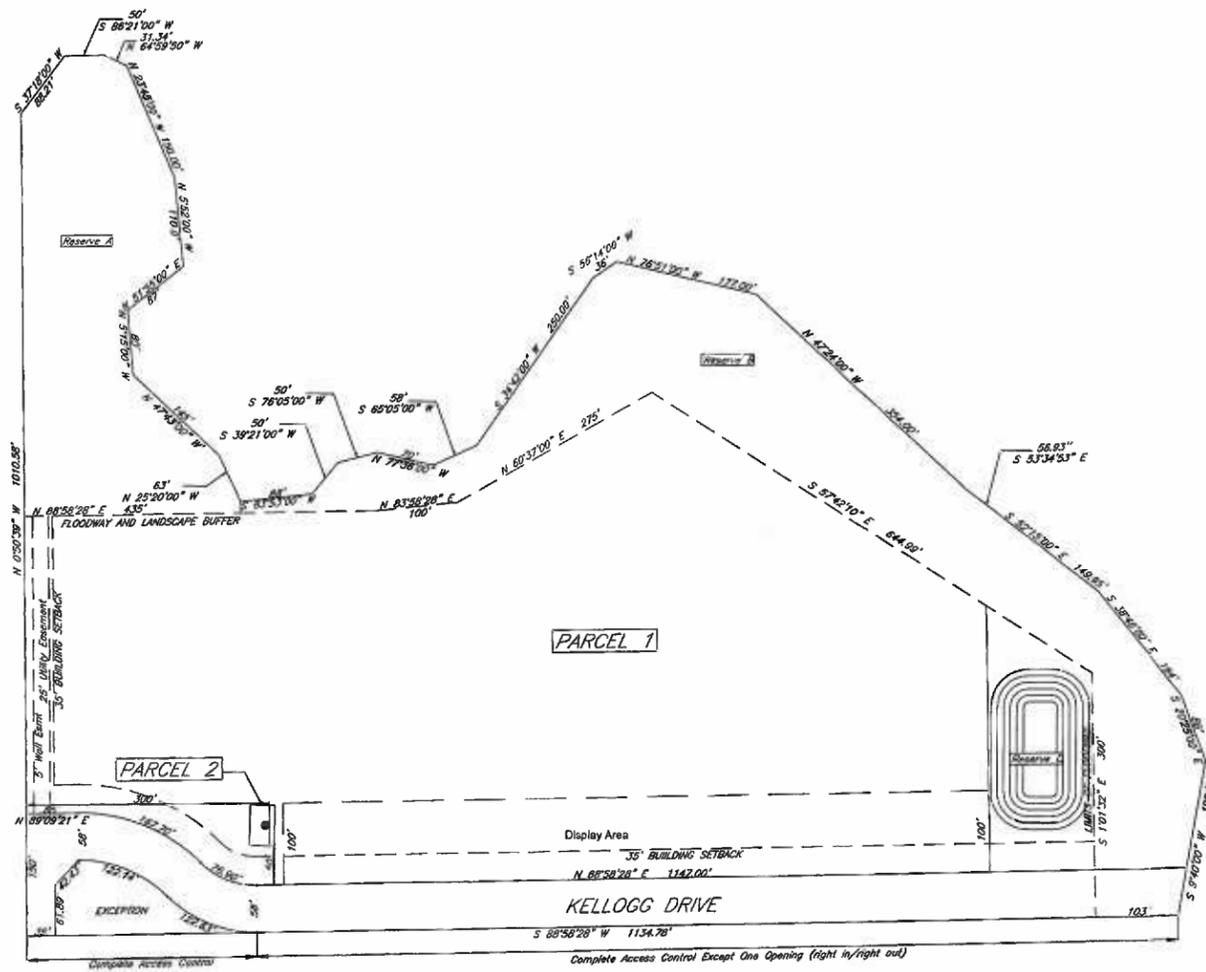
This recommendation is based on the following findings:

- (1) The zoning, uses and character of the neighborhood: The site is located along the north side of US-54. Property north of the site, across the floodway and landscape buffer, is zoned SF-5 and developed with single-family residences. South of the site is US-54, further south is an SF-5 zoned neighborhood to the southwest, and an unincorporated, SF-20 zoned large-lot residence. East of the site is the LC zoned remainder of the undeveloped CUP, DP-226. West of the site is another unincorporated, SF-20 zoned large-lot residence.
- (2) The suitability of the subject property for the uses to which it has been restricted: The site could be developed under the current LC zoning and restrictions of DP-226 for a limited range of commercial uses. However, the site has been vacant as zoned for 11 years. The applicant's proposal for contractor sales and service, equipment rental and sales, and an off-site sign require an increase in zoning intensity and removal of CUP restrictions.
- (3) Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed PUD removes restrictions of off-site signs and the more intense commercial uses of contractor sales and services and equipment rental and sales. Given mitigating screening requirements and significant existing landscape buffering, removal of these restrictions should not impact surrounding property owners.
- (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 commercial development along US-54 where infrastructure exists. Vehicle traffic and activity on the site could negatively impact US-54; mitigating conditions are included in the PUD. Denial of this request would presumably be a loss of economic opportunity for the land owner.
- (5) Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies this location on the *2035 Wichita Future Growth Concept Map* as "Residential and Employment Mix." The Locational Guidelines of the Comprehensive Plan encourage major commercial development in close proximity to highways. This application meets the Comprehensive Plan Land Use Compatibility and Design

recommendations regarding screening, buffering, shared internal vehicular and pedestrian circulation, access controls, noise and lighting controls and aesthetic considerations. The Plan's *Priority Enhancement Areas for Wichita Infrastructure Projects Map* identifies this portion of Kellogg as a "Wichita Primary Gateway," and recommends considering the inclusion of site design features that increase the sense of quality of life through emphasis of visual character and aesthetic improvements.

- (6) Impact of the proposed development on community facilities: The proposed development will increase traffic on and off this portion of US-54. Provided adequate acceleration and deceleration lanes and sufficient right-of-way for Kellogg Expressway expansion, community facilities should not be impacted.

BELLE TERRE COMMERCIAL PLANNED UNIT DEVELOPMENT PUD2016-01



US-54

PARCEL 1:

A. Net Area:	845,573 sq. ft. ± 19.41 acres ±
B. Maximum Building Coverage	296,475 sq. ft.
C. Maximum Gross Floor Area	444,713 sq. ft.
D. Floor Area Ratio	0.35
E. Maximum Number of Buildings	12
F. Maximum Building height	45' Except all buildings in the west 300 feet of the parcel shall be limited to one story and a building height of 35'
G. Setbacks	See Drawing
H. Access Points	1 on U.S. Highway 54
I. Parking	Per Code
Permitted Uses:	See General Provision #14.

PARCEL 2:

1. Net Area:	1500 sq. ft. ± 0.03 acres ±
2. Permitted Uses:	off-site sign

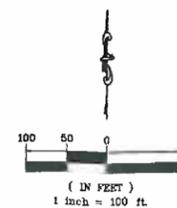
LEGAL DESCRIPTION:
Lot 1, Block 1 Belle Terre South Addition,
and Lot 1, Block 2 Belle Terre South Addition.

GENERAL PROVISIONS:

1. Total Land Area 847,073 sq. ft. or 19.45 acres
2. Parking shall be provided in accordance with Article IV of the Unified Zoning Code.
3. Setbacks are as indicated on the P.U.D. drawing.
4. A drainage plan shall be submitted to City Engineering for approval. Required guarantees for drainage shall be provided at the time of plotting improvements.
5. Signs shall be in accordance with the LC zoning district in the Sign Code of the City of Wichita, with the following additional requirements:
 - A. Parcel 1 is permitted the following freestanding signage: Six signs with a maximum height of 20'. Spacing between signs shall be 150 feet. Maximum area for signs shall not exceed 0.8 times the parcel frontage.
 - B. Portable signs are not permitted.
 - C. Ground signs shall be monument type.
 - D. One off-site sign shall be allowed on Parcel 2 of the PUD.
 - a. The off-site sign shall be 150' setback from U.S. Highway 54, and 300' east of the west property line.
 - b. The off-site sign may be used for off-site or on-site purposes.
 - c. All regulations for the off-site sign are governed by this PUD; Off-site regulations in Title 24 do not govern except for brightness control and limitations.
 - d. The off-site sign may be LED.
 - e. The maximum size for the off-site sign is 14'x48', maximum height is 30'.
 - f. Off-site signage requires appropriate permits from State authorities.
6. Access to U.S. Highway 54 shall be limited to 1 opening to Parcel 1 to be determined at the time of platting. There shall be complete access control on the remaining U.S. 54 Highway Frontage.
7. Parcel 1 shall install similar or consistent parking lot lighting elements (i.e., fixtures, poles, and lamps, etc.).
 - A. The height of all light poles, including pole base, is limited to 15 feet.
 - B. All exterior lighting shall be shielded to direct light disbursement in a downward direction and away from residential areas.
8. Utilities shall be installed underground on all parcels.
9. Landscape buffers and screening shall be in accordance with the City of Wichita Landscape Ordinance.
10. Noise from the site shall not be audible from adjacent or surrounding property above the local, ambient noise. No outdoor speaker systems shall be permitted.
11. All rooftop mechanical equipment shall be screened from ground-level view from adjacent residential areas and adjacent street right of way.
12. Trash receptacles and ground level mechanical equipment shall be screened to reasonably hide them from ground level view, adjacent property and street right of way.
13. All building exteriors in the P.U.D. shall share a consistent architectural design, color, and texture. Exterior utility boxes, mechanical equipment, and etc., shall

be screened and/or painted according to the acceptable color range. All light fixtures shall share consistent design (i.e., fixtures, poles, lamps, etc.). Variations must be approved by the Director of Planning.

14. Fire lanes shall be in accordance with the Fire Code of the City of Wichita. No parking shall be allowed in said fire lanes, although they may be used for passenger loading and unloading. The Fire Chief or his designated representative shall review and approve the location and design of all fire lanes. Fire hydrant installation and paved access to all building sites shall be provided for each phase of construction prior to the issuance of building permits.
15. Uses in Parcel 1 shall be limited to the following: All uses permitted in G.C. zoning district except for the following: manufactured/mobile homes, assisted living, group residence, auditorium, cemetery, community assembly, correctional placement residence, golf course, library, entertainment establishment, event center, farmer's market, kennel, hobby and boarding/breeding/training, recreational marine facility, indoor and outdoor recreation and entertainment, rodeo, riding academy or stable, sexually oriented business in the city, tattooing and body piercing facility, teen club, vocational school, hospital, recycling collection stations, reverse vending machine, elementary, middle and high schools, car wash, convenience stores, night club, pawn shop, service stations, tavern and drinking establishments, vehicle repair, adult entertainment establishments, recycling processing center, second hand store, microbrewery, self-service warehouse, RV campground, outdoor vehicle sales, manufacturing limited and general, vehicle storage yard, warehousing, and welding or machine shop as defined in the City of Wichita ordinances. There shall be no hotels or motels in the west 300 feet of the parcel. Outdoor rental and sales of equipment shall be allowed. Any use requiring a conditional use in GC zoning shall require a PUD amendment.
16. The PUD is subject to replatting the property, when access controls and improvements (to include acceleration and deceleration lanes) will be determined, when vacation of a portion Kellogg Drive will be determined, and emergency access to Kellogg Drive will be determined. Replatting the site is when dedications for Kellogg expansions will be determined.
17. Development of the site will not be permitted without connection to public water and sewer.
18. All outdoor storage of equipment and materials shall be visually screened from all surrounding properties and all adjacent right of way, to include US-54. Material shall not be stacked or piled higher than the screening walls or landscaping. Planning Staff site plan approval is required for designated outdoor material and equipment storage, which shall not be within 150' of any adjacent property or right-of-way.
19. All internal circulation drives shall be paved with concrete or asphalt to mitigate dust.
20. A site circulation plan shall be required for review and approval by the Planning Director prior to the issuance of any building permits. The site circulation plan shall ensure pedestrian linkages between buildings and the sidewalk system and shall ensure internal vehicular circulation among developments within the P.U.D., including joint use of ingress/egress openings and ensuring that drive openings are not impacted/blocked by the layout of parking stalls or landscaping.
21. Amendments, adjustments or interpretations to this P.U.D. shall be done in accordance with the Unified Zoning Code.
22. The Transfer of title of all or any portion of land included within the Planned Unit Development (or any amendments thereto) does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land and be binding upon present owners, their successors and assigns.
23. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approval by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator or the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
24. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.



Prepared 2-4-2016

KEMILLER
ENGINEERING PA
117 E. Lewis, Wichita, KS 67202 (316)264-0242



STAFF REPORT
MAPC 3-17-2016

CASE NUMBER: DER2016-00001

APPLICANT/AGENT: MAPD staff

REQUEST: Elimination of Metropolitan Area Planning Commission Policy No. 5 dealing with zone changes that are subject to platting

CURRENT ZONING: N/A

SITE SIZE: N/A

LOCATION: City and County wide

PROPOSED USE: N/A

BACKGROUND: Since June 9, 1971, it has been Metropolitan Area Planning Commission (MAPC) practice and policy (Policy Statement No. 5, attached) where platting or replatting is required as a condition of rezoning, the time period for completing the platting process has been established at one year from the time of approval of the zoning by the City or County governing bodies. Policy No. 5 also contained procedures for asking for extension of the platting deadline. Extensions for up to an additional six months to a year could be granted administratively. An extension for more than a one year or multiple requests for extension required governing body approval. In recent years, land developers have experienced less certainty in the market place and there have been a number of requests for platting extensions. Since 2008, 94 platting extensions have been approved. During the same time period 381 plats were filed.

A specific concern that has been identified is the following circumstance. Under the current policy when a zone change has been approved subject to platting, the official zoning map is not changed to reflect the zone change approval until the plat is recorded. If a property owner is dealing with someone from out of town or someone not familiar with the current policy of not changing the zoning map even though the zoning has been approved but not perfected, the prospective purchaser has to trust the property owner's assertion that the zone change has been approved, or take the time and expense to request a zoning verification letter from the Metropolitan Area Building and Construction Department (MABCD). Elimination of the current policy would remove the element of doubt created in the previously described scenario. Finally, elimination of the platting requirement removes a staff administration responsibility and eliminates an application fee.

Because of the changing dynamics of developing and marketing real estate and the ability to change the official zoning map sooner, it is recommended that the policy requiring platting within one year of rezoning approval be eliminated.

This policy does not waive the requirement that property be platted in order to obtain a building permit.

If necessary for the public health, safety and welfare, the property owner may be required *at the time of rezoning* to guarantee or dedicate by separate instrument right-of-way and/or easements prior to the recording of a plat. Zone change approvals shall be placed upon the official zoning map upon publication of the ordinance or resolutions or upon completion of all required conditions of approval for those actions not requiring publication.

It is understood that zone change approval shall include land use applications such as zoning, conditional use, community unit plan, planned unit development and similar land use control applications.

CASE HISTORY: Policy Statement No. 5 has been in effect since June 9, 1971.

PUBLIC SERVICES: If necessary, at the time of zone change the zone change could require the property owner to guarantee or dedicate by separate instrument right-of-way and/or easements prior to the recording of a plat.

CONFORMANCE TO PLANS/POLICIES: The Community Investments Plan encourages the implementation of policies that utilize a common-sense approach that promotes reasonable regulation and promote fiscal responsibility.

RECOMMENDATION: Based upon the information available at the time the staff report was prepared it is recommended that Policy No. 5 be eliminated.

