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WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION AGENDA

Thursday, June 02, 2016

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission will be held on **Thursday, June 02, 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: April 21, 2016

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

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

SUBDIVISION CASE DETAILS

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

PUBLIC HEARINGS

ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 PM

4. Case No.: ZON2016-00020 (Deferred indefinitely)
Request: City Protective Overlay Amendment to remove the Delano Overlay on a parcel in U University Zoning for a wireless communication tower.
General Location: South of W. Douglas and east of Kessler Street (2100 University Ave.).
Presenting Planner: Bill Longnecker
5. Case No.: CON2016-00010
Request: City Conditional Use for an Accessory Apartment in TF-3 Two-family Residential zoning.
General Location: At the southeast corner of E. 2nd and N. Rutan Streets (3401 E. 2nd St.).
Presenting Planner: Kathy Morgan
6. Case No.: CON2016-00011
Request: County Conditional Use for a Recreational Vehicle Campground in RR Rural Residential zoning.
General Location: West of K -15 and south of 71st Street South.
Presenting Planner: Bill Longnecker
7. Case No.: CON2016-00012
Request: City Conditional Use for a Nightclub in LC Limited Commercial zoning.
General Location: At the southeast corner of Harry and S. Meridian Streets (1602 S. Meridian St.).
Presenting Planner: Jess McNeely

8. Case No.: CON2016-00013
Request: City Conditional Use for Outdoor Vehicle Sales in LC Limited
Commercial zoning.
General Location: Southeast of Eastern and Kellogg Avenue.
Presenting Planner: Jess McNeely

NON-PUBLIC HEARING ITEMS

9. Other Matters/Adjournment

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

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

MINUTES

April 21, 2016

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, April 21, 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 (In @1:31 p.m.); Bill Ellison; David Foster; Joe Johnson; John McKay Jr. (Out @2:40 p.m.); Bill Ramsey (In @1:40 p.m.); Lowell Richardson and John Todd (In @1:31 p.m.). Members absent were: Matt Goolsby; Debra Miller Stevens and Chuck Warren. Staff members present were: Dale Miller, Director; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Jess McNeely, Senior Planner; Derrick Slocum, Administrative Supervisor; Jeff Vanzandt, Assistant City Attorney; Justin Waggoner, Assistant County Counselor and Maryann Crockett, Recording Secretary.

1. Approval of the March 17, 2016 Planning Commission Minutes.

MOTION: To approve the March 17, 2016 Planning Commission minutes.

DENNIS moved, **DAILEY** seconded the motion, and it carried (7-0-1). **NEUGENT** – Abstained.

DOOL and **TODD** In @ 1:31 p.m.

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB2016-00003: Final Plat – TERRADYNE WEST 4TH ADDITION**, located north of East Central Avenue, West of North 159th Street East.

NOTE: This is a replat of Lot 1, Block 3, Terradyne West 3rd Addition to create a reserve.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that water and sewer services are available to serve the site.
- B. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted and inspected.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. City Stormwater Management has approved the drainage plan.
- E. Access controls have been denoted on the plat as requested by Traffic Engineering.

- F. The number 1 needs removed on Reserve A.
- G. The Register of Deeds Certificate shall include Judy J. Paget as Deputy.
- H. In the legal description Aii needs changed to All.
- I. The mortgage holder certificate needs corrected to delete: "KNOW ALL MEN BY THESE PRESENTS and add:

State of Kansas)
Sedgwick County) SS
- J. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineers (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- K. Provisions shall be made for ownership and maintenance of the proposed reserves. A restrictive covenant shall be submitted regarding ownership and maintenance responsibilities.
- L. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- O. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. The applicant should check City or County GIS mapping to determine whether the location of any taxing district boundaries (e.g. school districts) crosses their property and plan accordingly to avoid unnecessary splitting of lots between taxing districts.
- T. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- U. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

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

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

- 2-2. **SUB2016-00011: One-Step Final Plat – KANSAS HYDROGRAPHICS ADDITION**, located west of South Woodlawn Blvd, South side of East 47th Street South.

CHAIR NEUGENT announced that the item had been deferred indefinitely.

- 2-3. **SUB2016-00012: One-Step Final Plat – C & M WINTER ADDITION**, located on the northwest corner of West 61st Street North and North 199th Street West.

NOTE: This is unplatted property located in the County. It is designated as "rural area" by the Community Investments Plan 2015-2035.

STAFF COMMENTS:

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact Metropolitan Area Building and Construction Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval.

- B. In conformance with the Urban Fringe Development Standards, for individual domestic wells that are proposed, a Safe Yield Analysis must be provided to Metropolitan Area Building and Construction Department to assure the availability of an adequate, safe supply of water that does not impair existing water rights. Easements shall be dedicated for potential future extension of public water and sewer.
- 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. County Engineering has required revisions to the drainage plan including providing the necessary water quality standard before approval.
- E. The plat denotes three joint access openings along 61st Street North. County Public Works has approved the access controls subject to a restrictive covenant that permits future cross-lot access with the abutting property owner to the west of Lot 1, Block B effective upon development of that property. The applicant intends to submit a dedication of access control by separate instrument for the unplatted parcel between Block A and Block B.
- F. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.
- G. County Surveying advises that a site benchmark is needed.
- H. The last line of the surveyor's certificate needs corrected to read: "K.S.A. 12-512b, as amended."
- I. County Surveying requests to be contacted regarding the legal description.
- J. The signature block for the Board of Commissioners Chairman should be revised to read underneath the signature line, "James M. Howell, Fifth District".
- K. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.
- L. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineers (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- M. 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.

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

STRAHL said the Subdivision Committee recommended approval of the plat subject to revisions to the drainage plan. He said County Public Works reported that the requested revisions have been made to the drainage plan. He reported that the plat includes two distinct blocks which were Block One to the West and Block Two to the East separated by a gap consisting of approximately 375 feet. He said the Subdivision Committee questioned the separation and asked if there was a maximum distance the two blocks can be separated by and still be within the same plat. He clarified that similar plats have been approved in the past and referenced several examples including a plat with a 215 foot separation between blocks recorded in 2015; Cummings Estates recorded in 2014 with blocks separated by over 1,000 feet and C&M Winter Addition where blocks were separated by over one quarter of a mile. He referred to the Assistant County Counselor to render an opinion.

JUSTIN WAGGONER, ASSISTANT COUNTY COUNSELOR reported that he did not find any requirement in the Kansas State Statute regarding Subdivision Regulations or within local Subdivision Regulations stating that properties have to be contiguous. He said if blocks were so far apart that the Kansas State Statutes or local Subdivision Regulations would not be followed he doesn't think this case of approximately 300 feet would fit into that.

RICHARDSON said he brought the question up because he believes at some point in the future the Commission needs to decide how far apart pieces of plats can be. He asked staff how that can be addressed.

DIRECTOR MILLER suggested that the Subdivision Regulations be amended. He deferred to legal staff.

WAGGONER said he concurred with the Director's suggestion.

FOSTER asked what would be the process or procedure to accomplish that. Would staff do the initial analysis, bring it to the Subdivision Committee for review and then to the full Planning Commission for discussion and review.

WAGGONER said that would be an acceptable method. He said staff could make a recommendation on maximum separation. He said any amendment to the Subdivision Regulations would have to be approved by both the City and County governing bodies.

FOSTER asked about the joint access issue at the southeast corner.

STRAHL said the applicant will submit an access control document since a relative of the owner owns the property in the gap.

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

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

DIRECTOR MILLER clarified that Staff will draft language to address the issue for Subdivision Committee review.

RAMSEY In @1:40 p.m.

3. **PUBLIC HEARING – VACATION ITEMS**

3-1. **VAC2016-00010: City request to vacate a platted street side yard setback on property**, located on the northwest corner of Harry Street and McComas Avenue.

APPLICANT/AGENT: Foley Industries Inc., c/o Lewis Erickson (applicant/owner) Ruggles & Bohm c/o Will Clevenger (agent)

LEGAL DESCRIPTION: Generally described as vacating the platted 50-foot street side yard setback located on the east side of Lot 1, P.M.A. Addition, & running parallel to McComas Avenue, Wichita, Sedgwick County, Kansas

LOCATION: Generally located east of West Street on the northwest corner of Harry Street and McComas Avenue (WCC IV)

REASON FOR REQUEST: Development

CURRENT ZONING: The site, all abutting and adjacent properties are zoned LI Limited Industrial.

The applicant is requested the vacation of the platted 50-foot street side yard setback located on the east side of Lot 1, P.M.A. Addition, & running parallel to vacated McComas Avenue; VAC2015-00061, approved March 15, 2016. The vacated portion of McComas Avenue established a new property line on the east side of the applicant's property, the vacation of the platted 50-foot setback removes an encumbrance to development on the larger reconfigured subject site. The LI Limited Industrial zoning district has no minimum street side yard setback, which is what the applicant is requesting. There are no utilities or easements located in the subject setback; all utilities are located in the vacated McComas Avenue, which was dedicated as a utility and drainage easement. The P.M.A Addition was recorded March 10, 1966.

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

- (1) Provide a legal description of the vacated platted street side yard setback on a Word document via E-mail for the Vacation Order. This must be provided to Planning prior to VAC2016-00010 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.

- (2) As needed provide easements for public and franchised utilities. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. Easements for public utilities, with original signatures, must be provided to Planning prior to VAC2016-00010 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) Provided Public Works-Sewer (and any other utility located within the subject easement) with a private project plan for the relocation/abandonment of the sewer line and manholes located within the subject easement for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to VAC2016-00010 proceeds to the City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

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

3-2. **VAC2016-00011: City request to vacate a portion of a platted side yard setback on property,** location on the southwest corner of Oliver Avenue and 37th Street North.

APPLICANT/AGENT: ACT Properties LLC, c/o Dr. Jon Parks (applicant/owner) Savoy Company, c/o Mark Savoy (agent)

LEGAL DESCRIPTION: Generally described as vacating the south 10 feet of the platted 20-foot street side yard setback located on and running parallel to the north property line of Lot 1, Block 1, Act Properties, LLC, Addition, Wichita, Sedgwick County, Kansas

LOCATION: Located on the southwest corner of N Oliver Avenue and E 37th Street North (WCC I)

REASON FOR REQUEST: Development

CURRENT ZONING:

The site is zoned LC Limited Commercial. Adjacent (across 37th St. N) north properties are zoned LC or are located in the City of Bel Aire. Adjacent (Oliver Av.) east properties are zoned LC and GC General Commercial. Abutting west and south properties are zoned LI Limited Industrial.

The applicant is requested the vacation of the south 10 feet of the platted 20-foot street side yard setback located on the LC Limited Commercial (LC) zoned key corner lot and running parallel to its north property line and 37th Street North; Lot 1, Block 1, Act Properties, LLC, Addition. Per the Unified Zoning Code (UZO) the LC zoning district has a 10-foot minimum street side yard setback, which is what the applicant is requesting. Water and stormwater are located in the north abutting 37th Street North right-of-way. Sewer is located in the east abutting Oliver Avenue right-of-way. There is a platted, north-south, 10-foot drainage easement located in the west 10 feet of the subject setback that will remain in effect. Utility poles are located in the abutting street right-of-ways. Conditions # 3 covers Westar. Becky Thompson is the Construction Services Representative for this area and can be contacted at 261-6320. The Act Properties, LLC Addition was recorded May 15, 2008.

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

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

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

- (1) Provide a legal description of the vacated portion of the platted street side yard setback on a Word document via E-mail for the Vacation Order. This must be provided to Planning prior to VAC2016-00011 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.

- (2) As needed provide easements for public and franchised utilities. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. Easements for public utilities, with original signatures, must be provided to Planning prior to VAC2016-00011 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide all required approved projects to Planning prior to VAC2016-00011 proceeds to the City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide a legal description of the vacated portion of the platted street side yard setback on a Word document via E-mail for the Vacation Order. This must be provided to Planning prior to VAC2016-00011 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (2) As needed provide easements for public and franchised utilities. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. Easements for public utilities, with original signatures, must be provided to Planning prior to VAC2016-00011 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide all required approved projects to Planning prior to VAC2016-00011 proceeds to the City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

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

- 3-3. **VAC2016-00012: City request to vacate a portion of a platted drainage easement on property,** generally located southeast of 29th Street North and Tyler Road on the south side of the Meadow Park and Fossil Rim Streets' bend.

APPLICANT/AGENT: Caroline M Hayes Revocable Trust, c/o Will Hayes (applicant/owner)
Baughman Company, PA, c/o Phil Meyer

LEGAL DESCRIPTION: Generally described as vacating the east 10 feet of a platted 20-foot drainage easement located on both sides of Lot 7 (subject site) and Lot 8, Block A, and the south 10-feet of a platted 50-foot drainage and utility easement located on the south 10 feet of Lot 1, Block A, all in the Fossil Rim Estates Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located southeast of 29th Street North and Tyler Road on the south side of the Meadow Park and Fossil Rim Streets' bend (WCC V)

REASON FOR REQUEST: Build a wall

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

The applicant is requested the vacation of the east 10 feet of a platted 20-foot drainage easement located on both sides of the common property line of Lot 7 (subject site) and Lot 8, Block A, and the south 10-feet of a platted 50-foot drainage and utility easement located on the south 10 feet of the subject site, all in the Fossil Rim Estates Addition. Water and sewer are located in the Meadow Park street right-of-way and/or the platted drainage and utility easement running parallel to the right-of-way. There is stormwater equipment located in the area of the vacation of the east 10 feet of a platted 20-foot drainage easement. There does not appear to be stormwater equipment located in the area of the vacation of the south 10-feet of a platted 50-foot drainage and utility easement located on the south 10 feet of the subject site. The abutting south property(ies) located in the Northridge Lakes Addition does not have easements running parallel to the subject site's platted 50-foot drainage and utility easement. The subject site is not located in a Flood Way or a Flood Zone. Condition # 4 covers Westar. Richard Aitken is the Construction Services Representative for this area and can be contacted at 261-6734. The Fossil Rim Estates Add was recorded May 31, 2002.

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

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

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

- (1) Review and approval of a drainage plan by Stormwater-Public Works is required. If approved provide the dedication(s) by separate instrument of a wall easement on both of the subject easements that would allow utilities to cross under them. The dedication(s) will be recorded with the Vacation Order at the Sedgwick County Register of Deeds and must be provided to Planning prior to VAC2016-00012 proceeds to City Council for final action.
- (2) Provide a legal description of the vacated portion of the platted drainage and easement on a Word document via E-mail for the Vacation Order. This must be provided prior to VAC2016-00012 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) As needed provide easements for utilities. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council for final action.
- (4) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council for final action.
- (5) All improvements shall be according to City Standards and at the applicants' expense.

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

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Review and approval of a drainage plan by Stormwater-Public Works is required. If approved provide the dedication(s) by separate instrument of a wall easement on both of the subject easements that would allow utilities to cross under them. The dedication(s) will be recorded with the Vacation Order at the Sedgwick County Register of Deeds and must be provided to Planning prior to VAC2016-00012 proceeds to City Council for final action.
- (2) Provide a legal description of the vacated portion of the platted drainage and easement on a Word document via E-mail for the Vacation Order. This must be provided prior to VAC2016-00012 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) As needed provide easements for utilities. As needed provide letters from franchised utility representatives stating that there utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council for final action.
- (4) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council for final action.
- (5) All improvements shall be according to City Standards and at the applicants' expense.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

MCKAY moved, **DOOL** seconded the motion, and it carried (10-0-1). **FOSTER** – Abstained.

3-4. **VAC2016-00013: City request to vacate a portion of the Orchard public street right-of-way**, located north of Murdock Avenue between Holyoke and Vassar Avenues.

- APPLICANT/AGENT:** Wichita Children's Home, c/o Deborah Kennedy (applicant) Baughman Company, c/o Phil Meyer
- LEGAL DESCRIPTION:** Generally described as vacating a 11.94-foot (x) 49.95/.96-foot remnant of Orchard Avenue, Wichita, Sedgwick County, Kansas
- LOCATION:** Generally located between Holyoke Street and Vassar Street, north of Murdock Street and east of (WCC I)
- REASON FOR REQUEST:** Complete the vacation of that portion of Orchard Avenue located between Holyoke and Vassar Avenues
- CURRENT ZONING:** All abutting and adjacent properties are zoned TF-3 Two-Family Residential and B Multi-Family Residential

The applicant is requesting the vacation of an 11.94-foot (x) 49.95/.96-foot remnant of Orchard Avenue located between Holyoke and Vassar Avenues. This a middle portion of Orchard that was left over from previous vacations of this portion of Orchard Avenue. The west portion of Orchard Avenue, from Holyoke Avenue to the subject right-of-way was vacated January 8, 1963; Misc. Book 511, Pages 295 and 296. The east portion of Orchard Avenue, from Vassar Avenue to the subject right-of-way was vacated October 19, 1993; V-1827, Film 399, Pages 328 and 329. The subject right-of-way is part of a paved parking lot. The applicant owns all of the abutting properties. No utilities are located in the described right-of-way. Conditions # 3 covers Westar. Becky Thompson is the Construction Services Representative for this area and can be contacted at 261-6320. This portion of Orchard Avenue was platted in the Sunrise Park Addition, recorded with the Register of Deeds July 9, 1888.

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

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time March 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 platted street right-of-way and that the public will suffer no loss or inconvenience thereby.

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

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

- (1) Vacate the described portion of the Orchard Avenue public street right-of-way. Provide Planning with a legal description of the vacated right-of-way on a Word document, via E-mail to be used on the Vacation Order. This must be provided to Planning prior to VAC2016-00013 proceeding to City Council for final action
- (2) Provide a covenant, with original signatures, binding and tying the described vacated public street right-of-way to the applicant's abutting property. This must be provided to Planning prior to VAC2016-00013 proceeding to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds and the Sedgwick County Appraisers Office.
- (3) If needed dedicate the described vacated portion of Orchard Avenue as easement(s) by separate instrument to cover all utilities. The original dedication must be provided to Planning prior to VAC2016-00013 proceeds to City Council for final action and subsequent recording with the Register of Deeds.
- (4) If needed provide utilities with any needed project plans for the relocation of utilities for review and approval. Any relocation/reconstruction of utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number(s) to Planning prior to the case going to City Council for final action.
- (5) All improvements shall be according to City Standards and at the applicants' expense.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the described portion of the Orchard Avenue public street right-of-way. Provide Planning with a legal description of the vacated right-of-way on a Word document, via E-mail to be used on the Vacation Order. This must be provided to Planning prior to VAC2016-00013 proceeding to City Council for final action

- (2) Provide a covenant, with original signatures, binding and tying the described vacated public street right-of-way to the applicant's abutting property. This must be provided to Planning prior to VAC2016-00013 proceeding to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds and the Sedgwick County Appraisers Office.
- (3) If needed dedicate the described vacated portion of Orchard Avenue as easement(s) by separate instrument to cover all utilities. The original dedication must be provided to Planning prior to VAC2016-00013 proceeds to City Council for final action and subsequent recording with the Register of Deeds.
- (4) If needed provide utilities with any needed project plans for the relocation of utilities for review and approval. Any relocation/reconstruction of utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number(s) to Planning prior to the case going to City Council for final action.
- (5) All improvements shall be according to City Standards and at the applicants' expense.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

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

3-5. VAC2016-00014: County request to vacate a portion of platted complete access control on property, located west of 183rd Street West on the south side of 29th Street North.

APPLICANT/AGENT: Donna Walker (applicant/owner) Baughman Company, P.A., c/o Phil Meyer (agent)

LEGAL DESCRIPTION: Generally described as vacating a portion of the 310.57 feet of platted complete access control located on the north property line of Lot 3, Block A, Walker Estates Addition, Sedgwick County, Kansas.

LOCATION: Generally located west of 183rd Street West on the south side of 29th Street North (BoCC #3)

REASON FOR REQUEST: To allow a single drive onto 29th Street North

CURRENT ZONING: The site and all abutting and adjacent properties are zoned RR Rural Residential.

The applicant proposes to vacate a portion of the 310.57 feet of platted complete access control located on the north property line of Lot 3, Block A, Walker Estates Addition, to allow a drive onto 29th Street North. 29th Street North is a paved two-lane, two-way, County section line road at this intersection with 90 feet of right-of-way. The proposed drive would be located in a north portion of Lot 3 that is shown as a platted drainage reserve. A pond in this portion of the site limits the area where a drive could be established. There are two drives located north of the site, across 29th Street North, that line up with the west 180 feet of the subject site. There is another two drives located north of the site, across 29th Street North, approximately 790 and 900 feet east of the site. There are another two drives on the south side of 29th Street North located approximately 180 feet and 225 feet west of the site.

183rd Street West is located approximately 1,050 feet east of the site. Although Lot 3 does not have frontage onto 183rd Street West, it does have access to 18rd Street West, via two 30-foot wide access easements (private drives) dedicated by separate instrument, which are located in line with the two platted/permitted access points onto 183rd from the Walker Estates Addition. A "NOTE" on the plat states that a restrictive covenant has been filed that limits the use of the existing private drives to no more than three lots within the development. The 'development', i.e., the Walker Estates Addition is platted with five lots.

The site is located in Sedgwick County Rural Water District #4. Sewer is an on-site and appears to be septic. There are no utilities located within the area of the vacation. The Walker Estates Addition was recorded with the Register of Deeds March 18, 2004.

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

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

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

- (1) Vacate that portion platted access control to allow one drive onto the sites' 29th Street North frontage, as approved by County Public Works. Provide Planning Staff with a legal description of the approved vacated portion of the platted access control on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. All Provide to Planning prior to the case going to the BoCC for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (3) All improvements shall be according to County Standards and at the applicant's expense, including all required County plans, permits, inspections and the construction of the drive onto 29th Street North and through the platted drainage reserve.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate that portion platted access control to allow one drive onto 29th Street North frontage, as approved by County Public Works. Provide Planning Staff with a legal description of the approved vacated portion of the platted access control on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. All Provide to Planning prior to the case going to the BoCC for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (3) All improvements shall be according to County Standards and at the applicant's expense, including all required County plans, permits, inspections and the construction of the drive onto 29th Street North and through the platted drainage reserve.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

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

PUBLIC HEARINGS

4. **Case No.: ZON2016-00003** - CAH LLC, Attn: Graig Harms (owner) requests a City zone change from SF-5 Single-family Residential to TF-3 Two family Residential on property described as:

Lot 10, except the East 150 feet thereof, Kauffman Gardens, Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant requests TF-3 Two-Family Residential (TF-3) zoning on a 0.19-acre platted lot. The vacant, corner lot has 53 feet of frontage along North Mount Carmel Avenue and 150 feet of frontage along West Murdock Avenue. The applicant intends to develop a duplex on the site. The lot meets the Unified Zoning Code (UZC) minimum lot dimensions and size for a duplex in TF-3 zoning.

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, Zoo Boulevard, McLean Boulevard and Central Avenue. Multi-family zoning and developments also exist within a three-block radius of the site. North of the site on North Mount Carmel Avenue are SF-5 zoned single-family residences. South of the site are SF-5 zoned single-family residences. Two TF-3 zoned duplexes are one block south of the site. East of the site are SF-5 zoned single-family residences. Three blocks further east are GO General Office (GO) zoned multi-family residences and a skilled nursing facility. West of the site are SF-5 zoned single-family residences. B Multi-family Residential (B) zoned apartments exist one block west of the site.

CASE HISTORY: The site was platted as a portion of Lot 10 of the Kauffman Gardens Addition in 1950. The application area was created by a lot split in 2003. The lot split included a utility easement dedication and a no-protest petition for the paving of Murdock Avenue.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family residences
SOUTH:	SF-5, TF-3	Single-family residences, duplexes
EAST:	SF-5, GO	Single-family residences, multi-family residences, skilled nursing
WEST:	SF-5, B	Single-family residences, multi-family residences

PUBLIC SERVICES: North Mount Carmel Avenue is a paved, two-lane local street at this location with a 60-foot right-of-way. West Murdock Avenue is an un-paved, two-lane local street at this location with a 50-foot right-of-way. 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. However, over a dozen pockets of TF-3 zoning exist within this neighborhood bordered by 13th Street North, Zoo Boulevard, McLean Boulevard and Central Avenue. Multi-family zoning and developments also exist within a three-block radius of the site. North of the site on North Mount Carmel Avenue are SF-5 zoned single-family residences. South of the site are SF-5 zoned single-family residences. Two TF-3 zoned duplexes are one block south of the site. East of the site are SF-5 zoned single-family residences. Three blocks further east are GO zoned multi-family residences and a skilled nursing facility. West of the site are SF-5 zoned single-family residences. B zoned apartments exist one block west of the site.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The vacant site is currently zoned SF-5 and could be developed with a 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 a vacant 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.

JESS MCNEELY, Planning Staff presented the Staff Report.

RICHARDSON commented that it appeared that item #4 (ZON2016-00003) and item #5 (ZON2016-00004) are by the same applicant.

MCNEELY explained that Graig Harms was the applicant on item #4 and the agent on Item#5.

RICHARDSON said he was concerned that there was no development sign on either one of the properties. He suggested that the items be deferred until the property signage has been posted to notify the neighbors.

MCNEELY commented if there was someone present to hear the item, the Commission could defer the item to a time certain. He said typically a deferral notice is not sent out to the entire ownership list.

DIRECTOR MILLER explained that if the Commission deferred the items to a time certain staff would not have to re-advertise or send out public hearing notices.

MOTION: To defer both cases (ZON2016-00003 and ZON2016-00004).

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

DAILEY said the signs were not there last night and said other interested parties in the area may not read the paper or have received a notice.

JOHNSON asked when the signs needed to be posted.

MCNEELY said the signs should be posted 13 days prior and up to the day of the public hearing.

CHAIR NEUGENT clarified that the sign was in addition to sending out separate notifications to each of the property owners on the certified ownership list who can legally protest the cases. She said the issue is the sign didn't get placed.

MCNEELY said that is correct. He added that he has received no phone calls on either case. In addition, he said ZON2016-00003 was heard by DAB VI last night and no one was present to speak on the case.

CHAIR NEUGENT asked if there was a statutory requirement for the sign or was that a local policy.

DIRECTOR MILLER said posting the sign was a MAPC Policy,

DENNIS asked if the applicant/agent or anyone else was present to speak for or against the items.

GREG HARMS, 810 N. MAIN said they put in the applications in January and he posted the signs at that time. He admitted he should have gone back to insure the signs were still up and that was a lack of due Diligence on his part. He said there were some unexpected delays but the signs were posted signs right after they applied.

SUBSTITUTE MOTION: To approve item subject to staff recommendation.

JOHNSON moved, **MCKAY** seconded the motion, and it carried (9-2). **DAILEY** and **RICHARDSON** – No.

MCNEELY reiterated that he has received no phone calls on either case. He said the applications got delayed due to non-payment of the filing fees. He said the applicant was given the signs and instructions at the time they filed the applications.

TODD commented that there was dirt work at one location so he could see where the sign might have come down. He said he was going to vote for the substitute motion.

DAILEY asked that staff make sure that signs are posted 13 days prior to the public hearing. He commented that this has happened before where he has driven by a location and there hasn't been a sign. He requested that staff make it clear to the applicant that the sign needs to be posted.

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5. **Case No.: ZON2016-00004** - Jimmy Young (owner/applicant) and CAH LLC, Attn: Craig Harms (agent) request a City zone change from SF-5 Single-family Residential to TF-3 Two-family Residential on property described as:

Lots 34, 36, 38 and 40, Block 5, College Green, Sedgwick County, Kansas .

BACKGROUND: The applicant requests TF-3 Two-Family Residential (TF-3) zoning on a 0.24-acre platted parcel. The vacant site has 100 feet of frontage along All Hallows Avenue and 140 feet of depth. The applicant intends to develop duplexes on the site. The application area meets the Unified Zoning Code (UZC) minimum dimensions and size for up to two duplexes in TF-3 zoning.

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 South West Street, West Maple Street, South Meridian Avenue and West Kellogg. Multi-family zoning and developments also exist within a three-block radius of the site. North of the site on South All Hallows Avenue are SF-5 zoned single-family residences and TF-3 zoned duplexes. South of the site are SF-5 zoned single-family residences and an MF-29 Multi-family Residential (MF-29) zoned duplex. East of the site are SF-5 zoned single-family residences and TF-3 zoned duplexes. West of the site are SF-5 zoned single-family residences TF-3 zoned duplexes.

CASE HISTORY: The site was platted as Lots 34, 36, 38 and 40 of the College Green Addition in 1887.

ADJACENT ZONING AND LAND USE:

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

PUBLIC SERVICES: South All Hallows Avenue is a paved, two-lane local street at this location with a 60-foot right-of-way. The site has rear access to an unpaved, dedicated 20-foot service alley. 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. However, over a dozen pockets of TF-3 zoning exist within this neighborhood bordered by South West Street, West Maple Street, South Meridian Avenue and West Kellogg. Multi-family zoning and developments also exist within a three-block radius of the site. North of the site on South All Hallows Avenue are SF-5 zoned single-family residences and TF-3 zoned duplexes. South of the site are SF-5 zoned single-family residences and an MF-29 zoned duplex. East of the site are SF-5 zoned single-family residences and TF-3 zoned duplexes. West of the site are SF-5 zoned single-family residences TF-3 zoned duplexes.
- (2) The suitability of the subject property for the uses to which it has been restricted:** The vacant site is currently zoned SF-5 and could be developed with up to two single-family residences.
- (3) Extent to which removal of the restrictions will detrimentally affect nearby property:** Impact on surrounding property due to the requested zone change should be minimal; duplexes and TF-3 zoning are common within the surrounding blocks. Duplexes on the site could be better for the neighborhood than a vacant 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.

JESS MCNEELY, Planning Staff presented the Staff Report.

SUBSTITUTE MOTION: To approve subject to staff recommendation.

JOHNSON moved, MCKAY seconded the motion, and it carried (9-2). DAILEY and RICHARDSON - No.

6. **Case No.: ZON2016-00011** - Stephen and Sally Miller (Owners/applicants) and Ruggles and Bohm, c/o Will Clevenger (agent) request a County zone change from SF-20 Single-family Residential to MF-18 Multi-family Residential on property described as:

RE: That part of the NE1/4 of Sec. 2, T28S, R2E of the 6th P.M., Sedgwick County, Kansas, described as beginning at a point on the west line of said NE1/4, said point being 60.00 feet south of the northwest corner of said NE1/4; thence N89°17'54"E, parallel with the north line of said NE1/4, 171.57 feet; thence S00°42'06"E, 37.00 feet; thence S55°54'08"W 24.00 feet; thence S14°46'45"E, 102.00 feet; thence S89°13'33"E, 172.00 feet; S84°24'03"E, 294.00 feet; thence N61°16'01"E, 55.68 feet; thence N27°04'40"E, 112.00 feet to a point of curvature of a curve to the left, said curve having a radius of 130.00 feet, an arc length of 42.95 feet, chord bearing N17°36'47"E, 42.76 feet; thence northerly along said curve, 42.95 feet; thence S89°17'54"W, parallel with said north line, 18.45 feet; thence N00°42'06"W, 20.00 feet to a point 60.00 feet south of said north line; thence N89°17'54"E, parallel with said north line, 72.00 feet; thence S00°42'06"E, 20.00 feet; thence S89°17'54"W, parallel with said north line, 21.24 feet; to a non-tangent curve to the right, said curve having a radius of 162.00 feet; an arc length of 58.49 feet; chord bearing S16°44'02"W, 58.18 feet; thence southerly along said curve, 58.49 feet to a point of tangency; thence S27°04'40"W, 140.00 feet; thence S66°41'30"E, 33.00 feet; thence N83°42'31"E, 63.00 feet; thence S00°26'41"E, 97.00 feet; thence S89°18'00"W, 59.00 feet; thence S23°09'43"W, 58.00 feet; thence S66°12'52"W, 91.00 feet; thence N87°19'39"W, 67.00 feet; thence N42°22'55"W, 109.00 feet; thence N85°16'34"W, 104.00 feet; thence S80°22'41"W, 92.00 feet; thence S32°30'02"W, 157.00 feet; thence S07°18'16"W, 49.00 feet; thence S54°49'24"E, 40.00 feet; S09°48'47"W, 86.00 feet; thence S71°57'12"W, 88.00 feet; thence N74°34'33"W, 109.00 feet; thence N41°04'17"W, 71.00 feet to said west line; thence N00°43'06" "E along said west line, 541.38 feet to the place of beginning.

BACKGROUND: The applicant is requesting MF-18 Multi-Family Residential (“MF-18”) zoning on 5.34 acres located approximately 1,800 feet west of South 143rd Street East, along the south side of East Pawnee Road. The subject site is currently zoned SF-20 Single-Family Residential (“SF-20”), and is undeveloped. According to the attached site plan, the applicant proposes to construct 39 units, in a mixture of duplex, triplex, and fourplex buildings that are accessed from a private drive that will have two access points from East Pawnee Road.

The minimum lot area per dwelling unit for multi-family uses in the MF-18 zoning district is 2,500 square feet. The maximum number of multi-family residential dwelling units that could be built on the site if the requested zoning is approved is 93 units. Building setbacks in the MF-18 district are: Front-25 feet, Rear-20 feet and Interior side-6 feet. Maximum building height is 45 feet. The SF-20 district has a minimum lot area of 20,000 square feet, and the following building setbacks: Front-25 feet, Rear-25 feet and Interior side-10 feet. In the SF-20 district the minimum lot width is 100 feet while the maximum building height is 35 feet, however 45 feet if the structure(s) are more than 25 feet from all lot lines.

Land located to the north is zoned SF-5 single-family residential and NR Neighborhood Retail (“NR”). The properties to the north are located within the city limits of Wichita and is being developed with single-family residences around a golf course with clubhouse and driving range. Land located to the south, east and west is zoned SF-20 and is currently undeveloped land used for agricultural purposes.

CASE HISTORY: None identified, and the property is currently unplatted.

ADJACENT ZONING AND LAND USE:

North: SF-5, NR	Single-family, golf course, clubhouse, driving range
South: SF-20	Undeveloped, agricultural land
East: SF-20	Undeveloped, agricultural land
West: SF-20	Undeveloped, agricultural land

PUBLIC SERVICES: The site is currently not served by public sanitary sewer and water. Directly across Pawnee, north of the subject site, public water and sewer is serving the new residential development. A public sewer line does run approximately 600 feet to the east and south of the subject site. East Pawnee Road is a two-lane, paved, major collector, section line road.

CONFORMANCE TO PLANS/POLICIES: The 2035 Wichita Future Growth Concept Map in the Community Investments Plan indicates the site is appropriate for “new residential” uses within the Wichita Growth Area. The Wichita Growth Area is adjacent to Wichita and is primarily undeveloped but has the potential to be developed by the year 2035, based upon Wichita population growth projections and current market trends. This is the area in which City expansion and extension of municipal services and infrastructure should be focused. “New residential” development encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing densities and types includes, but is not limited to, single-family detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly (assisted living, congregate care and nursing homes).

RECOMMENDATION: Based upon the information available at the time the staff report was prepared it is recommended that MF-18 zoning be approved.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Land located to the north is zoned SF-5 and NR and is located within the city limits of Wichita and is being developed with single-family residences around a golf course with clubhouse and driving range. Land located to the south, east and west is zoned SF-20 and is currently undeveloped land used for agricultural purposes.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned SF-20, which primarily permits by-right single-family residences and a few civic or institutional uses, such as churches or schools on large lots in the unincorporated county. Presumably the site could be redeveloped with single-family residences that would have the potential to provide an economic return or continue to be undeveloped, agricultural land.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of MF-18 zoning will introduce a more intense zoning district than the SF-5 and SF-20 districts currently found in the larger area surrounding the application area. The most common zoning in the area is SF-20 with SF-5 zoned lots directly north of the subject site. The usual objections to multi-family zoning center on the premise that rental property is not maintained to the same level and owner-occupied property and that rental units generate difficulties with parking and increased EMS or police calls. Staff does not have any documentation to verify those allegations.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval would presumably provide the applicant with a greater economic opportunity and would add to the number of dwelling units within the community. Denial would presumably represent some loss of economic opportunity.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2035 Wichita Future Growth Concept Map in the Community Investments Plan indicates the site is appropriate for “new residential” uses within the Wichita Growth Area. The Wichita Growth Area is adjacent to Wichita and is primarily undeveloped but has the potential to be developed by the year 2035, based upon Wichita population growth projections and current market trends. This is the area in which City expansion and extension of municipal services and infrastructure should be focused. “New residential” development encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing densities and types includes, but is not limited to, single-family detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly (assisted living, congregate care and nursing homes).
6. Impact of the proposed development on community facilities: Facilities will have to be extend to the site to support the number of units proposed. The subject site will have to be platted in order to be developed and annexation into the City of Wichita would be encouraged.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

FOSTER referred to the sewer easement that was both inside and outside of the requested zone change request in several spots. He asked is that zoning jurisdiction or will that be cleaned up at platting.

SLOCUM said the map was a conception idea and that will be cleaned up during the platting process.

MOTION: To approve subject to staff recommendation.

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

7. **Case No.: ZON2016-00012 and CON2016-00007** – John and Linda Palmer and Brunswick Properties, LLC (owners/applicants) and Kaw Valley Engineering, c/o Tim Austin (agent) request a City zone change from SF-5 Single-family Residential to TF-3 Two-family Residential to allow ancillary parking (CON2016-00007), an amendment to PO-300 to allow a restaurant and a 10% reduction of the compatibility setback on property described as:

Lot 3, Westview 2nd Addition, Wichita, Kansas, Sedgwick County, Kansas

Together with

The South 160 feet of Lot 9, Block D, Westview Addition, Sedgwick County, Kansas.

BACKGROUND: The subject site, located on the northwest corner of Brunswick and Maple Streets, currently has SF-5 Single-Family Residential (SF-5) zoning on its smaller north portion and NR Neighborhood Retail zoning (NR) with a Protective Overlay (ZON2015-00031 - PO #300) on its larger south portion. The applicants are requesting a zone change from SF-5 to TF-3 Two-Family Residential (TF-3) on the north 187.14-foot by 77-foot with a Conditional Use for ancillary parking. The Unified Zoning Code (UZC) allows consideration of ancillary parking as a Conditional Use on TF-3 zoned property; UZC, Sec.III-D.6.p.

The applicants are also requesting an amendment to the site's south NR zoned portion's PO, changing provision #1 to allow a 2,500-square foot restaurant with outdoor seating and changing provision #3 to reduce the compatibility setbacks to 10 feet on the west side of the property. The provisions of PO #300 are:

- (1) Permitted uses are an automated teller machine, a bank or financial institution, general office, personal care services, general retail, personal improvement services and medical offices.
- (2) The hedge like line of mature trees running parallel to the site's west property line shall be maintained or improved as needed to provide a solid landscape buffer. A line of six-foot tall (at the time of planting) evergreens shall be planted on 12-foot centers along the north property line. An eight-foot tall solid fence shall be installed south of the line of evergreens. The rest of the required landscaping shall be per the Landscape Ordinance.
- (3) Compatibility setback, height and light standards and all applicable Unified Zoning Code standards will apply to the development of the site. A drainage plan must be approved by the Public Works.
- (4) No parking or lighting within the rear and interior side yard setbacks.

In the NR District, restaurants shall not exceed 2,000 square feet in gross floor area, nor shall they provide any drive-up window service or in-vehicle food service. Delivery and carry-out services are acceptable; UZC. Sec.III-D.6.t. Per the UZC, the applicants' restaurant cannot be the requested 2,500-square feet, it can however provide the requested outdoor seating for diners. The outdoor seating must be considered as part of the NR zoning district's permitted 2,000-square foot restaurant, which will be applied in the required parking. Also note that when a PO is applied to a base zoning district the result is a more restrictive designation than if the base district did not have the PO classification; UZC. Sec.III-C.6.s. The applicants requested 2,500-square foot restaurant requires LC Limited Commercial (LC) zoning, which requires a public hearing by the MAPC and final action by the City Council

In reference to the applicants' request to reduce the compatibility setbacks on the west side of the site, compatibility setbacks may be reduced or waived; UZC.V-I.2.d. Currently the NR zoned portion of the site has the full 25-foot compatibility setback on its west side, where it abuts SF-5 zoned single-family residences. The applicants' site plan shows a proposed 8,775-square foot building encroaching an unidentified amount into the west 25-foot compatibility setback. Scaling off of the applicants' site plan shows the encroachment to be approximately five feet into the 25-foot compatibility setback. Staff recommends that the 25-foot compatibility setback be reduced to 20 feet, if necessary, to remove the encroaching building only on the NR zoned portion of the site.

The applicant's site plan shows an 8,775-square foot retail building with 59 parking spaces. If the applicants were to have a permitted by right 2,000-square foot restaurant in the NR zoned portion of the site an approximate estimate of required parking could be 32 parking spaces for just the restaurant. This estimate is based on 45-square feet per seating area (as advised by MABCD) and subtracting a kitchen area of 500-600-square feet from a 2,000-square foot restaurant. However, this calculation does not include the seating or size of the outside patio/dining area. A mix of a 2,000-square foot restaurant and 6,775-square feet of retail (one space per 333-square feet) for the proposed 8,775-square foot building and would require an estimated 53 parking spaces.

The site plan shows a six-foot tall wooden fence with six-foot tall evergreens located behind the fence on the north line of the proposed ancillary parking. Staff recommends that the landscaping standard of PO #300's be applied to the north property line of the proposed ancillary parking with the exception that the recommended planting of evergreens can be inside or outside the site. The site plan also shows a drive onto Maple Street located on the south approximately 20 feet of the NR zoned portion of the site and two drives onto Brunswick off of both the south and north portions of the site. The Traffic Engineer recommends closing the Maple Street access and limiting access to two drives onto Brunswick Street.

The site's NR zoned south portion was developed with a one story, brick, ranch style house (built 1948) that has recently been demolished. The north portion of the site currently has a one-story house (built 1978) with an attached two car garage located on it. Both of the lots have access to Brunswick Street and the south lot has access onto Maple Street.

SF-5 zoned neighborhoods abut the north and west sides of the subject site. The west abutting SF-5 zoned single-family residences (built in the early 1990s) are separated from the subject site's south portion by a hedge of mature trees and their subdivision's six-foot brick wall. None of the houses located west of the site have front yards facing Maple Street, and their back or interior side yards but the

subject site. A similar landscape buffer does not separate the north abutting SF-5 zoned single-family residences (built late 1970s) from the north portion of the subject site. A LC zoned small Horton's carpet store (built 1996), small commercial strip with gas pumps (built 1983) and an Outback full service restaurant (built 1999) are located east of the site, across Brunswick Street; Z-2337, Z-3162, and Z-3237. The 0.68-acre carpet store and 0.70-acre commercial strip sites present a similar scale of commercial development that could occur on the 1.03-acre subject site, if the conditional use is approved. South of the site, across Maple Street, are the LC and GC General Commercial zoned big box, 17.71-acre Lowes home improvement store (built 1998) and the LC zoned big box, 15.72-acre Target department store (built 2004); Z-3306/DP-37 and Z-3326, ZON2003-00055/DP-270. Lowes and Target are the two largest commercial developments located along the Ridge Road – Maple Street intersection, which includes full service restaurants, casual dining restaurants, furniture stores, commercial and strip buildings.

CASE HISTORY: On October 6, 2015, the Wichita City Council approved ZON2015-00031, which rezoned the south 160 feet of Lot 9, Block D, Westview Addition from SF-5 to NR Neighborhood Retail with the provisions of Protective Overlay #300. During the August 20, 2015 MAPC meeting the applicant (at that time) withdrew restaurants as a permitted use (as permitted in the NR zoning district) in the PO. Planning staff had recommended restaurants as a permitted use in the PO.

During August 20, 2015 MAPC meeting staff noted that if the NR zoning was approved on the south portion of the site, commercial zoning would abut SF-5 zoned single-family residences/neighborhoods. Staff also noted that if the NR zoning was approved future commercial zoning requests in the immediate area could be on the north abutting property (today's requested TF-3 zoning with a conditional use for ancillary parking), leading to a possible expansion of the subject site, further encroaching into the SF-5 zoned neighborhood. The MAPC report also noted that staff would not support a future request to expand commercial zoning to the north or the west.

The south portion of the site, the NR zoned south 160 feet of Lot 9, Block D, Westview Addition was recorded with the Register of Deeds on February 11, 1953. The north portion of the site, Lot 3, Westview 2nd Addition was recorded with the Register of Deeds on November 23, 1976. The subject site was annexed into the city between 1961 and 1970.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5 Single-family residences
SOUTH: LC, GC Big box home improvement, big box retail
EAST: LC Carpet sales, small commercial strip, convenience store, restaurant
WEST: SF-5 Single-family residences

PUBLIC SERVICES: The site is served by all normally supplied municipal services. The site has two access drives onto Brunswick Street, a paved two-lane local street which intersects with Maple Street, a paved four-lane arterial, with center-turn lanes at this location. The site currently has an access drive onto Maple Avenue dating from its previous use as a single-family residence built in 1948.

CONFORMANCE TO PLANS/POLICIES: The site is located just outside (separated by Ridge Road) the “Community Investments Plan’s” Established Central Area, which is comprised of the downtown core and the mature neighborhoods surrounding it in a roughly three mile radius. The Land Use Compatibility component of the Plan recommends that higher intensity development should be discouraged from locating in areas of existing lower –intensity development, particularly established low intensity residential areas. The subject site abuts urban single-family residential development on its north and west sides.

The Community Investments Plan’s “2035 Wichita Future Growth Concept Map” designates the site as “new employment.” The new employment designation encompasses areas that likely will be developed or redeveloped by 2035 with uses that constitute centers or concentrations of employment primarily in manufacturing, warehousing, distribution, construction, research, technology, business services, or corporate offices. In certain areas, especially those in proximity to existing residential uses, higher density housing and convenience retail centers likely will be developed. The subject site abuts urban scale single-family residential zoning on its north and west sides. The previously approved NR zoned portion of the site, subject to the provisions of PO#300 and the proposed TF-3 zoning with a Conditional Use for ancillary parking fits the just noted development projection of the new employment designation. The subject site’s current NR zoning and PO and the requested TF-3 zoning with a conditional use for ancillary parking serve as a buffer between the area’s LC and GC zoned businesses and the immediate earlier established single-family residential development, thus meeting the Plan’s “Development Pattern” guidelines for areas outside the Established Central Area.

Limiting access to the site to two drives onto the residential street Brunswick, facing LC zoned development and noting that the development is located on the northwest corner of the arterial Maple Street and Brunswick ensures that traffic to and from the site will be directed to the stop sign at that intersection. Eliminating the additional proposed drive onto Maple off of the site provides safer access to the site while minimizing the negative impact of the site’s traffic on the abutting single-family residential neighborhood, which meets the intent of the locational design guide lines of the Plan.

The Maple Street – Ridge Road intersection has experience redevelopment from single-family residential to commercial during the last, at least, two and a half decades. Most of the commercial development has happened south of this intersection, extending south a half-mile to Kellogg Street/Us Highway-54. Commercial development ends approximately 520 feet north of the Maple Street – Ridge Road intersection.

RECOMMENDATION: Approving the TF-3 zoning with a conditional use for ancillary parking on the subject site’s north portion does not move commercial zoning further north, but may present an opportunity to make the subject site’s NR south portion more marketable, as does allowing a restaurant. If approved, the ancillary parking would abut SF-5 zoned single-family residences/neighborhoods on its north and west sides. The proposed TF-3 zoning provides a buffer for the abutting north property, making a future request for commercial zoning more problematic. The subject site’s NR zoned south portion and amending the PO to allow a restaurant allows very-low intensity retail and office development and other complementary land uses that serve and are generally appropriate near residential neighborhoods. Staff would not support a future request to expand commercial zoning to the north or the west and would be conflicted to support LC zoning on the NR portion of the site.

Based upon the information available prior to the public hearings, planning staff recommends that the TF-3 zoning and a conditional use for ancillary parking be **APPROVED** subject to the following conditions:

- (1) Six-foot tall evergreens (at the time of planting) shall be planted on 12-foot centers and an eight-foot tall fence shall be installed along the north property line of the TF-3 zoned conditional use for ancillary parking. The rest of the site shall conform to the Landscape Ordinance, including the recommended evergreens.
- (2) A 25-foot setback shall be located on the north and west property lines of the ancillary parking site. No pole lighting or parking shall be located within these setbacks
- (3) Pole lights shall be no taller than 15 feet, including the base.
- (4) A drainage plan shall be reviewed and approved by Stormwater.
- (5) The ancillary parking shall be developed in accordance with the supplemental use regulations found in Sec.III-D.6.p. as well as all applicable UZC standards and an approved site plan.
- (6) 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.

Planning staff recommends that the following amendments to PO #300 be **APPROVED**:

- (1) Permitted uses in the NR zoned portion of the subject site are automated teller machine, bank or financial institution, general office, personal care service, general retail, personal improvement service, a medical office, and amended to add: 2,000-square foot full service restaurant (no drive through windows or curb side service).
- (2) Stays the same: The hedge like line of mature trees running parallel to the site's west property line shall be maintained or improved as needed to provide a solid landscape buffer. A line of six-foot tall (at the time of planting) evergreens shall be planted on 12-foot centers along the north property line. An eight-foot tall solid fence shall be installed south of the line of evergreens. The rest of the required landscaping shall be per the Landscape Ordinance.
- (3) Compatibility setback, height and light standards and all applicable UZC standards will apply to the development of the NR zoned portion of the site, amended to add: with the exception that the 25-foot compatibility setback on the west side of the NR zoned portion of the site shall be reduced by five feet to allow for a bigger building. A drainage plan must be approved by the Public Works.
- (4) No parking or lighting within the interior side yard setbacks. Amended to add: No building lighting on the west side of any building on the subject site.

New provisions

- (5) No signage on the west side of buildings located on the subject site.
- (6) Access to the subject site will be limited to two drives onto Brunswick Street, as recommended by the Traffic Engineer. Provide an approved private project number for the closing of the existing drive onto Maple Street.
- (7) No internal vehicular circulation between building located on the NR portion of the site and the west abutting SF-5 zoned single-family residential development.
- (8) The subject site including the ancillary parking site will developed as shown on an approved site plan.

This recommendation is based on the following findings:

(1) The zoning, uses and character of the neighborhood: SF-5 zoned neighborhoods abut the north and west sides of the subject site. The west abutting SF-5 zoned single-family residences (built in the early 1990s) are separated from the subject site's south portion by a hedge like line of mature trees and their subdivision's six-foot brick wall. None of the houses located west of the site have front yards facing Maple Street and their back or interior side yards butt the subject site. A similar landscape buffer does not separate the north abutting SF-5 zoned single-family residences (built late 1970s) from the north portion of the subject site. A LC zoned small Horton's carpet store (built 1996), small commercial strip with gas pumps (built 1983) and an Outback full service restaurant (built 1999) are located east of the site, across Brunswick Street; Z-2337, Z-3162, and Z-3237. The 0.68-acre carpet store and 0.70-acre commercial strip sites present a similar scale of commercial development that could occur on the 1.03-acre subject site, if the conditional use is approved. South of the site, across Maple Street, are the LC and GC General Commercial zoned big box, 17.71-acre Lowes home improvement store (built 1998) and the LC zoned big box, 15.72-acre Target department store (built 2004); Z-3306/DP-37 and Z-3326, ZON2003-00055/DP-270. Lowes and Target are the two largest commercial developments located along the Ridge Road – Maple Street intersection, which includes full service restaurants, casual dining restaurants, furniture stores, commercial and strip buildings.

(2) The suitability of the subject property for the uses to which it has been restricted: The north portion of the subject site's current SF-5 zoning allows single-family residences, schools, churches, and parks and is appropriate for the urban residential category. The north portion of the subject site's one story lap siding and brick house's front yard faces Brunswick Street, a paved two-lane residential street, and the LC zoned small Horton's carpet store, small commercial strip with gas pumps and an Outback full service restaurant ; this orientation lessens the appeal of the site's single-family residence.

The site's NR zoned portion of the site with the provisions PO #300 allows very-low intensity retail and office development and other complementary land uses that serve and are generally appropriate near residential neighborhoods.

(3) Extent to which removal of the restrictions will detrimentally affect nearby property: Approving the TF-3 zoning with a conditional use for ancillary parking amending the PO of the NR zoned portion of the site to allow a restaurant without drive through or curb side service will have a minimal negative effect on the abutting single-family residential development.

(4) Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The site is located just outside (separated by Ridge Road) the "Community Investments Plan's" Established Central Area, which is comprised of the downtown core and the mature neighborhoods surrounding it in a roughly three mile radius. The Land Use Compatibility component of the Plan recommends that higher intensity development should be discouraged from locating in areas of existing lower –intensity development, particularly established low intensity residential areas. The subject site abuts urban single-family residential development on its north and west sides.

The Community Investments Plan's "2035 Wichita Future Growth Concept Map" designates the site as "new employment." The new employment designation encompasses areas that likely will be developed or redeveloped by 2035 with uses that constitute centers or concentrations of employment primarily in manufacturing, warehousing, distribution, construction, research, technology, business services, or

corporate offices. In certain areas, especially those in proximity to existing residential uses, higher density housing and convenience retail centers likely will be developed. The subject site abuts urban scale single-family residential zoning on its north and west sides. The previously approved NR zoned portion of the site, subject to the provisions of PO#300 and the proposed TF-3 zoning with a Conditional Use for ancillary parking fits the just noted development projection of the new employment designation. The subject site's current NR zoning and PO and the requested TF-3 zoning with a conditional use for ancillary parking serve as a buffer between the area's LC and GC zoned businesses and the immediate earlier established single-family residential development, thus meeting the Plan's "Development Pattern" guidelines for areas outside the Established Central Area.

Limiting access to the site to two drives onto the residential street Brunswick, facing LC zoned development and noting that the development is located on the northwest corner of the arterial Maple Street and Brunswick ensures that traffic to and from the site will be directed to the stop sign at that intersection. Eliminating the additional proposed drive onto Maple off of the site provides safer access to the site while minimizing the negative impact of the site's traffic on the abutting single-family residential neighborhood, which meets the intent of the locational design guide lines of the Plan.

The Maple Street – Ridge Road intersection has experience redevelopment from single-family residential to commercial during the last, at least, two and a half decades. Most of the commercial development has happened south of this intersection, extending south a half-mile to Kellogg Street/Us Highway-54. Commercial development ends approximately 520 feet north of the Maple Street – Ridge Road intersection.

(5) Impact of the proposed development on community facilities: With the recommended provisions for access controls, there will be minimal impact on community facilities.

BILL LONGNECKER, Planning Staff presented the Staff Report. He said he has received one phone call regarding lighting on the building. He referred to the UZC on lighting standards. He concluded by stating that the case was scheduled to go to the DAB the first week in May.

RICHARDSON asked if the entrance onto Maple Street was addressed in the last zoning case on this property.

LONGNECKER said no it was not addressed in the PO.

TIM AUSTIN, KAW VALLEY ENGINEERING, 200 N. EMPORIA, STE 100, AGENT FOR THE APPLICANT said they are in agreement with staff comments with one exception and that is the driveway onto Maple Street. He said they have communicated with the Traffic Engineer who said he would like to have a couple of weeks to discuss the issue.

AUSTIN said one of their concerns is the stacking distance and elimination of the drive onto Maple Street will constitute two movements to get into the same parking lot which could create congestion. He said he has also received a question from a resident to the north about traffic on Brunswick. He requested that the item be deferred for two weeks.

RICHARDSON asked if there was a deceleration lane between Brunswick and the proposed opening onto Maple Street.

AUSTIN replied no there isn't.

RICHARDSON asked if the applicant was willing to build one.

AUSTIN replied no that this small development doesn't justify that type of expense. He said an 8,000 square foot building isn't going to generate enough traffic to warrant a turn lane.

JOHNSON asked if the Commission makes a motion to defer the item two weeks will the hearing be open again for public comment.

JEFF VANZANDT, ASSISTANT CITY ATTORNEY nodded yes.

JOHNSON asked if it was appropriate for him to make a motion to defer the item before anyone speaks.

CHAIR NEUGENT asked what about the people who might not be able to come back in two weeks.

VANZANDT said the people who are here have a right to voice their opinion in case they can't come back in two weeks. He said the Commission can defer the case but have it remain open and that way if other people want to speak they can. He said ideally, people won't speak and say the same thing again.

JASON GISH SAID HE WAS PRESENT TO REPRESENT JARED AND AMANDA GISH, 227 S. BRUNSWICK who he said own the property just to the north of the site. He said the last time this location came before the Planning Commission restaurant use was taken off the table. He said this seems like a deliberate process to overcome the objections of the residential neighborhood. He said he finds it interesting that the applicant shows back up asking for restaurant use but indicates they need additional parking to support more retail. He said the ancillary parking would support greater and more intense zoning uses and the applicant indicates it would be used for neighborhood retail; however, he said it seems a little contrived, in his opinion, to accommodate additional restaurant parking.

GISH said as far as the traffic aspects of this, he said the LC to the east is not facing Brunswick but as a back door so there is no access onto Brunswick. He said if they do what Traffic Engineering is recommending, all the traffic that comes off of Maple Street and turns into the north parking area will flash their headlights into the Gish's home. He said screening will help but he said if the parking lot is full for a big event, cars will line up along Brunswick which the street was never intended on the original development plat for retail type uses. He said this is really compromising the residential uses around this site. He respectfully asked the Planning Commission to deny extension of TF-3 zoning onto SF-5 property. He said this should all be NR if that is what the applicant wants the parking for. He said this seems like a "sight of hand" method of accommodating the request. He said they appreciated the Commission's consideration of that. He concluded by asking that the request for TF-3 zoning and a restaurant, a use that was previously taken off the table for the NR site, be denied. He said it seems to him that the applicant gets a little bit and then they come back for more and try to figure out a way to change the neighborhood. He said the proposed use is just not compatible with the neighborhood.

PAT O'BRYAN, 221 S. BRUNSWICK said he has lived on this block for 30 years. He said there used to be a huge house on the corner that got torn down and they were told at the time the land was not going to be developed and guess what happened. He said they tried the screening of evergreens and fence with Hortons and it didn't work. He said the evergreens died and people could just climb over the fence. He said when Outback came in they asked them to provide a wall and that solved the problems. He said the screening to the north of this site needs to be a wall otherwise this is going to be a disaster. He said there is an apartment complex to the north of this site and a lot of traffic because of that. He said this is going to cause even more traffic along Brunswick. He commented before Outback put in the wall there were cars parking everywhere along Brunswick and neighbors couldn't get in and out of their driveways. He said the site plan shows two entrances off of Brunswick but he would like to see them stay on Maple Street. He asked why the traffic has to intrude into the neighborhood. He asked how much more this little neighborhood is going to have to endure because someone decides they want to build something. He said they just keep encroaching more and more into the neighborhood. He said they already have a problem with people using Brunswick because it is a nice straight street. He said this is just going to increase the traffic. He said general office wasn't so bad but now the other home has been sold and torn down and now they want to build a restaurant. He said they can smell the dishwashing soap from the Outback from about 10:00 p.m. until 6:00 a.m. and now they are proposing adding another restaurant. He also mentioned trash trucks emptying trash at 4:00 a.m. in the morning. He said he feels like he is getting worked over instead of worked with. He said this just can't be and suggested the applicant just buy the whole damn block and be done with it.

ELLISON asked if the applicant built a wall like the Outback that would satisfy his concerns.

O'BRYAN said every time the wind blows from the south they get large amounts of trash from Lowes. He said evergreens and a fence will just become a trap for the trash because he is sure the applicant will not be out there daily picking up the trash.

ELLISON asked if the neighbors shared his concerns and if they had any neighborhood meetings to discuss what is happening in the neighborhood.

O'BRYAN said he has talked to people along Brunswick and most of them are resigned to the fact that there is nothing they can do about this. He said the neighbors have seen what happened with the Outback and Hortons and they just feel like they are getting stabbed again. He said he would not be totally satisfied with a wall but it would make the situation better.

AMANDA AND JERRY GISH, 227 S. BRUNSWICK said they lived directly north of the of the site and they have a more vested interest in this because their bedroom abuts directly up to whatever is going to go up between the site and their home whether it is a fence or a wall. She said they have real concerns about the entrances on Brunswick Street. She said right now there are 15-20 houses and an apartment complex in the neighborhood and every morning 2-3 cars are trying to turn left onto Maple Street. She said a bigger retail space or restaurant will just compound that. She said those are her primary concerns along with a host of other issues as well. She introduced her husband.

JERRY GISH said they are proposing an eight foot wall and suggested that the wall extend across the street so people cannot go north on Brunswick. He said right now when he is out in front taking care of his lawn he almost gets clipped by cars going up and down the street. He said he has a young daughter he is concerned about her safety.

AMANDA GISH said they have researched other properties that have gone through the same rezoning and one of the examples is Summitlawn behind a Pizza Hut and Pie Five. She said the City did the exact same thing so people couldn't go through the neighborhood on the street. They referred to an aerial of the Summitlawn area.

JERRY GISH said they would like to see Brunswick blocked off and have everyone exit the site to the south. He said they also have concerns about the lighting, smells and traffic that a restaurant would generate.

CHAIR NEUGENT said she apologized to Mr. and Mrs. Gish for any inappropriate reaction to their comments from the Planning Commission.

MOTION: To defer the item to the next regularly scheduled meeting (May 5, 2016) and that staff provide a copy of the minutes from the 2015 meeting where this was heard by the Commission previously, as well as DAB comments.

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

MCKAY Out @2:40 p.m.

8. **Case No.: ZON2016-00013** - Ronald Palecki Living Trust (owner/applicant) and Baughman Company, c/o Russ Ewy (agent) request a City zone change from SF-5 Single family Residential to LC Limited Commercial on property described as:

The South Half of Lot 49, Westfield Acres Addition, Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant is seeking LC Limited Commercial ("LC") zoning for future commercial uses on 1.26 acres located on the west side of South Tyler Road, approximately 660 feet north of West Maple Street. The subject site abuts LC zoned property along the south property line and is platted. If approved, the LC zoning would permit the development of commercial uses on the site, limited by a proposed Protective Overlay ("PO") by staff.

Properties north, west and east (across Tyler Road) of the subject site are zoned SF-5 Single-family Residential and developed with single-family residences. Property south of the subject site is zoned LC and is developed with Harp Well and Pump Service, a legal, non-conforming use that was permitted to expand in 1984 by the Wichita Board of Zoning Appeals (BZA 45-84).

CASE HISTORY: The property is currently platted as the West Field Acres Addition, which was recorded in March 1930.

ADJACENT ZONING AND LAND USE:

North:	SF-5	Single-family Residences
South:	LC	Office and Warehousing
East:	SF-5	Single-family Residences
West:	SF-5	Single-family Residences

PUBLIC SERVICES: The site is served by all usual municipal and private utilities and services. Tyler Road at this location is a four-lane, paved, minor arterial.

CONFORMANCE TO PLANS/POLICIES: The 2035 Wichita Future Growth Concept Map of the Community Investments Plan depicts the site as appropriate for “residential” use. The “residential” use category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. However, directly south of the subject site, that property is depicted as appropriate for “industrial” uses. The “industrial” use category 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 Investments Plan indicate that commercial and employment centers should be located at intersections of arterial streets. The requested zone would expand the size of the commercial center permitted at the intersection of Tyler Road and Maple Street.

RECOMMENDATION: Based upon the information available at the time the staff report was completed, staff recommends approval of the request, with a Protective Overlay (PO) which states:

1. No off-site or portable signs shall be permitted on the subject property. No building signs shall be permitted on the face of any building that is adjacent to any property that is residentially zoned.
2. Signs shall be in accordance with the City of Wichita sign code, with the exception that signs shall be monument style and limited to 15 feet in height. No LED signs shall be permitted.
3. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from any abutting or adjacent properties that are in a residential zoning district. Light poles shall be limited to a maximum height, including the base of the light pole, of 15 feet. Light poles shall not be located within any setbacks.
4. Outdoor speakers and sound amplification systems shall not be permitted.
5. No buildings shall exceed one story in height with a maximum building height of 25 feet.
6. At the time the site is developed, the owner shall install and maintain a 6-8 foot high screening fence/wall located parallel to the north and west property lines of the subject site, where it abuts existing residential zoning.
7. At the time the site is developed, landscaping shall be installed that meets the Landscape Ordinance.
8. The following uses shall not be permitted: adult entertainment establishment; correctional placement residence; recycling collection station; reverse vending machine; car wash; convenience store; night club; recreation and entertainment; restaurant with drive-in or drive-thru facilities; service station; tavern and drinking establishment.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Properties north, west and east (across Tyler Road) of the subject site is zoned SF-5 Single-family Residential and developed with single-family residences. Property south of the subject site is zoned LC and is developed with a warehouse and office development.
2. The suitability of the subject property for the uses to which it has been restricted: The site is bordered by LC development to the south. Across Tyler Road to the east, the properties are zoned SF-5 and developed with residential uses. The property is zoned SF-5, which primarily permits by-right single-family residences and a few civic or institutional uses, such as churches or schools on large lots. Presumably the site could be redeveloped with single-family residences that would have the potential to provide an economic return or continue to be undeveloped; however, the site's adjacency to a heavy commercial use and an arterial street could limit its marketability as a residential property.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The recommended provisions of the Protective Overlay regarding uses, signage, lighting, screening, and landscaping should mitigate any increased negative impact on nearby residential property.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Given the nearby commercial uses and the location of the property on a major arterial street, SF-5 zoning could cause economic hardship to the owner. LC zoning is appropriate for this location and provides economic viability of the property for the owner.
5. Length of time the property has been vacant as currently zoned: The site had a single-family house that appears to have been vacant for multiple years given the state of deterioration that was evident that has since been removed from the site.
6. 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 depicts the site as appropriate for "residential" use. The "residential" use category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. However, directly south of the subject site, that property is depicted as appropriate for "industrial" uses. The "industrial" use category 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 Investments Plan indicate that commercial and employment centers should be located at intersections of arterial streets. The requested zone would expand the size of the commercial center permitted at the intersection of Tyler Road and Maple Street.
7. Impact of the proposed development on community facilities: Existing or proposed improvements are in place to address anticipated demands.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

JOHNSON asked if he owned property to the north of this site would staff recommend approval for LC zoning.

SLOCUM said he didn't understand the question.

JOHNSON asked what was the justification for letting commercial zoning encroach into residential zoning.

RICHARDSON asked where does it stop?

DIRECTOR MILLER said this is an extension of the LC zoning located to the south. He said if this is a continuation of similar uses, staff would probably recommend approval of a request. He said the key issue with this type of development is access control to the street.

RICHARDSON asked why not recommend NR. He said isn't NR typically used as a buffer between residential and commercial.

SLOCUM indicated that was not what the applicant requested. He added that the Planning Commission has the ability to recommend NR zoning if they feel that makes more sense.

RICHARDSON commented that the PO looks a lot like NR.

RUSS EWY, BAUGHMAN COMPANY, 315 ELLIS, AGENT FOR THE APPLICANT commented that although the applicant has requested LC and there are LC uses to the south that is not what the actual uses of the property are. He said they have pared the LC down to a state that is similar to NR. He added that the LC zoning to the south is loaded with non-conforming heavy commercial type uses. He said the uses are sharing the same zoning districts on opposite ends of the spectrum. He said you have quasi industrial uses to the south and the applicant is requesting a pared down, restricted LC request. He added that the applicant has already improved the site with a screening fence.

RICHARDSON asked if the applicant would be okay if the Commission approved the request with no restaurant allowed.

EWY replied yes.

LARRY RYAN, 150 S. BYRON said no one likes change including him but the house has been torn down and a big commercial for sale sign has been put up on the property. He said change is coming and it is easy to see which side you are on – if you are profiting from the change, you are for it; if not, you are against it. He said the owner had talked to him about the possibility of a doctor's office or four duplexes at the location but here we are today looking at rubber stamping this location for any LC business to operate. He said there are a lot of uses allowed in LC zoning that he does not believe should be allowed to operate at this location.

RYAN referred to the zoning map which indicated that the northwest corner of Tyler and Maple are zoned LC including 600 feet on Tyler Road and 375 feet west on Maple Street until you hit NR zoning to buffer the LC from residential. He said on the east side of Tyler Road there is LC zoning again where the QuikTrip is located and buffered with NR zoning beside residential. He said the property being discussed today is over 600 feet from the Tyler/Maple intersection. He said that is double the footage of where the other directions from the intersection are zoned LC. He said he is not sure where the LC zoning is going to stop. He said just because a piece of ground is located on a busy street doesn't mean it should be zoned commercial. He said his preference is that the location stay SF-5 and he realizes there is not much chance of that happening so he is asking the Planning Commission to at least hold the zoning to NR with high restrictions. He said the lot is long and narrow and does not lend itself to numerous housing units. He said he would like to see any residential development limited to eight units or four duplexes. He said since the lot has been leveled and cleared it is a mud puddle because the topography is really flat out there. He said the drainage in the area is terrible and his property is already receiving puddling from the drainage from this property. He provided pictures for review by the Commissioners. He referred to the Staff Report on the application and said he takes tremendous offense to the reference that this property was bought as an investment and that the SF-5 zoning could cause economic hardship to the owner. He said lives in a home, a house, he didn't buy his property as an investment but he does believe his property will go down in value as a result of this rezoning. He said he takes tremendous offense as to why the City is concerned whether this applicant makes or loses money; that should not be part of this consideration.

CRAIG HOGUE, 8833 W. DOUGLAS said he owns several pieces of property in the area that he purchased 20 years ago. He gave a brief history of the area stating that it was once unincorporated County property. He stated that the Westfield Subdivision was created in 1930 and the St. Clair Addition was created in 1979. He mentioned the cul-de-sac designation on lot number 30. He said there are a number of separate properties in the neighborhood. He said the neighborhood consists of beautiful suburban homes built starting in 1930 when the area was developed. He said one of the problems the neighbors have with this proposal is that they have not had an opportunity to have a DAB meeting to discuss this issue. He said he has contacted the City Councilmember and was told that the Councilman had a copy of the Staff Report. Mr. Hogue indicated he did not get a copy of the Staff Report until he came to today's hearing. He concluded by stating that it seems out of order that the Planning Commission make a decision on the case before the neighbors have had an opportunity to discuss it at the DAB meeting.

JEFF COOPER, 125 S. TYLER said his property is just north of the location. He said he has a big concern as to how this property is proposed to be rezoned. He said he understands progress but would prefer to keep the zoning SF-5. He said if that can't be done he would like to see NO. He said he has a lot of experience because his Dad built the house that ended up being right next to the Outback on Ridge Road. He said that house was built when Ridge Road was a dirt road. He said his Mom still lives there and it is a disaster with people turning around and going into the yard; the smell of steaks from the restaurant; headlights sweeping across her property; restaurant staff cleaning up and having to listen to the dumpsters being filled in the middle of the night; commercial trash trucks emptying the dumpsters at 3:00 – 4:00 a.m. in the morning, etc. He said they don't want anything to do with restaurants. He said he didn't mind NO. He gave an example of property further north along Tyler Road where there was an insurance company or doctor's office that closes by 5:00 p.m. and everyone is gone. He said he wants to retire at this location and he has a big garden so he doesn't want to see anything open past 5:00 p.m.

EWY reiterated the fact that the applicant was willing to eliminate restaurant use. He said he is not sure of the specific language but he is sure they have worked into previous CUP's, PUD's and PO's a condition that prohibits commercial trash pickup between the hours of 10:00 p.m. and 6:00 a.m. or something along those lines.

FOSTER asked the agent why NR zoning wouldn't work.

EWY commented that he was not certain he could give Commissioner Foster a great answer. He said there are more signage rights in LC opposed to NR. He said the way the PO was written there are very few differences between the PO and what is permitted in NR. He said NR would afford the applicant a larger building than 8,000 square feet; however, he noted that this is a small site so that size limitation may not be that relevant.

JOHNSON asked if the agent would object to deferring the item until after the DAB has had a chance to weigh in.

EWY responded no he does not think they are under any contractual deadline on the project.

RICHARDSON said he felt the speaker made a good point about not seeing staff recommendations prior to this hearing. He asked if those recommendations were prepared before the item went to DAB.

DIRECTOR MILLER said yes, the Staff Report is provided to the DAB members prior to their meeting.

MOTION: To defer the item until the May 5, 2016 Planning Commission in order for the item to be presented to the DAB.

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

DAILEY asked staff to prepare a revised Staff Report that indicates no restaurants and no trash service between certain hours before the item goes to the DAB.

CHAIR NEUGENT commented except that the Commission hasn't taken that action. She said staff will probably explain the discussion that occurred at this hearing to the DAB.

DIRECTOR MILLER said the agent can volunteer those revisions at the DAB meeting.

RICHARDSON asked how trash service would be restricted.

DIRECTOR MILLER said that could be part of the PO.

VANZANDT indicated that the City has an ordinance pertaining to pick up times for commercial trash. He said a complaint would have to be filed.

9. **Case No.: ZON2016-00014 and CUP2016-00010** - Rose America Corporation c/o Regina Hanna (owner/applicant) and Baughman Company, PA, c/o Russ Ewy (agent) request a City zone change from LC Limited Commercial to OW Office Warehouse and City CUP amendment to DP-83 to permit OW Office Warehouses on property described as:

Lot 1, Southwest Plaza Addition, Wichita, Kansas, Sedgwick County, Kansas.

BACKGROUND: The subject site is located at the northeast corner of West 31st Street South and South Meridian Avenue, and currently contains 9.1 acres that is zoned LC Limited Commercial ("LC"), subject to the development standards and general provisions contained in the Southwest Plaza Community Unit Plan (CUP) DP-83. Currently CUP DP-83 is a one parcel CUP that currently permits the following uses: manufacture and warehousing or animal control and apparel products, shopping center, offices, professional and personal services, comparison and convenience shopping.

In addition to a zone change to OW Office Warehouse ("OW"), the applicant is proposing the following amendments to CUP DP-83:

- 1) General Provision 8 is proposed to read: "Outside storage shall be limited to the same requirements of the OW zoning district."
- 2) The following uses are proposed to be added to Parcel 1: "all uses permitted by right in the "OW" Office Warehouse zone district, except the following; Recycling collection Station (Public or Private), Recycling Processing Center and Asphalt/Concrete Plant."
- 3) Changes to the Maximum Building Coverage and Maximum Floor Area Ratio are proposed as follows: "30% or 108,337 square feet for Limited Commercial uses, or 30% or 108,337 square feet for Office Warehouse uses, or 35% or 126,393 square feet for Limited Manufacturing uses."

The property has a screening wall along the north and eastern property lines that screen the existing uses from abutting and adjacent residential uses. There are 40-foot building setbacks along the frontages of 31st Street South, St. Clair Avenue and 30th Street South. There is a 75-foot building setback along the South Meridian Avenue frontage.

Land to the north and east of the application area is zoned TF-3 Two-family Residential and is developed with single-family residences. Properties located to the south of the subject site (across 31st Street South) are zoned LC Limited Commercial and developed with a bank, bar and car wash. Properties located west of the subject site (across South Meridian Avenue) are zoned LC and MF-29 Multi-family Residential and are developed with an apartment complex and some single-family residences.

CASE HISTORY: The Southwest Plaza CUP was established in August of 1977. The CUP has been amended two times previously. The most recent amendment was in 1995 and approved a zone change from LC Light Commercial to C Commercial (Z-3180). The Southwest Plaza Addition was recorded in 1977.

ADJACENT ZONING AND LAND USE:

North:	TF-3	Single-family residential
South:	LC	Bar, Bank, and Car Wash
East:	TF-3	Single-family residential
West:	LC and MF-29	Single-family residences and Apartment Complex

PUBLIC SERVICES: The site is served by municipal services. 31st Street South is a paved four-lane arterial street. South Meridian Avenue is also a four-lane arterial street. There are left turn lanes at the intersection of 31st Street South and Meridian Avenue. There are currently two points of access to the site of 31st Street South and three points of access off of South Meridian Avenue. One point of access to both 31st South and Meridian Avenue has a right turn lane.

CONFORMANCE TO PLANS/POLICIES: The 2035 Wichita Future Growth Concept Map indicates the site is appropriate for “industrial” uses. The “industrial” category encompasses areas that reflect the full diversity of industrial development intensities and types typically found in a large urban municipality. Centers or 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 typically are located along rail lines. Businesses with negative impacts associated with noise, hazardous emissions, visual blight, and odor typically are buffered from Residential Uses by Commercial Uses.

RECOMMENDATION: Based upon the information available at the time the report was prepared, staff recommends approval of the zone change and amendments to CUP DP83 subject to the development guidelines and graphics depicted on the face of the amended CUP and the following conditions:

- A. The applicant shall record a document with the Register of Deeds indicating that this tract (referenced as CUP DP-83) includes special conditions for development on this property.
- B. Unless specifically modified, the development shall comply with all applicable ordinances, regulations or codes, including but not limited to zoning, fire, building and sanitation.
- C. The applicant shall submit four final 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:** Land to the north and east of the application area is zoned TF-3 Two-family Residential and developed with single-family residences. Properties located to the south of the subject site (across 31st Street South) are zoned LC Limited Commercial and developed with a bank, bar and car wash. Properties located west of the subject site (across South Meridian Avenue) are zoned LC and MF-29 Multi-family Residential and are developed with an apartment complex and some single-family residences.

2. The suitability of the subject property for the uses to which it has been restricted: The Southwest Plaza Commercial CUP DP-83 and its LC zoning was established in June of 1977. The site could continue to be economically viable as currently zoned; however, the proposed zone changes and CUP amendments address existing tenant needs (larger outside storage and display) or clean up potential zoning issues.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The zoning for the site was approved in 1977 and has been operating as a commercial center since that time. The proposed zone change and CUP amendments address existing tenant needs (larger outside storage and display), clean up potential zoning issues and provide the center with uniform commercial zoning. The requested changes should not detrimentally impact nearby property owners to any greater extent than the existing development.
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 represents a gain to the public in that it contributes to the existing center's long term economic opportunity. Denial would presumably represent a loss in economic opportunity.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2035 Wichita Future Growth Concept Map indicates the site is appropriate for "industrial" uses. The "industrial" category encompasses areas that reflect the full diversity of industrial development intensities and types typically found in a large urban municipality. Centers or 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 typically are located along rail lines. Businesses with negative impacts associated with noise, hazardous emissions, visual blight, and odor typically are buffered from Residential Uses by Commercial Uses.
6. Impact of the proposed development on community facilities: Existing or proposed improvements are in place to address anticipated demands.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

RICHARDSON clarified that it is zoned LC but there has been manufacturing there for years. He asked if that use was grandfathered in or what.

SLOCUM said the agent can answer that question.

RUSS EWY, BAUGHMAN COMPANY, P.A., 315 ELLIS, AGENT FOR THE APPLICANT said about 20 years ago this location was a vacant shopping center. He said Rose America Corp. came in and began the manufacturing of leather goods such as saddles and collars. He said the zoning code at that time defined manufacturing by the type of machinery that was used. He said of course, over the last 20 years that type of machinery has changed quite a bit. He said an amendment was proposed to change the zoning from LC to GC which allowed manufacturing by right; however, that did not pass. He said the current CUP allows manufacturing specifically of apparel. He said OW zoning seemed to fit the profile of how the property was being marketed and would be used. He said that would open up the manufacturing opportunities as well as construction and contractor sales and services and those types of OW uses. He said they voluntarily eliminated some of the more obnoxious uses allowed under the OW zoning along with those uses that would not fit into the neighborhood. He said he has spoken with two people who live in close proximity. He said one person wanted to know about the notice he received and the other person wanted to know about the proposed street configuration and how that would affect the neighborhood.

JOHNSON asked staff if they have had any citizen contact regarding the item.

SLOCUM said he received a few calls wanting to know what was going on.

RICHARDSON asked about no access to the street to the north.

SLOCUM said that was correct, there is not access.

MOTION: To approve subject to staff recommendation.

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

NON-PUBLIC HEARING ITEMS

10. Case No.: Tiger Grant Application
Request: Letter of Support

Background: The City of Wichita is partnering with Wichita State University to construct the transportation infrastructure needed to support the new Innovation Campus. The 120-acre Innovation Campus will bring over 5,700 new employees and over 2.9 million square feet of new development to the former Braeburn Golf Course.

To support this new development, almost \$22.6 million in transportation infrastructure is needed. The City of Wichita is submitting a grant application to the U.S. Department of Transportation for \$15,110,000 in federal funding from the Transportation Investments Generating Economic Recovery (TIGER) grant program. The grant will fund 67% of the cost of multi-modal transportation connections for the new Wichita State Innovation Campus. The remaining 33% (\$7,440,000) will be funded by the City of Wichita Capital Improvement Program.

TIGER funds will be used to construct complete street projects along Oliver Avenue and 17th Street North adjacent to the Innovation Campus. A new bus route that was recently added to connect the Innovation Campus to Wichita State's new Old Town Campus in downtown Wichita as well as to major employment, shopping centers, and park and ride locations will have significantly expanded service frequency and hours of operation. A transit hub will be constructed on campus that includes a bike share program. Bicycle and pedestrian improvements will be constructed to connect the Innovation Campus to the existing city-wide pathway system. The budget for the project is summarized in the table below.

Project Component	Cost
Oliver Avenue Complete Street	\$4,100,000
17 th Street North Complete Street	\$5,900,000
40-foot Diesel Buses (9)	\$4,410,000
Level 1 Transit Stops (30)	\$1,620,000
Level 2 Transit Stops (16)	\$1,520,000
Campus Transit Hub	\$2,000,000
Campus Bike Share Program	\$600,000
Bicycle and Pedestrian Connections to Existing Pathway System	\$2,400,000
	<u>\$22,550,000</u>
Project Funding	
TIGER Funds Requested	\$15,110,000
Local Cash Match	\$7,440,000

Letters of support are critical to a successful TIGER grant application. The attached letter of support from the Wichita-Sedgwick County Metropolitan Area Planning Commission indicates support for the grant application based on consistency with the Community Investments Plan.

Recommended Action: Approve the attached letter of support and authorize the chair to sign.

Attachments: Letter of Support

SCOTT KNEBEL, Planning Staff presented the Staff Report.

RICHARDSON asked if the Commission has to do this every year, is that why they are being asked to provide the letter of support.

KNEBEL said the application that was submitted last year was not approved so staff is resubmitting the application for the Tiger Grant.

TODD asked the grant was not approved by whom.

KNEBEL responded the Federal Department of Transportation.

FOSTER mentioned the letter and how it references the Comprehensive Plan. He added that in case the other Commissioners did not know, the new Comprehensive Plan was referenced in an American Planning Association publication last month as a current and cutting edge example of good comprehensive planning. He said he wanted to recognize and commend staff for that.

CHAIR NEUGENT thanked Commissioner Foster for making the Commission aware of that distinction.

DAILEY clarified that the Tiger Grant monies were Federal funds. He asked where the local match was coming from, local tax payers.

KNEBEL said the Grant was federally funded and the local funds were reflected in terms of providing the bus service.

RICHARDSON commented that the Grant might be approved but not for the amount requested.

KNEBEL said this is a discretionary grant program so that is a possibility. He said project components were identified so certain portions could be funded separately.

TODD said he believes something like this should be approved by policy makers and not the Planning Commission so he will either be abstaining or voting no on the issue.

CHAIR NEUGENT clarified that this is a letter of support.

DOOL asked if this is primarily for transportation, why is this coming before the Planning Commission.

KNEBEL said the transportation improvements are in support of the land development.

MOTION: To approve subject to staff recommendation.

DENNIS moved, **JOHNSON** seconded the motion, and it carried (6-2-1). **DAILEY** and **TODD** – No. **DOOL** – Abstained.

DIRECTOR MILLER advised that the County Manager informed him that he would like to attend a Planning Commission hearing tentatively on May 5, 2016. He said he is making the rounds of all County Departments.

MOTION: To invite the County Manager to attend the May 5, 2016 Planning Commission Hearing.

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

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

AGENDA ITEM # 4

4. Case No.: ZON2016-00020 (**Deferred indefinitely**)
Request: City Protective Overlay Amendment to remove the Delano Overlay on a parcel in U University Zoning for a wireless communication tower.
General Location: South of W. Douglas and east of Kessler Street (2100 University Ave.).
Presenting Planner: Bill Longnecker

STAFF REPORT

DAB I June 6, 2016
MAPC June 2, 2016

CASE NUMBER: CON2016-00010

APPLICANT/AGENT: Arthur, Sondra and January Bailey (owners/applicants)

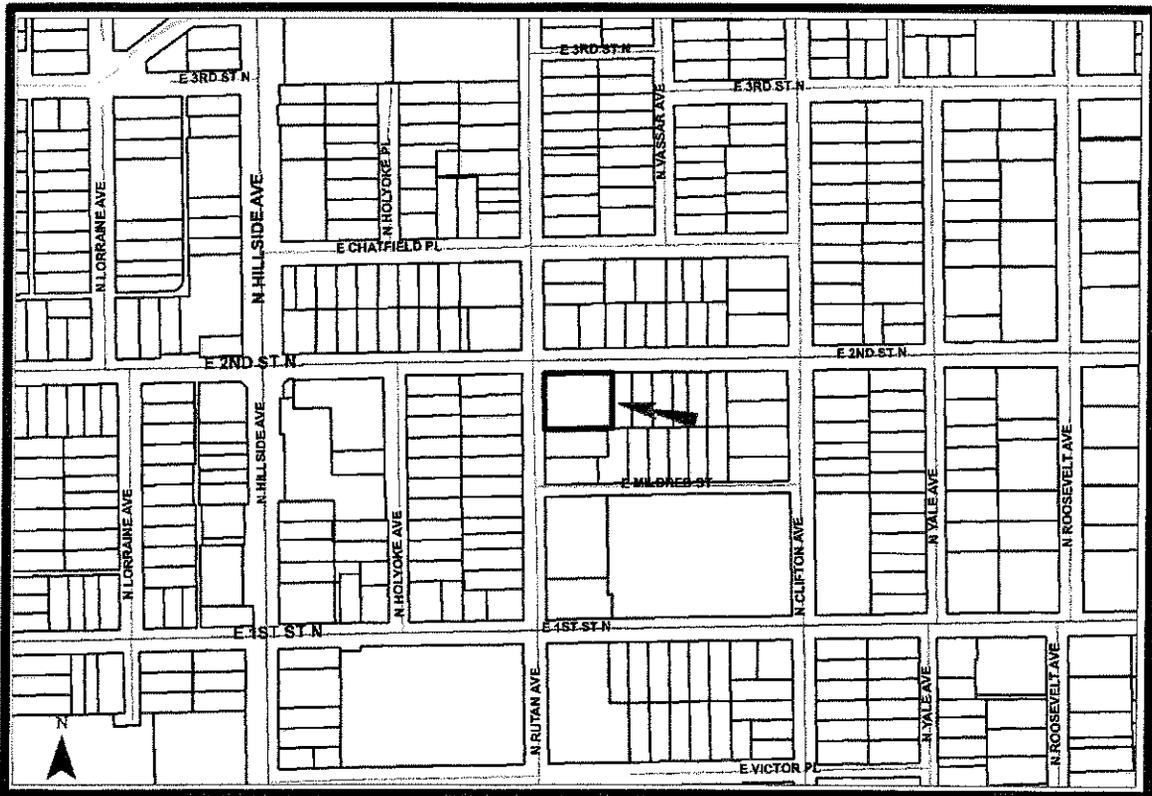
REQUEST: Conditional Use for an Accessory Apartment

CURRENT ZONING: TF-3 Two-family Residential

SITE SIZE: 0.53 acres

LOCATION: Southeast corner of East 2nd Street and North Rutan

PROPOSED USE: Accessory Apartment above garage



BACKGROUND: The applicants request a Conditional Use for an “accessory apartment” on property zoned TF-3 Two-family Residential. The site is located at the southeast corner of East 2nd Street and North Rutan. The property is currently developed with a single-family residence on the 0.53-acre site. A four-car garage and an in-ground swimming pool have recently been demolished in order to build the new garage with a second story apartment. There is an existing drive access from East 2nd Street. This site is listed in the Wichita Register of Historic Places, the Register of Historic Kansas Places and the National Register of Historic Places. The owners filed application to the Wichita Historic Preservation Board to request demolition of the non-original four-car garage and the in-ground pool and approval of the design for the new garage/apartment structure. The Historic Preservation Board approved the proposed project with the stipulation that a conditional use for an accessory structure be obtained.

The property is surrounded by residential zoning developed with single-family structures to the north, west and south, and two-family structures to the east. West of the site is zoned TF-3, north is TF-3 and SF-5 Single-Family residential, east of the site is zoned TF-3, and south of the site is zoned SF-5.

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

The TF-3 zoning district property development standards call for a minimum rear setback of 20 feet for principal structures; however, accessory structure rear building setback (Sec. III-D.7.e(1)) shall be at least ten feet from the centerline of any platted or dedicated alley, and if no alley exists, then five feet from the rear lot line; accessory structures may be within three feet of a side lot line if on the rear half of the property. Accessory structures may not utilize more than one-half of any required rear yard, and shall not exceed 60 percent of the allowable height limit for the zoning district unless the accessory structure conforms to principal structure setback requirements. The TF-3 zoning district maximum height is 35 feet, 60 percent of which is 21 feet. The UZC parking standards require one off-street parking space per single-family residence and one per accessory apartment. The submitted site plan conforms to UZC requirements.

CASE HISTORY: The subject property has two associated city cases. Protective Overlay H76-21 designating the historic Senator Chester Long House in the Wichita

Register of Historic Places and associated city case BZA2006-91 allowing a rear setback reduction to 16 feet.

ADJACENT ZONING AND LAND USE:

NORTH:	TF-3, SF-5	Single-family residential
SOUTH:	SF-5	Single-family residential
EAST:	TF-3	Two-family residential
WEST:	TF-3	Single-family residential

PUBLIC SERVICES: The property is serviced by all publicly supplied municipal services. East 2nd Street is a three-lane one-way arterial street and Rutan is a local paved street at this location.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the downtown core and mature neighborhoods surrounding it in a roughly three-mile radius. The Plan encourages infill development within the Established Central Area that maximizes public investment in existing and planned infrastructure and services. The residential category encompasses areas that reflect the full diversity of residential densities and types, including apartments. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as residential.

RECOMMENDATION: The surrounding area has well-established residential land uses. This site is 165.5 feet wide and 135 feet deep, and therefore has enough room to accommodate the accessory apartment and associated parking. Existing tree growth on the site partially screens the accessory apartment from neighboring properties. Based on information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The Conditional Use permits one single-family accessory apartment on the site. The site shall be developed and maintained in general conformance with the approved site plan, the approved elevation drawing, and in conformance with all applicable regulations, including but not limited to: local zoning, including Article III, Section III-D.6 .a.(1)-(4); building, fire and utility regulations or codes.
2. An approved site plan for the entire lot and an elevation drawing approved by planning staff, indicating dimensions and exterior materials.
3. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VII hereof, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property is surrounded by residential zoning developed with single-family structures to the north, west and south, and two-family structures to the east. West of the site is zoned TF-3, north is TF-3 and SF-5 Single-Family residential, east of the site is

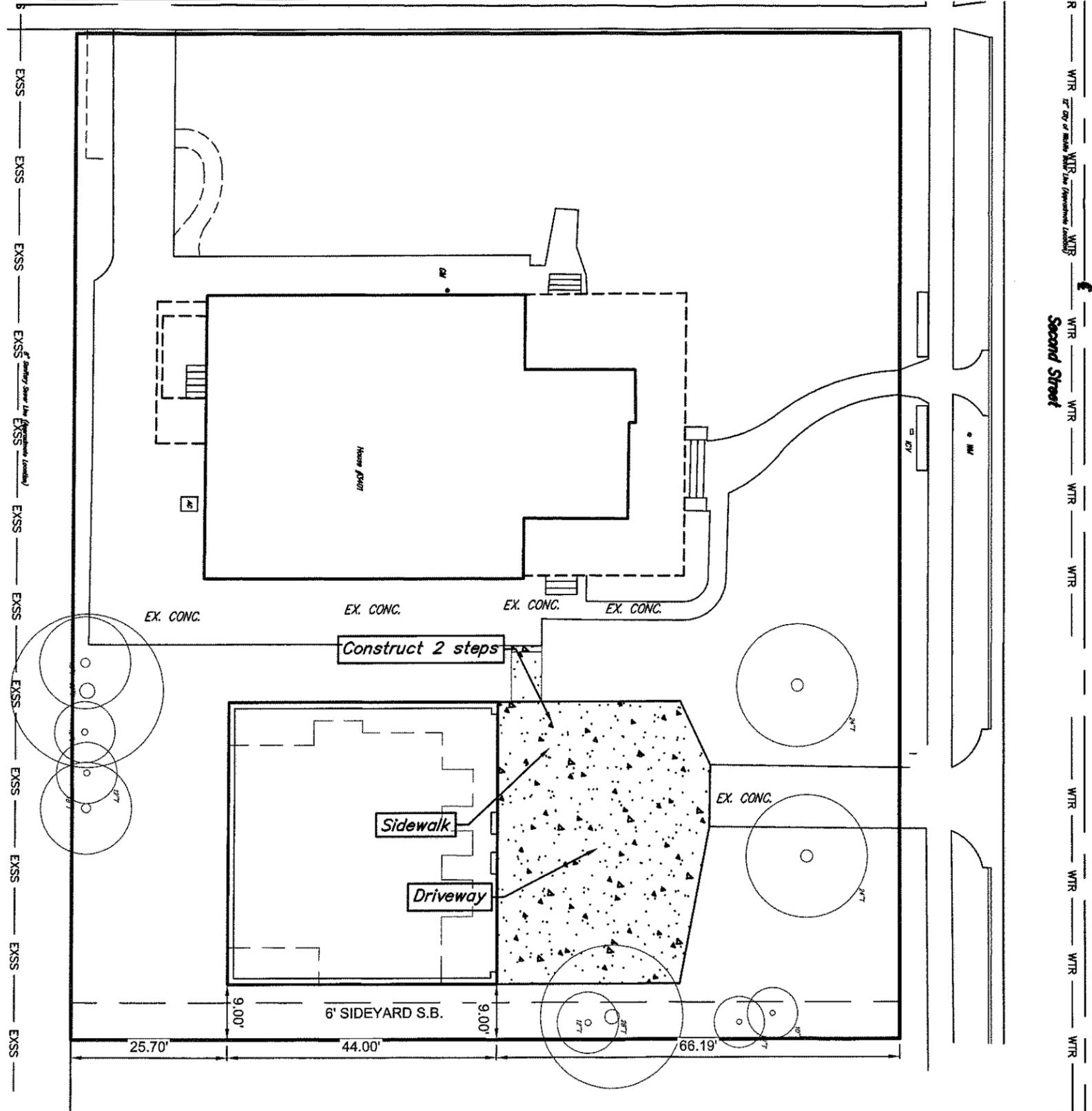
zoned TF-3, and south of the site is zoned SF-5.

2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned TF-3 which permits the existing single-family residence. The property's zoning would permit construction of a duplex on the site; however, the accessory apartment allows the same number dwelling units while preserving the historic use of the structure. The dimensions of the property easily accommodates an accessory apartment and the additional required parking space.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request should not detrimentally impact nearby properties. The accessory apartment site is well screened from neighboring lots. The conditions of approval should minimize any anticipated detrimental impacts.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the downtown core and mature neighborhoods surrounding it in a roughly three-mile radius. The Plan encourages infill development within the Established Central Area that maximizes public investment in existing and planned infrastructure and services. The residential category encompasses areas that reflect the full diversity of residential densities and types, including apartments. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as residential.
5. Impact of the proposed development on community facilities: If this request is approved, the site is served by municipal services that are able to accommodate projected demand created by this request.

Call Before You Dig!
1-800-DIG SAFE
 or 687-2470 In Wichita
 Call Kansas One-Call at Least Two (2)
 Working Days Before Work Begins

Midway Avenue

Second Street



- General Notes:**
1. Staking dimensions are shown for representation only.
 2. This drawing does not represent a boundary survey or mortgage title inspection (MTI). Easements and setbacks shown have been taken from the recorded plat or other known sources. It shall be the Builder's responsibility to ensure that the final location of the house conforms to all applicable setbacks and easements.
 3. Any changes in elevations shown on this plan must be approved by the Developer or his Authorized Representative.
 4. The Builder or their subcontractor(s) shall contact the Engineer immediately with any discrepancies.

* Extra Deep Foundation May Be Required



Legend:

VO	View- Out	BF	Basement Floor
PVO	Partial View- Out	RC-TC	Roll Curb-Top of Curb
WO	Walk- Out	TC	Top of Curb
TF	Top of Foundation	FG	Finished Grade

LOT LAYOUT PLAN

Location:
 3401 E. 2nd Street
 Wichita, KS 67208
 Prepared For:
 Art Bailey
 Phone: 708-2640

File Location:
 E:\GRADE\Davis Addition\Davis Add 2-14 even 15-03-S448

Drawn By:
 DML
 Date Drawn:
 4.26.2016
 Project Number:
 16-03-G050
 Approved By:

Baughman
 ENGINEERING | SURVEYING | PLANNING
 LANDSCAPE ARCHITECTURE
 Baughman Company, P.A.
 325 Elliot - Wichita, KS 67211
 ALTM.dwg 11/17/15 15:10:24:0149

BACKGROUND: The applicant is seeking a Conditional Use approval for a “recreational vehicle campground” (RV campground) on the approximately 9.81-acre, RR Rural Residential (RR) zoned unplatted subject site. It is the applicant’s intention to place a single recreational vehicle on the site and use it in lieu of a permanent structure. In short, the RV will substitute for a building and will be used as a country residence or hunting cabin.

Sec. II-B.14.e. of the Wichita-Sedgwick County Unified Zoning Code (“UZC”) defines a “recreational vehicle”, as a unit designed as temporary living quarters for recreational, camping or travel use that has a body width not exceeding eight feet and a body length not exceeding 40 feet. Units may have their own power, or designed to be drawn or mounted on a “motor vehicle.” Recreational vehicle shall include motor homes, travel trailers, truck campers, camping trailers, converted buses, houseboats or other similar units as determined by the Zoning Administrator. A recreational vehicle may or may not include individual toilet and bath.

The UZC Sec. III-D.7.b.(4) lists garages, carports and private parking areas as residential accessory uses; therefore, parking of motor vehicles in residential districts is an accessory use, requiring a principal use or structure. Sec. III-D.7.b.(12) indicates the parking for more than 72 hours and / or the storage of certain motor vehicles and equipment in the County is permitted: (a) The following accessory uses shall be permitted in the unincorporated area of the County when such are the personal property of the occupant of the dwelling unit and are screened as specified in Section 19-22 of the Sedgwick County Code: 1) parking and/or storage of motor vehicles whether operable or inoperable and 4) parking and / or storage of unoccupied recreational vehicles.

The parking of a non-agricultural vehicle on RR zoned property that does not have a principal structure is prohibited. The UZC recognizes the following definitions dealing with parking: “parking” means the temporary location of motor vehicles (except for vehicles, inoperable), boats, trailers and unoccupied recreational vehicles.

“Parking area, ancillary” means an area other than a private or commercial parking area, street or alley that is located in any district from the most restrictive through NO (neighborhood office) inclusive, and that is used for the parking of passenger vehicles as accessory parking to a principal use that requires the same or more intensive district than the district in which the ancillary parking area is located. Parking area, ancillary, requires a Conditional Use in the RR zoning district.

“Parking area commercial” means an area or structure used or intended to be used for the off-street parking of operable motor vehicles on a temporary basis, other than as accessory parking to a principal nonresidential use. Parking area, commercial is first permitted in the GO General Office zoning district.

“Parking area private” means an area, other than a street or alley, used or intended to be used for the parking of the motor vehicles, boats trailers that are exempt from motor vehicle registration by the state or are registered or are required by law to be registered with Kansas 8M license plates in the County, and unoccupied recreational vehicles, any of which shall be owned, leased, borrowed, etc. by the occupants of a dwelling unit that is located on the same zoning lot, and wherein not more than one commercial vehicle per dwelling unit is parked and the permitted commercial vehicle does not exceed 26,000 pounds gross vehicle weight rating.

“Vehicle storage yard” means the keeping outside of an enclosed building for more than 72 consecutive hours of one or more motor vehicles (except inoperable vehicles), boats, trailers, or unoccupied recreational vehicles. Vehicle storage yard is permitted in the RR district with Conditional Use approval, but is subject to supplementary use regulations.

Based upon the definitions noted above, the proposed placement of the applicant’s occupied RV on land not having a principal structure could not be construed to be some form of parking or storage, staff concluded the most logical approach to the circumstances was to call the activity a ‘recreational vehicle campground.’ Recreational vehicle campground means the use of land designed for occupancy by recreational vehicles for temporary or transient living purposes, including the use of camping spaces for tents.” A recreational vehicle campground is permitted in the RR district with Conditional Use approval.

The site is located a half-mile southwest of the Kansas Highway K-15 – East 71st Street South/Meadow Lark Boulevard intersection. Access to the site is off of the intersection and then through a small, older (generally built 1950s-1970s) mostly single-family residential neighborhood located approximately 600 feet east of the site and in the City of Derby. RR zoned county properties abut the site’s north, east and south sides. Google Earth shows what appears to be two accessory structures located on the north abutting property, which the Sedgwick County Appraiser’s Office identifies an “accessory residential unit.” The other abutting properties appear not to be developed. The County suburban scale SF-20 Single-Family Residential (SF-20) zoned Huckleberry Addition (recorded October 15, 1989) is located approximately 770 feet north of the site. The Arkansas River abuts the west side of the site. The City of Wichita’s SF-5 zoned South Arkansas Greenway Park is located west, across the Arkansas River from the site. The site and all of the abutting properties are located within the 100-year Floodplain.

CASE HISTORY: Access to the site is through the abutting east private properties and is provided by a dedication of a private right-of-way that was never recorded; dated May 28, 1971. However, a “ratification of dedication private right-of-way” was recorded with the Sedgwick County Register of Deeds February 29, (cannot make out the year), Film 2019 – Page 0233.

ADJACENT ZONING AND LAND USE:

- NORTH: RR, SF-20 Accessory building(s) undeveloped/agriculture, suburban scale single-family residential development
- SOUTH: RR Undeveloped/agriculture
- EAST: RR Undeveloped/agriculture, residential neighborhood located in the City of Derby
- WEST: SF-5 Arkansas River, Public Park

PUBLIC SERVICES: No public sewer is available to the site. The site is located within Sedgwick County Rural Water District #3. There does not appear to any franchised utilities available to the site. As already noted access to the site is through the abutting east private properties and is provided by a dedication of a private right-of-way

CONFORMANCE TO PLANS/POLICIES: The site is located in the City of Derby’s Urban Area of Influence, which allows Derby 30 days to make a recommendation on the request upon notification of the request. The 30 days begins on the early warning notices generated by the Metropolitan Area Planning Department (MAPD), which is sent to the small cities, the Sedgwick County Board of County Commissioners and the Wichita City Council Districts. The City of Derby has not placed this request on their May 19, 2016 Planning Commission agenda, but the MAPD has sent out notices to those properties located within 1,000 feet of the site and did attend the Derby meeting to answer any questions on the off-agenda item. No one attended the Derby Planning Commission with questions regarding the request and no recommendation was made by the Derby Planning Commission.

The City of Derby’s 2006 Comprehensive Plan projects the site and the area around the site as future park open space and outside of the near and future growth areas of Derby. Park open space land is identified as woodlands, land within floodplains and golf courses. The site and all of the abutting properties are located

within the 100-year Floodplain. The Derby Plan also shows the site as potentially part of a regional park along the Arkansas River, which compliments the City of Wichita's South Arkansas Greenway Park located west of the site across the Arkansas River.

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

1. The Conditional Use permits a recreational vehicle campground for one recreational vehicle. The recreational vehicle must be moved every 6-months, per FEMA regulations, and the owner must notify the Metropolitan Area Building and Construction Department when the recreational vehicle is ready to be moved.
2. No waste disposal on site. Water can be provided by well, per Sedgwick County Code.
3. Legal access to the site has to meet service drive code requirements.
4. The recreational vehicle campground shall be developed and maintained in general compliance with the approved site plan. All improvements and the operation of the recreational vehicle campground shall be in compliance with applicable local, state or federal regulations and codes, including FEMA Floodplain requirements for uses within the 100-year floodplain.
5. The Conditional Use for a recreational vehicle campground for one recreational vehicle shall be declared null and void upon issuance of a certificate of occupancy for a permanent structure on the approved site; or, after a period of five (5) years from the date said Conditional Use is approved by the appropriate Governing Body, subject to the granting of additional extensions following appropriate review and approval.
6. If the Zoning Administrator finds that there is a violation of any of the conditions of approval 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 site is located a half-mile southwest of the Kansas Highway K-15 – East 71st Street South/Meadow Lark Boulevard intersection. Access to the site is off of the intersection and then through a small, older (generally built 1950s-1970s) mostly single-family residential neighborhood located approximately 600 feet east of the site and in the City of Derby. RR zoned county properties abut the site's north, east and south sides. Google Earth shows what appears to be two accessory structures located on the north abutting property, which the Sedgwick County Appraiser's Office identifies an "accessory residential unit." The other abutting properties appear not to be developed. The County suburban scale SF-20 zoned Huckleberry Addition (recorded October 15, 1989) is located approximately 770 feet north of the site. The Arkansas River abuts the west side of the site. The City of Wichita's SF-5 zoned South Arkansas Greenway Park is located west, across the Arkansas River from the site. The site and all of the abutting properties are located within the 100-year Floodplain.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned RR which permits, by right, single-family residences, manufactured home, group home and a few non-residential uses such as day care, limited, parks, golf course and agriculture. The site could be used as currently zoned, just not as conveniently or inexpensively as proposed.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request will introduce a use that is not currently in the area; however, the scale requested and the recommended conditions of approval should mitigate any detrimental impacts.

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 public's health and safety should not be impacted by the request. Denial of the request could represent a loss in use and enjoyment to the applicant's property.

7. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The City of Derby's 2006 Comprehensive Plan projects the site and the area around the site as future park open space and outside of the near and future growth areas of Derby. Park open space land is identified as woodlands, land within floodplains and golf courses. The site and all of the abutting properties are located within the 100-year Floodplain. The Derby Plan also shows the site as potentially part of a regional park along the Arkansas River, which compliments the City of Wichita's South Arkansas Greenway Park located west of the site across the Arkansas River.

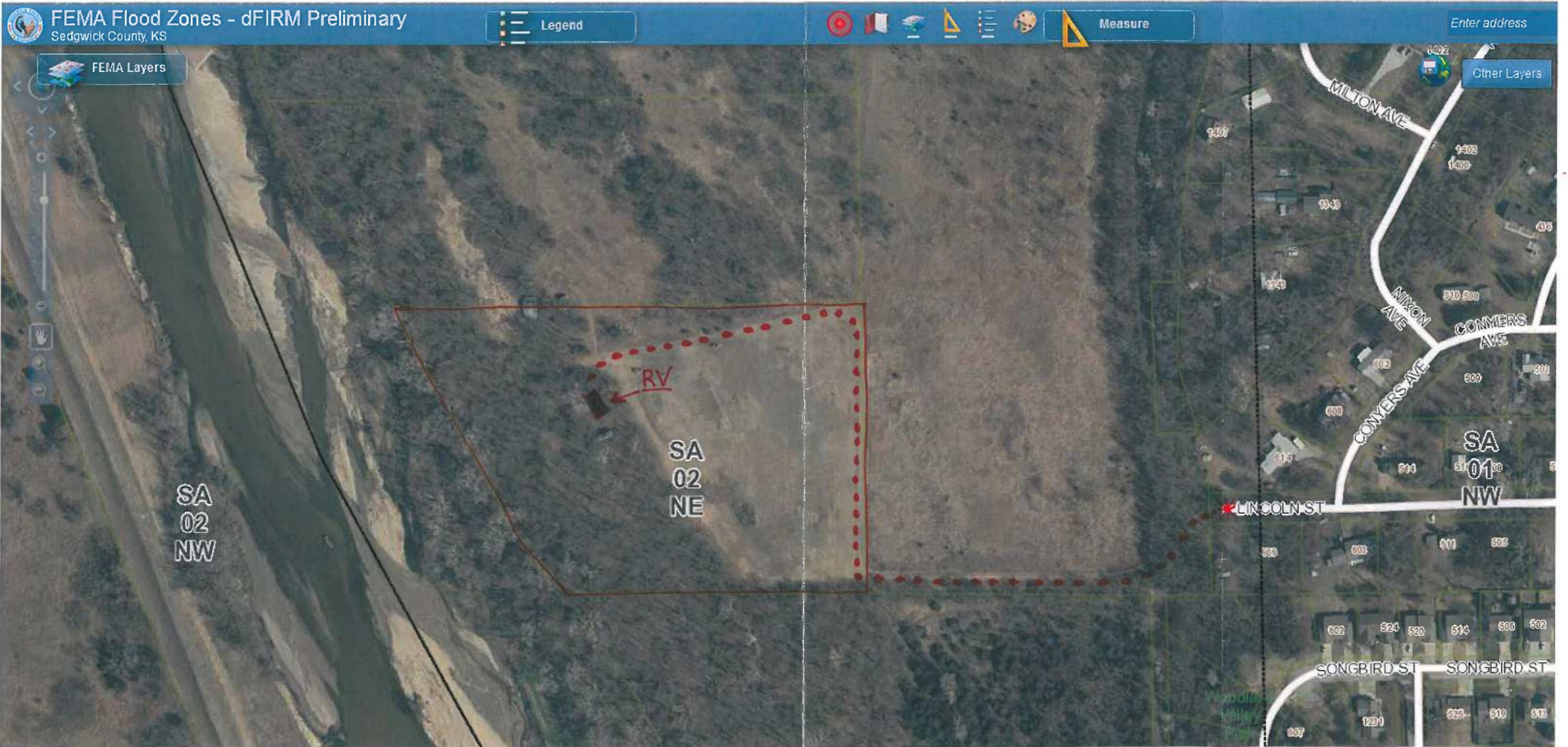
The site is located in the City of Derby's Urban Area of Influence, which allows Derby 30 days to make a recommendation on the request upon notification of the request. The 30 days begins on the early warning notices generated by the Metropolitan Area Planning Department (MAPD), which is sent to the small cities, the Sedgwick County Board of County Commissioners and the Wichita City Council Districts.

8. Impact of the proposed development on community facilities: None identified.





Bill + Sue Hartman Site plan



* ACCESS POINT
..... ACCESS ROAD



STAFF REPORT
DAB IV 6-6-16
MAPC 6-2-16

CASE NUMBER: CON2016-12

APPLICANT/AGENT: Justin Doll and Art Agner (applicant), Baughman Co., PA c/o Russ Ewy (agent)

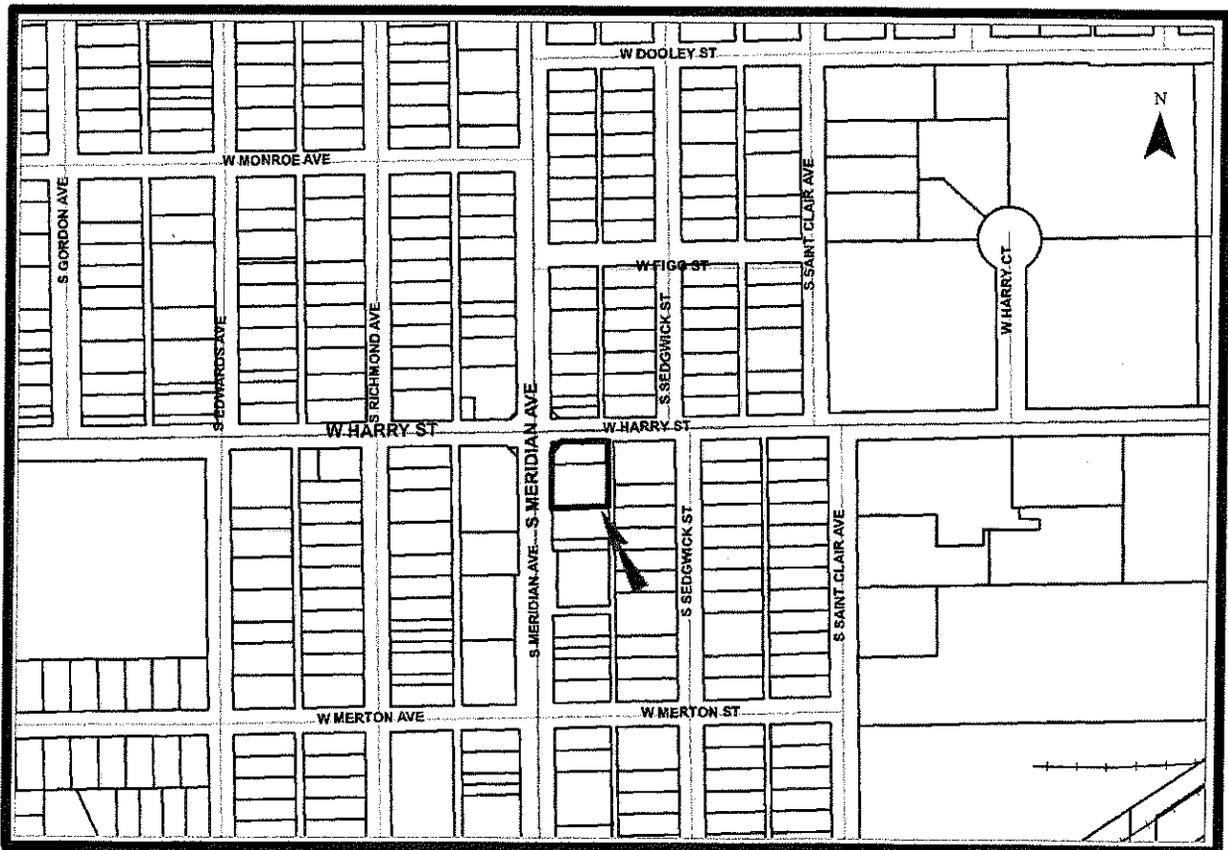
REQUEST: Conditional Use for a Nightclub in the City within 300 feet of residential zoning

CURRENT ZONING: LC Limited Commercial

SITE SIZE: 0.45 acres

LOCATION: Southeast corner of Harry Street and South Meridian Avenue (1602 South Meridian)

PROPOSED USE: Nightclub with Entertainment License



BACKGROUND: The application area, 1602 South Meridian, is located at the southeast corner of Meridian Avenue and Harry Street in LC Limited Commercial (LC) zoning and within 300 feet of residential zoning. The site is developed with a one-story building and over 30 off-street parking spaces. The City is rebuilding this intersection which will include closing two access points closest to the corner. The applicant's site plan (see attached) demonstrates a minimum of 35 parking spaces when complete. The County Tax Assessor lists "bar/tavern/lounge" as the current land use. A drinking establishment has functioned on the site as a legal non-conforming use for many years. The applicant wishes to obtain an entertainment license and therefore requests this conditional use for a "nightclub in the city." Nightclub in the city is defined by the Unified Zoning Code (UZC) as an establishment that provides entertainment and/or dancing, where alcoholic beverages are served and where food may or may not be served. The UZC permits a nightclub in the city in the LC zoning district by right, but requires a conditional use if the property is located within 300 feet of a church, park, school or residential zoning district. The application area is across an alley from residential zoned properties on South Sedgwick Street. Residential zoned properties within 300 feet of the application area are developed with a mixture of multi-family, duplex and single-family residences.

Property north, west and south of the site are zoned LC and developed with retail, warehousing, vehicle repair, vehicle sales and multi-family residential uses. Property east of the site is zoned TF-3 and developed with single-family and duplex residences.

CASE HISTORY: The site was platted as odd Lots 1 through 11, Block A of the South University Place Addition to Wichita in 1887. The building on the site was constructed in 1952.

ADJACENT ZONING AND LAND USE:

North: LC	Multi-family residential
South: LC	Retail
East: TF-3	Single-family and duplex residences
West: LC	Retail, vehicle sales, warehousing and vehicle repair

PUBLIC SERVICES: Meridian is a paved major arterial street with four lanes and a central turn lane at the intersection. Harry is a minor arterial with two lanes and an eastbound central turn lane at the intersection. All other urban utilities and services are available.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the mature neighborhoods within an approximate three-mile radius of the downtown core. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential" but adjacent to areas identified as "commercial," "industrial" and "new employment." The UZC requires one parking space per two seats for nightclubs. The applicant indicates that the site has an occupancy of 80 people. The applicant's site plan demonstrates a minimum of 35 parking spaces, therefore the applicant requests a five-space reduction as a part of the conditional use.

RECOMMENDATION: Staff notes that a drinking establishment has existed on this site for some time. This application does not introduce a new use to this location, and the use does not

appear to be incompatible with the residential zoning east of the site. Staff notes that the site lacks UZC required screening from the residential properties across the alley to the east. Based upon the information available prior to the public hearings, planning staff recommends that the request for a Conditional Use for a Nightclub in the City be **APPROVED**, with the following conditions:

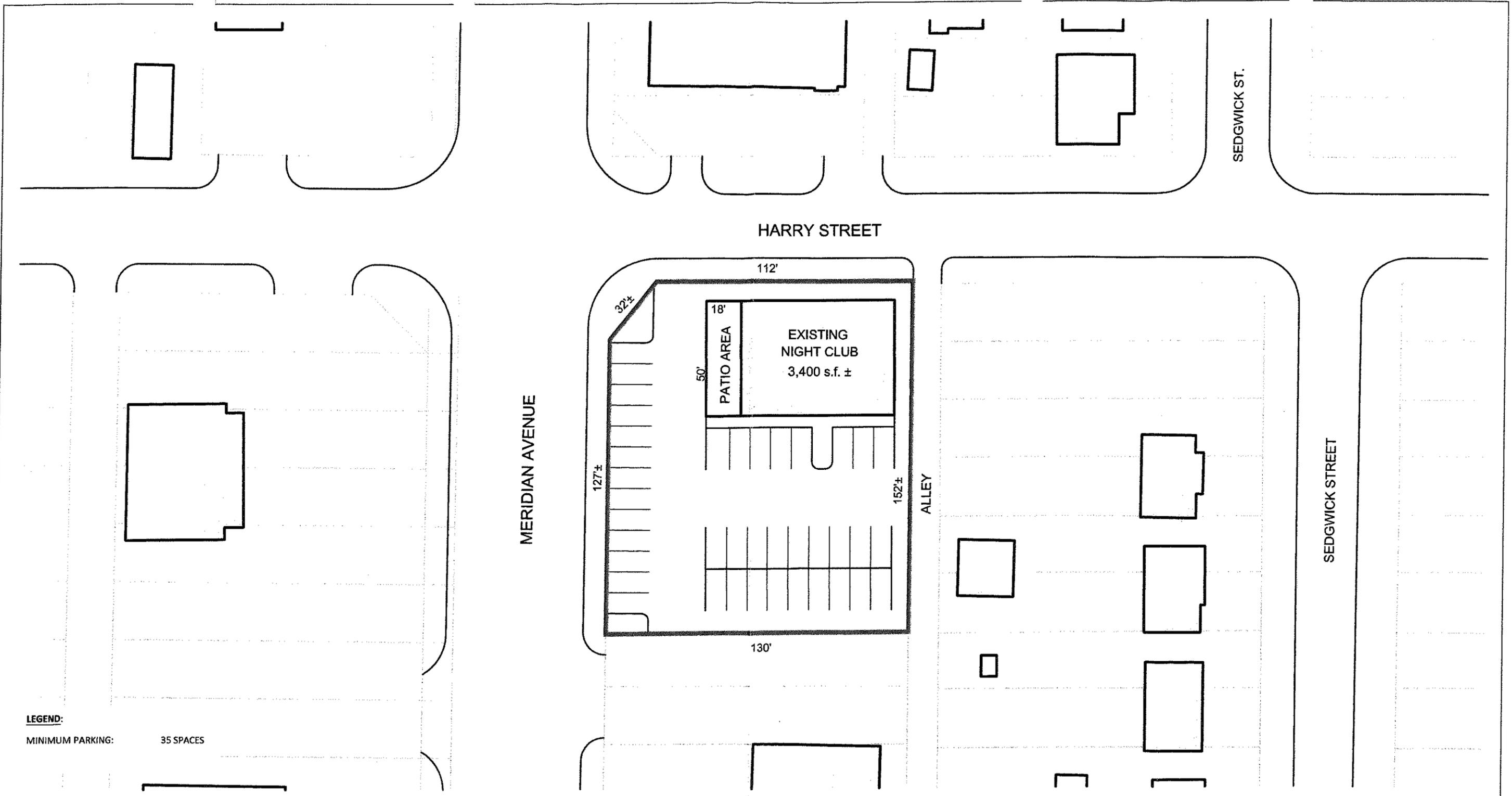
- (1) The applicant shall submit a revised site plan, to be approved by planning staff, which identifies screening between the site and residential properties across the alley to the east.
- (2) The site shall be developed and maintained in conformance with the approved site plan.
- (3) The site shall maintain a minimum of 35 parking spaces.
- (4) No outside loudspeakers or outdoor entertainment is permitted.
- (5) The site shall maintain all necessary licenses for a nightclub in the city.
- (6) The site shall conform to all applicable codes and regulations to include but not limited to zoning, building, fire and health.
- (7) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

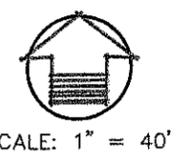
1. The zoning, uses and character of the neighborhood: Property north, west and south of the site are zoned LC and developed with retail, warehousing, vehicle repair, vehicle sales and multi-family residential uses. Property east of the site is zoned TF-3 and developed with single-family and duplex residences.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC and developed with a building previously used as a bar. The site could be used as zoned for other commercial uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The site is zoned LC and could be developed with any range of permitted uses in that district. The proximity of residential zoning east of the site triggers the conditional use review for a nightclub. Noise and activity from the nightclub could impact the residential neighborhood to the east; proposed conditions of screening and prohibiting outdoor speakers/entertainment should mitigate this impact. The request does not introduce a new use in the neighborhood. The limited size of the site and building will prevent expansion beyond a neighborhood scale, and proposed conditions should mitigate impacts on surrounding properties.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial of the request would presumably be an economic hardship upon the property owner, as the applicant owns the property and desires to operate the proposed business within LC zoning.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the mature neighborhoods within an approximate three-mile radius of the downtown core. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential" but adjacent to areas identified as "commercial," "industrial" and "new employment." The UZC requires one parking space per two seats for nightclubs. The applicant indicates that the site has an occupancy of 80 people. The applicant's site plan demonstrates a minimum of 35 parking spaces, therefore the applicant requests a five-space reduction as a part of the conditional use.

6. Impact of the proposed development on community facilities: The proposed Conditional Use should not impact community facilities to any greater extent other uses permitted in the LC zoning district.



LEGEND:
 MINIMUM PARKING: 35 SPACES



12
CON2016-~~???~~ SITE PLAN
 1602 SOUTH MERIDIAN AVENUE



BACKGROUND: The applicant requests a Conditional Use to allow outdoor vehicle sales on a 0.68-acre site in LC Limited Commercial zoning. The site is located south of the Kellogg Expressway, at the southeast corner of East Kellogg Drive and South Eastern Avenue. The vacant site has an off-site billboard advertising sign. The applicant provided site plan (see attached) demonstrates vehicle display areas, parking and a small building. The site plan demonstrates access to Eastern Avenue and shared access with property to the east to Kellogg Drive. 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 subject to the following supplementary conditions:

1. Location shall be contiguous to a major street as designated in the Transportation Plan.
2. Visual screening of areas adjacent to residential zoning districts shall be provided.
3. All parking, outdoor storage and display areas shall be paved with concrete or asphalt. Parking barriers shall be installed along all perimeter boundaries abutting streets to ensure that parked vehicles do not encroach onto public street right-of-way.
4. The lighting shall be in compliance with the lighting requirements of Sec. IV-B.4. No string-type or search lighting shall be permitted.
5. The noise levels shall be in compliance with the compatibility noise standards of Sec. IV-C.6. Outdoor speakers and sound amplification systems shall not be permitted.
6. No repair work shall be conducted except in an enclosed building, and further provided that no body work is done.
7. Only those signs permitted in the LC District shall be permitted on this site, except that no portable, flashing, moving or off-site signs shall be permitted and no streamers, banners, pennants, pinwheels, commercial flags, bunting or similar devices shall be permitted.
8. There shall be no use of elevated platforms for the display of vehicles.

North of the site is the Kellogg Expressway, further north is LC zoning with hotel, retail and warehousing uses. South of the site is a 90-foot drainage easement for Gypsum Creek. Further south is an LC zoned site formerly used for retail and currently used for training and storage. East of the site is a GC General Commercial zoned site under the Community Unit Plan development controls of DP-38 and used for vehicle sales. The vehicle dealership east of the site is under the same ownership as the application area. West of the site is an LC zoned office use.

CASE HISTORY: The site was platted as Lot 1 of the Circuit City Addition to Wichita in 1996. The site was approved for a vehicle rental use exception in 1966 (BZA 10-66). The site has two Sign Code administrative adjustments (BZA2006-90 and BZA2013-34) to raise a billboard and an off-site sign 20 feet above the rail of the adjacent elevated highway.

ADJACENT ZONING AND LAND USE:

NORTH: LC	Expressway, hotel, retail, warehousing
SOUTH: LC	Drainage easement, training, storage
EAST: GC, DP-38	Vehicle sales
WEST: LC	Office

PUBLIC SERVICES: The subject property has direct access to South Eastern Avenue, a two-lane paved local street. The site has access to Kellogg Drive, the Kellogg Expressway service drive, via the bordering property to the east. All other public services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan (the *Community Investments Plan*) 2035 *Wichita Future Growth Concept Map* identifies this

location as “commercial,” encompassing areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. Convenience retail, restaurants, small offices and personal service uses are located in close proximity to, and potentially mixed with, residential uses. Major destination areas (centers and corridors) containing concentrations of commercial and office uses that have regional market areas and generate high traffic volumes are located in close proximity to major arterials or highways and typically are buffered from lower density residential areas by higher density housing types.

The Comprehensive Plan Locational Guidelines make the following applicable recommendations: Major commercial and employment centers should be located at intersections of arterial streets and along highways and commercial corridors. Primary outdoor sales uses should be located along highway corridors or in areas where the uses have already been established. Development abutting the targeted arterials, Kellogg freeway, gateways and landmarks identified on the Priority Enhancement Areas for Wichita Infrastructure Projects Map should consider the inclusion of site design features that increase the sense of quality of life through emphasis of visual character and aesthetic improvements.

RECOMMENDATION: The site is consistent with the Comprehensive Plan and UZC, with the exception that a billboard already exists on the site. Based on the information available prior to the public hearing, MAPD staff recommends the application be **APPROVED**, with the following conditions:

1. The Conditional Use shall be developed and maintained in conformance with the approved site plan.
2. The Conditional Use shall conform to the Unified Zoning Code, Section III-D.6.x supplementary use conditions, except that one previously approved off-site sign shall be permitted on the site.
3. The site shall be developed in conformance with an approved landscape plan consistent with the Landscape Code.
4. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
5. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: North of the site is the Kellogg Expressway, further north is LC zoning with hotel, retail and warehousing uses. South of the site is a 90-foot drainage easement for Gypsum Creek. Further south is an LC zoned site formerly used for retail and currently used for training and storage. East of the site is a GC zoned site under the Community Unit Plan development controls of DP-38 and used for vehicle sales. The vehicle dealership east of the site is under the same ownership as the application area. West of the site is an LC zoned office use.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned LC. The property could be used for a number of uses. Limited size, existing easements and platted building setbacks would limit the development options on this site.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: A large

vehicle sales business exists east of this site. This application does not introduce a new use in this area. No residential areas are impacted by this location. The proposed conditions should mitigate impacts on the surrounding commercial uses.

4. Conformance of the requested change to adopted or recognized Plans/Policies: The adopted Wichita-Sedgwick County Comprehensive Plan (the *Community Investments Plan*) 2035 *Wichita Future Growth Concept Map* identifies this location as “commercial,” encompassing areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. Convenience retail, restaurants, small offices and personal service uses are located in close proximity to, and potentially mixed with, residential uses. Major destination areas (centers and corridors) containing concentrations of commercial and office uses that have regional market areas and generate high traffic volumes are located in close proximity to major arterials or highways and typically are buffered from lower density residential areas by higher density housing types. The Comprehensive Plan Locational Guidelines make the following applicable recommendations: Major commercial and employment centers should be located at intersections of arterial streets and along highways and commercial corridors. Primary outdoor sales uses should be located along highway corridors or in areas where the uses have already been established. Development abutting the targeted arterials, Kellogg freeway, gateways and landmarks identified on the Priority Enhancement Areas for Wichita Infrastructure Projects Map should consider the inclusion of site design features that increase the sense of quality of life through emphasis of visual character and aesthetic improvements.

4. Impact on Community Facilities: All public facilities are available. The small size of this proposed conditional use should have minimal impact on community facilities.

KELLOGG DRIVE

257.48'

70.69'

35' BUILDING SETBACK



SALES BUILDING

BILLBOARD

20' BUILDING SETBACK

181.87'

EASTERN STREET

15 UTIL ESMT

289.5'

EASEMENT

DRAINAGE

LEGEND:

MAXIMUM VEHICLE DISPLAY: 60



SCALE: 1" = 40'

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CON2016-~~???~~ SITE PLAN
LOT 1 - CIRCUIT CITY ADDITION VEHICLE SALES LOT

