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

**Thursday, August 18, 2016**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission will be held on **Thursday, August 18, 2016**, beginning at **1:30 PM** in the Planning Department Conference Room City Hall - 10<sup>th</sup> Floor, 455 N. Main Street, Wichita, Kansas. **If you have any questions regarding the meeting or items on this agenda, please call the Wichita-Sedgwick County Metropolitan Area Planning Department at 316.268.4421.**

1. Approval of the prior MAPC meeting minutes:

*Meeting Date:* July 7, 2016

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

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

**SUBDIVISION CASE DETAILS**

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

*Committee Action:* APPROVED 4-0  
*Surveyor:* Ruggles & Bohm, P.A.  
*Acreage:* 9.61  
*Total Lots:* 2

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

*Committee Action:* APPROVED 4-0  
*Surveyor:* Professional Engineering Consultants, P.A.  
*Acreage:* 82.84  
*Total Lots:* 3

3. **PUBLIC HEARING – VACATION ITEMS**

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

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

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

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

*Committee Action:* APPROVED 4-0

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

*Committee Action:* APPROVED 4-0

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

*Committee Action:* APPROVED 4-0

**PUBLIC HEARINGS**

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

- 4.** Case No.: ZON2016-00020  
Request: City request to amend the Delano Protective Overlay to allow a wireless communication facility on U University zoned property.  
General Location: Southeast of West Maple Street and Meridian Avenue and southeast of Mentor Street and St Claire Avenue.  
Presenting Planner: Bill Longnecker
- 5.** Case No.: ZON2016-00028  
Request: City zone change from B Multi-family Residential, SF-5 Single family Residential and LC Limited Commercial to GC General Commercial.  
General Location: South of East 21st Street North on both sides of North Piatt Avenue (2001 and 2101 E. 21st St. N.).  
Presenting Planner: Scott Knebel
- 6.** Case No.: ZON2016-00034  
Request: City zone change from LI Limited Industrial to SF-5 Single-family Residential (approx. 38.5 acres) and MF-18 Multi-family Residential (approx. 41.1 acres).  
General Location: South of 29th St. N., approximately 1/4 mile west of 127th St. East.  
Presenting Planner: Kathy Morgan
- 7.** Case No.: ZON2016-00035 and CON2016-00040 (THIS CASE TO BE DEFERRED)  
Request: City zone change from SF-5 Single-family Residential to LC Limited Commercial and City Conditional Use to permit a Nightclub/Event Center on SF-5 Single-Family Residential zoned property.  
General Location: East of North Seneca Street and north of North I-235.  
Presenting Planner: Bill Longnecker
- 8.** Case No.: ZON2016-00036 and CUP2016-00027  
Request: City zone change from SF-5 Single family Residential to GC General Commercial and creation of Community Unit Plan CUP DP-341 The Cotillion Ballroom Commercial Community Unit Plan.  
General Location: North of Kellogg and west Maize Road (11120 W. Kellogg).  
Presenting Planner: Kathy Morgan

- 9.** Case No.: ZON2016-00037 and CUP2016-00028 (THIS CASE TO BE DEFERRED)  
Request: City zone change from SF-5 Single-family Residential and GO General Office to LC Limited Commercial and amendment of the Highland Springs CUP DP-233.  
General Location: South of W. Central Avenue and west of 135th Street West.  
Presenting Planner: Kathy Morgan
- 10.** Case No.: CON2016-00024  
Request: City Conditional Use to permit a Tavern/Drinking Establishment/Nightclub within 300 feet of residential zoning on LC Limited Commercial zoned property.  
General Location: Northeast of West 33rd Street North and North Arkansas Avenue.  
Presenting Planner: Bill Longnecker
- 11.** Case No.: CON2016-00033  
Request: City Conditional Use to permit a Tavern/Drinking Establishment/Nightclub within 300 feet of residential zoning on LC Limited Commercial zoned property.  
General Location: Northeast of East Harry Street and South Webb Road. (1520 S. Webb Rd - Wichita Pizza Co.)  
Presenting Planner: Bill Longnecker
- 12.** Case No.: CON2016-00034  
Request: City Conditional Use to permit a Tavern/Drinking Establishment/Nightclub within 300 feet of residential zoning on LC Limited Commercial zoned property.  
General Location: Northeast of East Harry Street and South Webb Road. (1530 S. Webb Rd. - Auntie Mae's)  
Presenting Planner: Bill Longnecker
- 13.** Case No.: CON2016-00035  
Request: City Conditional Use to permit a Tavern/Drinking Establishment/Nightclub within 300 feet of residential zoning on LC Limited Commercial zoned property.  
General Location: Northeast of East Harry Street and South Webb Road. (1548 S. Webb Rd. - The Port of Wichita)  
Presenting Planner: Bill Longnecker
- 14.** Case No.: CON2016-00039 (THIS CASE TO BE DEFERRED)  
Request: City Conditional Use to permit a Tavern/Drinking Establishment/Nightclub within 300 feet of residential zoning on LI Limited Industrial zoned property.  
General Location: West of South Rock Road and south of East Harry Street (7707 E. Harry St.).  
Presenting Planner: Bill Longnecker

15. Case No.: CUP2016-00025  
 Request: City request to create the Village at Greenwich Commercial CUP DP-340.  
 General Location: Northeast corner of 21st Street North and Greenwich Road.  
 Presenting Planner: Scott Knebel
16. Case No.: DER2016-00002  
 Request: Adoption of the Wireless Communication Master Plan as an element of the Community Investments Plan 2015-2035, the Wichita-Sedgwick County Comprehensive Plan and Amendments to certain sections of the Wichita-Sedgwick County Unified Zoning Code (UZC) pertaining to the regulation of wireless communication facilities.  
 General Location: City and County wide  
 Presenting Planner: Scott Knebel
17. Case No.: DER2016-00005  
 Request: Amendments to certain sections of the Wichita-Sedgwick County Unified Zoning Code (UZC) to permit event centers, churches, farmer's markets, community assembly and bed and breakfast uses by right subject to development standards in certain zoning districts. Minor changes dealing with punctuation and codification are also proposed.  
 General Location: City and County wide  
 Presenting Planner: Dale Miller

**NON-PUBLIC HEARING ITEMS**

**18. Other Matters/Adjournment**

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

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

**MINUTES**

**July 7, 2016**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, July 7, 2016 at 1:35 p.m., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Carol Neugent, Chair; David Dennis, Vice Chair (Out @2:35 p.m.); John Dailey; Bob Dool (In @1:36 p.m.); Bill Ellison; David Foster; Matt Goolsby (Out @3:35 p.m.); John McKay Jr. (Out @3:25 p.m.); Debra Miller Stevens; Bill Ramsey (Out @3:35 p.m.); Lowell Richardson and John Todd. Members absent were: Joe Johnson and Chuck Warren. Staff members present were: Dave Barber, Advance Plans Manager; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Jess McNeely, Senior Planner; Jeff Vanzandt, Assistant City Attorney; Justin Waggoner, Assistant County Counselor and Maryann Crockett, Recording Secretary.

1. Approval of the May 19, 2016 Planning Commission Minutes.

**MOTION:** To approve the May 19, 2016 Planning Commission minutes.

MCKAY moved, DENNIS seconded the motion, and it carried (8-0-3). GOOLSBY, RAMSEY and NEUGENT – Abstained.

DOOL (In @1:36 p.m.)

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2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB2016-00011: One-Step Final Plat - KANSAS HYDROGRAPHICS ADDITION**, located on the north side of East 47th Street South, west of South Woodlawn Boulevard. CHAIR NEUGENT announced that the item had been deferred.

- 2-2. **SUB2016-00013: One-Step Final Plat – TIFFANI BREEZE ADDITION**, located on the north side of East 71st Street South, East of South 127th Street East.

**NOTE:** This is unplatted property located in the County. It is designated as “rural area” by the Community Investments Plan 2015-2035. The applicant proposes a zone change (ZON2016-00023) from Rural Residential to Single-Family Residential (SF-20).

**STAFF COMMENTS:**

- A. This plat will be subject to approval of the associated zone change and any related conditions of such a change. Prior to this plat being released for the Board of County Commissioners, the zone change will need to be approved to allow for the lot sizes being platted.

- B. Since sanitary sewer is unavailable to serve this property, the applicant shall contact Metropolitan Area Building and Construction Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval.
- C. The site is currently located within the Sedgwick County Rural Water District No. 3. If service is available, feasible and the property is eligible for service, Metropolitan Area Building and Construction Department recommends connection.
- D. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) along with the corresponding dollar amounts shall be submitted to the Planning Department for recording.
- E. County Stormwater advises that the drainage plan is approved.
- F. County Public Works advises the existing crossroad structure on 71st Street South will need to be relocated to avoid conflict with Suzette Drive or the eastern Suzette Drive will need to be relocated.
- G. County Public Works has approved two street openings along 71<sup>st</sup> Street South.
- H. The applicant shall guarantee the installation of the proposed loop street to the 32-foot suburban street standard.
- I. The Applicant has provided a 70-foot ingress/egress easement and contingent dedication of street right-of-way extending to the north line of the plat in order to provide potential street connection to adjoining properties.
- J. The ingress/egress easement shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- K. GIS has approved the street names.
- L. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.
- M. 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.
- N. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to [tricia.robello@sedgwick.gov](mailto:tricia.robello@sedgwick.gov) and [nstrahl@wichita.gov](mailto:nstrahl@wichita.gov).

- 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](mailto:kwilson@wichita.gov)).

**STRAHL** reported that the drainage plan has been completed and approved. He said it included several drainage easements and reconfiguration of the internal lots.

**FOSTER** commented that the final drainage plan was not on the drawing provided. He said the final plan does show the drainage reserve inside the inner group of lots.

**STRAHL** briefly reviewed the updated drainage plan indicating the new location of the reserve.

**RICHARDSON** commented that the plat was revised because the first plat had 22 lots which would have triggered the requirement for the developer to pave all of 71<sup>st</sup> Street South. He said he wanted to make the Commissioners aware that in the County, whoever triggers the 21<sup>st</sup> lot is responsible for paving the whole mile. He said the result is no one on that mile can build a home now without paving the street. He said it seems a little bit unfair to him. He asked if the plat triggers that requirement.

**STRAHL** explained that the Subdivision Regulations say any new subdivision or a lot split.

**JUSTIN WAGGONER, ASSISTANT COUNTY COUNSELOR** said the provision is in the Subdivision Regulations and states that if you have more than 200 trips on the road per day (which is calculated at 10 trips per household) that triggers the provision.

**DAILEY** asked if any of the cost of paving is assessed to the existing houses.

**JIM WEBER, DEPUTY DIRECTOR, COUNTY PUBLIC WORKS** said no, current land owners along the road would not be assessed for the paving. He said the policy was established to deal with urban fringe development. He said the problem was developments just off the edge of the city that don't make accommodations for the increased traffic, sewer and water. He said the purpose of the policy is to insure that this type of development doesn't become a burden to the public as a whole when it is established. He said technically, they could develop a petition to force people to pay for paving but it has to be approved by the County Commission. He said it is going to be difficult for the next developer or landowner who wants to build a home along 71<sup>st</sup> Street.

**RICHARDSON** clarified that the petition for paving would have to be a voluntary special assessment that most or all people along the road would need to sign.

**WEBER** responded yes and said you would need at least 51% of the residents. He gave several scenarios of different petitions and said you would still need to convince the County Commission that the petition was fair and equitable.

**MCKAY** asked for clarification that the paving was just to the first entrance of the development.

**WEBER** said no, not in the County. He said the City policy is to the first entrance of the subdivision. He briefly reviewed the aerial and indicated what will need to be paved by the next person trying to develop something along 71<sup>st</sup> Street. He said there is development happening at Cook Airfield and someone may want to live along 71<sup>st</sup> street so Commissioner Richardson was warning everyone in advance that they will have this conversation again one day.

**DAILEY** asked how to change the Subdivision Regulations.

**CHAIR NEUGENT** said that was a discussion for later on in the meeting.

**TODD** asked if the developer was aware of this problem.

**RICHARDSON** commented that they changed the plat to get around it.

**TODD** said “let the buyer beware.”

**CHAD ABBOTT, ABBOTT LAND SURVEYING, AGENT FOR THE APPLICANT** said they are in agreement with staff comments. He said they revised the plat to account for the number of lots so that someone in the future will have to pave the road. He said if they platted 17 lots instead of 18 and someone came in and platted one, then the situation just continues to roll downhill. He said at some point in time, someone is going to end up having to pave the road. He said they are complying with the current Subdivision Regulations.

**DAILEY** clarified that the original plat had 22 lots but the developer cut it down to 18 lots so they would not have to pave the road.

**ABBOTT** said yes, but added that there was some question as to whether 71<sup>st</sup> Street was considered an “arterial” road (since a portion of it has been vacated).

**TODD** asked if the developer considered paying for the pavement and including that in the price of the lots.

**ABBOTT** said yes and indicated they felt it would be cost prohibitive.

**DAILEY** asked if the applicant would agree to a condition that when the street was eventually paved, that the 18 homeowners would pay their fair and equitable share. And that the developer would tell the potential buyers before they buy the lots that was what was going to happen.

**ABBOTT** said he has not had that discussion with his client because staff has not brought that up so at this point in time he would say no, they would not be agreeable to that.

**JUSTIN WAGGONER, ASSISTANT COUNTY COUNSELOR** said he did not think making that requirement would be legal. He referred to the Charter Resolution that gives directions on how to set up a petition and the district for tax purposes and said what Commissioner Dailey was suggesting would be circumventing that process.

**MCKAY** asked about making it contingent that once the road is paved, the lot owners will participate.

**WAGGONER** said he was not sure about that, he would have to check and do more research on that.

**KNEBEL** mentioned that the City has used a “No Protest Petition” in the past where landowners sign that if a benefit district is created in which you are included, you agree not to protest the benefit district.

**DAILEY** suggested deferring the case until they get a solid answer on that.

**WAGGONER** said Mr. Vanzandt mentioned that a contingent could be misconstrued as a tax.

There was brief discussion concerning contingent dedications and other contingencies.

**DENNIS** said he would not vote to approve this the way it is written, so he suggested deferring the item until legal can research the questions the Commission has.

**DAILEY** said he would second that if it was a motion.

**RICHARDSON** said he did not bring the matter up so the Commission would make new policy at today's meeting. He said it sounds like they are getting ready to make an exception for someone who has followed the rules. He said he believes the policy needs to be reviewed; however, he is not sure this is the place to make this exception.

**GOOLSBY** said he agreed with Commissioner Richardson that the Commission can't make an exception for someone who is playing by the rules established by the Subdivision Regulations.

**ABBOTT** said although they understand the Commission's concern, they are following the current Subdivision Regulations. He said no contingency has been brought up or discussed with his client so he requested the current Subdivision Regulations be applied.

**DENNIS** said he didn't know if a contingency was the solution or what so that is why he thought it would be better to defer the matter and let legal take a look at it. He said it is a fairness issue to the next people who buy property out there.

**WAGGONER** said there is a provision for a variance or appeal to the governing body which is the County Commission.

**RAMSEY** said no there is no solution required. The applicant and agent are following the rules.

**CHAIR NEUGENT** reminded the Commission that this item and item #4 ZON2016-00023 were related.

**JEFF VANZANDT, ASSISTANT CITY ATTORNEY** suggested deferring the vote on this item until the Commission has heard ZON2016-00023.

**FOSTER** pointed out that the Staff Report states that this item is contingent upon approval of the zoning case.

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

**GOOLSBY** moved, **RICHARDSON** seconded the motion, and it carried (11-1).  
**ELLISON** – No.

2-3. **SUB2016-00019: One-Step Final Plat – FAWN GROVE ADDITION**, located South of Kellogg, West of Greenwich.

**NOTE:** This is a replat of Lot 1, Block 1, Fawn Grove at Sunset Lakes Addition. The applicant proposes duplexes and triplexes (23 total units) on property zoned General Office (GO).

**STAFF COMMENTS:**

- A. City of Wichita Public Works and Utilities Department requests a petition for extension of sewer (laterals) and water (distribution). In-lieu-of-assessment fees are due on water (transmission). Water meters will set in the east easement. Developer will be responsible for boring service lines under the street.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) along with the corresponding dollar amounts shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the drainage plan.
- D. Due to the platting of a 32-foot residential street in a commercial zoning district, a restrictive covenant is needed limiting the site to residential uses.
- E. The applicant shall guarantee the paving of the proposed street. The Subdivision Regulations limit cul-de-sac streets to 24 units accessed by a 32-foot narrow local residential street and this 23-unit plat complies.
- F. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a restrictive covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- G. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- H. City Fire Department has approved the turnaround.
- I. Since this plat proposes the platting of narrow street right-of-way with adjacent 15-foot street, drainage and utility easements, a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- J. GIS has approved the street name.
- K. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted, installed and inspected.

- L. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to [tricia.robello@sedgwick.gov](mailto:tricia.robello@sedgwick.gov) and [nstrahl@wichita.gov](mailto:nstrahl@wichita.gov).
- M. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- O. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. The applicant should check City or County GIS mapping to determine whether the location of any taxing district boundaries (e.g. school districts) crosses their property and plan accordingly to avoid unnecessary splitting of lots between taxing districts.
- T. Any 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](mailto: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 (12-0).

2-4. **SUB2016-00020: One-Step Final Plat – TYLER’S LANDING 6TH ADDITION,**  
located on the southeast corner of 37th Street North and Tyler Road.

**NOTE:** This is a replat of Lot 14, Block A Tyler’s Landing 5<sup>th</sup> Addition. An amendment to the Tyler’s Landing Commercial Plaza Community Unit Plan (CUP2014-13, DP-267) was approved to allow residential uses.

**STAFF COMMENTS:**

- A. City of Wichita Public Works and Utilities Department requests a petition for extension of sewer (laterals) and water (distribution).
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) along with the corresponding dollar amounts shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the drainage plan.
- D. The plat’s text shall include language that “No signs, light poles, private drainage systems, masonry trash enclosures or other structures shall be located within public utility easements.”
- E. Traffic Engineering has approved the access controls. The plat proposes complete access control along Tyler Road and a rights-in/out private street opening along 37<sup>th</sup> Street North.
- F. City Fire Department has approved the turnaround.
- G. The applicant shall guarantee the paving of the private street (Reserve A) to a public street paving standard as required by City Public Works. As private improvements, such guarantee shall not be provided through the use of a petition.
- H. A restrictive covenant shall be submitted regarding the private street, which sets forth ownership and maintenance responsibilities.
- I. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners’ association prior to recording the plat or shall submit a restrictive covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- J. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.

- K. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- L. GIS has approved the street name.
- M. County Surveying advises that on the mortgage holder consent for Legacy Bank the plat name needs changed from Tyler's Landing 5th to Tyler's Landing 6th.
- N. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- O. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted, installed and inspected.
- P. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to [tricia.robello@sedgwick.gov](mailto:tricia.robello@sedgwick.gov) and [nstrahl@wichita.gov](mailto:nstrahl@wichita.gov).
- Q. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- R. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- S. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- T. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- U. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- V. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- W. Perimeter closure computations shall be submitted with the final plat tracing.
- X. The applicant should check City or County GIS mapping to determine whether the location of any taxing district boundaries (e.g. school districts) crosses their property and plan accordingly to avoid unnecessary splitting of lots between taxing districts.
- Y. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- Z. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: [kwilson@wichita.gov](mailto: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 (12-0).

3. **PUBLIC HEARING – VACATION ITEMS**

- 3-1. **VAC2016-00019: City request to vacate a portion of a platted setback on property,** located north of I-135 on the east side of Hydraulic Avenue (3000 S Hydraulic).

**APPLICANT/OWNER:** BANDDL1 LLC, c/o Bennie M. Lee Jr (applicant/owner)

**LEGAL DESCRIPTION:** Generally described as vacating the east 16 feet of the platted 60-foot front yard setback located on and running parallel to the west property line of Lot 1, Block A, Western Lithograph 2nd Addition, and Hydraulic Avenue, Wichita, Sedgwick County, Kansas

**LOCATION:** Located north of I-135 on the southeast corner of Industrial Avenue and Hydraulic Avenue (WCC III)

**REASON FOR REQUEST:** Remove an existing encroachment

**CURRENT ZONING:**

The site and the abutting south and east properties and the adjacent (across Industrial Avenue) north properties is zoned LI Limited Industrial. Adjacent (across Hydraulic Avenue) west properties are zoned MF-29 Multi-Family Residential.

The applicant is requested the vacation of the east 16 feet of the platted 60-foot front yard located on and running parallel to the west property line of the LI Limited Industrial zoned Lot 1, Block A, Western Lithograph 2nd Addition and Hydraulic Avenue. The site is a corner lot with the short side of the lot being along its Hydraulic Avenue frontage. Per the Unified Zoning Code (UZC) the short side of a corner lot is the front side of the lot. Per the UZC the LI zoning district has a 20-foot minimum front yard setback. The applicant's requests reduces the platted 60-foot setback to 44 feet. A 10-foot wide platted easement runs through the south 10 feet of the subject setback, the easement that will remain in effect. Water, sewer and stormwater are located in the Hydraulic and Industrial Avenues right-of-way. Westar has equipment and transmission lines running parallel to the west side of the subject property in Hydraulic Avenue. Conditions 2 and 3 cover Westar Energy. LaDonna Vanderford is the area representative for that area and can be reached at 261-6490. The Western Lithograph 2nd Addition was recorded April 12, 1985.

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 front yard setback.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
  - 1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time June 16, 2016, which was at least 20 days prior to this public hearing.
  - 2. That no private rights will be injured or endangered by vacating the described portion of the platted front 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 front yard setback on a Word document via E-mail for the Vacation Order. This must be provided to Planning prior to VAC2016-00019 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 VAC2016-00019 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 VAC2016-00019 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 front yard setback on a Word document via E-mail for the Vacation Order. This must be provided to Planning prior to VAC2016-00019 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 VAC2016-00019 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 VAC2016-00019 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.

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

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3-2. **VAC2016-00020: County request to vacate a portion of a platted floodway reserve on property,** generally located west of 183rd Street West on the south side of 29th Street North.

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

**LEGAL DESCRIPTION:** Generally described as vacating a portion of the platted drainage easement located in the northwest corner 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-family residence to be built

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

The applicant proposes to vacate a portion of the platted drainage reserve located on the northwest side of the 11.59-acre Lot 3, Block A, Walker Estates Addition. The platlor's text states the platted drainage reserve is for drainage and shall be owned and maintained by the owners of the lots they are located on, or until such time that the appropriate governing body elects to assume the responsibility for the maintaining and improvements to the drainage reserves. The platlor's text also states that no buildings shall be constructed in the drainage reserves and that no fill, change of grade, creation of channel or other work shall be done within the drainage reserves without the permission of the Engineer of the appropriate governing body. The proposed vacated portion of the drainage reserve appears to be located outside of the FEMA Flood Plains.

The applicant wishes to build a single-family residence and driveway within the proposed vacated drainage reserve. There is an existing single-family residence (built 1989) on the subject lot, Lot 3, Block A, Walker Estates Addition. If the vacation request is approved the applicant will need a Lot Split to build another single-family residence on the lot.

The site is located in Sedgwick County Rural Water District #4. Sewer is an on-site that serves the existing single-family residence and it appears to be septic; a separate on site sewer system will be needed for the proposed single-family residence. There are no utilities located within the area of the vacation. The site is located within Sedgwick County Rural Electric Cooperative. The Walker Estates Addition was recorded with the Register of Deeds March 18, 2004.

NOTE: VAC2016-00014 vacated a portion of platted access control to allow a drive from the subject site to 29<sup>th</sup> Street North; MAPC April 21, 2016.

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 the platted drainage reserve.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time June 16, 2016, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by vacating the described portion of the platted drainage reserve and that the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Vacate that portion platted drainage reserve, as approved by County Public Works. Provide Planning Staff with a legal description of the approved vacated portion of the platted drainage reserve 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 29<sup>th</sup> 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 drainage reserve, as approved by County Public Works. Provide Planning Staff with a legal description of the approved vacated portion of the platted drainage reserve 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 29<sup>th</sup> 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.

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

3-3. **VAC2016-00021: City request to vacate a portion of platted Diane public street right-of-way,** generally located east of Seneca Street and north of 31st Street South.

- APPLICANT/AGENT:** Southwest Baptist Church & Via Fone Inc. (applicants) J P Weigand & Sons, c/o Grant Tidemann & Baughman Company, c/o Phil Meyer (agents)
- LEGAL DESCRIPTION:** Generally described as vacating a 30-foot wide (x) 332.15-foot long portion of Diane Street dedicated on the Leonard A. Garnett Addition and the Southwest Baptist Church Addition, Wichita, Sedgwick County, Kansas
- LOCATION:** Generally located east of Seneca Street and north of 31st Street South (WCC III)
- REASON FOR REQUEST:** Street has never been improved and has remained 30 feet wide
- CURRENT ZONING:** Abutting west adjacent properties are zoned SF-5 Single-Family Residential. Abutting north properties are zoned SF-5 and abutting south properties are zoned LC Limited Commercial and SF-5. Abutting west side is 30-foot wide Diane Street and 20-foot wide alley intersection

The applicants are requesting the vacation of the unimproved 30-foot wide (x) 332.15-foot long portion of Diane Street dedicated on the Leonard A. Garnett Addition and the Southwest Baptist Church Addition; the applicants own the Leonard A. Garnett Addition and the Southwest Baptist Church Addition.

The unimproved half-street right-of-way looks like a yard. The half-street right-of-way dead ends against multiple unplatted SF-5 Single-Family Residential zoned properties on its east side, leaving it approximately 525 feet short of intersecting with the nearest street to the east, Osage Street. There are at least four single-family residences (built 1950, 1951 and 1953) located on those tracts. The abutting north SF-5 zoned properties were platted as part of the Robson Heights Addition, recorded July 25, 1950. This portion of Diane Street was platted in the Leonard A. Garnett Addition, recorded with the Register of Deeds January 21, 1986, and the Southwest Baptist Church Addition, recorded February 29, 1968. Both of the applicants' properties, which dedicated the described portion of Diane Street, were platted 18-36 years after the north and east abutting properties were either platted or developed as single-family residences.

There has been no opportunity for this portion of Diane Street to acquire an additional 30 feet of right-of-way from the abutting north properties or to extend further east to Osage Avenue through the abutting east properties. The proposed vacation will not create a dead end, as the west remaining paved 30-foot wide portion of Diane Street intersects with Seneca Street on its west side and with a paved 20-foot wide alley on its east side, which in turn intersects with 31<sup>st</sup> Street South. No properties will be denied access to public right of way and circulation in the area will remain as it is now. There are no garages or accessory buildings located on the abutting north properties that use the unimproved half-street right-of-way for access. No public water, sewer, stormwater, nor hydrants are located in the subject right-of-way. Westar has line and equipment in that area that serves private security lighting to one of the applicants, Southwest Baptist Church. Conditions 3 and 4 cover Westar Energy. Ennidh Garcia is the area representative for that area and can be reached at 261-6859.

The property owner, Jon Prange, of Lot 6, Robson Heights Addition was present at the June 23, 2016, Subdivision meeting. Lot 6 abuts the northeast 70 feet (of the east approximately 80 feet) of that portion of Diane Street that was dedicated by the Leonard A. Garnett Addition. Mr. Prange stated that he had bought Lot 6 late last year and that the property had an existing gate located in the southwest corner of the rear yard that opened onto the unimproved Diane Street. Mr. Prange stated that he wanted to contact the applicant(s) to inquire if he could retain access onto Diane Street. Lot 6 has access to 30<sup>th</sup> Street South, the unimproved 30-foot wide Diane Street is basically secondary access that requires mowing and other maintenance by the applicants. There is no garage or other structure located in the rear yard of Lot 6 or the other lots in the Robson Heights Addition that requires access off of the unimproved Diane Street. Staff discourages using the subject portion of Diane Street right-of-way for secondary access when there is no structures in the Robson Heights Addition requiring Diane Street to be used as secondary access.

The Subdivision Committee instructed the applicants to meet with Mr. Prange to discuss possible access from a portion of the proposed vacated portion of Diane Street to Mr. Prange's property, Lot 6, Robson Heights Addition.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described 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 June 16, 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 public street right-of-way and that the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Vacate the described portion of the Diane Street 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 VAC2016-00021 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 VAC2016-00021 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 Diane Street as easement(s) by separate instrument to cover all utilities. The original dedication must be provided to Planning prior to VAC2016-00021 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) The Subdivision Committee instructed the applicants to meet with Mr. Prange to discuss possible access from a portion of the proposed vacated portion of Diane Street to Mr. Prange's property, Lot 6, Robson Heights Addition.
- (2) Vacate the described portion of the Diane Street 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 VAC2016-00021 proceeding to City Council for final action
- (3) 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 VAC2016-00021 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.
- (4) If needed dedicate the described vacated portion of Diane Street as easement(s) by separate instrument to cover all utilities. The original dedication must be provided to Planning prior to VAC2016-00021 proceeds to City Council for final action and subsequent recording with the Register of Deeds.
- (5) 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.
- (6) All improvements shall be according to City Standards and at the applicants' expense.
- (7) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**LONGNECKER** commented that staff encouraged the neighbor to the north to get with the owners and applicant's agent to resolve his concerns. He said he understood that has happened by e-mails he has received from both the agent and property owner. He added that he has received phone calls on this case and that there seemed to be some confusion regarding the request to vacate and that property owners abutting the area to the north thought they would be asked to give up part of their backyards. He said that is not the case. He said this vacation is simply a portion of a road that hasn't gone anywhere for 18-36 years and has been maintained as a yard.

**PHIL MEYER, BAUGHMAN COMPANY, AGENT FOR APPLICANT** said he had no additional comments and confirmed that the owner of the residence to the north e-mailed their office and they have reached an agreement.

**JERRY OSBORN, 925 WEST 30<sup>TH</sup> STREET** said his property was located right behind the church. He mentioned that a business was trying to develop in the area to the north and buy two lots. He said he wants more information on that because he is concerned about someone bringing in a business 75 foot off his property because he feels that will drive down his property value. He said he has been told that a business wants to build in this area. He said he wants to know what the plan is and not just that the applicant wants to vacate the easement. He said something else is driving this request besides vacating the street. He made several comments regarding a possible business being located on property other than the parcel being vacated and the problems associated with that.

**JOSHUA BLICK, 2039 SOUTH EVERETT, PRESIDENT, SOUTHWEST NEIGHBORHOOD ASSOCIATION** commented that he thinks the church misunderstood the application that they signed to mean that the road would go in. He mentioned development of the New Fidelity Bank in the area which the Commission approved several months ago. He mentioned possible purchase contracts on several properties abutting this vacation request. He said the applicants are trying to get free property by filing this vacation petition. He also asked what is going to happen to the lots and half yards to the north of this area.

**CHAIR NEUGENT** asked legal to respond to the questions concerning the property once it is vacated.

**JEFF VANZANDT, ASSISTANT CITY ATTORNEY** said per Statutes when a property is vacated you go to the middle of the road or alley and the north half goes to the property owners to the north and the south half goes to the property owners to the south.

**LONGNECKER** clarified that the properties to the north did not participate in dedication of the right of way so there are no reversionary rights. He said the two properties to the south are the ones that participated in the dedication of the right of way. He added that if there is going to be a move to extend LC zoning to the north in order for a business to be established in the area, those properties zoned SF-5 will need to be rezoned. He said staff has not received an application for such a request.

**MEYER** referred to the three lots owned by Fidelity Bank which they had rezoned to LC in order to build a new branch. He said the vacation application in front of the Commission to be considered today is totally separate from anything Baughman did for Fidelity Bank. He said when they were contacted regarding vacation of Diane Street, they informed the applicant that the odds of that happening were not

in their favor unless the church agreed and participated. He said he is unaware that the applicant is trying to buy ground to the north of the vacation request. He said anything regarding the properties to the north of the vacation request would require an additional zone change. He reiterated that what was being discussed today was vacation of Diane Street.

There was considerable discussion regarding property surrounding the vacation request, property owned by Fidelity Bank and potential future development of properties in the area.

**ELLISON** commented that he found it odd that the HOA has totally different information from what everyone else is saying. He asked if anyone has discussed the request with the neighborhood.

**MEYER** commented that they did not hold a neighborhood meeting for vacation of Diane Street. He said this is an unused street right of way that has sat there for years. He said he has no knowledge of any other development, and added he is not saying the neighbors are right or wrong but he has no idea of that information.

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

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

**RAMSEY** commented that the Commission was reviewing a vacation case. He said any speculation about what might happen to land in the future would be a separate zoning case. He said he sees no reason not to approve the vacation request.

**DENNIS** (Out @2:35 p.m.)

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### **PUBLIC HEARINGS**

4. **Case No.: ZON2016-00023** - Wayne and Donna Wulf (owners/applicants) request a County zone change from RR Rural Residential to SF-20 Single-family Residential on property described as:

The south half of the east half of the Southwest Quarter of Section 35, Township 28 South, Range 2 East of the 6<sup>th</sup> P.M., Sedgwick County, Kansas.

**BACKGROUND:** The applicant requests a zone change from RR Rural Residential (RR) to SF-20 Single-family Residential (SF-20) on 40 acres. The application area is concurrently platting as the Tiffani Breeze addition with 18 lots and a reserve ranging in size from 2.9 acres to 1.5 acres on modified septic systems. RR zoning requires a 2-acre minimum lot size. The site is located on the north side of East 71<sup>st</sup> Street South and is ¼ mile east of South 127<sup>th</sup> Street East. The site is not within a small city urban growth area but is within Rural Water District #3.

All property surrounding the site is zoned RR. Property due north, south and east of the site is undeveloped and used for agriculture. Further east is the Downwind Estates airfield and associated residential subdivision. West of the site are RR zoned residential lots approximately 10 acres in size. Further west and northwest are residential lots as small as 0.63 acres in the RR zoned Fairway Meadows Addition with a community sewer system.

**CASE HISTORY:** The site is in the platting process, MAPC will hear the plat on July 7, 2016.

**ADJACENT ZONING AND LAND USE:**

NORTH:	RR	Agriculture, large-lot single-family residential development
SOUTH:	RR	Agriculture
EAST:	RR	Agriculture, large-lot single-family residential development, private airfield
WEST:	RR	Large-lot single-family residential development

**PUBLIC SERVICES:** East 71<sup>st</sup> Street South is an unpaved, two-lane section-line road maintained by the township. The proposed plat will give this section of 71<sup>st</sup> Street South a 30-foot half-width right-of-way and a 30-foot water line easement. By keeping the lot count below 20, the applicant is not required to make paving improvements to 71<sup>st</sup> Street South. The site will be provided water by Rural Water District #3, on-site sewer (modified septic systems) are proposed based on lot sizes below two acres.

**CONFORMANCE TO PLANS/POLICIES:** The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as “rural” and not within any small city growth areas. The “rural” category encompasses land outside the 2035 urban growth areas for Wichita and the small cities. Agricultural uses, rural-based businesses, and larger lot residential exurban subdivisions likely will be developed in this area. Such development should occur in accordance with the *Urban Fringe Development Standards for Wichita and Sedgwick County*.

**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:** All property surrounding the site is zoned RR. Property due north, south and east of the site is undeveloped and used for agriculture. Further east is the Downwind Estates airfield and associated residential subdivision. West of the site are RR zoned residential lots approximately 10 acres in size. Further west and northwest are residential lots as small as 0.63 acres in the RR zoned Fairway Meadows Addition with a community sewer system.
- (2) The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned RR and could be developed with 2-acre minimum residential lots.
- (3) Extent to which removal of the restrictions will detrimentally affect nearby property:** The requested SF-20 zoning will allow half-acre lots. The increased number of potential lots will impact nearby property with increased traffic.

- (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 “rural” and not within any small city growth areas. The “rural” category encompasses land outside the 2035 urban growth areas for Wichita and the small cities. Agricultural uses, rural-based businesses, and larger lot residential exurban subdivisions likely will be developed in this area. Such development should occur in accordance with the *Urban Fringe Development Standards for Wichita and Sedgwick County*.
- (5) **Impact of the proposed development on community facilities:** 71<sup>st</sup> Street South is unpaved at this location. MAPC will hear the plat for this development concurrently with the zone change. The increase in residential density will slightly increase demand on community facilities, infrastructure and services.

JESS MCNEELY, Planning Staff presented the Staff Report.

GOOLSBY asked about the possibility of the Commission requiring an overlay or a No Protest Petition.

JUSTIN WAGGONER, ASSISTANT COUNTY COUNSELOR clarified that Commissioner Goolsby was talking about adding a condition to the plat that the applicant would not protest if there was a road paving petition. He said the Planning Commission could probably do that; however, being a lawyer he wanted to be cautious and look into it more.

CHAD ABBOTT, ABBOTT LAND SURVEYING, AGENT FOR THE APPLICANT said the plat for Downwind Estates, 2<sup>nd</sup> Addition is approved but not shown on the zoning map. He said that parcel will be approved and recorded once construction of 139<sup>th</sup> Street east and 73<sup>rd</sup> Street south is completed. He said the reason he mentions it is the zone change to SF-20 on that parcel was approved. He asked for clarification that one of the requirements for the requested zone change approval was requiring a No Protest Petition for future paving from his client.

CHAIR NEUGENT commented that the decision hasn't been made but it has been brought up.

ABBOTT commented that he has had zero opportunity to speak to his client about that issue since this is the first time it has been brought up so he is unprepared to comment on that suggestion.

GOOLSBY asked if the agent would like the Planning Commission to defer the item.

ABBOTT said they do not want a deferral. He said he would stand for questions.

CHAIR NEUGENT asked if the applicant would agree to an overlay or No Protest Petition if that ends up being part of the Commission's recommendation.

ABBOTT said probably, but added that without having an opportunity to discuss it with his client, he can't say for sure. He said if they don't agree with that contingency, the zoning request would die.

**KNEBEL** mentioned that the proposed zoning change does go to the Board of County Commission for final determination.

**RICHARDSON** asked Mr. Weber to respond to the idea of requiring an overlay or No Protest Petition and if that has been done in the past in the County. He said he was concerned that the Commission was setting another precedent without fully discussing it.

**JIM WEBER, DEPUTY DIRECTOR, COUNTY PUBLIC WORKS** said he cannot think of a time where there has been a No Protest Petition in the County. He said he agrees with County Counsel that the idea would require some research to determine if that was even a possibility. He said many City and County statutes don't match up. He mentioned for the record that staff did not come to this meeting asking the Planning Commission to do that. He said if that is a solution the Commission would like to pursue, Legal Counsel and other County staff could research that possibility. He said he is no expert but he is thinking that the No Protest Petition is more related to Subdivision Regulations and issues than zoning.

**RICHARDSON** said this goes back to the previous discussion on the platting item as to whether this is fair. He said he would come down on the side of deferring the request until it is determined if this makes any sense.

**DOOL** said he was wondering if staff could shed any light on the reasoning behind why the statute was written this way.

**WEBER** reiterated that historically there has been a problem with urban scale development just outside areas where you can receive municipal services with the idea being that they you can avoid special assessments for sewer, water, paving, etc. He commented that there are 5-10 acre lots surrounding this parcel which is more typical with on-site sewer and water, which is what this subdivision will do. He said in reviewing the county road system it was determined that an arterial road would have to be paved after there were about 200 vehicles on it per day. He said data has revealed that when traffic gets to 200 vehicles, you need to think about paving so over the years that is where the line has drawn itself. He said the average is 10 trips per day, per household. He said this is an underfunded Township road and when you put that much traffic on it then it becomes a problem that comes to the County. He said that means someone has to pave the road. He said the goal was try to limit themselves and establish triggers when the issue needs to be resolved. He said since the financial downturns, not much has been going on in the way of development so paving hasn't been an issue.

**TODD** asked for information about the vacation of 71st Street. He also asked if the Commission approves the No Protest Petition, is that something the Board of County Commissioners can reverse.

**WEBER** briefly reviewed vacation of 71<sup>st</sup> Street, which he said will occur when the plat is filed, the proposed by-pass route, Downwind Estates and Cook Airfield.

**WAGGONER** suggested if the Commission wanted to include the No Protest Petition it would need to be included in the zone change and the plat. He said the zone change will go before the County Commission for final determination.

**ELLISON** said he agreed that the Commission needs to include a stipulation about a No Protest Petition.

**GOOLSBY** asked staff how the No Protest Petition is handled by the City.

**KNEBEL** commented that when a No Protest Petition has been done in the past (adding that typically this is done on commercial property) language is added that a No Protest Petition is required for the paving of and then add the name of the street.

**MOTION:** To approve subject to staff recommendation and the requirement of a No Protest Petition for the paving of 71<sup>st</sup> Street South.

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

**FOSTER** asked legal how the Commission ties this back to the Subdivision motion.

**WAGGONER** said he misspoke and said since the plat is already approved this would be a separate document related to the zone change.

**RICHARDSON** asked for clarification on what gets to be protested. He asked is it a lot, is it so many square feet from the arterial or what? He said there are a lot of uncertainties here and who is going to agree to a petition when they don't know what it is.

**WAGGONER** said he believed they would refer to the County's Charter Resolution to determine the type of petition and then geographically define the boundaries of the location.

**WEBER** said he does not know the answer to that one. He said the agent asked the question how close does a property need to be to be dragged into the petition.

**RICHARDSON** said the City has a specific formula on paving petitions about so many hundred feet from the arterial. He asked as far as the County is concerned, who gets dragged into paving and how much do they have to pay for it.

**WEBER** said he was going to suggest that the Planning Commission not require a No Protest Petition. He said staff just doesn't know enough about that process and added that the developer has done everything that they are supposed to do. He said this issue is complex and if the Commission tries to deal with it today, staff will probably need to come back to the Commission again for further discussion in addition to discussing the issue with the County Commission when they review the zoning request. He said this is an important issue and he does not know if this is the best way to handle this.

**RAMSEY** said he completely and wholeheartedly agrees with Mr. Weber. He said the Planning Commission is trying to solve a problem that is not there yet.

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

**RAMSEY** moved, **TODD** seconded the motion, and it carried (10-1). **ELLISON** – No.

5. **Case No.: ZON2016-00024** - TN Investments & Catholic Diocese of Wichita (applicants); and Ruggles & Bohm (agent) request a City zone change from TF-3 Two-family Residential to LC Limited Commercial on property described as:

The North 28.00 feet of the West 61.66 feet of Lot 5, all in Block A, in Pineridge Addition to Wichita, Sedgwick County, Kansas, AND The West 24 feet 4 inches of the South 106 feet 3 inches of Lot 1, Replat of Part of Pineridge Addition to the City of Wichita, Sedgwick County, Kansas.

**BACKGROUND:** The applicant is seeking Limited Commercial (LC) zoning on approximately 0.10 acre of a 0.74 acre parcel located at the northeast corner of East Harry and South Hillside. The subject site is the northeast portion (0.04 acre) of the platted lot and the west 0.06 acre of the Replat of Pineridge Addition. If approved, the LC zoning would permit the entire parcel to be redeveloped as a fast food restaurant. TN Investments is in negotiation to purchase the 0.06 acre from the Catholic Diocese of Wichita.

The properties located east and south of the site are zoned LC and developed with fast food restaurants with drive-thru services. Land north of the site is zoned B Multi-family and TF-3 Two Family Residential developed with single family residential. Land to the east of the site is zoned TF-3 and is All Saints Parish.

**CASE HISTORY:** This zone change application has been filed to change current zoning (TF-3) to LC. The subject site was previously occupied by a convenience store/gas station. The land will be scraped and a new restaurant with a drive-thru window will be built.

**ADJACENT ZONING AND LAND USE:**

North: B; multi-family residential & TF-3; single-family residential  
South: LC; Fast Food Restaurant with Drive-Thru  
East: TF-3; religious institutional use  
West: LC; auto title loan business

**PUBLIC SERVICES:** The site is served by all usual municipal and private utilities and services. Traffic engineering requires a five feet right-of-way dedication along the Harry Street frontage for future street expansion.

**CONFORMANCE TO PLANS/POLICIES:** The 2035 Wichita Functional Land Use Guide depicts the site as appropriate for "local commercial" use. The "local commercial" use category contains concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and person service facilities.

**RECOMMENDATION:** Based upon the information available at the time the staff report was completed, staff recommends approval of the request upon dedication of street right-of-way along the Harry Street frontage for future street expansion.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The land located east and south of the site are zoned LC and developed with fast food restaurants with drive-thru services. Land north of the site is zoned B Multi-family developed with a five-plex unit and undeveloped TF-3 Two Family Residential. Land to the east of the site is zoned TF-3 and is occupied by All Saints Parish facilities.
2. The suitability of the subject property for the uses to which it has been restricted: The site is located at a major arterial intersection with LC development on the northwest, southwest and southeast corners. North of the subject site is B zoned property developed with a multi-family unit, which is separated from the subject site by a solid screening fence. East of the subject site is the All Saints Parish campus on TF-3 zoned property.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the LC zoning should not create an increased negative impact on nearby property given the site location on the intersection of two arterial streets and the previous use of the site as a convenience store.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: LC zoning is appropriate for this location and provides economic viability to redevelop the property. Residential zoned property will be screened according to the Unified Zoning Code requirements.
5. Length of time the property has been vacant as currently zoned: The convenience store site has been vacant since 2010.
6. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2035 Wichita Functional Land Use Guide depicts the site as appropriate for “local commercial” use. The “local commercial” use category contains concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and person service facilities. The site is intended to be developed as a fast food restaurant.
7. Impact of the proposed development on community facilities: Right-of-way is being required by traffic engineering for future street expansion.

**SCOTT KNEBEL**, Planning Staff presented the Staff Report. He explained that the staff recommendation was based on dedication of street right of way. He said the applicant asked Engineering staff who agreed that the dedication could be contingent on a street project. In addition, he reported that the DAB requested that the screening fence on the north be eight feet tall.

**DENNIS** clarified that if the Commission approves the application it will be with those two changes.

**KNEBEL** answered yes.

**MOTION:** To approve subject to staff recommendation with the changes listed above.

**RICHARDSON** moved, **DAILEY** seconded the motion, and it carried ().

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6. **Case No.: ZON2016-00026** - Meritrust Credit Union Attn: Randy Doerksen (owner/applicant) and Baughman Co., P.A., Attn: Phil Meyer (agent) request an amendment to City PO Protective Overlay 11 to allow retail sales on LC Limited Commercial zoned property on property described as:

Lot 2 except the east 152.22 feet, Riverside Health System Addition to Wichita, Sedgwick County, Kansas.

**CHAIR NEUGENT** announced that the item had been deferred.

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7. **Case No.: CON2016-00022** - Homer Morgan (applicant), Stephen M. Joseph (agent) request a City Conditional Use for a Nightclub in the City in LC Limited Commercial zoning (the Cactus) within 300 feet of residential zoning as property described as:

Part of lot 1 beginning at the Northwest corner, thence East 140 feet, thence South 140 feet, thence West 140 feet, thence North to the point of beginning, Blk A, Industrial Addition to Wichita, Sedgwick County, Kansas.

**BACKGROUND:** The application area, 2802 South Hydraulic Avenue, is located at the southeast corner of Hydraulic Avenue and East Wassall Street in LC Limited Commercial (LC) zoning and within 300 feet of residential zoning. The site is developed with a one-story building and 35 off-street parking spaces. The County Tax Assessor lists "restaurant" as the current land use; the site currently has a drinking establishment-restaurant license allowing the sale of alcohol provided that food is the majority of the gross sales. A drinking establishment and/or restaurant has functioned on the site 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 approximately 120 feet west of multi-family residential zoning and development along Wassall Street, 160 feet from single-family residential zoning and development on South Rose Marie Court, 230 feet from single-family residential zoning and development on South Hydraulic and 230 feet from two-family residential zoning with single-family residential development on South Greenwood Avenue.

Property north of the site is zoned LC and developed with retail, warehousing and another drinking establishment. Property south of the site is zoned LC and developed with a retail strip center and vehicle repair. Property east of the site is zoned LC and developed with a warehouse/office. Property further east is zoned MF-29 Multi-family Residential (MF-29) and developed with three-plex apartments. Property west of the site is zoned LC and developed with a convenience store and a vehicle sales lot. Property further west is zoned TF-3 Two-family Residential (TF-3) and SF-5 Single-family Residential (SF-5) and developed with single-family residences.

**CASE HISTORY:** The site was platted as a portion of Lot 1, Block A of the Industrial Addition to Wichita in 1951. The building on the site was constructed in 1955.

**ADJACENT ZONING AND LAND USE:**

North: LC, SF-5	Retail, warehousing, drinking establishment, single-family residential
South: LC	Retail, vehicle repair
East: LC, MF-29	Warehouse/office, multi-family residences
West: LC, TF-3, SF-5	Convenience store, retail, vehicle sales, warehousing and vehicle repair

**PUBLIC SERVICES:** South Hydraulic Avenue is a paved arterial street with four lanes and a signalized intersection at this location. Wassall is a paved two-lane local street at this location. Sidewalks exist along both Hydraulic and Wassall at this location. 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 "commercial" and adjacent to areas identified as "new employment." The UZC requires one parking space per two seats for nightclubs. The applicant indicates that the site has an occupancy of 118 people. The applicant's site plan demonstrates 35 parking spaces, 24 fewer than required. The applicant will require either a shared parking agreement or a combination of parking reduction through an adjustment or variance with a shared parking agreement to meet the UZC parking requirement.

**RECOMMENDATION:** Staff notes that some form of drinking establishment has existed on this site for some time which does not appear to be incompatible with nearby residential uses. This application does not introduce a new use to the area. Staff notes that the site is buffered from nearby residential properties by other commercial uses. 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 obtain a parking reduction through a zoning administrative adjustment or variance and/or a shared parking agreement to conform to the UZC parking requirements.
- (2) The applicant shall submit a revised site plan, to be approved by planning staff, which identifies required parking.
- (3) The site shall be developed and maintained in conformance with the approved site plan.

- (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 of the site is zoned LC and developed with retail, warehousing and another drinking establishment. Property south of the site is zoned LC and developed with a retail strip center and vehicle repair. Property east of the site is zoned LC and developed with a warehouse/office. Property further east is zoned MF-29 and developed with three-plex apartments. Property west of the site is zoned LC and developed with a convenience store and a vehicle sales lot. Property further west is zoned TF-3 and SF-5 and developed with single-family 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 restaurant licensed to serve alcohol. The site could be used as zoned for commercial uses other than a nightclub.
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 triggers the conditional use review for a nightclub. Noise and activity from the nightclub could impact nearby residences; proposed conditions prohibiting outdoor speakers and 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 "commercial" and adjacent to areas identified as "new employment." The UZC requires one parking space per two seats for

nightclubs. The applicant indicates that the site has an occupancy of 118 people. The applicant's site plan demonstrates 35 parking spaces, 24 fewer than required. The applicant will require either a shared parking agreement or a combination of parking reduction through an adjustment or variance with a shared parking agreement to meet the UZC parking requirement.

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.

**JESS MCNEELY**, Planning Staff presented the Staff Report. He reported that DAB III recommended denial of the request 6-0 and referenced the DAB memorandum provided to the Commission as a handout. He said there was discussion regarding the fact that the site does not meet the parking requirements and that there is already this type of use in the area.

**RICHARDSON** asked staff to explain obtaining a parking requirement reduction through the use of an administrative adjustment.

**MCNEELY** explained that there is a process outlined in the UZC for administrative adjustments of up to a 25% reduction of the parking requirement. He said they are quite common and approved by staff. He said anything beyond 25% would have to be a variance request to the Board of Zoning Appeals.

**RICHARDSON** clarified that 25% would be 15 spaces less than what is required.

**MCNEELY** said that was correct and added that the applicant would also have to demonstrate where those spaces would be coming from which the most logical way was a shared parking agreement with one of the other commercial properties in the area.

**STEPHEN M. JOSEPH, 500 NORTH MARKET, AGENT FOR THE APPLICANT, HOMER MORGAN** who he said owns a number of commercial buildings and shopping centers in Wichita. He said the purpose of the application is twofold. He referenced another building on south Broadway that had been a drinking establishment for many, many years; however, because it had been vacant for almost two years, they lost the "grandfather provision" of being considered a legal non-conforming use and became an illegal non-conforming use. He said because that conditional use permit was denied, the client wanted to evaluate all of his locations to see if this problem could come up in the future somewhere else. He said they also wanted to examine what they felt was a conflict between zoning and City Ordinances in terms of definition, which he said he would address later in the presentation.

**JOSEPH** said the space is currently occupied by the Cactus Cantina which is a restaurant that has a State Drinking Establishment License to serve alcohol. He said because this restaurant may not be there in the future, his client would like the ability to offer it as a nightclub in the City with some form of entertainment. He said the definition under Entertainment Licenses includes everything including a juke box. He said his client wants another use available if the Cactus Cantina closes as a drinking establishment. He said the particular conflict between the City Ordinance and zoning that they have had to deal with in the past is that zoning defines tavern/drinking establishment as any facility that serves

more than 50% on average food in a six month period. He said if the Cactus Cantina falls below 50% of their revenue from food sales, they will have to close because it then becomes an illegal use. However, he said the City Ordinance which licenses drinking establishments provides for a drinking establishment/restaurant that only has to have 30% food sales. He said you can be a perfectly legal drinking establishment/restaurant under the City Ordinance with 30% food sales but you can't open because you violate the zoning if you have less than 50% revenue from food sales. He said by obtaining the conditional use permit now, it will avoid problems if this issue should come up in the future about being properly licensed but not properly zoned.

**RICHARDSON** asked if a facility can be a nightclub without serving food if the conditional use is granted.

**JOSEPH** responded yes because a nightclub is a drinking establishment with an entertainment license also.

**DIRECTOR MILLER** clarified that a nightclub in the City by definition in the UZC "...provides entertainment which may include provision of dancing by patrons or employees and where cereal malt beverage and alcohol liquor are offered, consumed or served to the public .... and which may or may not serve food." He said the service of food does not impact the definition of a nightclub.

**RICHARDSON** clarified so the reason for the nightclub application is so the establishment can fall under 50% food sales.

**JOSEPH** said the request was twofold because the applicant would like the ability to offer the property as a nightclub for some future tenant and to eliminate the conflict between the zoning and City Ordinance.

**DAILEY** asked about parking at the location now.

**JOSEPH** said he doesn't think they meet the parking requirement for a restaurant right now, which is one space per three patrons. He said they anticipate being able to get shared parking agreements to obtain the necessary parking required for a nightclub which was one space per two patrons. He added if they didn't know they could get those agreements, they would not have applied for the conditional use.

**MILLER STEVENS** mentioned shared parking and said you can only share so much.

**MCNEELY** said the entire strip center has a number of uses including other retail and restaurant. He added that the UZC has parameters on distance requirements for shared parking. He said there is a standardized shared parking agreement where both parties demonstrate how they meet the UZC.

**MILLER STEVENS** said she still thinks it's questionable.

**RICHARDSON** asked if the location has the required number of parking spaces for a restaurant now, and if they don't, how that happened.

**MCNEELY** explained that the establishment is currently short on parking spaces; however, the establishment was built in the 1940's so they are allowed to continue to operate as a legal non-conforming use.

**ELLISON** asked about other nightclubs in the area.

**GOOLSBY** said if the intent of this request is to solve a future potential problem, he can't support that.

**MOTION:** To deny.

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

**SUBSTITUTE MOTION:** To approve subject to staff recommendation and meeting of parking requirements.

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

**FOSTER** asked if staff felt the applicant was going to be able to meet the parking requirement.

**MCNEELY** said staff thinks they can because there is plenty of opportunity within a 600 foot radius to meet the requirement with an administrative adjustment. He added that the reason the UZC allows for the adjustment when you are redeveloping is because much of the City was developed prior to the current UZC and there has to be some method of relief to continue to use property. He said the parking requirement is also more suburban and auto based. He said with the multi and single-family development in the neighborhood there is a good probability that patrons will be walking there.

**RICHARDSON** asked about hours of operation between nightclubs and restaurants.

**MCNEELY** said staff hasn't proposed anything different from what the standard liquor license hours of operation are.

**KNEBEL** mentioned that a nightclub is required to close by 2:00 and a restaurant can be open 24/7.

**GOOLSBY** said he sees that as more potential problems for the neighborhood.

**TODD** said if he were the property owner he would be concerned about the future so he feels there are some considerations that should be made.

**GOOLSBY** said if the applicant had a tenant for a nightclub he might feel differently.

**DAILEY** asked staff about meeting the parking requirements.

**MCNEELY** said the staff report indicated that the client needs to meet the parking requirements of the UZC through any combination including a variance or an administrative adjustment combined with shared parking agreements with surrounding property owners.

**DAILEY** asked if the Commission had a choice or could they just say the applicant had to meet the requirement by number.

**DIRECTOR MILLER** said he doesn't believe the Planning Commission has the authority to deny an applicant a process that is available to everyone else.

**RAMSEY** said this could be a problem for someone who potentially might want to buy the location; however, this is solving a problem that doesn't exist. He said a nightclub attracts a different type of clientele versus a restaurant. He said if this is not a request from someone specific to do a nightclub, he doesn't see why the Commission should open this up for that type of establishment so he can't support the substitute motion.

**FOSTER** said future land use is a speculative issue and this would run with the land so he withdrew his second to the substitute motion.

**MCKAY** (Out @3:25 p.m.)

**DOOL** seconded the **SUBSTITUE MOTION**.

The **SUBSTITUE MOTION** to approve failed (3-7). **FOSTER, RAMSEY, ELLISON, DAILEY, GOOLSBY, RICHARDSON** and **NEUGENT**.

**MILLER STEVENS** commented that there has been discussion about future land use and the fact that there is no tenant there for this type of establishment and that it would be up to the new tenant to request the zoning; however, she added that they have received no protests from surrounding neighbors on this request. She said the property owner has the right and has chosen to market this property however they want and the Planning Commission is prohibiting them from doing that. She said the Commission should be making sure the rules are being followed as far as parking, etc., and not being so objectionable about the type of business. She said there is no problem here. She said objecting to the nightclub designation she feels is a little prejudicial, which she sees as a problem.

**TODD** commented that there was a similar business within one half block of this location so he believes that sets the precedent.

**RICHARDSON** said the Ordinance clearly states that these types of businesses will not be allowed within so many feet of certain things, but the Commission is approving them on a regular basis. He said why where these types of businesses put there in the first place and that is the reason he will be voting to deny it.

**MILLER STEVENS** said the requirement for a Conditional Use Permit is put there so surrounding property owners can weigh in and give their opinion and address issues concerning the application. She reiterated that she felt it was a statement of prejudice for the Commission to say they don't want this type of business there. She said this type of business is allowed at this location and that is why there is the provision for a Conditional Use Permit.

The **ORIGINAL MOTION** to deny, carried (7-3). **MILLER STEVENS, TODD** and **DOOL** – No.

**GOOLSBY and RAMSEY (Out @3:35 p.m.)**

8. **Case No.: CON2016-00025** - Ast Investments c/o Kelly Ast (applicant/owner) and Stephen M. Joseph (agent) request a City Conditional Use for a Nightclub on LC Limited Commercial zoned Property on property described as:

Lots 28, 29 and 30 together with the half vacated alleys adjacent on the North and East, Block B, Bomhoff Addition to Wichita, Sedgwick County, Kansas.

**BACKGROUND:** The LC Limited Commercial zoned site is located east of South Southeast Boulevard/Kansas Highway K-15 on the north side of East Pawnee Avenue. Currently the west portion of a 3,960-square foot one-story commercial strip building (built 1955) advertises itself as Whisky Jacks. When a LC zoned tavern, drinking establishment or nightclub is located within 300 feet of a church or place of worship, public park, public or parochial school or residential zoning district, approval of a Conditional Use is required; Unified Zoning Code (UZC), Sec.III-D6.w. TF-3 Two-Family Residential and SF-5 Single-Family Residential (SF-5) zoned properties abut the north side of the site. There is no history of a Use Exception or Conditional Use for a tavern, drinking establishment or nightclub on this site. However the applicant has stated that the site has been either a tavern, drinking establishment or nightclub most of its time (from 1955 to the present), with the longest tenured being called the Golden Knight. The site currently does not have a liquor or entertainment license and is vacant. The applicant is applying for a Conditional Use for a nightclub to get the site in conformance with the UZC and to obtain a liquor and entertainment license.

The applicant's site plan is an aerial. The aerial does not show marked parking spaces, but a trip to the site showed maybe 23 barely discernable parking spaces; 10 parking spaces on the north and south sides of the site and three parking spaces on the east side of the site. The proposed nightclub shares the 3,960-square foot one-story commercial strip building with a Chinese restaurant. The occupancy rate of the nightclub may be 84 and the occupancy rate for the restaurant may be 40; the applicant will confirm these occupancy rates. Based on these tentative occupancy rates the total parking required for the nightclub is 42 parking spaces (one space per two occupants) and 14 parking spaces (one space per three occupants) for the restaurant for a total of 56 parking spaces, which is 31 parking short of the required parking for this site. The applicant will need to apply for either a variance, an off-street parking agreement or a combination of the two to meet the UZC's parking standards. The UZC requires off-street parking space to be located no more than 600 feet from the building or use it is intended to serve, measured along the shortest legal, practical walking route. The aerial does not show the wooden fence that separates the site from the north abutting TF-3 and SF-5 zoned single-family residences. The staff's trip to the site showed no screening of the dumpster(s), which were placed up against the north side of the site. The UZC requires dumpsters and refuse receptacles to be located a minimum of 20 feet from any property zoned TF-3 or more restrictive and it requires solid screening around dumpsters. The site is completely paved over with no opportunity for landscaping. There are no on -ground parking stops or a rail barrier to prevent cars parked on the south side of the site, along Pawnee Avenue, from overlapping into the right-of-way where the sidewalk would continue from the abutting east and west properties.

LC zoned businesses are located along this relatively short portion of Pawnee Avenue between South Southeast Boulevard (west side) and the I-135 interchange (east side). The LC zoned business include a Burger King (built 1996) and Spangles (built 1986) fast food restaurants, a Mexican restaurant (built 1956), a Chinese restaurant, a commercial box partially occupied by a Doller General retail store (formerly Howards Grocery and then Checkers Grocery, built 1968), Big Bob's flooring outlet (built a car wash(built 1966). Two SF-5 zoned single-family residences (built 1930s) are located east of the site along Pawnee Avenue. A TF-3 and SF-5 zoned single-family residences (built mostly mid-1950s, part of a SF-5 single-family residential neighborhood) about the north side of the site. The nearest nightclub or drinking establishment is located approximately a quarter-mile west of the site at 1507 and 1527 East Pawnee Avenue. A Conditional Use, CON2016-00030, is scheduled later this year for 1507 and 1527 East Pawnee Avenue.

**CASE HISTORY:** The site is located on Lots 28, 29 and 30 together with the half vacated alleys adjacent on the north and east, Block B, Bomhoff Addition, which was recorded with the Register of Deeds January 23, 1953. Oral history of the site indicates the site has been a drinking establishment or a nightclub off and on since the late 1950s with the longest tenured being called the Golden Knight. The site currently does not have a liquor or entertainment license and is vacant.

**ADJACENT ZONING AND LAND USE:**

NORTH: LC, TF-3, SF-5	Flooring outlet store, self-serve laundry service, single-family residences
SOUTH: LC, MF-29, SF-5	Fast food restaurant, retail box, single-family residences
EAST: LC, SF-5	Restaurant, fast food restaurant, pay day loan, liquor store, car wash, single-family residence
WEST: LC	Self-serve laundry service, fast food restaurant, K-15 highway

**PUBLIC SERVICES:** The site has access off the paved four-lane, with a center turn lane, arterial Pawnee Avenue. Pawnee Avenue intersects with the major arterial Southeast Boulevard/K-15 highway located approximately 270 feet west of the site and the I-135 interchange located approximately 850 feet east of the site. All utilities are available to the site.

**CONFORMANCE TO PLANS/POLICIES:** The "Community Investment Plan's" (Plan, adopted November 19, 2015) shows the site located within the "Established Central Area." This area is comprised of the downtown core and the mature neighborhoods surrounding it in a roughly three mile radius. The established central area is the focus area for the Wichita Urban Infill Strategy. The established central area encourages a mixed-use development area with a focus on office, retail, hospitality, government services, high-density residential, and entertainment, cultural, and civic facilities and activities. A nightclub is an entertainment facility.

The "Community Investment Plan's 2035 Wichita Future Growth Map" depicts the site as "commercial." The commercial designation encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. Convenience retail, restaurants, small offices, and personal service uses are located in close proximity to, and potentially mixed with, residential uses. A nightclub is an appropriate use of the commercial designation.

Locational criteria for commercial development include three key elements: development pattern, land use compatibility, and design. The development pattern in the area is small LC zoned businesses located along this relatively short portion of Pawnee Avenue between South Southeast Boulevard (west side) and the I-135 interchange (east side). The proposed nightclub is small enough to be considered a local business that will generate less traffic than the area's two fast food restaurants. SF-5 zoned single-family residences abut the north side of the site, thus the Conditional Use request. There are no less intrusive businesses or higher density residential uses located between the proposed nightclub and those closest single-family residences. This proximity could be a potential source of nuisance for the residential zoned properties. The site and the north abutting single-family residential neighborhood do not abut a common street, which lessens the possibility that the customers of the proposed nightclub will be parking in the abutting single-family residential neighborhood. There is no screening of the dumpster(s), which were placed up against the north side of the site. The UZC requires dumpsters and refuse receptacles to be located a minimum of 20 feet from any property zoned TF-3 or more restrictive and it requires solid screening around dumpsters. The site is completely paved over with no opportunity for landscaping. There are no on-ground parking stops or a rail barrier to prevent cars parked on the south side of the site, along Pawnee Avenue, from overlapping into the right-of-way where the sidewalk would continue from the abutting east and west properties.

**RECOMMENDATION:** If approved the request would re-establish a drinking establishment – nightclub on the site. Typically in the older neighborhoods, parking is a critical consideration for recommending approval as is the proximity of a church or place of worship, public park, public or parochial school or residential zoning district. The site does not have the required parking spaces. The applicant will need to apply for either a variance, off-street parking agreements or a combination of the two to meet the UZC's parking standards. It is unknown how the site's past history as a drinking establishment or nightclub will affect the neighbors' opinion of the current application. Based upon the information available prior to the public hearings, planning staff recommends that the request for a Conditional Use for a nightclub be **APPROVED**, with the following conditions:

- (1) The site shall be developed with an approved revised site plan, showing, but not limited to, the required parking spaces, locating dumpsters 20 feet from the north abutting SF-5 zoned properties, solid screening with a solid screening gate around the dumpsters, the solid wooden fence, and a rail to prevent cars parked on the south side of the site, along Pawnee Avenue, from overlapping into the right-of-way. No outdoor seating, outdoor speakers or outdoor entertainment is permitted. The site plan must be submitted for review within 60-days of approval by the appropriate governing body.
- (2) The use of the site as a nightclub shall not be permitted until the applicant confirms the occupancy rates of the nightclub and the restaurant.
- (3) The use of the site as a nightclub shall not be permitted until the applicant provides written agreements for 31 off-site or shared parking, a variance is approved or a combination of the two. The amount of needed off-site parking is subject to change based on the confirmation of the occupancy rates of the nightclub and the restaurant.
- (4) The use of the site as a nightclub shall not be permitted until the parking lot is restriped and a metal rail is installed along the site's Pawnee Avenue frontage.
- (5) The use of the site as a nightclub shall not be permitted until dumpsters are located 20 feet from the north abutting SF-5 zoned properties and solid screening (as defined in the UZC) with solid screening gates are installed around the dumpsters.
- (6) The applicant shall obtain all required state, local and other applicable permits and inspections.

- (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:** LC zoned businesses are located along this relatively short portion of Pawnee Avenue between South Southeast Boulevard (west side) and the I-135 interchange (east side). The LC zoned business include a Burger King (built 1996) and Spangles (built 1986) fast food restaurants, a Mexican restaurant (built 1956), a Chinese restaurant, a commercial box partially occupied by a Doller General retail store (formerly Howards Grocery and then Checkers Grocery, built 1968), Big Bob's flooring outlet (built 1956) a self-serve laundry service (built 1957), pay day loan (built 1999), a liquor store (built 1967), and a car wash(built 1966). Two SF-5 zoned single-family residences (built 1930s) are located east of the site along Pawnee Avenue. A TF-3 and SF-5 zoned single-family residences (built mostly mid-1950s, part of a SF-5 single-family residential neighborhood) abut the north side of the site. The nearest nightclub or drinking establishment is located approximately a quarter-mile west of the site at 1507 and 1527 East Pawnee Avenue.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned the LC, which is meant to accommodate retail, commercial, office and other complementary uses. If approved the request would re-establish a drinking establishment – nightclub on the site.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** SF-5 zoned single-family residences abut the north side of the site, thus the Conditional Use request. There are no less intrusive businesses or higher density residential uses located between the proposed nightclub and those closest single-family residences. This proximity could be a potential source of nuisance for the residential zoned properties. Typical concerns about tavern/drinking establishment/nightclub include bad behavior resulting from unlimited liquor sales, the noise from music and dancing, and the hours of the nightclub having a detrimental impact on the residential neighborhood.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The "Community Investment Plan's" (Plan, adopted November 19, 2015) shows the site located within the "Established Central Area." This area is comprised of the downtown core and the mature neighborhoods surrounding it in a roughly three mile radius. The established central area is the focus area for the Wichita Urban Infill Strategy. The established central area encourages a mixed-use development area with a focus on office, retail, hospitality, government services, high-density residential, and entertainment, cultural, and civic facilities and activities. A nightclub is an entertainment facility.

The “Community Investment Plan’s 2035 Wichita Future Growth Map” depicts the site as “commercial.” The commercial designation encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. Convenience retail, restaurants, small offices, and personal service uses are located in close proximity to, and potentially mixed with, residential uses. A nightclub is an appropriate use of the commercial designation.

Locational criteria for commercial development include three key elements: development pattern, land use compatibility, and design. The development pattern in the area is small LC zoned businesses located along this relatively short portion of Pawnee Avenue between South Southeast Boulevard (west side) and the I-135 interchange (east side). The proposed nightclub is small enough to be considered a local business that will generate less traffic than the area’s two fast food restaurants. SF-5 zoned single-family residences abut the north side of the site, thus the Conditional Use request. There are no less intrusive businesses or higher density residential uses located between the proposed nightclub and those closest single-family residences. This proximity could be a potential source of nuisance for the residential zoned properties. There is no vehicular or pedestrian access from the site to the north abutting single-family residential neighborhood, which lessens the possibility that the customers of the proposed nightclub will be parking in the abutting single-family residential neighborhood. There is no screening of the dumpster(s), which were placed up against the north side of the site. The UZC requires dumpsters and refuse receptacles to be located a minimum of 20 feet from any property zoned TF-3 or more restrictive and it requires solid screening around dumpsters. The site is completely paved over with no opportunity for landscaping. There are no on ground parking stops or a rail barrier to prevent cars parked on the south side of the site, along Pawnee Avenue, from overlapping into the right-of-way where the sidewalk would continue from the abutting east and west properties.

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

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

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

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

9. **Case No.: CON2016-00027** - Edward and Nancy Robinson (owners) request a County Conditional Use for an Accessory Apartment on RR Rural Residential zoned property on property described as:

That part of the Northwest Quarter of Section 10, Township 25 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas, described as commencing at the Northwest corner of said Northwest Quarter; thence South 00° West, along the West line of said Northwest Quarter, 770.52 feet for a place of beginning; thence North 89°43'35" East, parallel with North line of said Northwest Quarter, 1424.20 feet to the Westerly right-of-way line of the Oklahoma, Kansas, and Texas Railroad; thence South 30°02' West, along said Westerly right-of-way line, 463.31 feet to a point 1170.52 feet South of the North line of said Northwest Quarter, as measured parallel with the West line of said Northwest Quarter; thence South 89°43'35" West, 1192.31 feet to the West line of said Northwest Quarter; thence North 00° East, along the West line of said Northwest Quarter, 400 feet to the place of beginning.

**BACKGROUND:** The applicant is requesting a Conditional Use for an accessory apartment to be built on the subject property. The unplatted property is zoned RR Rural Residential and is approximately 11.8 acres. It is currently developed with a single-family residence, post frame building, garden tool shed/kennel, fish pond water feature and a lagoon for the septic. The subject site is located the east side of Greenwich Road, south of East 117<sup>th</sup> Street North. The Sedgwick County site is not located within any Zoning Area of Influence.

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

The surrounding properties to the north, south, east and west are large tracts zoned RR. The uses include single-family residences, agriculture fields and farming/ranch operations with improvements.

The applicant submitted an existing site plan showing the location of existing structures and the 50-foot X 50-foot lagoon. The applicant also submitted a proposed site plan which identifies the location of the new 30-foot X 48-foot residential designed manufactured home and new 28-foot X 33-foot detached two-car garage.

**CASE HISTORY:** The subject property is an unplatted large lot.

**ADJACENT ZONING AND LAND USE:**

NORTH: RR	Large tract, Single-family residences with associated buildings
SOUTH: RR	Large tract, Single-family residences with associated buildings
WEST: RR	Single-family residence, agricultural fields and associated buildings
EAST: RR	Large tract, agricultural fields with residential and associated buildings

**PUBLIC SERVICES:** The subject site has access to North Greenwich Road which is an arterial paved street. The property is served by a lagoon for sewage and is located in Sedgwick County Rural Water District #01.

**CONFORMANCE TO PLANS/POLICIES:** The “2035 Community Investments Plan” (Plan) identifies the subject site as being in the Rural Area. This category encompasses land outside the 2035 urban growth areas for Wichita and the small cities. Agricultural uses, rural-based businesses, and larger lot residential exurban subdivisions likely will be developed in this area. Such development should occur in accordance with the *Urban Fringe Development Standards for Wichita and Sedgwick County*. This category identifies Wichita’s urban fringe areas that are presently undeveloped but have the potential to be developed by the year 2035, based upon Wichita population growth projections and current market trends. Determination of growth direction and amount is based upon municipal political considerations, anticipated municipal population growth, efficient patterns of municipal growth, current infrastructure limitations, cost effective delivery of future municipal services and environmental factors.

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

- (1) The accessory apartment (residential designed manufactured home) and detached garage shall remain accessory to and under the same ownership as the principal single-family residence (located at 11646 N. Greenwich Road) and the ownership shall not be divided or sold as a condominium. The appearance of the accessory structure shall be compatible with the main dwelling.
- (2) The water and sewer service provided to the accessory apartment shall not be provided as separate services from the main dwelling. Electric, gas, telephone and cable television utility service may be provided as separate utility services. The applicant shall have the MABCD review the status of the existing lagoon.
- (3) The applicant shall obtain all applicable permits including, but not limited to: building, health and zoning. This will include turning in plans for review and approval by the MABCD for the placing of the accessory apartment.
- (4) Development and maintenance of the site shall be in conformance with the approved site plan.
- (5) If the accessory apartment is not in place within 12 months after final approval, or if the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The subject site is located in Sedgwick County in an RR zoned area with lots ranging from +/- 5 acres to 80 acres. Development is a mix of large lot single-family residential and farming/ranching operations.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The subject site is currently zoned RR which permits the existing single-family residence. The property could continue to be used for one single-family residence; the depth of the property easily accommodates an accessory apartment and the detached garage and additional required parking space. The neighbor at 11501 E. 117<sup>th</sup> Street has e-mailed his objection to allowing a “double-wide” to be placed on the property. Residential designed manufactured homes are allowed in RR zoning districts.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** This appears to be the first request for an accessory apartment in this neighborhood. Approval of the request should not detrimentally impact nearby properties. The conditions of approval should minimize any anticipated detrimental impacts.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2035 Community Investments Plan” (Plan) identifies the subject site as being in the Rural Area. This category encompasses land outside the 2035 urban growth areas for Wichita and the small cities. Agricultural uses, rural-based businesses, and larger lot residential exurban subdivisions likely will be developed in this area. Such development should occur in accordance with the *Urban Fringe Development Standards for Wichita and Sedgwick County*. This category identifies Wichita’s urban fringe areas that are presently undeveloped but have the potential to be developed by the year 2035, based upon Wichita population growth projections and current market trends. Determination of growth direction and amount is based upon municipal political considerations, anticipated municipal population growth, efficient patterns of municipal growth, current infrastructure limitations, cost effective delivery of future municipal services and environmental factors.
- (5) **Impact of the proposed development on community facilities:** Community facilities are the public streets in the area, police and fire services, none of which will be noticeably impacted by another residence being built on the site. There is no public water or sewer service available to the unplatted area.

**SCOTT KNEBEL**, Planning Staff presented the Staff Report.

**RICHARDSON** asked if the requirement that a residential design manufactured home has to be installed on a permanent foundation is codified somewhere. He referenced the e-mail from the neighbor attached to the Staff Report.

**KNEBEL** said yes, in Section IV. D. of the UZC. He added that there are nine criteria required to meet the definition of residential design manufactured home.

**DAILEY** asked what happens if the family no longer needs the structure. Can they then apply for a lot split?

**KNEBEL** said no, a lot split would not be allowed. He added that this is an application for a permanent accessory dwelling (as opposed to a temporary unit that is usually tied to some type of care giving) so it can be rented out when the family is through with it.

**EDWARD ROBINSON, 11646 NORTH GREENWICH ROAD, VALLEY CENTER, APPLICANT** said he would stand for questions since he felt that Mr. Knebel covered everything.

**FOSTER** suggested the applicant try to save the mature trees to provide a buffer from the nearby residences.

**RICHARDSON** asked the applicant if they were in agreement with staff recommendations.

**ROBINSON** responded yes.

**ELLISON** asked about the design of the structure.

**ROBINSON** said it will not look like a 1970's trailer it will look like a stick-built home although it is a double-wide mobile home that will be put on a permanent foundation.

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

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

10. **Case No.: CON2016-00028** - Kenneth E. and Marilyn B. Pauly Revocable Trust, c/o Kenneth and Marilyn Pauly, Trustees; Keith and Marga Harrington Trust, c/o Keith A. Harrington, Trustees; Lemon Family Farm, LLC, c/o Roger W. Lemon Jr. Manager; Occidental Chemical Corporation, c/o Robert Peterson, President (applicants) Milo M. Unruh Jr. (agent) request a County Conditional Use for Mining and Quarrying, removal of salt water, from RR Rural Residential zoned properties on properties described as:

The North Quarter of the Southwest Quarter of Section 29, Township 29 South, Range 2 West of the 6<sup>th</sup> P.M., Sedgwick County, Kansas AND All of the Southeast Quarter of the of the Southwest Quarter of Section 20; and all of that part of the South half of the Southeast Quarter of Section 20 EXCEPT the East 17.6 acres thereof all in Township 29 South, Range 2 West of the 6<sup>th</sup> P.M., Sedgwick County, Kansas AND All that part of the Northwest Quarter Section 29 of Township 29 South, Range 2 West of the 6<sup>th</sup> P.M., Sedgwick County, Kansas, lying North of the present township road EXCEPT those portions of the above described tracts in such excepted out tracts are legally described to wit: A tract in the Southeast Quarter and the Southwest Quarter of Section 20, Township 29 South, Range 2 West of the 6<sup>th</sup> P.M., Sedgwick County, Kansas described as beginning at the South Quarter corner of said Section 20; thence North 89 degrees 56' 38" East along the South line of said Southeast Quarter, 33.75 feet; thence North 1 degree 02' 24" East 179.19'; thence South 87 degrees 11' 48" West 476.43' feet; thence South 1 degree 23' 8" East, 155.51 feet to the South line of said Southwest Quarter; thence South 89 degrees 56'

38" East along the South line of said Southwest Quarter, 435.10 feet to the point of beginning, also a tract in the Northwest Quarter of Section 29, Township 29 South, Range 2 West of the 6<sup>th</sup> P.M., Sedgwick County, Kansas, described as follows: Beginning at the North Quarter corner of said Section 29; thence North 89 degrees 56' 38" West along the North line of said Northwest Quarter 435.10 feet; thence South 1 degree 23' 8" East 298.19 feet; thence North 89 degrees 21' 26" East 432.84 feet to the East line of said Northwest Quarter; thence North 00 degrees 57' 50" West, 292.86' feet to the point of beginning AND The Northwest Quarter of Section 29, Township 29 South, Range 2 West of the 6<sup>th</sup> P.M., Sedgwick County, Kansas, EXCEPT the North 20 acres and EXCEPT a portion beginning at a point on the West line of the Northwest Quarter of Section 29, Township 29 South, Range 2 West of the 6<sup>th</sup> P.M., Sedgwick County, Kansas, 458 feet North of the Southwest corner of said Northwest Quarter; thence North along the West line of said Northwest Quarter; thence north 00 degrees 00' East, 662.27'; thence South 88 degrees 35' East, 659.74'; thence South 00 degrees 00' West parallel to the West line of said Northwest Quarter 662.27 feet; thence North 88 degrees 35' West, 659.74 feet to the point of beginning.

Tract 2:

The Southwest Quarter EXCEPT a tract 13 rods square in the Southwest corner for Cemetery AND all that part of the Southwest Quarter of the Northwest Quarter lying south of the center line of the Ninescah River, in Section 30, Township 29 South, Range 2 West of the 6<sup>th</sup> P.M., Sedgwick County, Kansas

Tract 3:

Beginning at the Southeast corner of the Northeast Quarter of Section 30, Township 29, Range 2 West of the 6<sup>th</sup> P.M., Sedgwick County, Kansas; thence North to the Northeast corner of said Quarter Section; thence in a Southwesterly direction down the center line of the Ninescah River to a point 79 rods and 11 feet East of the West line of said Section; thence South to the South line of the North Half of said Section; thence East to the corner of said Section; thence South 650.5 feet; thence East to the East line of said Section; thence North to the point of beginning.

Tract 4:

The West 53 1/3 rods of the Northwest Quarter and the West 53 1/3 rods of the North half of the Southwest Quarter of Section 24, and all of Section 23, Township 29 South, Range 3 West of the 6<sup>th</sup> P.M., Sedgwick County, Kansas EXCEPT the following described tracts: Beginning at the Northeast corner of the Northwest Quarter of Section 23, Township 29, Range 3 West; thence South 540 feet; thence West parallel to the North line of the Northwest Quarter of Section 23, 280 feet; thence North parallel to the West line of the Northwest Quarter of Section 23, 540 feet; thence East on the North line of the Northwest Quarter of Section 23, 280 feet to the point of beginning AND EXCEPT a tract in the Southwest Quarter of Section 23, Township 29, Range 3 West beginning 445 feet East of the Southwest corner of the Southwest Quarter; thence Northeast 529 feet; thence East 313 feet; thence North 354 feet; thence West 388.20 feet; thence Northeast along the Southeasterly K-42 Highway right of way line 1,032.75 feet; thence Southeast 502.42 feet; thence South 1,500 feet; thence West 1,310 feet to the point of beginning

AND EXCEPT That part of the Southeast Quarter of Section 23, Township 29, Range 3 West beginning 35 feet North of the Southwest corner; thence North 850.39 feet; thence East 301.85 feet; thence Southeasterly 1272.55 feet to the South line; thence West 595 feet; thence North 437 feet; thence West 488 feet; thence South 402 feet; thence West 140 feet to the point of beginning AND EXCEPT a tract beginning at the Southwest corner of the Southeast Quarter of Section 23, Township 29, Range 3 West; thence East 628 feet; thence North 437 feet; thence West 488 feet; thence South 402 feet; thence West 140 feet; thence South 35 feet to the point of beginning EXCEPT for adjacent roads and the railroad right of way adjacent to K-42 Highway.

**BACKGROUND:** The applicants are requesting Conditional Use approval to amend the RR Rural Residential zoned site of Conditional Use CU-509. CU-509 permitted “mining and quarrying,” specifically the extraction of salt water from 454-acres of RR zoned tracts for 30-years with eight conditions; see attached Metropolitan Area Planning Commission (MAPC) Resolution, approved March 11, 1999. If approved the request would enlarge CU-509 to include another 480-acres of RR zoned land and to amend/modify the eight conditions. The Wichita-Sedgwick County Unified Zoning Code (UZC) permits mining and quarrying in the RR zoning district with Conditional Use approval.

The applicant’s color Exhibit B-1 (site plan) shows the two original tracts; the 288-acre Tract 1 (green tract) and the 166-acre Tract 2 (yellow tract). Both tracts are located north of 111<sup>th</sup> Street South and east of 215<sup>th</sup> Street West. Both sites generally abut the south side of the Ninnescah River, following the river northeast past 103<sup>rd</sup> Street South and within 650 feet of 183<sup>rd</sup> Street West. There is a gap between Tract 1 and Tract 2, which the applicants propose to fill with the additional 160-acre Tract 3 (red tract located between the green and yellow tracts). 215<sup>th</sup> Street West divides Sedgwick County into the Board of County Commissioner’s Districts (BoCC) 2 and 3. Properties located east of 215<sup>th</sup> Street West, such as Tracts 1, 2 and 3, are in BoCC 2. Properties located west of 215<sup>th</sup> Street West, such as Tract 4 (red tract by itself), are in BoCC 3. The proposed additional 320-acre Tract 4 is located approximately three-quarters of mile west of 215<sup>th</sup> Street West, on both the east and west sides of Kansas Highway K-42 and 239<sup>th</sup> Street West and north of 103<sup>rd</sup> Street South.

A summary of the proposed amendments (Exhibit B, pages 3-5) to the eight conditions of CU-509 are:

1. Has additional language stating that that the site will be developed in accordance with the rules, guidelines and regulations of the Kansas Department of Health and Environment (KDHE), but that the specific location of the lines and wells are subject to possible changes as development circumstances warrant.
2. Remains the same with the exception of allowing on-site wells to be no closer than 200 feet from adjoining properties if that property is not included as part of the Conditional Use and/or under ownership or lease by the applicants as prescribed by the rules, guidelines and regulations of KDHE.
3. Removes the restriction of having certain times and days for drilling and construction activities during the development phase of the sites. The applicants claim that since 1999 there has been new and approved drilling equipment, development methods and technology advances that have greatly reduced the noise generated from the equipment and eliminated the need for work hour and work day restrictions. The applicants goes on to elaborate those improvements in Exhibit B, pages 3, 4, 6, 7, 11, and 12
4. Remains the same.

5. Specifies that the noise emitted by equipment permanently installed on the site after drilling and development activities are completed shall not be audible beyond the property lines of the application area, except for those circumstances when occasional maintenance is required by KDHE; testing of wells is mandated.
6. Moves the start of the 30-year operational time from 1999 (ending in 2029) to the approval of CON2016-00028 by the MAPC or the BoCC (ending in 2046).
7. Is no longer needed as the applicant has stated that the public street right-of-way dedications have been completed.
8. Has additional language in regards to what would render the Conditional Use null and void.

The method of extraction in 1999 was hydro fracturing but is now done by mechanically drilling using coiled tubing and directionally guided horizontal drilling techniques. All extraction is limited to the applicants' properties and will not cross over into adjoining properties, staying no closer than 200 feet from the adjoining properties that are not in the application. No waste water is generated. The sites will not require an on-site sewer system. The pumping operations will be housed in 16-foot by 12-foot well houses that will be painted in earth tone colors. Each well house will have a process control system (PCS) computer that monitors, regulates and controls the operation. All of the PCS will be connected to a central control room located off of 95<sup>th</sup> Street South and 183<sup>rd</sup> Street West. In addition the operations will be checked daily by the applicants moving from well to well in a pickup truck. The extracted salt water is sent by underground pipeline, including a pipeline underneath the Ninnescha River, to the Occidental Chemical Chlor-alkali plant located approximately nine-miles northeast of the site at 6200 South Ridge Road. The pipeline underneath the Ninnescha River was installed late 2000 or early 2001, approximately 18 feet below the riverbed. The applicants have stated that prior to the pipeline being installed Occidental contacted various agencies including the Corp of Engineers, KDHE, Underground Injection Control, the Kansas Corporation Commission and the Kansas Division of Water Resources.

KDHE does not have regulations for the pipelines that carry the brine, but does consider these lines in their overall review of the operation of the facility. KDHE has stated that the brine at this facility is not particularly corrosive and the piping is of good quality steel, which makes leaks on these line a very low risk. All brine is corrosive in the presence of oxygen. However, the applicants have stated that the pipelines do not have corrosion because of two specific reasons: the brine's purity or lack of contaminants in the Occidental brine field, and; and, the pipeline is kept completely full of brine to exclude the presence of any oxygen. As previously noted solution mining operation, which includes the pipelines, is PCS monitored for flow rate and pressure. As previously noted daily field checks are also conducted by Occidental.

This portion of unincorporated, rural RR zoned Sedgwick County is located over a southwest portion of the geological feature known as the Wellington Formation, which extends over parts of McPherson, Harvey, and Sedgwick Counties. There are large deposits of salt in the Wellington Formation, which is currently being extracted by the applicants. One of the applicants, Occidental Chemical, has been extracting salt water from this area since 1962. There are currently 10 operating salt water extraction facilities located in the area. The area is developed primarily as agricultural fields with scattered farmsteads and a few large tract single-family residences. The Ninnescah River and its drainage tributaries impact a large portion of this area as evidence by most of the west site/tract being in the FEMA 100-year Floodplain and at least half of the east site/tracts also being located in the FEMA 100-year Floodplain.

**CASE HISTORY:** Conditional Use CU-509 permitted “mining and quarrying,” specifically the extraction of salt water from 454-acres of RR zoned tracts for 30-years with eight conditions; MAPC Resolution, approved March 11, 1999. The 454-acres are located north of 111<sup>th</sup> Street South and east of 215<sup>th</sup> Street West. Both sites generally about the south side of the Ninnescah River, following the river northeast past 103<sup>rd</sup> Street South and within 650 feet of 183<sup>rd</sup> Street West. CON2012-00038 adjusted CU-509’s site plan to allow a cluster of wells as well as an in-line layout of wells. There has been no recorded violations reported to the Metropolitan Area Building and Construction Department (MABCD).

**ADJACENT ZONING AND LAND USE:**

North: RR Ninnescah River, agricultural fields, scattered farmsteads  
South: RR Ninnescah River agricultural fields, scattered farmsteads  
East: RR Ninnescah River agricultural fields, large tract single-family residences, scattered farmsteads  
West: RR Ninnescah River agricultural fields, large tract single-family residences

**PUBLIC SERVICES:** Parts of the sites are located in Rural Water District 5. There is no public sewer and the proposed operation will not require on-site sewer. Access to the sites are off of K-42, a paved two-lane Kansas highway or 111<sup>th</sup> Street South, a paved two-lane County highway. Access is also provided by the unpaved section line roads 199<sup>th</sup> Street West, 215<sup>th</sup> Street West, 239<sup>th</sup> Street West and 103<sup>rd</sup> Street South.

**CONFORMANCE TO PLANS/POLICIES:** The “2035 Urban Growth Concept Map” of the Comprehensive Plan identifies the general location as “rural.” The rural category encompasses land outside the 2035 urban growth areas for Wichita and the small cities. Agricultural uses, rural-based businesses, and larger lot residential exurban subdivisions likely will be developed in this area. Commercial/industrial development should be limited to the following: agricultural-oriented uses; rural home occupations; natural resource dependent; convenience services; highway-oriented services at interchange areas; or uses that need significant buffering from residential areas (to mitigate nuisance or hazard impacts).

The Plan discourages encroachment of land uses such as residential and recreation that would be negatively impacted by noise, dust, odor, light, and other impacts of agricultural operations into primarily agricultural areas outside the 2035 Urban Growth Areas. Industrial and commercial uses located in rural areas should be separate and distinct from lower-intensity lands uses and should provide appropriate screening and buffering to ensure compatibility among land uses.

**RECOMMENDATION:** Based upon the information available at the time the staff report was prepared it is recommended that the Conditional Use request for the extraction of salt water be **APPROVED** subject to the following conditions:

1. The extraction of salt water from the described 934-acre site shall be good for 30-years beginning the day of the final approval by the appropriate governing body. Upon the end of the permitted 30-years of the extraction of salt water from the site, the well houses and all equipment will be removed from site and it will be returned to its original state as agricultural fields along KDHE rules, guidelines, and regulations.
2. The site will be developed in accordance with the rules, guidelines and regulations of the Kansas Department of Health and Environment (KDHE) and other appropriate local, state and federal rules, guidelines and regulations. The site will be developed as indicated on the site plan, but that the specific location of the lines and wells are subject to possible changes as development circumstances warrant. All applicable local, state, and federal permits necessary for the extraction operation and for flood plain development shall be obtained and maintained.
3. On-site wells will be no closer than 200 feet from adjoining properties if that property is not included as part of the Conditional Use and/or under ownership or lease by the applicants as prescribed by the rules, guidelines and regulations of KDHE. On-site wells shall be either in line or in a cluster pattern as shown on the site plan.
4. The applicant shall obtain all required permits and inspections as required by Sedgwick County, the State of Kansas and any needed federal agency for the extraction of salt from the site.
5. Noise emitted by equipment permanently installed on the site after drilling and development activities are completed shall not be audible beyond the property lines of the application area, except for those circumstances when occasional maintenance is required by KDHE; testing of wells is mandated.
6. If operations have not begun within one year of approval, the Conditional Use shall be null and void.
7. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void. Upon the receipt of a complaint that is determined to be a violation of the conditions of approval, the applicant shall be notified of the complaint and have 72 hours to contact zoning enforcement to address the complaint. Failure to address the validated complaint may lead to additional enforcement efforts.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: This portion of unincorporated, rural RR zoned Sedgwick County is located over a southwest portion of the geological feature known as the Wellington Formation, which extends over parts of McPherson, Harvey, and Sedgwick Counties. There are large deposits of salt in the Wellington Formation, which is currently being extracted by the applicants and sent by pipeline to the Occidental Chemical Chlor-alkali plant located approximately nine-miles northeast of the site at 6200 South Ridge Road. One of the applicants, Occidental Chemical, has been extracting salt water from this area since 1962. There are currently 10 operating salt water extraction facilities located in the area. The area is developed primarily as agricultural fields with scattered farmsteads and a few large tract single-family residences. The Ninnescah River and its drainage tributaries impact a large portion of this area as evidence by most of the west site/tract being in the FEMA 100-year Floodplain and at least half of the east site/tracts also being located in the FEMA 100-year Floodplain.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned RR. The RR zoning district accommodates agricultural uses, rural-based businesses, natural resource dependent uses, such as mining and quarrying and larger lot residential exurban subdivisions in areas where a full range of municipal facilities and services are not available and not likely to be available in the near future. The RR zoning district is generally compatible with the "rural" designation of the "2035 Urban Growth Concept Map" of the Comprehensive Plan.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The requested action permits an expansion of Conditional Use CU-509, the extraction of salt water. There have been no complaints filed with the MABCD or KDHE on CU-509, which would seem to indicate that the use has been integrated into this rural, unincorporated portion of southwest Sedgwick County. KDHE considers the applicant Occidental Chemical to be a careful and prudent operator.

There is a sinkhole is located in an old brine field located approximately a quarter-mile south of the Occidental Chemical brine field offices, southwest of the intersection of 183<sup>rd</sup> Street West and 95<sup>th</sup> Street South. This old field where the sinkhole is located was operated before the regulations for these wells came into effect in 1979 and by a company other than Occidental. The regulations in effect are designed to prevent sinkholes and no sinkholes have occurred for wells operated under the regulations. Impacts of a sinkhole are potential brine contamination of groundwater and soil and damage to any property within the impact area of the sinkhole.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2035 Urban Growth Concept Map" of the Comprehensive Plan identifies the general location as "rural." The rural category encompasses land outside the 2035 urban growth areas for Wichita and the small cities. Agricultural uses, rural-based businesses, and larger lot residential exurban subdivisions likely will be developed in this area. Commercial/industrial development should be limited to the following: agricultural-oriented uses; rural home occupations; natural resource dependent, such as mining and quarrying; convenience services; highway-oriented services at interchange areas; or uses that need significant buffering from residential areas (to mitigate nuisance or hazard impacts).

The Plan discourages encroachment of land uses such as residential and recreation that would be negatively impacted by noise, dust, odor, light, and other impacts of agricultural operations into primarily agricultural areas outside the 2035 Urban Growth Areas. Industrial and commercial uses located in rural areas should be separate and distinct from lower-intensity lands uses and should provide appropriate screening and buffering to ensure compatibility among land uses.

5. Impact of the proposed development on community facilities: Existing or required facilities are in place to address anticipated demands on community facilities.

**BILL LONGNECKER**, Planning Staff presented the Staff Report. He reported that he has received calls regarding the request. He said staff has provided background and history on the application and also referred people to the applicant and KDHE for additional information. He also referred to the hand out which was an e-mail from residents along 111<sup>th</sup> Street South.

**ELLISON** asked where the sinkhole was located on the map. He clarified that KDHE had no issues with the operation.

**LONGNECKER** said the sinkhole is not on the map and added that he did not look at the sinkhole. He said KDHE replied to him by e-mail that they consider the Occidental Chemical Corporation a prudent operator.

**MILO M. UNRUH, JR., ATTORNEY, ARN MULLINS UNRUH KUHN AND WILSON, AGENT FOR THE APPLICANTS, 300 WEST DOUGLAS** said since there may be some technical questions regarding the operation or the geology, he said Mike Ganoway, Occidental's Brine Field Supervisor and Tom Hansen, consulting geologist were present. He said the application consists of two parts, one of which was to extend the current CU-509 and the second is to allow two additional tracts to be added to the Conditional Use. He said the current CU has been in operation for 17 years without one objection or complaint being filed with this Commission, Sedgwick County Code Enforcement or with KDHE. He reiterated that KDHE has confirmed that Occidental Chemical Corporation is considered to be a careful and prudent operator.

**UNRUH** said the application is to give the applicants the opportunity to have sufficient salt water to continue operating 10-13 series of wells. He said brine (salt water) is one of the chemicals Occidental uses in its manufacturing operations. He said Occidental's products are used in everyday products including Tide, Clorox, Teflon coating, shampoo and municipal water purification systems. He said any activity that is performed on these tracts of land is subject to substantial regulatory review before anything is operated. He said the first step is securing a conditional use approval from the Planning Commission for mining and quarrying. He said if that is successful a lengthy permitting process and application are filed with KDHE. He said KDHE has regulations regarding where they can drill, how many series of wells they can drill, and the kind of casing, spacing and location. He said specifications are provided in the application which is then put up for public hearing. He said if steps one and two are successful, then construction of the well houses is supervised by the Metropolitan Area Building and Construction Department (MABCD).

**UNRUH** referred to the axes on the map and mentioned that they currently have five what is called eight spot series and four in-line galleries. He said since this map was made, Occidental has decided to develop only in-line galleries. He said that decision was made based on several factors including a 30% increase in the production of brine at the same production cost and advances in technology that have allowed them to eliminate loud diesel engines on equipment used during the constructions phase. He said Federal Regulations require a quieter diesel engine. In addition, he mentioned that they are now allowed to drill horizontally, which cuts down on the construction phase and well construction by almost one-third. He concluded by stating that five wells make one series.

**UNRUH** said it is important to note that no wastewater is created by the development and there is not continuous activity on the sites. He said they like to rotate through the different tracts and shut down one series before they bring another series on-line. He said plugging of the wells is mandated by KDHE's regulations. He said the normal life of a series is about 13-14 years. He said they are looking 30 years into the future to insure they have sufficient brine to continue production at the facility.

**UNRUH** concluded by stating that monitoring is important to Occidental, the neighbors and the regulatory bodies.

**MOTION:** To grant the speaker an additional one minute.

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

**UNRUH** continued by saying that all pipelines on the site are checked daily. He said flows and pressure are monitored by computers in each well house 24/7. He said any problem triggers an automatic shutoff. He added that KDHE requires mechanical and gramminalogue testing. He said they believe the nature of the locations are compatible and said there have been no complaints with the current operation for the past 17 years. He respectfully requested that the application be granted.

**RICHARDSON** asked about the process and the source of the fresh water. He also asked about the volume of water on a daily basis.

**UNRUH** explained that the process is to inject fresh water into the salt formation which then dilutes the salt and turns it into brine which is in turn pumped through the pipelines to Occidental.

**MIKE GANOWAY, OCCIDENTAL CHEMICAL CORPORATION** said Occidental owns 18 different water wells spread throughout the sites. He said the volume of water varies between 500-700 gallons per minute.

**RICHARDSON** asked what was left after the process is finished, cavities underground as if it had been mined like the Salt Mines in Hutchinson.

**GANOWAY** responded that KDHE regulates the width and height (size) of the caverns that are left after the operation. He said the caverns would be dome/arch shaped through mining layered salts. He said the arched shape is a strong geometric structure. He mentioned the geomechanics which are the calculations that went into how wide and tall the structure can be and how much salt needs to be left in the roof of the structure. He said KDHE does those calculations and sets the regulations. He said the regulations are 300 feet wide and not less than 50 foot of salt in the roof which means they can only mine 150 feet.

**GANOWAY** briefly reviewed the processing of the brine once it reaches the facility.

**CHAIR NEUGENT** asked about the water used to remove contaminates.

**GANOWAY** said there is a ground water treatment plant with carbon beds at the facility.

**FOSTER** asked how close the horizontal drilling was to adjacent properties. He ask Mr. Hansen to "speculate" about the cause of the old sink hole.

**TOM HANSEN, CONSULTING GEOLOGIST, LICENSE #20** answered that the drilling must be at least 200 feet from adjacent properties. He said the sink hole happened before KDHE put in regulations.

**ELLISON** asked if natural gas would be injected back into the salt caverns.

**HANSEN** replied no, they are prohibited from doing that at this location. He said the salt in Hutchinson is deeper and thicker.

**JACQUALINE WEBER, 2815 N. WILD ROSE, WICHITA, KS** asked if they are drilling horizontally are they drawing from beneath adjacent properties. She said some soil salinity is good for crop growth.

**TRUDY DOLL, 20770 WEST 111<sup>TH</sup> STREET SOUTH, CLEARWATER, KS** indicated she had property adjacent to the yellow area on the map. She said she believes Occidental does follow the regulations; however, she said she has had problems with noise, not continually just part of the year, which she believes is her fault because she feels if she had talked to Mr. Ganoway they probably would have put up different vegetation to help muffle the sound. She worries about what happens under her residence. She said the neighbors want to be reassured that their water will be safe for their crops, livestock, yards and ponds. She said they also want assurance that the landscape will stay the same. She said she is also concerned about the foundation of her home. She said she wanted the Commission to be aware that there are homes in the area.

**ELLISON** asked if she was concerned that the applicant would encroach on her property.

**DOLL** responded when you hear about salt and brine you want to make sure that doesn't get into you livestock ponds. She said some people think their trees have died because salt is coming up from the ground but it sounds like it is contained when it is being sent to the facility.

**NORA WORTH, 20701 WEST 111<sup>TH</sup> STREET, SOUTH, CLEARWATER, KS** said they are concerned about water contamination in the future. She asked how changing the zoning on this property will affect their taxes; will they increase/lessen or whatever. She said the diagram/map shows everything to be located north of 111<sup>th</sup>, but the staff report refers to both north and south of 111<sup>th</sup>, which was right. She asked if adjacent property owners will be adversely affected by the "horizontal" drilling.

**CHAIR NEUGENT** asked staff to clarify the application request. She said there seems to be some confusion on the request itself.

**DIRECTOR MILLER** said the conditional use application is only for the areas outlined on the diagram/map. He said the zoning on the adjacent/abutting properties will not change. He said the County Assessor's Office assesses taxes on each individual property.

**FOSTER** asked about the depth of the water wells on her property.

**WORTH** commented she thought 40 feet.

**VICKI LARSEN, 11001 SOUTH 199<sup>TH</sup> STREET, WEST, CLEARWATER, KS** indicated where her home was located on the diagram. She asked for clarification about any encroachments onto her property.

**DIRECTOR MILLER** commented that if the application for a conditional use permit is approved, the applicant won't be able to do anything outside the areas indicated on the diagram/map. He said they will not be allowed to encroach on anyone else's private property.

**LARSEN** asked when the wells are plugged is the equipment removed or does it just stay there. She also asked how many wells have already been plugged. She said they dug a well on their property; however, were told they could not use it because it was chloride. So they wasted money digging the well. She also mentioned problems with livestock. She asked how long it will take to drill the wells and how much traffic they will have up and down their quiet road that is no longer quiet. She said they moved out to the country because of the peace and quiet.

**MILLER STEVENS** thanked members of the public for staying this length of time to give the Commission their comments because it shows their diligence and concern for their properties and she appreciates that.

**MIKE GANOWAY, OCCIDENTAL CHEMICAL CORPORATION, BRINE FIELD SUPERVISOR** said they didn't apply for a zone change because the conditional use permit allows them to use the land for other than what it is zoned for so the taxes on surrounding properties wouldn't change. He said there shouldn't be any changes in taxes for surrounding property owners.

**GANOWAY** said as far as groundwater contamination, they are regulated by KDHE, Bureau of Water Geology Department who regulates them and their concern is protection of groundwater.

**MOTION:** To give the speaker five more minutes for rebuttal.

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

**GANOWAY** briefly reviewed construction of the wells and monitoring activities. He said they will try to work with the neighbors on the location of the well houses and camouflaging them from surrounding neighbors with tree rows or other landscape screening.

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

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

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11. **Case No.: CUP2016-00012** - Mountaingate Brittany LLC, Spring Street LLC, Union Street LLC (owner) and Kaw Valley Engineering c/o Tim Austin (agent) request a City CUP amendment to DP-67 Parcel 2 to permit additional LC Limited Commercial uses and Warehouse, Self-Storage within the CUP's definition of shopping center described as:

LOT 2 EXCEPT THAT PART DESCRIBED AS BEGINNING AT THE NORTHWESTERLY CORNER OF LOT 2, SAID CORNER LYING ON THE EAST RIGHT OF WAY LINE OF WOODLAWN AVENUE, THENCE EAST FOR A DISTANCE OF 203.75 FEET TO THE SOUTHEAST CORNER OF LOT 1; THENCE SOUTH 127.11 FEET; THENCE WEST 215 FEET TO THE EAST RIGHT OF WAY LINE OF WOODLAWN AVENUE; THENCE NORTHEASTERLY 127.96 FT ALONG THE EAST RIGHT OF WAY LINE OF WOODLAWN AVENUE TO BEGINNING; ALONG WITH, THE NORTH 115 FEET OF THE WEST 609 FEET OF LOT 3, ALL IN BLOCK 1 NORTHBOROUGH, AN ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS.

**BACKGROUND:** The LC Limited Commercial (LC) zoned site is located within DP-67, the Northborough Community Unit Plan (CUP) at the southeast corner of East 21<sup>st</sup> Street North and North Woodlawn Boulevard. The applicant requests an amendment to the DP-67, Parcel 2 Proposed Uses. The uses are currently limited to “shopping center and/or offices, professional, personal services, comparison and convenience shopping, parking, seasonal nursery and garden center, indoor entertainment and recreation.” The applicant proposes the uses be amended to state: “shopping center shall mean all uses permitted by right in the Limited Commercial LC zoning district except for group residences and correctional placement residences; along with warehousing, self-storage, inside of an existing climate controlled building only, and subject to the supplemental use regulations of Section III-D.6.y of the Unified Zoning Code, except that a resident manager shall not be required.” The Unified Zoning Code (UZC) requires conditional use approval for self-storage warehousing in LC zoning. Because the application area is within a CUP which does not specifically permit self-storage warehousing, a CUP amendment can be done in lieu of the conditional use for the self-storage warehousing use.

The UZC supplementary use requirements for self-storage warehousing in LC zoning are: The use must be on an arterial street with arterial street access; building setbacks must be 35 feet from arterials and 20 feet from other streets; a 15-foot landscape street yard is required when adjacent to residential zoning; planning staff architectural review is required to ensure that storage buildings are compatible with surrounding development; storage doorways shall be setback 40 feet from residential zoning; parking is required at a rate of one space per 8,000 square feet plus one space per employee; all parking, driveways and drives shall be paved; lighting shall be shielded away from surrounding properties; all storage shall be within enclosed buildings; no activities such as garage sales shall be conducted; no vehicle or equipment service or repair shall be conducted on the premises; signs are limited to one per arterial street frontage and shall not exceed 20 feet in height or 50 square feet in surface area; the area shall be policed by the operator/owner to remove trash and debris; the facility shall not be used as a transfer and storage business where the use of vehicles is part of such business; a resident manager shall be on site to ensure conformance with conditions of approval; maximum building coverage is 45 percent and no individual or business shall lease more than 3,000 square feet of storage. The applicant anticipates placing the self-storage inside an existing building, and therefore does not see a need for 24-hour on-site management.

The existing DP-67 has building setbacks, landscaping, signage, lighting, trash screening, perimeter wall screening and other standards. The remainder of the CUP is zoned LC and GO General Office (GO) and developed primarily with retail, indoor recreation and entertainment, banking, office and restaurant uses. The northwest and southwest corners of East 21<sup>st</sup> Street North and North Woodlawn are also zoned LC and under CUPs (DP-56 and DP-35). The northeast corner of East 21<sup>st</sup> Street North and North Woodlawn is zoned SF-5 Single-family Residential and developed with condominium residences under DP-46.

**CASE HISTORY:** The property is platted as Northborough Addition, recorded August 9, 1977, and the CUP was originally approved March 11, 1975. It has been amended several times. The most recent amendment to Parcel 2 (Amendment #6) permitted seasonal nursery and garden centers. The most recent administrative adjustment to Parcel 2 permitted indoor recreation and entertainment.

**ADJACENT ZONING AND LAND USE:**

NORTH:	LC, SF-5	Retail, banking, condominium and single-family residential
SOUTH:	LC, GO	Retail, office
EAST:	LC, GO	Retail, restaurant, indoor recreation
WEST:	LC, GO, SF-5	Nursery and garden center, banking, restaurant, office, church

**PUBLIC SERVICES:** The property has direct access to Woodlawn Boulevard, a four-lane principal arterial street with left-turn center lanes, and connects through the parking lot to 21<sup>st</sup> Street North, also a four-lane principal arterial street with left-turn center lanes. A right-turn lane is located at the intersection of Woodlawn Boulevard and 21<sup>st</sup> Street North.

**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's *2035 Wichita Future Growth Concept Map* identifies this location as "residential and employment mixed," and surrounded by "new residential." The residential/employment mix encompasses areas of land that likely will be developed or redeveloped by 2035 with uses predominately of a mixed nature. Due to the proximity of higher intensity business uses, residential housing types within this area likely will be higher density. Due to the proximity of residential uses, employment uses likely will have limited negative impacts associated with noise, hazardous emissions, visual blight and odor.

**RECOMMENDATION:** Based upon the information available prior to the public hearings, planning staff recommends that the request for an amendment to DP-67 Parcel 2 to allow self-storage warehouse use be **APPROVED**, with the following conditions:

- (8) Proposed Uses for Parcel 2 shall be amended to state: "shopping center shall mean all uses permitted by right in the Limited Commercial LC zoning district except for group residences and correctional placement residences; along with warehousing, self-storage, inside of an existing climate controlled building only, and subject to the supplemental use regulations of Section III-D.6.y of the Unified Zoning Code, except that a resident manager shall not be required."

- (9) The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days of approval or the request shall be considered denied and closed.
- (10) If the Zoning Administrator finds that there is a violation of any of the conditions of the CUP amendment, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the CUP amendment null and void.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The existing DP-67 has building setbacks, landscaping, signage, lighting, trash screening, perimeter wall screening and other standards. The remainder of the CUP is zoned LC and GO General Office (GO) and developed primarily with retail, indoor recreation and entertainment, banking, office and restaurant uses. The northwest and southwest corners of East 21<sup>st</sup> Street North and North Woodlawn are also zoned LC and under CUPs (DP-56 and DP-35). The northeast corner of East 21<sup>st</sup> Street North and North Woodlawn is zoned SF-5 Single-family Residential and developed with condominium residences under DP-46.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned LC with DP-67 use restrictions, which accommodates a wide range of commercial uses. The site could be developed with other uses permitted by right in LC zoning and permitted by the existing CUP.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The proposed amendment to allow self-storage warehouse should have no impact on nearby property as the proposed use will be within an existing commercial building.
- (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's *2035 Wichita Future Growth Concept Map* identifies this location as "residential and employment mixed," and surrounded by "new residential." The residential/employment mix encompasses areas of land that likely will be developed or redeveloped by 2035 with uses predominately of a mixed nature. Due to the proximity of higher intensity business uses, residential housing types within this area likely will be higher density. Due to the proximity of residential uses, employment uses likely will have limited negative impacts associated with noise, hazardous emissions, visual blight and odor.
- (5) **Impact of the proposed development on community facilities:** The requested CUP amendment should have minimal impact on community facilities. Self-storage warehousing has a lower traffic impact than most typical LC retail uses.

SCOTT KNEBEL, Planning Staff presented the Staff Report.

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

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

12. **Case No.: PUD2016-00005** - Michael and Tina Andra Living Trust (applicant/owner); Baughman Company, P.A. c/o Russ Ewy (agent) request to create a County PUD Planned Unit Development on RR Rural Residential zoned property on property described as:

Commencing at the Northwest Corner of the Northwest Quarter of the Northeast Quarter, Section 15, Township 28 South, Range 1 West of the 6th Principal Meridian; thence with an assumed bearing of South 01°38'53" West along the West line of the Northwest Quarter of said Northeast Quarter 40.02 feet, more or less; thence South 90°00'00" East parallel with the North line of the Northwest Quarter of said Northeast Quarter 365.00 feet, more or less, for a point of beginning; thence continuing South 90°00'00" East parallel with the North line of the Northwest Quarter of said Northeast Quarter 100.00 feet; thence South 01°38'53" West parallel with the West line of the Northwest Quarter of said Northeast Quarter 350.10 feet, more or less; thence South 90°00'00" East parallel with the North line of the Northwest Quarter of said Northeast Quarter 515.84 feet, more or less; thence South 01°07'30" West parallel with the East line of the Northwest Quarter of said Northeast Quarter 837.15 feet, more or less; thence North 89°52'32" West parallel with the South line of the Northwest Quarter of said Northeast Quarter 738.33 feet, more or less; thence North 01°38'53" East parallel with the West line of the Northwest Quarter of said Northeast Quarter 835.73 feet, more or less; thence South 90°00'00" East parallel with the North line of the Northwest Quarter of said Northeast Quarter 114.88 feet, more or less; thence North 01°38'53" East parallel with the West line of the Northwest Quarter of said Northeast Quarter 350.10 feet, more or less, to the to the point of beginning.

**BACKGROUND:** The undeveloped application area is in the unincorporated county and located south of West Macarthur Road, between South Ridge and South Hoover Roads. The southwest corner of the site is within mapped flood zone. The applicants propose rezoning this property from RR Rural Residential (RR) to PUD #50, the Andra Commercial Planned Unit Development (PUD). According to the Unified Zoning Code (UZC), a PUD is intended to:

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

The un-platted 14.9-acre site is used for agriculture and sits within the applicant's larger 38.8-acre site. The PUD proposes keeping the balance of the 38.8-acre site as an open-space buffer. The PUD (see attached) specifies that landscaping and berm screening identified on the PUD is to be approved by staff, and is contingent upon the surrounding area remaining as open space. The PUD states "The applicant

may define this area as a reserve when platted, and/or as a conservation easement, in order to preserve this open space.” The PUD anticipates the extension of municipal water and sewer and platting. Annexation into the City of Wichita will occur along with these actions. The PUD is limited to 45,000 square feet of building coverage, 75,000 square feet of building space, 45-foot maximum building height and 50-foot building setbacks.

The PUD demonstrates access from one 24-foot drive. Parking for the first 20,000 square feet is 115 paved spaces. Additional building space will be provided parking at the rate of one parking space per 333 square feet of building space, or one parking space per four occupants for community assembly use. Demonstrated overflow parking on the PUD may be surfaced with an all-weather surface other than paving. Signage will be per commercial district regulations under the County Sign Code or under GC General Commercial signage under the City Sign Code. LED, billboard, portable and off-site signs are prohibited. Uses in the PUD are limited to those in the SF-20 Single-family Residential (SF-20) zoning district and the following: nightclub (as restricted for an event center in the PUD), agriculture, community assembly, broadcast/recording studio, event center, farmers market, office, restaurant and retail. Overnight accommodations are permitted accessory to the multi-use facility. The night club is limited to the UZC definition of an event center, limited to 500 persons, limited to a rental venue, may allow the service of food and alcoholic beverages and may allow music and dancing. The PUD limits event center hours to 8:00 am to 1:00 am Friday and Saturday, and 8:00 am to midnight Sunday to Thursday. The PUD designated outdoor activity area is accessory to the event center and farmer’s market. Tents are permitted in the outdoor activity area. Use of the outdoor activity area and outdoor music is limited to the hours of 10:00 am to 10:00 pm and subject to the UZC compatibility noise standard. Outdoor speakers in this area are further limited to 8:00 pm and shall be oriented to the interior of the site. Outdoor lighting requires shielding away from surrounding properties and is limited to 30 feet in height.

All property surrounding the application area is owned by the applicant, zoned RR, and used for agriculture. One 0.44-acre home-site, split off from the original 40-acres, exists 150-feet northeast of the site. Property further north (across Macarthur Road) and further east of the site is in the City of Wichita, zoned SF-5 Single-family Residential (SF-5) and developed with urban scale residential lots. Property further south and further west of the site is zoned RR and used for agriculture and large-lot residences.

**CASE HISTORY:** None.

**ADJACENT ZONING AND LAND USE:**

NORTH:	SF-5	Single-family residential
SOUTH:	RR	Agriculture, large-lot residential
EAST:	RR, SF-5	Agriculture, single-family residential
WEST:	RR	Agriculture, large lot residential

**PUBLIC SERVICES:** The site has frontage along Macarthur Road, a paved, two-lane arterial at this location with a daily traffic count of 5,232. Municipal services are available to the north and east of the site. The PUD requires connection to public water and sewer for development. Platting is required for utility extension and building permits. Access improvements will be determined at the time of platting. A drainage plan will be required at the time of platting.

**CONFORMANCE TO PLANS/POLICIES:** The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies this location as within the 2035 Wichita growth area. The *2035 Wichita Future Growth Concept Map* identifies the site as “New Residential.” The Locational Guidelines of the Comprehensive Plan encourage commercial development at arterial street intersections, along highways and commercial corridors. This application meets the Comprehensive Plan Land Use Compatibility and Design recommendations regarding screening, buffering, access controls, noise and lighting controls and aesthetic considerations. The Plan’s *Priority Enhancement Areas for Wichita Infrastructure Projects Map* identifies this portion of Macarthur Road as a “Targeted Arterial,” and recommends considering the inclusion of site design features that increase the sense of quality of life through emphasis of visual character and aesthetic improvements.

**RECOMMENDATION:** Planning Staff worked with the applicant’s agent to modify this PUD request, ensuring compatibility with surrounding property and mitigation of potential impacts on nearby residential properties. The proposed open-space buffer keeps the PUD over 340 feet from nearby residential subdivisions. Based on information available prior to the public hearing, staff recommends the request be **APPROVED** subject to the following conditions:

- A. The applicant shall submit four revised copies of the PUD 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: All property surrounding the application area is owned by the applicant, zoned RR, and used for agriculture. One 0.44-acre home-site, split off from the original 40-acres, exists 150-feet northeast of the site. Property further north (across Macarthur Road) and further east of the site is in the City of Wichita, zoned SF-5 and developed with urban scale residential lots. Property further south and further west of the site is zoned RR and used for agriculture and large-lot residences.
- (2) The suitability of the subject property for the uses to which it has been restricted: The site could be developed with single-family residences on 2-acre minimum size lots under the current RR zoning.
- (3) Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed PUD permits uses which could impact nearby property owners. However, the proposed open space buffer surrounding the PUD, along with required landscaping, screening and development limitations, should mitigate impact on nearby properties.
- (4) Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request will add mixed-use commercial development at the southwest Wichita City limit along W. Macarthur Road. Vehicle traffic and activity on the site could minimally impact Macarthur; mitigating development limits are included in the PUD. Denial of this request would presumably be a loss of economic opportunity for the land owner.

- (5) Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies this location as within the 2035 Wichita growth area. The *2035 Wichita Future Growth Concept Map* identifies the site as “New Residential.” The Locational Guidelines of the Comprehensive Plan encourage commercial development at arterial street intersections, along highways and commercial corridors. This application meets the Comprehensive Plan Land Use Compatibility and Design recommendations regarding screening, buffering, access controls, noise and lighting controls and aesthetic considerations. The Plan’s *Priority Enhancement Areas for Wichita Infrastructure Projects Map* identifies this portion of Macarthur Road as a “Targeted Arterial,” and recommends considering the inclusion of site design features that increase the sense of quality of life through emphasis of visual character and aesthetic improvements.
- (6) Impact of the proposed development on community facilities: The proposed development will increase traffic on this portion of West Macarthur Road. This portion of Macarthur can accommodate the proposed traffic increases which will occur at non-peak traffic hours. Access improvements will be determined at the time of platting. The proposed development could increase demand of public safety services at this location.

SCOTT KNEBEL, Planning Staff presented the Staff Report.

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

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

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**NON-PUBLIC HEARING ITEMS**

**13. Case No.: DER2016-00002 - Wireless Communication Master Plan Update.**

**Background:** Senate Substitute for House Bill No. 2131 was recently passed by the Kansas House and Senate. The bill has numerous State mandates regarding how local units of government can regulate wireless communication facilities. Wichita-Sedgwick County regulations of wireless communication facilities are based on the Wireless Communication Master Plan.

The following is a high-level summary of the State mandates that will need to be addressed through an amendment of the Wireless Communication Master Plan (WCMP) and the Unified Zoning Code (UZC). The bill prohibits the following established practices:

- 1) Requiring applicants to document that no colocation opportunity is available prior to permitting construction new facility.
- 2) Requiring applicants to demonstrate that a wireless facility addresses a wireless service provider need rather than being constructed as a speculative facility.
- 3) Evaluating the merits of an application based on colocation opportunities.
- 4) Requiring small cell facilities in lieu of macro facilities in visually/environmentally sensitive locations.

- 5) Requiring applicants to agree to removal of an unused facility after 12 months of disuse as a conditional of approval.
- 6) Prohibiting flashing white aircraft obstruction lights for nighttime use.
- 7) Requiring applicants to agree to permit colocation on their facility by other service providers as a condition of approval.

Additionally, the bill deems an application for a wireless communication facility approved if the application is not acted upon within 150 days for a new facility or 60-90 days (depending on type) for a colocation application. Finally, the bill requires equal treatment of wireless communication facilities with utility installations when applying to locate in right-of-way but establishes a right-of-way fee cap on local governments that is significantly lower than the fee charged utilities.

Staff recommends the following process to amend the WCMP and the UZC.

<u>Target Date</u>	<u>Task</u>
July 7, 2016	Advanced Plans Committee considers update to WCMP and amendments to UZC and makes recommendation to the MAPC
July 7, 2016	Request Metropolitan Area Planning Commission (MAPC) to set public hearing to consider update to WCMP and amendments to UZC
July 28, 2016	Notice of public hearing to consider update to WCMP and amendments to UZC published
August 18, 2016	MAPC public hearing to consider update to WCMP and amendments to the UZC
September 20, 2016	City Council considers update to WCMP and amendments to UZC
September 21, 2016	Board of County Commissioners considers update to WCMP and amendments to UZC
September 30, 2016	Ordinances and Resolutions updating WCMP and amending UZC published

**Recommended Action:** Set the date of the official public hearing to consider adoption of the Update to the Wireless Communication Master Plan as an amendment of the Comprehensive Plan along with the implementing amendments to the Unified Zoning Code for the regularly-scheduled meeting of the MAPC on August 18, 2016.

**Attachment:** Draft Update to the Wireless Communication Master Plan  
Draft Amendments to the Wichita-Sedgwick County of the Unified Zoning Code

**SCOTT KNEBEL**, Planning Staff presented the Staff Report.

**MOTION:** To set a public hearing date for August 18, 2016.

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

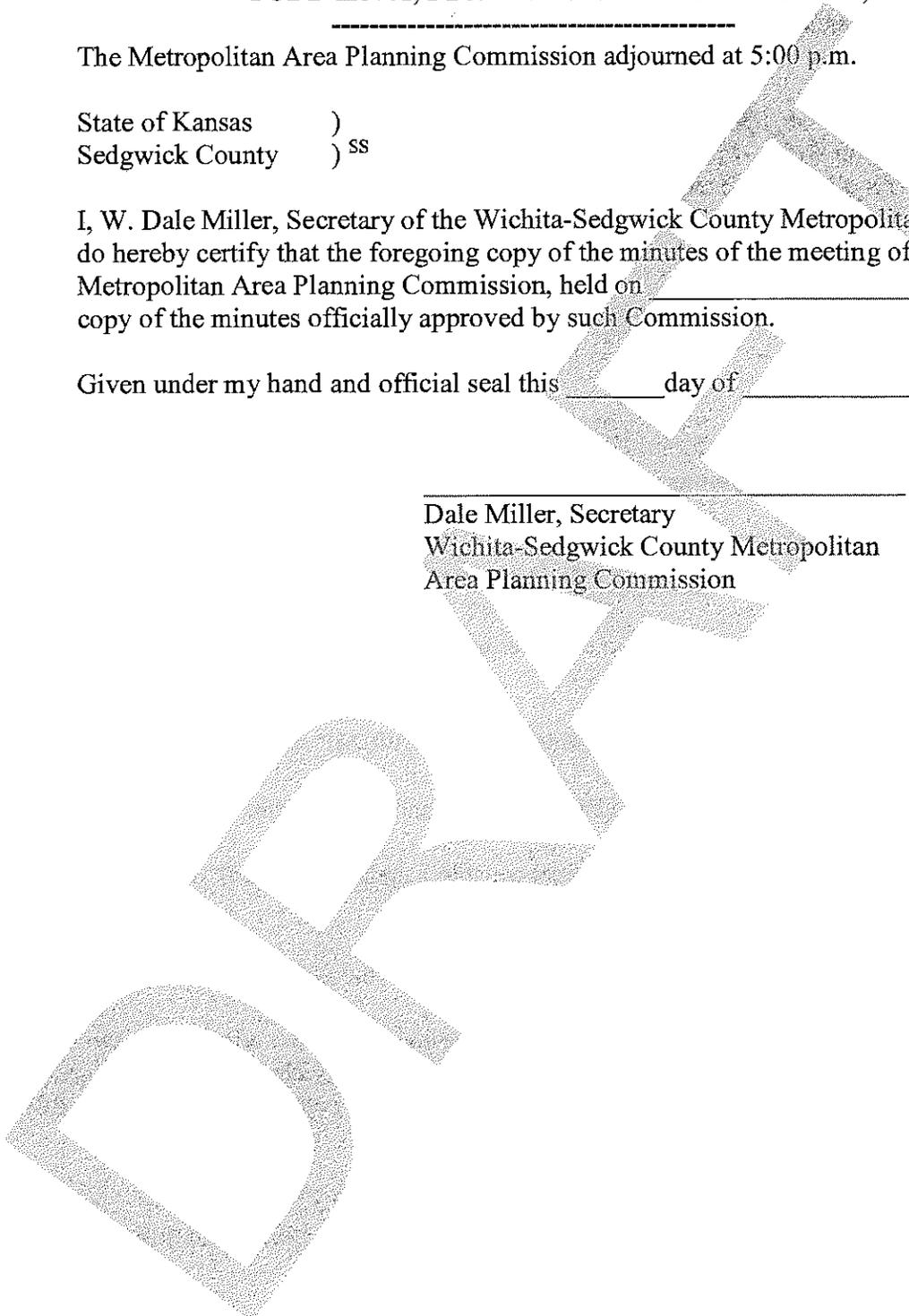
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The Metropolitan Area Planning Commission adjourned at 5:00 p.m.

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

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

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

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



**STAFF REPORT**

**CASE NUMBER:** SUB2016-00025 – CLEAR RIDGE TOWNHOMES ADDITION

**OWNER/APPLICANT:** Stephen G. and Sally E. Miller, P. O. Box 780789, Wichita, KS 67278

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

**LOCATION:** South side of East Pawnee Road, West of South 143<sup>rd</sup> Street East (District II)

**SITE SIZE:** 9.61 acres

**NUMBER OF LOTS**

Residential:	4
Office:	
Commercial:	
Industrial:	—
Total:	4

**MINIMUM LOT AREA:** 27,053 square feet

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

**PROPOSED ZONING:** Multi-Family Residential (MF-18), Single-Family Residential (SF-5)

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**VICINITY MAP**



**SUB2016-00025 -- Plat of CLEAR RIDGE TOWNHOMES ADDITION  
August 18, 2016 - Page 3**

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

**STAFF COMMENTS:**

- A. As this site is adjacent to Wichita's municipal boundaries, the applicant may submit a request for annexation. Upon annexation, the portion of the property zoned SF-20 will be zoned Single-Family Residential (SF-5).
- B. City of Wichita Public Works and Utilities Department requests the applicant extend sewer (laterals) to all lots, and extend water (distribution) to all lots. In lieu-of-assessment fees on transmissions are due. A service area release is needed from Sedgwick County Rural Water District #3. The utility easement for the proposed sewer located outside of the plat boundaries needs to be established by separate instrument.
- C. The plat's text shall include language that Reserve B includes utilities as confined to easements.
- D. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) along with the corresponding dollar amounts shall be submitted to the Planning Department for recording.
- E. City Stormwater Management has approved the drainage plan.
- F. Traffic Engineering has approved the access controls. The plat denotes two openings along Pawnee in accordance with the site plan submitted with the zone change.
- G. City Fire Department advises that the hammerhead at the southwest corner is an acceptable turnaround, however the entire private drive must allow for proper turns for fire apparatus.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a restrictive covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.

**SUB2016-00025 -- Plat of CLEAR RIDGE TOWNHOMES ADDITION**  
**August 18, 2016 - Page 4**

- J. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineers (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- K. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted, installed and inspected.
- L. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to [tricia.robello@sedgwick.gov](mailto:tricia.robello@sedgwick.gov) and [nstrahl@wichita.gov](mailto:nstrahl@wichita.gov).
- M. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- O. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. The applicant should check City or County GIS mapping to determine whether the location of any taxing district boundaries (e.g. school districts) crosses their property and plan accordingly to avoid unnecessary splitting of lots between taxing districts.
- T. Any and all relocation and removal of any existing equipment made necessary by this plat will be at the applicant's expense

**SUB2016-00025 -- Plat of CLEAR RIDGE TOWNHOMES ADDITION**  
**August 18, 2016 - Page 5**

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](mailto:kwilson@wichita.gov)).



**SUB2016-00026 -- Plat of NORTHWEST WATER TREATMENT PLANT ADDITION  
August 18, 2016 - Page 2**

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

**STAFF COMMENTS:**

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

**SUB2016-00026 -- Plat of NORTHWEST WATER TREATMENT PLANT ADDITION  
August 18, 2016 - Page 3**

- L. The applicant shall submit a copy of the instrument, which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the appropriate governing body.
- M. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.
- N. Elevations and minimum openings need shown as referenced in the plat's text.
- O. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted, installed and inspected.
- P. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to [tricia.robello@sedgwick.gov](mailto:tricia.robello@sedgwick.gov) and [nstrahl@wichita.gov](mailto:nstrahl@wichita.gov).
- Q. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- R. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- S. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- T. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- U. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- V. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- W. Perimeter closure computations shall be submitted with the final plat tracing.

**SUB2016-00026 -- Plat of NORTHWEST WATER TREATMENT PLANT ADDITION  
August 18, 2016 - Page 4**

- X. The applicant should check City or County GIS mapping to determine whether the location of any taxing district boundaries (e.g. school districts) crosses their property and plan accordingly to avoid unnecessary splitting of lots between taxing districts.
- Y. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- Z. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: [kwilson@wichita.gov](mailto:kwilson@wichita.gov)).

**STAFF REPORT**

**CASE NUMBER:** VAC2016-00032 - Request to vacate a public utility easement referenced in the plattor's text

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

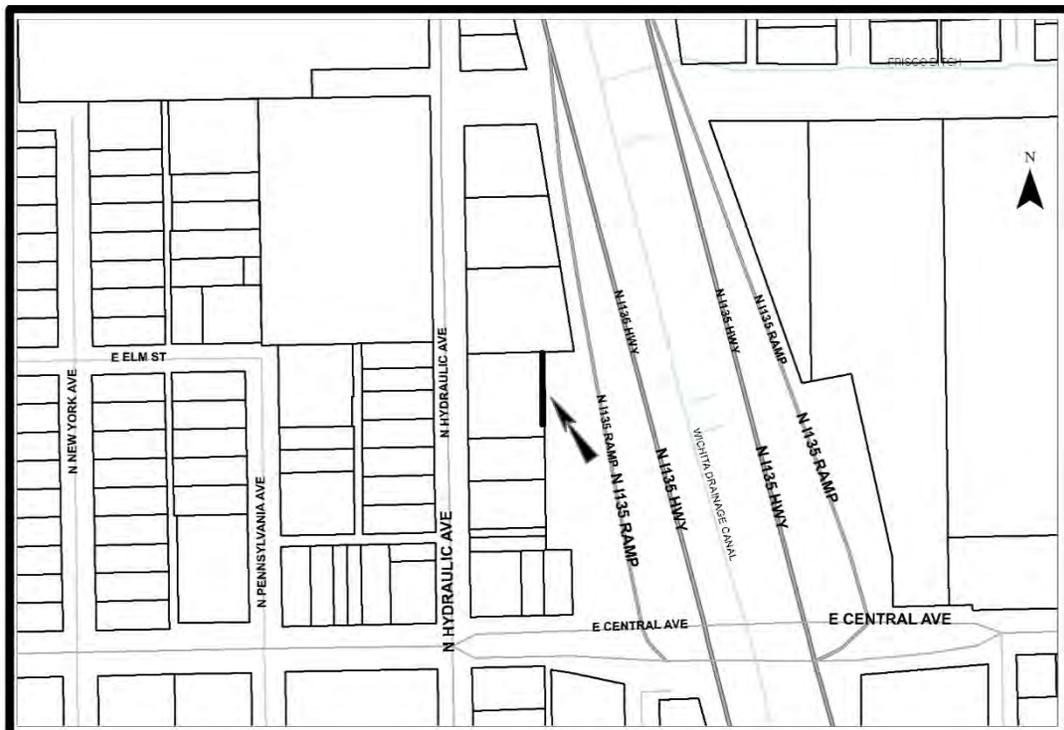
**LEGAL DESCRIPTION:** Generally described as vacating the five-foot wide public utility easement (as referenced in the plattor's text) located in the east five feet of Lots 25, 27, 29, 31 and the north 10 feet of the east 5 feet of Lot 33, Ratliffe's Addition, Wichita, Sedgwick County, Kansas

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

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

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

**VICINITY MAP:**



**VAC2016-00032 –Request to vacate a public utility easement referenced in the plattor’s text**

**August 18, 2016 - Page 2**

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

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

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

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

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

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

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

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

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

**VAC2016-00032 –Request to vacate a public utility easement referenced in the plattor’s text**

**August 18, 2016 - Page 3**

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

**SUBDIVISION COMMITTEE’S RECOMMENDED ACTION**

The Subdivision Committee recommends approval subject to the following conditions:

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

**STAFF REPORT**

**CASE NUMBER:** VAC2016-00033 - Request to vacate a platted front yard setback

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

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

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

**REASON FOR REQUEST:** To erect a detached garage

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

**VICINITY MAP:**



**VAC2016-00033 –Request to vacate a platted front yard setback  
August 18, 2016 - Page 2**

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

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

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

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

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

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

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate a portion of the described platted 25-foot front yard setback.

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

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

1. Vacate the south 15 feet of the 25-foot building setback running parallel to the north property line of Lot 41, Block 1, Country Place Estates Addition, Wichita, Sedgwick County, Kansas

**VAC2016-00033 –Request to vacate a platted front yard setback  
August 18, 2016 - Page 3**

2. As needed provide easements for public and franchised utilities. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. Easements for public utilities, with original signatures, must be provided to Planning prior to VAC2016-00033 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
3. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide all required approved projects to Planning prior to VAC2016-00033 proceeds to the City Council for final action.
4. Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE’S RECOMMENDED ACTION**

The Subdivision Committee recommends approval subject to the following conditions:

1. Vacate the south 15 feet of the 25-foot building setback running parallel to the north property line of Lot 41, Block 1, Country Place Estates Addition, Wichita, Sedgwick County, Kansas
2. As needed provide easements for public and franchised utilities. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. Easements for public utilities, with original signatures, must be provided to Planning prior to VAC2016-00033 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
3. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide all required approved projects to Planning prior to VAC2016-00033 proceeds to the City Council for final action.
4. Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**STAFF REPORT**

**CASE NUMBER:** VAC2016-00034 - City request to vacate a utility easement referenced in the platlor's text

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

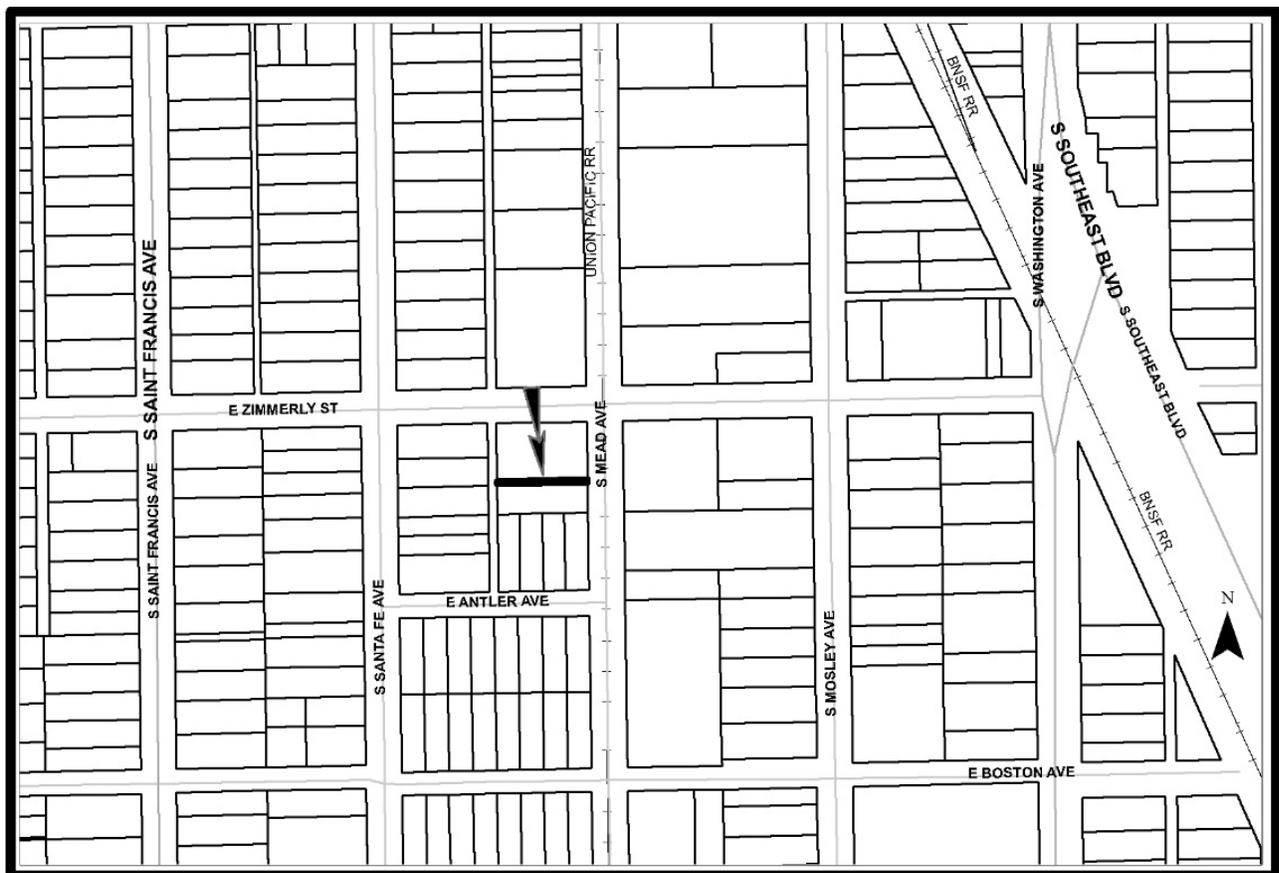
**LEGAL DESCRIPTION:** Generally described as vacating the language in the platlor's text referencing an easement granted to the City of Wichita, for the construction and maintenance of all public utilities, underground, on the rear 6 feet of Lots 1, 2 and 3, Wakefield Addition, Wichita, Kansas.

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

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

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

**VICINITY MAP:**



**VAC2016-00034 – Request to vacate a Public Utility Easement referenced in the plattor’s text**

**August 18, 2016**

**Page 2**

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

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

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

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

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

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

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

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

- 1. Vacate the south 6-foot wide utility easement (as referenced in the plattor’s text) of Lots 1, 2 and 3, Wakefield Addition, Wichita, Kansas.
- 2. As needed provide easements for public and franchised utilities. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. Easements for public utilities, with original signatures, must be provided to Planning prior to VAC2016-00034 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.

**VAC2016-00034 – Request to vacate a Public Utility Easement referenced in the plattor’s text**

**August 18, 2016**

**Page 3**

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

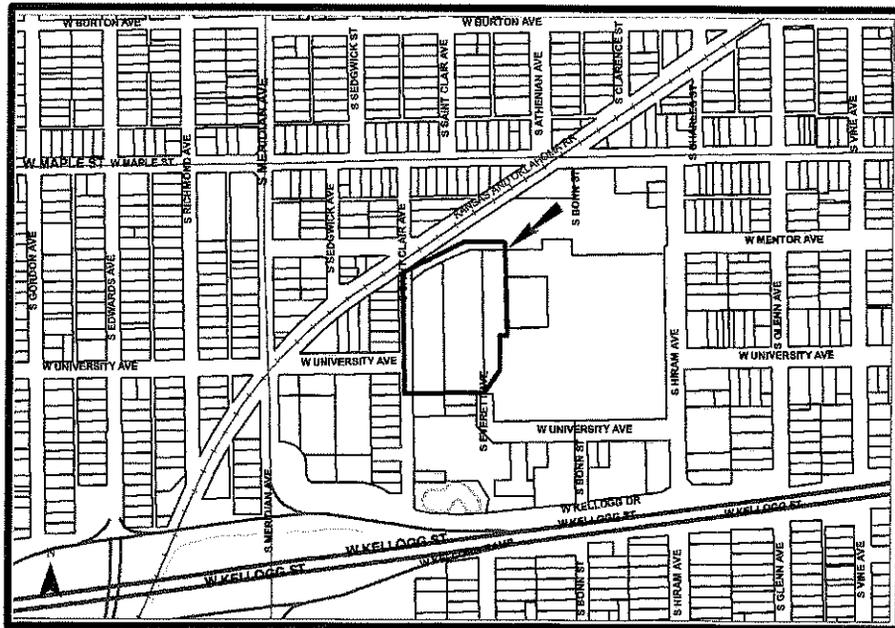
**SUBDIVISION COMMITTEE’S RECOMMENDED ACTION**

The Subdivision Committee recommends approval subject to the following conditions:

1. Vacate the south 6-foot wide utility easement (as referenced in the plattor’s text) of Lots 1, 2 and 3, Wakefield Addition, Wichita, Kansas.
2. As needed provide easements for public and franchised utilities. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. Easements for public utilities, with original signatures, must be provided to Planning prior to VAC2016-00034 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
3. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide all required approved projects to Planning prior to VAC2016-00034 proceeds to the City Council for final action.
4. Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**STAFF REPORT**  
 MAPC August 18, 2016  
 DAB IV September 12, 2016

- CASE NUMBER:** ZON2016-00020
- APPLICANT/AGENT:** Friends University, c/o Kelley Williams (owner) Verizon Wireless c/o Marion S Crable (applicant) Selective Site Consultants, c/o Brit Mitchell (agent)
- REQUEST:** Remove the Delano Protective Overlay to allow a wireless communication facility on the Friends University Football Stadium site
- CURRENT ZONING:** U University with the Delano Protective Overlay
- SITE SIZE:** Approximately 2-acres
- LOCATION:** Generally located south of Maple Street, east of Meridian Avenue on the east side of St Claire Avenue (WCC IV)
- PROPOSED USE:** Replace a 75-foot tall football stadium light with 105-foot tall monopole



**BACKGROUND:** The applicant, Verizon Wireless, is seeking to remove the site from the Delano Protective Overlay (DO) to permit the construction of a wireless communication facility with a 105-foot tall, galvanized steel, monopole cell phone tower on the U University (U) zoned Friends University site. The proposed monopole will replace a 76-foot tall football stadium light pole and will be designed to look and function like the existing stadium light pole, including have lights and speakers placed on its lower portion. Wireless communication providers are particularly encouraged to modify or rebuild stadium light poles that are substantially similar in appearance to the removed stadium light pole.

The DO does not permit wireless communication facilities, thus the request to remove the DO at this site; Unified Zoning Code (UZC) Sec.III-C.8.cc.(1). The U zoning district permits undisguised towers up to 65 feet tall or disguised towers that are that are not significantly more visible or intrusive, including cumulative height extensions of up to 25 percent above the original structure height; Wireless Communication Facility Ordinance (Wireless Ordinance) Sec.VI.A. The proposed 105-foot tall monopole exceeds the allowed 25 percent extension. The site is also located within Airport Hazard Zone Area D, which allows a 300-foot maximum height. However, the site's U zoning takes precedence over the Airport Hazard Zone Area D's 300-foot maximum height. The lease site does not meet the UZC's Compatibility Height standards for wireless communication facilities, as there is SF-5 Single-Family Residential zoned properties located west of the site, across St Claire Avenue, which trigger the UZC's Compatibility Height standards Sec.IV-C.5.b.

The applicant has stated that the proposed facility is needed to increase capacity for more devices and larger amounts of data, a scenario exemplified by the proliferation of such devices as smart phones. The facility will also increase the chances that the applicant can maintain reliable services to the area, by helping to off-load existing capacity of the neighboring facilities. The applicant has listed the closest four existing Verizon sites. The applicant has provided current coverage and projected coverage maps showing the impact of the site in providing service to the area.

The applicant has also listed other communication facilities, including towers located closest to the Friends University football stadium site and two towers that are located within the DO that were considered for co-location. Both of these towers were existing prior to the DO being in effect. The applicant's RF Engineer has stated that a 147-foot monopole located northeast of Douglas and Millwood Avenues will not work because of its proximity to Verizon's existing small cells along North West Street. The Douglas and Millwood Avenues' location will degrade the signal quality of these small cells while not significantly improving the overall quality in the target area. It will also leave some areas with no service due to poor signal quality. The self-supporting lattice tower located off of Athenian Avenue and 2<sup>nd</sup> Street is built for two-way radios and will not support cellular loading, and the site does not provide the desired coverage.

The proposed tower and associated communication frequencies and wattages must meet standards determined by the Federal Aviation Administration (FAA) to insure it poses no hazard to air navigation or interferes with other radio/communication frequencies; this must be provided

to staff prior to building permits being issued. Tower lighting must meet the FAA requirements for aircraft warning. The proposed galvanized surface of the tower will blend into the sky more readily than a red or white paint, which meets the intent of the “Design Guidelines” of the “Wireless Communication Master Plan.” The proposed 105-foot tower will be designed for co-location for at least two (2) other providers. Photo simulations of the proposed tower show the antennas mounted flush to the monopole.

As noted the site is located in the DO. The Delano neighborhood is one of the oldest and most well established neighborhoods in the City of Wichita, and is located to the immediate west of the downtown area of Wichita. The neighborhood boundaries include: the Arkansas River on the north and east, Meridian and US 54 Highway on the west and south respectively. Early residents were able to settle in the Delano area as a result of the 1862 Homestead Act which required a payment of only \$50.00 to take up residence on 160 acres of land. From these early settlers, Delano developed as a separate city. Delano was named after Columbus Delano, Secretary of the Interior under President Ulysses S. Grant. In 1872 Delano was annexed into the City of Wichita. The DO was established in 2000.

The 12-foot by 28-foot lease site is located south of Maple Avenue, two blocks east of Meridian Avenue, on the northeast, St. Claire Avenue side of the stadium. Access to the site is provided by St Claire Avenue. The two-acre football stadium complex is located on the west side of the 54.5-acre U zoned Friends University campus (founded 1898), which is the dominant development in the area. An SF-5 zoned active railroad track runs southwest – northeast through the area and abuts the U zoned parking lot located north of the site. SF-5 and U zoned small, one-story single-family residences (built mostly 1930-1950s) are located west and north of the site, across St. Claire Avenue and the railroad tracks. The rest of the U zoned Friends University campus is located south and east of the site.

**CASE HISTORY:** The site is located on parts of Lots 45, 47 and 49, University Place Addition. The University Place Addition was recorded with the Register of Deeds July 24, 1886. The site is located within Friends University, which was established in 1898. The DO was established in 2000.

**ADJACENT ZONING AND LAND USE:**

NORTH:	U, SF-5	Friends University parking lot, railroad right-of-way, single-family residences,
SOUTH:	U	Friends University campus
EAST:	U	Friends University campus
WEST:	U, SF-5, B	Single-family residences, small apartment

**PUBLIC SERVICES:** Public water is located in St Claire Avenue and sewer is located in the easements on the Football Stadium site. All utilities are available to the site. The site has direct access onto St Claire Avenue, a curbed and paved two-lane residential street.

**CONFORMANCE TO PLANS/POLICIES:** The “2035 Wichita Future Growth Concept Map” of the Comprehensive Plan identifies the site as appropriate for “new employment.” The new

employment category encompasses areas likely to be developed or re-developed by 2035 with uses that constitute centers or concentrations of employment primarily in manufacturing, warehousing, distribution, construction, research, technology, business services, or corporate offices. The 54.5-acre Friends University campus is a catalyst for research and technology as offered by its classes.

The “2035 Urban Growth Areas Map” identifies the site as being in the “Established Central Area.” The Established Central Area is comprised of the downtown core and the mature neighborhoods surrounding it in a roughly three mile radius. Friends University was established in 1898 and the Delano neighborhood, which Friends University is located in, was established in 1862, prior to it being annex into the Wichita in 1872, thus making this area one of the oldest in Sedgwick County. Commercial development in the Established Central Area should have site design features that limit traffic, noise, lighting, and adverse impacts on surrounding residential areas provided and the scale of the development is appropriate for its context. The proposed communication facility with its 105-foot tall monopole is designed to resemble and function like the 76-foot tall football stadium light pole it is replacing, including antennas mounted flush to the monopole. Traffic will be minimal and the facility will provide increased capacity for more devices and larger amounts of data for both the area.

The U zoning district is intended to accommodate the development of universities, colleges, seminaries, or other institutions of higher learning. The U zoning is appropriate for the Friends University campus.

The DO is intended to preserve, enhance, and promote the character of the Delano neighborhood as prescribed in the Delano Neighborhood Revitalization Plan. The DO is an Overlay District and as such property development within the DO shall comply with the Delano Neighborhood Design Guidelines, the standards of the DO and the underlying U zoning district. The DO prohibits wireless communication facilities, thus the application to remove the site from the DO to allow the proposed communication facility with its 105-foot tall monopole that is designed to resemble and function like the 76-foot tall football stadium light pole it is replacing. The Wireless Master Plan encourages the modification or the rebuilding of stadium light poles that are substantially similar in appearance to the removed stadium light pole. This proposed monopole at this site appears to be possibly one of the least intrusive proposals for the area.

**RECOMMENDATION:** Based upon information available prior to the public hearing, planning staff recommends that the proposed removal of the described site from the DO be **APPROVED**, subject to the following provisions:

- A. All requirements of Art. III Sec. III.D.6.g. of the Unified Zoning Code shall be met, with the exception that the Compatibility Height standards for wireless communication facilities be waived.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable or the Conditional Use shall be declared null and void.

- C. The support structure shall be a “monopole” design to resemble and function like the 76-foot tall football stadium light pole it is replacing including stadium lights and speakers mounted on its lower portion and antennas mounted flush to the monopole. The support structure shall be silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The support structure shall not exceed 105 feet in height and shall be designed and constructed to accommodate communication equipment for at least two (2) wireless service providers.
- E. The tower shall conform to FAA regulations in regards to analysis of airspace in the area, which includes conformation that the height of the tower is not a hazard to air navigation (including the need or not for lighting) and that the tower does not interfere with other radio/communication frequencies. The applicant shall submit a current copy of FAA approval to the MAPD and the Code Enforcement Office prior to the issuance of a building permit.
- F. The 12-foot by 28-foot lease site shall be located on the Friends University football stadium site and shall be developed in general conformance with the approved site plan. The plan must show the type and size of fencing around the site, parking, all light poles, lights, power poles, cabinets, equipment or buildings within the fenced in site or in the immediate area if it is to be used by the site. All improvements and construction of the facility/tower shall be completed within a year and before the facility becomes operational.
- G. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- H. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the surrounding area:** The 54.5-acre U zoned Friends University campus (founded 1898) is the dominant development in the Delano area, which also includes other large institutional developments such as Lawrence Dumont Stadium, the Exploration Place science museum, the Masonic Home and is the future home of the Wichita Central library. The two-acre football stadium complex is located on the west side of the 54.5-acre U zoned Friends University campus. A SF-5 zoned active railroad track runs southwest – northeast through the area and abuts the U zoned parking lot located north of the site. SF-5 and U zoned small, one-story single-family residences (built mostly 1930-1950s) are located west and north of the site, across St. Claire Avenue and the railroad tracks. The rest of the U zoned Friends University campus is located south and east of the site.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The U zoning for the Friends University campus, including its football stadium, is appropriate. The DO, which Friends University is part of, is appropriate in that it is intended to preserve the Delano neighborhood’s historical integrity.

(3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The request to remove the site from the DO to allow the replacement of a 76-foot tall football stadium light pole with a 105-foot tall monopole that will be designed to look and function like the existing stadium light pole, including have lights and speakers placed on its lower portion, will have minimal effect on the nearby properties. The current proposed removal from the DO is only for this site, any other proposed communication facilities in the DO would require another request to be removed from the DO on a site by site consideration.

(4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2035 Wichita Future Growth Concept Map” of the Comprehensive Plan identifies the site as appropriate for “new employment.” The new employment category encompasses areas likely to be developed or re-developed by 2035 with uses that constitute centers or concentrations of employment primarily in manufacturing, warehousing, distribution, construction, research, technology, business services, or corporate offices. The 54.5-acre Friends University campus is a catalyst for research and technology as offered by its classes.

The “2035 Urban Growth Areas Map” identifies the site as being in the “Established Central Area.” The Established Central Area is comprised of the downtown core and the mature neighborhoods surrounding it in a roughly three mile radius. Friends University was established in 1898 and the Delano neighborhood, which Friends is located in, was established in 1862, prior to it being annex into the Wichita in 1872, thus making this area one of the oldest in Sedgwick County.

Commercial development in the Established Central Area should have site design features that limit traffic, noise, lighting, and adverse impacts on surrounding residential areas provided and the scale of the development is appropriate for its context. The proposed communication facility with its 105-foot tall monopole is designed to resemble and function like the 76-foot tall football stadium light pole it is replacing, including antennas mounted flush to the monopole. Traffic will be minimal and the facility will provide increased capacity for more devices and larger amounts of data for both the area.

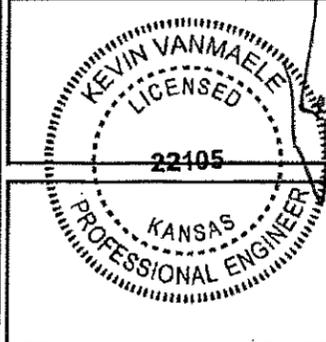
The U zoning district is intended to accommodate the development of universities, colleges, seminaries, or other institutions of higher learning. The U zoning is appropriate for the Friends University campus.

The DO is intended to preserve, enhance, and promote the character of the Delano neighborhood as prescribed in the Delano Neighborhood Revitalization Plan. The DO is an Overlay District and as such property development within the DO shall comply with the Delano Neighborhood Design Guidelines, the standards of the DO and the underlying U zoning district. The DO prohibits wire communication facilities, thus the application to remove the site from the DO to allow the proposed communication facility with its 105-foot tall monopole that is designed to resemble and function like the 76-foot tall football stadium light pole it is replacing. The Wireless Master Plan encourages the

modification or the rebuilding of stadium light poles that are substantially similar in appearance to the removed stadium light pole. This proposed monopole appears to be possibly one of the least intrusive proposals for the area.

- (1) **Impact of the proposed development on community facilities:** The site will generate less traffic onto St Claire Avenue than the adjacent single-family residences or the classes, sporting events or other activities on the Friends University campus. Drainage will not change.

2016-20



PLANS PREPARED FOR:  
**SSC**  
 9900 West 109th Street, Suite 300  
 Overland Park, Kansas 66210  
 Phone: 913-438-7700  
 Fax: 913-438-7777

ENGINEERING LICENSE:  
 STATE OF KANSAS  
 PE CERTIFICATE OF AUTHORIZATION #E-871  
 ENGINEER: PE # DISCIPLINE  
 MLO MICHAEL L. OWENS 16917 STRUCTURAL/CML SC  
 KY KEVIN VANMAELE 22105 STRUCTURAL/CML SC  
 REJ ROBERT E. JENSEN 16098 STRUCTURAL/CML SC  
 TMS TERRANCE M. SUPER 9250 ELECTRICAL EC  
 SEK SHELTON D. KESLING 3694 ELECTRICAL E

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SUBMITTALS	DESCRIPTION	DATE	BY	REV
ISSUED FOR REVIEW		02/11/15	RKT	A
ISSUED FOR LESSOR REVIEW		03/20/15	JMB	B
PER CLIENT COMMENTS		05/25/15	RKT	C
ISSUED FOR CONSTRUCTION		11/02/15	RKT	0
PER CLIENT COMMENTS		02/16/16	RKT	1
PER CLIENT COMMENTS		03/14/16	RKT	2

SITE NAME:  
**WICC METRO MERIDIAN**

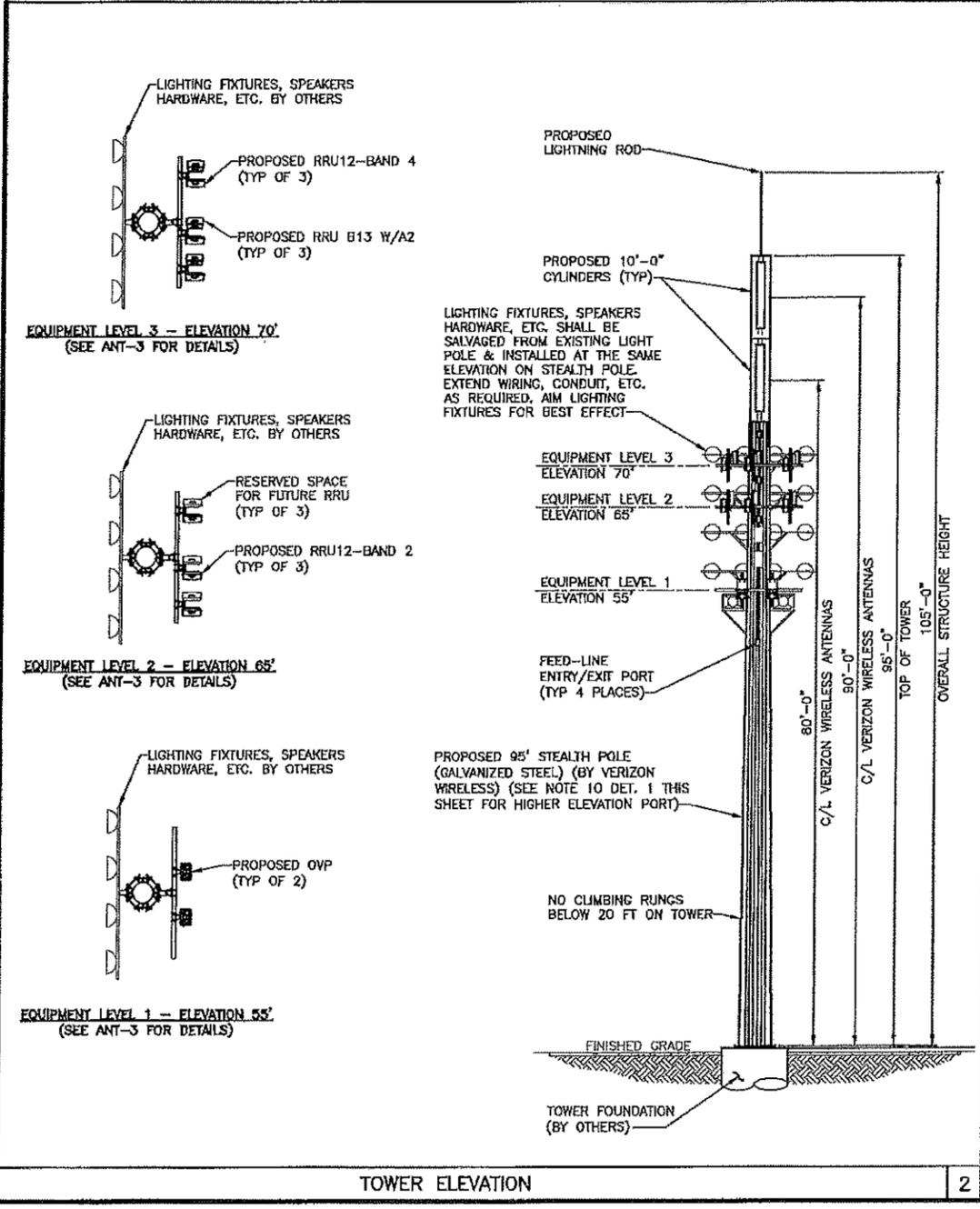
LOCATION NUMBER:  
 290269

SITE ADDRESS:  
 420 SOUTH ST. CLAIRE STREET  
 WICHITA, KANSAS  
 67213

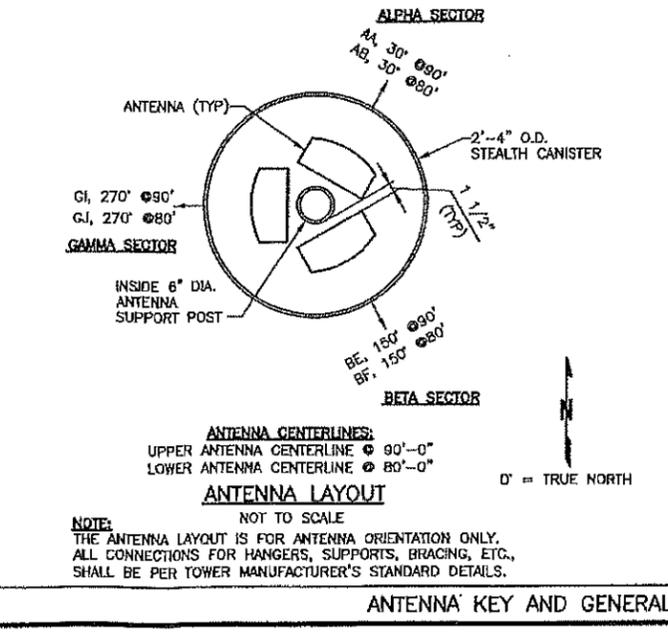
SHEET DESCRIPTION:  
**TOWER ELEVATION & ANTENNA INFORMATION**

SSC #:  
 SHEET NUMBER:  
**ANT-1**

PROPOSED ANTENNA KEY															RRU Make/Model	RRU Count	OVP Make/Model	OVP Count	Hybrid Cable Make/Model	Hybrid Cable Count	Hybrid Cable Size	Hybrid Cable Length	Hybrid Jumper Count	* RF Jumper Count																												
Position	Status	Antenna Centerline (ft ASL)	Antenna Make / Model	Antenna Count	Height (ft)	Width (ft)	Depth (ft)	Weight (lbs)	Altitude/True/Mag. North	Mech. Down tilt	Electrical Down tilt	TMA Make/Model	TMA Count	Diplexer Make/Model	Diplexer Count	Coax Make/Model	Coax Count	Coax Size	Coax Length																																	
Midline Cable & Distribution																																																				
Alpha Sector	A-700/AWS	Proposed	90	Kathrein/80010892V01	1	103	11.8	6	68.3	307/20°	0°	LTE1/AWS 2'										6																														
	B-700/PCS	Proposed	80	Kathrein/80010892V01	1	103	11.8	6	68.3	307/20°	0°	PCS 4'										2																														
	C	Empty																																																		
Beta Sector	E-700/AWS	Proposed	90	Kathrein/80010892V01	1	103	11.8	6	68.3	150/149°	0°	LTE1/AWS 2'										6																														
	F-700/PCS	Proposed	80	Kathrein/80010892V01	1	103	11.8	6	68.3	150/149°	0°	PCS 4'										2																														
	G	Empty																																																		
Gamma Sector	I-700/AWS	Proposed	90	Kathrein/80010892V01	1	103	11.8	6	68.3	210/189°	0°	LTE1/AWS 2'										6																														
	J-700/PCS	Proposed	80	Kathrein/80010892V01	1	103	11.8	6	68.3	210/189°	0°	PCS 2'										2																														
	K	Empty																																																		
				Antenna Total	8					TMA Total	0					Diplexer Total	0					Coax Total	0					RRU Total	9					OVP Total	2					Hybrid Cable Total	2					Jumper Total	9					24



- ANTENNAS SHALL BE DESIGNATED FROM RIGHT TO LEFT, FACING THE ASSEMBLY FROM THE GROUND. LEFT TO RIGHT FACING THE BACK OF THE ANTENNA.
- THE OUTER MOST ANTENNAS ON EACH FACE SHALL BE DESIGNATED AS THE RECEIVE ANTENNAS. THE INNER ANTENNAS SHALL BE DESIGNATED AS THE TRANSMIT ANTENNAS.
- EACH TRANSMISSION LINE SHALL BE LABELED WITH BRASS "TOE TAGS", GRANGER PART NUMBER 1F035-8, STAMPED WITH 1/4" LETTERS/NUMBERS STAMPS, GRANGER PART NUMBER 3W039. THE LABELS SHALL BE ATTACHED WITH A SEMIPERMANENT METHOD (I.E. BLACK UV RESISTANT CABLE TIES). THE TAGS SHALL BE PLACED SO AS NOT TO COME IN CONTACT WITH THE CONNECTOR ON THE LINE AND THE METAL OF THE TOWER. LINES SHALL BE LABELED AT THE TOP, BOTTOM AT ENTRY POINT.
- EACH LINE SHALL ALSO BE LABELED AT THE LIGHTNING/SURGE PROTECTOR MOUNTING PLATE WITH A PRINTABLE LABEL MAKER TO INDICATE LINE NUMBER AND FUNCTION, THE SAME AS THE TOE TAG.
- THE TAG LABELING SHALL BE AS DESIGNATED IN THE ANTENNA KEY. FOR LUCENT USE A-ALPHA, B-BETA, G-GAMMA, FOR MOTOROLA REPLACE A WITH X, B WITH Y AND G WITH Z.
- IN TWO-ANTENNA CONFIGURATION WHERE ONE ANTENNA WILL BE DUPLEXED, THE DUPLEXED ANTENNA SHALL BE LABELED AS RECEIVE.
- CONTRACTOR SHALL FIELD VERIFY THE EXACT TMA'S (IF THEY ARE REQUIRED) PER THE OPERATIONS MANAGER.
- CABLE FEEDER LENGTHS INDICATED ABOVE ARE APPROXIMATE. CONTRACTOR TO VERIFY ACTUAL LENGTH BEFORE ORDERING.
- CONTRACTOR SHALL INSTALL PLATFORM OR MOUNTING BRACKETS AND HARDWARE FOR ALL ANTENNAS AND SHALL BE PER THE TOWER MANUFACTURERS STANDARD DETAILS OR APPROVED EQUAL.
- CONTRACTOR TO FURNISH AND INSTALL AN EXIT PORT (IF ONE IS NOT EXISTING) IN ACCORDANCE WITH THE TOWER MANUFACTURER'S SPECIFICATIONS AND UPON THE TOWER OWNER'S APPROVAL. (TYP. AT PLATFORM AND AT BOTTOM).
- ALL ANTENNAS AND CABLES TO BE TAGGED WITH CARRIER ID.



EQUIPMENT FURNISHED AND/OR INSTALLED BY:		
DESCRIPTION	FURNISHED	INSTALLED
ANCHOR BOLTS FOR TOWER	TOWER VENDOR	CONTRACTOR
ANCHOR BOLTS FOR PLATFORM	CONTRACTOR	CONTRACTOR
ANTENNA MOUNTS	TOWER VENDOR	CONTRACTOR
ANTENNAS	VERIZON WIRELESS	CONTRACTOR
COAX/CABLE SUPPORT	CONTRACTOR	CONTRACTOR
COAX/CABLE	VERIZON WIRELESS	CONTRACTOR
CONNECTORS	CONTRACTOR	CONTRACTOR
ENTRY PORT BOOTS	CONTRACTOR	CONTRACTOR
GPS ANTENNA	VERIZON WIRELESS	CONTRACTOR
GROUND KITS	CONTRACTOR	CONTRACTOR
HANGER KITS	CONTRACTOR	CONTRACTOR
ICE BRIDGE MATERIAL	CONTRACTOR	CONTRACTOR
RF JUMPERS (TOP)	CONTRACTOR	CONTRACTOR
EQUIPMENT PLATFORM/CANOPY	VERIZON WIRELESS	CONTRACTOR
TOWER	VERIZON WIRELESS	CONTRACTOR
TOWER BUS BARS	TOWER VENDOR	CONTRACTOR
OVPs	VERIZON WIRELESS	CONTRACTOR
RRUS	VERIZON WIRELESS	CONTRACTOR

LOCATIONS OF ANTENNAS AS SHOWN HAVE BEEN APPROVED BY CLIENT AND/OR CLIENT'S RADIO FREQUENCY ENGINEERS. SSC ASSUMES NO RESPONSIBILITY FOR, NOR HAS SSC PERFORMED ANY INVESTIGATIONS OR STUDIES CONCERNING, THE COMPLIANCE OR NONCOMPLIANCE OF SAID ANTENNA LOCATIONS WITH ANY FCC RADIO FREQUENCY EXPOSURE REGULATIONS.

CONTRACTOR SHALL OBTAIN A COPY OF VERIZON WIRELESS ENGINEERING SITE DATA FORM FOR ANTENNA INFORMATION.

ALL STRUCTURE INFORMATION SHOWN IS FOR ILLUSTRATION PURPOSES ONLY, AND MAY DIFFER FROM THE FINAL DESIGN PROVIDED BY THE STRUCTURE MANUFACTURER. THE CONTRACTOR SHALL CONSTRUCT THE STRUCTURE, FOUNDATION, AND ALL OTHER RELATED COMPONENTS IN ACCORDANCE WITH THE STRUCTURE MANUFACTURER'S DRAWINGS AND SPECIFICATIONS.

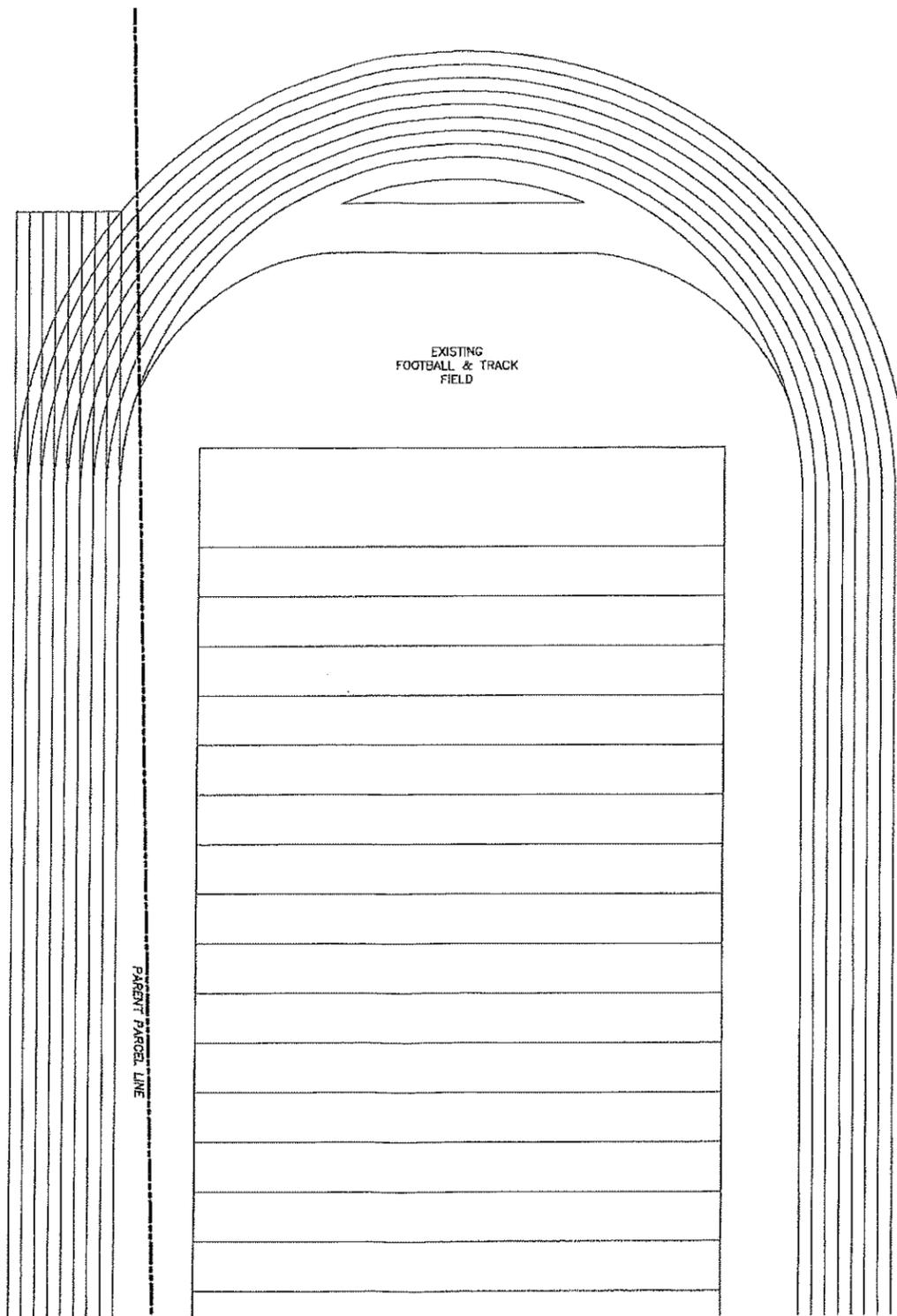
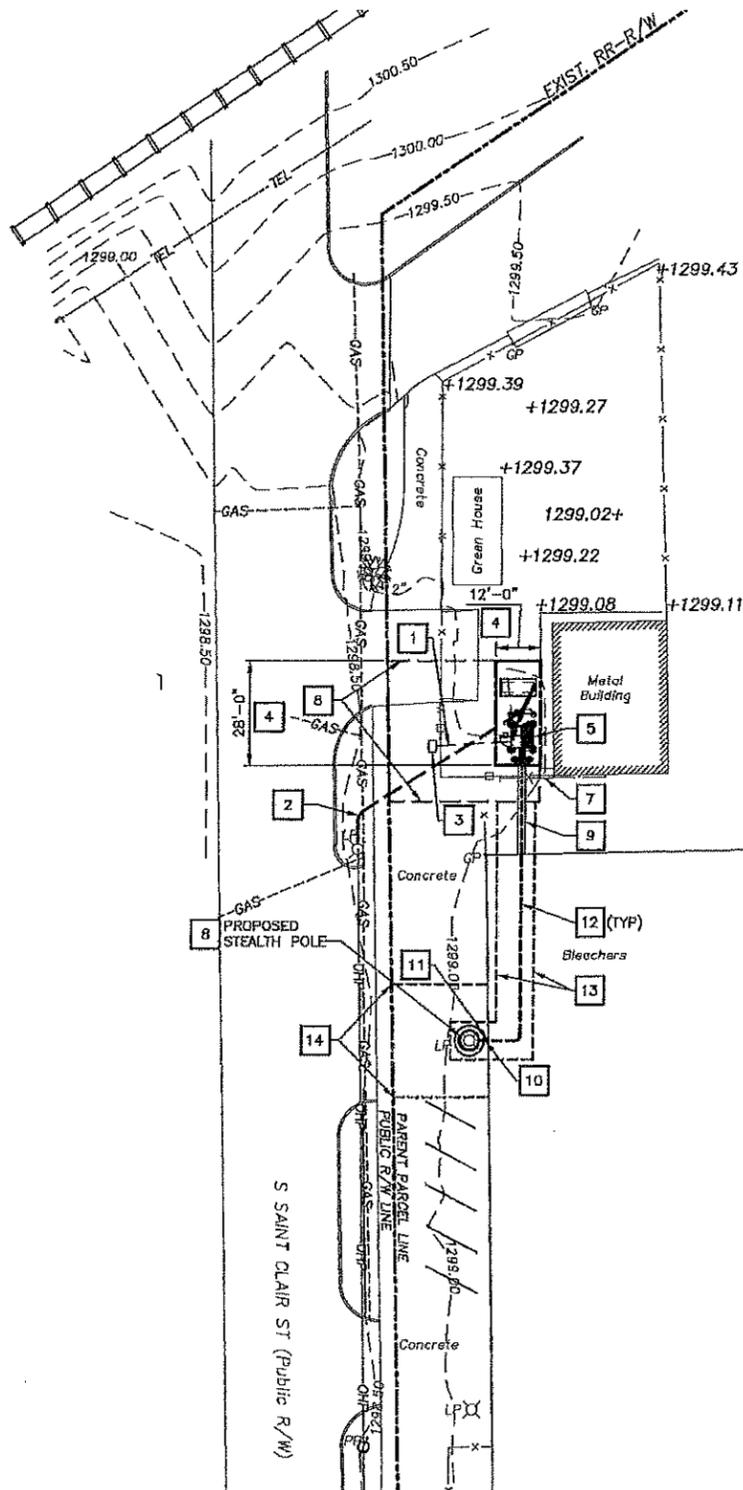
TOWER ELEVATION

ANTENNA KEY AND GENERAL NOTES

Zon 2016-20

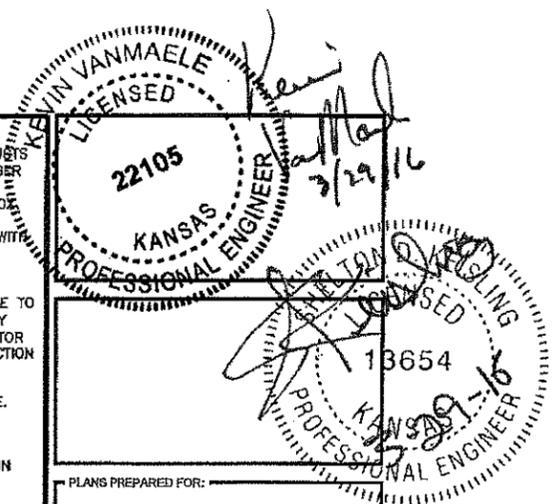
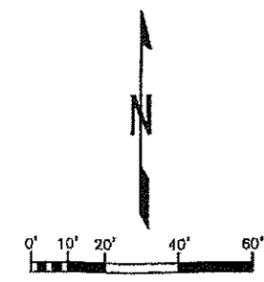


THE UTILITIES AS SHOWN ON THIS SET OF DRAWINGS WERE DEVELOPED FROM THE INFORMATION AVAILABLE. THE INFORMATION PROVIDED IS NOT IMPLIED NOR INTENDED TO BE THE COMPLETE INVENTORY OF UTILITIES IN THIS AREA. IT IS THE CONTRACTOR'S RESPONSIBILITY TO VERIFY THE LOCATION OF ALL UTILITIES (WHETHER SHOWN OR NOT) AND PROTECT SAID UTILITIES FROM ANY DAMAGE CAUSED BY CONTRACTOR'S ACTIVITIES.



OVERALL SITE PLAN

- NOTES:**
- 1 PROPOSED 4" CONDUIT W/ (3) 1" INNERDUSTS W/PULL ROPE IN EACH INNERDUCT FOR FIBER FROM PROPOSED TRAFFIC RATED FIBER HANDHOLE TO EQUIPMENT PLATFORM (APPROX LENGTH = 25') (CONTRACTOR SHALL FIELD VERIFY & COORDINATE CONNECTION POINT WITH LOCAL UTILITY)
  - 2 PROPOSED 3" CONDUIT FOR UNDERGROUND POWER FROM TRANSFORMER AT UTILITY POLE TO PROPOSED EQUIPMENT PLATFORM W/ UTILITY METER. (APPROX LENGTH = 50') (CONTRACTOR SHALL FIELD VERIFY & COORDINATE CONNECTION POINT WITH LOCAL UTILITY)
  - 3 PROPOSED TRAFFIC RATED FIBER HANDHOLE.
  - 4 PROPOSED 12' x 28' LEASE SPACE
  - 5 PROPOSED VERIZON WIRELESS EQUIPMENT ON PLATFORM
  - 6 PROPOSED NON-EXCLUSIVE ACCESS & UTILITY RIGHT-OF-WAY. (IRREGULAR SHAPE)
  - 7 EXISTING GATE
  - 8 REPLACE EXISTING FIELD LIGHT POLE WITH PROPOSED STEALTH POLE AT SAME LOCATION. EXISTING LIGHTS & SPEAKERS TO BE RELOCATED TO NEW POLE AT SAME ELEVATIONS.
  - 9 PROPOSED CABLE TRAY OVERHEAD TO BLEACHERS ENCLOSURE A MINIMUM OF 12' ABOVE GRADE AT ENTRANCE DRIVE
  - 10 PROPOSED CABLE ROUTE THROUGH BLEACHERS ENCLOSURE TO PROPOSED STEALTH POLE
  - 11 PROPOSED SABRE ENTRY PANEL PART # C20-131-004 OR APPROVED EQUAL. (ORDER 4" BOOT ASSEMBLIES PER CABLE SIZE) (SEE 1/C-5)
  - 12 PROPOSED SITE PRO 1 COAX CABLE SUPPORT BRACKET, BOLT TO BUILDING BEAM, (ORDER SNAP-IN HANGERS PER CABLE SIZE) (SEE 2/C-5)
  - 13 PROPOSED 10' WIDE NON-EXCLUSIVE CABLE RIGHT-OF-WAY
  - 14 PROPOSED 30' WIDE NON-EXCLUSIVE ACCESS RIGHT-OF-WAY (APPROX LENGTH = 26')



PLANS PREPARED FOR:  
**verizon**

PLANS PREPARED BY:  
**SSC**  
9900 West 109th Street, Suite 300  
Overland Park, Kansas 66210  
Phone: 913-438-7700  
Fax: 913-438-7777

ENGINEERING LICENSE:  
STATE OF KANSAS  
PE CERTIFICATE OF AUTHORIZATION #E-671  
ENGINEER: PE # DISCIPLINE:  
MLO MICHAEL L. OWENS 18917 STRUCTURAL/CIVIL SC  
KV KEVIN VANMAELE 22105 STRUCTURAL/CIVIL SC  
REJ ROBERT E. JENSEN 16096 STRUCTURAL/CIVIL SC  
TMS TERRANCE M. SUPER 8230 ELECTRICAL E  
SKK SHELTON O. KESUNGHUBER ELECTRICAL E

DRAWING NOTICE:  
THIS DRAWING HAS NOT BEEN PUBLISHED AND IS THE SOLE PROPERTY OF SSC, INC. AND IS LOANED TO THE BORROWER FOR THEIR CONFIDENTIAL USE ONLY, AND IN CONSIDERATION OF THE LOAN OF THIS DRAWING, THE BORROWER PROMISES AND AGREES TO RETURN IT UPON REQUEST AND AGREES THAT IT WILL NOT BE REPRODUCED, COPIED, SENT OR OTHERWISE DISPOSED OF DIRECTLY OR INDIRECTLY, NOR USED FOR ANY PURPOSE OTHER THAN FOR WHICH IT IS FURNISHED.

SUBMITTALS

DESCRIPTION	DATE	BY	REV
ISSUED FOR REVIEW	02/11/15	RJT	A
ISSUED FOR LESSOR REVIEW	03/20/15	JMB	B
PER CLIENT COMMENTS	06/25/15	RJT	C
ISSUED FOR CONSTRUCTION	11/02/15	RJT	D
PER CLIENT COMMENTS	02/16/16	RJT	1
PER CLIENT COMMENTS	03/14/16	RJT	2

SITE NAME:  
**WICC METRO MERIDIAN**

LOCATION NUMBER:  
290269

SITE ADDRESS:  
420 SOUTH ST. CLAIRE STREET  
WICHITA, KANSAS  
67213

SHEET DESCRIPTION:  
**OVERALL SITE PLAN**

SSC #: \_\_\_\_\_ SHEET NUMBER:  
**C-1**

Zon 2016-20

  
WICC Metro Meridian  
Wichita, Kansas  
  
8801 W. 109th St, Suite 200  
Overland Park, Kansas 66210  
616 456 7700



View looking Northeast

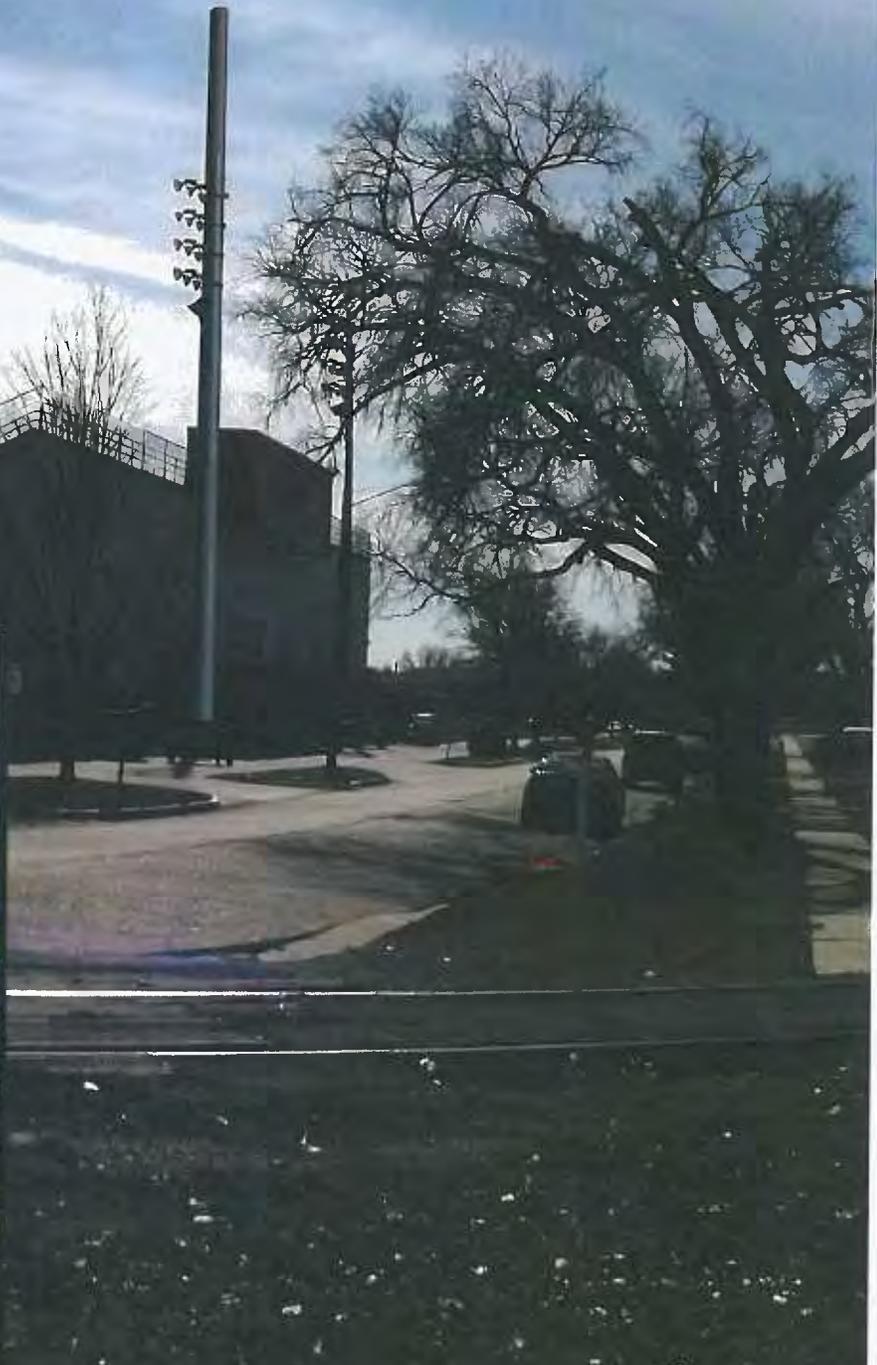
Existing view

  
WICC Metro Meridian  
Wichita, Kansas  
  
0000 W. 109th St. Suite 300  
Overland Park, Kansas 66210  
913 438 7700

20N2016-20



Existing view



View looking South



**BACKGROUND:** The subject property is two parcels located at the southeast and southwest corners of 21<sup>st</sup> Street North and Piatt. The east parcel is 1.9 acres zoned LC Limited Commercial, B Multi-Family Residential, and SF-5 Single-Family Residential and is developed with Etezazi Industries, a global manufacturer of machine parts and assemblies for aerospace, alternative energy, transportation and defense industry. Per the Unified Zoning Code (UZC), the uses of the east parcel are defined as Manufacturing, General (Sec. II-B.8.e.) and Welding or Machine Shop (Sec. II-B.14.n.). The uses of the east parcel are first permitted by the UZC in GC General Commercial zoning. The west parcel is 1.37 acres zoned LC, B, and SF-5 and is developed with The Market and MetroPCS. Per the UZC, the uses of the west parcel are defined as Convenience Store (Sec II-B.3.p.) and Retail, General (Sec. II-B.11.l). The uses of the west parcel are first permitted by the UZC in LC zoning; however, the applicant proposes to use the undeveloped portion of the west parcel for Warehousing (Sec. II-B.14.m.), which is not permitted in LC zoning but is permitted by the requested GC zoning.

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

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

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

The subject property is located along the 21<sup>st</sup> Street North corridor east of Interstate 135, which has been the focus of major revitalization efforts to improve the aesthetics of the community as well as provide increased employment and educational opportunities to neighborhood residents. Manufacturing and machine shops are an established use along this corridor, in particular at the 21<sup>st</sup> Street North and Piatt intersection. Two existing manufacturing and machine shops are located at the northeast corner of 21<sup>st</sup> Street North and Piatt on property

zoned GC, and the subject property has a non-conforming manufacturing and machine shop in LC zoning. The corridor also has major educational institutions located along Opportunity Drive northeast of the subject property within the 21<sup>st</sup> Street Kids and Family Empowerment Planned Unit Development. Additional commercial uses along the corridor include several retail and office uses both east and west of the subject property on properties zoned LC and GO General Office. The remainder of the corridor is developed with residential uses, the most predominate of which are senior apartments east of the subject property on property zoned GO and single-family residences located both north and south of the subject property on properties zoned TF-3 Two-Family Residential, SF-5, and B.

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

**ADJACENT ZONING AND LAND USE:**

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

**PUBLIC SERVICES:** 21<sup>st</sup> Street North is a four-lane arterial street with a continuous center left-turn lane at this location. All public services are available to the subject property.

**CONFORMANCE TO PLANS/POLICIES:** The adopted 2035 Wichita Future Growth Concept Map of the Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the subject property as “commercial.” The “commercial” category encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. The Locational Guidelines of the Comprehensive Plan recommend that the expansion of existing uses to adjacent areas be supported. The Locational Guidelines also recommend that non-residential uses should provide appropriate screening and buffering from residential uses and should have site design features that limit traffic, noise, lighting, and adverse impacts on surrounding residential land uses. The *21<sup>st</sup> Street North Corridor Revitalization Plan* has a goal to increase the long-term economic renewal, vitality, and sustainability of the corridor.

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

1. Permitted uses shall be those uses permitted by right in GC General Commercial, except for auditorium or stadium, correctional placement residence, recycling collection station, recycling processing center, reverse vending machine, animal care, car wash, entertainment establishment, event center, kennel, marine facility, microbrewery, monument sales, nightclub, pawnshop, recreation and entertainment, recreational vehicle campground, riding academy or stable, secondhand store, sexually oriented business, tattooing and body piercing, tavern and drinking establishment, teen club, vehicle and equipment sales, self-storage warehouse, asphalt or concrete plant, outdoor storage, vehicle storage, and agricultural sales and service.

2. The entire frontage of the ground floor of the manufacturing and machine shop building along 21<sup>st</sup> Street North shall be used for office space, display, or wholesale or retail sales.
3. All buildings located within GC zoning shall share a uniform architectural character, color, and predominate exterior building material as approved by the Planning Director.
4. Development shall be in accordance a site plan approved by the Planning Director.
5. Building height is limited to 35 feet.
6. Building setbacks where GC zoning abuts residential zoning shall be 25 feet.
7. The existing hedge row shall be preserved along the south property line and may count towards the landscaping required to meet the landscape buffer requirements of the Landscape Ordinance. If the existing hedge row is damaged or dies, a landscape buffer equal to 1.5 times the Landscape Ordinance requirement shall be provided along the south property line.
8. A six (6) to eight (8) foot high concrete/masonry wall shall be constructed adjacent to the south and east property lines of the east parcel and adjacent to the south and west property lines of the portion of the west parcel zoned GC. The masonry wall shall not be constructed within a utility easement without the permission of the City Engineer.
9. Loading docks, trash receptacles, mechanical equipment, and outdoor work areas shall be screened from ground-level view from street right-of-way and adjacent properties.
10. Parking and loading shall be in accordance with Section IV-A of the Unified Zoning Code.
11. Signs shall per the Sign Code provisions for the LC district, except that no signage is permitted along the Piatt frontage or facing south.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The subject property is located along the 21<sup>st</sup> Street North corridor east of Interstate 135, which has been the focus of major revitalization efforts to improve the aesthetics of the community as well as provide increased employment and educational opportunities to neighborhood residents. Manufacturing and machine shops are an established use along this corridor, in particular at the 21<sup>st</sup> Street North and Piatt intersection. Two existing manufacturing and machine shops are located at the northeast corner of 21<sup>st</sup> Street North and Piatt on property zoned GC, and the subject property has a non-conforming manufacturing and machine shop in LC zoning. The corridor also has major educational institutions located along Opportunity Drive northeast of the subject property within the 21<sup>st</sup> Street Kids and Family Empowerment Planned Unit Development. Additional commercial uses along the corridor include several retail and office uses both east and west of the subject property on properties zoned LC and GO General Office. The remainder of the corridor is developed with residential uses, the most predominate of which are senior apartments east of the subject property on property zoned GO and single-family residences located both north and south of the subject property on properties zoned TF-3 Two-Family Residential, SF-5, and B.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned LC, which does not permit the existing manufacturing and machine shop uses. If the zoning is not approved, the existing business on the site will need to relocate.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The use restrictions and development standards of the recommended Protective Overlay should mitigate detrimental impacts on nearby properties.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The adopted 2035 Wichita Future Growth Concept Map of the Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the subject property as “commercial.” The “commercial” category encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. The Locational

Guidelines of the Comprehensive Plan recommend that the expansion of existing uses to adjacent areas be supported. The Locational Guidelines also recommend that non-residential uses should provide appropriate screening and buffering from residential uses and should have site design features that limit traffic, noise, lighting, and adverse impacts on surrounding residential land uses. The *21<sup>st</sup> Street North Corridor Revitalization Plan* has a goal to increase the long-term economic renewal, vitality, and sustainability of the corridor.

- (5) **Impact of the proposed development on community facilities:** All public services are available to the subject property.





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

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

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

**ADJACENT ZONING AND LAND USE:**

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

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

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

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

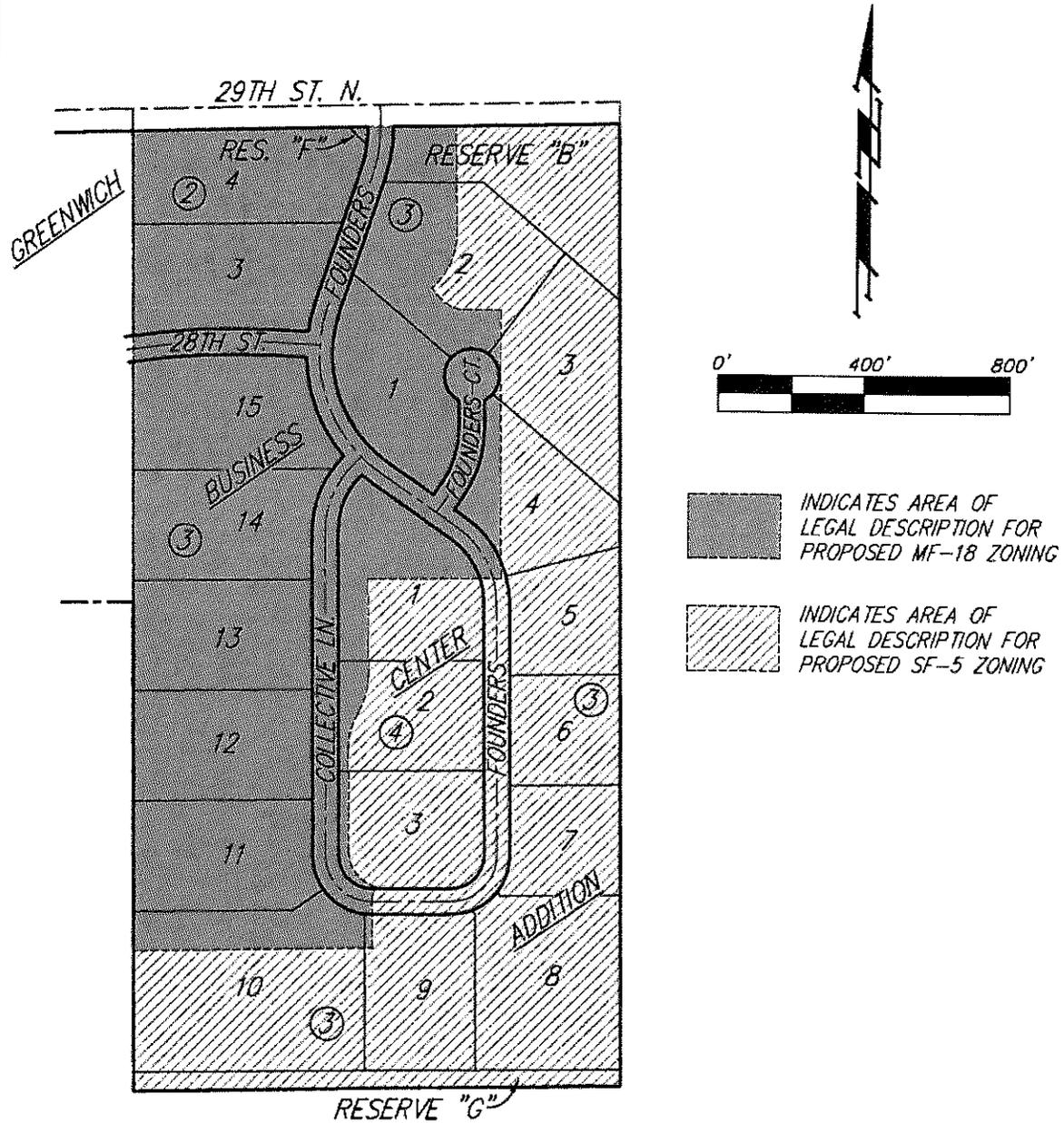
This recommendation is based on the following findings:

- (1) The zoning, uses and character of the neighborhood:** The site is located in a mixed use development area with apartments and destination retail in MF-18, LC, and LI zoning and SF-5 zoned single-family residential neighborhoods. Single-family residences are located to the east and south of the proposed Firefly Way Addition. The proposed MF-18 zoning abuts existing MF-18, LC and LI zoning to the west.
- (2) The suitability of the subject property for the uses to which it has been restricted:** SF-5 and MF-18 zoning would allow single-family residences, duplexes and multi-family units to be built, which is an appropriate use for urban residential development. The proposed development is separate and distinct from adjacent single-family neighborhoods and the proposed MF-18 zoning is buffered from existing single-family residences by proposed SF-5 zoning on the subject property.

- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The requested SF-5 zoning allows single-family residences by right and MF-18 zoning allows single-family, duplexes and multi-family by right. This zoning is a good buffer between the LC and LI zoning to the west of the subject property and the SF-5 zoning to the east and south of the subject property.
- (4) **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Approval of the request would limit development by right to single-family residential, duplex, multi-family and some (but not limited to) institutional uses such as a parks, schools and churches. The proposed rezoning further restricts uses on the property, as it is currently zoned LI.
- (5) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The adopted Wichita-Sedgwick County Comprehensive Plan, *the Community Investments Plan*, identifies the site as New Residential Growth. The Plan encourages the full diversity of residential housing types and densities typically found in a large urban municipality. The range of housing densities and types includes, but is not limited to single-family, duplexes, patio homes, townhouses, apartments and residential accommodations for the elderly. Elementary and idle schools, churches, playgrounds, small parks and other similar residential-serving uses are located in these areas. As such, the SF-5 and Mf-19 zoning of the Fire Fly Way Addition conforms to the future growth concept prescribed by the Community Investment Plan.
- (6) **Impact of the proposed development on community facilities:** All services are in place and any increased demand on community facilities will be addressed through the platting process, including the pavement of 29<sup>th</sup> Street North and the extension of water and sanitary sewer services.

# EXHIBIT

## PROPOSED MF-18 & SF-5 ZONING IN PART OF GREENWICH BUSINESS CENTER ADDITION, AN ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS



12 JULY 2016

**B** Baughman Company, P.A.  
313 E. 2nd St., Wichita, KS 67211 P 316.267.7271 F 316.267.6149  
Baughman ENGINEERING | SURVEYING | PLANNING | LANDSCAPE ARCHITECTURE

7. Case No.: **ZON2016-00035 and CON2016-00040 (THIS CASE TO BE DEFERRED)**  
Request: City zone change from SF-5 Single-family Residential to LC Limited Commercial and City Conditional Use to permit a Nightclub/Event Center on SF-5 Single-Family Residential zoned property.  
General Location: East of North Seneca Street and north of North I-235.  
Presenting Planner: Bill Longnecker



**STAFF REPORT**  
MAPC August 18, 2016  
DAB IV September 12, 2016

**CASE NUMBER:** ZON2016-00036 and CUP2016-00027

**APPLICANT/AGENT:** Entertainment Enterprises, Inc. (Richard Leslie) / Baughman Company (Russ Ewy)

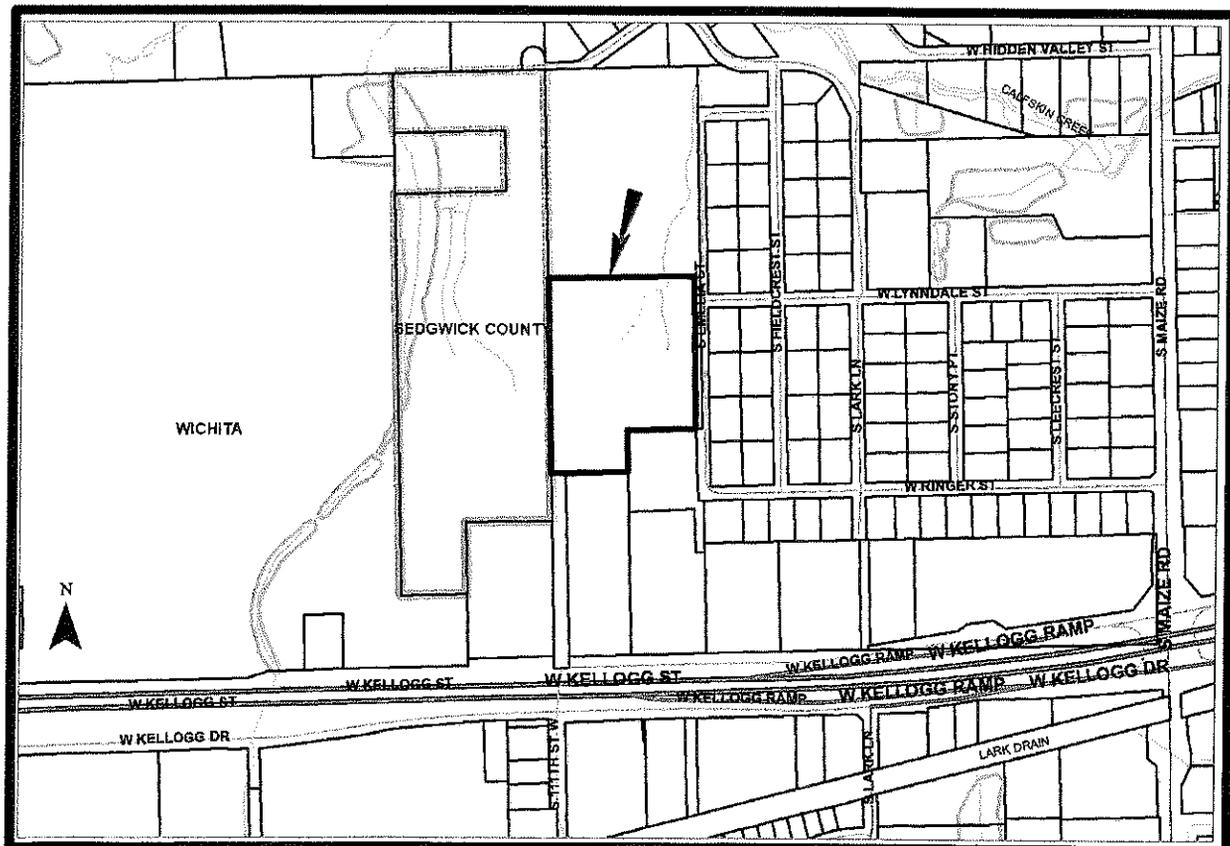
**REQUEST:** Zone Change from SF-5 Single-Family Residential to GC General Commercial with the establishment of the Cotillion Ballroom Commercial CUP (DP-341)

**CURRENT ZONING:** SF-5 Single-Family Residential and GC General Commercial

**SITE SIZE:** Approximately 10.7 acres

**LOCATION:** North of Kellogg Avenue and West of Maize Road (11120 W. Kellogg)

**PROPOSED USE:** Night Club in the City



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

The proposed CUP also requires:

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

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

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

**ADJACENT ZONING AND LAND USE:**

North: SF-5	Undeveloped
South: LI	Vehicle sales and service

East: SF-5            Single-family residences  
West: LI, SF-20      Landscaping and nursery business

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

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

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

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

This recommendation is based on the following findings:

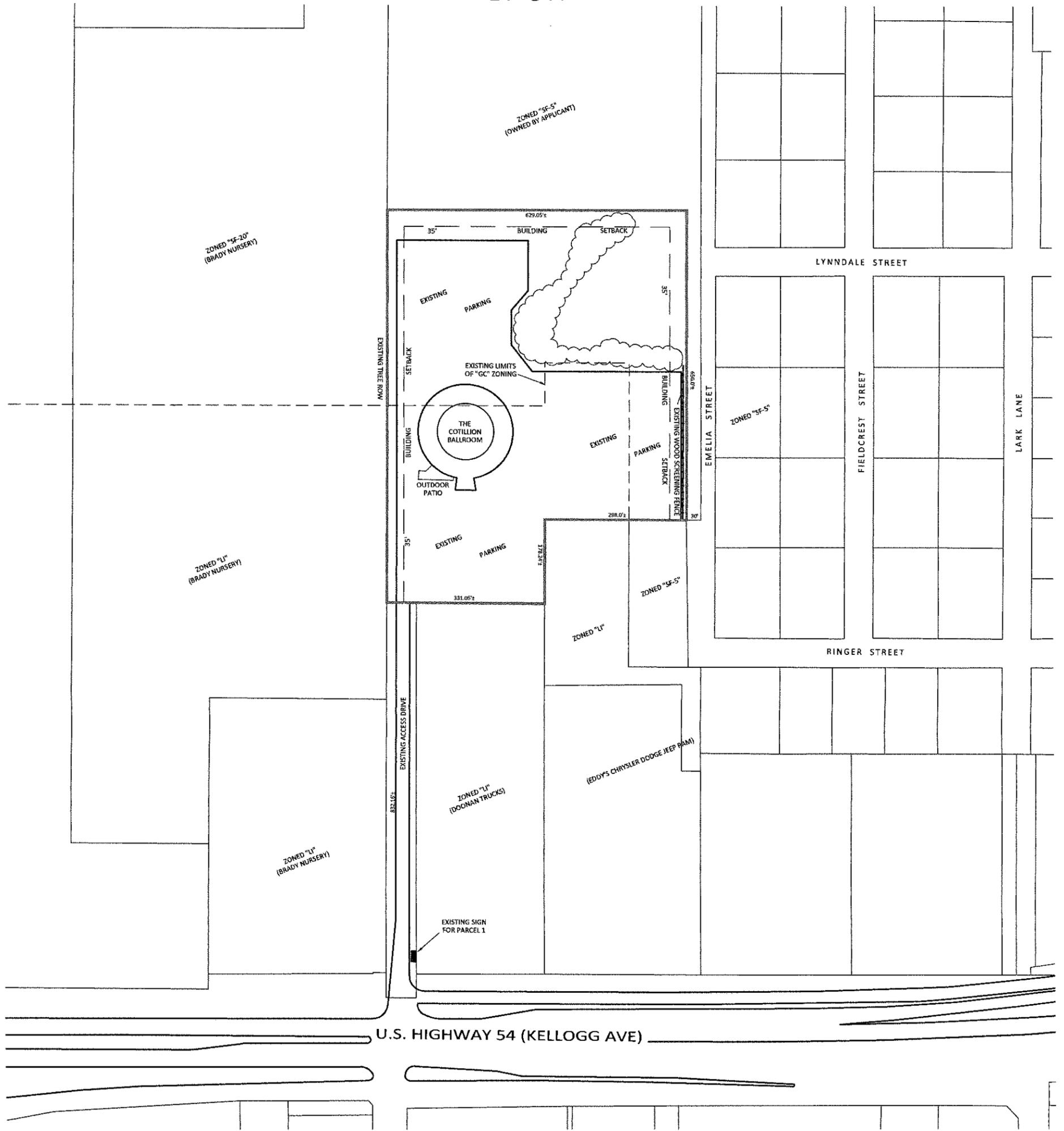
1. The zoning, uses and character of the neighborhood: Land located to the north of the subject property is undeveloped and zoned SF-5 and is under the same ownership as the requested zone change and proposed CUP. Land located to the east is zoned SF-5 and developed with single-family residences. South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

property: The development standards associated with the CUP and the zoning code will minimize detrimental impacts of the proposed development. Code requirements include solid screening, landscape buffers, maximum building heights below base zoning standards and maximum gross floor area limitations.

4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request will not significantly impact the neighborhood. Denial would result in a legal, non-conforming use of the property.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2035 Wichita Future Growth Concept Map” in the “Community Investments Plan” identifies the subject property as “Commercial.” Properties with the “Commercial” designation encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. The “Locational Guidelines” of the “Community Investments Plan” support the expansion of existing uses and encourage major destination areas that generate high volumes of traffic to be located in close proximity to major arterials or highways.
6. Impact of the proposed development on community facilities: The development standards contained in the CUP will ensure that required community facilities are in place or are installed.

# THE COTILLION BALLROOM COMMERCIAL COMMUNITY UNIT PLAN

## DP-341



### GENERAL PROVISIONS:

- Total Land Area: 467,888.85 ± sq.ft. or 10.74 ± acres  
Net Land Area: 467,888.85 ± sq.ft. or 10.74 ± acres  
Total Gross Floor Area: 30,500 sq.ft. or 6.5 percent
- Parking shall be provided in accordance with Section IV of the Unified Zoning Code, unless otherwise specified in the parcel description.
- Setbacks are as indicated on the C.U.P. drawing, or as specified in the parcel descriptions.
- Signs will be as allowed by the Sign Code of the appropriate jurisdiction, with the following additional conditions/limitations:
  - The existing sign for Parcel 1 is located near the north line of Kellogg, as indicated on the plan, and shall be permitted to remain in its existing configuration.
  - Portable, billboards, LED, and off-site signs are not permitted within Parcel 1.
- Light poles, including fixtures, lamps and base, are limited to 24 feet, except within 100 feet of residential zoning said lighting shall be a maximum height of 15 feet. The existing lighting for Parcel 1 shall be permitted to remain.
- Landscaping shall be per the requirements of the City of Wichita, with the following modifications:
  - Compliance with the landscape ordinance shall be deferred until the existing use is expanded beyond its current configuration.
  - Existing landscaping/vegetation may count towards meeting this requirement.
  - The property surrounding the C.U.P. to the north and east is owned by the applicant, and is intended to provide a buffer between the uses allowed by the C.U.P. and neighboring properties. The waiver of standard screening and landscaping requirements are contingent upon this parcel remaining as its existing use. Other use of Parcel 1 shall conform with the U.Z.C. requirements.
  - A landscape plan shall be prepared by a Kansas Landscape Architect for the above referenced landscaping, indicating the type, location, and specifications of all plant material. This plan shall be submitted to the Planning Department for their review and approval prior to issuance of a building permit for any significant future expansion.

- Screening walls around the perimeter of the C.U.P. where adjacent to residential zoning shall not be required. The existing wood screening fence along Emelia Street, where indicated on the plan, shall be maintained. Any future expansion of the parking lot within the northern, or northeastern portions of Parcel 1 shall trigger the requirement of a 6 to 8 foot wood screening fence along those property lines.
- In the event the use of Parcel 1 changes from its current use, all rooftop mechanical equipment shall be screened from ground level view with similar materials to the main building per Unified Zoning Code.
- Any relocation of the existing trash receptacles, loading docks, outdoor storage, and loading areas shall be appropriately screened, with similar materials to the main building, to reasonably hide them from ground view.
- Fire lanes shall be in accordance with the appropriate Fire Code. No parking shall be allowed in said fire lanes, although they may be used for passenger loading and unloading. The Fire Chief or his designated representative shall review and approve the location and design of all fire lanes.
- No parcel within this C.U.P. shall allow the use of adult entertainment establishments, sexually oriented business, or correctional placement residences. Restaurants that serve liquor can be developed and may serve liquor, as long as food is the primary service of the establishment.
- Amendments, adjustments or interpretations to this C.U.P. shall be done in accordance with the Unified Zoning Code.
- The Transfer of title of all or any portion of land included within the Community Unit Plan (or any amendments thereto) does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land and be binding upon present owners, their successors and assigns.
- The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
- Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.

### PARCEL 1

- |  |   |
|--|---|
| A. Net Area:   | 467,888.85 ± sq.ft. or 10.74 ± acres  |
| B. Maximum Building Coverage:  | 30,500 sq.ft. or 6.5 percent  |
| C. Maximum Gross Floor Area:   | 30,500 sq.ft.   |
| D. Floor Area Ratio:   | 6.5 percent   |
| E. Maximum Number of Buildings:  | One (1)   |
| F. Maximum building height to conform to Chapter 28.08 Code of the City of Wichita, but shall be not greater than 45 feet. |   |
| G. Setbacks:   | See Drawing   |
| H. Access Points:  | See Drawing   |
| I. Permitted Uses:   | All permitted uses in the "GC" General Commercial zoning district of the Wichita-Sedgewick County Unified Zoning Code, except for those listed under G.F. #12. Night club in the city; and tavern and drinking establishment are permitted. |

### REVISIONS

Submitted CUP2016-PP: July 11, 2016  
Revised per staff comments:  
Approved by MAPC:  
Approved by City Council:

### LEGAL DESCRIPTION:

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

## DP-341

THE COTILLION BALLROOM COMMERCIAL COMMUNITY UNIT PLAN



SCALE: 1" = 100'

Baughman Company, P.A.  
315 Ellis St. Wichita, KS 67211 P 316-262-1271 F 316-262-0149  
ENGINEERING, PLANNING, DESIGN, CONSTRUCTION SERVICES

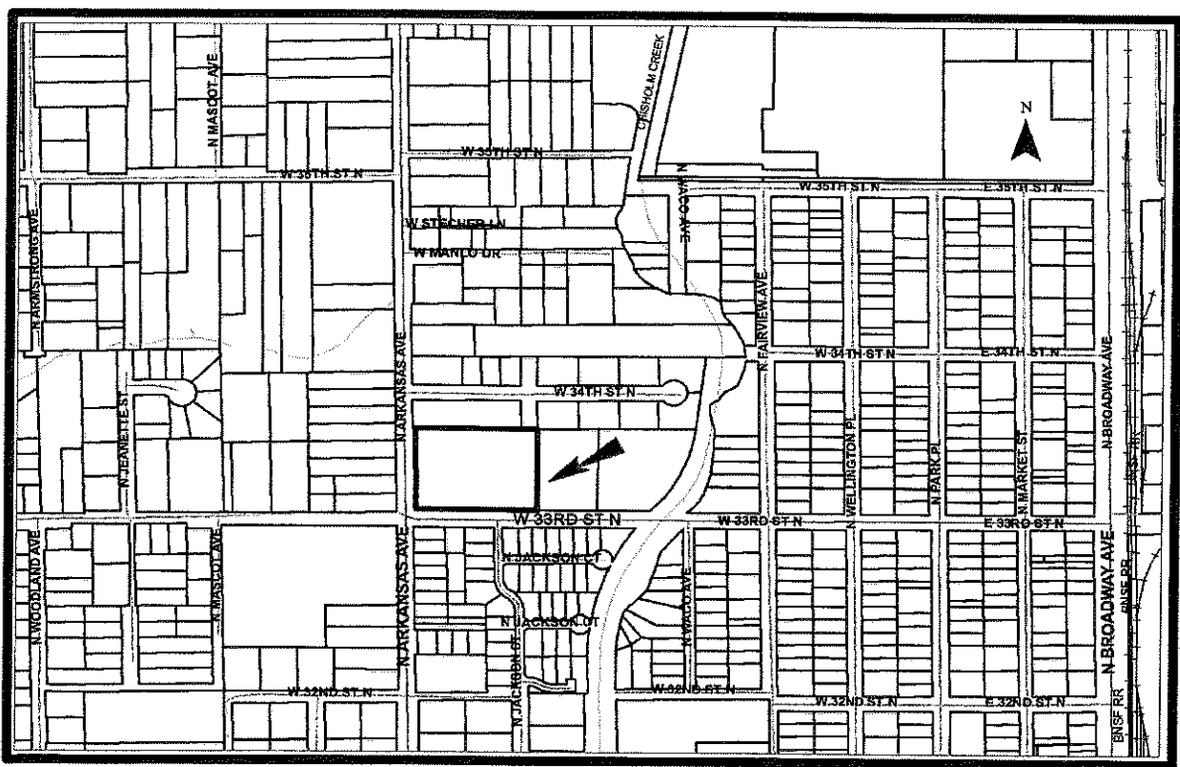
9. Case No.: **ZON2016-00037 and CUP2016-00028 (THIS CASE TO BE DEFERRED)**  
Request: City zone change from SF-5 Single-family Residential and GO General Office to LC Limited Commercial and amendment of the Highland Springs CUP DP-233.  
General Location: South of W. Central Avenue and west of 135th Street West.  
Presenting Planner: Kathy Morgan



# STAFF REPORT

MAPC August 18, 2016  
DAB VI August 17, 2016

- CASE NUMBER:** CON2016-00024
- APPLICANT/AGENT:** Ast Investments, c/o Kelly Ast (applicant/owner) Stephen M. Joseph (agent)
- REQUEST:** Conditional Use to allow a nightclub
- CURRENT ZONING:** Limited Commercial (LC)
- SITE SIZE:** Approximately 3.21-acres
- LOCATION:** Generally located on the northeast corner of West 33rd Street North and North Arkansas Avenue (WCC #VI)
- PROPOSED USE:** Allow a tenant to become a conforming nightclub



**BACKGROUND:** The LC Limited Commercial (LC) zoned site is located on the northeast corner of West 33rd Street North and North Arkansas Avenue. Joyce's Club and Deli, a tenant of the multi-tenant 25,997-square foot commercial strip building (built 1962) has requested a Conditional Use for a nightclub in the city. When a LC zoned tavern, drinking establishment or nightclub is located within 300 feet of a church or place of worship, public park, public or parochial school or residential zoning district, approval of a Conditional Use is required; Unified Zoning Code (UZC), Sec.III-D6.w. SF-5 Single-Family Residential (SF-5) zoned properties abut and are adjacent to the north and west (across Arkansas Avenue) sides of the site. The SF-5 zoned Martin Ortiz Elementary School is located approximately 90 feet southwest of the site, across Arkansas Avenue. There is no history of a Use Exception or Conditional Use for a tavern, drinking establishment or nightclub on this site. However, the applicant has stated that the site has been either a tavern, drinking establishment or nightclub prior to the current UZC, which came into effect in 1996. The proposed nightclub, Joyce's Club and Deli, currently has a Drinking and Eating Restaurant (DER) license. The applicant is applying for a Conditional Use for a nightclub to get the site in conformance with the UZC and to obtain an entertainment license.

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

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

of the site, across 33<sup>rd</sup> Street North.

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

**ADJACENT ZONING AND LAND USE:**

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

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

**CONFORMANCE TO PLANS/POLICIES:** The “Community Investment Plan’s 2035 Wichita Future Growth Map” depicts the site as “commercial.” The commercial designation encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. Convenience retail, restaurants, small offices, and personal service uses are located in close proximity to, and potentially mixed with, residential uses. A nightclub is an appropriate use of the commercial designation.

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

There is a paved drive located on the north side of the commercial strip building the proposed nightclub is located in. The dead-end, north-south, unimproved residential street Jackson

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

**RECOMMENDATION:** Approval of the Conditional Use would confer compliance with the current UZC on an existing tavern/drinking establishment that, based on its history of not having a Use Exception or a Conditional Use, may have been established prior to the 1996 adoption of the UZC. As such, approval would not introduce a new use into the area. If denied the applicant could continue to operate as a DER. It is unknown how the site's past history as a drinking establishment or nightclub will affect the neighbors' opinion of the current application. Based upon the information available prior to the public hearings, planning staff recommends that the request for a Conditional Use for a nightclub be **APPROVED**, with the following conditions:

- (1) The applicant shall provide the legal description of the area used as a nightclub (currently Joyce's Club and Deli) and the associated parking for the Conditional Use Resolution of the proposed nightclub on a Word document via E-mail to the planner. This must be provided no later than 30 days of approval by the MAPC.
- (2) The site shall be developed with an approved revised site plan, showing, but not limited to, the required parking spaces, locating dumpsters 20 feet from the north abutting SF-5 zoned properties, solid screening with a solid screening gate around the dumpsters, and a solid wooden fence along the north property line. The site plan must be submitted for review within 60-days of approval by the MAPC or, as applicable, the appropriate governing body.
- (3) No outdoor speakers or outdoor entertainment are permitted.
- (4) The Conditional Use shall not be in effect until a solid wooden fence is installed along the north property line of the west 445 feet of Lot 1, Northgate Center Addition. This must be completed within 90 days of approval by the MAPC or, as applicable, the appropriate governing body or the Conditional use shall be declared null and void.
- (5) The Conditional Use shall not be in effect until the required parking is determined for the west 445 feet of Lot 1, Northgate Center Addition and any adjustments or variances are needed to resolve the required parking is completed. This must be completed within 90 days of approval by the MAPC or, as applicable, the appropriate governing body or the Conditional use shall be declared null and void.
- (6) The Conditional Use shall not be in effect until the dumpsters are located 20 feet from the north abutting SF-5 zoned properties and solid screening (as defined in the UZC) with solid screening gates are installed around the dumpsters. This must be completed within 90 days of approval by the MAPC or, as applicable, the appropriate governing body or the Conditional use shall be declared null and void.
- (7) The applicant shall obtain all required state, local and other applicable permits and inspections.
- (8) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies

set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The development pattern for the area is mostly SF-5 zoned single-family residences and a MF-29 zoned single-family neighborhood all developed around the SF-5 zoned Martin Ortiz Elementary School. The LC zoned property where the proposed nightclub is located contains the only retail/personal improvement services types of activity in the area. The other LC zoned properties in the area are two single-family residences and two properties listed by the appraiser office as (small) warehouses.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned the LC, which is meant to accommodate retail, commercial, office and other complementary uses. If approved the request would establish a drinking establishment – nightclub as a conforming use on the site.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** SF-5 and MF-20 zoned single-family residences are either abutting or located within 75 feet of the site, plus there is a public school located 80 feet of the site, thus the Conditional Use request. There are no less intrusive businesses or higher density residential uses located between the proposed nightclub and those closest single-family residences. This proximity could be a potential source of nuisance for the residential zoned properties. Typical concerns about tavern/drinking establishment/nightclub include bad behavior resulting from unlimited liquor sales, the noise from music and dancing, and the hours of the nightclub having a detrimental impact on the residential neighborhood.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “Community Investment Plan’s 2035 Wichita Future Growth Map” depicts the site as “commercial.” The commercial designation encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. Convenience retail, restaurants, small offices, and personal service uses are located in close proximity to, and potentially mixed with, residential uses. A nightclub is an appropriate use of the commercial designation.

Locational criteria for commercial development include three key elements: development pattern, land use compatibility, and design. The development pattern for the area is mostly SF-5 zoned single-family residences and a MF-29 zoned single-family residential neighborhood all developed around the SF-5 zoned USD 259 Martin Ortiz Elementary School. The LC zoned property where the proposed nightclub is located contains the only retail/personal improvement services types of activity in the area. The other LC zoned properties in the area are two single-family residences and two properties listed by the appraiser office as (small) warehouses. The applicant has stated that the site has been

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

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

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

**STATEMENT OF REASONS**

The property at 614 W. 33<sup>rd</sup> Street N., Wichita, Kansas, has been used as a Tavern and Drinking Establishment and Entertainment Establishment, as those terms are now defined in the Zoning Code (Section II-B.4.I and Section II-B.13.b.), continuously for more than 20 years. It is currently occupied and has been continuously occupied for more than 20 years.

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

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

↑  
N  
N

CON 2016-24

**SITE PLAN**  
**CONDITIONAL USE:**  
Tavern and Drinking Establishment  
and Entertainment Establishment  
**OWNER:**  
Kelly W. Ast  
**AGENT:**  
Stephen M. Joseph  
**LEGAL DESCRIPTION:**  
West 445 Ft, Lot 1, Northgate Center  
Addition to Wichita  
**ADDRESS:**  
614 W. 33rd St. N.  
**BUSINESS:**  
Joyce's Rendezvous



Google earth

37°44'43.16" N 97°20'38.83" W elev 1327 ft eye alt 2029 ft

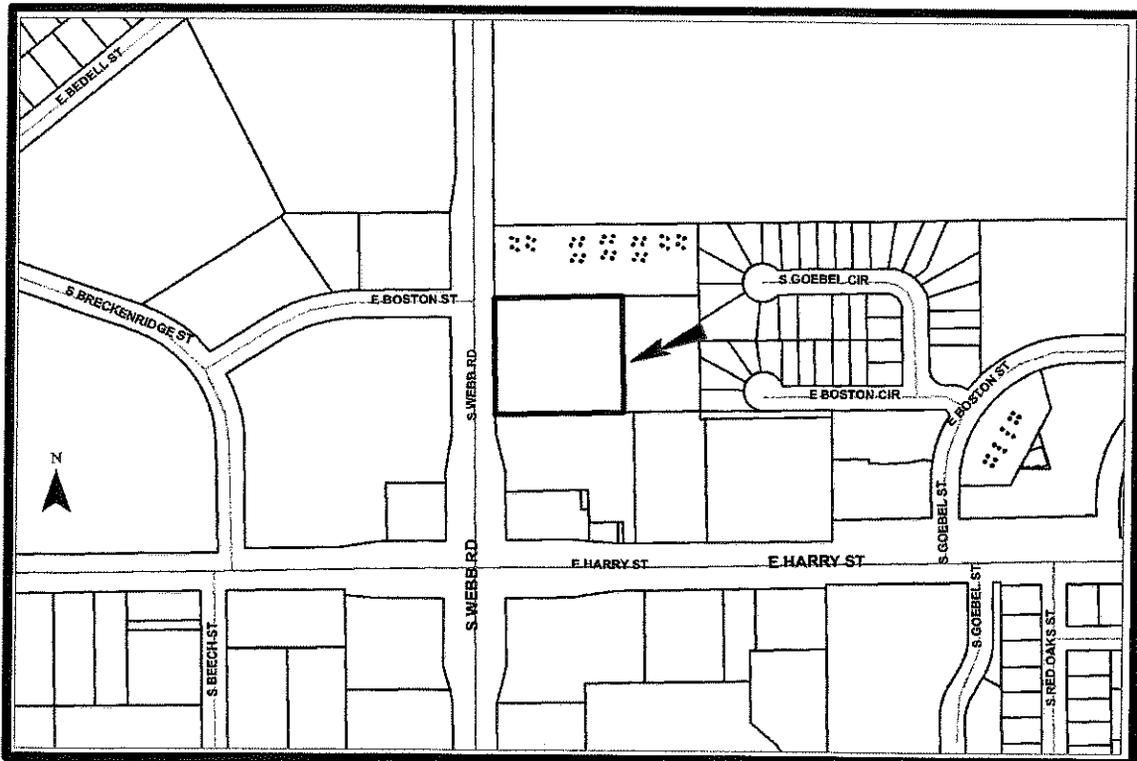


## STAFF REPORT

MAPC August 18, 2016

DAB II August 8, 2016

- CASE NUMBER:** CON2016-00033
- APPLICANT/AGENT:** The Homer Morgan Trust, c/o Homer Morgan, Trustee  
(applicant/owner) Stephen M. Joseph (agent)
- REQUEST:** Conditional Use to allow a night club
- CURRENT ZONING:** Limited Commercial (LC)
- SITE SIZE:** Approximately 2.24-acres
- LOCATION:** Generally located northeast of East Harry Street and South Webb Road (1520 S. Webb - WCC #II)
- PROPOSED USE:** Establish a new nightclub



**BACKGROUND:** The LC Limited Commercial (LC) zoned site is located northeast of East Harry Street and South Webb Road. When a LC zoned tavern, drinking establishment or nightclub is located within 300 feet of a church or place of worship, public park, public or parochial school or residential zoning district, approval of a Conditional Use is required; Unified Zoning Code (UZC), Sec.III-D6.w. The site is located within 185 feet of both a TF-3 Two-Family Residential (TF-3) zoned duplex development and the SF-5 Single-Family Residential (SF-5) zoned WB Harrison Public Park. There is no history of a Use Exception or Conditional Use for a tavern, drinking establishment or nightclub on this site, which is currently developed as an 11,312-square foot commercial strip building (built 1991). The applicant proposes that one of the tenants of the commercial strip building, the Wichita Pizza Company full service restaurant (DER) becomes a nightclub. The subject tenant's/proposed nightclub's liquor license is current.

The applicant's site plan is an aerial. The commercial strip building the subject tenant/proposed nightclub is located in, also contains an Asian restaurant, a Dairy Queen, a dry cleaners, and a salon.

- (a) As counted by staff, the aerial shows approximately 103 on-site parking spaces.
- (b) The Fire Department has posted an occupancy rate of 49 people for the subject tenant/proposed nightclub
- (c) The subject tenant/proposed nightclub requires 25 total on-site parking spaces; one on-site parking space per two occupants.
- (d) The applicant has not given the occupancy rates of the Dairy Queen and the Asian Restaurant, but they appear to be approximately the size of the subject tenant. Based on this visual observation the occupancy total for both may be 98 people.
- (e) The UZC requires one parking space per three occupants for a restaurant which means 33 on-site parking spaces for the Asian restaurant and the Dairy Queen.
- (f) However if the Asian restaurant has a DER license the total parking required for the DER and the Dairy Queen would become 42 on-site parking spaces.
- (g) The applicant has not given occupancy rates for the dry cleaners and salon.
- (h) Calculating required on-site parking for the dry cleaner and salon if they occupy 40% of the 11,312-square foot building 14 on-site parking spaces are required; based on one on-site space per 333-square feet or retail and personal improvement service.
- (i) Based not on information that the applicant failed to provide but on the above assumptions, total required parking for the commercial strip building is 72-81 on-site parking spaces; the applicant needs to provide additional information for parking.

LC zoned businesses abut the four corners of the arterial Harry Street – Webb Road intersection ending at abutting or adjacent SF-5, TF-3 and GO General Office (GO) zoned single-family residences, duplexes, multi-family residential and office types of development. GO zoned condominiums (condos) abut the north side of the site and the already mentioned SF-5 zoned WB Harrison Public Park is located north of the condos. A LC zoned vacant commercial building (built 1999) abuts the east side of the site with the previously mention TF-3 zoned duplexes located on the east side of the vacant commercial building. A LC zoned liquor store and a non-conforming nightclub (CON2016-00035, Port of Wichita, built 1981, 1989) abut the south side of the site. LC zoned Intrust Bank (built 1978) with drive-thru service are adjacent to the south side of the site. A LC zoned Quik-Trip convenience store (built 2013), Auto Zone car

parts store (built 1996), a Walgreens pharmacy (built 2000) and a auto parts store and assorted fast food restaurants are located further south of the site, across Harry Street. A vacant Walmart Local Market is also located south of the site, across Harry Street. LC zoned Dillon's grocery store with a gas island (built 1995) and a small commercial strip building (built 2006) are located west of the site, across Webb Road. In driving the area staff could find no taverns, drinking establishments or nightclubs located within a mile of the subject site, with one exception.

The exception is the south abutting LC zoned non-conforming Port of Wichita, which the applicant has stated has been a tavern, drinking establishment or nightclub on the abutting south property for at least 20-years. Both the south abutting LC zoned Port of Wichita (CON2016-00035) site and the east abutting LC zoned vacant commercial building (CON2016-00034) have Conditional Use applications for nightclubs. If the subject site and CON2016-00034 are approved they would establish two new nightclubs in the immediate area. CON2016-00035 would bring the existing Port of Wichita into compliance with the current UZC. There is total of three requests for nightclubs on the three abutting properties, all are owned by the applicant and all are on the August 18, 2016, MAPC and the August 8, 2016, DAB II agendas.

**CASE HISTORY:** The site is located on a northwest portion of Lot 2, Block 1, Park Meadow Estates Addition to Wichita, Sedgwick County, Kansas. The Park Meadow Estates Addition was recorded at the Register of Deeds on August 18, 1976. The site was annexed into the City between 1971 and 1980. Staff has received phone calls expressing concerns about the proposed nightclubs. The request was considered at the August 8, 2016, DAB II meeting and the DAB recommended denial. There were protesters present at the meeting.

**ADJACENT ZONING AND LAND USE:**

NORTH: GO, SF-5	Condominiums, public park
SOUTH: LC	Non-conforming nightclub, liquor store, bank with drive thru service
EAST: LC, TF-3,	Vacant commercial building, duplexes,
WEST: LC,	Grocery store with gas island, garden apartments, commercial strip building

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

**CONFORMANCE TO PLANS/POLICIES:** The "2035 Future Growth Concept Map" shows the site as "new residential/employment mix." This category encompasses areas of land that likely will be developed or redeveloped by 2035 with uses predominately of a mixed nature. Due to the proximity of higher intensity business uses, residential housing types within this area likely will be higher density. In this case a moderately low density TF-3 zoned duplex development and high density GO zoned condos are the closest residential development to the site, located approximately 185 feet east of the site and abutting its north side. Noise, trash, traffic and increased police activity are commonly noted negative impacts on abutting or adjacent residential properties.

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

Locational criteria for commercial development include three key elements: development pattern, land use compatibility, and design. The development pattern in the area is a mix of two LC large box retail stores (one vacant) and small LC zoned businesses located along the intersection of Harry Street and Webb Road. The LC zoning and development ends where it abuts or is adjacent SF-5, TF-3 and GO zoned single-family residential, duplexes, multi-family residential and office types of development. The close proximity of the north abutting GO zoned condos and the TF-3 zoned duplexes to the proposed nightclub could be a potential source of nuisance for these residential uses. In driving the area staff could find no taverns, drinking establishments or nightclubs located within a mile of the subject site, with one exception; the nonconforming Port of Wichita, CON2016-00035. The proposed nightclub does not fit the development pattern of the area.

**RECOMMENDATION:** If approved, the request would establish a new nightclub on the site that has no history of being a nightclub. If approved the request would permit a new night club abutting two properties that have also applied for Conditional Uses for nightclubs. If approved the northeast corner of Harry Street and Webb Road could potentially have the only nightclubs (three of them) located within a mile of any direction from that intersection. The subject site is adjacent to TF-3 zoned duplexes on its east side that were built prior (late 1970s to early 1980s) to the subject site’s (built 1999). GO zoned condos abut the north side of the site. The establishment of a new nightclub adjacent to an earlier established duplex neighborhood and the condos would allow unlimited alcohol sales, and could introduce noise from music and dancing, traffic, and trash. The late hours and activity of the nightclub could have a detrimental impact on the residents living in the adjacent duplexes and the abutting condos and there may be an increase in police activity. The proposed nightclub does not fit the development pattern of the area. Based upon the information available prior to the public hearings, planning staff recommends that the request for a Conditional Use for a nightclub be **Denied**.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** LC zoned businesses abut the four corners of the arterial Harry Street – Webb Road intersection ending at abutting or adjacent SF-5, TF-3 and GO zoned single-family residences, duplexes, multi-family residential and office types of development. GO zoned condominiums (condos) abut the north side of the site and the already mentioned SF-5 zoned WB Harrison Public Park is located north of the condos. A LC zoned vacant commercial building (built 1999) abuts the east side of the site with the previously mention TF-3 zoned duplexes located on the east side of the vacant commercial building. A LC zoned liquor store and a non-conforming nightclub (Port of Wichita, built 1981, 1989) abut the south side of the site. LC zoned Intrust Bank (built 1978) with drive-thru service are adjacent to the south side of the site. A LC zoned Quik-Trip convenience store (built 2013), Auto Zone car parts store (built 1996), a Walgreens pharmacy (built 2000) and a auto parts store and assorted

fast food restaurants are located further south of the site, across Harry Street. A vacant Walmart Local Market is also located south of the site, across Harry Street. LC zoned Dillon's grocery store with a gas island (built 1995) and a small commercial strip building (built 2006) are located west of the site, across Webb Road. In driving the area staff could find no taverns, drinking establishments or nightclubs located within a mile of the subject site, with one exception, the nonconforming Port of Wichita, CON2016-00035.

(2) **The suitability of the subject property for the uses to which it has been restricted:**

The site is zoned the LC, which is meant to accommodate retail, commercial, office and other complementary uses. A Conditional Use is required for approval of a nightclub on the LC zoned site because it abuts TF-3 zoned duplexes. If approved the request would introduce a new nightclub in the area that has no nightclubs except the nonconforming Port of Wichita.

(3) **Extent to which removal of the restrictions will detrimentally affect nearby property:**

TF-3 zoned duplexes and GO zoned condos are adjacent to the east and abutting the north sides of the site. There are no less intrusive businesses or, in the case of the duplexes, higher density residential uses located between the proposed nightclub and these residences. This proximity could be a potential source of nuisance for the residential zoned properties. Typical concerns about tavern/drinking establishment/nightclub include bad behavior resulting from unlimited liquor sales, the noise from music and dancing, the late hours of the nightclub and a possible increase in police activity all having a detrimental impact on the residential neighborhood.

(4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:**

The "2035 Future Growth Concept Map" shows the site as "new residential/employment mix." This category encompasses areas of land that likely will be developed or redeveloped by 2035 with uses predominately of a mixed nature. Due to the proximity of higher intensity business uses, residential housing types within this area likely will be higher density. In this case a moderately low density TF-3 zoned duplex development and high density GO zoned condos are the closest residential development to the site, located approximately 185 feet east of the site and abutting its north side. Noise, trash, traffic and increased police activity are commonly noted negative impacts on abutting or adjacent residential properties.

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

Locational criteria for commercial development include three key elements: development pattern, land use compatibility, and design. The development pattern in the area is a mix of two LC large box retail stores (one vacant) and small LC zoned businesses located along the intersection of Harry Street and Webb Road. The LC zoning and development

ends where it abuts or is adjacent SF-5, TF-3 and GO zoned single-family residential, duplexes, multi-family residential and office types of development. The nightclubs close proximity to the north abutting GO zoned condos and the TF-3 zoned duplexes could be a potential source of nuisance for these residential uses. In driving the area staff could find no taverns, drinking establishments or nightclubs located within a mile of the subject site, with one exception; the nonconforming Port of Wichita, CON2016-00035. The proposed nightclub does not fit the development pattern of the area.

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

CON 2016-33

### STATEMENT OF REASONS

One or more of the stores in the shopping center property at 1520 S. Webb Road has been used as a Tavern and Drinking Establishment and Entertainment Establishment, as those terms are now defined in the Zoning Code (Section II-B.4.l. and Section II-B.13.b.), for more than 20 years. For instance, the pizza restaurant at 1520 S. Webb Road has had a drinking establishment-restaurant license for many years.

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

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

CON 2016-33



**CONDITIONAL USE:**  
Tavern and Drinking Establishment and  
Entertainment Establishment  
**APPLICANT:**  
Homer Morgan, Trustee  
**AGENT:**  
Stephen M. Joseph  
**LEGAL DESCRIPTION:**  
W 325 FT, N 300 FT, LOT 2, BLOCK, 1 PARK  
MEADOW ESTATES ADDITION TO  
WICHITA, SEDGWICK COUNTY, KANSAS  
**BUSINESS:**  
Various  
**ADDRESS:**  
1520 S. Webb Rd., Wichita  
SITE PLAN

Imagery Date: 7/12/2015 37°39'56.15" N 97°13'30.02" W elev 1359'ft eye alt 2132 ft



**INTEROFFICE  
MEMORANDUM**

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**TO:** MAPC  
**FROM:** Laura Rainwater  
**SUBJECT:** CON2016-00033  
**DATE:** August 9, 2016

On Monday, August 8, 2016, the District II Advisory Board considered a request by The Homer Morgan Trust, c/o Homer Morgan, Trustee (applicant/owner) Stephen M. Joseph (agent) for a Conditional Use to allow a night club.

Neither the applicant nor agent were present at the meeting. More than 15 adjacent property owners were present to protest the application. Guest list attached to this report.

After staff presentation by **Bill Longnecker, Senior Planner, MAPD**, DAB II Pro Tem, **Dale Carter**, asked the public how many were present at the meeting to protest the application. More than 15 raised their hand. DAB members voiced their concern on the negative impact it would have on surrounding property owners.

**Action Taken:** Motion made by **David Babich** to approve the staff recommendation to **DENY** the application. Seconded by **Nazir Jesri**.

**MOTION PASSED 6-0**

Respectfully submitted,

Laura Rainwater, Community Services Representative – District II

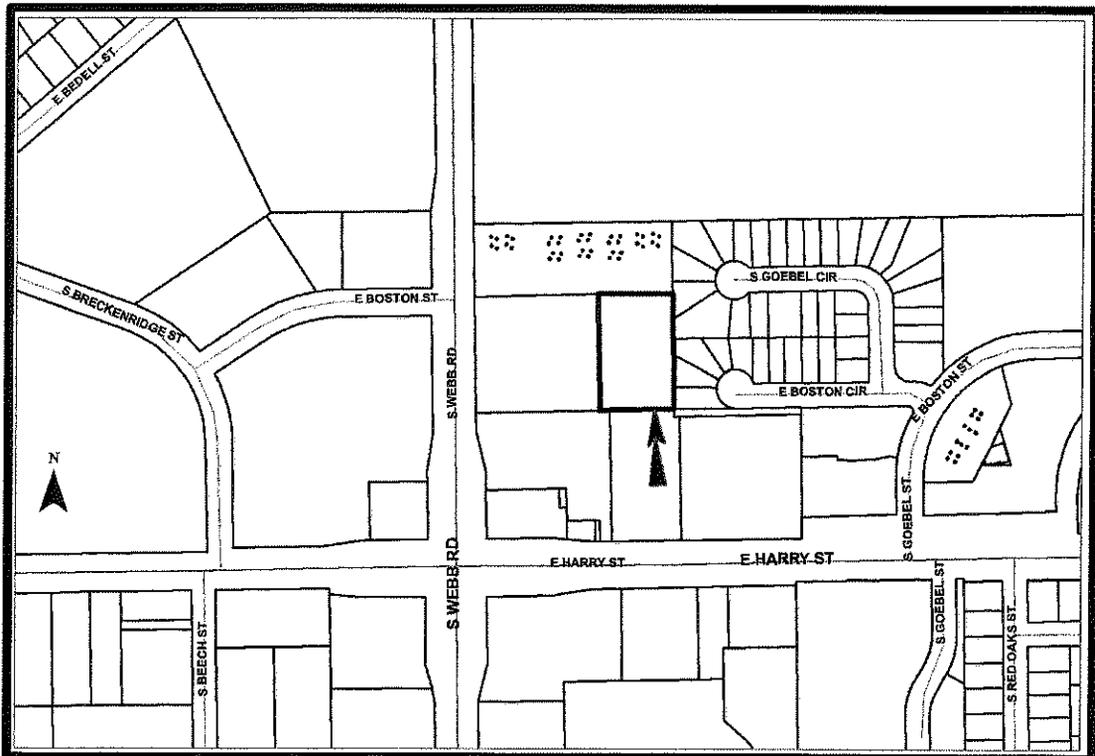


# STAFF REPORT

MAPC August 18, 2016

DAB II August 8, 2016

- CASE NUMBER:** CON2016-00034
- APPLICANT/AGENT:** Homer Morgan Revocable Trust, c/o Homer Morgan, Trustee (applicant/owner) Stephen M. Joseph (agent)
- REQUEST:** Conditional Use to allow a night club
- CURRENT ZONING:** Limited Commercial (LC)
- SITE SIZE:** Approximately 1.33-acres
- LOCATION:** Generally located northeast of East Harry Street and South Webb Road (1530 S. Webb - WCC #II)
- PROPOSED USE:** Establish a new nightclub



**BACKGROUND:** The LC Limited Commercial (LC) zoned site is located northeast of East Harry Street and South Webb Road. When a LC zoned tavern, drinking establishment or nightclub is located within 300 feet of a church or place of worship, public park, public or parochial school or residential zoning district, approval of a Conditional Use is required; Unified Zoning Code (UZC), Sec.III-D6.w. TF-3 Two-Family Residential (TF-3) zoned duplex development abuts the east side of the site and the SF-5 Single-Family Residential (SF-5) zoned WB Harrison Public Park is located approximately 185 feet north of the site, thus the Conditional Use request. There is no history of a Use Exception or Conditional Use for a tavern, drinking establishment or nightclub on this site. The applicant has stated that the vacant 5,344-square foot one-story commercial building (built 1999) has been a full service restaurant (DER). The applicant is applying for a Conditional Use to establish a nightclub at the site. The site currently has no current liquor or entertainment licenses.

The applicant's site plan is an aerial.

- As counted by staff, the aerial shows approximately 66 on-site parking spaces.
- The Fire Department has a posted occupancy rate of 138 people.
- The proposed nightclub requires 69 total on-site parking spaces; one parking space per two occupants.
- The north portion of the site is not paved or developed.
- If approved the applicant will need to apply for an administrative adjustment to meet the UZC's parking standards.

LC zoned businesses abut the four corners of the arterial Harry Street – Webb Road intersection ending at abutting or adjacent SF-5, TF-3 and GO General Office (GO) zoned duplexes, multi-family residential and office types of development. GO zoned condominiums (condos) abut the north side of the site and the already mentioned SF-5 zoned WB Harrison Public Park is located north of the condos. A LC zoned liquor store and a non-conforming nightclub (Port of Wichita, built 1981, 1989) abut the south side of the site, as does the LC zoned Felipe's Jr. DER. LC zoned self-storage warehouses and an Intrust Bank (built 1978) with drive-thru service are adjacent to the south side of the site. A LC zoned Quik-Trip convenience store (built 2013), Auto Zone car parts store (built 1996), a Walgreens pharmacy (built 2000) and a auto parts store and assorted fast food restaurants are located further south of the site, across Harry Street. A vacant Walmart Local Market is also located south of the site, across Harry Street. TF-3 zoned duplexes (built late 1970s early 1980s) abut the east side of the site. A LC zoned commercial strip building (built 1991) site abuts the west side of the site. LC zoned Dillon's grocery store with a gas island (built 1995) and a small commercial strip building (built 2006) are located further west of the site, across Webb Road.

In driving the area staff could find no taverns, drinking establishments or nightclubs located within a mile of the subject site, with one exception. The exception is the south abutting LC zoned non-conforming Port of Wichita nightclub, which the applicant has stated has been a tavern, drinking establishment or nightclub on the abutting south property for at least 20-years.

NOTE: Besides this Conditional Use, CON2016-00034, to create a new nightclub, the same applicant has two other Conditional Use applications for nightclubs on the already noted abutting west and south properties. The west abutting LC zoned multi-tenant commercial strip building, CON2016-00033, would create a second new nightclub. The south abutting LC zoned site, CON2016-00035, would bring the existing non-conforming Port of Wichita into compliance with the current UZC. There is total of three requests for nightclubs on the three abutting properties, all are owned by the applicant and all are on the August 18, 2016, MAPC and the August 8, 2016, DAB II agendas.

**CASE HISTORY:** The site is located on a northeast portion of Lot 2, Block 1, Park Meadow Estates Addition to Wichita, Sedgwick County, Kansas. The Park Meadow Estates Addition was recorded at the Register of Deeds on August 18, 1976. The applicant has stated that the 5,344-square foot one-story commercial building (built 1999) has been a full service restaurant (DER). The site was annexed into the City between 1971 and 1980. Staff has received phone calls expressing concerns about the proposed nightclubs. The request was considered at the August 8, 2016, DAB II meeting and the DAB recommended denial. There were protesters present at the meeting.

**ADJACENT ZONING AND LAND USE:**

NORTH: GO, SF-5	Condominiums, public park
SOUTH: LC,	Non-conforming nightclub, liquor store, full service restaurant, self-storage warehouses, bank with drive thru service
EAST: TF-3, MF-18	Duplexes, apartments
WEST: LC, TF-3	Grocery store with gas island, garden apartments, commercial strip building

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

**CONFORMANCE TO PLANS/POLICIES:** The “2035 Future Growth Concept Map” shows the site as “new residential/employment mix.” This category encompasses areas of land that likely will be developed or redeveloped by 2035 with uses predominately of a mixed nature. Due to the proximity of higher intensity business uses, residential housing types within this area likely will be higher density. In this case a moderately low density TF-3 zoned duplex development abuts the west side of the site and the SF-5 zoned WB Harrison Public Park is located approximately 185 feet north of the site. High density GO zoned condos abut the north side of the site. Noise, trash, traffic and increased police activity are commonly noted negative impacts of nightclubs on abutting or adjacent residential properties.

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

Locational criteria for commercial development include three key elements: development pattern,

land use compatibility, and design. The development pattern in the area is a mix of two LC large box retail stores (one vacant) and small LC zoned businesses located along the intersection of Harry Street and Webb Road. The LC zoning and development ends where it abuts or is adjacent SF-5, TF-3 and GO zoned single-family residential, duplexes, multi-family residential and office types of development. A TF-3 zoned duplex development abuts the east side of the site, GO zoned condos abut the north side of the site and the SF-5 zoned WB Harrison Public Park is located north of the condos, approximately 185 feet north of the site. There are no less intrusive businesses or higher density residential uses located between the proposed nightclub and abutting TF-3 zoned duplexes and the GO zoned condos. This proximity could be a potential source of nuisance for the duplexes as well as the GO zoned condos. The subject site and the abutting duplexes do not abut a common street, which lessens the possibility that the customers of the proposed nightclub will be parking in the abutting single-family residential neighborhood. In driving the area staff could find no taverns, drinking establishments or nightclubs located within a mile of the subject site, with one exception; the nonconforming Port of Wichita, CON2016-00035. The proposed nightclub does not fit the development pattern of the area.

**RECOMMENDATION:** If approved, the request would establish a new nightclub on the site that has no history of being a nightclub. If approved the request would permit a new night club abutting two properties that have also applied for Conditional Uses for nightclubs. If approved the northeast corner of Harry Street and Webb Road could potentially have the only nightclubs (three of them) located within a mile of any direction from that intersection. The subject site is adjacent to TF-3 zoned duplexes on its east side that were built prior (late 1970s to early 1980s) to the subject site's (built 1999) and GO zoned condos abut the north side of the site. The approval of a new nightclub would allow unlimited alcohol sales, and could introduce noise from music and dancing, traffic, and trash. The late hours and activity of the nightclub could have a detrimental impact on the residents living in the earlier established adjacent duplex neighborhood and the abutting condos. Approval may lead to an increase in police activity. The proposed nightclub does not fit the development pattern of the area. Based upon the information available prior to the public hearings, planning staff recommends that the request for a Conditional Use for a nightclub be **Denied**.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** LC zoned businesses abut the four corners of the arterial Harry Street – Webb Road intersection ending at abutting or adjacent SF-5, TF-3 and GO zoned duplexes, multi-family residential and office types of development. GO zoned condominiums (condos) abut the north side of the site and the already mentioned SF-5 zoned WB Harrison Public Park is located north of the condos. A LC zoned liquor store and a non-conforming nightclub (Port of Wichita, built 1981, 1989) abut the south side of the site, as does the LC zoned Felipe's Jr. DER. LC zoned self-storage warehouses and an Intrust Bank (built 1978) with drive-thru service are adjacent to the south side of the site. A LC zoned Quik-Trip convenience store (built 2013), Auto Zone car parts store (built 1996), a Walgreens pharmacy (built 2000) and a auto parts store and assorted fast food restaurants are located further south of the site, across Harry Street. A vacant Walmart Local Market is also located south of the site,

across Harry Street. TF-3 zoned duplexes (built late 1970s early 1980s) abut the east side of the site. A LC zoned commercial strip building (built 1991) site abuts the west side of the site. LC zoned Dillon's grocery store with a gas island (built 1995) and a small commercial strip building (built 2006) are located further west of the site, across Webb Road.

- (2) **The suitability of the subject property for the uses to which it has been restricted:**  
The site is zoned LC, which is meant to accommodate retail, commercial, office and other complementary uses. A Conditional Use is required for approval of a nightclub on the LC zoned site because it abuts TF-3 zoned duplexes. If approved the request would introduce a new nightclub in the area that has no nightclubs except the nonconforming Port of Wichita.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** TF-3 zoned duplexes and GO zoned condos abut the east and north sides of the site. There are no less intrusive businesses or, in the case of the duplexes, higher density residential uses located between the proposed nightclub and these residences. This proximity could be a potential source of nuisance for the residential zoned properties. Typical concerns about tavern/drinking establishment/nightclub include bad behavior resulting from unlimited liquor sales, the noise from music and dancing, the hours of the nightclub having a detrimental impact on the residential neighborhood and an increase in police activity.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The "2035 Future Growth Concept Map" shows the site as "new residential/employment mix." This category encompasses areas of land that likely will be developed or redeveloped by 2035 with uses predominately of a mixed nature. Due to the proximity of higher intensity business uses, residential housing types within this area likely will be higher density. In this case a moderately low density TF-3 zoned duplex development abuts the west side of the site and the SF-5 zoned WB Harrison Public Park is located approximately 185 feet north of the site. GO zoned condos abut the north side of the site. Noise, trash, traffic and increased police activity are commonly noted negative impacts of nightclubs on abutting or adjacent residential properties.

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

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

development abuts the east side of the site, GO zoned condos abuts the north side of the site and the SF-5 zoned WB Harrison Public Park is located north of the condos, approximately 185 feet north of the site. There are no less intrusive business or, in the case of the TF-3 zoned duplexes, higher density residential uses located between the proposed nightclub and abutting TF-3 zoned duplexes and the GO zoned condos. This proximity could be a potential source of nuisance for the duplexes as well as the GO zoned condos. The subject site and the abutting duplexes do not abut a common street, which lessens the possibility that the customers of the proposed nightclub will be parking in the abutting single-family residential neighborhood.

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

**STATEMENT OF REASONS**

CONS 2016-34

The building located at 1530 S. Webb Road off and on has been a Tavern and Drinking Establishment and Entertainment Establishment, as those terms are now defined in the Zoning Code (Section II-B.4.l. and Section II-B.13.b.), for more than 20 years. For instance, in 2013 and 2014, Curly's American Diner at 1530 S. Webb Road had a Wichita Drinking Establishment-Restaurant Licence.

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

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

CON 2016-34

**CONDITIONAL USE:**

Tavern and Drinking Establishment and  
Entertainment Establishment

**APPLICANT:**

Homer Morgan, Trustee

**AGENT:**

Stephen M. Joseph

**LEGAL DESCRIPTION:**

E 190 FT, N 300 FT, LOT 2, BLOCK 1, PARK  
MEADOW ESTATES ADDITION TO WICHITA,  
SEDGWICK COUNTY, KANSAS

**BUSINESS:**

**ADDRESS:**

1530 S. Webb Rd., Wichita

**SITE PLAN**





**INTEROFFICE  
MEMORANDUM**

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**TO:** MAPC  
**FROM:** Laura Rainwater  
**SUBJECT:** CON2016-00034  
**DATE:** August 9, 2016

On Monday, August 8, 2016, the District II Advisory Board considered a request by The Homer Morgan Trust, c/o Homer Morgan, Trustee (applicant/owner) Stephen M. Joseph (agent) for a Conditional Use to allow a night club.

Neither the applicant nor agent were present at the meeting. More than 15 adjacent property owners were present to protest the application. Guest list attached to this report.

After staff presentation by **Bill Longnecker, Senior Planner, MAPD**, DAB II Pro Tem, **Dale Carter**, asked the public how many were present at the meeting to protest the application. More than 15 raised their hand. DAB members voiced their concern on the negative impact it would have on surrounding property owners.

**Action Taken:** Motion made by **David Babich** to approve the staff recommendation to **DENY** the application. Seconded by **Nazir Jesri**.

**MOTION PASSED 6-0**

Respectfully submitted,

Laura Rainwater, Community Services Representative – District II

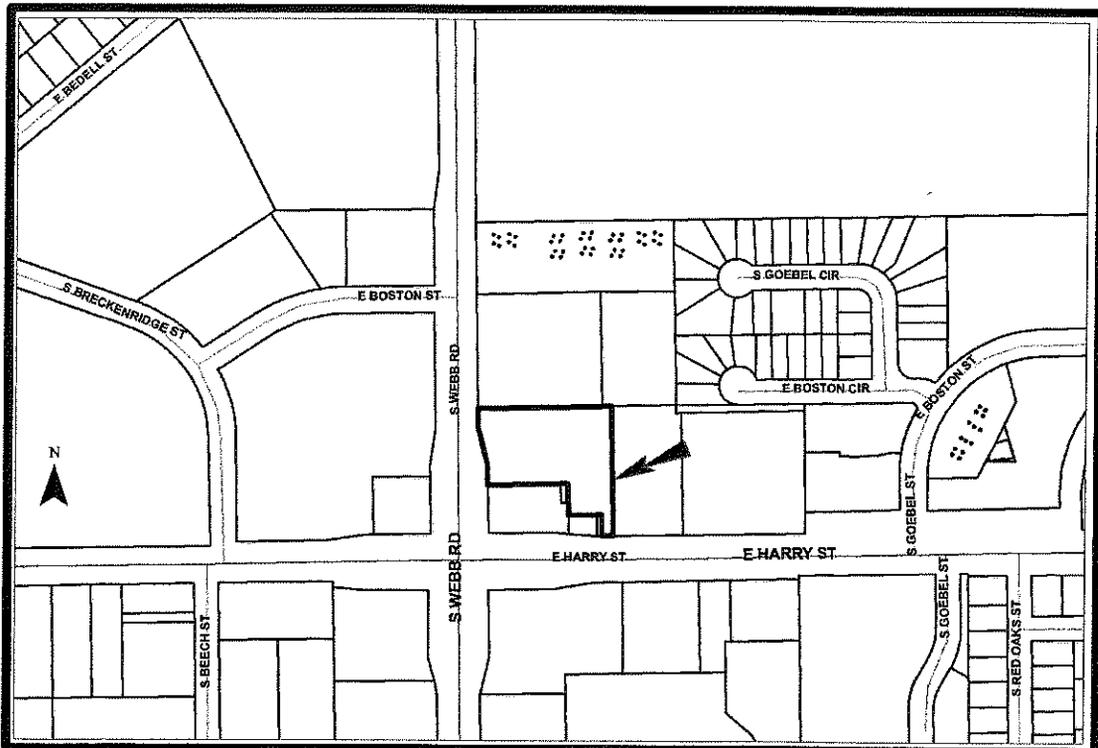


## STAFF REPORT

MAPC August 18, 2016

DAB II August 8, 2016

- CASE NUMBER:** CON2016-00035
- APPLICANT/AGENT:** Homer Morgan Revocable Trust, c/o Homer Morgan, Trustee (applicant/owner) Stephen M. Joseph (agent)
- REQUEST:** Conditional Use to allow a night club
- CURRENT ZONING:** Limited Commercial (LC)
- SITE SIZE:** Approximately 1.82-acres
- LOCATION:** Generally located northeast of East Harry Street and South Webb Road (1548 S. Webb - WCC #II)
- PROPOSED USE:** Bring the site into conformance with the Unified Zoning Code



**BACKGROUND:** The LC Limited Commercial (LC) zoned site is located northeast of East Harry Street and South Webb Road. When a LC zoned tavern, drinking establishment or nightclub is located within 300 feet of a church or place of worship, public park, public or parochial school or residential zoning district, approval of a Conditional Use is required; Unified Zoning Code (UZC), Sec.III-D6.w. TF-3 Two-Family Residential (TF-3) zoned duplex development is located approximately 165 feet east –northeast of the site, thus the Conditional Use request. There is no history of a Use Exception or Conditional Use for a tavern, drinking establishment or nightclub on this site. The applicant has stated that a portion of the one-story commercial building (built 1981, 1989) has been a tavern, drinking establishment or nightclub for at least 20-years. The applicant is applying for a Conditional Use for a nightclub to get the site in conformance with the UZC. The site has a current drinking establishment and entertainment license.

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

- (a) As counted by staff, the aerial shows approximately 62 on-site parking spaces.
- (b) The Fire Department has a posted occupancy rate of 173 people for the current non-conforming nightclub.
- (c) The non-conforming nightclub requires 89 on-site parking spaces; one on-site parking space per two nightclub customers.
- (d) The building's remaining 4,039-square feet for liquor store and nail salon require 13 on-site parking spaces; one parking space per 333-square feet for retail and personal improvement service.
- (e) The non-conforming nightclub also has a small outside seating area for customers that has not been provided that is needed for the calculations for parking\*.
- (f) The tentative\* required total of 102 on-site parking spaces exceeds the site's current 62 total parking spaces by at least 40 parking spaces.
- (g) The applicant will need to apply for either a variance, an administrative adjustment, an off-street parking agreement or a combination to meet the UZC's parking standards. The UZC requires off-street parking space to be located no more than 600 feet from the building or use it is intended to serve, measured along the shortest legal, practical walking route. The applicant owns the abutting north and northeast properties, which have improved parking lots.
- (h) The retail operational hours are largely different than the non-conforming nightclubs hours

LC zoned businesses abut the four corners of the arterial Harry Street – Webb Road intersection ending at abutting or adjacent SF-5 Single-Family Residential (SF-5), TF-3 and GO General Office (GO) zoned single-family residential, duplex, multi-family residential and office types of development. A LC zoned Intrust Bank (built 1978) with drive-thru service abuts the south side of the site. A LC zoned Quik-Trip convenience store (built 2013), an Auto Zone car parts store (built 1996), a Walgreens pharmacy (built 2000) and an auto parts store and assorted fast food restaurants are located south of the site, across Harry Street. A vacant Walmart Local

Neighborhood Market is located south of the site, across Harry Street. A LC zoned Dillon's grocery store with a gas island (built 1995) and a small commercial strip building (built 2006) are located west of the site, across Webb Road. The already noted TF-3 zoned duplex development is located approximately 165 feet east-northeast of the site. A LC zoned full service restaurant (Felipe's Jr. DER) abuts the east side of the site. LC zoned self-storage warehouses are located east of the DER. A LC zoned commercial strip building (built 1991) and a free standing vacant commercial building (built 1999, formerly a restaurant called Auntie Maes) abut the north side of the site\*. In driving the area staff could find no taverns, drinking establishments or nightclubs located within a mile of the subject site.

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

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

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

**ADJACENT ZONING AND LAND USE:**

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

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

**CONFORMANCE TO PLANS/POLICIES:** The “2035 Future Growth Concept Map” shows the site as “new residential/employment mix.” This category encompasses areas of land that likely will be developed or redeveloped by 2035 with uses predominately of a mixed nature. Due to the proximity of higher intensity business uses, residential housing types within this area likely will be higher density. A moderately low density TF-3 zoned duplex development is the closest residential development to the site, located approximately 165 feet east – northeast of the site. Due to the proximity of residential uses, employment uses likely will have limited negative impacts associated with noise, hazardous emissions, visual blight, and odor. Noise, trash, traffic and increased police activity are commonly noted negative impacts on abutting or adjacent residential properties.

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

Locational criteria for commercial development include three key elements: development pattern, land use compatibility, and design. The development pattern in the area is a mix of two LC large box retail stores (one vacant) and small LC zoned businesses located along the intersection of Harry Street and Webb Road. The LC zoning and development ends where it abuts or is adjacent SF-5, TF-3 and GO zoned single-family residential, duplex, multi-family residential and office types of development. TF-3 zoned duplexes are located approximately 165 feet east, northeast of the site, thus the Conditional Use request. However, there are no less intrusive businesses or higher density residential uses located between the proposed nightclub and the TF-3 zoned duplexes. This proximity could be a potential source of nuisance for the residential zoned/developed properties. The subject site and the adjacent duplex neighborhood do not abut a common street, which lessens the possibility that the customers of the proposed nightclub will be parking in the adjacent duplex neighborhood. The applicant needs a maximum of an additional 40 parking spaces. The applicant owns the two abutting north and northeast properties and he will need to apply for either a variance, an administrative adjustment, an off-street parking agreement or a combination to meet the UZC’s parking standards. The applicant’s abutting northeast property (a vacant restaurant) abuts the noted TF-3 zoned duplex development, which makes it a less attractive option for the needed off-site parking.

**RECOMMENDATION:** Approval of the Conditional Use would confer compliance with the current UZC on an existing nightclub that, based on its history of not having a Use Exception or a Conditional Use, may have been established prior to the 1996 adoption of the UZC. As such, approval would not introduce a new use into the area. If denied the applicant could continue to operate as a non-conforming nightclub, per the UZC's Non-Conforming policies. Approval would bring the nightclub into conformance with the current UZC and relieve the applicant the burden of maintaining the site's non-conforming rights. Based upon the information available prior to the public hearings, planning staff recommends that the request for a Conditional Use for a nightclub be **APPROVED**, with the following conditions:

- (1) The site shall be developed with an approved revised site plan, showing, but not limited to, the required parking spaces and solid screening gate around dumpsters. Outdoor seating is permitted. No outdoor speakers or entertainment is permitted. The site plan must be submitted for review within 60-days of approval by the appropriate governing body or the Conditional Use will be declared null and void.
- (2) No off-site parking allowed on the abutting northeast LC zoned property that has the vacant one-story commercial building, site of CON2016-00034. Post signs declaring "No Bar Parking" on the west side of this site. These signs must be installed within 30-days of approval by the appropriate governing body or the Conditional Use will be declared null and void. The location of these signs must be shown on the revised site plan. For the purpose of this Conditional Use request, provide a legal description of that portion of Lot 2, Block 1, Park Meadow Estates Addition that matches the site plan for CON2016-00034.
- (3) The applicant shall provide written agreements for off-site or shared parking, an administrative adjustment, a variance or a combination to resolve the need for at least 40 additional parking spaces. The applicant needs to provide the number of outside seating, which will increase the number of needed parking spaces above 40. Parking shall be resolved as prescribed within 90-days of approval by the appropriate governing body or the Conditional use will be declared null and void.
- (4) The applicant shall obtain all required state, local and other applicable permits and inspections.
- (5) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** LC zoned businesses abut the four corners of the arterial Harry Street – Webb Road intersection ending at abutting or adjacent SF-5, TF-3 and GO zoned single-family residential, duplex, multi-family residential and office types of development. A LC zoned Intrust Bank (built 1978) with drive-thru service abuts the south side of the site. A LC zoned Quik-Trip convenience store (built 2013), Auto Zone car parts store (built 1996), a Walgreens pharmacy (built 2000) and an auto parts store and assorted fast food restaurants are located south of the site, across Harry Street. A vacant Walmart Local Market is located south of the site,

across Harry Street. A LC zoned Dillon's grocery store with its gas station (built 1995) and a small commercial strip building (built 2006) are located west of the site, across Webb Road. A LC zoned commercial strip building (built 1991) and a free standing vacant commercial building (built 1999, formerly a restaurant called Auntie Maes) abut the north side of the site. TF-3 zoned duplexes are located approximately 165 feet east – northeast of the site. A LC zoned full service restraint (Felipe's Jr. DER) abuts the east side of the site. LC zoned self-storage warehouses are located east of the DER. In driving the area staff could find no taverns, drinking establishments or nightclubs located within a mile of the subject site.

- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned the LC, which is meant to accommodate retail, commercial, office and other complementary uses. If approved the request would re-establish a drinking establishment – nightclub on the site, as being in compliance with the current UZC.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** TF-3 zoned duplexes are located approximately 165 feet east – northeast of the site, thus the Conditional Use request. There are no less intrusive businesses or higher density residential uses located between the proposed nightclub and those closest duplex residences. This proximity could be a potential source of nuisance for the residential zoned properties. Typical concerns about tavern/drinking establishment/nightclub include bad behavior resulting from unlimited liquor sales, the noise from music and dancing, the hours of the nightclub having a detrimental impact on the residential neighborhood and an increase in police activity.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2035 Future Growth Concept Map” shows the site as “new residential/employment mix.” This category encompasses areas of land that likely will be developed or redeveloped by 2035 with uses predominately of a mixed nature. Due to the proximity of higher intensity business uses, residential housing types within this area likely will be higher density. A moderately low density TF-3 zoned duplex development is the closest residential development to the site, located approximately 165 feet east – northeast of the site. Due to the proximity of residential uses, employment uses likely will have limited negative impacts associated with noise, hazardous emissions, visual blight, and odor. Noise, trash, traffic and increased police activity are commonly noted negative impacts on abutting or adjacent residential properties.

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

Locational criteria for commercial development include three key elements: development pattern, land use compatibility, and design. The development pattern in the area is a mix of two LC large box retail stores and small LC zoned businesses located along the

intersection of Harry Street and Webb Road. The LC zoning and development ends where it abuts or is adjacent SF-5, TF-3 and GO zoned single-family residential, multi-family residential and office types of development. TF-3 zoned duplex development is located approximately 195 feet east, northeast of the site, thus the Conditional Use request. However, there are no less intrusive businesses or higher density residential uses located between the proposed nightclub and those closest single-family residences. This proximity could be a potential source of nuisance for the residential zoned properties. The subject site and the adjacent single-family residential neighborhood do not abut a common street, which lessens the possibility that the customers of the proposed nightclub will be parking in the abutting single-family residential neighborhood.

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

CON2016-35

**STATEMENT OF REASONS**

The building housing the Port of Wichita Club has been used as a Tavern and Drinking Establishment and Entertainment Establishment, as those terms are now defined in the Zoning Code (Section II-B.4.l. and Section II-B.13.b.), for more than 20 years.

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

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

CON2016-35



**CONDITIONAL USE:**  
Tavern and Drinking Establishment  
and Entertainment Establishment  
**APPLICANT:**  
Homer Morgan, Trustee  
**AGENT:**  
Stephen M. Joseph  
**LEGAL DESCRIPTION:**  
LOT 2, EXC BEG 28 FT W OF SLY  
MOST SE COR, W 22 FT, NW 65.66  
FT, N 46.25 FT, E 87 FT, S 56 FT TO  
BEG & EXC N 300 FT THEREOF,  
BLOCK 1, PARK MEADOW  
ESTATES ADDITION TO WICHITA,  
SEDGWICK COUNTY, KANSAS  
**BUSINESS:**  
Port of Wichita Club  
**ADDRESS:**  
1548 S. Webb Rd., Wichita  
SITE PLAN

Imagery Date: 7/12/2015 37°39'56.15" N 97°13'30.02" W elev 1359 ft eye alt 2132 ft



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**INTEROFFICE  
MEMORANDUM**

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**TO:** MAPC  
**FROM:** Laura Rainwater  
**SUBJECT:** CON2016-00035  
**DATE:** August 9, 2016

On Monday, August 8, 2016, the District II Advisory Board considered a request by The Homer Morgan Trust, c/o Homer Morgan, Trustee (applicant/owner) Stephen M. Joseph (agent) for a Conditional Use to allow a night club.

Neither the applicant nor agent were present at the meeting. More than 15 adjacent property owners were present to protest the application. Guest list attached to this report.

After staff presentation by **Bill Longnecker, Senior Planner, MAPD**, DAB II Pro Tem, **Dale Carter**, asked the public how many were present at the meeting to protest the application. More than 15 raised their hand. DAB members voiced their concerns on the negative impact it would have on surrounding property owners. Those concerns included lack of parking and the negative impact on adjacent property owners including an increase in noise, trash, lighting and crime.

More than six adjacent property owners addressed the Board in opposition to the application because of the past negative effects it has had on their properties including noise, trash, lighting and crime.

**Action Taken:** Motion made by **David Babich** to approve the staff recommendation to accept the application. There was no second.

A second motion was made by **Terri Hutton** to **DENY** application. Seconded By **Nazir Jesri**.

**MOTION PASSED 4-2**

Respectfully submitted,

Laura Rainwater, Community Services Representative – District II

14. Case No.: **CON2016-00039 (THIS CASE TO BE DEFERRED)**  
Request: City Conditional Use to permit a Tavern/Drinking  
Establishment/Nightclub within 300 feet of residential zoning on LI  
Limited Industrial zoned property.  
General Location: West of South Rock Road and south of East Harry Street (7707 E.  
Harry St.).  
Presenting Planner: Bill Longnecker

**STAFF REPORT**  
MAPC August 18, 2016

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CASE NUMBER: CUP2016-00025

APPLICANT/AGENT: Wheeler Trust; Brandon Hospitality, LLC; Community State Bancshares, Inc.; Greenwich Investment Group, LLC; and Wichita Hospitality Group, LLC (owners/applicants); Kaw Valley Engineering, Inc. c/o Tim Austin (agent)

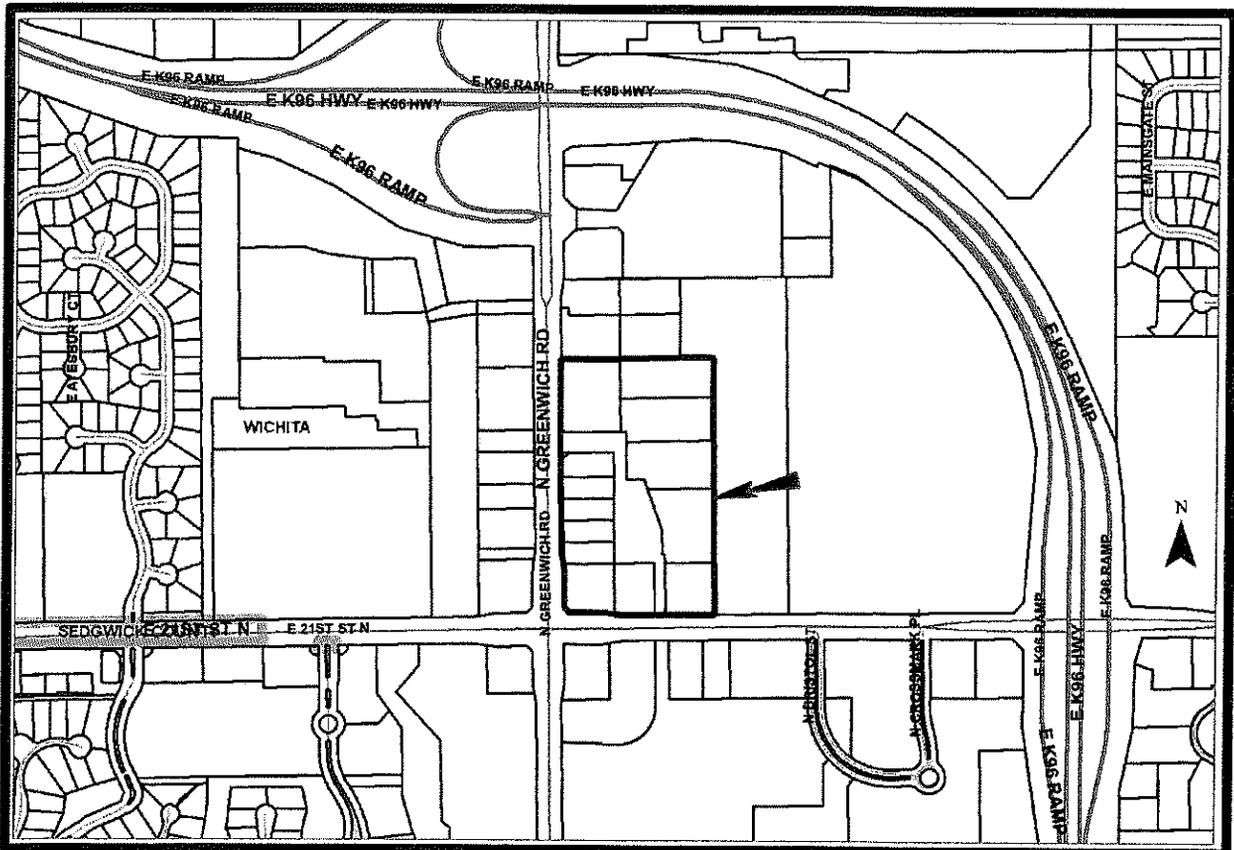
REQUEST: City Request to create DP-342 Village at Greenwich Community Unit Plan (CUP)

CURRENT ZONING: Limited Commercial (LC)

SITE SIZE: 19.25 acres

LOCATION: Generally located at the northeast corner of 21<sup>st</sup> Street North and Greenwich Road

PROPOSED USE: Limited commercial development



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

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

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

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

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

**ADJACENT ZONING AND LAND USE:**

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

**PUBLIC SERVICES:** 21<sup>st</sup> Street North and Greenwich Road are both section line arterial streets at this location with 60-foot half-width right-of-way (ROW), tapering to 75-foot half-width ROW at the intersection. Greenwich Road is a six-lane arterial with dual left turn lanes at 21<sup>st</sup> Street North and a single left turn lane into the major entrance to the site. Both intersections are signalized. 21<sup>st</sup> Street North is a six-lane arterial with a continuous center left turn lane. The CUP proposes three (3) access openings to 21<sup>st</sup> Street North, all of which have been constructed, and four (4) access openings to Greenwich Road, three of which have been constructed. Any remaining access opening to Greenwich Road is subject to the City of Wichita's Access Management Policy per the requirements of the CUP and plat. All utilities currently serve the site, and the CUP indicates that all utilities will be placed underground.

**CONFORMANCE TO PLANS/POLICIES:** The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Wichita City Limits. The Plan's 2035 *Wichita Future Growth Concept Map* identifies this location as "New Employment" which encompasses areas that likely will be developed or redeveloped by 2035 with uses that constitute centers or concentrations of employment primarily in manufacturing, warehousing, distribution, construction, research, technology, business services, or corporate offices. Major shopping centers and office parks likely will be developed within this area as well, based upon market driven location factors. In certain areas, especially those in proximity to existing residential uses, higher density housing and convenience retail centers likely will be developed. The Locational Guidelines of the Comprehensive Plan encourage major commercial development at arterial street intersections. This application meets the Comprehensive Plan Land Use Compatibility and Design recommendations regarding screening, buffering, shared internal vehicular and pedestrian circulation, access controls, noise and lighting controls and aesthetic considerations.

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

- A. The applicant shall record a CUP certificate with the Register of Deeds indicating that this tract (referenced as DP-342 Village at Greenwich CUP) has special conditions for development on the property. A copy of the recorded certificate along with four copies of the approved CUP shall be submitted to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

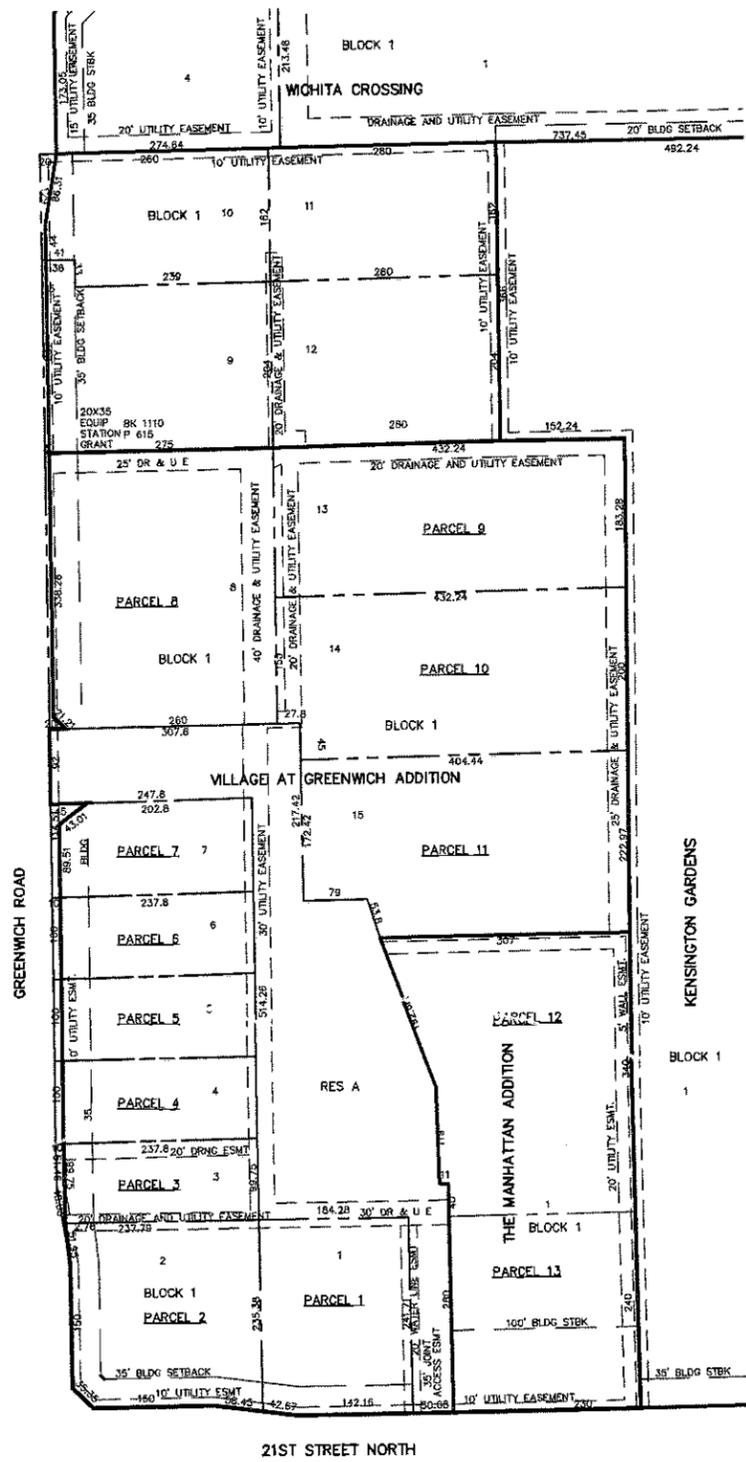
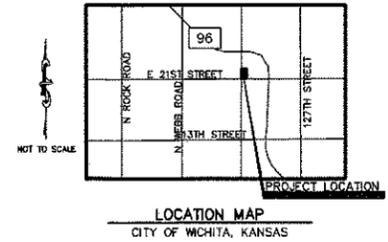
This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site is located in the middle of a major commercial area along K-96 Highway. North of the site is zoned LC and LI Limited Industrial (LI) and is developed with a vehicle repair garage, big box retail, and commercial pad sites. South of site is a proposed 59 acre shopping center that is zoned LC and has two fast food restaurants and a bank developed on pad sites to date. East of the site is a 57 acre cemetery that is zoned LC and SF-5 Single-Family Residential (SF-5). West of the site is zoned LC and LI and is developed with a 70 acre shopping center developed with big box retail and commercial pad sites.
2. The suitability of the subject property for the uses to which it has been restricted: The 19.25-acre site is zoned LC. Current Wichita-Sedgwick County Unified Zoning Code (UZC) requirements include a CUP for LC zoned sites of 6-acres or more that are held under unified control at the time of initial approval. A CUP is intended to provide well planned and organized commercial development to certain standards prescribed by the UZC.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: LC zoning exists on the property. The requested CUP restricts land uses on the site and require specific development standards that are greater than standard LC zoning requirements. The proposed CUP use restrictions and development standards should mitigate detrimental impacts on nearby property.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Wichita City Limits. The Plan's 2035 *Wichita Future Growth Concept Map* identifies this location as "New Employment" which encompasses areas that likely will

be developed or redeveloped by 2035 with uses that constitute centers or concentrations of employment primarily in manufacturing, warehousing, distribution, construction, research, technology, business services, or corporate offices. Major shopping centers and office parks likely will be developed within this area as well, based upon market driven location factors. In certain areas, especially those in proximity to existing residential uses, higher density housing and convenience retail centers likely will be developed. The Locational Guidelines of the Comprehensive Plan encourage major commercial development at arterial street intersections. This application meets the Comprehensive Plan Land Use Compatibility and Design recommendations regarding screening, buffering, shared internal vehicular and pedestrian circulation, access controls, noise and lighting controls and aesthetic considerations.

5. Impact of the proposed development on community facilities: Any remaining access opening to Greenwich Road is subject to the City of Wichita's Access Management Policy per the requirements of the CUP and plat. All utilities currently serve the site, and the CUP indicates that all utilities will be placed underground.

**COMMUNITY UNIT PLAN DP-342**  
**VILLAGE AT GREENWICH**  
 WICHITA, SEDGWICK COUNTY, KANSAS

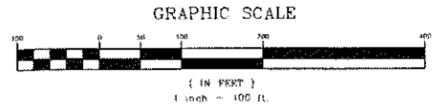


**GENERAL PROVISIONS:**

1. THIS DEVELOPMENT CONTAINS 19.25± NET ACRES.
2. BUILDING SETBACKS SHALL BE AS SHOWN ON THE CUP.
3. ALL UTILITIES SHALL BE INSTALLED UNDERGROUND.
4. A DRAINAGE PLAN AND GUARANTEES FOR THE DRAINAGE IMPROVEMENTS SHALL BE PROVIDED AT THE TIME OF PLATTING.
5. FINAL DETERMINATION OF STREET RIGHT-OF-WAY AND PAVEMENT WIDTHS SHALL BE RESOLVED AT THE TIME OF PLATTING.
6. PARKING SHALL BE PROVIDED IN ACCORDANCE WITH THE UNIFIED ZONING CODE.
7. THE TRANSFER OF THE TITLE ON ALL OR ANY PORTION OF THE LAND INCLUDED IN THE DEVELOPMENT DOES NOT CONSTITUTE A TERMINATION OF THESE PROVISIONS OR ANY PORTION THEREOF, BUT SAID PROVISIONS SHALL RUN WITH THE LAND FOR DEVELOPMENT AND BE BINDING UPON THE PRESENT LAND OWNERS, THEIR SUCCESSORS AND ASSIGNS AND THEIR LESSEES UNLESS AMENDED.
8. ARCHITECTURAL CONTROLS:
  - 8.1. ALL BUILDINGS SHALL HAVE PREDOMINANT EXTERIOR BUILDING MATERIAL, CONSISTENT ARCHITECTURAL CHARACTER, COLOR, OR TEXTURE, AND CONSISTENT LIGHTING DESIGN (FIXTURES, POLES, LAMPS, ETC.), VARIATIONS MUST BE APPROVED BY THE DIRECTOR OF PLANNING.
  - 8.2. ALL LIGHTING SHALL BE SHIELDED TO REFLECT LIGHT DOWNWARD AND AWAY FROM RESIDENTIAL AREAS.
  - 8.3. ANY BUILDING CONSTRUCTED ON THE PREMISES SHALL BE SO DESIGNED AND CONSTRUCTED AS TO MINIMIZE NOISE POLLUTION IN ANY SUCH STRUCTURE, GIVING DUE CONSIDERATION TO THE USE FOR WHICH SUCH STRUCTURE IS DESIGNED AND BUILT.
9. FIRE LANES SHALL BE IN ACCORDANCE WITH THE APPROPRIATE FIRE CODE. NO PARKING SHALL BE ALLOWED IN SAID FIRE LANES, ALTHOUGH THEY MAY BE USED FOR PASSENGER LOADING AND UNLOADING. DURING THE BUILDING PERMIT REVIEW, THE FIRE CHIEF, OR HIS DESIGNATED REPRESENTATIVE, SHALL APPROVE THE SITE PLAN REGARDING THE DESIGN OF THE FIRE LANES PRIOR TO THE ISSUANCE OF A BUILDING PERMIT.
10. TRASH RECEPTACLES SHALL BE APPROPRIATELY SCREENED TO REASONABLY HIDE THEM FROM GROUND VIEW FROM ADJACENT STREETS OR RESIDENTIAL AREAS.
11. MASONRY WALL - A SOLID OR SEMI-SOLID WALL CONSTRUCTED OF BRICK, STONE, MASONRY, ARCHITECTURAL TILE OR OTHER SIMILAR MATERIAL (NOT INCLUDING WOOD OR WOVEN WIRE) AT LEAST SIX FEET BUT NOT MORE THAN 8 FEET HIGH SHALL BE CONSTRUCTED ALONG THE NORTH & EAST PROPERTY LINES. CONSTRUCTION OF WALL WILL REQUIRE A BUILDING PERMIT. NO WALL SHALL BE CONSTRUCTED IN A UTILITY EASEMENT.
- 11.1 SHOULD THE AREA ADJACENT TO THE ORTH AND EAST PROPERTY LINES BE ZONED ANY ZONING DISTRICT OTHER THAN RESIDENTIAL, THE ABOVE REFERENCED WALL SHALL NOT BE REQUIRED.
12. ALL ROOF-TOP EQUIPMENT SHALL BE SCREENED FROM GROUND LEVEL VIEW FROM ADJACENT RESIDENTIAL AREAS.
13. SIGNS SHALL BE IN ACCORDANCE WITH CHAPTER 24.04 OF THE SIGN CODE OF THE CITY OF WICHITA WITH THE FOLLOWING EXCEPTIONS:
  - 13.1. NO OFF-SITE, PORTABLE SIGNS, OR SIGNS WITH ROTATING OR FLASHING LIGHTS SHALL BE PERMITTED.
  - 13.2. IF THE PROPERTY IS PLATTED INTO MULTIPLE LOTS, AN AGREEMENT FOR SIGNAGE ALLOCATIONS WILL BE REQUIRED.
  - 13.3. ALL SIGNS ALONG GREENWICH AND 21ST STREET NORTH SHALL BE MONUMENT TYPE SIGNS WITH A MAXIMUM HEIGHT OF 25 FEET. IF THE NUMBER OF SIGNS ALONG GREENWICH EXCEEDS FOUR (4) OR THE NUMBER OF SIGNS ALONG 21ST STREET NORTH EXCEEDS THREE (3), ANY ADDITIONAL SIGN(S) SHALL BE LIMITED TO 140 SQUARE FEET PER SIDE. NO MORE THAN TWO ADDITIONAL SIGNS SHALL BE PERMITTED ALONG BOTH GREENWICH AND 21ST STREET NORTH, WITH A SIGN ON PARCEL 2 ANGLED TO THE INTERSECTION OF GREENWICH AND 21ST STREET NORTH COUNTING AS ONE OF THE ADDITIONAL PERMITTED SIGNS FOR BOTH STREET FRONTAGES.
  - 13.4. THE MAXIMUM SQUARE FOOTAGE OF SIGN AREA PERMITTED FOR GROUND MONUMENT SIGNS SHALL BE CALCULATED AT 0.8 SQ. FT. PER FOOT OF LINEAR STREET FRONTAGE. AS THE FRONTAGE DEVELOPS ALONG THE ARTERIAL ROADWAYS, GROUND OR POLE SIGNS SHALL BE SPACED A MINIMUM OF 150 FEET APART, IRRESPECTIVE OF HOW LAND IS LEASED OR SOLD.
14. LANDSCAPE BUFFERS AND SCREENING - SHALL BE IN ACCORDANCE WITH THE CITY OF WICHITA LANDSCAPE ORDINANCE. A LANDSCAPE PLAN INDICATING THE LOCATION, TYPE, AND SPECIFICATION OF PLANT MATERIALS SHALL BE SUBMITTED TO THE PLANNING DEPARTMENT FOR THEIR REVIEW AND APPROVAL PRIOR TO THE ISSUANCE OF ANY BUILDING PERMIT (S). THE LANDSCAPE PLAN SHALL ALSO STATE HOW WATER IS TO BE PROVIDED TO THE PLANT MATERIALS.
  - 14.1. A FINANCIAL GUARANTEE FOR THE PLANT MATERIALS AND WATERING SYSTEM(S) APPROVED FOR THE LANDSCAPE PLAN SHALL BE REQUIRED PRIOR TO THE ISSUANCE OF ANY OCCUPANCY PERMIT IF THE REQUIRED LANDSCAPING HAS NOT BEEN INSTALLED.
15. ACCESS CONTROL
  - 15.1. ACCESS TO 21ST STREET NORTH SHALL BE LIMITED TO 3 OPENINGS, AT LEAST ONE OF WHICH SHALL BE A MAJOR OPENING. THERE SHALL BE COMPLETE ACCESS CONTROL TO 21ST STREET NORTH ON THE WEST 100' OF THE PROPERTY.
  - 15.2. ACCESS TO GREENWICH ROAD SHALL BE LIMITED TO 4 OPENINGS, ONE OF WHICH SHALL BE A MAJOR OPENING. THERE SHALL BE COMPLETE ACCESS CONTROL TO GREENWICH ROAD ON THE SOUTH 100' OF THE PROPERTY.
  - 15.3. GENERAL LOCATION OF OPENINGS SHALL BE DETERMINED AT THE TIME OF PLATTING.
16. PEDESTRIAN WALK SYSTEM - PRIOR TO ISSUING BUILDING PERMITS, A PLAN FOR A PEDESTRIAN WALK SYSTEM SHALL BE SUBMITTED AND APPROVED BY THE DIRECTOR OF PLANNING. THIS WALK SYSTEM SHALL LINK SIDEWALKS ALONG 21ST STREET NORTH AND GREENWICH ROAD, WITH PROPOSED BUILDINGS WITHIN THE SUBJECT PROPERTY.
17. NO BUILDING PERMITS SHALL BE ISSUED FOR ANY DEVELOPMENT WITHOUT SERVICE BY MUNICIPAL WATER AND SEWER SERVICES.
18. THE SUBJECT PROPERTY SHALL BE SUBJECT TO THE NOISE ORDINANCE (SECTION 7.41) AND ODOR ORDINANCE (SECTION 7.42) OF THE CODE OF THE CITY OF WICHITA.
19. PARCEL DESCRIPTIONS:

<p><b>PARCEL NO. 1</b>                  PROPOSED USES: ALL USES PERMITTED IN THE "LC" LIMITED COMMERCIAL ZONING DISTRICT BY RIGHT EXCEPT: TAVERNS, DRINKING ESTABLISHMENTS AND SEXUALLY ORIENTED BUSINESSES AS DEFINED BY CITY CODE.</p> <p>NET AREA - 1.01 ACRES±                  TOTAL NUMBER OF BUILDINGS - 1                  MAXIMUM BUILDING COVERAGE - 30%                  MAXIMUM GROSS FLOOR AREA - 35%                  PARKING - SEE GENERAL PROVISION NUMBER 6                  MAXIMUM BUILDING HEIGHT - 45 FEET</p>	<p><b>PARCEL NO. 6</b>                  PROPOSED USES: SAME AS PARCEL 1</p> <p>NET AREA - 0.55 ACRES±                  TOTAL NUMBER OF BUILDINGS - 1                  MAXIMUM BUILDING COVERAGE - 30%                  MAXIMUM GROSS FLOOR AREA - 35%                  PARKING - SEE GENERAL PROVISION NUMBER 6                  MAXIMUM BUILDING HEIGHT - 45 FEET</p>	<p><b>PARCEL NO. 10</b>                  PROPOSED USES: SAME AS PARCEL 1</p> <p>NET AREA - 1.95 ACRES±                  TOTAL NUMBER OF BUILDINGS - 1                  MAXIMUM BUILDING COVERAGE - 30%                  MAXIMUM GROSS FLOOR AREA - 35%                  PARKING - SEE GENERAL PROVISION NUMBER 6                  MAXIMUM BUILDING HEIGHT - 45 FEET</p>	<p><b>RESERVE A</b>                  PROPOSED USES: UTILITIES, CONFINED BY EASEMENTS, SIDEWALKS, DRIVES, DRAINAGE, BERMING, LANDSCAPING, IRRIGATION, MONUMENTS, OPEN SPACE, DEVELOPMENT SIGNS, FOUNTAINS, AND PRIVATE RECIPROCAL VEHICULAR AND PEDESTRIAN ACCESS</p> <p>NET AREA - 3.11 ACRES±                  TOTAL NUMBER OF BUILDINGS - 0                  MAXIMUM BUILDING COVERAGE - N/A                  MAXIMUM GROSS FLOOR AREA - N/A                  PARKING - SEE GENERAL PROVISION NUMBER 6                  MAXIMUM BUILDING HEIGHT - N/A</p>
<p><b>PARCEL NO. 2</b>                  PROPOSED USES: SAME AS PARCEL 1</p> <p>NET AREA - 1.21 ACRES±                  TOTAL NUMBER OF BUILDINGS - 1                  MAXIMUM BUILDING COVERAGE - 30%                  MAXIMUM GROSS FLOOR AREA - 35%                  PARKING - SEE GENERAL PROVISION NUMBER 6                  MAXIMUM BUILDING HEIGHT - 45 FEET</p>	<p><b>PARCEL NO. 7</b>                  PROPOSED USES: SAME AS PARCEL 1</p> <p>NET AREA - 0.61 ACRES±                  TOTAL NUMBER OF BUILDINGS - 1                  MAXIMUM BUILDING COVERAGE - 30%                  MAXIMUM GROSS FLOOR AREA - 35%                  PARKING - SEE GENERAL PROVISION NUMBER 6                  MAXIMUM BUILDING HEIGHT - 45 FEET</p>	<p><b>PARCEL NO. 11</b>                  PROPOSED USES: SAME AS PARCEL 1</p> <p>NET AREA - 1.95 ACRES±                  TOTAL NUMBER OF BUILDINGS - 1                  MAXIMUM BUILDING COVERAGE - 30%                  MAXIMUM GROSS FLOOR AREA - 35%                  PARKING - SEE GENERAL PROVISION NUMBER 6                  MAXIMUM BUILDING HEIGHT - 45 FEET</p>	
<p><b>PARCEL NO. 3</b>                  PROPOSED USES: SAME AS PARCEL 1</p> <p>NET AREA - 0.54 ACRES±                  TOTAL NUMBER OF BUILDINGS - 1                  MAXIMUM BUILDING COVERAGE - 30%                  MAXIMUM GROSS FLOOR AREA - 35%                  PARKING - SEE GENERAL PROVISION NUMBER 6                  MAXIMUM BUILDING HEIGHT - 45 FEET</p>	<p><b>PARCEL NO. 8</b>                  PROPOSED USES: SAME AS PARCEL 1</p> <p>NET AREA - 2.13 ACRES±                  TOTAL NUMBER OF BUILDINGS - 1                  MAXIMUM BUILDING COVERAGE - 30%                  MAXIMUM GROSS FLOOR AREA - 35%                  PARKING - SEE GENERAL PROVISION NUMBER 6                  MAXIMUM BUILDING HEIGHT - 45 FEET</p>	<p><b>PARCEL NO. 12</b>                  PROPOSED USES: SAME AS PARCEL 1</p> <p>NET AREA - 2.01 ACRES±                  TOTAL NUMBER OF BUILDINGS - 1                  MAXIMUM BUILDING COVERAGE - 30%                  MAXIMUM GROSS FLOOR AREA - 35%                  PARKING - SEE GENERAL PROVISION NUMBER 6                  MAXIMUM BUILDING HEIGHT - 45 FEET</p>	
<p><b>PARCEL NO. 4</b>                  PROPOSED USES: SAME AS PARCEL 1</p> <p>NET AREA - 0.55 ACRES±                  TOTAL NUMBER OF BUILDINGS - 1                  MAXIMUM BUILDING COVERAGE - 30%                  MAXIMUM GROSS FLOOR AREA - 35%                  PARKING - SEE GENERAL PROVISION NUMBER 6                  MAXIMUM BUILDING HEIGHT - 45 FEET</p>	<p><b>PARCEL NO. 9</b>                  PROPOSED USES: SAME AS PARCEL 1</p> <p>NET AREA - 1.82 ACRES±                  TOTAL NUMBER OF BUILDINGS - 1                  MAXIMUM BUILDING COVERAGE - 30%                  MAXIMUM GROSS FLOOR AREA - 35%                  PARKING - SEE GENERAL PROVISION NUMBER 6                  MAXIMUM BUILDING HEIGHT - 45 FEET</p>	<p><b>PARCEL NO. 13</b>                  PROPOSED USES: SAME AS PARCEL 1</p> <p>NET AREA - 1.26 ACRES±                  TOTAL NUMBER OF BUILDINGS - 1                  MAXIMUM BUILDING COVERAGE - 30%                  MAXIMUM GROSS FLOOR AREA - 35%                  PARKING - SEE GENERAL PROVISION NUMBER 6                  MAXIMUM BUILDING HEIGHT - 45 FEET</p>	

**LEGAL DESCRIPTION**  
 A TRACT OF LAND DESCRIBED AS FOLLOWS:  
 THE MANHATTAN ADDITION, SEDGWICK COUNTY, KANSAS, EXCEPT THAT PART PLATTED AS VILLAGE AT GREENWICH ADDITION, AN ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS; ALONG WITH LOTS 1-8, LOTS 13-15, AND RESERVE A, VILLAGE AT GREENWICH ADDITION, AN ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS.




**KAW VALLEY ENGINEERING, INC.**  
 200 N EMPORIA AVENUE, SUITE 100  
 WICHITA, KANSAS 67202  
 PH. (316) 440-4304 | FAX (316) 440-4309  
 W@kven.com | www.kven.com  
 DATE OF PREPARATION: AUGUST 09, 2016 PROJECT NO. G14D0100 SHEET 1 OF 1

Approved / Accepted By City Council

This JAN 7 1997

AGREEMENT

JAN 7 1997

THIS AGREEMENT, made and entered into this \_\_\_\_\_, \_\_\_\_\_, by and between the City of Wichita, Kansas, hereinafter "City", and Luxury Development Partners, Inc.

WITNESSETH:

WHEREAS, City approves and files the agreement for the property legally described as follows: Lot 1, Block 1, The Manhattan Addition to Sedgwick County, Kansas.

WHEREAS, City and Owner wish to agree on the terms and restrictions for the subject property. The development of this property shall be in accordance to the plan attached hereto (Exhibit A) and any substantial deviation of the plan shall constitute a violation of the building permit authorizing construction of the proposed development. The foregoing agreements are hereby made binding on all heirs, successors and assigns and are made a covenant to run with the land and shall not be withdrawn or modified without the consent of the City of Wichita.

The undersigned agrees not to transfer title to the above premises or any portion thereof without notifying the purchaser of the existence of this Agreement, but failures of purchasers of above property or any portion thereof to have actual notice of this Agreement shall in no way diminish or enlarge the rights or obligations imposed hereunder.

NOW, THEREFORE, in consideration of the premises, the parties agree as follows:  
See Attached Exhibit "A"

IN WITNESS WHEREOF, the Parties have set their hands and seals the day and year first above written.



THE CITY OF WICHITA, KANSAS

BY [Signature]  
Bob Knight, Mayor

ATTEST:

[Signature]  
Pat Burnett  
City Clerk

STATE OF KANSAS / SS  
SEDGWICK COUNTY /  
FILED FOR RECORD AT  
1.000 - M

1579752 9156

LARRY CONSOLVER  
REGISTER OF DEEDS

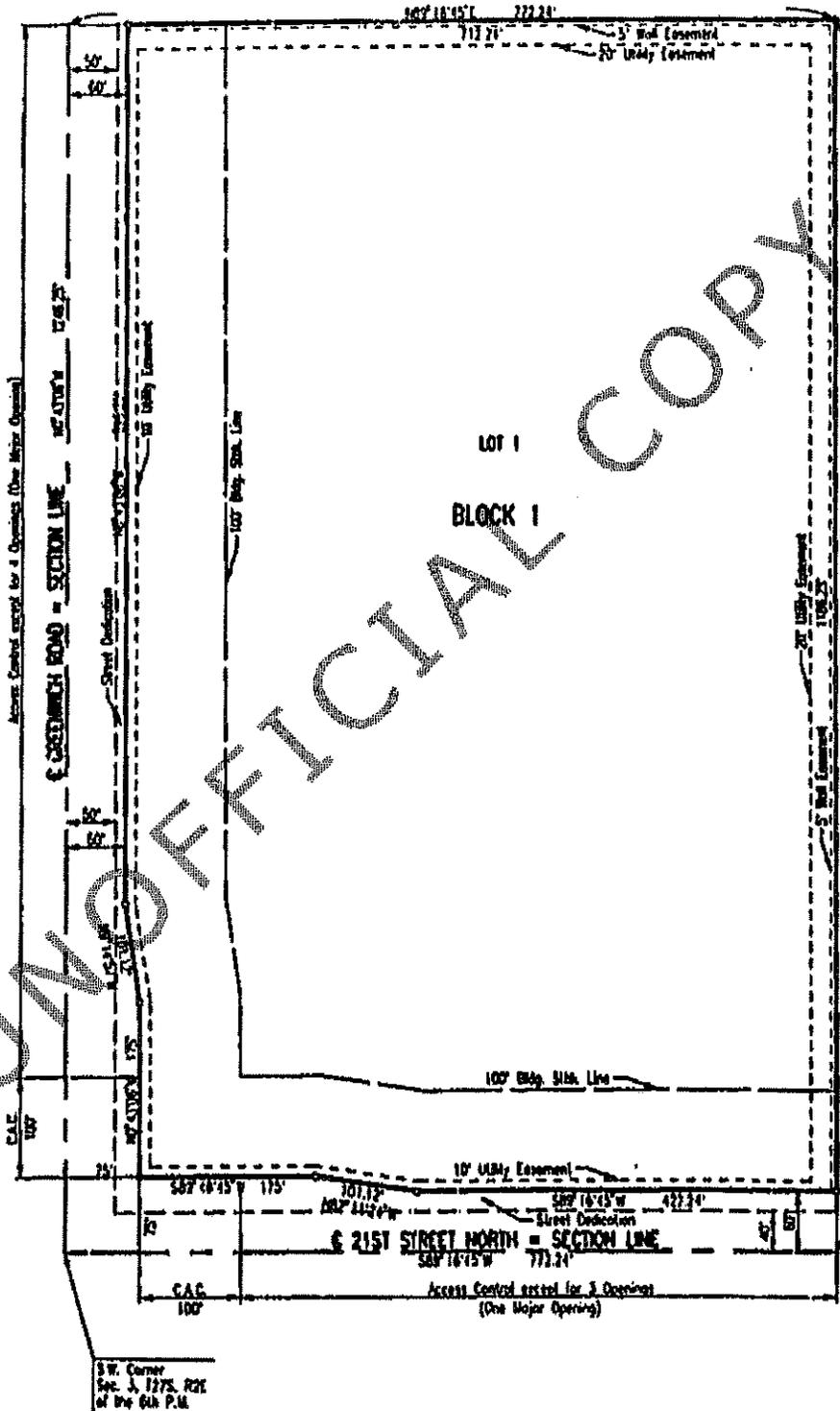
[Signature]  
City Clerk

[Signature]  
Dorinda Manheimer

Denity

16:00 cl





APRIL, 1996

THE MANHATTAN ADDITION  
COMMERCIAL DEVELOPMENT AGREEMENT

EXHIBIT "A"  
SHEET 1 OF 4

THE MANHATTAN ADDITION COMMERCIAL  
DEVELOPMENT AGREEMENT

04/10/96

GENERAL PROVISIONS

1. THIS DEVELOPMENT CONTAINS 19.25± NET ACRES.
2. BUILDING SETBACKS SHALL BE AS FOLLOWS:  
100 FEET ADJACENT TO 21ST ST. NORTH AND GREENWICH ROAD FOR MAJOR STRUCTURES.  
50 FEET ADJACENT TO 21ST ST. NORTH AND GREENWICH ROAD FOR PAD SITES.  
35 FEET ALONG THE NORTH AND EAST PROPERTY LINES.
3. ALL UTILITIES SHALL BE INSTALLED UNDERGROUND.
4. A DRAINAGE PLAN AND GUARANTEES FOR THE DRAINAGE IMPROVEMENTS SHALL BE PROVIDED AT THE TIME OF PLATTING.
5. FINAL DETERMINATION OF STREET RIGHT-OF-WAY AND PAVEMENT WIDTHS SHALL BE RESOLVED AT THE TIME OF PLATTING.
6. PARKING SHALL BE PROVIDED IN ACCORDANCE WITH SECTION 28.04.140 ET. SEQ. OF THE CODE OF THE CITY OF WICHITA.
7. THE TRANSFER OF THE TITLE ON ALL OR ANY PORTION OF THE LAND INCLUDED IN THE DEVELOPMENT DOES NOT CONSTITUTE A TERMINATION OF THESE PROVISIONS OR ANY PORTION THEREOF, BUT SAID PROVISIONS SHALL RUN WITH THE LAND FOR DEVELOPMENT AND BE BINDING UPON THE PRESENT LAND OWNERS, THEIR SUCCESSORS AND ASSIGNS AND THEIR LESSEES UNLESS AMENDED.
8. ARCHITECTURAL CONTROLS:
  - A. ALL BUILDINGS SHALL HAVE PREDOMINANT EXTERIOR BUILDING MATERIAL, CONSISTENT ARCHITECTURAL CHARACTER, COLOR, OR TEXTURE, AND CONSISTENT LIGHTING DESIGN (FIXTURES, POLES, LAMPS, ETC.) VARIATIONS MUST BE APPROVED BY THE DIRECTOR OF PLANNING.
  - B. ALL LIGHTING SHALL BE SHIELDED TO REFLECT LIGHT DOWNWARD AND AWAY FROM RESIDENTIAL AREAS.
9. FIRE LANES SHALL BE IN ACCORDANCE WITH THE APPROPRIATE FIRE CODE. NO PARKING SHALL BE ALLOWED IN SAID FIRE LANES, ALTHOUGH THEY MAY BE USED FOR PASSENGER LOADING AND UNLOADING. DURING THE BUILDING PERMIT REVIEW, THE FIRE CHIEF, OR HIS DESIGNATED REPRESENTATIVE, SHALL APPROVE THE SITE PLAN REGARDING THE DESIGN OF THE FIRE LANES PRIOR TO THE ISSUANCE OF A BUILDING PERMIT.
10. TRASH RECEPTACLES SHALL BE APPROPRIATELY SCREENED TO REASONABLY HIDE THEM FROM GROUND VIEW FROM ADJACENT STREETS OR RESIDENTIAL AREAS.

EXHIBIT "A"  
SHEET 2 OF 4

11. MASONRY WALL - A SOLID OR SEMI-SOLID WALL CONSTRUCTED OF BRICK, STONE, MASONRY, ARCHITECTURAL TILE OR OTHER SIMILAR MATERIAL (NOT INCLUDING WOOD OR WOVEN WIRE) AT LEAST SIX FEET BUT NOT MORE THAN 8 FEET HIGH SHALL BE CONSTRUCTED ALONG THE NORTH & EAST PROPERTY LINES. CONSTRUCTION OF WALL WILL REQUIRE A BUILDING PERMIT. NO WALL SHALL BE CONSTRUCTED IN A UTILITY EASEMENT.

SHOULD THE AREA ADJACENT TO THE NORTH AND EAST PROPERTY LINES BE ZONED ANY ZONING DISTRICT OTHER THAN RESIDENTIAL, THE ABOVE REFERENCED WALL SHALL NOT BE REQUIRED.

12. ALL ROOF-TOP EQUIPMENT SHALL BE SCREENED FROM GROUND LEVEL VIEW FROM ADJACENT RESIDENTIAL AREAS.
13. SIGNS SHALL BE IN ACCORDANCE WITH CHAPTER 24.04 OF THE SIGN CODE OF THE CITY OF WICHITA WITH THE FOLLOWING EXCEPTIONS:

- A. NO OFF-SITE, PORTABLE SIGNS, OR SIGNS WITH ROTATING OR FLASHING LIGHTS SHALL BE PERMITTED.
- B. IF THE PROPERTY IS PLATTED INTO MULTIPLE LOTS, AN AGREEMENT FOR SIGNAGE ALLOCATIONS WILL BE REQUIRED.
- C. ALL SIGNS ALONG GREENWICH AND 21ST STREET NORTH SHALL BE MONUMENT TYPE SIGNS WITH A MAXIMUM HEIGHT OF 20 FEET; PROVIDED, HOWEVER, IF THE NUMBER OF SIGNS ALONG GREENWICH IS LIMITED TO FOUR (4) OR LESS OR THE NUMBER OF SIGNS ALONG 21ST STREET NORTH IS LIMITED TO THREE (3) OR LESS, ONE (1) SIGN ON THAT FRONTAGE MAY BE INCREASED TO 25 FEET.
- D. THE MAXIMUM SQUARE FOOTAGE OF SIGN AREA PERMITTED FOR GROUND MONUMENT SIGNS SHALL BE CALCULATED AT 0.8 SQ. FT. PER FOOT OF LINEAR STREET FRONTAGE. AS THE FRONTAGE DEVELOPS ALONG THE ARTERIAL ROADWAYS, GROUND OR POLE SIGNS SHALL BE SPACED A MINIMUM 150 FEET APART, IRRESPECTIVE OF HOW LAND IS LEASED OR SOLD.

14. LANDSCAPE BUFFERS AND SCREENING - SHALL BE IN ACCORDANCE WITH SECTION 10.32.010 ET. SEQ. OF THE CODE OF THE CITY OF WICHITA. A LANDSCAPE PLAN INDICATING THE LOCATION, TYPE, AND SPECIFICATION OF PLANT MATERIALS SHALL BE SUBMITTED TO THE PLANNING DEPARTMENT FOR THEIR REVIEW AND APPROVAL PRIOR TO THE ISSUANCE OF ANY BUILDING PERMIT(S). THE LANDSCAPE PLAN SHALL ALSO STATE HOW WATER IS TO BE PROVIDED TO THE PLANT MATERIALS.

A FINANCIAL GUARANTEE FOR THE PLANT MATERIALS AND WATERING SYSTEM(S) APPROVED FOR THE LANDSCAPE PLAN SHALL BE REQUIRED PRIOR TO THE ISSUANCE OF ANY OCCUPANCY PERMIT IF THE REQUIRED LANDSCAPING HAS NOT BEEN INSTALLED.

15. ACCESS CONTROL

- A. ACCESS TO 21ST ST. NORTH SHALL BE LIMITED TO 3 OPENINGS, AT LEAST ONE OF WHICH SHALL BE A MAJOR OPENING. THERE SHALL BE COMPLETE ACCESS CONTROL TO 21ST ST. NORTH ON THE WEST 100' OF THE PROPERTY.

EXHIBIT "A"  
SHEET 3 OF 4

- B. ACCESS TO GREENWICH ROAD SHALL BE LIMITED TO 4 OPENINGS, ONE OF WHICH SHALL BE A MAJOR OPENING. THERE SHALL BE COMPLETE ACCESS CONTROL TO GREENWICH ROAD ON THE SOUTH 100' OF THE PROPERTY.
  - C. GENERAL LOCATION OF OPENINGS SHALL BE DETERMINED AT THE TIME OF PLATTING.
16. PEDESTRIAN WALK SYSTEM  
PRIOR TO ISSUING BUILDING PERMITS, A PLAN FOR A PEDESTRIAN WALK SYSTEM SHALL BE SUBMITTED AND APPROVED BY THE DIRECTOR OF PLANNING. THIS WALK SYSTEM SHALL LINK SIDEWALKS ALONG 21ST STREET NORTH AND GREENWICH ROAD, WITH PROPOSED BUILDINGS WITHIN THE SUBJECT PROPERTY.
17. NO BUILDING PERMITS SHALL BE ISSUED FOR ANY DEVELOPMENT WITHOUT SERVICE BY MUNICIPAL WATER AND SEWER SERVICES.
18. THE SUBJECT PROPERTY SHALL BE SUBJECT TO THE NOISE ORDINANCE (SECTION 7.41) AND ODOR ORDINANCE (SECTION 7.42) OF THE CODE OF THE CITY OF WICHITA.

**CONDITIONS**

PROPOSED USE - ALL USES PERMITTED IN THE "L.C." ZONING DISTRICT EXCEPT TAVERNS, DRINKING ESTABLISHMENTS AND ADULT ENTERTAINMENT AS DEFINED BY CITY CODE.

NET AREA - 19.25 ACRES± OR 838,670 SQ. FT.  
MAX. BUILDING COVERAGE - 30% OR 251,601 SQ. FT.  
MAX. GROSS FLOOR AREA - 35% OR 293,535 SQ. FT.  
MAX. BUILDING HEIGHT - 45 FT.  
MAX. NUMBER OF BUILDINGS - 7

EXHIBIT "A"  
SHEET 4 OF 4

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

**DATE:** August 18, 2016  
**TO:** Metropolitan Area Planning Commission  
**FROM:** Scott Knebel, AICP, Advanced Plans Division  
**SUBJECT:** DER2016-02: Wireless Communication Master Plan

**Background:** Senate Substitute for House Bill No. 2131 was recently passed by the Kansas House and Senate. The bill has numerous State mandates regarding how local units of government can regulate wireless communication facilities. Wichita-Sedgwick County regulations of wireless communication facilities are based on the Wireless Communication Master Plan.

The following is a high-level summary of the State mandates that will need to be addressed through an amendment of the Wireless Communication Master Plan and the Wichita-Sedgwick County Unified Zoning Code (UZC). The bill prohibits the following established practices:

- 1) Requiring applicants to document that no collocation opportunity is available prior to permitting construction of a new wireless communication facility.
- 2) Requiring applicants to demonstrate that a wireless communication facility addresses a wireless service provider need rather than being constructed as a speculative facility.
- 3) Evaluating the merits of an application based on collocation opportunities.
- 4) Requiring small cell facilities in lieu of macro facilities in visually/ environmentally sensitive locations.
- 5) Requiring applicants to agree to permit collocation on their facility by other service providers as a condition of approval.

Additionally, the bill deems an application for a wireless communication facility approved if the application is not acted upon within 150 days for a new facility or 60-90 days (depending on type) for a collocation application. Finally, the bill requires equal treatment of wireless communication facilities with utility installations when applying to locate in right-of-way but establishes a right-of-way fee cap on local governments that is significantly lower than the fee charged utilities.

Staff has developed the attached drafts of the Wireless Communication Master Plan, September 2016 and the Amendments to the Wichita-Sedgwick County of the Unified Zoning Code. Combined, these documents contain the amendments to the Wichita-Sedgwick County Comprehensive Plan and Unified Zoning Code needed to comply with changes to State law.

The Metropolitan Area Planning Commission (MAPC) set a public hearing for August 18, 2016, to consider adopting the Wireless Communication Master Plan, September 2016 as an element of

the Wichita-Sedgwick County Comprehensive Plan and to consider adopting implementing amendments of the Wichita-Sedgwick County Unified Zoning Code (UZC). The Advanced Plans Committee considered the draft Plan and implementing UZC amendments and recommended approval by the full MAPC.

**Recommended Action:** Approve the resolution adopting attached Draft Wireless Communication Master Plan, September 2016 as an element of the Wichita-Sedgwick County Comprehensive Plan and recommend that the governing bodies adopt the attached Draft Amendments to the Wichita-Sedgwick County of the Unified Zoning Code.

This recommendation is based on the following findings.

1. **The extent to which removal of the restrictions will detrimentally affect nearby property:** While the proposed amendments provide regulations and development standards that are less restrictive than existing regulations, the proposed amendments comply with state law and help mitigate detrimental impacts on nearby properties from the development of wireless communication facilities.
2. **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon property owners:** The proposed amendments will further the health, safety, and welfare of the community by providing regulations that increase the compatibility of wireless communication facilities with surrounding properties and give those property owners more notice of potential facilities than would otherwise be provided under the provisions of state law alone. The proposed amendments comply with state law and provide sufficient development opportunities for wireless communication facilities as to not create an undue hardship for developers of facilities.
3. **Conformance of the requested change to the adopted or recognized Comprehensive Plan:** The adopted 2035 Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, inadvertently does not have an element addressing wireless communication plan. Adopting the Wireless Communication Master Plan, September 2016 will provide the needed guidance in the Comprehensive Plan regarding wireless communication facilities.
4. **Impact of the Proposed Development on Community Facilities:** The Wireless Communication Master Plan, September 2016, provides guidance for wireless communication facilities located within the public right-of-way to help mitigate detrimental impacts on traffic or pedestrian safety and existing or planned locations of utilities, drainage, street lights, sidewalks, driveways, turn lanes, etc.

**Attachment:** Resolution  
Draft Wireless Communication Master Plan, September 2016  
Draft Amendments to the Wichita-Sedgwick County of the Unified Zoning Code

**RESOLUTION**

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

WHEREAS, pursuant to the authority granted by the statutes of the State of Kansas, in K.S.A. 12-747 et seq., the Wichita-Sedgwick County Metropolitan Area Planning Commission developed a Comprehensive Plan, entitled Community Investments Plan that was adopted by the City of Wichita on December 8, 2015, and Sedgwick County on January 20, 2016; and

WHEREAS, the Comprehensive Plan may be amended as needed to ensure it reflects timely and relevant information and the needs of the community; and

WHEREAS, the Metropolitan Area Planning Commission did initiate an update of the Wireless Communication Master Plan to reflect changes to Kansas State Law enacted by Senate Substitute for House Bill 2131; and

WHEREAS, before the adoption of any Comprehensive Plan or amendment thereto, the Wichita-Sedgwick County Metropolitan Area Planning Commission is required by K.S.A. 12-747 et seq. to hold a public hearing; and

WHEREAS, the Wichita-Sedgwick County Metropolitan Area Planning Commission did give notice by publication in the official City and County newspaper on July 28, 2016, of a public hearing on said Plan; and

WHEREAS, the Wichita-Sedgwick County Metropolitan Area Planning Commission, on August 18, 2016, did hold a public hearing at which a quorum was present, and did hear all comments and testimony relating to said area plan;

NOW, BE IT THEREFORE RESOLVED, the Wichita-Sedgwick County Metropolitan Area Planning Commission hereby adopts the Wireless Communication Master Plan, September 2016, as an official amendment to the Wichita-Sedgwick County Comprehensive Plan; and

BE IT FURTHER RESOLVED, that notice of this action be transmitted to the City Council of the City of Wichita and to the Sedgwick County Board of County Commissioners for their consideration and adoption.

ADOPTED at Wichita, Kansas, this 10<sup>th</sup> day of March 2011.

---

Carol Chapman Neugent, Chair  
Wichita-Sedgwick County  
Metropolitan Area Planning Commission

Attest:

Approved as to Form:

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

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Jennifer Magana, City Attorney and Director of Law  
City of Wichita

## **Wireless Communication Master Plan**

Prepared by:

Wichita-Sedgwick County Metropolitan Area Planning Department

With the assistance of:

City of Wichita Engineering Division

Sedgwick County Public Works

September 2016

Draft August 18, 2016

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## I. Background

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In 1999, the City of Wichita and Sedgwick County determined that they needed a clearer framework to review proposals for wireless communication facilities. An extensive planning process was initiated that included outreach to the community and wireless communication industry representatives. Community workshops and a wireless industry roundtable were held. Wireless industry representatives were surveyed and meetings were held with individual industry representatives. After a joint workshop with the Wichita City Council, Sedgwick County Commission and Metropolitan Area Planning Commission (MAPC) to review a draft plan, a city-county staff task force was assigned to meet further with the various stakeholders and prepare revisions to the draft plan. The city-county task force held numerous meetings with stakeholders from December 1999 through July 2000. In July 2000, the MAPC adopted the Wireless Communication Master Plan (“the Plan”) as an element of the Wichita-Sedgwick County Comprehensive Plan. The Plan was subsequently approved by the Wichita City Council and the Sedgwick County Commission in August 2000.

Implementing revisions to the Wichita-Sedgwick County Unified Zoning Code (UZC) were approved at the same time. The UZC revisions were based on the Plan’s recommendations to limit the overall number of wireless communication facilities by promoting collocation of multiple providers’ antennas at a single facility. The UZC revisions also addressed visual obtrusiveness by restricting the tallest towers to heavy commercial and industrial areas, requiring setbacks from low-density residential areas, and promoting the use of monopole rather than lattice-type towers. Over the next ten years, over 100 new wireless communication facilities were built in the community, most of them monopole towers located in commercial areas that supported multiple providers’ antennas.

In March 2011, the Plan was updated to reflect modifications made in 2008 to the UZC pertaining to the heights and zoning districts in which Administrative Permits could be granted, as well the limitation of Administrative Permits within the city limits to certain designated properties. The March 2011 update also included revisions that clarified when it is acceptable to use a lattice-type tower and when it is acceptable to use a monopole.

In 2016, the Kansas Legislature adopted Senate Substitute for House Bill No. 2131, which declared the regulation of wireless communication facilities to be a state-wide interest and directed the approach of cities and counties to regulate wireless communication facilities. The bill prohibits the following established practices of the City of Wichita and Sedgwick County:

## Wireless Communication Master Plan – September 2016

- 1) Requiring applicants to document that no collocation opportunity is available prior to permitting construction of a new wireless communication facility.
- 2) Requiring applicants to demonstrate that a wireless communication facility addresses a wireless service provider need rather than being constructed as a speculative facility.
- 3) Evaluating the merits of an application based on collocation opportunities.
- 4) Requiring small cell facilities in lieu of macro facilities in visually/ environmentally sensitive locations.
- 5) Requiring applicants to agree to permit collocation on their facility by other service providers as a condition of approval.

Additionally, the bill deems an application for a wireless communication facility approved if the application is not acted upon within 150 days for a new facility or 60-90 days (depending on type) for a collocation application. The bill also requires that small cell facilities or distributed antennae systems located in an interior structure or upon the site of any campus, stadium, or athletic facility be permitted by right. Finally, the bill requires equal treatment of wireless communication facilities with utility installations when applying to locate in right-of-way but establishes a right-of-way fee cap on local governments that is lower than the fee charged utilities.

The September 2016 update of the Wireless Communication Master Plan addresses the state-mandated approach to reviewing proposals for wireless communication facilities. The updated Plan also has corresponding implementing revisions to the UZC.

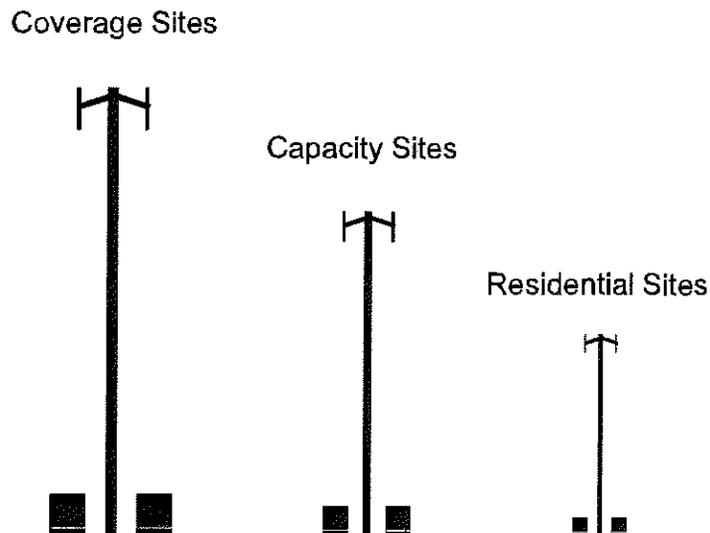
## II. Wireless Communication Deployment

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Wireless communication has evolved from a niche business catering to corporate executives in the early 1990s to a ubiquitous communication tool used by almost everyone less than 25 years later. As the business has evolved, the number of wireless communication facilities in Wichita and Sedgwick County has grown from a few dozen in the early 1990s to several hundred today. By the year 2035, there may well be thousands of wireless communication facilities. They wireless communication facilities have deployed in three phases:

- Coverage. The initial phase occurred primarily between mid-1990s and mid-2000s when carriers tried to spread their signal throughout the community in an attempt to reach new subscribers.
- Capacity. Following the coverage phase, new capacity sites were built between the coverage sites to address areas where a high number of users are located.
- Residential. The current phase of the business plan involves the replacement of most wired phones in customers’ homes with wireless devices that are used more for text and data than for voice communication.

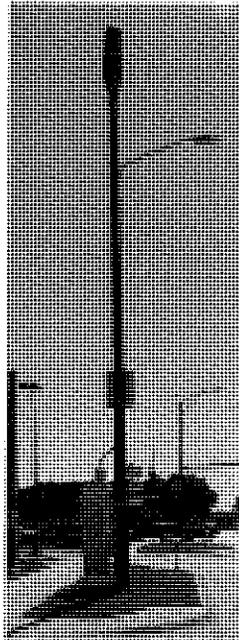
The last phase of deployment brings wireless communication facilities into residential areas where they are restricted to shorter facilities, as illustrated below.



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The impact of the phases of wireless communication deployment in Wichita and Sedgwick County are:

- **Coverage.** Most areas of Wichita and Sedgwick County presently have coverage. The construction of additional wireless communication facilities to provide coverage will be limited in the future and are mostly like to occur in rural areas.
- **Capacity.** As areas of the community grow in population, the demand on the wireless communication systems will exceed the capacity of the coverage sites and providers will need new sites in developing areas to add capacity. These sites mostly can be accommodated in commercial areas and along major roadways.
- **Residential.** As the use of wireless devices in homes continues to increase, it is likely that there will have to be many more sites for each provider located immediately within residential areas. These mostly likely deployment of these sites will be small call facilities and distributed antenna systems located in street right-of-way, as illustrated below.



The challenge of planning for wireless communication facilities is the same as that for many other land uses: balancing marketplace demands with public expectations for an orderly and attractive environment. This Plan anticipates and guides future wireless communication deployment with guidelines and policies that should be applied in the review of proposed new wireless communication facilities.

### III. Location/Design Guidelines

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This chapter contains guidelines for location, siting and design of new wireless communication facilities. The term “guidelines” is used in recognition that deviations from these guidelines can be considered on a case-by-case basis, if consistent with the general spirit and intent of this Plan.

The intent of the Location/Design Guidelines is to balance marketplace demands for deployment of wireless communication facilities with the community’s desire for an orderly and attractive environment. In general, tall wireless communication facilities should be limited to heavy commercial and industrial areas and should decrease in height as the intensity of development decreases, with the shortest facilities being located in residential areas. Additionally, facilities should be located and designed in a manner that minimizes visual obtrusiveness and negative aesthetic impacts on surrounding properties.

#### A. Location/Height Guidelines

1. The following wireless communication facilities should be permitted by right in any zoning district, subject to the issuance of a building permit, if they conform to the Location/Design Guidelines in this chapter. Note that right-of-way is not zoned and has separate permitting requirements described below in Section C.
  - a. New facilities that are concealed in or mounted on top of or the side of existing buildings (excluding single-family and duplex residences) and other structures, including collocation and support structures up to 20 feet above the building or the maximum height permitted by a building permit or an Administrative Permit in the underlying zoning district, whichever is greater.
  - b. Modification and/or replacement of support structures that are not significantly more visible or intrusive, including collocation and cumulative height extensions of up to 25 percent above the original structure height.
  - c. Modification and/or replacement of wireless communication facilities, including collocation and cumulative height extensions of up to 25 percent above the original structure height that comply with the compatibility height standards of the Unified Zoning Code.
  - d. New or modified lattice towers no larger than 18 inches wide on any side up to 80 feet in height measured from grade.
  - e. Small cell facilities or distributed antennae systems located in an interior structure or upon the site of any campus, stadium, or athletic facility.

If the Zoning Administrator determines that the wireless communication facility does not conform to the Location/Design Guidelines, the building permit should be denied. Denied building permits may be appealed by applying for an Administrative Permit or a Conditional Use. An Administrative Permit should be approved subject to conditions that maintain conformance with the Location/Design Guidelines. Wireless communication facilities that do not conform to the Location/Design Guidelines may be approved for a Conditional Use on a case-by-case basis as circumstances warrant.

2. The following wireless communication facilities should be approved by Administrative Permit in any zoning district, with the concurrence of the Director of Planning and the Zoning Administrator, if they conform to the Location/Design Guidelines in this chapter and, for zoning lots located within the City, are designated on the “Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map”. Note that right-of-way is not zoned and has separate permitting requirements described below in Section C.
  - a. New disguised ground-mounted facilities up to 85 feet in height.
  - b. New undisguised ground-mounted facilities up to 65 feet in the SF-10, SF-5, TF-3, MF-18, MF-29, B, U, and MH zoning Districts that comply with the compatibility height standards of the Unified Zoning Code.
  - c. New undisguised ground-mounted facilities up to 85 feet in height in the NO, GO, and NR zoning districts that comply with the compatibility height standards of the Unified Zoning Code.
  - d. New undisguised ground-mounted facilities up to 120 feet in the RR, SF-20, LC, OW, and GC zoning Districts that comply with the compatibility height standards of the Unified Zoning Code.
  - e. New ground-mounted facilities up to 150 feet in height in the IP, CBD, LI, GI, and AFB zoning districts that comply with the compatibility height standards of the Unified Zoning Code.
3. Wireless communication facilities that exceed the maximum height for an Administrative Permit should be reviewed through the Conditional Use process. Conditional Use approvals typically should be subject to conditions that maintain conformance with the Location/Design Guidelines in this chapter; however, wireless communication facilities that do not conform to the Location/Design Guidelines may be approved for a Conditional Use on a case-by-case basis as circumstances warrant. Note that right-of-way is not zoned and has separate permitting requirements described below in Section C.

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4. There should be no nighttime lighting of or on wireless communication facilities except for aircraft warning lights or similar emergency warning lights required by applicable governmental agencies. Flashing white obstruction lights should not be permitted for nighttime operation. Lighting for security purposes should be permitted at the base of wireless communication facilities. Temporary lighting for nighttime repairs should be permitted.
5. No signs should be allowed on a wireless communication facility other than those required by applicable governmental agencies.
6. The owner should be responsible for the removal of unused facilities, including the uppermost 20% of support structures that are unused (except where removal of the uppermost 20% would require the removal of a lower portion the support structure that is in use, in which case the required removal will be raised to the next highest portion of the support structure not in use), within 60 days if the wireless communication facility, or portion thereof, has been unused for 12 consecutive months. If such a facility or portion of a facility is not removed by the owner, then the City or County may employ all legal measures, including, if necessary, obtaining authorization from a court of competent jurisdiction, to remove it, and after removal may place a lien on the subject property for all direct and indirect costs incurred in its dismantling and disposal, including court costs and reasonable attorney fees. Under this paragraph, "owner" includes both the owner of the real property and the owner of the wireless communication facility, whether such ownership is divided or in the same person.
7. All wireless communication facilities should comply with all federal, state, and local rules and regulations.

Wireless communication providers are particularly encouraged to seek the following new locations for new facilities:

1. Mounted on top or the side of multistory buildings and other structures, appropriately concealed, screened, disguised or camouflaged.
2. On existing utility poles in street right-of-way and on parking lot and athletic field/stadium light standards.
3. On existing support structures, including those constructed for school district microwave antennas and private dispatch systems.
4. In wooded areas.

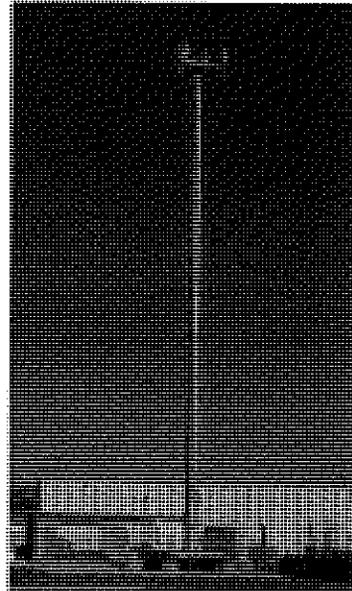
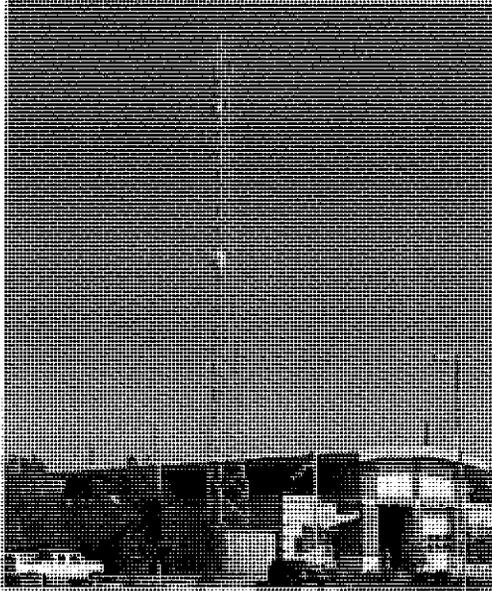
5. At certain City and County-owned properties, where the size and nature of the use does not interfere with other functions and allows for compatible siting; these may include multistory buildings, water towers, large park areas, sewer treatment plant sites, maintenance yards, and public airports.
6. The City and County should also work with public and private agencies such as KDOT, KTA, and Westar, to encourage the use of highway light standards, sign structures, and electrical support structures for new wireless communication facilities.

## **B. Design Guidelines**

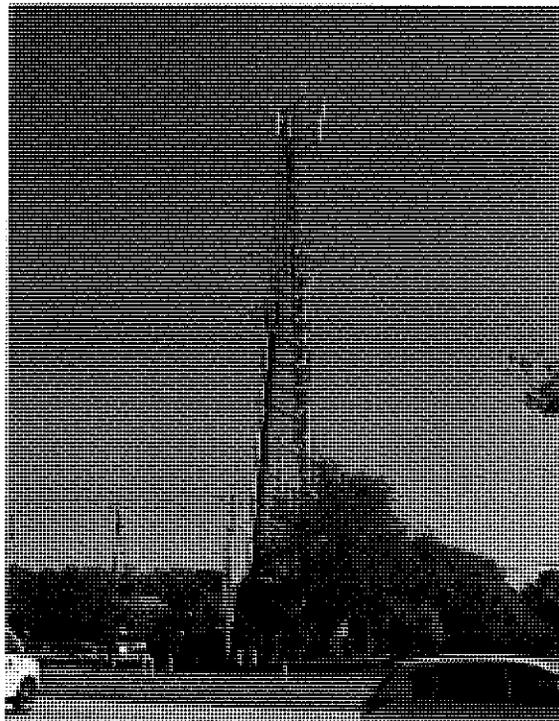
As a general rule, the less visible and obtrusive a proposed wireless communication facility is, the more acceptable it will be to the community. The visibility of facilities can be minimized by techniques such as concealment, disguise, camouflage, and sensitive design and siting. Specific guidelines include:

1. Preserving the pre-existing character of the area as much as possible.
2. Minimizing the height, mass or proportion of the facility to minimize conflict with the character of its proposed surroundings.
3. Minimizing the silhouette presented by new support structures and antenna arrays. Lattice-type support structures are generally appropriate in areas outside the “Urban Growth Areas” identified in the Wichita-Sedgwick County Comprehensive Plan. Lattice-type support structures inside the Urban Growth Area boundaries generally should be limited to installations that have antennas mounted flush to the support structure with cables attached to the main support arms rather than the girders. When an antenna array that protrudes from the wireless communication facility is used on a support structure inside the Urban Growth Area boundaries, the support structure generally should be a monopole. The figure below illustrates the types of support structures that are “encouraged” and “discouraged” by this section.

Encouraged



Discouraged



4. Using colors, textures and materials that blend in with the existing environment and minimize reflection; under some circumstances, surfaces should be painted, or otherwise treated, to match or complement existing background structures or utility poles, as appropriate.
5. Concealing facilities within potential space in or on existing structures, or disguised to look like another type of facility, like a flagpole, clock tower, or church steeple.
6. Placing facilities in areas where trees and/or buildings obscure some or all the facility from view, and installing new plantings/screening around the site where visible from major streets or residential areas.
7. Placing facilities on existing walls, flush-mounted, or on roofs buildings (excluding single-family and duplex) and structures, up to 20 feet above the existing structure, as opposed to building new ground-mounted support structures. Facilities on rooftops generally should be set back from roof edges or screened from view.
8. Screening equipment shelters and cabinets through landscaping, walls and/or fencing, as appropriate to the surroundings. In most cases, ground-level equipment should respect the setbacks for accessory uses in the applicable zoning district and be enclosed by 6-8 foot high security fencing, of a material compatible with its surroundings. Equipment should be encouraged indoors if space is available nearby. Burying equipment in an underground vault, to keep most of the equipment out of sight, may be necessary in right-of-way and in some other visually/environmentally sensitive locations, such as tourist attractions, historic landmarks/districts, museum district, river corridor, and other locations of civic importance or architectural significance. Ground level shelters/equipment, appropriately screened and generally landscaped with trees and/or shrubs, should be permitted on lots adjacent to right-of-way, to facilitate the use or reconstruction of utility poles in those right-of-way.
9. Permitting lighting on facilities only if required by federal regulations.

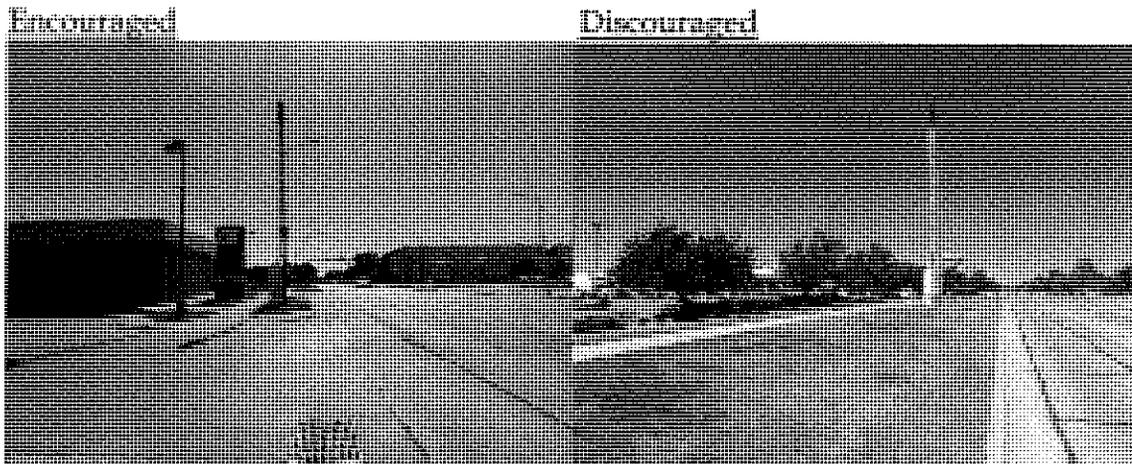
### **C. Right-of-Way**

City and County right-of-way is an encouraged location for wireless communication facilities, particularly for small cell facilities and distributed antenna systems. Locating wireless communication facilities in the right-of-way requires an agreement with the City or County, as applicable. Such agreements should include an ongoing rental fee to ensure that private property owners are

not at a competitive disadvantage to the public sector in regards to renting land for the location of wireless communication facilities. However, state law requires that any rental fee for right-of-way must be competitively neutral with fees charged to other users of the right-of-way such utility companies.

In addition to the design guidelines described in Section D above, wireless communication facilities should also meet the following additional design guidelines when located in the right-of-way:

1. Installing facilities in a manner that is protested in by adjoining property owners. To the extent practical, the design and location should be changed to mitigate the property owner’s concerns and increase consistency with the guidelines of this Plan.
2. Installing facility wiring underground and within the support structure or within conduit immediately attached to the support structure.
3. Placing facilities in locations that do not hinder traffic or pedestrian safety.
4. Placing facilities in locations to do not hinder existing or planned uses of the right-of-way such as utilities, drainage, street lights, sidewalks, driveways, turn lanes, etc.
5. Matching, to the extent practical, the height of facilities to the prevailing height of street lights and utilities in the vicinity. Where necessary, heights for facilities of up to 25 percent above the prevailing height is acceptable.
6. Replacing existing utility poles is encouraged and installing new support structures solely for the wireless communication facility is discouraged. The figure below illustrates the types of support structures that are “encouraged” and “discouraged” by this guideline.



**E. Submittal Requirements**

Review of proposals for wireless communication facilities will be greatly aided by using a set of standardized submittal requirements. This Plan suggests the following submittal requirements:

1. A scaled vicinity plan, dimensioned and identifying existing buildings, trees, and other features within 200 feet of the wireless communication facility in the City of Wichita or within 1,000 feet of the wireless communication facility in the unincorporated area of Sedgwick County.
2. A one-inch-equals-20 feet site plan, dimensioned, identifying the location of all facility elements.
3. Typical elevations of all facility elements, dimensioned.
4. Specification of exterior materials and colors of all facility elements.
5. Landscape/screening plan, with all materials and sizes specified.
6. Appearance of proposed facility shown in site context by photo-simulation.

## Appendix A: Definitions

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**Applicant.** Any person or entity that is engaged in the business of providing wireless services or the wireless infrastructure required for wireless services and that submits an application.

**Application.** A request submitted by an applicant for: (A) the construction of a new wireless support structure or new wireless facility; (B) the substantial modification of a wireless support structure or wireless facility; or (C) collocation of a wireless facility or replacement of a wireless facility.

**Collocation.** Mounting or installation of wireless facilities on a building, structure, wireless support structure, tower, utility pole, base station or existing structure for the purposes of transmitting or receiving radio frequency signals for communication purposes.

**Distributed Antenna System.** A network that distributes radio frequency signals and consisting of: (A) Remote communications or antenna nodes deployed throughout a desired coverage area, each including at least one antenna for transmission and reception; (B) a high capacity signal transport medium that is connected to a central communications hub site; and (C) radio transceivers located at the hub's site to process or control the communications signals transmitted and received through the antennas to provide wireless or mobile service within a geographic area or structure.

**Lattice Tower.** A type of support structure that consists of an open network of braces forming a tower that is usually triangular or square in cross section.

**Modification and/or Replacement.** Modification of a support structure or wireless communication facility of comparable proportions and of comparable height or such other height that would not constitute a substantial modification in order to support wireless facilities or to accommodate collocation and includes replacement of any pre-existing wireless communication facility or support structure.

**Monopole.** A type of support structure that consists of a vertical pole fixed into the ground and/or attached to a foundation.

**Right-of-Way.** The area of real property in which the City or County has a dedicated or acquired right-of-way interest in the real property. It shall include the area on, below or above the present and future streets, alleys, avenues, roads, highways, parkways or boulevards dedicated or acquired as right-of-way. "Right-of-way" does not include any state, federal or interstate highway right-of-way, which generally includes the area that runs contiguous to, parallel with,

and is generally equidistant from the center of that portion of the highway improved, designed or ordinarily used for public travel.

**Small Cell Facility.** A wireless communication facility that meets both of the following qualifications: (A) Each antenna is located inside an enclosure of no more than six cubic feet in volume, or in the case of an antenna that has exposed elements, the antenna and all of the antenna's exposed elements could fit within an imaginary enclosure of no more than six cubic feet; and (B) primary equipment enclosures that are no larger than 17 cubic feet in volume, or facilities comprised of such higher limits as the federal communications commission has excluded from review pursuant to 54 U.S.C. § 306108. Associated equipment may be located outside the primary equipment, and if so located, is not to be included in the calculation of equipment volume. Associated equipment includes, but is not limited to, any electric meter, concealment, telecommunications demarcation box, ground-based enclosures, back-up power systems, grounding equipment, power transfer switch, cut-off switch and vertical cable runs for the connection of power and other services.

**Substantial Modification.** Modification of a wireless communication facility or support structure that will substantially change the physical dimensions under the objective standard for substantial change, established by the federal communications commission pursuant to 47 C.F.R. 1.40001.

**Support Structure.** A freestanding structure, such as a monopole, guyed or self-supporting tower or other suitable existing or alternative structure designed to support or capable of supporting wireless facilities, and any structure that is currently supporting or designed to support the attachment of wireless facilities, including, but not limited to, towers, buildings and water towers.

**Utility Pole.** A structure owned or operated by a public utility as defined in K.S.A. 66-104, and amendments thereto, a municipality as defined in K.S.A. 75-6102, and amendments thereto, or an electric cooperative as defined in K.S.A. 2015 Supp. 17-4652, and amendments thereto, that is designed specifically for and used to carry lines, cables or wires for telecommunications, cable, electricity or to provide lighting.

**Wireless Communication.** Personal wireless services and personal wireless service facilities as defined in 47 U.S.C. § 332(c)(7)(C), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through a wireless communication facility or any fixed or mobile wireless services provided using a wireless communication facility.

**Wireless Communication Facility.** Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including, but not limited to: (A) a support structure consisting of a freestanding support structure, such as a monopole, guyed, or self-supporting tower or other suitable existing or alternative structure designed to support or capable of supporting wireless facilities; (B) a base station that supports or houses an antenna, transceiver, coaxial cables, power cables or other associated equipment at a specific site that is authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies and other associated electronics; (C) equipment associated with wireless services such as private, broadcast and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul; and/or (D) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies and comparable equipment, regardless of technological configuration.

**Appendix B: Adopting Documents**

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[insert documents]

**Amendments to the Wichita-Sedgwick County of the Unified Zoning Code  
Required by Senate Substitute for House Bill No. 2131**

**Section II-B.14.p. and Section II-B.14.q.**

- p. Wireless Communication** means ~~wireless services covered by the Location/Design Guidelines of the Wireless Communication Master Plan. It includes the following terms as defined in the Wireless Communication Master Plan as adopted by the Governing Bodies: broadcast systems, cellular, commercial mobile radio services, common carrier wireless access exchange services, enhanced specialized mobile radio, functionally equivalent services, personal communication services, paging, personal wireless services, public service and emergency systems, specialized mobile radio, tower builder, unlicensed wireless services and wireless cable system. It does not include amateur radio or private dispatch system as defined in the Wireless Communication Master Plan as adopted by the Governing Bodies~~ personal wireless services and personal wireless service facilities as defined in 47 U.S.C. § 332(c)(7)(C), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through a Wireless Communication Facility or any fixed or mobile wireless services provided using a Wireless Communication Facility.
- q. Wireless Communication Facility** means ~~facilities covered by the Location/Design Guidelines of the Wireless Communication Master Plan. It includes the following terms as defined in the Wireless Communication Master Plan as adopted by the Governing Bodies: antenna, antenna array, equipment shelter, guyed tower, lattice tower, location, monopole, site, support Structure and tower.~~ a Lot containing equipment at a fixed location that enables wireless communications between user equipment and a communications network, including, but not limited to: (A) a wireless support structure consisting of a freestanding support structure, such as a monopole, guyed, or self-supporting tower or other suitable existing or alternative structure designed to support or capable of supporting wireless facilities; (B) a base station that supports or houses an antenna, transceiver, coaxial cables, power cables or other associated equipment at a specific site that is authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies and other associated electronics; (C) equipment associated with wireless services such as private, broadcast and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul; and/or (D) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies and comparable equipment, regardless of technological configuration.

**Section III-D.6.**

- 6. Supplementary Use Regulations.** No permit shall be issued for any Development or Use of land unless the activity is in compliance with all applicable supplementary use regulations specified in this section, or unless the supplementary use regulations have been modified or waived by the Governing Body pursuant to the Development Review Procedures contained in Article V. The supplementary use regulations of this section are not applicable to Lots in the AFB Air Force Base

District. In the case of conflict with zoning District property Development standards or other regulations of this Code, the more restrictive requirement shall apply, unless otherwise specifically provided.

**Section III-D.6.g.**

**g. Wireless Communication Facilities Facility.** Whether allowed by right, subject to a Building Permit, by Administrative Permit, by CUP adjustment/amendment, by P-O adjustment/amendment or by Conditional Use approval, a Wireless Communication ~~Facilities Facility~~ shall be subject to the following provisions.

(1) ~~All A~~ Wireless Communication ~~Facilities Facility~~ shall be evaluated in terms of ~~their~~ conformance to the guidelines in the "Wireless Communication Master Plan" as adopted by the Governing Body, and applications for such facilities shall include information for review as required in that Plan.

(2) ~~The A~~ following Wireless Communication ~~Facilities are Facility is~~ permitted by right in any zoning District, subject to the issuance of a Building Permit, if ~~they conformit conforms~~ to the Location/Design Guidelines in ~~this chapterthat Plan~~:

(a) new ~~facilities facility~~ that ~~are is~~ concealed in or mounted on top of or the side of existing buildings (excluding single-family and duplex residences) and other Structures, including support structures up to 20 feet above the Building or the maximum height permitted by a Building Permit or an Administrative Permit in the underlying zoning District, whichever is greater;

(b) modification and/or replacement of support structures (light poles, flag poles, electrical poles, private dispatch towers, etc.) that are not significantly more visible or intrusive, including cumulative height extensions of up to 25 percent above the original Structure height;

(c) modification and/or replacement of a Wireless Communication ~~Facilities Facility~~, including cumulative height extensions of up to 25 percent above the original structure height that comply with the compatibility height standards as outlined in Sec. IV-C.5;

(d) new or modified lattice towers no larger than 18 inches wide on any side up to 80 feet in height measured from grade.

~~(d)(e)~~ small cell facility or distributed antennae system located in an interior Structure or upon the site of any campus, stadium, or athletic facility.

If the Zoning Administrator determines that the Wireless Communication Facility does not conform to the Location/Design Guidelines, the Building ~~p~~Permit shall be denied. Denied Building Permits may be appealed by applying for an Administrative Permit or a Conditional Use. An Administrative Permit shall be approved subject to conditions that

maintain conformance with the Location/Design Guidelines. A Wireless Communication ~~Facilities~~ Facility that does not conform to the Location/Design Guidelines may be approved for a Conditional Use on a case-by-case basis as circumstances warrant.

- (3) ~~The following~~ A Wireless Communication ~~Facilities~~ Facility shall be approved by Administrative Permit in any zoning District, under the procedures in Sec. VI-G.9 and Sec. VI-H.5, if ~~they conform~~ conforms to the Location/Design Guidelines in the "Wireless Communication Master Plan" and, for zoning Lots located within the City, ~~are~~ is designated on the "Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map" of Sec. I- L.:
- (a) new disguised ground-mounted facilities up to 85 feet in height;
  - (b) new undisguised ground-mounted facilities up to 65 feet in the SF- 10, SF-5, TF-3, MF-18, MF-29, B and MH zoning Districts that comply with the compatibility height standards as outlined in Sec. IV-C.5, which shall not be reduced or waived through the provisions of Sec. V-I.2.d;
  - (c) new undisguised ground-mounted facilities up to 85 feet in the NO, GO and NR zoning Districts that comply with the compatibility height standards as outlined in Sec. IV-C.5, which shall not be reduced or waived through the provisions of Sec. V-I.2.d;
  - (d) new ground-mounted facilities up to 120 feet in height in the RR, SF- 20, U, LC, OW, and GC zoning Districts that comply with the compatibility height standards as outlined in Sec. IV-C.5, which shall not be reduced or waived through the provisions of Sec. V-I.2.d; or
  - (e) New ground-mounted facilities up to 150 feet in height in the IP, CBD, LI and GI zoning Districts that comply with the compatibility height standards as outlined in Sec. IV-C.5, which shall not be reduced or waived through the provisions of Sec. V-I.2.d.

If the property on which the facility is located is within a CUP or P-O, the Administrative Permit shall also be considered as an application for an adjustment of the CUP or P-O as outlined in Sec. V-E.14, excluding the requirement of V-E.14.a, or Sec. V-C.14, excluding the requirement of V-C.14.a., as applicable.

- (4) ~~All~~ A Wireless Communication ~~Facilities~~ Facility that does not meet the requirements of Sec. III-D.6.g(2) or Sec. III-D.6.g(3) shall be reviewed through the Conditional Use process as outlined in Sec. V-D or, if the property on which the facility is located is within a CUP or P-O, as an amendment to the CUP or P-O as outlined in Sec. V-E.13. or Sec. V-C.13, as applicable.
- (5) There shall be no nighttime lighting of or on a Wireless Communication ~~Facilities~~ Facility except for aircraft warning lights or similar emergency

warning lights required by applicable governmental agencies. Flashing white obstruction lights shall not be permitted for nighttime operation. Lighting for security purposes shall be permitted at the base of wireless communication facilities. Temporary lighting for nighttime repairs shall be permitted.

(6) No signs shall be allowed on ~~an antenna support structure~~ a Wireless Communication Facility other than those required by applicable governmental agencies.

~~(7) At the time of requesting a Conditional Use, a CUP amendment, a P-O amendment, an Administrative Permit, or a Building Permit for a new ground mounted Wireless Communication Facility, as applicable, the applicant shall demonstrate to the satisfaction of the approving authority that: (a) there is no available space on existing or approved wireless communication facilities or other structures that can be utilized to meet the communication needs (an existing site will be considered "available space" only if the site is technically feasible with a ready, willing, and able landlord); and (b) there is no other economically and technically feasible opportunity to modify or rebuild an existing structure on which the communication equipment may be located. The technical feasibility of existing, modified or rebuilt structures may be reviewed by consultants to the Planning Department.~~

~~(8) At the time of requesting a Conditional Use, a CUP amendment, a P-O amendment, an Administrative Permit, or a Building Permit for a Wireless Communication Facility, as applicable, the owner of a proposed new undisguised ground mounted Wireless Communication Facility, and the Owner of the land, if not the same, shall agree in writing that (a) the support structure is designed, and the ground area is adequate or will be made adequate, to accommodate at least one other carrier, if more than 80 feet in height, and at least two other carriers, if more than 100 feet in height; (b) reasonable accommodations will be made to lease space on the facility to other carriers so as to avoid having a proliferation of support structures that are not fully utilized; and (c) the owner(s) shall make available in the future the opportunity for another party to pay the cost to modify or rebuild the Structure to support additional communication equipment where economically and technically feasible. Lattice towers no larger than 18 inches on any side shall be excluded from the co-location requirements of subsection (a) of this paragraph.~~

~~(9)~~(7) Unused facilities, including the uppermost 20 percent of support structures that are unused (except where removal of the uppermost 20 percent would require the removal of a lower portion the support structure that is in use, in which case the required removal will be raised to the next highest portion of the support structure not in use), shall be removed by the owner within 60 days if the Wireless Communication Facility, or portion thereof, has been unused for 12 consecutive months. If such a facility or portion of a facility is not removed by the owner, then the City or County may employ all legal measures, including, if necessary, obtaining authorization from a court of competent jurisdiction, to remove it, and after removal may place a lien on the subject property for all direct

and indirect costs incurred in its dismantling and disposal, including court costs and reasonable attorney fees. Under this paragraph, "owner" shall include both the Owner of the real property and the owner of the Wireless Communication Facility, whether such ownership is divided or in the same person.

~~(10)(8)~~All Wireless Communication Facilities shall comply with all federal, state, and local rules and regulations.

#### **Section IV-C.5.**

**5. Compatibility Height standards.** The following Height standards shall apply to Development that is subject to compatibility standards, unless reduced or waived through the provisions of Sec. V-I.2.

- a. No Structure ~~(except for wireless communication facilities)~~ shall exceed 35 feet in height within 50 feet of the lot line of property zoned TF-3 or more restrictive. Structures located more than 50 feet from the Lot Line of property zoned TF-3 or more restrictive may increase Height (if permitted by the base District regulations) at a ratio of one foot in Height for each three feet of Setback beyond 50 feet. For example, a ~~Building Structure~~ limited to 35 feet in Height at 50 feet from the Lot Line of property zoned TF-3 or more restrictive could be increased to a Height of 85 feet at a distance of 200 feet from the Lot Line of property zoned TF-3 or more restrictive.
- b. ~~Wireless Communication Facilities shall not exceed a Height equal to the distance to the Lot Line of property zoned TF 3 or more restrictive. For example, a Wireless Communication Facility located 100 feet from the Lot Line of property zoned TF 3 or more restrictive cannot exceed a Height of 100 feet.~~

#### **Section VI-B.7. (new)**

**7. Zoning Adjustments.** The Governing Body shall have the authority to approve, approve with conditions or modifications, or deny zoning adjustments when requested in association with an application to amend the Official Zoning Map, an application for Community Unit Plan approval, or an application for Conditional Use approval.

#### **Section VI-C.7. (new)**

**7. Zoning Adjustments.** The Planning Commission shall have the authority to approve, approve with conditions or modifications, or deny zoning adjustments when requested in association an application for Conditional Use approval or for amendment to a Community Unit Plan and shall have the authority to recommend to the Governing Body approval, approval with conditions, or denial of a zoning adjustment when requested in association with an application to amend the Official Zoning Map or amend a Planned Unit Development or Protective Overlay.

### **Section VI-G.9.**

- 9. Administrative Permits.** The Planning Director, with the concurrence of the Zoning Administrator, shall have the authority to approve, approve with conditions or modifications, or deny applications for a Wireless Communication ~~Facilities-Facility~~ pursuant to Sec. III-D.6.g. The Planning Director's decision on such an application may be appealed by filing an application for a Conditional Use.

### **Section VI-H.5.**

- 5. Administrative Permits.** The Zoning Administrator shall have the authority to review and recommend to the Planning Director approval, approval with conditions or modifications, or denial of applications for ~~wireless-communication facilities~~a Wireless Communication Facility pursuant to Sec. III-D.6.g. An Administrative ~~permits-Permit for a~~ Wireless Communication ~~Facilities-Facility~~ may be granted by the Planning Director only with the concurrence of the Zoning Administrator.



**STAFF REPORT**  
MAPC 8-18-2016

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CASE NUMBER: DER2016-00005

APPLICANT/AGENT: Metropolitan Area Planning Department

REQUEST: Amendments to certain sections of the Wichita-Sedgwick County Unified Zoning Code (UZC) to permit event centers, churches, farmer's markets, community assembly and bed and breakfast uses by right subject to development standards in certain zoning districts. Minor changes dealing with punctuation and codification are also proposed.

CURRENT ZONING: N/A

SITE SIZE: N/A

LOCATION: County-wide

PROPOSED USE: N/A

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

In general, the proposed amendments:

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

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

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

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The RR district permits agricultural uses by right and a few other uses compatible with agricultural activities or uses that can be buffered from agricultural uses by large lot sizes.
2. The suitability of the subject property for the uses to which it has been restricted: Most of the event center uses requested in the County have been located in the RR district.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed supplemental use standards should minimize detrimental impacts to nearby properties.

4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The proposed amendments would allow rural residents, farmers and other agricultural producers a wider range of by right uses and provide a greater choice for such activities within the area's marketplace. Denial of the proposed amendments would maintain the current status quo of requiring zoning approval for the identified uses.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: Strategy G of the Arts, Culture and Recreation section of the Community Investments Plan recommends that staff "Identify opportunity areas and regulatory adjustments necessary to support agritourism in the unincorporated areas of Sedgwick County."
6. Impact of the proposed development on community facilities: The proposed amendments could lead to increased traffic on unpaved roads and to increased calls for code or law enforcement.

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AMENDING THE SECTIONS LISTED BELOW OF THE WICHITA-  
SEDGWICK COUNTY UNIFIED ZONING CODE (JULY 9, 2009 EDITION), AS ADOPTED BY  
REFERENCE BY SEDGWICK COUNTY RESOLUTION NO. 137-09.

WHEREAS, the Board of County Commissioners ("Board") is authorized by K.S.A. 12-741 et  
seq. to adopt zoning regulations for the unincorporated area of Sedgwick County, Kansas, upon  
the recommendation of the Wichita-Sedgwick County Metropolitan Area Planning Commission  
("MAPC"); and,

WHEREAS, upon the recommendation of the MAPC the Board has adopted by Resolution No.  
137-09 a standard code entitled the "Wichita-Sedgwick County Unified Zoning Code, July 9,  
2009 Edition" (the UZC); and,

WHEREAS, the MAPC has held public hearings as required by law and has made  
recommendations to the Board for the amendment of such regulations; and,

WHEREAS, the Board desires to adopt the recommendations of the MAPC and to enact and  
adopt the recommended amendments to the UZC; and,

WHEREAS, the Board is authorized by K.S.A. 12-3301 et seq. to adopt by reference certain  
standard codes after notice and hearing.

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED BY THE BOARD OF COUNTY  
COMMISSIONERS OF SEDGWICK COUNTY, KANSAS;

SECTION 1. The Board hereby adopts and enacts the following amendments, set out in  
Section 3 of this resolution, to the UZC. Except as amended hereafter, the remainder of the  
UZC shall remain in effect.

SECTION 2. The Board finds that notice of public hearing of the amendments was  
published once in the official county paper as required by K.S.A. 12-3303; and a public hearing  
was held by the Wichita-Sedgwick County Metropolitan Area Planning Commission on July 23,  
2015, and September 17, 2015.

SECTION 3. The following sections of the UZC, as identified, are amended as follows:

Article II, Section II-B. DEFINITIONS

1. Letter "A"

h. Agriculture means the use of any land for the purpose of growing plants, crops, trees and other agricultural or forestry products or for the purpose of raising livestock.

Agriculture also includes the roadside selling of products produced on land owned, leased or legally controlled by the producer (farmer, rancher, horticulturalist, viticulture, apiary or similar agricultural pursuits). The definition shall include, as a permitted Accessory use, the sale of nursery stock, firewood, Christmas trees and other plants and produce raised on-site. In the unincorporated County only, Agriculture shall also include an expanded range of uses which allows members of the general public, for recreational, entertainment or educational purposes, to view, participate or otherwise enjoy activities related to agricultural uses. Typical activities include, but are not limited to: Farmer's Market which permits the sale of agricultural products by other producers; U-pick it activities; flower arranging; canning/cooking; gardening demonstrations; winery tours and tastings; corn mazes; agriculture related interpretive facilities; agricultural exhibits and tours; agriculturally related educational and learning workshops or experiences; horseback riding; non-commercial camping; bonfire/campfire themed events; service of food and beverages; hayrides; pumpkin patch sales and any other uses determined by the Zoning Administrator to be similar.

*The existing agriculture definition remains unchanged except for the added underlined wording.*

Definitions, Article II, Section II-B

4. Letters "D" through "F"

n. Event Center in the County means premises that are frequently rented out for public or private activities that are not repeated on a weekly basis, and that are not open to the public on a daily basis at times other than when an event is scheduled.

*Event Center in the County is a new defined use and definition.*

n. o. Family means an individual or two or more persons related by blood or marriage, or a group of not more than five persons (excluding servants) not related by blood or marriage, living together as a single housekeeping unit in a Dwelling Unit.

*Definition remains unchanged, new subsection citation is needed due to the addition of Event Center in the County.*

e. p. Farmer's Market means an outdoor place or market area ~~in the City of Wichita~~ with a formalized location where more than one Kansas farmer or grower gathers to sell agricultural products they have grown or raised. Other activities and other sellers may be accommodated at the market, but the sale of agricultural products shall be the focal point of the market activity. Other products that may be sold would typically include

dried flowers, crafts and handicrafts that are made in the home, original artwork and certain prepared foods, as approved by the ~~City of Wichita Environmental Services Department or other applicable agencies~~, such as baked goods, preserves, pickles and cheese.

*Definition of Farmer's Market is an existing definition that is proposed to be modified so the same definition can be used in both the City and the County.*

p. g. Fence means an artificially constructed barrier erected to enclose, screen or separate areas, constructed of wood, masonry, stone, wire, metal, or other manufactured material or combination of materials.

*Definition remains unchanged, new subsection citation is needed due to the addition of Event Center in the County.*

q. r. Floor Area means the area of all floor space allowed for occupancy included within the surrounding exterior walls of a Building or portion thereof, exclusive of vent shafts and courts. The Floor Area of a Building not provided with surrounding exterior walls shall be the usable area confined by structural support columns and a roof Structure under the horizontal projection of the roof or floor above. For purposes of computing the Floor Area for lot coverage or maximum building coverage when restricted under this Code only, open and / or unenclosed areas under the horizontal projection of the roof not exceeding a maximum width of ten feet from the exterior walls shall not be included in the calculation of Floor Area.

*Definition remains unchanged, new subsection citation is needed due to the addition of Event Center in the County.*

r. s. Floor Area Ratio ("FAR") means the relative comparison of building area to land area that is determined by dividing total floor area of all buildings on a platted lot or tract by the total area of the lot or tract.

*Definition remains unchanged, new subsection citation is needed due to the addition of Event Center in the County*

s. t. Freight Terminal means a building or area in which freight brought by motor trucks or rail is assembled and / or stored for routing in intrastate or interstate shipment by motor truck or rail.

*Definition remains unchanged, new subsection citation is needed due to the addition of Event Center in the County*

t. u. Funeral Home means an establishment engaged in preparing the human deceased for burial or cremation and arranging and managing funerals.

*Definition remains unchanged, new subsection citation is needed due to the addition of Event Center in the County*

Article III, Section III-B. BASE DISTRICT REGULATIONS

2. RR Rural Residential District (“RR”)

- a. **Purpose.** The purpose of the RR Rural Residential District is to accommodate very large-lot, Single-Family residential development in areas where a full range of municipal facilities and services are not available and not likely to be available in the near future. The RR District is generally compatible with the “Rural Areas” designation of the Wichita-Sedgwick County Comprehensive Plan. The RR District is intended for application in unincorporated Sedgwick County.

*Purpose statement remains unchanged.*

- b. **Permitted Uses.** The following Uses shall be permitted by-right in the RR District.

**(1) Residential Uses**

Single-family  
Manufactured Home (only in the County and subject to Sec. III-D.6.l)  
Group Home

**(2) Public and Civic Uses**

Church or Place of Worship, subject to Sec. III-D.6.nn  
Community Assembly, subject to Sec. III-D.6.nn  
Day Care, Limited, subject to Sec. III-D.6.i  
Golf Course  
Parks and Recreation  
Recycling Collection Station, Private, subject to Sec. III-D.6.q.  
Utility, Minor

*Adds the underlined uses to the list of permitted by right uses.*

**(3) Commercial Uses**

Bed and Breakfast Inn  
Event Center in the County, subject to Sec. III-D.6.nn.  
Farmer’s Market in the County, subject to Sec. III-D.6.nn  
Kennel, Hobby, subject to Sec. III-D.6.k  
Wireless Communication Facility, subject to Sec. III-D.6.g.

*Adds the underlined uses to the list of permitted by right uses.*

**(4) Industrial, Manufacturing and Extractive Uses**

Asphalt or Concrete Plant, Limited, subject to Sec. III-D.6.d

**(5) Agricultural Uses**

Agriculture, subject to Sec. III-D.6.b.

- c. **Conditional Uses.** The following Uses shall be permitted in the RR District if reviewed and approved by the Planning Commission in accordance with the procedures and standards of Sec. V-D.

**(1) Residential Uses**

Accessory Apartment, subject to Sec. III-D.6.a  
Group Residence, Limited and General

**(2) Public and Civic Uses**

Cemetery  
~~Church or Place of Worship~~  
~~Community Assembly~~  
Correctional Facility, subject to Sec. III-D.6.h  
Correctional Placement Residence, Limited and General, subject to Sec. III-D.6.h  
Day Care, General, subject to Sec. III-D.6.i  
Government Service  
Neighborhood Swimming Pool, subject to Sec. III-D.6.aa  
Safety Service  
School, Elementary, Middle and High  
Utility, Major

*Removes the struck-through uses from the list of uses requiring conditional use approval now that the uses are moved to the use by right section.*

**(3) Commercial Uses**

Airport or Airstrip  
Animal Care, Limited and General  
~~Bed and Breakfast Inn~~  
Kennel, Boarding/Breeding/Training, subject to Sec. III-D.6.k  
Parking Area, Ancillary, subject to Sec. III-D.6.p  
Recreation and Entertainment, Indoor and Outdoor, subject to Sec. III-D.6.o  
Recreation Vehicle Campground  
Riding Academy or Stable

*Removes the struck-through uses from the list of uses requiring conditional use approval now that the uses are moved up to the use by right section.*

**(4) Industrial, Manufacturing and Extractive Uses**

Asphalt or Concrete Plant, General  
Landfill  
Mining or Quarrying  
Oil and Gas Drilling

Rock Crushing  
Solid Waste Incinerator, subject to Sec. III-D.6.v  
Transfer Station  
Vehicle Storage Yard, subject to Sec. III-D.n 6.mm

*Fixes a typo in the existing code.*

**(5) Agriculture Uses**

Agricultural Research  
Agricultural Sales and Service  
Grain Storage

[All other RR development standards remain unchanged]

**14. LC Limited Commercial District (“LC”)**

**a. Purpose.** [Unchanged]

**b. Permitted Uses.** The following uses shall be permitted by-right in the LC District.

**(1) Residential Uses**

Single-family  
Duplex  
Multi-Family  
Manufactured Home (only in the County and subject to Sec. III-D.6.l)  
Accessory Apartment, subject to Sec. III.D.6.a  
Assisted Living  
Group Home  
Group Residence, Limited and General

**(2) Public and Civic Uses**

Cemetery  
Church or Place of Worship  
Community Assembly  
Correctional Placement Residence, Limited and General, subject to Sec. III-D.6.h  
Day Care, Limited and General, subject to Sec. III-D.6.i  
Golf Course  
Government Service  
Hospital  
Library  
Nursing Facility  
Parks and Recreation  
Recycling Collection Station, Private, subject to Sec. III-D.6.q  
Recycling Collection Station, Public, subject to Sec. III-D.6.r

Reverse Vending Machine, subject to Sec. III-D.6.u  
Safety Service  
School, Elementary, Middle and High  
University or College  
Utility, minor

**(3) Commercial Uses**

Animal Care, Limited  
Automated Teller Machine  
Bank or Financial Institution  
Bed and Breakfast Inn  
Broadcast / Recording Studio  
Car Wash, subject to Sec. III-D.6.f  
Construction Sales and Service, subject to Sec. III-D.6.bb  
Convenience Store  
Entertainment Established in the City, subject to Sec. III-D.6.w  
Event Center in the City, subject to Sec. III-D.6.w  
Event Center in the County  
Farmer's Market in the City, subject to Sec. III-D.6.jj  
Farmer's Market in the County  
Funeral Home  
Hotel or Motel  
Marine Facility, Recreational  
Medical Service  
Nightclub in the City, subject to Sec. III-D.6.w  
Night club in the County, subject to Sec. III-D.6.ff  
Nursery and Garden Center, subject to Sec. III-D.6.z  
Office, General  
Parking Area, Commercial, subject to Sec. III-D.6.cc  
Pawn Shop  
Personal Care Service  
Personal Improvement Service  
Post Office Substation  
Printing and Copying, Limited  
Recreation and Entertainment, Indoor  
Restaurant  
Retail, General  
Secondhand Store  
Service Station  
Sexually Oriented Business in the County, subject to Sec. III-D.6.ff  
Tavern and Drinking Establishment, subject to Sec. III-D.6.w  
Teen Club in the City, subject to Sec. III-D.6.w  
Vehicle Repair, Limited  
Vocational School  
Wireless Communication Facility, subject to Sec. III-D.6.g

*Adds the underlined uses to the list of permitted by right uses allowed in the LC district.*

**(4) Industrial, Manufacturing and Extractive Uses**

Asphalt or Concrete Plant, Limited, subject to Sec. III-D.6.d

**(5) Agricultural Uses**

Agriculture  
Agricultural Research  
Agricultural Sales and Service

- c. **Conditional Uses.** The following Uses shall be permitted in the LC District if reviewed and approved by the Planning Commission in accordance with the procedures and standards in Sec. V-D.

**(1) Residential Uses**

None allowed by Conditional use

**(2) Public and Civic Uses**

Neighborhood Swimming Pool, subject to Sec. III-D.6.aa  
Utility, Major

**(3) Commercial Uses** [Note: See Sec. III-B.14.e]

Animal Care, General  
Heliport  
Kennel, Hobby and Boarding / Breeding / Training, subject to Sec. III-D.6.k  
Monument Sales  
Printing and Publishing, General  
Recreation and Entertainment, Outdoor, subject to Sec. III-D.6.o  
Recreational Vehicle Campground  
Vehicle and Equipment Sales (outdoor), subject to Sec. III-D.6.x  
Warehouse, Self-Service Storage, subject to Sec. III-D.6.y

**(4) Industrial, Manufacturing and Extractive Uses**

Asphalt or Concrete Plant, General  
Manufacturing, Limited, subject to Sec. III-D.6.m  
Mining or Quarrying  
Oil and Gas Drilling  
Rock Crushing  
Solid Waste Incinerator, subject to Sec. III-D.6.v

**(5) Agricultural uUses**

None allowed by Conditional Use

*Corrects a typo in the existing code.*

[All other LC development standards would remain unchanged]

**16. GC General Commercial District (“GC”)**

**a. Purpose.** [Unchanged]

**b. Permitted Uses.** The following Uses shall be permitted by-right in the GC District.

**(1) Residential Uses**

- Single-family
- Duplex
- Multi-Family
- Manufactured Home (only in the County and subject to Sec. III-D.6.l)
- Accessory Apartment, subject to Sec. III.D.6.a
- Assisted Living
- Group Home
- Group Residence, Limited and General

**(2) Public and Civic Uses**

- Auditorium or Stadium
- Cemetery
- Church or Place of Worship
- Community Assembly
- Correctional Placement Residence, Limited and General, subject to Sec. III-D.6.h.
- Day Care, Limited and General, subject to Sec. III-D.6.i
- Golf Course
- Government Service
- Hospital
- Library
- Nursing Facility
- Parks and Recreation
- Recycling Collection Station, Private, subject to Sec. III-D.6.q
- Recycling Collection Station, Public, subject to Sec. III-D.6.r
- Reverse Vending Machine, subject to Sec. III-D.6.u
- Safety Service
- School, Elementary, Middle and High
- University or College
- Utility, minor

*Corrects a typo in the existing code.*

**(3) Commercial Uses**

- Animal Care, Limited and General

Automated Teller Machine  
Bed and Breakfast Inn  
Broadcast / Recording Studio  
Car Wash, subject to Sec. III-D.6.f  
Construction Sales and Service  
Convenience Store  
Entertainment Establishment in the City, subject to Sec. III-D.6.2w  
Event Center in the City, subject to Sec. III-D.6.w  
Event Center in the County  
Farmer's Market in the City, subject to Sec. III-D.6.jj  
Farmer's Market in the County  
Funeral Home  
Hotel or Motel  
Kennel, Hobby and Boarding / Breeding / Training, subject to Sec. III-D.6.k  
Marine Facility, Recreational  
Medical Service  
Microbrewery  
Monument Sales  
Nightclub in the City, subject to Sec. III-D.6.w  
Nightclub in the County, subject to Sec. III-D.6.ff  
Nursery and Garden Center  
Office, General  
Parking Area, Commercial  
Pawnshop  
Personal Care Service  
Personal Improvement Service  
Post Office Substation  
Printing and Copying, Limited  
Printing and Publishing, General  
Recreation and Entertainment, Indoor and Outdoor  
Recreation Vehicle Campground  
Restaurant  
Retail, General  
Rodeo in the City, subject to Sec. III-D.6.kk  
Riding Academy or Stable  
Secondhand Store  
Service Station  
Sexually Oriented Business in the County, subject to Sec. III-D.6.ff  
Tattooing and Body Piercing Facility, subject to Sec. III-D.6.ee  
Tavern and Drinking Establishment, subject to Sec. III-D.6.w  
Teen Club in the City, subject to Sec. III-D.6.w  
Vehicle and Equipment Sales  
Vehicle Repair, Limited and General  
Vocational School  
Warehouse, Self-Service Storage  
Wireless Communication Facility, subject to Sec. III-D.6.g

*Adds the underlined uses to the list of permitted by right uses permitted in the GC district.*

**(4) Industrial, Manufacturing and Extractive Uses**

Asphalt or Concrete Plant, Limited, subject to Sec. III-D.6.d  
Manufacturing, Limited and General, subject to Sec. III-D.6.n  
Research Services  
Storage, Outdoor, subject to Sec. III-D.6.dd  
Vehicle Storage Yard  
Warehousing  
Welding or Machine Shop, subject to Sec. III-D.6.n  
Wholesale or Business Services

**(6) Agriculture**

Agricultural Research  
Agricultural Sales and Service

**c. Conditional Uses.** The following Uses shall be permitted in the GC District if reviewed and approved by the Planning Commission in accordance with the procedures and standards of Sec. V-D.

**(1) Residential Uses**

**(2) Public and Civic Uses**

Neighborhood swimming pool, subject to Sec. III-D.6.aa  
Utility, Major

**(3) Commercial Uses**

Heliport

**(4) Industrial, Manufacturing and Extractive Uses**

Asphalt or Concrete Plant, General  
Gas and Fuel Storage and Sales  
Mining and Quarrying  
Oil and Gas Drilling  
Rock Crushing  
Solid Waste Incinerator, subject to Sec. III-D.6.v

**(5) Agricultural Uses**

None allowed by Conditional Use

[All other GC development standards would remain unchanged]

**20. LI Limited Industrial District ("LI")**

- a. **Purpose.** [Unchanged]
- b. **Permitted Uses.** The following uses shall be permitted by-right in the LI District.

**(1) Residential Use**

None allowed by-right

**(2) Public and Civic Uses**

Auditorium or Stadium  
Cemetery  
Church or Place of Worship  
Community Assembly  
Correctional Facility, subject to Sec. III-D.6.h  
Correctional Placement Residence, Limited and General, subject to Sec. III-D.6.h.  
Day Care, Limited and General, subject to Sec. III-D.6.i  
Golf Course  
Government Service  
Hospital  
Library  
Nursing Facility  
Parks and Recreation  
Recycling Collection Station, Private, subject to Sec. III-D.6.q  
Recycling Collection Station, Public, subject to Sec. III-D.6.r  
Recycling Processing Center, subject to Sec. III-D.6.s  
Reverse Vending Machine, subject to Sec. III-D.6.u  
Safety Service  
University or College  
Utility, Minor

**(3) Commercial Uses**

Animal Care, Limited and General  
Automated Teller Machine  
Bank or Financial Institution  
Broadcast / Recording Studio  
Car Wash, subject to Sec. III-D.6.f  
Construction Sales and Service  
Convenience Store  
Entertainment Establishment in the City, subject to Sec. III-D.6.w  
Event Center in the City, subject to Sec. III-D.6.w  
Event Center in the County  
Farmer's Market in the City, subject to Sec. III-D.6.jj  
Farmer's Market in the County  
Funeral Home  
Hotel or Motel

Kennel, Hobby and Boarding / Breeding / Training, subject to Sec. III-D.6.k  
Marine Facility, Recreational  
Medical Service  
Microbrewery  
Monument Sales  
Nightclub in the City, subject to Sec. III-D.6.w  
Nightclub in the County, subject to Sec. III-D.6.ff  
Nursery and Garden Center  
Office, General  
Parking Area, Commercial  
Pawnshop  
Personal Care Service  
Personal Improvement Service  
Post Office Substation  
Printing and Copying, Limited  
Printing and Publishing, General  
Recreation and Entertainment, Indoor and Outdoor  
Restaurant  
Retail, General  
Rodeo in the City, subject to Sec. III-D.6.kk  
Riding Academy or Stable  
Secondhand Store  
Service Station  
Sexually Oriented Business, subject to Sec. III-D.6.ff  
Tattooing and Body Piercing Facility, subject to Sec. III-D.6.ee  
Tavern and Drinking Establishment, subject to Sec. III-D.6.w  
Teen Club in the City, subject to Sec. III-D.6.w  
Vehicle and Equipment Sales  
Vehicle Repair, Limited and General  
Vocational School  
Warehouse, Self-Service Storage  
Wireless Communication Facility, subject to Sec. III-D.6.g

*Adds the underlined uses to the list of permitted by right uses in the LI district.*

**(4) Industrial, Manufacturing and Extractive Uses.**

Asphalt or Concrete Plant, Limited, subject to Sec. III-D.6.d  
Freight Terminal  
Gas and Fuel Storage and Sales  
Manufacturing, Limited and General  
Research Services  
Storage, Outdoor, subject to Sec. III-D.6.dd  
Vehicle Storage Yard  
Warehousing

Welding or Machine Shop  
Wholesale or Business Services

**(5) Agricultural Uses**

Agriculture  
Agricultural Processing  
Agricultural Research  
Agricultural Sales and Service  
Grain Storage

[All other LI development standards would remain unchanged]

**21. GI General Industrial District (“GI”)**

- a. **Purpose.** [Unchanged]
- b. **Permitted Uses.** The following Uses shall be permitted by-right in the GI District.

**(1) Residential Uses**

None allowed by-right

**(2) Public and Civic Uses**

Auditorium or Stadium  
Cemetery  
Church or Place of Worship  
Community Assembly  
Correctional Facility, subject to Sec. III-D.6.h  
Correctional Placement Residence, Limited and General, subject to Sec. III-D.6.h.  
Golf Course  
Government Service  
Hospital  
Library  
Parks and Recreation  
Recycling Collection Station, Private, subject to Sec. III-D.6.q  
Recycling Collection Station, Public, subject to Sec. III-D.6.r  
Recycling Processing Center, subject to Sec. III-D.6.s  
Reverse Vending Machine, subject to Sec. III-D.6.u  
Safety Service  
University or College  
Utility, Minor

**(3) Commercial Uses**

Animal Care, Limited and General  
Automated Teller Machine  
Bank or Financial Institution

Broadcast / Recording Studio  
 Car Wash, subject to Sec. III-D.6.f  
 Construction Sales and Service  
 Convenience Store  
 Entertainment Establishment in the City, subject to Sec. III-D.6.w  
 Event Center in the City, subject to Sec. III-D.6.w  
Event Center in the County  
 Farmer's Market in the City, subject to Sec. III-D.6.jj  
Farmer's Market in the County  
 Funeral Home  
 Hotel or Motel  
 Kennel, Hobby and Boarding / Breeding / Training, subject to Sec. III-D.6.k  
 Marine Facility, Recreational  
 Medical Service  
 Microbrewery  
 Monument Sales  
 Nightclub in the City, subject to Sec. III-D.6.w  
 Nightclub in the County, subject to Sec. III-D.6.ff  
 Nursery and Garden Center  
 Office, General  
 Parking Area, Commercial  
 Pawnshop  
 Personal Care Service  
 Personal Improvement Service  
 Post Office Substation  
 Printing and Copying, Limited  
 Printing and Publishing, General  
 Recreation and Entertainment, Indoor and Outdoor  
 Restaurant  
 Retail, General  
 Rodeo in the City, subject to Sec. III-D.6.kk  
 Riding Academy or Stable  
 Secondhand Store  
 Service Station  
 Sexually Oriented Business, subject to Sec. III-D.6.ff  
 Tattooing and Body Piercing Facility, subject to Sec. III-D.6.ee  
 Tavern and Drinking Establishment, subject to Sec. III-D.6.w  
 Teen Club in the City, subject to Sec. III-D.6.w  
 Vehicle and Equipment Sales  
 Vehicle Repair, Limited and General  
 Vocational School  
 Warehouse, Self-Service Storage  
 Wireless Communication Facility, subject to Sec. III-D.6.g

*Adds the underlined uses to the list of permitted by right uses in the GI district.*



USE TYPE	ZONING DISTRICTS																conditions				
	S	S			M	M															
	F	F	S	T	F	F															
	R	2	1	F	F	1	2	M	N	G	N	L	O	G	IP	C		L	G	A	
	0	0	5	3	8	9	B	H	O	O	R	C	W	C	A	IP	D	I	I	B	
Multi-Family					C	P	P	P		C	P	P	P		P		P				
Manufactured Home	P	P	P						P											P	
Manufactured Home Subdivision									P											P	
Manufactured Home Park									P											P	
Accessory Apartment	C	C	C	C	C	P	P	P	C	C	P	P	P		P		P			P	
Assisted Living					C	P	P	P	C	C	P	P	P		P		P			P	
Group Home	P	P	P	P	P	P	P	P	P	P	P	P	P		P		P			P	
Group Residence, Limited	C	C	C	C	C	C	C	P		C	P	P	P		P		P			P	
Group Residence, General	C	C						C			P	P	P			P				P	
<b>PUBLIC AND CIVIC</b>																					
Auditorium or Stadium															P	P		P	P	P	P
Cemetery	C	C	C	C	C	C	C	P			P	P	P				P	P	P	P	
Church or Place of Worship	€																				
	P	P	P	P	P	P	P	P	P	P	P	P	P		P		P	P	P	P	
Community Assembly	€																				
	P	C	C	C	C	C	C	P	C	C	P	C	P	P	P		P	P	P	P	

USE TYPE	ZONING DISTRICTS																conditions				
	S	S			M	M															
	F	F	S	T	F	F										A					
	R 2	1	F	F	1	2	B	H	O	O	R	C	W	C	A	I		P	C	L	G
R 0	0	5	3	8	9	B	H	O	O	R	C	W	C	A	I	P	C	L	G	F	
Correctional Facility	C	C															P	P	P	P	D.6.h
Correctional Placement Residence, Limited	C	C							C	P	P	P		P			P	P	P	P	D.6.h
Correctional Placement Residence, General	C	C								P		P		P			P	P	P	P	D.6.h
Day Care, Limited	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P	C	P	D.6.i
Day Care, General	C	C	C	C	C	P	P	P	C	P	P	P	P	P		P	P	P	C	P	D.6.i
Day Reporting Center																		C	C	P	D.6.ii
Golf Course	P	P	P	P	P	P	P	P	P	P		P		P			P	P	P	P	
Government Service	C	C	C	C	C	C	C	C		C	C	C	P	P	P	P	P	P	P	P	
Hospital		C						P	P		P		P				P	P	P	P	
Library	C	C	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P	P	
Neighborhood Swimming Pool	C	C	C	C	C	C	C	C	C	C	C	C	C		C					P	D.6.aa
Nursing Facility								P		P		P		P			P	P	C	P	
Parks and Recreation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	D.6.ii
Recycling Collection Station, Private	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	D.6.q
Recycling Collection Station, Public													P	P	P	P	P	P	P	P	D.6.r

ZONING DISTRICTS																				
USE TYPE	S	S			M	M														
	F	F	S	T	F	F														A
	R	2	1	F	F	1	2		M	N	G	N	L		O	G	-	I	P	C
	R	0	0	5	3	8	9	B	H	O	O	R	C	W	C	A	I	P	D	I
																				I
																				B
																				conditions
Recycling Processing Center															P	P	P	P	P	P
Reverse Vending Machine															P	P	P	P	P	P
Safety Service	C	C	C	C	C	C	C	C	C	C	C	C	C	P	P	P	P	P	P	P
School, Elementary, Middle & High	C	P	P	P	P	P	P	P	P	C	P	P	P		P			P	C	C
University or College								P	C	P			P	P	P		P	P	P	P
Utility, Major	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Utility, Minor	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
<b>COMMERCIAL</b>																				
Airport or Airstrip	C	C													C		C	C		C
Animal Care, Limited	C											C	P	P	P		P	P	P	P
Animal Care, General	C												C	P	P		P	P	P	P
Automated Teller Machine										P	P	P	P	P	P		P	P	P	P
Bank or Financial Institution													C	P	P	P	P		P	P
Bed and Breakfast Inn	€																			
	P	C	C	C	C	C	C	C					P	P	P		P			P

USE TYPE	ZONING DISTRICTS																conditions		
	S	S			M	M													
	F	F	S	T	F	F										A			
	R 2	1	F 5	F 3	1 8	2 9	B	H	O	O	R	C	W	C	IP	C		L	G
R 0	0	5	3	8	9	B	H	O	O	R	C	W	C	IP	C	L	G	F	
Broadcast/Recording Studio										P	P	P	P	P		P	P	P	P
Car Wash												P		P	P	P	P	P	P
Construction Sales and Service												P	P	P	P	P	P	P	P
Convenience Store												P		P		P	P	P	P
Entertainment Establishment in the City												P		P		P	P	P	P
Event Center in the City												P		P		P	P	P	P
<u>Event Center in the County</u>	<u>P</u>											<u>P</u>		<u>P</u>		<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Farmer's Market in the City	<u>P</u>											P	P	P		P	P	P	P
<u>Farmer's Market in the County</u>	<u>P</u>											<u>P</u>		<u>P</u>			<u>P</u>	<u>P</u>	
Funeral Home												P		P		P	P	P	P
Heliprot							C			C	C	C	C	C	C	C	C	C	P
Hotel or Motel												P		P		P	P	P	P
Kennel, Hobby	P	C										C		P					P
Kennel, Boarding/Breeding/Training	C	C										C		P			P	P	P
Marine Facility, Recreational								P				P		P		P	P	P	P
																			P

USE TYPE	ZONING DISTRICTS																conditions				
	S	S			M	M															
	F	F	S	T	F	F										A					
	R	2	1	F	F	1	2	M	N	G	N	L	O	G	-	IP		C	B	L	G
	0	0	5	3	8	9	B	H	O	R	C	W	C	A	IP	D	I	I	B		
Medical Service							P	P	P	P	P					P	P	P			
Microbrewery														P			P	P	P	P	
Monument Sales												C	P	P	P	P	P	P	P	P	
Nightclub in the City												P		P			P	P	P	P	D.6.w
Nightclub in the County												P		P				P	P	P	D.6.ff
Nurseries and Garden Centers												P	P	P			P	P	P	P	D.6.z
Office, General									P	P	P	P	P	P		P	P	P	P	P	
Parking Area and/or Accessory Drive, Ancillary	C	C	C	C	C	C	C	C	C	C										P	D.6.p
Parking Area, Commercial											P	P	P		P		P	P	P	P	D.6.cc
Pawnshop												P		P			P	P	P	P	
Personal Care Service											C	P	P	P	P		P	P	P	P	
Personal Improvement Service											C	P	P	P	P		P	P	P	P	
Post Office Substation												P	P	P		P	P	P	P	P	
Printing and Copying, Limited											C	P	P	P	P	P	P	P	P	P	
Printing and Publishing, General												C		P	P	P	P	P	P	P	
Recreation and Entertainment, Indoor	C	C										P		P			P	P	P	P	

USE TYPE	ZONING DISTRICTS																conditions				
	S	S			M	M															
	F	F	S	T	F	F										A					
R	2	1	F	F	1	2	M	N	G	N	L	O	G	IP	C	L	G	F			
R	0	0	5	3	8	9	B	H	O	O	R	C	W	C	A	IP	D	I	I	B	
Recreation & Entertainment, Outdoor	C	C										C		P			P	P	P	P	D.6.o
Recreational Vehicle Campground	C	C										C		P						P	
Restaurant												P	P	P		P	P	P	P	P	D.6.t
Retail, General												P	P	P	P		P	P	P	P	
Riding Academy or Stable	C	C												P			P	P		P	
Rodeo in the City														P			P	P	P		D.6.kk
Secondhand Store												P		P		P	P	P	P		
Service Station												P		P		P	P	P	P		
Sexually Oriented Business in the City														P			P	P	P		D.6.ff
Sexually Oriented Business in the County												P		P			P	P	P		D.6.ff
Tattooing and Body Piercing Facility (City)													P	P		P		P	P	P	D.6.ee
Tattooing and Body Piercing Facility (County)																				P	See Personal Improvement Service
Tavern and Drinking Establishment												P		P		P	P	P	P		D.6.w
Teen Club in the City												P		P		P	P	P	P		D.6.w
Vehicle and Equipment Sales, Outdoor												C		P		P	P	P	P		D.6.x-D.6.hh

USE TYPE		ZONING DISTRICTS																		conditions			
		S	S			M	M														A		
		F	F	S	T	F	F			M	N	G	N	L	O	G	IP	C	L	G	F		
		R	2	1	F	F	1	2	B	H	O	O	R	C	W	C	A	IP	D	I	I	B	
		R	0	0	5	3	8	9	B	H	O	O	R	C	W	C	A	IP	D	I	I	B	
Vehicle Repair, Limited														P	P			P	P	P	P		
Vehicle Repair, General																P			P	P	P	P	
Vocational School													C	P	P	P		P	P	P	P	P	
Warehouse, Self-Service Storage													C	C	P	P	P	P	P	P	P	P	D.6.y
Wireless Communication Facility		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P	P	D.6.g
INDUSTRIAL, MANUFACTURING AND EXTRACTIVE																							
Asphalt or Concrete Plant, Limited		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	D.6.d
Asphalt or Concrete Plant, General		C	C											C	C				C	P	P		
Basic Industry																				C	P		
Construction Burn Site, Limited		P	P																	P	P	P	C.12
Construction Burn Site, General		C	C																	C	C	P	C.11
Freight Terminal																	P	P		P	P	P	
Gas and/or Fuel Storage and Sales															C					P	P	P	
Hazardous Operations																					C	P	
Landfill		C																		C	C	P	

USE TYPE	ZONING DISTRICTS																Conditions					
	S	S			M	M																
	F	F	S	T	F	F			M	N	G	N	L	O	G	IP		C	L	G	A	
	R	2	1	F	F	1	2	B	H	O	O	R	C	W	C	A	IP	D	I	I	B	
	R	0	0	5	3	8	9	B	H	O	O	R	C	W	C	A	IP	D	I	I	B	
Manufacturing, Limited													C	P	P	P	P	P	P	P	P	D.6.m+D.6.n
Manufacturing, General															P	P	P	P	P	P	P	D.6.n
Mining or Quarrying	C	C	C	C	C	C	C	C			C	C	C		C			C	C	C	P	D.6.gg
Oil and Gas Drilling	C	C	C	C	C	C	C	C			C	C	C		C			C	C	C	P	
Research Services														P	P	P	P	P	P	P	P	
Rock Crushing	C	C	C	C	C	C	C	C			C	C	C		C			C	C	C	P	
Solid Waste Incinerator	C	C	C	C	C	C	C	C			C	C	C		C			C	C	C	P	D.6.v
Storage, Outdoor, as a Principal Use															P			P	P	P	P	D.6.dd
Transfer Station	C																		C	C	P	
Vehicle Storage Yard	C														P			P	P	P	P	D.6.mm
Warehousing														P	P	P	P	P	P	P	P	
Welding or Machine Shop															P	P	P	P	P	P	P	D.6.n
Wholesale or Business Services														P	P	P	P	P	P	P	P	
Wrecking/Salvage Yard																			C	C	P	D.6.e+D.6.dd
<b>AGRICULTURAL</b>																						

USE TYPE	ZONING DISTRICTS																	conditions				
	S	S				M	M															
	R	2	1	F	F	1	2		M	N	G	N	L	O	G	IP		C	L	G	A	
	R	0	0	5	3	8	9	B	H	O	O	R	C	W	C	A	IP	D	I	I	B	
Agriculture	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	D.6.b
Agricultural Processing																			P	P	P	
Agricultural Research	C	C											P	P				P	P	P	P	
Agricultural Sales and Service	C	C											P	P				P	P	P	P	
Grain Storage	C																		P	P	P	

Sec. III-D.6.nn. Event Center in the County, Church or Place of Worship, Community Assembly and Farmer’s Market in the County in RR. In the RR district only, an Event Center in the County, Church or Place of Worship, Community Assembly or Farmer’s Market in the County on property with less than 20 acres requires a Conditional Use. Event Center in the County, Church or Place of Worship, Community Assembly or Farmer’s Market in the County may be permitted by-right on sites of 20 acres or greater, including road right-of-way, if it complies with the following standards:

*Previous version had a two acre minimum lot size. Takes into account Religious Land Use and Institutionalized Persons Act (RLUPA)*

- (1) Maximum building occupancy is limited to that established by building and/or fire officials utilizing applicable building or fire code standards.
- (2) Buildings, events and activities shall comply with applicable building, fire, sanitation, life-safety and other applicable codes.
- (3) Seating or attendance at outdoor events shall be limited to the maximum number of occupants permitted by the minimum required parking.
- (4) Required parking for an Event Center in the County shall be provided at the rate of one space per four occupants or as established by a parking study. Parking for Church or Place of Worship and Community Assembly shall be per the off-street standards listed in the Code for each use. Parking for Farmer’s Market in

the County shall be one space per 333 square feet of exhibition and sales area. Parking spaces for persons with disabilities shall be paved; otherwise, the surface of parking, drive aisles and circulation areas shall be of material established by Sedgwick County officials. Parking for indoor venues shall be rock. If less than one outdoor event is held per month parking surface may be grass. For purposes of qualifying for grass parking, an outdoor event shall be no longer than three consecutive days. Use of the property for an outdoor event of less than three consecutive days constitutes an event. All parking shall be located on-site. In order to qualify as an outdoor event, the event operator or the property owner must submit a calendar indicating the date(s) per month the site will be in use and must adhere to the schedule. Dates for outdoor events may be changed with 24-hour advance notice of the date of the event to Metropolitan Area Building and Construction officials.

- (5) Sites offering both indoor and outdoor events shall require parking for the use with the highest parking requirement.
- (6) Drainage shall be addressed at the time of platting, change of occupancy or as part of building permit review.
- (7) Building setbacks shall be 100 feet from property lines. Was 35 feet.
- (8) Access control shall be as determined by Sedgwick County Traffic Engineer.
- (9) Signage shall be per County Sign Code.
- (10) The service of food and drink may be permitted both indoor and outdoor as part of the operations of the facility provided that the service complies with all applicable regulations. The service of any alcoholic liquor or cereal malt beverage is permitted only with applicable licenses.
- (11) Portable toilets shall not be placed within the 100-foot building set back. Was 35 feet.
- (12) Prior to use of the property for the stated use, the applicant shall submit for review and approval by the Director of Planning or his designee a detailed site plan that depicts existing and/or proposed: property boundaries, buildings, structures, access points, driveways, location and number of parking spaces, outdoor lighting, location of dumpsters, setbacks, outdoor seating or activity areas. At a minimum, the site plan shall be to scale and/or have enough dimension control to verify: site size, size of improvements, buildings or activity areas, location of improvements, buildings, or activity areas, and parking, circulation drives, and access points or any other pertinent details as requested by County staff.

*Adds a new section to the supplemental use standards to permit specified uses on tracts of 20 acres or larger by right provided the site complies with the standards. For sites less than 20 acres or unable to comply with the development standards conditional use approval is required.*

SECTION 4. This Resolution shall take effect and be in force from and after its adoption and publication in the official county newspaper.

Commissioners present and voting were:

DAVID M. UNRUH	_____
TIM R. NORTON	_____
KARL PETERJOHN	_____
RICHARD RANZAU	_____
JAMES M. HOWELL	_____

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

BOARD OF COUNTY COMMISSIONERS  
OF SEDGWICK COUNTY, KANSAS

ATTEST:

\_\_\_\_\_  
KELLY B. ARNOLD, County Clerk

\_\_\_\_\_  
JAMES M. HOWELL, Chairman  
Commissioner, Fifth District

\_\_\_\_\_  
RICHARD RANZAU, Chair Pro Tem  
Commissioner, Fourth District

APPROVED AS TO FORM:

\_\_\_\_\_  
DAVID M. UNRUH  
Commissioner, First District

\_\_\_\_\_  
ERIC R. YOST, ESQ.  
County Counselor

\_\_\_\_\_  
TIM R. NORTON  
Commissioner, Second District

\_\_\_\_\_  
KARL PETERJOHN  
Commissioner, Third District

Article II, Section II-B.1.h. Clarifies that roadside agricultural stands selling products produced onsite are agriculture. Provides additional examples of uses that are considered to be agriculture. (p. 9, UZC)

Article II, Section II-B.4.n. Adds the use and definition “Event Center in the County” to the code’s list of uses. (p. 16, UZC)

Article II, Section II-B.4.p. Modifies the definition of “Farmer’s Market” by deleting references to the City of Wichita and Environmental Services making the definition appropriate for the County as well as the City. (p. 16, UZC)

Article III, Section III-B.2.b(2) Moves “Church or Place of Worship” and “Community Assembly” from a conditional use in the RR district to use by-right provided the use complies with the development standards contained in a new Article III, Section III-D.6.nn. If the use does not comply with the development standards contained in Article III, Section III-D.6.nn “conditional use” approval would be required. (p. 44, UZC)

Article III, Section III-B.2.b(3) Moves “Bed and Breakfast Inn” to a use by-right in the RR district; currently it is a conditional use. Adds “Event Center in the County” as a listed use by-right in the RR district subject to Article III, Section III-D.6.nn provided it complies with Article III, Section III-D.6.nn. If the “Event Center in the County” does not meet said development standards then conditional use approval is required. Adds “Farmer’s Market in the County” subject to Article III, Section III-D.6.nn as a use by-right in the RR district; “Farmer’s Market in the County” was not listed previously as a County use. (p. 45, UZC)

Article III, Section III-B.2.c(2) removes “Church or Place of Worship” and “Community Assembly” as a listed conditional use in the RR district provided it complies with proposed Article III, Section III-D.6.nn. If it does not comply with Article III, Section III-D.6.nn it requires conditional approval. (p. 45, UZC)

Article III, Section III-B.2.c(3) removes “Bed and Breakfast Inn” as a conditional use in the RR district (now that it is proposed to be a use by-right). (p. 45, UZC)

Article III, Section III-B.14.b(3) adds “Event Center in the County” and “Farmer’s Market in the County” as a use by-right in the LC district. (p. 73, UZC)

Article III, Section III-B.14.b(5) capitalizes the “U” in “Agricultural uses.” (p. 75, UZC)

Article III, Section III-B.16.b(2) capitalizes the "P" in "place of worship." (p. 82, UZC)

Article III, Section III-B.16.b(3) adds "Event Center in the County" and "Farmer's Market in the County" as a use by-right in the GC district. (p. 83, UZC)

Article III, Section III-B.20.b(3) adds "Event Center in the County," "Farmer's Market in the County" and "Riding Academy or Stable" as a use by-right in the LI district. (p. 95, UZC)

Article III, Section III-B.21.b(3) adds "Event Center in the County" and "Farmer's Market in the County" as a use by-right in the GI district. (p. 98)

Article III, Section III-D.5.a (matrix) modifies the matrix to reflect text changes. (pgs. 135-138, UZC)

Article III, Section III-D.6.nn adds 12 development standards to "Event Centers in the County," "Churches or Places of Worship," "Community Assembly" and "Farmer's Markets in the County." (p. 168, UZC)