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WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION AGENDA

Thursday, October 6, 2016

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission will be held on **Thursday, October 6, 2016**, beginning at **1:30 PM** in the Planning Commission Conference Room, 271 West Third Street, 2nd Floor, Ste #203, 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: No Minutes

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

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

SUBDIVISION CASE DETAILS

- 2-1. **SUB2016-00023: Final Plat – FIREFLY WAY ADDITION**, located west of 127th Street East on the south side of 29th Street North.

Committee Action: APPROVED 6-0
Surveyor: Baughman Company, P.A.
Acreage: 79.60
Total Lots: 168

- 2-2. **SUB2016-00029: One-Step Final Plat – HARP SUBDIVISION ADDITION**, located on the west side of 279th Street West, south of 53rd Street North.

Committee Action: APPROVED 6-0
Surveyor: Garber Surveying, P.A.
Acreage: 6.289
Total Lots: 1

3. **PUBLIC HEARING – VACATION ITEMS**

ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 PM

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

Complete legal descriptions are available for public inspection at the Metropolitan Area Planning Department – 271 West Third Street, 2nd Floor, Ste #201, Wichita, Kansas

- 3-1. **VAC2016-00030: City request to vacate a portion of a platted alley**, generally located north of Pawnee Avenue on the west side of Hillside Avenue.

Committee Action: APPROVED 6-0

OLD BUSINESS

1. Case No.: ZON2016-00037 and CUP2016-00028
Request: City zone change from SF-5 Single-family residential and GO General Office to LC Limited Commercial and amendment to CUPDP-233 Highland Springs.
General Location: South of W. Central Avenue and west of 135th Street West.

PUBLIC HEARINGS

ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 PM

- 4.** Case No.: ZON2016-00032
Request: City zone change request from Single-family Residential SF-5 to Two-family Residential TF 3 for 13 lots on Victoria Street.
General Location: Northwest of the intersection East 55th Street South and south Hydraulic Avenue.
Presenting Planner: Kathy Morgan
- 5.** Case No.: ZON2016-00038
Request: City zone change from Single-family Residential SF-5 to Limited Commercial LC on 2.45 acres.
General Location: North of E. Central Avenue on the east side of Edgemoor Street (620 N. Edgemoor St.).
Presenting Planner: Kathy Morgan
- 6.** Case No.: ZON2016-00039
Request: City request to rezone from NR Neighborhood Retail and SF-5 Single family Residential to LC Limited Commercial.
General Location: On the northeast corner of Maple Street and Tyler Road.
Presenting Planner: Kathy Morgan
- 7.** Case No.: CON2015-00030
Request: City Conditional Use to permit a Tavern and Drinking Establishment and an Entertainment Establishment on property zoned LC Limited Commercial.
General Location: Northeast of the intersection of North Arkansas Avenue and West 47th Street North (4904 N. Arkansas Ave.).
Presenting Planner: Bill Longnecker
- 8.** Case No.: CON2016-00023
Request: City Conditional Use to permit a Tavern and Drinking Establishment and an Entertainment Establishment within 300 feet of residential zoning, a church and a park, on LC Limited Commercial zoned property.
General Location: South of Lincoln Street west of S. Broadway Avenue and north of E. Zimmerly Street (1321 S. Broadway Ave.).
Presenting Planner: Bill Longnecker
- 9.** Case No.: CON2016-00031
Request: City Conditional Use to permit a Tavern and Drinking Establishment and an Entertainment Establishment within 300 feet of residential zoning on property zoned LC Limited Commercial.
General Location: North of Harry Street and east of Lincoln Street (4916 E. Lincoln St. The Hideaway).
Presenting Planner: Bill Longnecker

- 10.** Case No.: CON2016-00041
Request: City Conditional Use to permit a Tavern and Drinking Establishment and an Entertainment Establishment within 300 feet of residential zoning on property zoned LC Limited Commercial.
General Location: West of Hillside Avenue and south of 31st Street South (3201 E. 31st St. S.)
Presenting Planner: Bill Longnecker
- 11.** Case No.: CON2016-00044
Request: City Conditional Use to permit a 125 foot tall monopole wireless communication facility on property zoned LC Limited Commercial.
General Location: North of Harry Street and east of Rock Road (1214 N. Rock Rd.)
Presenting Planner: Scott Knebel
- 12.** Case No.: PUD2016-00007
Request: City request to amend Planned Unit Development PUD-5 to permit a 145 foot tall monopole wireless communication facility.
General Location: West of Hillside Avenue on the south side of Kellogg (3003 E. Kellogg).
Presenting Planner: Scott Knebel

NON-PUBLIC HEARING ITEMS

13. Other Matters/Adjournment

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

STAFF REPORT

CASE NUMBER: SUB2016-00023 – FIREFLY WAY ADDITION

OWNER/APPLICANT: Ritchie Development Corporation, Attn: Kevin Mullen, 8100 East 22nd Street North, Building 1000, Wichita, KS 67226-2310

SURVEYOR/AGENT: Baughman Company, 315 Ellis, Wichita, KS 67211

LOCATION: South side of East 29th Street North, west of North 127th Street East (District II)

SITE SIZE: 79.6 acres

NUMBER OF LOTS

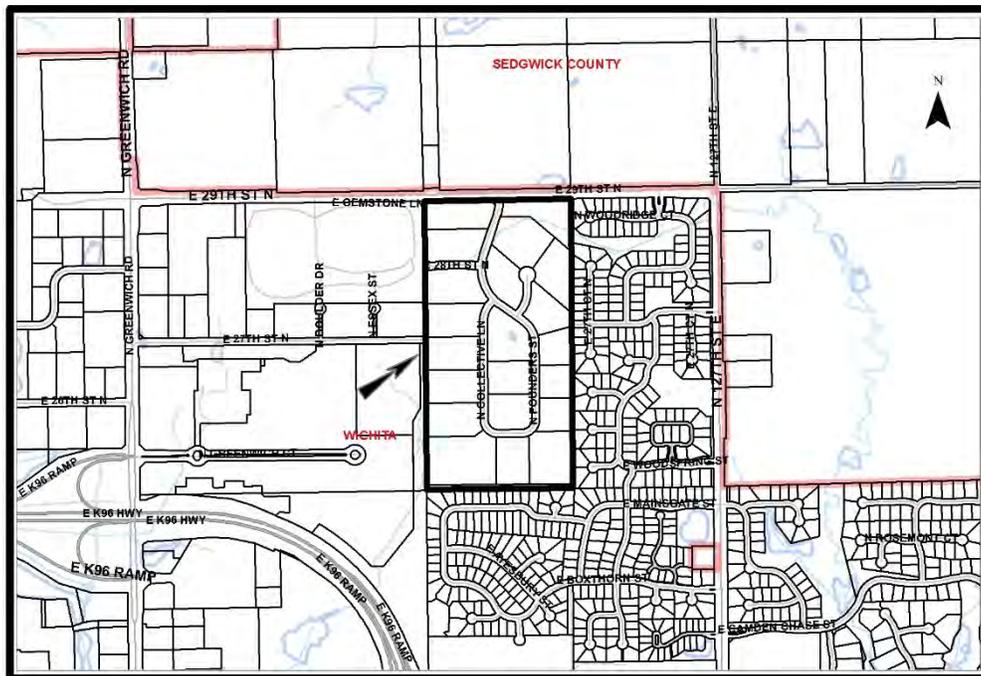
Residential:	166
Office:	
Commercial:	
Industrial:	
Total:	166

MINIMUM LOT AREA: 8,450 square feet

CURRENT ZONING: Limited Industrial (LI)

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

VICINITY MAP



SUB2016-00023 – Plat of FIREFLY WAY ADDITION
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NOTE: This site is a replat of the Greenwich Business Center Addition. A zone change (ZON2016-00034) has been approved from Limited Industrial (LI) to Multi-Family Residential (MF-18) and Single-Family Residential (SF-5).

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department requests the applicant extend water (distribution) and extend sewer (lateral). A special acquisition fee is 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 advises the drainage plan is approved.
- D. Traffic Engineering has approved the access controls. The plat proposes one street opening along 29th Street North.
- E. A restrictive covenant shall be submitted prohibiting the connection of Firefly Way Addition to 29th Street North until the completion of paving of 29th Street. A petition is not required due to paving improvements being funded through a City CIP project.
- F. A restrictive covenant shall be submitted limiting development until the plat is in compliance with the City Fire Code regarding access.
- G. The Applicant shall guarantee the paving of the proposed streets. In accordance with the Subdivision Regulations, the cul-de-sacs must meet the minimum 35-foot paved radius requirement. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets. The paving guarantee shall include the installation of a temporary turnaround at the terminus of 27th Street North at the plat's west line.
- H. 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.
- 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.

SUB2016-00023 – Plat of FIREFLY WAY ADDITION
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- K. 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.
- L. Approval of this plat will require a waiver of the lot depth-to-width ratio of the Subdivision Regulations for Lot 13 and 17, Block A, and Lots 17 and 24, Block D. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. The Subdivision Committee recommends a modification of the design criteria in Article 7 of the Subdivision Regulations as it finds that the strict application of the design criteria will create an unwarranted hardship, the proposed modification is in harmony with the intended purpose of the Subdivision Regulations and the public safety and welfare will be protected.
- M. GIS has approved the street names; however Lot 11, Block D should be shown to be included within Eagle Street, and the plat shall denote where Bracken ends and 27th Street begins. The applicant shall correctly label the street name blades “dead end” or “no outlet,” as appropriate. Plans are available from Andy Smith (asmith@wichita.gov).
- N. Woodspring Court located in the south portion of the plat is a 58-foot street segment with 13 lots on the east and south side of the street. The Subdivision Regulations indicate that no more than 12 lots per side in one block should be served by a 58-foot street segment. The Subdivision Committee recommends a modification of the design criteria in Article 7 of the Subdivision Regulations as it finds that the strict application of the design criteria will create an unwarranted hardship, the proposed modification is in harmony with the intended purpose of the Subdivision Regulations and the public safety and welfare will be protected.
- O. Since Reserve J includes a swimming pool, a site plan shall be submitted with the final plat for review by MAPD. The site plan shall include the information indicated in the Subdivision Regulations. The design for the pool must be submitted to Environmental health Division for review prior to issuing a building permit for the pool.
- P. 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.
- Q. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted, installed and inspected.
- R. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- S. The platlor’s text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.

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

SUB2016-00029 -- Plat of HARP SUBDIVISION ADDITION
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NOTE: This unplatted site is located in the County. It is designated as: "Rural area" by the Community Investments Plan 2015-2035.

STAFF COMMENTS:

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact Metropolitan Area Building and Construction Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval.
- B. 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. County Stormwater has received the drainage plan and is reviewing it. All issues are being addressed with the design engineer.
- D. County Public Works has requested access control denoted at the location of the existing entrance along 279th Street West.
- E. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.
- F. 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.
- G. Approval of this plat will require a waiver of the lot depth-to-width ratio of the Subdivision Regulations. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. The Subdivision Committee recommends a modification of the design criteria in Article 7 of the Subdivision Regulations as it finds that the strict application of the design criteria will create an unwarranted hardship, the proposed modification is in harmony with the intended purpose of the Subdivision Regulations and the public safety and welfare will be protected.
- H. 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.
- I. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- J. The 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.)
- K. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.

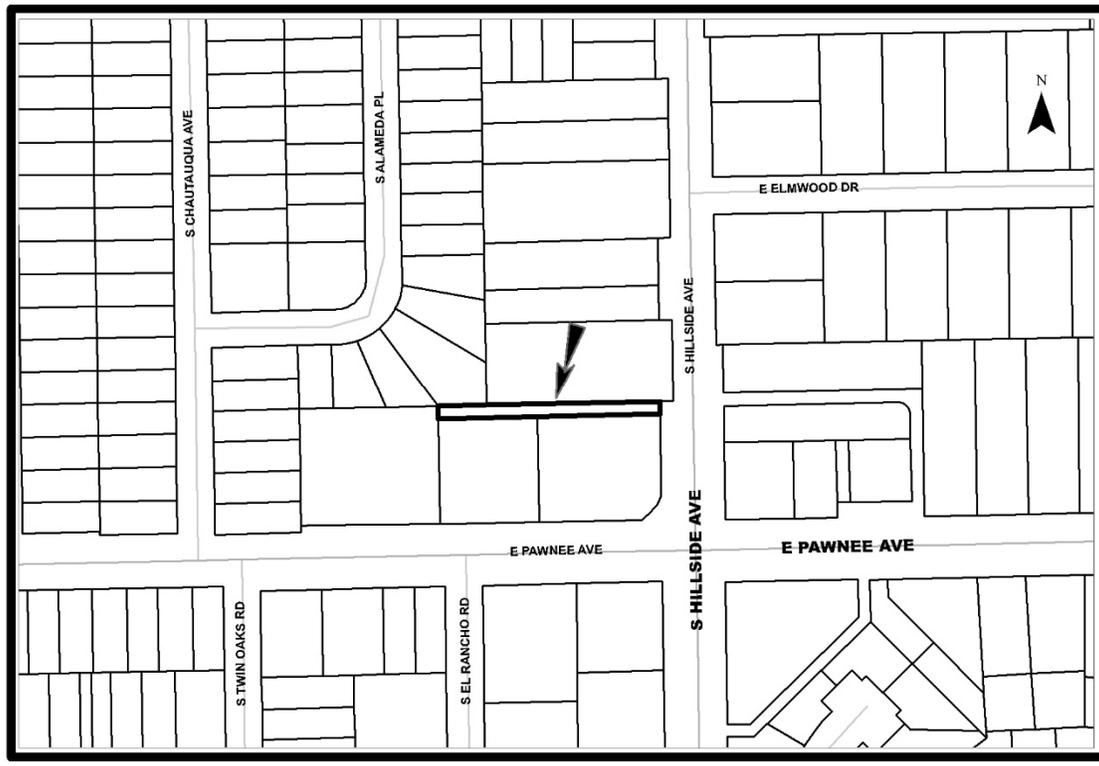
SUB2016-00029 -- Plat of HARP SUBDIVISION ADDITION
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- L. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- M. 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.
- N. 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.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. 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.
- Q. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- R. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

STAFF REPORT

- CASE NUMBER:** VAC2016-00030 - Request to vacate a portion of a platted alley
- APPLICANT/AGENT:** Quiktrip West Inc., c/o Jessica Glavas, Bryan L & Mindy L Prose (applicants), MKEC, c/o Brian Lindebak (agent)
- LEGAL DESCRIPTION:** Generally described as vacating the remaining east portion of a unimproved platted east-west 20-foot wide alley abutting the north sides of Lots 1 and 2, Block G, Maplewood Addition, the south sides of a tract and Lot 11, Block F, Maplewood Addition, and the west side of Hillside Avenue, Wichita, Sedgwick County, Kansas.
- LOCATION:** Generally located north of Pawnee Avenue on the west side of Hillside Avenue (WCC III)
- REASON FOR REQUEST:** Rebuild Quik Trip convenience store
- CURRENT ZONING:** The subject site is platted alley right-of-way. Properties located north of the alley are zoned TF-3 Two-Family Residential and B Multi-Family Residential. Properties located south of the site are zoned LC Limited Commercial

VICINITY MAP:



The applicants are requesting the vacation of the remaining east portion of a unimproved platted east-west 20-foot wide alley abutting the north sides of Lots 1 and 2, Block G, Maplewood Addition, the south side of a tract, the south side Lot 11, Block F, Maplewood Addition, and the west side of Hillside Avenue. Previously a north-south alley that intersected with the subject alley was vacated; appears to be Vacation Ordinance 21-774. Later VAC2003-41 vacated the west portion of the east-west alley as well a north south-alley on the west side of the east-west alley. The subject alley is the remnant of these previous vacation cases.

All of the abutting properties owners that have reversion rights have agreed to vacate the subject alley; Lots 1 and 2, Block G, Maplewood Addition and Lot 11, Block F, Maplewood Addition. The north abutting B zoned unplatted tract has no reversion rights, as the tract did not participate in the dedication of the alley, which in this case occurred during the platting process of the Maplewood Addition. No property will be denied access to public street right-of-way if the vacation is approved.

There is a sewer line, utility poles and lines and what appears to be a concrete drainage culvert located in the alley. The applicant has stated that the utilities will be relocated and easements provided as needed. The entrance to the alley will need to be closed by continuing the curb and guttering along the west side of Hillside Avenue. Westar has equipment and lines in the platted alley the applicant will need to either maintain that portion as easement or relocate at their expense. Conditions #4 & 5 will cover Westar. Shane Price, Construction Services Supervisor, and LaDonna Vanderford are the contacts for this vacation request. Shane Price can be reached at 261-6315 for and LaDonna Vanderford can be reached at 261-6490. The Maplewood Addition was recorded with the Register of Deeds June 28, 1951.

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

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time September 1, 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 alley 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 letter, with original signatures from the owner of Lot 11, Block F, Maplewood Addition confirming the E-mail starting that the owner is in favor of vacating all of the platted alley. This must be provided prior to the case going to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.

- (2) Provide restrictive covenants, with original signatures, binding and tying the vacated described alley right of way to the abutting properties. This must be provided to Planning prior to the case going to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (3) Provide a legal description of the vacated alley right of way, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action and subsequent recording with the Register of Deeds.
- (4) All improvements shall be according to City Standards and at the applicant's expense. Provide Public Works and Westar approved plans for the relocation of utilities, including, but not limited to, sewer lines and manholes, stormwater equipment, all franchise utilities and continuation of curb and gutter. All provided prior to the vacation case going to City Council for final action. Any relocation or reconstruction of utilities, made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (5) Provided all needed dedications of utility-drainage easement by separate instrument, with original signatures, for all relocated utilities. This must be provided to Planning prior to the case going to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide a letter, with original signatures from the owner of Lot 11, Block F, Maplewood Addition confirming the E-mail stating that the owner is in favor of vacating all of the platted alley. This must be provided prior to the case going to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (2) Provide restrictive covenants, with original signatures, binding and tying the vacated described alley right of way to the abutting properties. This must be provided to Planning prior to the case going to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (3) Provide a legal description of the vacated alley right of way, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action and subsequent recording with the Register of Deeds.

- (4) All improvements shall be according to City Standards and at the applicant's expense. Provide Public Works and Westar approved plans for the relocation of utilities, including, but not limited to, sewer lines and manholes, stormwater equipment, all franchise utilities and continuation of curb and gutter. All provided prior to the vacation case going to City Council for final action. Any relocation or reconstruction of utilities, made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (5) Provided all needed dedications of utility-drainage easement by separate instrument, with original signatures, for all relocated utilities. This must be provided to Planning prior to the case going to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

BACKGROUND: The subject site is located at the southwest corner of West Central and North 135th Street West and contains 2.5 acres that is zoned SF-5 Single-Family Residential and GO General Office subject to the development standards and general provisions contained in the Highland Springs Community Unit Plan (CUP) DP-233. Currently CUP DP-233 is a six-parcel CUP that currently permits the following uses: Parcel 1 – LC; Parcel 2 – GO; Parcel 3 – GO; Parcel 4 –SF-5; Parcel 5 – LC; and Parcel 6 – LC.

In addition to a zone change to LC on Parcels 2, 3, and 4, the applicant is proposing the attached CUP that contains the following amendments to CUP DP-233:

- 1) General Provision 6 is proposed to read: "Approval of Amendment #1 shall be contingent upon the replatting of the Highland Springs Commercial Addition, which shall address the realigned street Right-of-way, parcel layout, elimination of a portion of Reserve A, and any other alteration created by the plat. The applicant shall provide four copies of an updated CUP following the replat. Guarantees for left turn center lanes and right turn decal lanes to all full movement approaches, ant other specific street improvements for 135th St W. and Central Ave., shall be further reviewed and determined at the time of platting."
- 2) General Provision 7(B) is proposed to read: "Flashing, rotating or moving signs, signs with moving lights or signs which create illusions of movement are not permitted."
- 3) General Provision 7(C) is amended to prohibit LED signs.
- 4) General Provision 7(F) is proposed to read: "Signs shall be limited to one monument type per frontage for Parcel 3 and 4, no taller than 8 feet in height, and be limited to 48 square feet in area. Parcels 1, 2, 5, and 6 shall each be limited to a monument type sign no tall that 12 feet in height and a maximum of 60 square feet of signage. No signage shall be permitted in Reserve A, B, and C.
- 5) General Provision 16 is amended to include screening of loading docks and screening materials are to be similar to the building materials.
- 6) General Provision 17 is proposed to change the last sentence to: "The building in Parcel 4 shall appear residential in character."
- 7) General Provision 19 is proposed to read: "All parcels shall be zoned Limited Commercial. No parcel within this CUP shall allow the use of adult entertainment establishments, group residences, halfway houses, correctional placement residences, private clubs, taverns, drinking establishments, sexually oriented businesses and night club. Restaurants that serve liquor can be developed and may serve liquor, as long as food is the primary service of the establishment. Restaurants with drive-through windows, convenience stores, service stations, and vehicle repair (limited) are not permitted with 200 feet of residential uses. Drive-

through lanes shall be designed to ensure queuing lanes will not align vehicle headlights in a manner that faces residential uses. No overhead doors shall be permitted within 200 feet of residential uses and shall not face any residential zoning district. Exterior audio systems that project sound beyond the boundaries of the CUP are prohibited.”

8) Replat of “Reserve A.”

The property has an existing screening wall along the southwest property lines of Parcels 5 and 6 that screen the existing LC zoning from adjacent residential uses. There are wood screening fences along the west and south property lines of Parcel 4 abutting and adjacent residential uses. The replat of the Highland Springs CUP (see attached CUP concept) proposes 35-foot building setbacks along the frontages of West Central and North 135th Street West and 30-foot setbacks for Reserve A, B and C along the southwest property lines of Parcels 4, 5 and 6.

Land to the north (across West Central) of the application area is zoned SF-20 Single-family Residential and is undeveloped. Properties located to the west, south and east of the subject site are zoned SF-5 and developed with single-family residences. Property east of the site, at the southeast corner of West Central and North 135th Street West, is zoned NO Neighborhood Office and is partially developed.

CASE HISTORY: The Highland Springs CUP was established in September 1999. This is the first Amendment and first zone change.

ADJACENT ZONING AND LAND USE:

North:	SF-5	County, Single-family residential
South:	SF-5	Single-family residential
East:	NO and SF-5	Partially developed Neighborhood Office; Single-family residential
West:	SF-5	Single-family residences, Highland Springs 2 nd & 3 rd Additions

PUBLIC SERVICES: The site is served by municipal services. West Central and 135th Street West is a paved five-lane arterial intersection with dedicated turn lanes. West of the intersection the lanes reduce to two-lane paved street; north of the intersection reduces to two-lane paved street; east of the intersection remains four lanes with dedicated turn access; south of the intersection reduces to three paved lanes with turn access. The proposed CUP amendment provides for controlled access along West Central and North 135th Street West

CONFORMANCE TO PLANS/POLICIES: The 2035 Wichita Future Growth Concept Map indicates the site is appropriate for “new employment growth” uses. The “new employment growth” category encompasses areas that are likely to be redeveloped by 2035 with uses that constitute centers or concentration of employment primarily in manufacturing warehousing, distribution, construction, research, technology, business

services or corporate offices. In certain areas, especially those in proximity to existing residential uses, convenience retail centers likely will be developed.

RECOMMENDATION: Based upon the information available at the time the report was prepared, staff recommends approval of the zone change and amendments to CUP DP233 subject to the development guidelines the amended CUP and the following conditions:

- A. The applicant shall record a document with the Register of Deeds indicating that this tract (referenced as CUP DP-233) has been replatted and includes special conditions for development on this property.
- B. Unless specifically modified, the development shall comply with all applicable ordinances, regulations or codes, including but not limited to zoning, fire, building and sanitation.
- C. The applicant shall submit four final copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Land to the north (across West Central) of the application area is zoned SF-20 Single-family Residential and is undeveloped. Properties located to the west, south and east of the subject site are zoned SF-5 and developed with single-family residences. Property east of the site, at the southeast corner of West Central and North 135th Street West, is zoned NO Neighborhood Office and is partially developed.
2. The suitability of the subject property for the uses to which it has been restricted: The Highland Springs Commercial CUP DP-233 and its LC, GO and SF-5 zoning was established in September of 1999. The site could continue to be economically viable as currently zoned; however, the proposed zone changes and CUP amendment address existing market trends.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The zoning for the site was approved in 1999 and has been undeveloped since that time. The proposed zone change and CUP amendments address existing tenant needs. The requested changes should not detrimentally impact nearby property owners to any greater extent than the existing development.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request represents a gain to the public in that it contributes to the area's long term economic opportunity. Denial would presumably represent a loss in economic opportunity. The arterial intersection has been improved to accommodate the proposed uses.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2035 Wichita Future Growth Concept Map indicates the site is appropriate for “new employment growth” uses. The “new employment growth” category encompasses areas that are likely to be redeveloped by 2035 with uses that constitute centers or concentration of employment primarily in manufacturing warehousing, distribution, construction, research, technology, business services or corporate offices. In certain areas, especially those in proximity to existing residential uses, convenience retail centers likely will be developed.

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

ZON2016-37 & CUP2016-28: HIGHLAND SPRINGS COMMERCIAL CUP – GENERAL PROVISIONS

REVISED 10/03/16

3. Parking shall be provided in accordance with Section 28.04.140 et. seq. of the Code of the City of Wichita, unless otherwise specified in the parcel description.
4. Setbacks are as indicated on the C.U.P. drawing, or as specified in the parcel descriptions. If contiguous parcels are to be developed under the same ownership, setbacks between those parcels will not be required.
5. A Drainage Plan shall be submitted to City Engineering for approval. Required guarantees for drainage shall be provided at the time of platting improvements.
6. Approval of Amendment #1 shall be contingent upon the replatting of the Highland Springs Commercial Addition, which shall address the realigned street right-of-way, parcel layout, elimination of a portion of Reserve A, and any other alteration created by the plat. The applicant shall provide four copies of an updated C.U.P. following the replat. Guarantees for left turn center lanes and right turn decel lanes to all full movement approaches, and other specific street improvements for 135th St W. and Central Ave., shall be further reviewed and determined at the time of platting.
7. Signs shall be in accordance with the Sign Code of the City of Wichita with the following conditions:
 - A. As the frontage develops along the arterial roadways, monument type signs shall be spaced a minimum of 150 feet apart, irrespective of how land is leased or sold.
 - B. Flashing signs, rotating or moving signs, signs with moving lights or signs which create illusions of movement are not permitted.
 - C. Portable, LED, and off-site signs are not permitted.
 - D. Window display signs are limited to 25% of the window area.
 - E. No signs shall be allowed on the rear of any buildings.
 - F. Signs shall be limited to one monument type sign per frontage for Parcel 3 and 4, no taller than 8 feet in height, and be limited to 48 square feet in area. Parcels 1, 2, 5, and 6 shall each be limited to a monument type sign no taller than 12 feet in height and a maximum of 60 square feet of signage. No signage shall be permitted in Reserve A, B, and C.
8. Access Controls shall be as shown on the final plat.
9. A temporary easement for Central Avenue will be provided until the improvements to the new alignment of Central are completed.
10. All exterior lighting shall be shielded to direct light disbursement in a downward direction.
11. All parcels shall share similar or consistent parking lot lighting elements (i.e., fixtures, poles, and lamps, and etc.).

ZON2016-37 & CUP2016-28: HIGHLAND SPRINGS COMMERCIAL CUP – GENERAL PROVISIONS

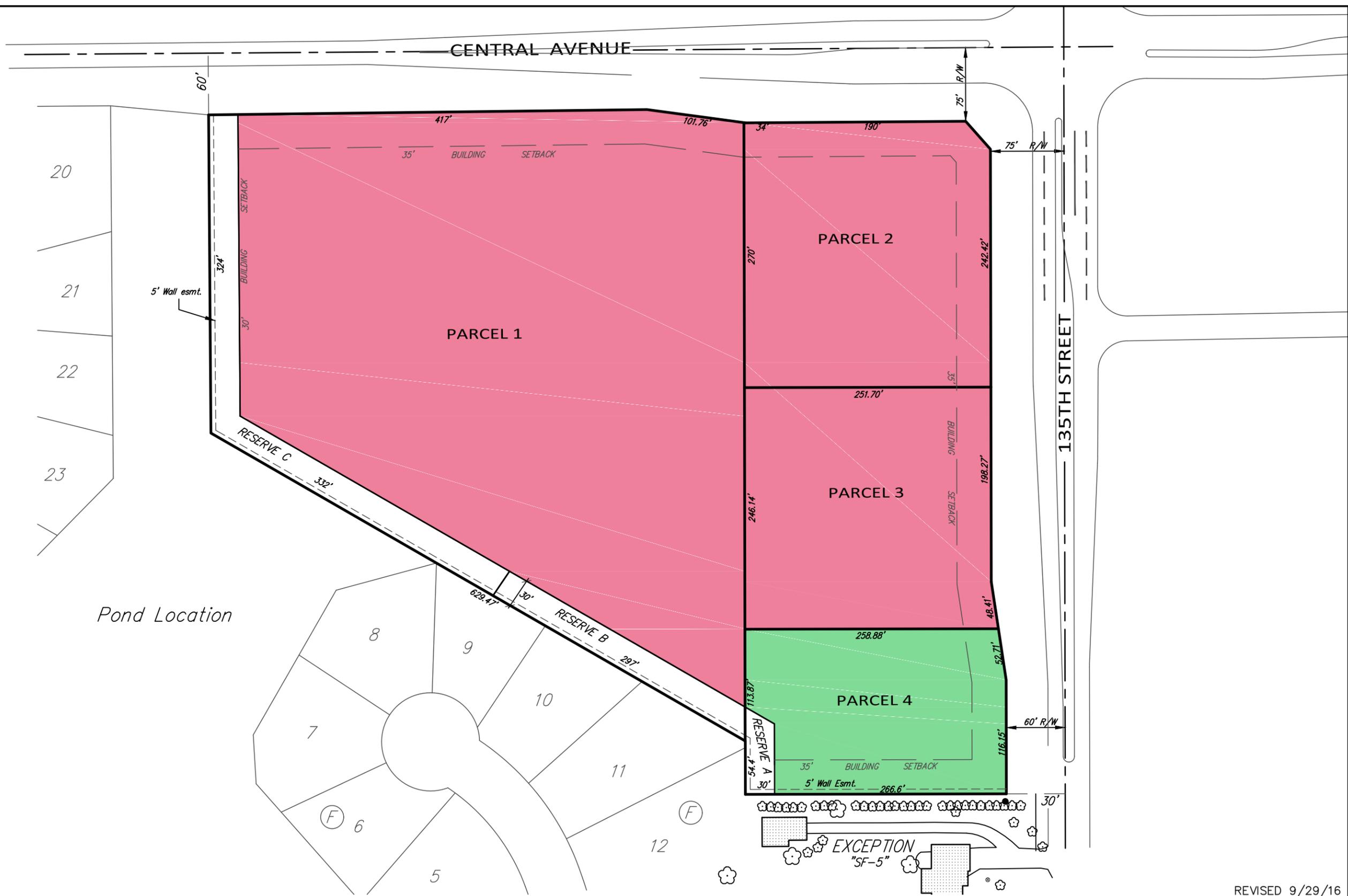
REVISED 10/03/16

- A. Limited height of light poles to 14 feet within 100 feet of abutting residential-zoned property, and 20 feet on the remainder of the tract.
 - B. Extensive use of backlit canopies and neon or fluorescent tube lighting on buildings is not permitted.
12. Utilities shall be installed underground on all parcels.
13. Landscaping for this site shall be required as follows:
 - A. Requirements for street yard landscaping and buffer strip trees will be calculated at 1.5 times the minimum ordinance requirements. Requirements for parking lot landscape shall comply with the landscape ordinance.
 - B. 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.
 - C. A financial guarantee for the plant material approved on the landscape plan for that portion of the C.U.P. being developed shall be required prior to issuance of any occupancy permit, if the required landscape has not been planted.
14. Screening Walls:
 - A. A six (6) foot high concrete wall shall be constructed along property lines of the C.U.P. where adjacent to residential zoning. **An eight (8) foot high concrete wall shall be constructed along the south property line of Parcel 4 where adjacent to residential zoning (see drawing).**
 - B. This solid concrete wall shall be constructed of a pattern and color that is consistent with the building walls.
15. Rooftop mechanical equipment shall be screened from ground level view per Unified Zoning Code.
16. 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, **and shall be prohibited within 50 feet of residential-zoned property within Parcel 4. Trash collection shall be limited to between the hours of 6:00 am to 10:00 pm within Parcel 4.**
17. All buildings in the C.U.P. shall share uniform architectural character, color, texture, and the same predominate exterior building material. Building walls and roofs must have predominantly earth-tone colors, with vivid colors limited to incidental accent, and must employ materials similar to surrounding residential areas. The building in Parcel 4 shall appear residential in character.
18. Fire lanes shall be in accordance with the Fire Code of the City of Wichita. No parking shall be allowed in said fire lanes, although they may be used for passenger loading and unloading. The Fire Chief or his designated representative shall review and approve the location and design of all fire lanes. Fire hydrant installation and paved access to all to all building sites shall be provided for each phase of construction prior to the issuance of building permits.

ZON2016-37 & CUP2016-28: HIGHLAND SPRINGS COMMERCIAL CUP – GENERAL PROVISIONS

REVISED 10/03/16

19. Existing Parcels 1-3, 5 and 6 (Proposed Parcels 1-3) shall be zoned “LC” Limited Commercial. Parcel 4 shall be zoned “GO” General Office and limited to the uses and development standards of the “NO” Neighborhood Office zoning district, with the allowance of ancillary parking to serve the CUP. No parcel within this C.U.P. shall allow the use of adult entertainment establishments; sexually oriented business; correctional placement residences; group residential; night club in the city; and tavern and drinking establishment. Parcel 3 shall prohibit the following uses: convenience stores, service stations, vehicle repair, and restaurants with drive-through facilities. Restaurants that serve liquor can be developed and may serve liquor, as long as food is the primary service of the establishment. Where permitted, restaurants with drive-through windows shall be designed to ensure queuing lanes for drive-through windows will not align vehicle headlights in such a manner as to face residential uses. No overhead doors shall be allowed within 200 feet of residential uses and shall not be facing any residential zoning district. Exterior audio systems that project sound beyond the boundaries of the C.U.P. are prohibited.
20. 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.
21. No single use shall occupy more than 8,000 square feet of floor area, with the exception of a grocery store, drug store, or furniture store.
22. Amendments, adjustments or interpretations to this C.U.P. shall be done in accordance with Article V, Section E, 13-15 of the Unified Zoning Code.
23. 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.
24. Any major changes in this development plan shall proceed in be submitted to the Planning Commission and to the Governing Body for their consideration.



SCALE: 1" = 100'

HIGHLAND SPRINGS COMMERCIAL CONCEPT

135TH STREET WEST AND CENTRAL AVENUE

REVISED 9/29/16

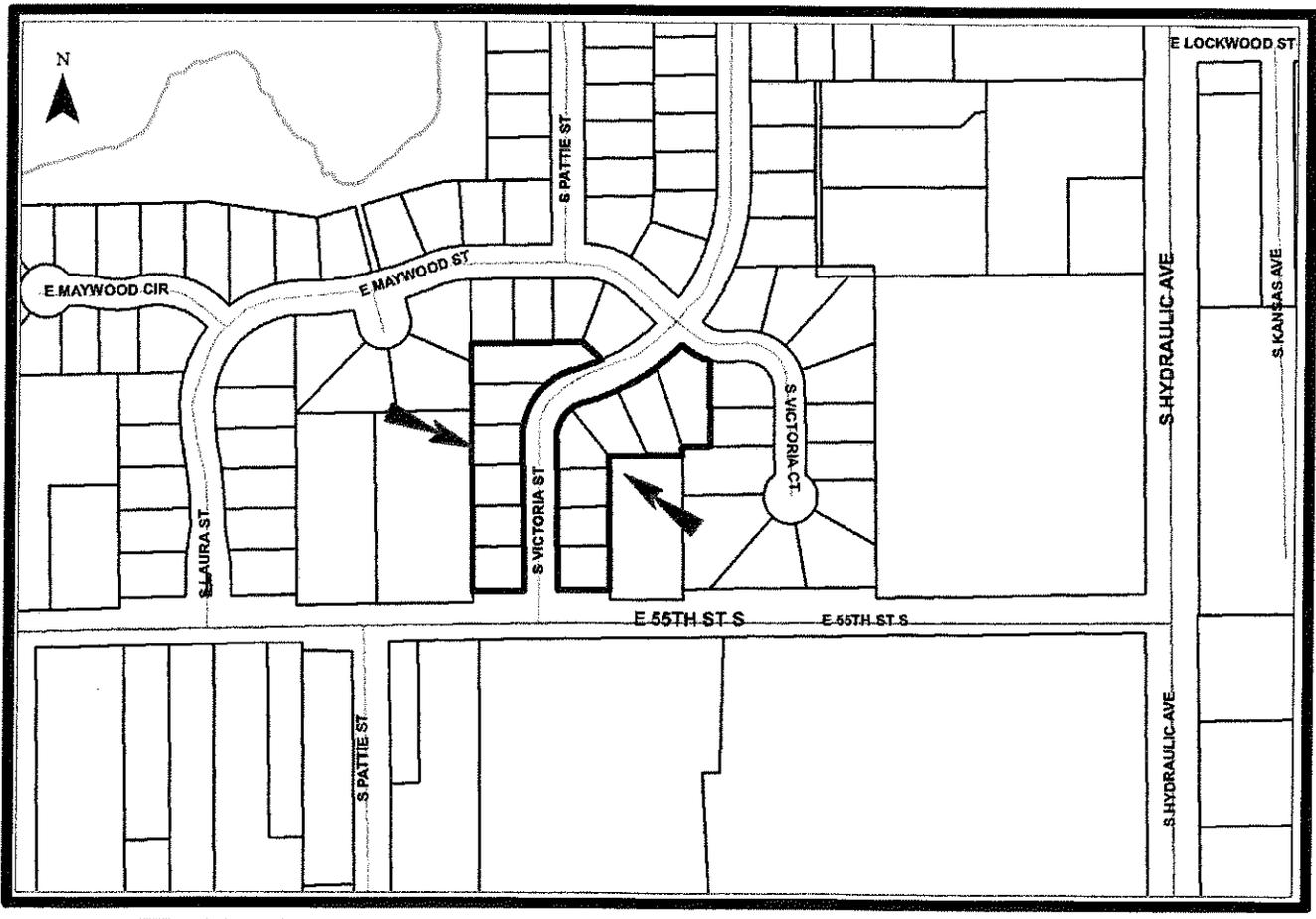


BAUGHMAN



STAFF REPORT
MAPC October 6, 2016
MAPC August 18, 2016 (Deferred)
DAB III September 7, 2016

- CASE NUMBER:** ZON2016-00032
- APPLICANT/AGENT:** Mike Love Construction (owner) Will Clevenger, Ruggles & Bohm (Agent)
- REQUEST:** TF-3 Two-Family Residential zoning
- CURRENT ZONING:** SF-5 Single-Family Residential zoning
- SITE SIZE:** Approximately 2.73 acres
- LOCATION:** Generally located northwest of the intersection of 55th Street South and South Hydraulic



BACKGROUND: The applicant is requesting a zone change from Single-Family Residential (SF-5) to Two-Family Residential (TF-3) zoning on approximately 2.73 acres of Rivendale Addition to Wichita, Sedgwick County, Kansas. The applicant proposes to build duplexes on 13 platted lots located on either side of Victoria Street, immediately north of 55th Street South.

The subject site is located within the SF-5 zoned Rivendale Addition. The Rivendale Addition is partially developed with single family residences adjacent to the subject property to the north, west, and east. Immediately east and west of the subject property are single family residences on large, unplatted lots. South of the subject site is unplatted SF-5 zoned tracts developed with mobile homes.

CASE HISTORY: The site is located within the City limits of Wichita and consists of 2.73 acres of the Rivendale Addition platted in 2003.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family residential, undeveloped (Rivendale)
SOUTH:	SF-5	Single-family residential, unplatted lots
WEST:	SF-5	Single-family residential, unplatted lot
EAST:	SF-5	Single-family residential, unplatted lot

PUBLIC SERVICES: The site has access to local, paved collector streets that access East 55th Street South, a paved, two-lane arterial with 90-foot right-of-way. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Wichita City limit and the South Wichita/Haysville Area Plan. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential," encompassing areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality. The site is located in the South Wichita/Haysville Area Plan, which identifies the location for residential development.

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

This recommendation is based on the following findings:

- (1) The zoning, uses and character of the neighborhood:** The surrounding neighborhood is zoned SF-5 and is partially undeveloped. Properties immediately to the west, east and south are developed with single-family residences. The proposed duplexes are located within a stand-alone block at the entrance of the subdivision and are only adjacent to the rear of lots developed with existing single-family residences.
- (2) The suitability of the subject property for the uses to which it has been restricted:** The vacant site is currently zoned SF-5 and is undeveloped. As zoned, these units would have to be single-family. With the proposed zoning, they could be single-family or duplexes.

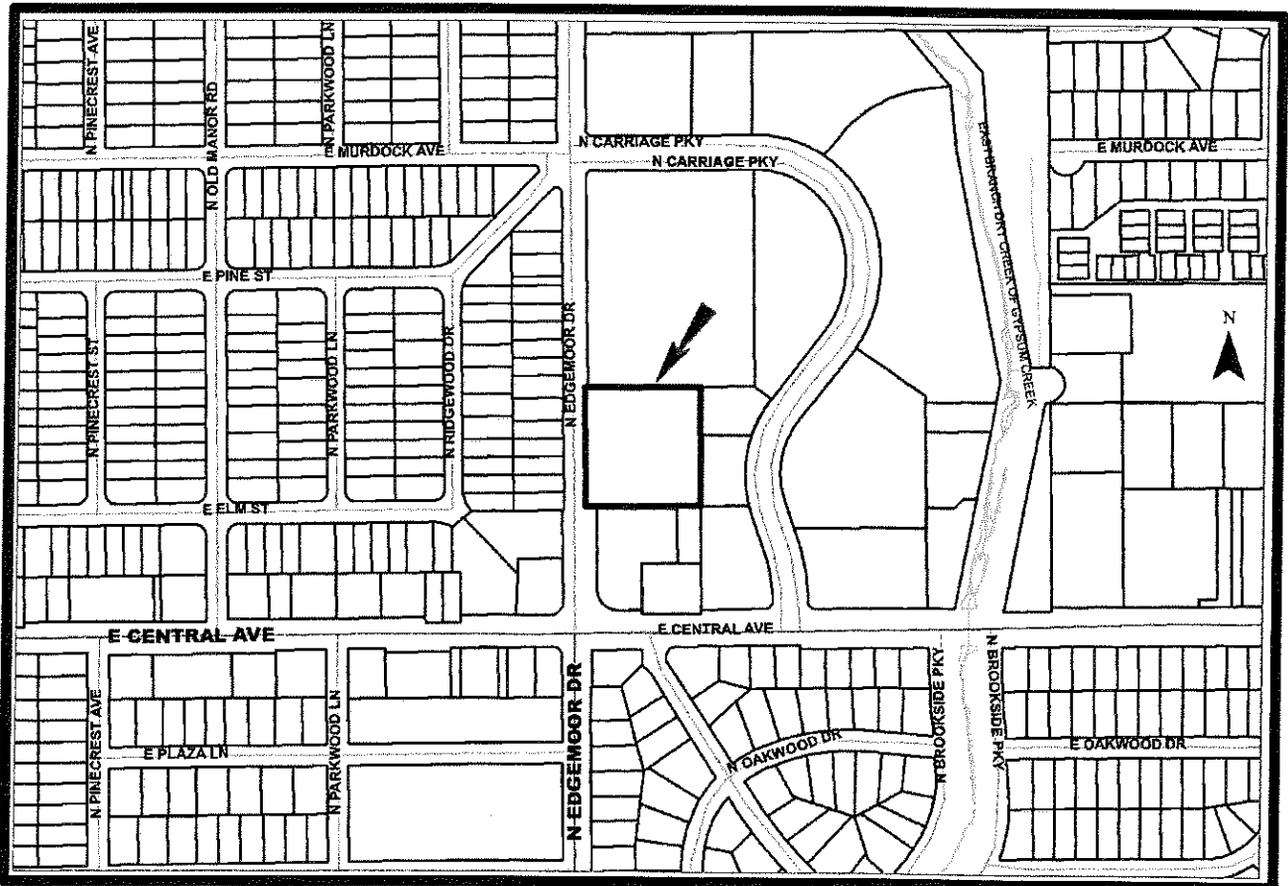
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Impact on surrounding property due to the requested zone change should be minimal. Single-family residences have only partially developed in the Rivendale Addition and the proposed duplexes are in a separate portion of the subdivision. This separation should mitigate any detrimental effects 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 limit. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential," encompassing areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality. The South Wichita/Haysville Area Plan identifies the area as appropriate for residential development.
- (5) **Impact of the proposed development on community facilities:** All services are in place. Any increased demand on community facilities can be handled by existing infrastructure.



STAFF REPORT

MAPC October 6, 2016
DAB | October 3, 2016

- CASE NUMBER:** ZON2016-00038
- APPLICANT/AGENT:** ECD, LLC (applicant) Kirk Miller (agent)
- REQUEST:** LC Limited Commercial
- CURRENT ZONING:** SF-5 Single-Family Residential (SF-5)
- SITE SIZE:** 2.45 acres
- LOCATION:** Generally located North of Central on East Side of Edgemoor (620 N. Edgemoor)
- PROPOSED USE:** Limited Commercial Uses



BACKGROUND: The applicant requests LC Limited Commercial zoning on a 2.45-acres unplatted lot, generally located north of Central on the east side of Edgemoor. The lot has 325 feet of frontage along Edgemoor and is approximately 315 feet deep. The applicant intends to redevelop the existing building. The applicant has filed Edgemoor Commercial Addition plat for the subject property.

The surrounding neighborhood is developed with single-family residential, offices, retail, skilled care facility, restaurants and medical services. West of the site is GO General Office and SF-5 Single-Family zoning, north of the site is B Multi-family zoning. South and east of the site is LC Limited Commercial zoning in DP-126 Central Avenue Plaza Community Unit Plan.

CASE HISTORY: The site is unplatted and is currently developed with a masonry building, which served as a Kansas National Guard Armory. The building has been vacant since 2009.

ADJACENT ZONING AND LAND USE:

NORTH:	B Multi-family	Skilled Nursing Facility
SOUTH:	LC	Fast Food Restaurant, Retail Strip Center
EAST:	TF-3	Duplexes
WEST:	GO; SF-5	Offices; Single-Family Residences

PUBLIC SERVICES: The property is serviced by all publicly supplied municipal services. Edgemoor is a paved four-lane local street. The site has a shared access drive to Edgemoor with the property to the north. Access to the overflow parking area at the rear of the site is provided by this shared drive.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the downtown core and mature neighborhoods surrounding it in a roughly three-mile radius. The Plan encourages infill development within the Established Central Area that maximizes public investment in existing and planned infrastructure and services. The site is also located within the Central Northeast Area Plan Update adopted in September 2005, which identifies retention of businesses in the area as one of the goals of the plan. The 2035 Wichita Future Growth Concept Map identifies the site as "Commercial." The "Commercial" category encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban area.

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

This recommendation is based on the following findings:

- (1) The zoning, uses and character of the neighborhood:** The surrounding neighborhood is zoned LC, GO, SF-5 and B. The subject property is bounded by LC zoned property on its east and south boundary.
- (2) The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned SF-5 and is developed with masonry building

that was used to house the Kansas National Guard Armory. As zoned, the subject property could only be used for single-family. With the proposed zoning, the property could be redeveloped in a manner compatible with the immediately adjacent properties.

- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Impact on surrounding property due to the requested zone change should be minimal; the site has enough space to provide on-site parking for commercial development.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the downtown core and mature neighborhoods surrounding it in a roughly three-mile radius. The Plan encourages infill development within the Established Central Area that maximizes public investment in existing and planned infrastructure and services. The site is also located within the Central Northeast Area Plan Update adopted in September 2005, which identifies retention of businesses in the area as one of the goals of the plan. The 2035 Wichita Future Growth Concept Map identifies the site as "Commercial." The "Commercial" category encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban area.
- (5) **Impact of the proposed development on community facilities:** All services are in place. Any increased demand on community facilities can be handled by existing infrastructure.



AGENDA ITEM NO. 6

STAFF REPORT

MAPC October 6, 2016

DAB V October 3, 2016

CASE NUMBER: ZON2016-39

APPLICANT/AGENT: Holland Paving & Holland Ventures (George Holland)/ MKEC (Brian Lindebak)

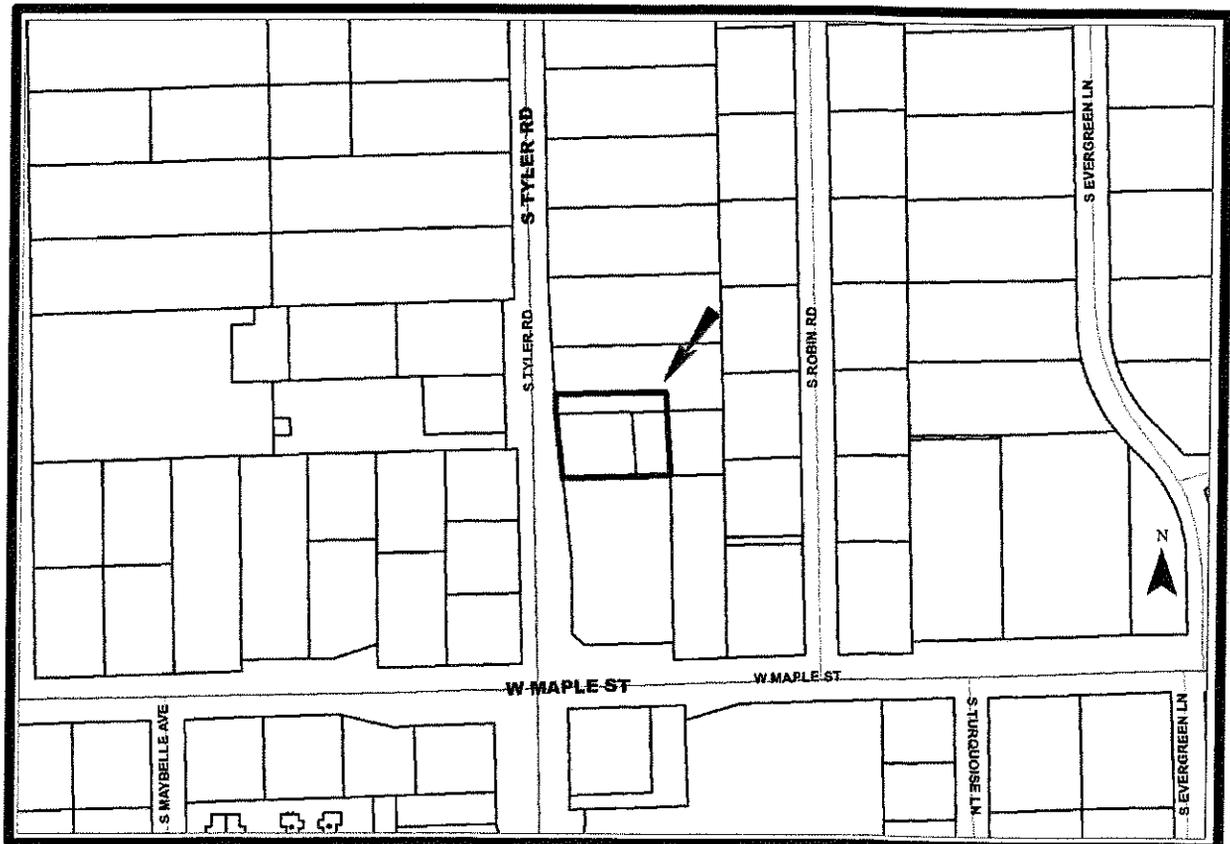
REQUEST: City zone change from SF-5 Single-Family Residential and NR Neighborhood Retail to LC Limited Commercial

CURRENT ZONING: SF-5 Single-Family Residential and NR Neighborhood Retail

SITE SIZE: 0.62 acre

LOCATION: Northeast corner of West Maple and South Tyler

PROPOSED USE: Limited Commercial Development



BACKGROUND: The subject site is located at the northeast corner of West Maple and South Tyler and is currently zoned Single-Family Residential and NR Neighborhood Retail to LC Limited Commercial. The requested change in zoning would allow the existing convenience store at the northeast corner of Maple and Tyler to expand.

Land to the north of the application area is zoned SF-5 Single-family Residential and is developed with single-family residences. Properties located to the east are zoned NR and SF-5. South of the subject site lots are zoned LC and developed with restaurant, warehouse/storage, convenience store and strip retail center. Property west of the site (across West Central), is zoned NR and LC.

CASE HISTORY: The expansion of LC zoning includes Lot 1, Chappelle Addition, which has an existing single-family residential structure built in 1952; Lot 2, Chappelle Addition, which is vacant; and approximately 6,330 square feet of the southwest corner of Lot 2, St. Park Acres Addition that is developed with a single-family residential structure.

ADJACENT ZONING AND LAND USE:

North:	SF-5	Single-family residence
South:	LC	Convenience Store, Retail Strip Center
East:	NR, SF-5	Vacant; Single-family residence
West:	LC	Restaurant, warehouse/storage

PUBLIC SERVICES: The site is served by municipal services. West Maple and South Tyler Road is a paved five-lane arterial intersection with dedicated turn lanes. West of the intersection the lanes reduce to four-lane paved street; north of the intersection reduces to four-lane paved street; east of the intersection remains four lanes; south of the intersection remains five-lane with turn access.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Wichita City limit. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential," encompassing areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality. In certain areas, especially those at major arterial intersections in proximity to existing residential uses, convenience retail centers likely will be developed. The locational guidelines indicate that expansion of existing uses to adjacent areas should be supported.

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 subject site is located at a major arterial intersection with LC zoning at all four corners surrounded by

residential zoning. At the northwest corner LC zoning extends 370 feet west and 630 feet north. The northeast corner has 415 feet LC frontage along Maple and 315 feet LC frontage along Tyler. The southwest corner has 575 feet LC frontage on Maple and 770 feet LC frontage on Tyler. The southeast corner has 550 feet LC frontage on Maple and 550 LC frontage on Tyler.

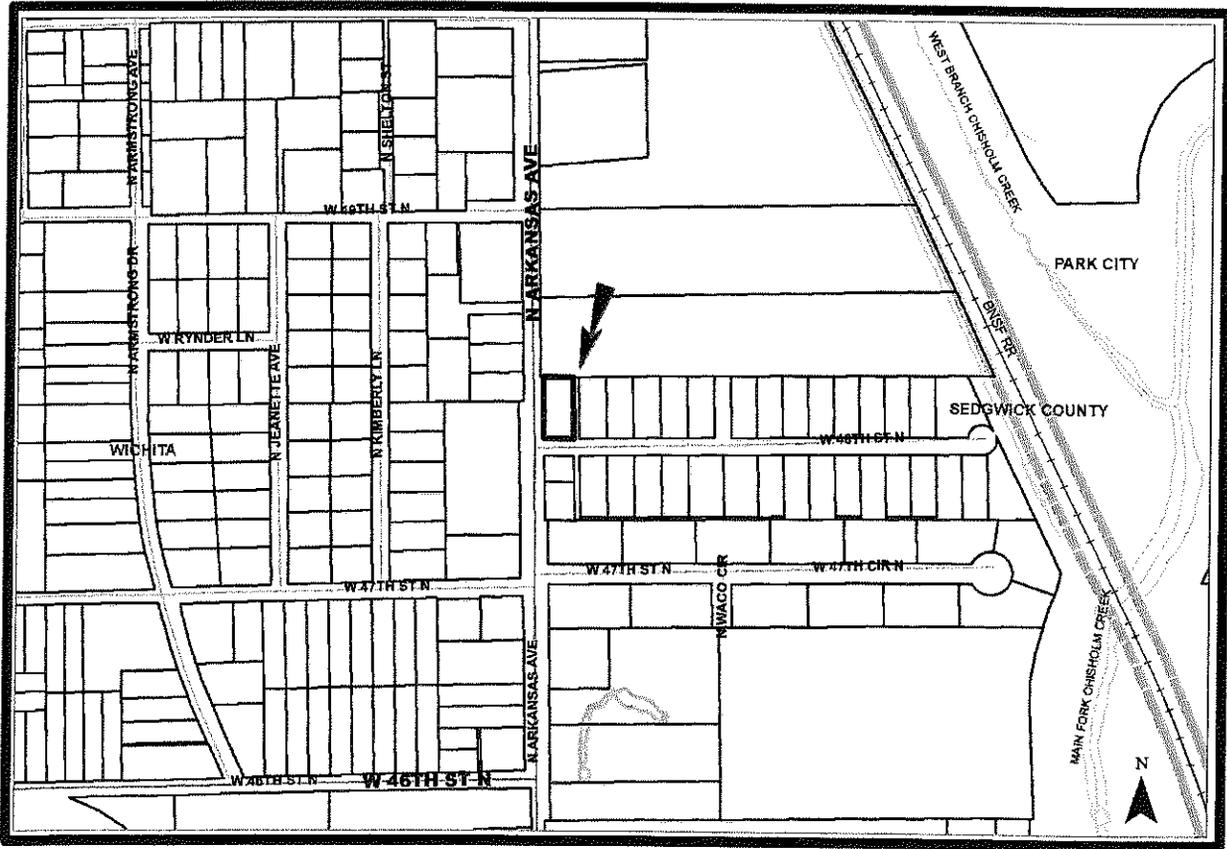
2. The suitability of the subject property for the uses to which it has been restricted: Impact on surrounding property due to the requested zone change should be minimal as there will be required solid screening between LC and SF-5 zoning.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed zone change addresses expansion needs for the existing convenience store which has been at the northeast corner of Maple and Tyler since 1993. The requested changes should not detrimentally impact nearby property owners to any greater extent than the existing development.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request represents a gain to the public in that it contributes to the area's long term economic opportunity. The arterial intersection was designed to accommodate the proposed uses.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2035 Wichita Future Growth Concept Map indicates the area is appropriate for "residential" uses. In certain areas, especially those at major arterial intersections in proximity to existing residential uses, convenience retail centers likely will be developed. The locational guidelines indicate that expansion of existing uses to adjacent areas should be supported.
6. Impact of the proposed development on community facilities: Existing or proposed improvements are in place to address anticipated demands.



STAFF REPORT

MAPC October 6, 2016
DAB VI October 3, 2016

- CASE NUMBER:** CON2015-00030
- APPLICANT/AGENT:** Homer Morgan (applicant/owner) Stephen M. Joseph (agent)
- REQUEST:** Conditional Use to allow a nightclub in the city
- CURRENT ZONING:** LC Limited Commercial (LC)
- SITE SIZE:** Approximately 0.52-acres (105 feet x 214.6 feet)
- LOCATION:** Generally located south of West 49th Street North on the northeast corner West 48th Street North and North Arkansas Avenue (2032 South Broadway Avenue)
- PROPOSED USE:** Bring the site into conformance with the Unified Zoning Code



BACKGROUND: The LC Limited Commercial (LC) zoned site advertises itself as “Baby Dolls” a nightclub that provides its customers with dancing by employees and cereal malt beverages or alcoholic liquor for sell and consumption on the site. As defined by the Wichita-Sedgewick County Unified Zoning Code (UZC) this is a nightclub. The site has been zoned commercial since 1958 (see case history). The applicant’s agent has stated the site has continuously been a nightclub for over 30-years. An oral history of the site indicates the site was perhaps previously known in the 1970s as the “49 A-Go-Go”, which provided the same services as the current nightclub. The site was annexed into the City of Wichita in 1998 (see case history). Planning could not find a Use Exception or Conditional Use for a tavern, drinking establishment or nightclub on this site. The nightclub is considered a nonconforming use, i.e., being established prior to the current UZC and prior to the site being annexed into the City. The applicant is requesting a Conditional Use to bring the site into compliance with the current UZC, which was adopted by the City of Wichita and Sedgewick County in 1996.

The current UZC (Sec.III-D.6.w.) requires consideration of a Conditional Use for a LC zoned tavern, drinking establishment or a nightclub when it is located within 300 feet of a church or place of worship, public park, public or parochial school or residential zoning district. The site abuts SF-5 Single-Family (SF-5) residential property on its north side and is adjacent to SF-5 zoned single-family neighborhoods on its east (separated by a 20-foot wide alley), south (across 48th Street North) and west (across Arkansas Avenue) sides.

The site (built 1951) is located in an area that is zoned mostly SF-5 and developed with urban scale subdivision or large tracts and lots of an acre or more. A platted 20-foot alley separates the site from the east, adjacent SF-5 zoned single-family residences (built late 1940s – early 1950s). Large tract SF-5 zoned properties abut and are adjacent to the north side of the site. Most of these properties are being used as agricultural fields, with the only single-family residences located north of the site being built in 1950. It is difficult to determine what the abutting north SF-5 zoned property is being used for, but the aerial shows what appears to be an oval track and numerous out buildings. Directly south of the site, across 48th Street north, there is a LC zoned site that the appraiser’s link describes as car repair, paint shop and detail shop. There is a lot of outdoor vehicle parking or storage, including trailers for semis, on the site. SF-5 zoned single-family residences (built late 1970- early 1980s) are located further south, as is a SF-5 zoned Buddhist worship complex (built 2001). Approximately 17-acres of undeveloped LI Limited Industrial zoned property owned by the City of Bel Aire is also located south of the site. All of these abutting and adjacent north, east and south properties end up against the Chisholm Creek Diversion portion of the “Big Ditch.” The City of Park City is located east, across the Big Ditch. Properties located west of the site, across Arkansas Avenue are zoned SF-5 and are developed as single-family residences (built 140s -1980s). The exceptions are two LC zoned properties located directly west of the site across Arkansas Avenue. The larger of the two LC zoned sites has a single-family residence (built 1970) and the smaller is listed on the appraiser’s link as having a manufactured home located on it. There are also some undeveloped properties in the area.

The applicant’s site plan is an aerial of the site, which lacks the detail needed to determine the required parking of one space per two occupants, as well as the required solid screening, lights, location of the trash receptacles, etc. The manager of Baby Dolls has stated that the posted occupancy for the site is 101, which requires 51 paved parking spaces. An on-site trip to the site could not determine parking. However it did reveal a wooden fence separating the site from the abutting north and a portion of the adjacent east properties and the location of an unscreened trash receptacle. Both the east fence and trash receptacle may be partially located in the platted 20-foot wide unimproved alley. The trip showed no parking barriers separating the parking from Arkansas Avenue and 48th Street North

CASE HISTORY: The site is located on Lot 32, Northern Acres Addition, which was recorded with the Register of Deeds June 16, 1948. The 1958 Sedgwick County zoning map shows the site being zoned LC Light Commercial, which was changed to Limited Commercial with the 1996 adoption of the UZC. As previously noted the site was annexed into the City in 1998; Annexation Ordinance Number 43-965. Staff has received numerous calls protesting the request.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Agricultural land, a single-family residence
SOUTH:	LC, SF-5	Garage for vehicle repair, painting and vehicle storage, single-family residences
EAST:	SF-5	Single-family residences, Big Ditch
WEST:	LC, SF-5	Single-family residences

PUBLIC SERVICES: The site has one drive onto North Arkansas Avenue, a paved two-lane minor arterial, with bar ditches on both sides of it. Access onto 48th Street North, a sand and gravel residential cul-de-sac street, is undefined but appears to be wherever a customer wants it to be. Public Water is available to the site. Public sewer is not available to the site nor to the area the site is located in. The applicant has not provided the location of an on-site sewer facility, which would be a septic system. All other utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” (Land Use Guide) depicts this location as being appropriate for “residential” and “parks and open space” designations. Neither site’s LC zoning nor its use as a nightclub is in conformance with the Land Use Guide. Per the “Community Investment Plan” the nonconforming nightclub does not contribute to promoting a safe, active, stable, and healthy living environment for what is overwhelmingly a single-family neighborhood.

Planning could not find a Use Exception or Conditional Use for a tavern, drinking establishment or nightclub on this site. The current nightclub is considered a nonconforming use, i.e., being established prior to the current UZC and prior to the site being annexed into the City. The site is located within 300 feet of SF-5 zoned properties, which is the trigger that requires approval of Conditional Use to bring the site into compliance with the current UZC and the site losing its noncompliance status.

The nightclub provides dancing by employees for the entertainment of its customers. However, according to the Police Department’s Vice Division and the Metropolitan Area Building and Construction Department’s Code Enforcement Division the nightclub is not considered a “sexually oriented business”, i.e., a SOB. The UZC (Sec.II.B.12.n and o.) defines a SOB and per that definition Vice and Code Enforcement has determined that the nightclub’s dancing by its employees for the entertainment of its customers does not make it a SOB. Planning Staff has not visited the nightclub, but will rely on Vice and Code Enforcement for that determination.

The site does have access onto the minor arterial Arkansas Avenue, which meets the locational criteria for commercial uses. However, there is no buffer of less intensive uses between the nightclub and the abutting and adjacent, which is suggested for the location of commercial development.

RECOMMENDATION: The nightclub is out of character and incompatible with the development in the area, which is long time established single-family residential development. Even two of the three

remaining LC zoned sites located in the area are developed as single-family residences, with the exception being what appears to be a nonconforming repair, paint and vehicle storage business. Based upon the information available prior to the public hearings, Planning staff recommends that a Conditional Use for a tavern, drinking establishment or nightclub be **DENIED**. If denied the site's LC zoning would not be removed and applicant could continue to operate as a non-conforming nightclub, per the UZC's Non-Conforming policies. Denial would make it more difficult for the site to continue to operate as a nonconforming use, prevent an expansion of the nightclub and could eventually remove the nonconforming nightclub and allow another use to operate by right on the LC zoned property that would be a more neighborhood oriented and compatible business for the area.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The area is overwhelmingly zoned SF-5 and developed with long established single-family residences. Even two of the four area's LC zoned sites are developed as single-family residences, with the exception being what appears to be a nonconforming repair, paint and vehicle storage business.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned LC, which accommodates office and retail uses. If denied the site's LC zoning would not be removed and applicant could continue to operate as a non-conforming nightclub, per the UZC's Non-Conforming policies. Denial would make it more difficult for the site to continue to operate as a nonconforming use, prevent an expansion of the nightclub and could eventually remove the nonconforming nightclub and allow another use to operate by right on the LC zoned property that would be a more neighborhood oriented and compatible business for the area.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Typical concerns about tavern-drinking establishments include bad behavior resulting from unlimited liquor sales, noise, and the hours of the nightclub having a detrimental impact on the adjacent single-family residential neighborhood. Denial of the request could have a negative financial impact on the applicants.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The "2030 Wichita Functional Land Use Guide" (Land Use Guide) depicts this location as being appropriate for "residential" and "parks and open space" designations. Neither site's LC zoning nor its use as a nightclub is in conformance with the Land Use Guide. Per the "Community Investment Plan" the nonconforming nightclub does not contribute to promoting a safe, active, stable, and healthy living environment for what is overwhelmingly a single-family neighborhood.

Planning could not find a Use Exception or Conditional Use for a tavern, drinking establishment or nightclub on this site. The current nightclub is considered a nonconforming use, i.e., being established prior to the current UZC and prior to the site being annexed into the City. The site is located within 300 feet of SF-5 zoned properties, which is the trigger that requires approval of Conditional Use to bring the site into compliance with the current UZC and the site losing its noncompliance status.

The nightclub provides dancing by employees for the entertainment of its customers. However, according to the Police Department's Vice Division and the Metropolitan Area Building and Construction Department's Code Enforcement Division the nightclub is not considered a "sexually

oriented business”, i.e., a SOB. The UZC (Sec.II.B.12.n and o.) defines a SOB and per that definition Vice and Code Enforcement has determined that the nightclub’s dancing by its employees for the entertainment of its customers does not make it a SOB. Planning Staff has noted visited the nightclub, but will rely on Vice and Code Enforcement for that determination.

The site does have access onto the minor arterial Arkansas Avenue, which meets the locational criteria for commercial uses. However, there is no buffer of less intensive uses between the nightclub and the abutting and adjacent, which is suggested for the location of commercial development.

- (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.

However, if the MAPD finds the Conditional Use request for a nightclub appropriate and votes to approve it, the MAPD must make alternate findings. Planning Staff proposes the following conditions if the MAPD approves the Conditional Use:

- (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 and east abutting and adjacent SF-5 zoned properties, solid screening with a solid screening gate around the dumpsters, and a solid wooden fence along the east property line. The site plan shall also confirm the location of the east abutting platted 20-foot wide alley to determine that the wooden fence and dumpster(s) are not located in the platted alley. The site plan shall also show barriers separating parking from all public street right of way and the platted alley. The barrier on the south side of the site shall be constructed to allow no access onto 48th Street North. The site plan must be submitted for review within 60-days of approval by the MAPC or, as applicable, the appropriate governing body.
- (2) No outdoor speakers or outdoor entertainment are permitted.
- (3) The Conditional Use shall not be in effect until all improvements on the site are completed, including the location of dumpsters 20 feet from the abutting and adjacent SF-5 zoned properties, the required screening (including dumpsters), parking barriers and the paved parking lot is stripped to determine if any adjustments or variances are needed to resolve the required parking is competed. 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.
- (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.

CON 2015-30

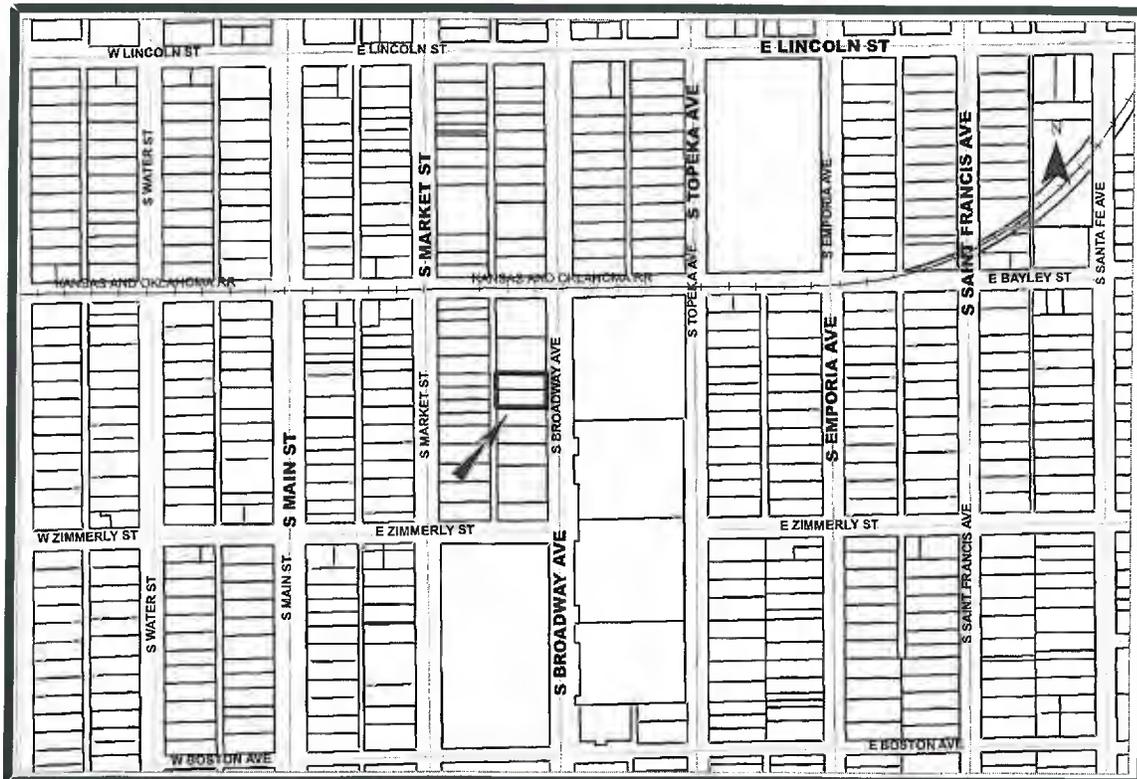




STAFF REPORT

MAPC October 6, 2016
DAB III October 5, 2016

- CASE NUMBER:** CON2016-00023
- OWNER/AGENT:** Homer Morgan Revocable Trust (owner) / Stephen M. Joseph (agent)
- REQUEST:** Conditional Use to allow a Tavern and Drinking Establishment, Entertainment Establishment in the City and a Nightclub in the City
- CURRENT ZONING:** LC Limited Commercial (LC)
- SITE SIZE:** Approximately 0.16-acre (95.2 feet x 140 feet)
- LOCATION:** Generally located 946 feet south of East Lincoln Street on the west side of South Broadway Avenue (1321 South Broadway Avenue)
- PROPOSED USE:** Resume use as a Tavern and Drinking Establishment, Entertainment Establishment in the City and Nightclub in the City



BACKGROUND: The applicant is applying for a Conditional Use for a “tavern and drinking establishment,” “entertainment establishment in the city” and “nightclub in the city” on the 95.2 feet by 140 feet LC Limited Commercial (LC) zoned South Broadway Avenue site; Lots 5, 6, 7, and 8, Paulline’s Addition. The site is developed with a 1,389 square-foot building located in the southeast corner built in 1947. South of the building is an outdoor seating area. The remainder of the lot is paved parking. There are two drive approaches to South Broadway; however, one of them runs into the outdoor seating area. A third driveway is to the unpaved alley located west of the site. South Broadway Avenue is an arterial street. According to the applicant’s agent, the site’s building has been vacant for approximately 12 months, but has been used as a tavern and drinking establishment and entertainment establishment for more than 25 years. The agent also states that the owner is actively seeking a tenant to operate the establishment (see attached letter.) According to Metropolitan Area Building and Construction Department records, the last alcohol license for the application area (1321 South Broadway) expired on September 22, 2014. The property has wooden fencing along its southern property line and along its western property line, although the fencing along the west property line has missing boards. Solid screening is required by code along the rear lot line.

Located immediately north of the site is an LC and GC General Commercial (GC) zoned motel. North of the motel is a GC zoned parking lot or a museum. East of the application area, across the approximately 75-foot wide South Broadway Avenue, is the GC, LC and SF-5 Single-Family Residential (SF-5) zoned Lincoln Park. The SF-5 zoned portion of the park is located approximately 227 feet east of the application area. Located approximately 83 feet southeast of the site is the LC zoned Immanuel Baptist Church. South of the site is a duplex that is zoned LC. Farther south along South Broadway Avenue, but north of East Zimmerly Street, are single-family and two-family residences and offices also zoned LC. South of East Zimmerly Street, on the west side of South Broadway Avenue is Hamilton Middle School. Located west of the site, across a platted 20-foot wide alley, are single-family and two-family residences zoned TF-3 Two-Family Residential (TF-3). When a “tavern and drinking establishment,” “entertainment establishment in the city” or a “nightclub in the city” 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-D.6.w.

The applicants have provided an aerial site plan (attached) of the 13,328-square foot platted site. The aerial shows the existing building and paved parking located to the north and west. A tavern–drinking establishment requires one parking space per two occupants. The required parking total depends on the Fire Marshall’s approved occupancy. Which is 49 occupants. If approved, the applicant needs to verify that the site can comply with the required 25 parking spaces or seek an administrative adjustment, variance or off-site parking solution.

The site has no landscaping; however, until the building is expanded by 30 percent or has improvements equal to 50 percent of its value the requirements of the landscape ordinance are not triggered.

The site is located within the “South Central Neighborhood Plan.” The Plan comments on the history of this portion of the City of Wichita and South Broadway Avenue. The Plan notes that the routing of US Highway 81 onto Broadway Avenue was the agent that began the change of development and zoning from residential to commercial along South Broadway Avenue. This change accelerated during the 1950s through the 1960s as automobile use increased and by the 1970s most of the residential uses along South Broadway Avenue had become commercial uses serving US Highway 81 travelers. The uses included motels, restaurants and service stations. In the 1980s Interstate Highway 135 was completed diverting automobile traffic off of South Broadway Avenue/US Highway 81, thus decreasing automobile traffic on South Broadway Avenue/US Highway 81 and leading to less need for the commercial business that had

been established to serve travel on US Highway 81. The result was another land use transition along South Broadway Avenue /US Highway 81 which the area is still trying to define.

CASE HISTORY: Paulline’s Addition was recorded in 1910. The application area is located within the South Central Neighborhood Plan (DR2008-00006) area.

ADJACENT ZONING AND LAND USE:

NORTH:	LC, GC	Motel, museum parking
SOUTH:	LC	Duplexes, offices and single-family residences
EAST:	LC, GC, SF-5	Public park, church
WEST:	TF-3	Single-family and two-family residences

PUBLIC SERVICES: The site has two drives onto South Broadway Avenue/US Highway 81, a four-lane minor arterial. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The “2035 Wichita Future Growth Concept Map,” adopted in 2015 as part of the *Community Investments Plan*, depicts this location as being appropriate for “residential,” which encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. Elementary and middle schools, churches, playgrounds, small parks and other similar residential-serving uses are located in these areas.

The site is also located within the “South Central Neighborhood Land Use Plan,” adopted in 2009 as part of the City’s comprehensive plan. The “South Central Neighborhood Land Use Guide Map” depicts the site as appropriate for “commercial uses.” The location guidelines of the South Central Neighborhood Land Use Guide identify bars as a “least desirable land use.” Least desirable land use properties should be restricted to uses that are permitted by right.

The South Central Neighborhood Plan also includes recommendations regarding taverns and drinking establishments:

- Page 31 of the Plan states in regards to South Broadway improvements, “...reduce the number of car lots, motels, and bars.”
- Page 34 of the Plan states that the “South Central Neighborhood businesses lack variety. Used car lots, motels and bars are common in the neighborhood...” and that they did not provide the local services needed by the neighborhood (pretty much repeated on page 37)
- Page 82 of the Plan states that, “Many of the business properties in the neighborhood are developed with motels, used car lots, and bars that do not provide direct goods and services to the neighborhood and create negative impacts on the residential areas.” = different businesses are needed
- Page 83 of the Plan states, “...discourage increased use of neighborhood commercial properties for motels, used car lots and bars.”

For comparison purposes selected land uses associated with the service of food or alcohol to the public and the uses’ definitions are provided below:

“Drinking establishment, restaurant” is not a defined use in the Wichita-Sedgwick County Unified Zoning Code (UZC); however, it is defined in the alcohol licensing portion of city code, and is defined as an establishment that serves alcoholic liquor or cereal malt beverage for consumption on the premises that

derives in a six-month period of more than fifty percent of its gross revenues from the sale of food and beverages for consumption on the premises.

The UZC defines an “event center in the city” as “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.” (Article II, Section II-B.4.m)

An “entertainment establishment in the city,” as defined by the UZC, is “an “event center” or any person or entity that provides entertainment as defined by Chapter 3.30 of the Code of the City of Wichita or any person or entity that provides a venue for any such entertainment. For purposes of this code, entertainment establishment(s) in the city where the establishment is licensed to sell alcoholic liquor or cereal malt beverage or if alcoholic liquor or cereal malt beverage will be offered, consumed or served on the premises shall be considered a nightclub in the city.” (Article II, Section II-B.4.1) Entertainment includes dancing by patrons or employees or live acts, such as a live musician or group or band, including karaoke.

A “tavern and drinking establishment” is defined by the UZC as an “establishment engaged in the preparation and retail sale of alcoholic liquor or cereal malt beverage for consumption on the premises that derives in six-month period of less than fifty percent of its gross revenues from the sale of food and beverages for consumption on the premises.” (Article II, Section II-B.13.b)

The UZC defines a “nightclub in the city” as an “establishment located in the city that provides entertainment, which may include the provision of dancing by employees or patrons, and where cereal malt beverage or alcoholic liquor are offered, consumed or served to the public or its members, and which may or may not serve food.” (Article II, Section II-B.9.b)

With respect to hours of operation, no club or drinking establishment shall allow the serving, mixing or consumption of alcoholic liquor on its premises between the hours of two a.m. and nine a.m. on any day.

RECOMMENDATION: Based upon the information available prior to the public hearings, including the specific direction given in the South Central Neighborhood Plan, planning staff recommends that the request for a Conditional Use for the requested uses be **DENIED.**

This recommendation is based on the following findings:

- (1) The zoning, uses and character of the neighborhood:** Located immediately north of the site is an LC and GC zoned motel. North of the motel is a GC zoned museum. East of the application area, across the approximately 75-foot wide South Broadway Avenue, is the GC, LC and SF-5 zoned Lincoln Park. The SF-5 zoned portion of the park is located approximately 227 feet east of the application area. Located approximately 83 feet southeast of the site is the LC zoned Immanuel Baptist Church. South of the site is a duplex that is zoned LC. Farther south along South Broadway Avenue, but north of East Zimmerly Street, are single-family and two-family residences and offices also zoned LC. South of East Zimmerly Street, on the west side of South Broadway Avenue is Hamilton Middle School. Located west of the site, across a platted 20-foot wide alley, are single-family and two-family residences zoned TF-3.

It has been noted that the routing of US Highway 81 onto Broadway Avenue was the agent that began the change of development and zoning from residential to commercial along South Broadway Avenue. This change accelerated during the 1950s through the 1960s as automobile use increased and by the 1970s most of the residential uses along South Broadway Avenue had

become commercial uses serving US Highway 81 travelers. The uses included motels, restaurants and service stations. In the 1980s Interstate Highway 135 was completed diverting automobile traffic off of South Broadway Avenue/US Highway 81, thus decreasing automobile traffic on South Broadway Avenue/US Highway 81 and leading to less need for the commercial business that had been established to serve travel on US Highway 81. The result was another land use transition along South Broadway Avenue /US Highway 81 which the area is still trying to define.

- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned LC, which accommodates at least 43 uses not subject to supplementary use standards, ranging from single-family, duplex and multi-family residential, office, retail sales and service uses, such as motel, commercial parking or service station. It is reasonable to expect that the property could be put to other economically viable uses than a drinking establishment or nightclub in the city.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Typical concerns about tavern-drinking establishments include nuisance behavior resulting from liquor and/or cereal malt beverage sales, late night noise, and the hours of the nightclub can have a detrimental impact on the adjacent and abutting residential uses. Nightclubs and drinking establishments may serve alcohol until 2:00 a.m. These are negative considerations that would be reintroduced to the adjacent single-family residential neighborhood, Lincoln Park and Immanuel Baptist Church after at least one year of inactivity at the site and two years without a liquor license.
- (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 potentially add choice to the market place with respect to the requested uses. Denial would presumably represent a loss of economic opportunity for the applicant.
- (5) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2035 Wichita Future Growth Concept Map,” adopted in 2015 as part of the *Community Investments Plan*, depicts this location as being appropriate for “residential,” which encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. Elementary and middle schools, churches, playgrounds, small parks and other similar residential-serving uses are located in these areas.

The site is also located within the “South Central Neighborhood Land Use Plan,” adopted in 2009 as part of the City’s comprehensive plan. The “South Central Neighborhood Land Use Guide Map” depicts the site as appropriate for “commercial uses.” The location guidelines of the South Central Neighborhood Land Use Guide identify bars as a “least desirable land use.” Least desirable land use properties should be restricted to uses that are permitted by right.

A tavern-drinking establishment can be a local commercial type of development and can be permitted by right in some zoning districts. However, when a tavern-drinking establishment 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 (UZO), Sec.III-D.6.w. The LC zoned site is located approximately 20 feet east, across a platted alley, from a single-family and two-family residential uses zoned TF-3. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other

activity from adversely impacting surrounding residential areas. The site does have direct access onto South Broadway Avenue/US Highway 81, a four-lane minor arterial street. The close proximity of the proposed tavern-drinking establishment to the duplex to the south and the single-family and duplex residences located to the west make it difficult to become a compatible neighbor.

The South Central Neighborhood Plan includes recommendations regarding taverns and drinking establishments:

- Page 31 of the Plan states in regards to South Broadway improvements, "...reduce the number of car lots, motels, and bars."
- Page 34 of the Plan states that the "South Central Neighborhood businesses lack variety. Used car lots, motels and bars are common in the neighborhood..." and that they did not provide the local services needed by the neighborhood (pretty much repeated on page 37)
- Page 82 of the Plan states that, "Many of the business properties in the neighborhood are developed with motels, used car lots, and bars that do not provide direct goods and services to the neighborhood and create negative impacts on the residential areas." = different businesses are needed
- Page 83 of the Plan states, "...discourage increased use of neighborhood commercial properties for motels, used car lots and bars."

The request is not in conformance with the South Central Neighborhood Plan or the Community Investments Plan.

- (6) **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.

If the planning commission determines that the requested uses are appropriate, 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 that depicts that the site complies with minimum parking requirements.
- (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.

STATEMENT OF REASONS

The property at 1321 N. Broadway, Wichita, Kansas, have 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 25 years. The property has been vacant for approximately 12 months, but the owner is actively seeking a tenant to operate a Tavern and Drinking Establishment and Entertainment Establishment on the property. The non-conforming use is permitted unless the property has been vacant or completely inactive for more than two years (Zoning Code section VII-G.2.f).

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.).

Site Plan

Legend

📍 1317 & 21 S. Broadway St.

CONDITIONAL USE:

Tavern and Drinking Establishment and
Entertainment Establishment

APPLICANT:

Homer Morgan, Trustee

AGENT:

Stephen M. Joseph

LEGAL DESCRIPTION:

Lots 5, 6, 7, & 8, Paulline's Addition to Wichita

BUSINESS:

Vacant Less than One Year

ADDRESS:

1317 & 1321 S. Broadway, Wichita



Google earth

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STAFF REPORT
DAB III 10-5-16
MAPC 10-6-16

CASE NUMBER: CON2016-00031

APPLICANT/AGENT: Homer Morgan (applicant), Stephen Joseph (agent)

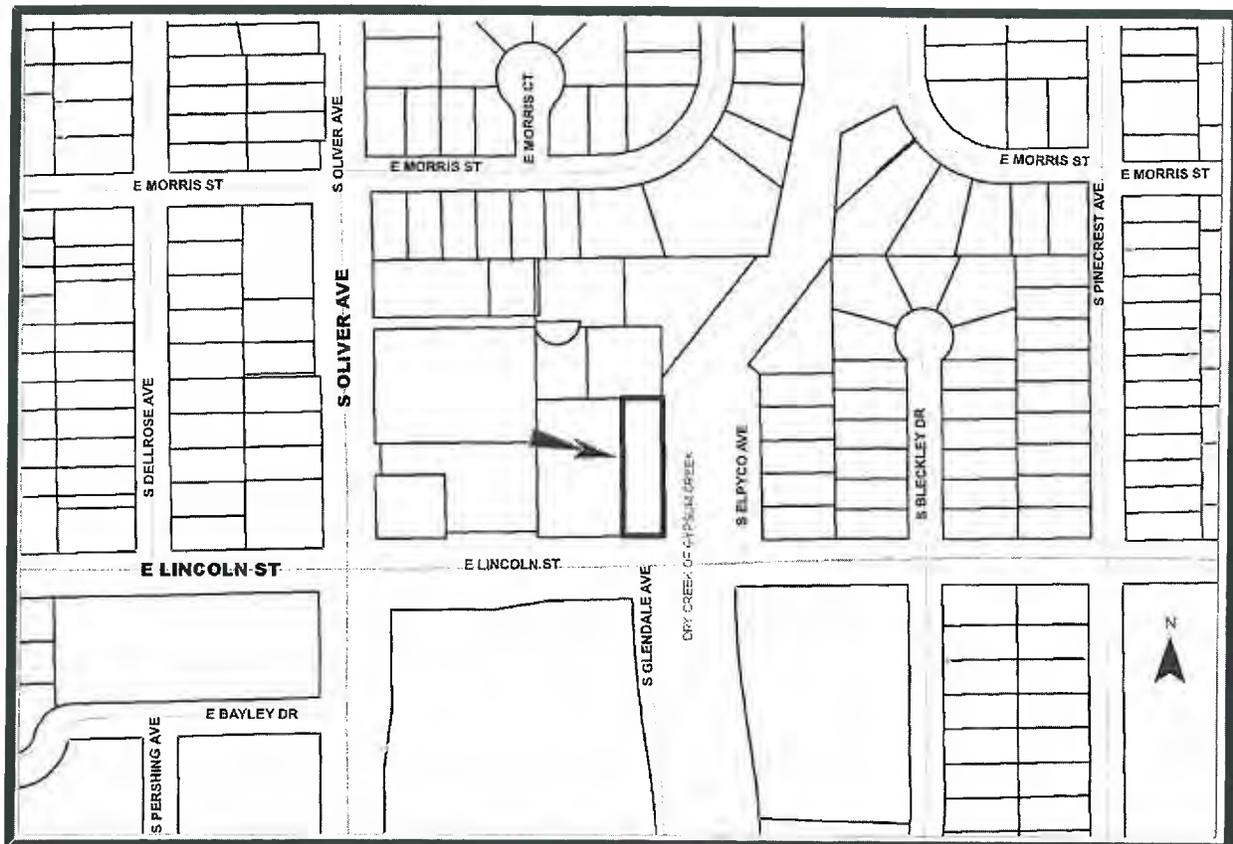
REQUEST: Conditional Use for a Nightclub in the City within 300 feet of residential zoning

CURRENT ZONING: LC Limited Commercial

SITE SIZE: 0.82 acres

LOCATION: East of South Oliver Avenue and north of East Lincoln Street (4916 East Lincoln Ave.)

PROPOSED USE: Tavern and Drinking Establishment with Entertainment License



BACKGROUND: The applicant is seeking conditional use approval for a “tavern and drinking establishment,” “entertainment establishment in the city” and a “nightclub in the city.” The application area, 4916 East Lincoln Street, is located east of South Oliver Avenue, north of East Lincoln Street. The property is zoned LC Limited Commercial (LC). The site currently has a commercial building that contains two commercial uses, one of which is The Hideaway Bar, which is located in the northern end of the building. The southern end of the building, 4900 East Lincoln Street, houses a separate commercial use. The applicant states that a “tavern and drinking establishment” and an “entertainment establishment” has functioned on the site for more than 25 years (see attached letter). According to Metropolitan Area Building and Construction Department records, the facility had a drinking establishment and entertainment center licenses that expired on April 27, 2016. Staff was not able to calculate the amount of parking located within the application area. Primary access is a single driveway off of East Lincoln Street; however, the site’s parking lot is connected to the commercial use located to the west that has its own driveway (see attached aerial site plan).

The site has a drainage ditch located immediately east of the site that is zoned B Multi-Family Residential (B). One-hundred seventy feet farther east of the site, across the drainage ditch and Elpyco Street, are single-family residences zoned TF-3 Two-Family Residential (TF-3). Southeast of the site, across East Lincoln Street, is a B zoned apartment tower. Directly south of the application area, across East Lincoln Street, is an LC Limited Commercial (LC) zoned shopping center subject to Community Unit Plan DP-60. Connected to the Hideaway Bar building to the west is a LC zoned Dollar General store that is not owned by the applicant (or at least it is not titled in the applicant’s same name). Located northwest of the site is an LC zoned diner (4834 East Lincoln Street). To the north of the site is an LC zoned office building (4930 East Lincoln Street), and an apartment building (4964 East Lincoln Street).

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.

CASE HISTORY: The site is a portion of the Andeel Addition recorded in 1970. The building on the site was constructed in 1973.

ADJACENT ZONING AND LAND USE:

North: LC	Office, diner and an apartment
South: LC, B	Retail, shopping center, apartment tower
East: B, TF-3	Drainage ditch, single-family residential
West: LC	Dollar General, auto parts,

PUBLIC SERVICES: East Lincoln Street is a paved arterial street with four lanes. 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 “new residential” and adjacent to areas identified as “new employment.” The UZC requires one parking space per two seats for nightclubs. The use’s occupancy load of the building is 99; therefore, 50 parking spaces are required. If the request is approved, the applicant will need to demonstrate that the site can provide the minimum required parking or can obtain 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: The applicant indicates the site has been a “tavern and drinking establishment” and an “entertainment establishment in the city” for over 25 years. It appears that the use has not been incompatible with nearby uses. Approval of the additional request for a “nightclub in the city” should not add an additional burden to adjoining property owners. Based upon the information available prior to the public hearings, planning staff recommends that the request for a Conditional Use for a Nightclub in the City be **APPROVED**, with the following conditions:

- (1) The applicant shall submit a revised site plan, to be approved by planning staff, that indicates that the site can provide required parking or 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 site shall be developed and maintained in conformance with the approved site plan.
- (3) No outside loudspeakers or outdoor entertainment is permitted.
- (4) The site shall maintain all necessary licenses for a nightclub in the city.
- (5) The site shall conform to all applicable codes and regulations to include but not limited to zoning, building, fire and health.
- (6) 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 site is the eastern edge of a larger commercial area centered on the intersection of East Lincoln Street and South Oliver Avenue. The site has a drainage ditch located immediately east of the site that is zoned B Multi-Family Residential (B). One-hundred seventy feet farther east of the site, across the drainage ditch and Elpyco Street, are single-family residences zoned TF-3 Two-Family Residential (TF-3). Southeast of the site, across East Lincoln Street, is a B zoned apartment tower. Directly south of the application area, across East Lincoln Street, is an LC Limited Commercial (LC) zoned shopping center subject to Community Unit Plan DP-60. Connected to the Hideaway Bar building to the west is a LC zoned Dollar General store that is not owned by the applicant (or at least it is not titled in the applicant’s same name). Located northwest of the site is an LC zoned diner (4834 East Lincoln Street). To the north of the site is an LC zoned office building (4930 East Lincoln Street), and an apartment building (4964 East Lincoln Street).
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 commercial building. The LC district accommodates at least 43 uses not subject to supplementary use standards, ranging from single-family, duplex and multi-family residential, office, retail sales and service uses, such as motel, commercial parking or service station. It is reasonable to expect that the property could be put to other economically viable uses other than a drinking establishment or nightclub in the city.
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 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. Approval of the request would maintain choice for such an establishment in the market place.
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 "new residential" and adjacent to areas identified as "new employment." The UZC requires one parking space per two seats for nightclubs. The use's occupancy load is 99; therefore, 50 parking spaces are required. If the request is approved, the applicant will need to demonstrate that the site can provide the minimum required parking or can obtain 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 than other uses permitted in the LC zoning district.

STATEMENT OF REASONS

The building on the subject property located at 4916 E. Lincoln in Wichita, Kansas, has been used as a Tavern and Drinking Establishment and/or 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 25 years. The Hideaway Bar is the current tenant operating the Tavern and Drinking Establishment and Entertainment Establishment on the property.

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.).

SITE PLAN

CONDITIONAL USE:

Tavern and Drinking Establishment and
Entertainment Establishment

APPLICANT:

Homer Morgan, Trustee

AGENT:

Stephen M. Joseph

LEGAL DESCRIPTION:

Beg SE Corner of Lot 2, then N 240 Ft, then W 70 Ft,
then S 240 Ft, then E 70 Ft to Point of Beginning in
the Andeel Addition to Wichita, Sedgwick County,
Kansas

BUSINESS:

The Hideaway Club

ADDRESS:

4916 E. Lincoln St., Wichita



BACKGROUND: This conditional use application is for development located west of Hillside and immediately south of E. 31st St. South at 3201 E. 31st St. South on Lot 1, Magnus 2nd Addition. Annexed into the City of Wichita in 1961, this property has been developed and operated as a nightclub since the late 1960's (previously dba the Stables, the Casino, the Fantasy, and more recently as the Venue). Over the last 45 years, the property has changed hands many times. However, its use has remained unchanged along with its non-conforming use status. This property has been recently purchased. Although the nightclub facility could continue to be operated indefinitely, the new owner wishes to bring the use of Lot 1 into conformance with the current zoning code. The adjoining MF-18 and MF-29 multi-family zoned properties require that the applicant obtain a Conditional Use approval to bring this property into zoning conformance. When a LC-Limited Commercial zoned nightclub or a GC-General Commercial zoned outdoor patio/events area serving alcohol 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 under Unified Zoning Code (UZC), Sec.III-D.6.w.

This site was originally unplatted property zoned Limited Commercial, when it was annexed into the City of Wichita on October 21, 1961. It was later platted as Lot 1, Magnus 2nd Addition and recorded with the Sedgwick County Register of Deeds on June 19, 1980. In 1984, a portion of this lot (fenced outdoor patio/events area) was rezoned from Limited Commercial to General Commercial use (Case Z-2620). Lot 1 is predominately zoned LC-Limited Commercial, and includes the building and the north and east parking lot areas. The outdoor patio/events area adjacent to the west side of the building on Lot 1 is fenced and zoned GC-General Commercial. Additional nightclub parking is also provided immediately west of Lot 1 on the 50 foot-wide "flagpole" portion (portion zoned LC-Limited Commercial) of Lot 2, Magnus 2nd Addition. Lot 2 (also owned by the applicant) surrounds Lot 1 on its west and south perimeters.

Existing site development is characterized as follows:

- Indoor nightclub facility of approximately 4,360 square feet;
- Posted maximum building occupancy is 299 persons;
- Existing fenced outdoor patio/events area (12,000 sq. ft.) on west side of building;
- 92 newly striped on-site parking spaces north and east of the building, with the capacity (yet-to-be striped) for about 31 additional parking spaces west of the building. A total of 123 on-site parking spaces would allow a maximum building occupancy of 246 persons based on compliance with current UZC requirements (one on-site parking space per two occupants);
- Easterly 40 feet of Lot 1 contains dedicated utility and drainage easements which effectively create an open space buffer from existing residential and commercial developments located to the east. Deciduous tree row buffer adjacent to the east boundary of Lot 1, but no solid screen fencing on Lot 1;
- Established eight-foot high perimeter fencing along the west property line of Lot 2 with a dense shelterbelt of mature trees;
- Established eight-foot high perimeter fencing and tree line separate the parking lot areas from the adjacent portions of Lot 2 to the south.

CASE HISTORY: There is no record of a Use Exception or Conditional Use approval for a tavern, drinking establishment or nightclub on this site. In 1984, a portion of this lot (fenced outdoor patio/events area) was rezoned from Limited Commercial to General Commercial use. The use of Lot 1 for a tavern, drinking establishment and nightclub was established prior to the adoption of the Wichita-Sedgwick County Unified Zoning Code in 1996.

ADJACENT ZONING AND LAND USE:

NORTH: LC

Long-established retail commercial strip mall and free-standing

	commercial development located northwest, north and northeast (vacant building); Gas station/retail service center development situated directly north.
SOUTH: MF-29	Vacant/undeveloped parcel located immediately south (owned by the applicant).
EAST: LC, MF-18	Retail commercial building (vacant) immediately to the east fronting E. 31 st St. South; Residential duplexes (Starkey facilities) immediately to the east; Southern Hills senior-living residential facility situated east of the residential duplexes.
WEST: LC	Nightclub parking lot located immediately west on “flag-pole” portion of Lot 2. Mobile home park residential units located west of Lot 2.

PUBLIC SERVICES: All public utilities are available to the site. The site has two ingress/egress points on 31st St. South, which is a four-lane arterial street. Hillside Avenue is a four lane arterial street located northeast of the site, and terminates at 31st St. South.

CONFORMANCE TO PLANS/POLICIES: The “Community Investment Plan’s 2035 Wichita Future Growth Map” depicts the site and surrounding area south of E. 31st St. South as being “residential.” The residential designation encompasses areas that reflect the full diversity of residential development intensities and types typically found in a large urban municipality. The range of housing densities and types includes single-family detached homes, semi-detached homes, zero lot-line units, patio homes, duplexes, townhomes, apartments and multi-family units, mobile home parks and special residential accommodations for the elderly. A nightclub would not typically be considered an appropriate use within a residential designation. Notwithstanding this “residential” designation, the predominant zoning pattern for the immediate area surrounding the site to the east, west and north is LC-Limited Commercial. The only exceptions are MF-29 Multi-family zoning on the applicant’s vacant property immediately south, and MF-18 Multi-family zoning on the residential duplex development immediately to the east.

Locational criteria for commercial development include three key elements: development pattern, land use compatibility, and design. The nightclub development is visually buffered from adjacent land uses to the east, south and west. Given that a nightclub has operated at this site over many decades, staff has found no evidence or record that this use has created negative impacts to residential development in proximity to this site. The nightclub development is also compatible with the existing commercial development on the north side of E. 31st St. South.

RECOMMENDATION: Approval of this Conditional Use application would create current UZC compliance for an existing nightclub that was established long before the adoption of the Wichita-Sedgwick County UZC in 1996. If denied, the applicant could continue to operate as a lawful non-conforming use, but with 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 facility be **APPROVED**, with the following conditions:

- (1) The nightclub facility inclusive of the outdoor patio/events area shall be limited to an occupancy of 246 persons, as permitted by off-street parking requirements set forth in Sec. IV-A.4 of the UZC. Alternately, the applicant shall meet the UZC parking requirements by obtaining a parking reduction and/or securing an off-site parking agreement.
- (2) Outdoor speakers and outdoor entertainment is permitted between the hours of noon and 11:00 p.m.
- (3) A 6 ft. to 8 ft. high solid screening fence shall be installed along the east boundary of Lot 1 where

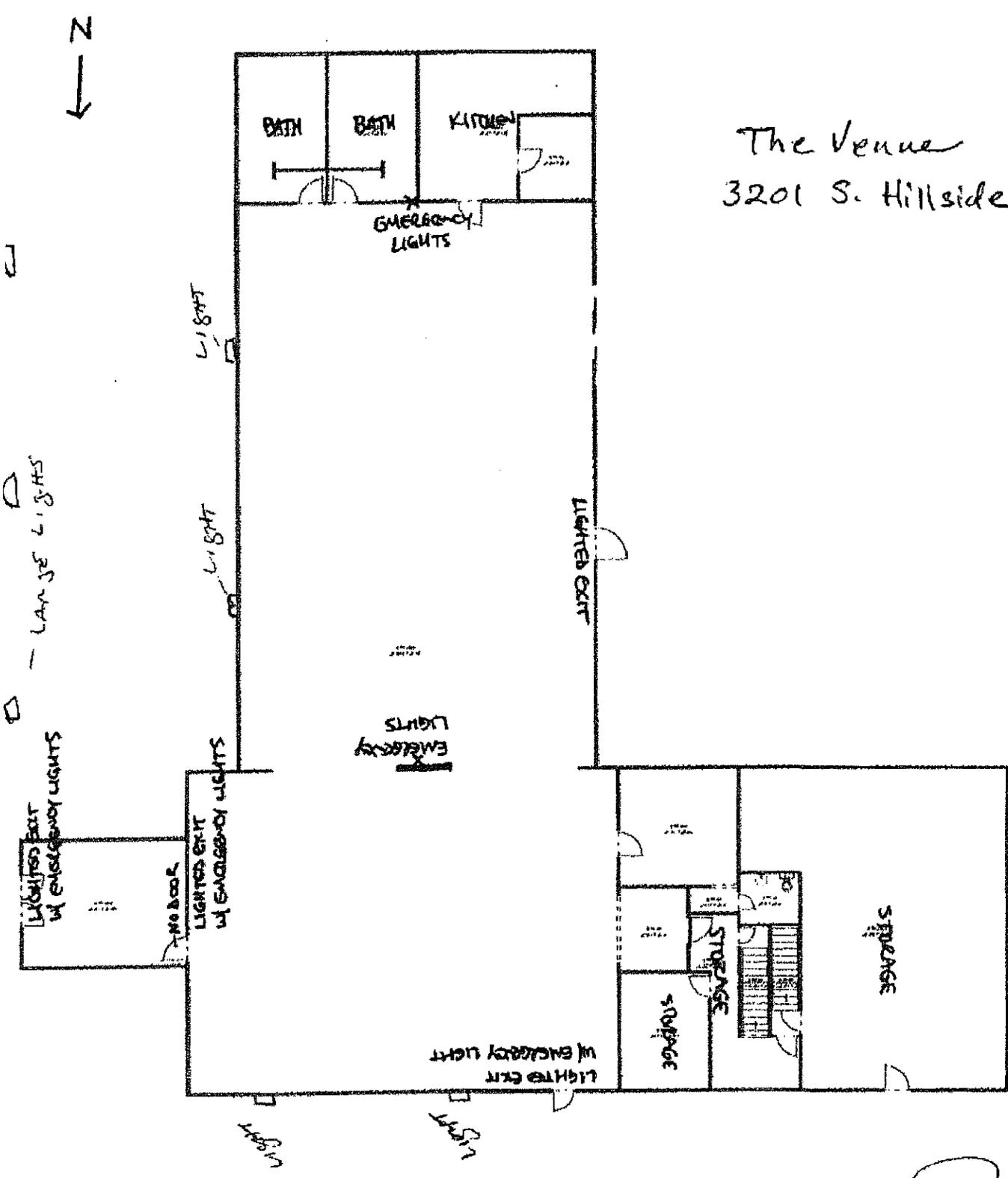
- it abuts MF-18 Multi-family zoned property, in accordance with Sec. IV-B.3 of the UZC.
- (4) The site shall be developed in conformance with a revised site plan approved by planning staff. This plan shall depict, at a minimum, the occupancies contained on the subject property; required on-site parking spaces; freestanding lighting; trash dumpsters and screening enclosures; on-site signage; the fenced outdoor patio/events area; and, all landscaping and fencing/solid screening. The site plan must be submitted for review within 60-days of approval of the Conditional Use.
 - (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:** The predominant zoning pattern for the immediate area surrounding the site to the east, west and north is LC-Limited Commercial. The only exceptions are MF-29 Multi-family zoning on the applicant's property immediately south, and MF-18 Multi-family zoning on the residential duplex development immediately to the east. The nightclub facility is visually buffered from adjacent land uses to the east, south and west. The nightclub facility is also compatible with the existing commercial development on the north side of E. 31st St. South.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned the LC-Limited Commercial, which is meant to accommodate retail, commercial, office and other complementary uses. If approved, the request would transform the existing nightclub as a conforming use on the site.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** 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 nightclub operations creating a detrimental impact on surrounding residential neighborhoods. Given that a nightclub has operated at this site over many decades, staff has found no evidence or record that this use has created negative impacts to residential development in proximity to this site.
- (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 and surrounding area south of E. 31st St. South as being "residential." A nightclub facility would not typically be considered an appropriate use within a "residential" designation. However, the predominant and longstanding zoning pattern for the immediate area surrounding the site to the east, west and north is LC-Limited Commercial. Locational criteria for commercial development include three key elements: development pattern, land use compatibility, and design. This is site has developed and operated as a nightclub since the late 1960's, and was established prior to the adoption of the Wichita-Sedgwick County Unified Zoning Code in 1996. The nightclub facility has long-established visual buffers from adjacent land uses to the east, south and west. The nightclub is compatible with the existing commercial development to the north.

- (5) **Impact of the proposed development on community facilities:** It is not likely that approval of this request would result in an increased demand for police services.

The Venue
3201 S. Hillside





STAFF REPORT

MAPC October 6, 2016
DAB II October 10, 2016

CASE NUMBER: CON2016-00044

APPLICANT/AGENT: Spangles, Inc. c/o Dave Dooman (Owner); T-Mobile Central, LLC c/o George Wyrick and PI Tower Development, LLC c/o Ron Bittner (Applicants); Ferris Consulting c/o Greg Ferris (Agent)

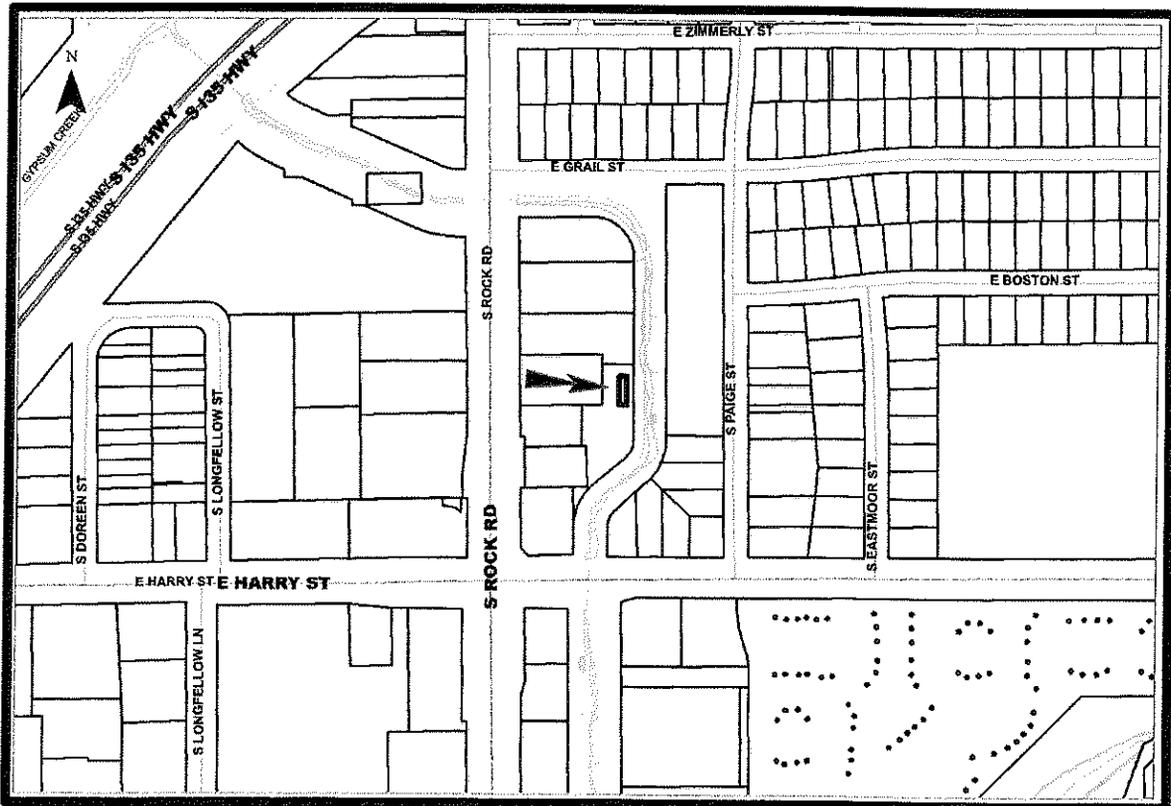
REQUEST: Conditional Use for a Wireless Communication Facility

CURRENT ZONING: LC Limited Commercial

SITE SIZE: 0.03 acres

LOCATION: North of Harry Street and east of Rock Road (1214 S. Rock Rd.)

PROPOSED USE: 125-foot high monopole tower



BACKGROUND: The applicant is seeking a Conditional Use to permit the construction of a 125-foot high monopole tower for use by T-Mobile. The subject property is zoned LC Limited Commercial and is located north of Harry Street and east of Rock Road at 1214 S. Rock Rd. Wireless Communication Facilities over 120 feet in height in the LC zoning district require a Conditional Use.

The tower is proposed to be located within a 0.03 acre lease area as shown on the attached site plan. Access to the site is proposed via a 20-foot wide ingress/egress and utility easement to Rock Road. The tower is proposed to be located in the center of lease area. The equipment compound is proposed to have building and/or equipment pads for four telecommunication providers. Since the equipment compound is located within 150 feet of residential zoning, screening of the equipment compound is required. The proposed tower location conforms to all setback requirements of the Compatibility Height Standard. Due to the proximity of McConnell Air Force Base, Federal Aviation Administration (FAA) has limited the height of the tower to 130 feet.

The character of the surrounding area primarily commercial at the arterial intersection of Harry Street and Rock Road. Property to the north is zoned LC and developed primarily with restaurant and convenience retail uses. Properties to the west are zoned B Multi-Family Residential and are developed with apartments.

CASE HISTORY: The subject property is platted as part of the Triple J Addition, which was recorded November 1, 1973. A Use Exception to permit a self-service car wash was granted September 25, 1979; however, the facility was not constructed within the one-year time frame granted by the Board of Zoning Appeals.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Commercial strip center
SOUTH:	LC	Fast food restaurant, convenience store
EAST:	B	Apartments
WEST:	LC	Restaurant, retail

PUBLIC SERVICES: No municipally-supplied public services are required. The applicant will extend electrical and phone service to the site. The site has access to Rock Road, an arterial street.

CONFORMANCE TO PLANS/POLICIES: The Wireless Communication Master Plan outlines the guidelines for locating Wireless Communication Facilities. The proposed tower conforms with the following Design Guidelines of the Wireless Communication Master Plan: 1) is consistent with the existing commercial character of the area; 2) minimizes the silhouette by its monopole design; 3) uses colors and materials that blend in with the existing environment 4) is placed in an area where buildings obscure some of the facility from view; and 5) is screened through fencing. The Unified Zoning Code currently requires Supplementary Use Regulations pertaining to collocation requirements for Wireless Communication Facilities that are inconsistent with recently enacted changes to State Law; therefore, approval of the Conditional Use can only be granted by the City Council, since a waiver of Supplementary Use Regulations would be required.

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

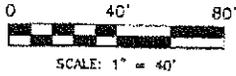
- A. The applicant shall obtain all permits necessary to construct the Wireless Communication Facility, and the Wireless Communication Facility shall be erected within one year of approval of the Conditional Use by the Governing Body.
- B. The support structure shall be a “monopole” design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- C. The support structure shall be no taller than 125 feet in height, plus an additional five (5) feet for lightning suppression equipment.
- D. The equipment compound shall be screened with a six (6) to eight (8) foot tall solid screening fence.
- E. A site plan and elevation drawing indicating the approved design of the Wireless Communication Facility shall be submitted for approval by the Planning Director within 60 days of approval of the Conditional Use by the Governing Body and prior to the issuance of the Conditional Use Resolution.
- F. The site shall be developed in general conformance with the approved site plans. All improvements shall be completed before the facility becomes operational.
- G. The applicant shall obtain FAA approval regarding “objects affecting navigable airspace” and “impacts to terminal instrument procedures” for the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the Metropolitan Area Building and Construction Department prior to the issuance of a building permit.
- H. The applicant shall obtain a Wichita Airport Hazard Zoning Permit Exemption for Area B from the Metropolitan Area Building and Construction Department prior to the issuance of a building permit.
- I. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- J. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

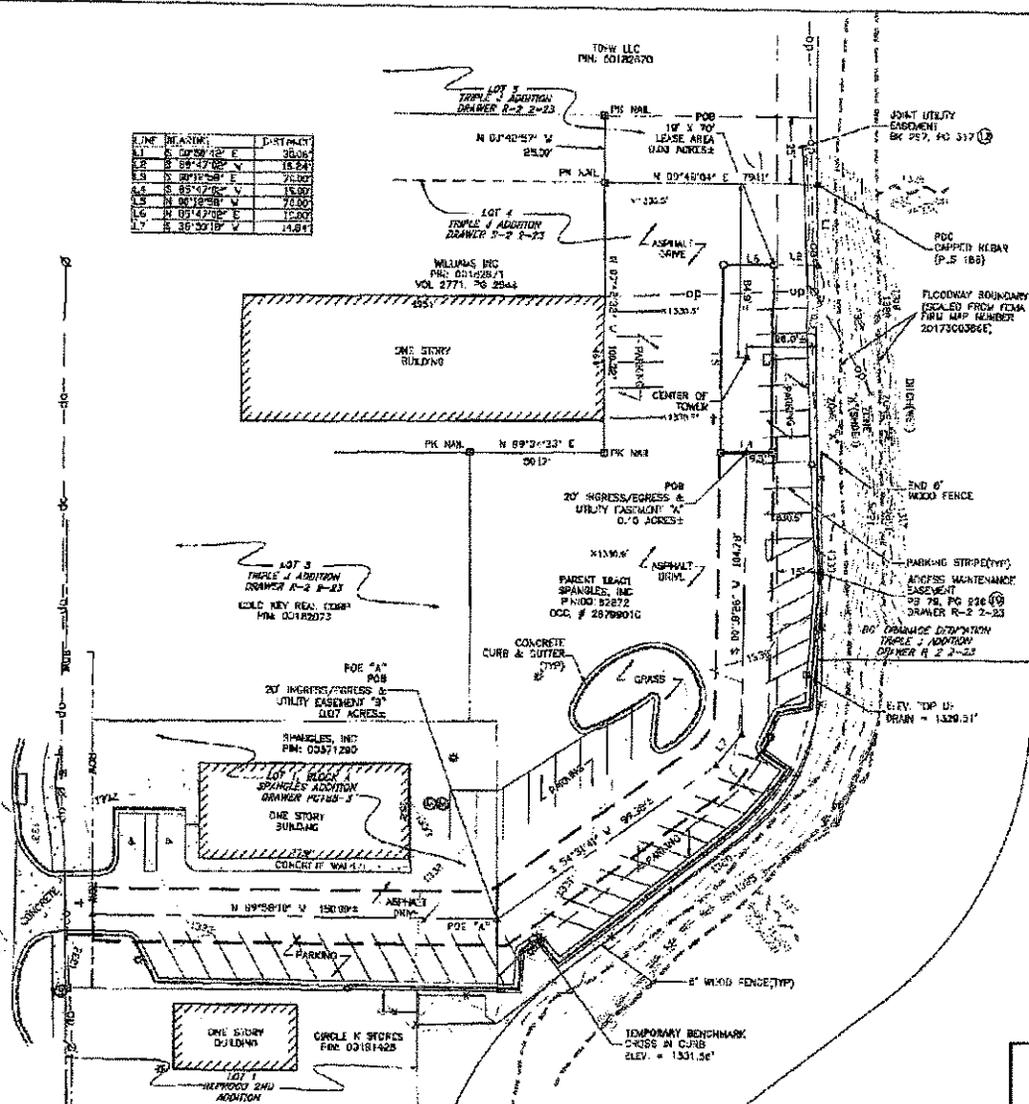
1. The zoning, uses and character of the neighborhood: The character of the surrounding area primarily commercial at the arterial intersection of Harry Street and Rock Road. Properties to the north, south, and west are zoned LC and developed primarily with restaurant and convenience retail uses. Properties to the west are zoned B Multi-Family Residential and are developed with apartments.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC and is currently used as parking and service access. The parking provided on the site is in excess of requirements and service access will still be provided after construction of the tower. A Conditional Use may be granted to permit a Wireless Communication Facility in the LC zoning district; however, the facility should conform to the guidelines of the Wireless Communication Plan. The proposed facility conforms to the plan’s guidelines.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed tower location conforms to all setback requirements of the Compatibility Height Standard.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The Wireless Communication Master outlines the guidelines for locating Wireless Communication Facilities. The proposed tower conforms with the following Design Guidelines of the Wireless

Communication Master Plan: 1) is consistent with the existing commercial character of the area; 2) minimizes the silhouette by its monopole design; 3) uses colors and materials that blend in with the existing environment 4) is placed in areas where buildings obscure some of the facility from view; 5) is screened through landscaping, walls, and/or fencing. The Unified Zoning Code currently requires Supplementary Use Regulations pertaining to collocation requirements for Wireless Communication Facilities that are inconsistent with recently enacted changes to State Law; therefore, approval of the Conditional Use can only be granted by the City Council, since a waiver of Supplementary Use Regulation would be required.

5. Impact of the proposed development on community facilities: FAA approval and a Wichita Airport Hazard Zoning Permit Exemption should ensure that the proposed tower does not detrimentally impact the operation of airports in the vicinity.



LINE	BEARING	DISTANCE
11	S 02°58'42" E	26.24'
12	S 89°47'50" W	16.24'
13	S 89°15'58" E	71.30'
14	S 85°47'00" W	15.30'
15	N 00°15'58" W	71.30'
16	N 05°14'20" E	15.30'
17	S 30°30'18" W	14.81'



3' ROCK ROAD
 VARIABLE WIDTH RIGHT-OF-WAY
 MAINT LANE W/SS ASPHALT PAVEMENT
 250' TO INTERSECTION
 W/ E. HENRY STREET

TOWER INFO LATITUDE: 37°10'34.40" NORTH LONGITUDE: 97°14'33.995" WEST (GAD 83) GROUND ELEVATION: 1330.3' ABOVE MEAN SEA LEVEL (AMSL)	
VICINITY MAP 	
NET TO SCALE KANSAS SOUTH 000 TO TRUE NORTH CONVERGENCE 4°48'20.129" TRUE NORTH TO MAGNETIC DECLINATION 3°41' E CONVERGED SCALE FACTOR 0.999995418	
LEGEND ○ = 5/8" REBAR SET ● = TRAIL PROPERTY MARKER POB = POINT OF BEGINNING POC = POINT OF COMMENCEMENT POE = POINT OF ENDING ▲ = CALCULATED POINT (D) = REFERENCED INFORMATION (M) = MEASURED (P) = POWER POLE (L) = LIGHT POLE (R) = REFERENCE POINT X1330.0 = EXISTING ELEVATION (S) = SANITARY MANHOLE (V) = UNMARKED VEHICLE	
FLOOD NOTE By virtue of this survey, the subject property, appears to be in Zone "X" of the Flood Insurance Rate Map Community Panel No. 2012300248E, which lists an effective date of February 2, 2002 and is NOT in a special flood hazard area. Zone "X": Area determined to be outside the 0.2% chance annual floodplain.	
SPANGLES W101393 SW 1/4, SEC. 29, T-27-S, R-2-E SEDGWICK COUNTY, KANSAS	
RAW LAND TOWER SURVEY PARALLEL INFRASTRUCTURE SHAW Engineering Group, Inc. 150 Business Center Lane Sedgewick, Kansas 67224 P: 316-232-0285 www.shaweng.com	



STAFF REPORT

MAPC October 6, 2016
DAB I October 3, 2016

CASE NUMBER: PUD2016-00007

APPLICANT/AGENT: Tom George Investments, LLC c/o Tom George (Owner); T-Mobile Central, LLC c/o George Wyrick and PI Tower Development, LLC c/o Ron Bittner (Applicants); Ferris Consulting c/o Greg Ferris (Agent)

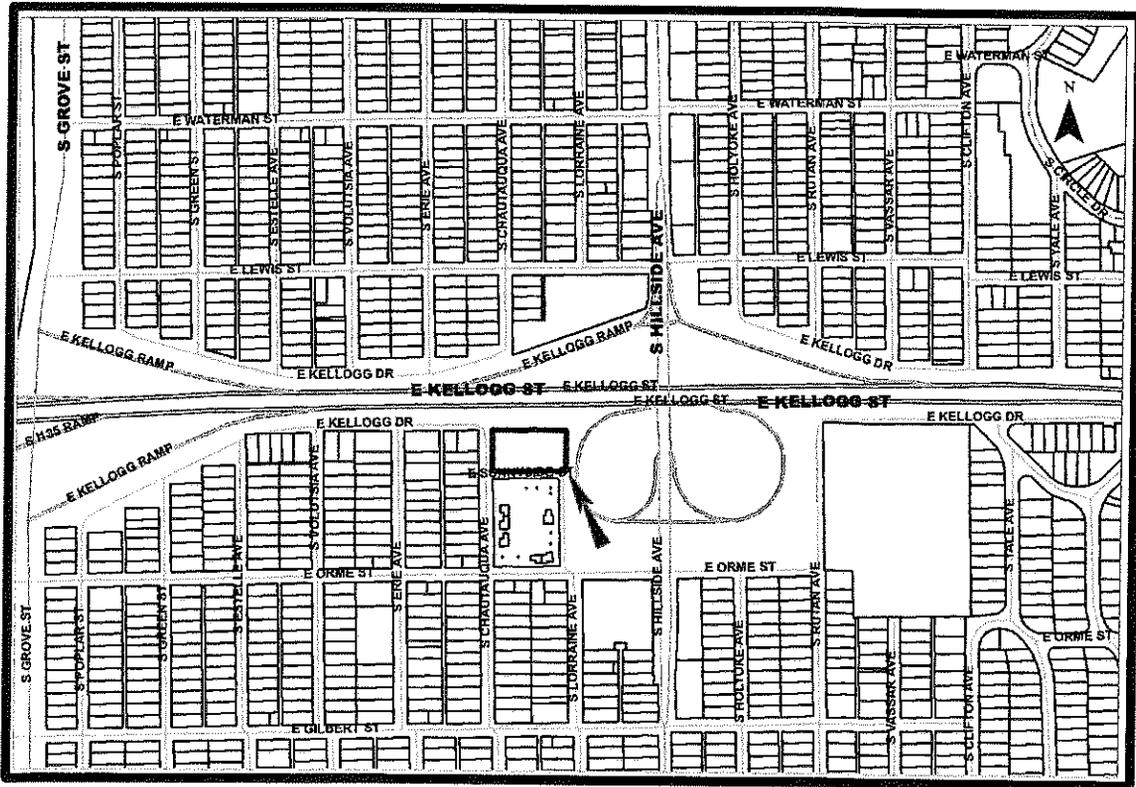
REQUEST: PUD Amendment to permit a Wireless Communication Facility

CURRENT ZONING: Sunnyside Village Planned Unit Development (PUD #5)

SITE SIZE: 1.31 acres

LOCATION: South of Kellogg Street and west of Hillside Avenue (3003 E. Kellogg St.)

PROPOSED USE: 145-foot high monopole tower



BACKGROUND: The applicant is seeking a PUD Amendment to permit the construction of a 145-foot high monopole tower for use by T-Mobile. The subject property is zoned Sunnyside Village Planned Unit Development (PUD #5) and is located south of Kellogg Street and west of Hillside Avenue at 3003 E. Kellogg St.

The tower is proposed to be located within a 30-foot by 64-foot lease area on Parcel 1 of PUD #5 as shown on the attached site plan. Access to the site is proposed via a 25-foot wide ingress/egress and utility easement to Sunnyside Street. The tower is proposed to be located in the center of lease area. The equipment compound is proposed to have building and/or equipment pads for four telecommunication providers. Since the equipment compound is located within 150 feet of Parcel 2 of PUD #5, which is developed with residential uses, screening of the equipment compound is required. The proposed tower location conforms to all setback requirements of the Compatibility Height Standard.

The character of the surrounding area is dominated by the freeway interchanges of Kellogg and Hillside and Kellogg and I-135. Both interchanges have numerous tall light poles of similar height and design as the proposed tower. The property to the north across the Kellogg and Hillside freeway interchange is zoned Security Self Storage Planned Unit Development (PUD #13) and is developed a self-storage warehouse facility. Also north of the Kellogg and Hillside interchange are residential uses zoned SF-5 Single Family Residential and TF-3 Two-Family Residential that are developed on north-south streets with homes that do not directly face the proposed tower. The property to the south is developed with duplexes on Parcel 2 of PUD #5. To the east across the Kellogg and Hillside freeway interchange is a large cemetery zoned B Multi-Family Residential. West of the site is a mixture of commercial uses zoned LC Limited Commercial and residential uses zoned TF-3. While the residential uses immediately west of the site do face the proposed tower, the existing multi-story building on the site screens the proposed tower from view from these properties.

CASE HISTORY: The subject property was zoned Sunnyside Village Planned Unit Development (PUD #5) on November 17, 1998. The subject property is platted as part of the Sunnyside Village Addition, which was recorded March 3, 1999.

ADJACENT ZONING AND LAND USE:

NORTH:	PUD #13, TF-3, SF-5	Self-storage warehouse, residential uses
SOUTH:	PUD #5	Duplex
EAST:	B	Cemetery
WEST:	LC, TF-3	Commercial and residential uses

PUBLIC SERVICES: No municipally-supplied public services are required. The applicant will extend electrical and phone service to the site. The site has access to Sunnyside Street, a local street.

CONFORMANCE TO PLANS/POLICIES: The Wireless Communication Master Plan outlines the guidelines for locating Wireless Communication Facilities. The proposed tower conforms with the following Design Guidelines of the Wireless Communication Master Plan: 1) is consistent with the existing character of the area that is dominated by two freeway interchanges with tall light poles; 2) minimizes the silhouette by its monopole design; 3) uses colors and materials that blend in with the existing environment 4) is placed in an area where buildings obscure and an elevated freeway some of the facility from view; and 5) is screened through fencing. The Unified Zoning Code currently requires Supplementary Use Regulations pertaining to collocation requirements for Wireless Communication Facilities that are inconsistent with recently enacted changes to State Law; therefore, approval of the PUD Amendment can only be granted by the City Council, since a waiver of Supplementary Use Regulations would be required.

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

- A. 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 PUD Amendment by the Governing Body.
- B. The support structure shall be a “monopole” design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- C. The support structure shall be no taller than 145 feet in height, plus an additional five (5) feet for lightning suppression equipment.
- D. The equipment compound shall be screened with a six (6) to eight (8) foot tall solid screening fence.
- E. A site plan, elevation drawing, and revised PUD indicating the approved design of the Wireless Communication Facility shall be submitted for approval by the Planning Director within 60 days of approval of the PUD Amendment by the Governing Body and prior to publication of the PUD ordinance.
- F. The site shall be developed in general conformance with the approved site plans. All improvements shall be completed before the facility becomes operational.
- G. The applicant shall obtain FAA approval regarding “objects affecting navigable airspace” and “impacts to terminal instrument procedures” for the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the Planning Director and Metropolitan Area Building and Construction Department prior to the issuance of a building permit.
- H. The applicant shall obtain a Wichita Airport Hazard Zoning Permit Exemption for Area B from the Metropolitan Area Building and Construction Department prior to the issuance of a building permit.
- I. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is dominated by the freeway interchanges of Kellogg and Hillside and Kellogg and I-135. Both interchanges have numerous tall light poles of similar height and design as the proposed tower. The property to the north across the Kellogg and Hillside freeway interchange is zoned Security Self Storage Planned Unit Development (PUD #13) and is developed a self-storage warehouse facility. Also north of the Kellogg and Hillside interchange are residential uses zoned SF-5 Single Family Residential and TF-3 Two-Family Residential that are developed on north-south streets with homes that do not directly face the proposed tower. The property to the south is developed with duplexes on Parcel 2 of PUD #5. To the east across the Kellogg and Hillside freeway interchange is a large cemetery zoned B Multi-Family Residential. West of the site is a mixture of commercial uses zoned LC Limited Commercial and residential uses zoned TF-3. While the residential uses immediately west of the site do face the proposed tower, the existing multi-story building on the site screens the proposed tower from view from these properties.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned PUD #5 and is currently used as open space. A PUD Amendment may be granted to permit a Wireless Communication Facility; however, the facility should conform to the guidelines of the Wireless Communication Plan. The proposed facility conforms to the plan’s guidelines.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed tower location conforms to all setback requirements of the Compatibility Height Standard.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The Wireless Communication Master outlines the guidelines for locating Wireless Communication Facilities. The

proposed tower conforms with the following Design Guidelines of the Wireless Communication Master Plan: 1) is consistent with the existing character of the area that is dominated by two freeway interchanges with tall light poles; 2) minimizes the silhouette by its monopole design; 3) uses colors and materials that blend in with the existing environment 4) is placed in an area where buildings obscure and an elevated freeway some of the facility from view; and 5) is screened through fencing. The Unified Zoning Code currently requires Supplementary Use Regulations pertaining to collocation requirements for Wireless Communication Facilities that are inconsistent with recently enacted changes to State Law; therefore, approval of the PUD Amendment can only be granted by the City Council, since a waiver of Supplementary Use Regulations would be required.

5. Impact of the proposed development on community facilities: FAA approval and a Wichita Airport Hazard Zoning Permit Exemption should ensure that the proposed tower does not detrimentally impact the operation of airports in the vicinity.

