

(150004) Published in The Wichita Eagle on December 1, 2017

ORDINANCE NO. 50-629

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY
OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2017-00034

Zone change from SF-5 Single-Family Residential to GC General Commercial subject to the development standards contained in Community Unit Plan DP-338, on property described as:

A contiguous tract of land lying within all of Lots 2-9, inclusive, Lots 12-17, inclusive, portions of Lots 1, 10, 11, and 18-37, inclusive, all in Block 1, and portions of Reserve C and E, and a portion of Gilbert Court, all in Country Hollow Addition, an addition to Wichita, Sedgwick County, Kansas, TOGETHER WITH, an unplatted portion of the Northwest Quarter, Section 26, Township 27 South, Range 2 East, of the 6th Principal Meridian, Wichita, Sedgwick County, Kansas; said contiguous tract being more particularly described as follows:

BEGINNING at the southeast corner of said Lot 37, being common to a point on the north right-of-way of Gilbert Street as platted in said addition; thence along the south line of said Lot 37 and said north right-of-way line on a platted bearing of S88°47'01"W, 11.64 feet to a point on a curve to the left, said curve having a radius of 532.00 feet, a central angle of 08°36'57", a chord bearing of S84°28'32"W, and a chord distance of 79.92 feet; thence along said curve to the left and continuing along said south line and said north right-of-way line, 80.00 feet; thence N09°49'56"W, 15.00 feet to a point on a non-tangent curve to the left, said curve having a radius of 547.00 feet, a central angle of 28°17'49", a chord bearing of S66°01'09"W, and a chord distance of 267.41 feet; thence along said non-tangent curve to the left, being parallel with and 15.00 feet north of said north right-of-way line, 270.15 feet; thence continuing parallel with and 15.00 feet north of said north right-of-way line for the next five consecutive courses, S51°52'15"W, 94.59 feet to a point on a curve to the right, said curve having a radius of 956.00 feet, a central angle of 17°27'22", a chord bearing of S60°35'56"W, and a chord distance of 290.14 feet; thence along said curve to the right, 291.26 feet to a point on a curve to the left, said curve having a radius of 647.00 feet, a central angle of 20°08'07", a chord bearing of S59°15'34"W, and a chord distance of 226.20 feet; thence along said curve to the left, 227.37 feet; thence S49°11'30"W, 125.19 feet to a point on a curve to the right, said curve having a radius of 585.00 feet, a central angle of 7°05'10", a chord bearing of S52°44'05"W, and a chord distance of 72.30 feet; thence along said curve to the right, 72.35 feet; thence N29°38'23"W, 223.03 feet; thence S60°21'37"W, 51.83 feet; thence S61°24'12"W, 163.88 feet; thence S59°26'21"W, 185.64 feet; thence S60°21'37"W, 194.74 feet to a point 15.00 feet north of said north right-of-way line, also being a point on a non-tangent curve to the left, said curve having a radius of 644.00 feet, a central angle of 24°30'12", a chord bearing of S72°36'43"W, and a chord distance of 273.32 feet; thence along said non-tangent curve to the left, being parallel with and 15.00 feet north of said north right-of-way line, 275.41 feet; thence continuing parallel

with and 15.00 feet north of said north right-of-way line for the next three consecutive courses, S60°21'37"W, 226.93 feet to a point on a curve to the right, said curve having a radius of 556.00 feet, a central angle of 28°54'12", a chord bearing of S74°48'43"W, and a chord distance of 277.51 feet; thence along said curve to the right, 280.48 feet; thence S89°15'49"W, 154.97 feet; thence N60°21'24"W, 61.91 feet to a point on the west line of said Lot 1; thence along the west lines of said Block 1, and said Reserve C, N00°44'22"W, 432.69 feet to the northwest corner of said Reserve C and said addition; thence along an extended north line of said Reserve C, S89°15'49"W, 18.00 feet to a point 42.00 feet east of the west line of said Northwest Quarter, said point also being a point on an east line of Fee Simple Interest #2 tract described in Report of Appraisers-Tract 131/133 recorded on Doc.#/Flm-Pg: 29598315 and Amended Report of Appraisers-Tract 131/133 recorded on Doc.#/Flm-Pg: 29613021; thence along said east line, being parallel with and 42.00 feet east of said west line, N00°44'22"W, 174.89 feet; thence continuing along the perimeter of said Fee Simple Interest #2 for the next four consecutive courses, N43°30'25"E, 311.53 feet to a point on a non-tangent curve to the right, said curve having a radius of 4958.50 feet, a central angle of 05°52'33", a chord bearing of N84°32'50"E, and a chord distance of 508.28 feet; thence along said non-tangent curve to the right, 508.50 feet; thence N87°29'07"E, 100.00 feet to a point on a non-tangent curve to the left, said curve having a radius of 5041.50 feet, a central angle of 04°49'20", a chord bearing of N85°04'01"E, and a chord distance of 424.18 feet; thence along said non-tangent curve to the left, 424.31 feet to a point on a non-tangent curve to the left and being a point on a south line of a tract of land described in Special Warranty Deed recorded on Doc.#Flm-Pg: 29189948, said curve having a radius of 1041.50 feet, a central angle of 15°21'12", a chord bearing of N82°00'17"E, and a chord distance of 278.25 feet; thence along said south line and non-tangent curve to the left, 279.09 feet; thence continuing along said south line of a tract of land described in Special Warranty Deed recorded on Doc.#Flm-Pg: 29189948, N74°19'51"E, 52.18 feet to a point on a non-tangent curve to the left and being a point on a south line of Fee Simple Interest #3 tract described in said Report of Appraisers-Tract 131/133 and Amended Report of Appraisers-Tract 131/133, said curve having a radius of 5041.50 feet, a central angle of 10°45'10", a chord bearing of N73°33'07"E, and a chord distance of 944.77 feet; thence along said south line and non-tangent curve to the left, 946.16 feet; thence continuing along said south line, N68°09'29"E, 131.41 feet to a point on the east line of said Northwest Quarter, being common to the east line of said Lot 37; thence along said east line of said Lot 37, S00°33'23"E, 408.81 feet to the POINT OF BEGINNING.

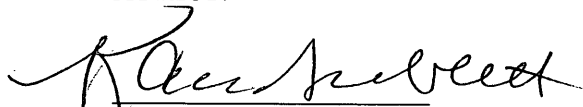
Said contiguous tract CONTAINS: 1,518,245 square feet or 34.85 acres more or less, generally located at the southeast corner of 127th Street East and East Kellogg/Highway 54/400.

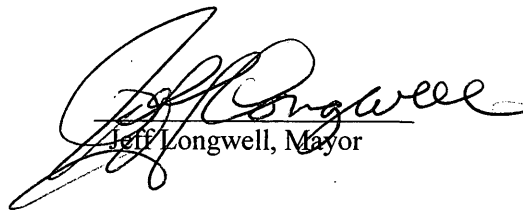
SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED this 28 day of Nov., 2017.

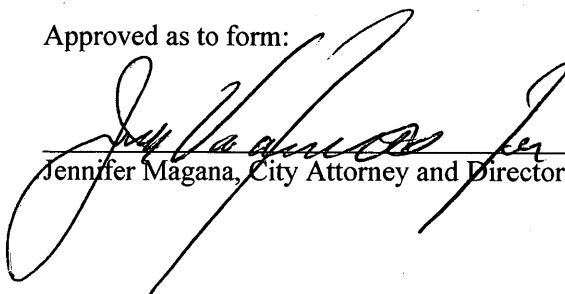
ATTEST:


Karen Sublett, City Clerk


Jeff Longwell, Mayor



Approved as to form:


Jennifer Magana, City Attorney and Director of Law



STAFF REPORT
(Revised 10-3-2017)
MAPC 10-19-2017
DAB II 9-11-2017 & 10-9-2017

CASE NUMBER: ZON2017-00034 and CUP2017-00039

APPLICANT/AGENT: Country Hollow Investments, LLC (Kevin Mullen) / MKEC (Brian Lindebak)

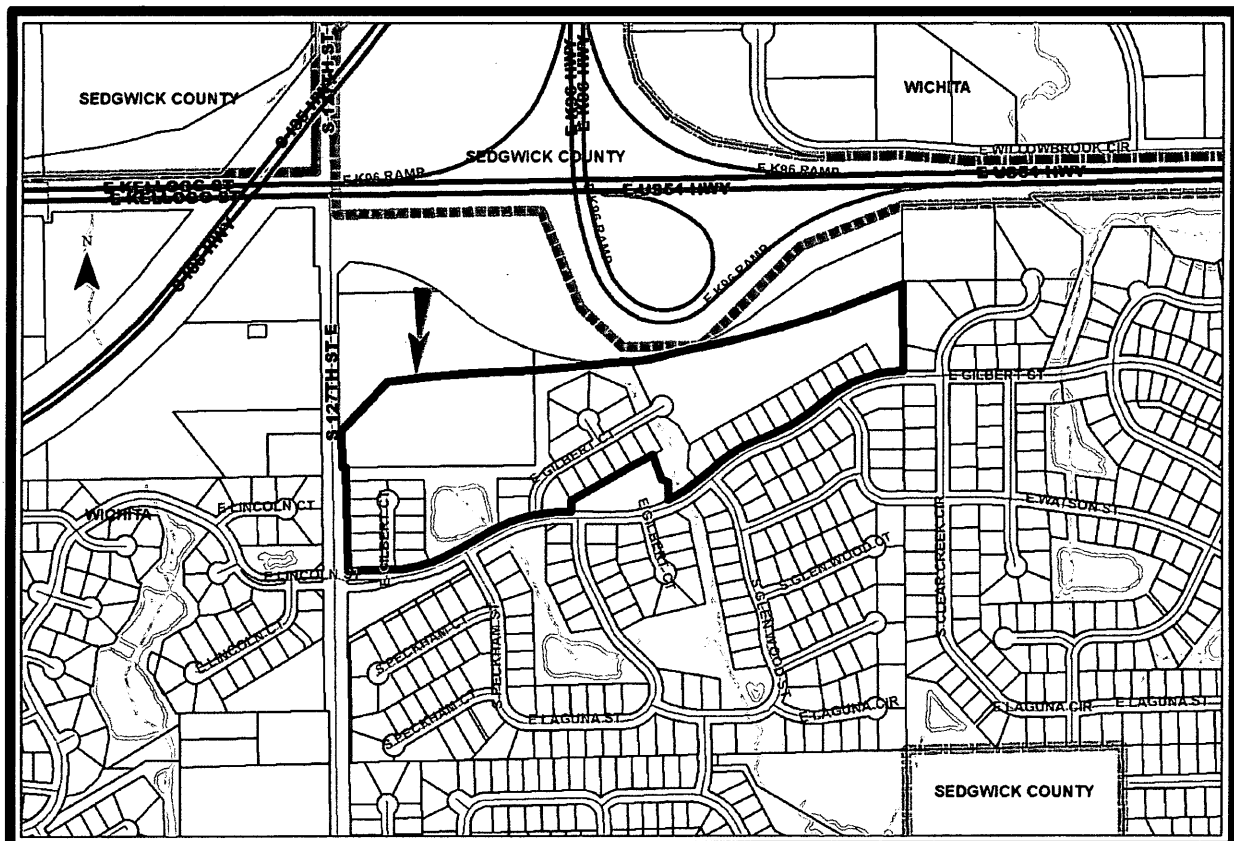
REQUEST: GC General Commercial subject to CUP DP-338

CURRENT ZONING: SF-5 Single-Family Residential

SITE SIZE: 35.88 acres

LOCATION: East of South 127th Street East, north of East Gilbert Street

PROPOSED USE: Uses permitted in the GC district except for specified prohibited uses



BACKGROUND: The application area is 35.88 platted undeveloped acres zoned SF-5 Single-Family Residential (SF-5) located south of U. S. Highway 54/400, east of South 127th Street East, north of East Gilbert Street and west of the Springdale Lakes Addition (Clear Creek Street). The subject property is currently part of the County Hollow Addition that was originally platted for urban scale single-family residential lots fronting East Gilbert Street. A significant portion of the northern tier of the Country Hollow Addition has been acquired for East Kellogg/U. S. Highway 54/400 improvements; leaving only the current application area developable. The applicant is requesting GC General Commercial (GC) zoning subject to the development standards contained in proposed Kellogg Crossing (formerly known as Country Hollow North) Community Unit Plan (CUP) DP-338.

The proposed CUP contains nine parcels and four reserves. Parcel size ranges from 1.65 acres to 8.88 acres. All parcels are proposed to be zoned GC, and are to permit all uses permitted by-right by the GC zoning district, except for a list of specifically prohibited uses (General Provision 3.A and B). The following uses are prohibited in Parcels 1, 2, 3, 4, 6, 7, 8 and 9: "single-family residential," "manufactured housing," "accessory apartment," "cemetery," "correctional placement residence, limited and general," "group residence, limited and general," "auditorium or stadium," "recycling collection station, public and private" "reverse vending machine," "recycling processing center," "utility, minor," "rodeo in the city," "nightclub in the city," "pawn shop," "recreational vehicle campground," "tattooing and body piercing facility," "sexually oriented business in the city," "vehicle storage yard," "asphalt or concrete plant, limited and general," "manufacturing, limited or general," "mining or quarrying," "oil or gas drilling," "rock crushing," "solid waste incinerator," and "welding or machine shop." In addition to the prohibited uses listed immediately above, the following uses are also prohibited in Parcels 4, 5, 6, 7, 8 and 9: "animal care, general," "kennel, boarding, breeding and training," "service station," "vehicle repair, limited and general" and "construction sales and service."

Building height for Parcels 1, 2, 3, 5 and 6 is up to 70 feet. Building height for Parcels 4, 7, 8 and 9 is up to 35 feet. Maximum building coverage is proposed to be 30 percent. Maximum gross floor area is 30 percent for all parcels except for Parcel 5 that permits 50 percent or 592,033 square feet of gross floor area.

If the proposed CUP were to be developed entirely with retail uses similar to a shopping center the site could generate up to 24,273 average daily trips. If the commercial portion of the CUP were developed 50 percent with shopping center uses and 50 percent office uses the site could generate up to 15,393 average daily trips.

A private wall easement is shown along the southern property line of a portion of Parcels 4-9 located on the north side of East Gilbert Street. No wall is proposed along the south line of Reserve D, an existing pond to which some homeowners indicated they wanted continued access. Unless modified by the CUP, a six to eight-foot tall masonry wall is required along the perimeter of a CUP. Building setbacks vary from 25 feet to 50 feet. Four reserves are proposed. Permitted uses in Reserves A through D are: landscaping, irrigation, monuments and other similar uses, drive access, drainage and screening wall.

Access to the application area is via a proposed 80-foot wide right-of-way, Orme Circle, that would contain a 72-foot wide cul-de-sac street that connects only to East 127th Street South. Currently there is complete access control to South 127th Street East. A 24-foot wide private drive easement is proposed to extend farther east from the cul-de-sac to provide access to Parcels 4 and 5. Parcel 4 has a proposed "emergency access only" entrance to East Gilbert Street, east of Gateway Street. Complete access control is proposed along East Gilbert Street where Gilbert Street abuts Parcels 7, 8, 9, 10 and Reserve D, (from South 127th Street to approximately where Sierra Hills Street, extended, would intersect the application area.)

South of the proposed entrance off of South 127th Street East the CUP proposes access control per the access management guidelines. North of the proposed entrance off of South 127th Street East, complete access control is proposed. The entire northern property line abuts Highway 54/400 right-of-way. Planning staff is advised that the purchase / condemnation right-of-way agreements contain complete access control clauses along the application's northern property line. See the attachment titled "interim & ultimate improvements" for a larger view of proposed highway improvement. Improvements shown in black are scheduled for completion 2016-2020. Improvements shown in red are currently unfunded. Previously they were scheduled for some time after 2020 although the east-bound road going east from South 127th Street may occur earlier than the rest of the proposed improvements shown in red.

The proposed CUP has the standard architectural, landscaping, lighting, drainage, cross-lot circulation, parking and signage language. All buildings within the CUP are to share uniform architectural character, color and similar predominate exterior building materials. Landscaping is to be per the landscape ordinance (one shade tree every 40 feet where there is a wall; one shade tree and five shrubs every 30 feet without a wall, unless modified by the CUP). Light pole height is limited to a maximum of 27 feet; 15 feet if located within 100 feet of residential zoning. (The *Unified Zoning Code* restricts light pole height to 15 feet when located within 200 feet of residential zoning. The applicant contends the lighting from Highway 54/400 will be more of an impact than that proposed by the CUP.) Rooftop mechanical equipment, trash receptacles, loading docks, outdoor storage and loading areas shall be reasonably screened from ground level view. Outdoor storage is prohibited on Parcel 5, otherwise code required screening is required for outdoor storage (outdoor storage, work areas, mechanical equipment, heating and air conditioning units and dumpsters located within 150 feet of a street require screening). Drainage will be addressed at the time of replatting. Cross-lot circulation agreements between parcels will be provided. Parking is to be per code unless specified otherwise within the CUP. Signage is to be per code unless specified otherwise. No flashing, moving, portable, banner, or pennant signs are permitted. No signs shall be placed within 100 feet of residential zoning. Sign area facing 127th Street and U.S. 54/400 is limited to .8 times the frontage. One off-site sign is to be permitted along the north line of the CUP. Building signs shall be limited to either 127th Street frontage and/or the north facades; except if building signage is within 18 feet of the ground and not visible from abutting single-family residential zoning. (Abut is defined by the *Unified Zoning Code* as "touching, adjoining or contiguous; as distinguished from lying near to or adjacent.") Pipeline easements, Westar easements and emergency access openings are also shown.

General Provision 11 states that no occupancy permits shall be issued for any development without services by municipal water and sewer.

The property will need to be replatted to accommodate the proposed lot layout, utility and road designs. The final plat may modify the ultimate CUP layout. Minor changes to the CUP may be made to the CUP without "administrative adjustment" when those modifications are the result of a platting requirement.

The GC district permits a wide range of residential (single-family through multi-family up to 75.1 dwelling units per acres), office, retail, commercial and a few industrial uses (including: convenience store, outdoor storage, outdoor vehicle and equipment sales, car wash and warehousing). In comparison to the requested zoning districts, the SF-5 zoning district permits single-family residences at a maximum density of 8.7 dwelling units per acre and a few public and civic uses, such as church, park or school, by right. GC zoning permits building height of 80 feet plus, based upon building setback. In contrast, the SF-5 district limits building height to 35 feet.

Existing single-family residential uses are located south of the application area (south of East Gilbert Street). There is a neighborhood swimming pool located on the north side of East Gilbert Street, about

one-quarter mile east of South 127th Street that is not included in the application area. Except for the previously noted neighborhood pool, all of the land located south of highway right-of-way and north of East Gilbert Street and east of 127th Street for one-half mile is under zone change consideration. East Gilbert Street dead-ends about one-quarter mile east of South 127th Street where the road intersects with a creek (east of Gilbert Court). The existing plat depicts East Gilbert Street crossing the creek and continuing eastward to connect with an existing segment of East Gilbert Street located in the Springdale Lakes Addition (located east of the application area); however, that connection does not exist today. There is approximately a quarter-mile gap between the existing segments of East Gilbert Street located between South 127th Street East and South 143rd Street East. Installation of a drainage structure is needed to complete the Gilbert Street connection between South 127 Street East and South 143rd Street East.

Land located to the north of the application area is unzoned U. S. Highway 54/400 right-of-way. Land to the east is also zoned SF-5, and is developed with single-family residences that are part of the Springdale Lakes Addition. The land located south of the application area across East Gilbert Street is platted as the Country Hollow Addition, and is zoned SF-5. Two-thirds of the land located south of East Gilbert Street is developed with single-family homes. About the eastern one-quarter of the land located south of East Gilbert Street (if it were extended east of the creek) is undeveloped, probably due to the expense of installing a drainage structure across the creek. Land to the west of the subject property, across South 127th Street East, is zoned SF-5, and is developed with single-family residences associated with the Woodland Estates Lake Addition. A platted reserve is located immediately south of East Gilbert Street that varies in width from 43 feet to 210 feet. There is also an approximately five to six-foot high berm located along the south side of East Gilbert Street.

Per the Unified Zoning Code (UZC) lighting standards for light fixtures located within 200 feet of residential zoning are limited to 15 feet (Article IV, Section IV-B.4). Compatibility setback standards apply to the side and rear lot lines of nonresidential uses that are adjacent to property that is zoned TF-3 Two-Family Residential (TF-3) or more restrictive. The minimum building compatibility setback is 15 feet plus one foot for each five feet of lot width of the application area over 50 feet up to 25 feet (Article IV, Section IV-D.5). No structure shall exceed 35 feet in height within 50 feet of the lot line of property zoned TF-3 or more restrictive. Structures located more than 50 feet from the lot line of property zoned TF-3 or more restrictive may increase height (if permitted by the base zoning district) at a ratio of one foot in height for each three feet of setback beyond 50 feet (Article IV, Section IV-D.5.a). Dumpsters and refuse receptacles shall be located a minimum of 20 feet from any property zoned TF-3 or more restrictive (Article IV, Section IV-D.5.a). The Landscape Ordinance requires: a landscaped street yard for multi-family uses located across the street from residential zoning; a landscape buffer along the side or rear lot lines abutting TF-3 or more restrictive zoning, and parking lot screening for multi-family uses located across the street from residential zoning.

CASE HISTORY: On August 4, 2004, at the applicant's request, zoning case ZON2002-00017 (SF-20 to GC) and Community Unit Plan DP-259 CUP2002-00009 application (creation of the Wiedemann Addition Community Unit Plan), was withdrawn. In 2005, case number SUB2005-00063, the Country Hollow Addition was recorded. The property was annexed on July 14, 2005 (Ordinance No. 46-618). Zone change 2015-00024, SF-5 Single-Family Residential to MF-18 Multi-Family Residential was withdrawn on September 1, 2015.

ADJACENT ZONING AND LAND USE:

North: SF-5; vacant, Highway 54/400
South: SF-5; single-family residential, neighborhood swimming pool, vacant
East: SF-5; single-family residential, single-family residential

West: SF-5, GC; single-family residential; GC zoned land owned by the Kansas Turnpike Authority

PUBLIC SERVICES: Highway 54/400, between East 127th Street and East 143rd Street carried in 2012 an average daily traffic volume of 25,700 to 27,118 vehicles. Where the property abuts Highway 54/400 there is complete access control. There is also complete access control to 127th Street where the application area abuts 127th Street. 127th Street is a two-lane paved arterial street with 80 to 110 feet of full-street right-of-way. Some years ago the segment of South 127th Street that provided a connection across east-bound Highway 54/400 to west-bound Highway 54/400 and to points located farther north was removed. Currently, South 127th Street connects to east-bound Highway 54/400 only and not to west-bound Highway 54/400. South 127th Street carried, in 2012, between 649 and 2,228 vehicles on an average day. East Gilbert Street is a two-lane paved local street with 58 feet of right-of-way. Sanitary sewer will have to be extended to serve the site. Public water is located along 127th Street and along East Gilbert Street. Storm drains are also located adjacent to the site.

CONFORMANCE TO PLANS/POLICIES: The 2035 Wichita Future Growth Concept map (MAPC approval November 19, 2015) indicates the site is appropriate for “residential employment mix,” and is located within Wichita’s 2035 urban growth area. The residential/employment mix encompasses areas of land that will likely be developed or redeveloped by 2035 with uses predominately of a mixed nature.

Community Investments Plan location guideline 1.a. states that development should occur where necessary supporting infrastructure and services exist or are planned for extension concurrently with development. Location guideline 1.c. states major commercial and employment centers should be located at intersections of arterial streets and along highways and commercial corridors. Location guideline 1.f. states primary outdoor sales uses should be located along highway corridors or in areas where the uses have already been established.

RECOMMENDATION: Based upon the information available at the time the staff report was prepared it is recommended that the request be approved subject to replatting, gaining access to South 127th Street East, and the following conditions:

1. The site shall be developed in substantial conformance with the development guidelines and general provisions of the approved CUP.
2. General Provision 10.D dealing with building signs needs to be modified to refer to Parcel 9, not Parcel 10.
3. Submission of four copies of the approved CUP within 60 days of final approval (if necessary) or the amendment shall be deemed null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: North of the subject property is Highway 54/400 which a divided four-lane nationally significant freeway/expressway. Significant improvements are proposed to Highway 54/400, which will ultimately provide more direct route to westbound Highway 54/400. Land located to the east, south and west is developed with single-family residences and is zoned SF-5. Northwest of the site is vacant GC zoned land that previously had a warehouse/office facility that is now owned by the Kansas Turnpike Authority. The location abuts a major access controlled intersection of Highway 54/400 and K-96. There is currently complete access control to South 127th Street East.
2. The suitability of the subject property for the uses to which it has been restricted: The application area is zoned SF-5 which primarily permits single-family residential uses and a few public and

civic uses, such as a church, school or public park, by right. While there are numerous instances of single-family homes abutting freeways or expressways, developers and realtors have advised staff that single-family lots abutting freeways or expressways can be difficult to market. Rezoning the site to GC would allow for a wider range of office, retail and commercial uses, which would make a site situated such as this one more marketable. At the request of nearby property owners the applicant has voluntarily eliminated most residential uses as well as a number of retail and commercial uses.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: With the proposed development standards - masonry wall screening, building height limit, landscaping, access control, etc.- approval of the proposed zone change and CUP should have minimal detrimental impact on nearby property. The application area is also removed from most existing single-family homes by East Gilbert Street or South 127th Street East right-of-way.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Additional commercial zoning generally is viewed as a gain to the public welfare in that it provides a wider range of choices, locations and price ranges to those seeking investment opportunities. In particular, approval of commercial zoning at this location will provide office, retail and commercial uses in an area that does not currently have neighborhood shopping. Denial would presumably represent a loss of economic opportunity to the applicant and/or land owner.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2035 Wichita Future Growth Concept map (MAPC approval November 19, 2015) indicates the site is appropriate for “residential employment mix,” and is located within Wichita’s 2035 urban growth area. The residential/employment mix encompasses areas of land that will likely be developed or redeveloped by 2035 with uses predominately of a mixed nature.

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6. Impact of the proposed development on community facilities: When the property is replatted guarantees for needed community facilities can be obtained.