Wichita-Sedgwick County Metropolitan Area Planning Department

February 24, 2023

Skyview at Block 49, LLC
Attn: Eric Gilbert
11100 S. Fremont Cir.
Mulvane, KS 67110

MKEC Engineering
Attn: Brian Lindebak
411 North Webb Rd.
Wichita, KS 67206

Carol L. Stewart
PO Box 221
Hillsdale, MI 49242

RE: **ZON2023-00002:** Zone change request in the County from RR Rural Residential District to GC General Commercial District with PO #405 to allow for general commercial land uses (4602 East 63rd Street South) (Derby Area of Influence)

Dear Applicant;

At its regular meeting on **April 5, 2023**, the Sedgwick County Commission considered the above captioned request. The action of the Commission was to **APPROVE** the zone change.

This is a reminder that the notification signs should now be removed from the property. If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,

Eryn Ebach
Associate Planner

Copies to: MABCD
Jim Howell, BoCC District V

Colleen Williams
3941 E. 63rd St. S.
Derby, KS 67037

John and Janel Fanning
3971 E. 63rd St. S.
Derby, KS 67037

Wichita-Sedgwick County Metropolitan Area Planning Department

February 24, 2023

Skyview at Block 49, LLC
Attn: Eric Gilbert
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RE: **ZON2023-00002:** Zone change request in the County from RR Rural Residential District to GC General Commercial District with PO #405 to allow for general commercial land uses (4602 East 63rd Street South) (Derby Area of Influence)

Dear Applicant;

At its regular meeting on **February 23, 2023**, the Wichita - Sedgwick County Metropolitan Area Planning Commission considered the above captioned request. The action of the MAPC was to **APPROVE** the zone change subject to the revisions of Protective Overlay #405 as recommend by the Derby Planning Commission.

Property owners opposed to the application may file with the County Clerk a signed, written protest of the MAPC's recommendation. (Unsigned e-mails are not considered to be legal protests.) **To be effective, the protest must be filed by 5:00 p.m. on March 9, 2023.** In order to be considered a "valid" petition, the signatures must reflect the correct and entire ownership of the property, the property must be at least partially located within 1000 feet of the property for which the application was filed, and must be submitted to the County Clerk by **March 9, 2023 at 5:00 p.m.**

This application is scheduled for consideration by the Sedgwick County Commission on **Wednesday, April 5, 2023, beginning at 9:00 a.m.** The County Commission meeting will be held in the Ruffin Auditorium, 100 N. Broadway, Lower Level, Wichita, Kansas.

This is a reminder that the notification signs should now be removed from the property. If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,

E. Ebach

Eryn Ebach
Associate Planner

Copies to: MABCD
Jim Howell, BoCC District V

(150004) Published in The Ark Valley News on April 20th 2023

RESOLUTION NO. 068-2023

A RESOLUTION CHANGING THE ZONING CLASSIFICATION FOR CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C AS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY KANSAS, DECEMBER 12, 1984, AND SUBSEQUENTLY AMENDED.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS

SECTION I. That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law on February 23, 2023, and under authority granted by Section V-C of the Wichita Sedgwick County Unified Zoning Code, the zoning classification or district of the lands legally described hereby are changed as follows:

Case No. ZON2023-00002

Zone change request from RR Rural Residential District to GC General Commercial District with Protective Overlay #405.

Legally described as:

That part of the Southeast Quarter of Section 26, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, lying South of the South line of right-of-way as established in Film 265, Page 1276.

Protective Overlay #405 shall hereby read as follows:

1. The subject property shall be limited to the following uses as permitted in the GC General Commercial zoning district:

    a. Agriculture; Single-Family, Duplex, Multi-Family, Accessory Apartment, Assisted Living, Group Home, Group Residence, Limited; Church or Place of Worship; Day Care, Limited and General; Nursing Facility; Animal Care, Limited; Automated Teller Machine; Bank or Financial Institution; bed and Breakfast Inn; Broadcast/Recording Studio; Construction Sales and Service; Farmer's Market in the County; Funeral Home; Hotel or Motel; Medical Service; Nurseries and Garden Centers; Office, General; Personal Care Services; Personal Improvement Service; Post Office Substation; Printing and Copying, Limited and General; Retail, General; Vehicle Repair Limited; Warehouse, Self-Service Storage; Manufacturing, Limited; Research Services; Storage, Outdoor as a Principal Use; Vehicle Storage Yard; Agricultural Research; Agricultural Sales and Service.

    b. The uses permitted by the P.O. are only those uses permitted by-right and not Conditional Use unless specifically identified.

    c. The Compatibility Standards as per Art. IV, Site Development Standards, Sec. C,

Compatibility Standards shall apply.

d. The portion of property located within the Accident Potential Zone as defined by the Derby Vision 2040 Comprehensive Plan and identified by the attached Exhibit A shall be subject to the additional restrictions of the Airport Overlay District A-O III-S of the Wichita-Sedgwick County Zoning Code.

2. The maximum height of all structures shall be limited to 35 feet or 45 feet if located at least 25 feet from all lot lines.

3. The maximum building coverage shall be limited to thirty-five percent and the maximum gross floor areas shall be limited to fifty percent.

4. The maximum dwelling units per acre shall be limited to eighteen.

5. A thirty-five foot building setback shall be provided from the north and south property lines and a twenty-five foot building setback shall be provided from the west property line if the abutting property is zoned MF-18 Multi-Family Residential or more restrictive.

6. Signs shall be permitted in accordance with the Sign Code of Sedgwick County, and amendments thereto. All parcels shall be permitted signage in conformance with the signs permitted in the LC Limited Commercial District. Additionally, the following conditions shall apply: Off-site, portable, and billboard signs are prohibited.

   a. No building signs are permitted to face residential land uses on the south or west.

   b. Flashing signs, rotating or moving signs, signs with moving lights, and signs which create an illusion of movement are not permitted; provided, however, electronic message signs are allowed. No electronic message signs are permitted along the south boundary line of the P.O.

   c. Freestanding signs along the south boundary line of the P.O. shall not exceed 10 feet in height and 40 square feet in area shall be limited to monument type and shall not be permitted to be internally illuminated.

7. Lighting shall be in accordance with the Wichita-Sedgwick County Unified Zoning Code, Section IV; and the amendments thereto, and as provided herein.

   a. All exterior pole lighting shall be shielded to direct light disbursement in a downward direction to prevent light trespass onto adjacent properties.

   b. The height of all light poles, including the pole base, is limited to 15 feet within 200 feet of residential zoning districts. This does not apply to building/building-mounted lights.

8. Screening shall be in accordance with the Wichita-Sedgwick County Unified Zoning Code, Section IV, Sec. B. unless otherwise noted.

9. Parking shall be provided in accordance with the Wichita-Sedgwick County Unified Zoning Code, Section IV.

10. Cross-lot circulation agreements shall be required at the time of platting to assure internal vehicular movement between parcels within the P.O.

11. Access controls shall be as shown on the Final Plat and revised upon the P.O.

12. An overall site circulation plan shall be submitted for review and approval by the Planning Department, in concurrence with the Zoning Administrator, Fire Chief/Marshal, and Traffic Engineer. The circulation plan shall assure smooth internal vehicular and pedestrian movements, and pedestrian connectivity, when appropriate, to the arterial street and within buildings on the P.O.

13. The Transfer of title of all or any portion of land included within the Protective Overlay (PO) (or any amendments thereto) does not constitute a termination of the PO or any portion thereof, but said PO shall run with the land and be binding upon present owners, their successors and assigns.

14. 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.

15. Any major changes within this Protective Overlay shall be submitted to the Planning Commission and the Governing Body for their consideration. Amendments, adjustments, or interpretations to this Protective Overlay shall be done in accordance with the Unified Zoning Code.

16. A certificate or Notice of P.O. is required to be recorded with the Sedgwick County Register of Deeds Office upon approval of the P.O.

SECTION II. That upon the taking effect of this Resolution, the notation of such zoning change shall be shown on the "Official Zoning District Map" on file in the office of the Planning Director of the Wichita-Sedgwick County Metropolitan Area Planning Department.

SECTION III. That this Resolution shall take effect and be in force from and after its adoption by the Governing Body and publication in the official county newspaper.

[remainder of page intentionally left blank]

Commissioners present and voting were:

PETER F. MEITZNER	aye
SARAH LOPEZ	aye
DAVID T. DENNIS	aye
RYAN K. BATY	aye
JAMES M. HOWELL	nay

Dated this 5 day of April, 2023.

BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

ATTEST:

KELLY B. ARNOLD, County Clerk

PETER F. MEITZNER, Chairman
Commissioner, First District

JAMES M. HOWELL, Chair Pro Tem
Commissioner, Fifth District

APPROVED AS TO FORM:

KIRK W. SPONSEL
Assistant County Counselor

SARAH LOPEZ
Commissioner, Second District

DAVID T. DENNIS
Commissioner, Third District

RYAN K. BATY
Commissioner, Fourth District

Public notice

(Published in The Ark Valley News April 20, 2023.)

RESOLUTION NO. 068-2023

A RESOLUTION CHANGING THE ZONING CLASSIFICATION FOR CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C AS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY KANSAS, DECEMBER 12, 1984, AND SUBSEQUENTLY AMENDED.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS

SECTION I. That after receiving a recommendation from the Wichita Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law on February 23, 2023, and under authority granted by Section V-C of the Wichita Sedgwick County Unified Zoning Code, the zoning classification or district of the lands legally described hereby are changed as follows:

Case No. ZON2023-00002

Zone change request from RR Rural Residential District to GC General Commercial District with Protective Overlay #405.

Legally described as:

That part of the Southeast Quarter of Section 26, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, lying South of the South line of right-of-way as established in Film 265, Page 1276.

Protective Overlay #405 shall hereby read as follows:

1. The subject property shall be limited to the following uses as permitted in the GC General Commercial zoning district:

a. Agriculture; Single-Family, Duplex; Multi-Family, Accessory Apartment, Assisted Living, Group Home, Group Residence, Limited; Church or Place of Worship; Day Care, Limited and General; Nursing Facility; Animal Care, Limited; Automated Teller Machine; Bank or Financial Institution; bed and Breakfast Inn; Broadcast/Recording Studio; Construction Sales and Service; Farmer's Market in the County; Funeral Home; Hotel or Motel; Medical Service; Nurseries and Garden Centers; Office, General; Personal Care Services; Personal Improvement Service; Post Office Substation; Printing and Copying, Limited and General; Retail, General; Vehicle Repair Limited; Warehouse, Self-Service Storage; Manufacturing, Limited; Research Services; Storage, Outdoor as a Principal Use; Vehicle Storage Yard; Agricultural Research; Agricultural Sales and Service.

b. The uses permitted by the P.O. are only those uses permitted by-right and not Conditional Use unless specifically identified.

c. The Compatibility Standards as per Art. IV, Site Development Standards, Sec. C, Compatibility Standards shall apply.

d. The portion of property located within the Accident Potential Zone as defined by the Derby Vision 2040 Comprehensive Plan and identified by the attached Exhibit A shall be subject to the additional restrictions of the Airport Overlay District A-O III-S of the Wichita-Sedgwick County Zoning Code.

2. The maximum height of all structures shall be limited to 35 feet or 45 feet if located at least 25 feet from all lot lines.

3. The maximum building coverage shall be limited to thirty-five percent and the maximum gross floor areas shall be limited to fifty percent.

4. The maximum dwelling units per acre shall be limited to eighteen.

5. A thirty-five foot building setback shall be provided from the north and south property lines and a twenty-five foot building setback shall be provided from the west property line if the abutting property is zoned MF-18 Multi-Family Residential or more restrictive.

6. Signs shall be permitted in accordance with the Sign Code of Sedgwick County, and amendments thereto. All parcels shall be permitted signage in conformance with the signs permitted in the LC Limited Commercial District. Additionally, the following conditions shall apply: Off-site, portable, and billboard signs are prohibited.

a. No building signs are permitted to face residential land uses on the south or west.

b. Flashing signs, rotating or moving signs, signs with moving lights, and signs which create an illusion of movement are not permitted; provided, however, electronic message signs are allowed. No electronic message signs are permitted along the south boundary line of the P.O.

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a. All exterior pole lighting shall be shielded to direct light disbursement in a downward direction to prevent light trespass onto adjacent properties.

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9. Parking shall be provided in accordance with the Wichita-Sedgwick County Unified Zoning Code, Section IV.

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12. An overall site circulation plan shall be submitted for review and approval by the Planning Department, in concurrence with the Zoning Administrator, Fire Chief/Marshal, and Traffic Engineer. The circulation plan shall assure smooth internal vehicular and pedestrian movements, and pedestrian connectivity, when appropriate, to the arterial street and within buildings on the P.O.

13. The Transfer of title of all or any portion of land included within the Protective Overlay (PO) (or any amendments thereto) does not constitute a termination of the PO or any portion thereof, but said PO shall run with the land and be binding upon present owners, their successors and assigns.

14. 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.

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16. A certificate or N
Sedgwick County Register o

SECTION II. That upon
of such zoning change shall
on file in the office of the Pla
Metropolitan Area Planning D

SECTION III. That this R
and after its adoption by the
county newspaper.

Commissioners present and voting

PETER F. MEITZNER
SARAH LOPEZ
DAVID T. DENNIS
RYAN K. BATY
JAMES M. HOWELL

Dated this 5 day of

ATTEST:

KELLY B. ARNOLD, County C

APPROVED AS TO FORM:

KIRK W. SPONSELLER
Assistant County Counselor



MKEC

Notary Public

My commission expires

Additional copies

Printer's fee

Lisa K Strunk
NOTARY PUBLIC
COMMISSION EXPIRES
4/24/24
State of Kansas

Affidavit of Publication

STATE OF KANSAS,
SEDGWICK COUNTY, ss.

Chris Strunk, being first duly sworn, deposes and says: That he is Publisher of The Ark Valley News, formerly The Valley Center Index, a weekly newspaper printed in the State of Kansas, and published in and of general circulation in Sedgwick County Kansas, with a general paid circulation on a yearly basis in Sedgwick County, Kansas, and that said newspaper is not a trade, religious or fraternal publication.

Said newspaper is a weekly published at least weekly 50 times a year; has been so published continuously and uninterruptedly in said county and state for a period of more than five years prior to the first publication of said notice; and has been admitted at the post office of Valley Center in said County as second class matter.

That the attached notice is a true copy thereof and was published in the regular and entire issue of said newspaper for 1 consecutive weeks, the first publication thereof being made as aforesaid on the 2nd day of February, 2023. with subsequent publications being made on the following dates:

_____, 2023 _____, 2023

_____, 2023 _____, 2023

_____, 2023 _____, 2023

Subscribed and sworn to before me this 2nd day of February, 2023.

Notary Public

My commission expires 4/24/24.

Additional copies $_____

Printer's fee $_____

NOTARY PUBLIC COMMISSION EXPIRES 4/24/24 State of Kansas

Public notice

(Published In The Ark Valley News Feb. 2, 2023.)

MAPC February 23, 2022 OFFICIAL HEARING NOTICE

NOTICE IS HEREBY GIVEN that on **Thursday, February 23, 2023, no earlier than 1:30 p.m.** the Wichita Sedgwick County Metropolitan Area Planning Commission/Board Zoning Appeals will consider the following applications. The meeting will be held in the City Council Chambers at City Hall, 455 N. Main Street, Wichita, KS 67202. Public participation may also occur through virtual methods (specified at the end of this notice). **If you have any questions regarding the meeting or items on this notice, please call the Wichita Sedgwick County Metropolitan Area Planning Department at (316) 268 4421.**

BZA2023-00003: Variance request in the County to allow no maximum square footage limit for a building wall sign; generally located on the east side of South Oliver Road, within one-quarter mile south of East 31st Street South (3800 South Oliver).

CON2023-00002: Conditional Use request in the County to amend CON2021-00056 to allow an extension of current operations of Midwest Dog Center for 1 additional year, generally located on the south side of West 29th Street South, within one-half mile west of North 215th Street West (22215 West 29th Street North).

ZON2023-00002: Zone change request in the County from RR Rural Residential District to GC General Commercial District with PO #405 to allow for general commercial land uses (4602 East 63rd Street South) (Derby Area of Influence).

Complete legal descriptions are available for public inspection at the Metropolitan Area Planning Department, 271 W. Third St., 2nd Floor. As provided in Section V of the Wichita Sedgwick County Unified Zoning Code, the same will then and there be discussed and considered by the said MAPC, and all persons interested in said matters will be heard at this time concerning their views and wishes in the premises, and any protest against any of the provisions of the proposed changes to the zoning regulations will be considered by the MAPC as by law provided.

Options to participate (see below):

1) Participate virtually
2) Attend in-person in the City Council Chambers
3) Submit comments ahead of time

Participate Virtually

Topic: Wichita-Sedgwick County Metropolitan Planning Commission
Time: 1:30 PM
Join Zoom Meeting
https://us06web.zoom.us/j/4089669677?pwd=a0k3bW0ySlBNbFJQTDFyV0xPVDBXUT09

Meeting ID: 408 986 6967
Passcode: 094136
One tap mobile
+16699006833,,4089669677#,,,,*094136# US (San Jose)
+17193594580,,4089669677#,,,,*094136# US

Meeting ID: 408 986 6967
Passcode: 094136
Find your local number: https://us06web.zoom.us/u/kc65codIb1

Attend In-Person

You may also participate in the hearing in-person in the City Council Chambers at City Hall, 455 N. Main Street, Wichita, Kansas 67202. The in-person option is primarily intended for those without other technology options, and who have not previously submitted recorded audio or video comments. If you have any written or visual materials you wish to present, please contact Planning Department Graphics staff (316-268 4464) by 5pm, 3 days prior to the meeting.

Submit Comments Ahead of Time

You can submit comments regarding items on the Planning Commission agenda to the Wichita-Sedgwick County Metropolitan Area Planning Department (Planning Department). Comments must be received by the Planning Department no later than 5pm 3 days prior to the meeting. Please be sure to provide ample time for delivery. The comments can be submitted in the following formats: email; letter; video; and audio message (mp3, etc.). The comment should indicate which item they pertain to and be less than three (3) minutes in duration. The comments should be submitted to Planning Department staff using the contact information below. The comments received ahead of the submission deadline will be shared with the MAPC, prior to or during the meeting.

Email Planning@wichita.gov
Mailing Address Wichita-Sedgwick County Metropolitan Area Planning Department
Attn: **Scott Wadle**
271 W. 3rd Street – Suite 201
Wichita, KS 67202
Phone 316.268.4421
Fax 316.858.7764

WITNESS MY HAND on February 2, 2023

Scott Wadle, Secretary
Wichita Sedgwick County Metropolitan Area Planning Commission

AGENDA ITEM NO. _____

WICHITA—SEDGWICK COUNTY
W-SC
METROPOLITAN AREA PLANNING COMMISSION

STAFF REPORT
MAPC: February 23, 2023
Derby Planning Commission: February 16, 2023

CASE NUMBER: ZON2023-00002 (County)

APPLICANT/AGENT: Carol Stewart (Applicant)/Skyview at Block 49, LLC (Contract Purchaser)/ MKEC Engineering (Agent)

REQUEST: GC General Commercial District with PO #405

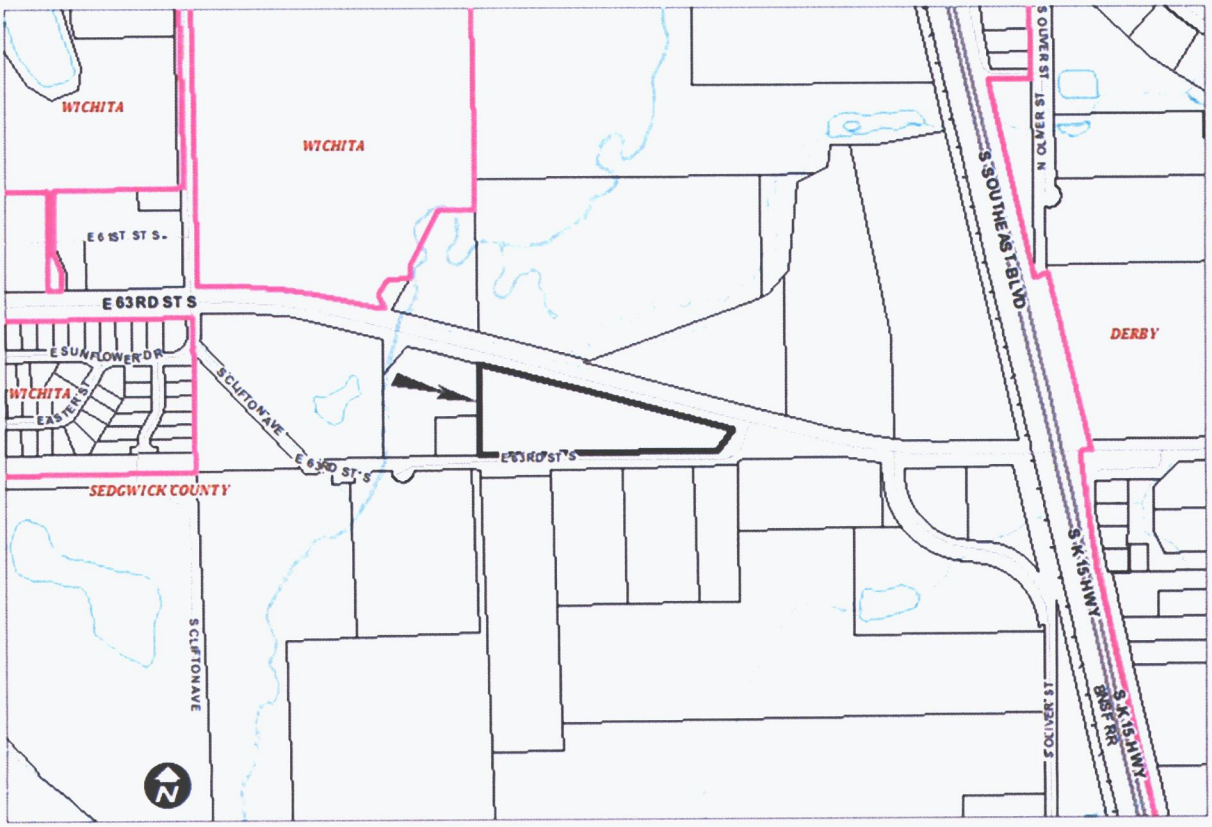
CURRENT ZONING: RR Rural Residential District

SITE SIZE: 7.1 acres

LOCATION: Generally located on the south side of East 63rd Street South and approximately one quarter mile west of South Southeast Boulevard (4602 East 63rd Street South); In the Derby Area of Influence.

PROPOSED USE: General Commercial Uses, subject to Protective Overlay #405

RECOMMENDATION: Approve subject to Protective Overlay #405



BACKGROUND: The applicant is requesting the rezoning of a 7.1-acre property from RR Rural Residential District to GC General Commercial District with Protective Overlay #405, generally located on the south side of East 63rd Street South and approximately one quarter mile west of K-15 (South Southeast Boulevard) (4602 East 63rd Street South). The undeveloped, triangular-shaped property is located in unincorporated Sedgwick County, within the City of Derby's Urban Area of Influence

North of the subject site are two undeveloped properties zoned RR Rural Residential District and GC General Commercial District, respectively. Northeast of the subject site is property zoned GC General Commercial District, and developed with a Warehouse Self-Storage facility and a Vehicle Storage Yard. Properties to the south, southeast, and west of the subject site are zoned RR Rural Residential District and are developed with large-lot single-family homes.

As proposed, PO #405 would allow most residential uses, a very limited number of public and civic uses, and a variety of commercial and industrial uses as permitted by-right or Conditional Use in the GC General Commercial District (see attachment 1, Applicant Proposed PO #405 Language).

The applicant's proposed uses exclude a number of the higher-intensity commercial and industrial uses permitted in the GC General Commercial District, except for Vehicle and Equipment Sales, Outdoor; Vehicle Repair, General; Warehouse, Self-Storage; and Carwash, which are included. Warehouse, Self-Storage uses exist northeast of the site, and more restrictive development standards and site design requirements are included in the Protective Overlay language to mitigate potential negative impacts of this use on nearby properties. However, due to the site's proximity to residential zoning and uses, staff is recommending Vehicle and Equipment Sales, Outdoor; Vehicle Repair, General; and Carwash be excluded from the uses permitted by PO #405.

The following table compares the development standards of the GC General Commercial District with those proposed by the applicant for Protective Overlay #405:

Development Standards		
	GC General Commercial	Protective Overlay #405
Maximum Building Height	80-feet, plus two additional feet for each foot of setback beyond the minimum required.	35-feet or 45-feet if located at least 25-feet from all lot lines.
Maximum Dwelling Units per Acre	75.1 Dwelling Units per acre	18 Dwelling Units per acre.
Minimum Front Setback	20-feet	35-feet from north property line
Minimum Rear Setback	Zero-feet	35-feet from south property line
Side Building Setback	Zero-feet	Zero, or 25-feet from the west property line, if abutting property zoned MF-18 or more restrictive

Protective Overlay #405 generally allows signs as permitted by the Sedgwick County Sign Code for commercial and industrial districts with specific restrictions on portable signs, billboards, and off-site signs, or those which flash, move, or create the illusion of movement, which are prohibited. Additionally, only static, non-illuminated monument signs with a limited height and area will be permitted along the south boundary of the property, where the site abuts existing residences.

Section IV-B.2 of the Unified Zoning Code (UZC) requires screening of commercial properties when abutting or across a street from residential zoning districts. In this case, the applicant will be required to install solid screening along its north (where adjacent to RR Rural Residential District property), south, east, and west sides. Parking for all uses on the property shall be provided in accordance with Section IV-A of the UZC.

CASE HISTORY: The property is currently unplatted and will need to be platted prior to the issuance of non-single-family dwelling building permits. There are no zoning cases associated with this property. The subject site is located within the City of Derby's extraterritorial subdivision jurisdiction and would be reviewed and approved by the City of Derby.

ADJACENT ZONING AND LAND USE:

NORTH:	RR and GC	Undeveloped and Warehouse Self-Storage/Vehicle Storage Yard
SOUTH:	RR	Single-family residences
EAST:	RR	Single-family residence
WEST:	RR	Single-family residence

PUBLIC SERVICES: North of the subject site, East 63rd Street South is a paved, four-lane arterial street with no sidewalks. South of the subject site, East 63rd Street South is an unpaved local street. Access to the site, and if needed for the proposed uses, provision of water and sewer services, will be determined at the time of platting.

CONFORMANCE TO PLANS/POLICIES: The requested Zone Change is in conformance with *The Community Investments Plan*. The *Community Investments Plan* (the Wichita-Sedgwick County Comprehensive Plan) includes the 2035 Wichita Future Growth Concept Map. The Map identifies the area in which the site is located as the "Small City Urban Growth Area" for the City of Derby. "Generally located adjacent to existing municipal boundaries, these areas indicate the likely direction and magnitude of growth these communities can expect to experience out to the year 2035. Growth direction and amount is based upon municipal political considerations, anticipated population growth, efficient patterns of growth, current infrastructure limitations, cost effective delivery of future municipal services, and environmental factors."

The *Community Investments Plan* provides Locational Guidelines to serve as a framework for land use decisions in the *Plan area*. The development pattern element of these guidelines recommends practices which support the expansion of existing uses to adjacent areas and establish commercial and employment centers at arterial intersections and along highways or commercial corridors. The approval of this request would permit the expansion of the GC General Commercial District zoning and uses located at the intersection of East 63rd Street South and South Southeast Boulevard, which is consistent with the development pattern recommended by the *Plan.*

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**, subject to Protective Overlay #405 (red text denotes staff recommend changes):

1. The subject property shall be limited to the following uses as permitted in the GC General Commercial zoning district:
    a. Agriculture; Single-Family, Duplex, Multi-Family, Accessory Apartment, Assisted Living, Group Home, Group Residence, Limited; Church or Place of Worship; Day Care, Limited and General; Nursing Facility; Animal Care, Limited; Automated Teller Machine; Bank or Financial Institution; bed and Breakfast Inn; Broadcast/Recording Studio; ~~Car Wash;~~ Construction Sales and Service; Farmer's Market in the County; Funeral Home; Hotel or Motel; Medical Service; Nurseries and Garden Centers; Office, General; Personal Care Services; Personal Improvement Service; Post Office Substation; Printing and Copying, Limited and General; Retail, General; ~~Vehicle and Equipment Sales, Outdoor~~; Vehicle Repair Limited ~~and General~~; Warehouse, Self-Service Storage; Manufacturing, Limited; Research Services; Storage, Outdoor as a Principal Use; Vehicle Storage Yard; Agricultural Research; Agricultural Sales and Service.
    b. The uses permitted by the P.O. are only those uses permitted by-right and not Conditional Use unless specifically identified.
    c. The Compatibility Standards as per Art. IV, Site Development Standards, Sec. C, Compatibility Standards shall apply.
2. The maximum height of all structures shall be limited to 35 feet or 45 feet if located at least 25 feet from all lot lines.

3. The maximum building coverage shall be limited to thirty-five percent and the maximum gross floor areas shall be limited to fifty percent.
4. The maximum dwelling units per acre shall be limited to eighteen.
5. A thirty-five foot building setback shall be provided from the north and south property lines and a twenty-five foot building setback shall be provided from the west property line if the abutting property is zoned MF-18 Multi-Family Residential or more restrictive.
6. Signs shall be permitted in accordance with the Sign Code of Sedgwick County, and amendments thereto. All parcels shall be permitted signage in conformance with the signs permitted in the LC Limited Commercial District. Additionally, the following conditions shall apply:
    a. Off-site, portable, and billboard signs are prohibited.
    b. No building signs are permitted to face residential land uses on the south or west.
    c. Flashing signs, rotating or moving signs, signs with moving lights, and signs which create an illusion of movement are not permitted; provided, however, electronic message signs are allowed. No electronic message signs are permitted along the south boundary line of the P.O.
    d. Freestanding signs along the south boundary line of the P.O. shall not exceed 10 feet in height and 40 square feet in area shall be limited to monument type and shall not be permitted to be internally illuminated.
7. Lighting shall be in accordance with the Wichita-Sedgwick County Unified Zoning Code, Section IV; and the amendments thereto, and as provided herein.
    a. All exterior pole lighting shall be shielded to direct light disbursement in a downward direction to prevent light trespass onto adjacent properties.
    b. The height of all light poles, including the pole base, is limited to 15 feet within 200 feet of residential zoning districts. This does not apply to building/building-mounted lights.
8. Screening shall be in accordance with the Wichita-Sedgwick County Unified Zoning Code, Section IV, Sec. B. unless otherwise noted.
9. Parking shall be provided in accordance with the Wichita-Sedgwick County Unified Zoning Code, Section IV.
10. Cross-lot circulation agreements shall be required at the time of platting to assure internal vehicular movement between parcels within the P.O.
11. Access controls shall be as shown on the Final Plat and revised upon the P.O.
12. An overall site circulation plan shall be submitted for review and approval by the Planning Department, in concurrence with the Zoning Administrator, Fire Chief/Marshal, and Traffic Engineer. The circulation plan shall assure smooth internal vehicular and pedestrian movements, and pedestrian connectivity, when appropriate, to the arterial street and within buildings on the P.O.
13. The Transfer of title of all or any portion of land included within the Protective Overlay (PO) (or any amendments thereto) does not constitute a termination of the PO or any portion thereof, but said PO shall run with the land and be binding upon present owners, their successors and assigns.
14. 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.
15. Any major changes within this Protective Overlay shall be submitted to the Planning Commission and the Governing Body for their consideration. Amendments, adjustments, or interpretations to this Protective Overlay shall be done in accordance with the Unified Zoning Code.
16. A certificate or Notice of P.O. is required to be recorded with the Sedgwick County Register of Deeds Office upon approval of the P.O.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** North of the subject site are two undeveloped properties zoned RR Rural Residential District and GC General Commercial District, respectively. Northeast of the subject site is property zone GC General Commercial District, and developed with a Warehouse Self-Storage facility and a Vehicle Storage Yard. Properties to the south, southeast, and west

of the subject site are zoned RR Rural Residential District and are developed with large-lot single-family homes.

2. **The suitability of the subject property for the uses to which it has been restricted:** The property is presently zoned RR Rural Residential District, which serves a limited number of residential, public and civic, and commercial uses, including single-family residences. The site is currently undeveloped.

3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The property will bring commercial development to an undeveloped lot. The applicable screening standards in the Unified Zoning Code are designed to help mitigate negative impacts of high intensity uses (commercial development) abutting less intensive uses (RR Rural Residential District zoning). Additionally, the staff recommended provisions of the Protective Overlay prohibit more intensive uses on the property.

4. **Relative gain to public health, safety, and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Approval would permit new commercial development in an area that is appropriate for such development. Denial would 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 requested zoning would continue to allow the property to be in conformance with the *Community Investments Plan*, as discussed in the staff report.

6. **Impact of the proposed development on community facilities:** The Planning Department does not anticipate the requested zone change will have a significant impact on community facilities.

Staff Report Attachments:

1. Applicant's Proposed Protective Overlay Language
2. Site Plan
3. Aerial Map
4. Zoning Map
5. Land Use Map
6. Applicant's Exhibit 1
7. Applicant's Exhibit 2
8. Photos

Protective Overlay No. 405
Case Number: ZON2023-00002

Legal Description:
That part of the Southeast Quarter of Section 26, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, lying South of the South line of the right-of-way as established in Film 265, Page 1276.

Development Guidelines
General Provisions

1. **Area:** This P.O. contains 7.21 acres or 314,029 square feet, more or less.

2. **Parcel Description and Property Development Standards:**
   Parcel 1
   Gross Area = 7.21 Ac. or 314,029 sq. ft.
   Maximum Height = As per "SF-5" Single Family 5 Zoning District; 35 feet or 45 feet if located at least 25 feet from all Lot Lines.
   Maximum Building Coverage = 35% or 109,910 sq. ft.
   Max. Gross Floor Area = 50% or 157,015 sq. ft.
   Maximum Dwelling Units per Acre = 18 (D.U.A.)
   Setbacks: 35 feet along the north and south lines of Parcel 1; 25 feet setback along the west boundary, if the adjoining property is zoned MF-18 or a more restrictive zoning district.
3. **Land Uses:** The following uses are permitted for Parcel 1:
   a. The following GC General Commercial Zoning District uses permitted: Agriculture; Single-Family, Duplex, Multi-Family, Accessory Apartment, Assisted Living, Group Home, Group Residence, Limited; Church or Place of Worship; Day Care, Limited and General; Nursing Facility; Animal Care, Limited; Automated Teller Machine; Bank or Financial Institution; bed and Breakfast Inn; Broadcast/Recording Studio; Car Wash; Construction Sales and Service; Farmer's Market in the County; Funeral Home; Hotel or Motel; Medical Service; Nurseries and Garden Centers; Office, General; Personal Care Services; Personal Improvement Service; Post Office Substation; Printing and Copying, Limited and General; Retail, General; Vehicle and Equipment Sales, Outdoor; Vehicle Repair Limited and General; Warehouse, Self-Service Storage; Manufacturing, Limited; Research Services; Storage, Outdoor as a Principal Use; Vehicle Storage Yard; Agricultural Research; Agricultural Sales and Service.
   b. The uses permitted by the P.O. are only those uses permitted by right and not by conditional use unless specifically identified.
   c. Compatibility Standards apply as per Art. IV, Site Development Standards, Sec. C, Compatibility Standards.
4. **Signs:** Signs are permitted under the Sign Code of the Sedgwick County, and amendments thereto. All parcels shall be permitted signage in conformance with signs permitted in the Limited Commercial Zoning District. Additionally, the following conditions apply:
   a. Portable, billboards and off-site signs are prohibited.
   b. No building signs are permitted to face residential land uses on the south or west.
   c. Flashing signs, rotating or moving signs, signs with moving lights, and signs which create an illusion of movement are not permitted; provided, however, electronic message signs are allowed. No electronic message signs are permitted along the south boundary line of the P.O.
   d. Freestanding signs along the south boundary line of the P.O. shall not exceed 10 feet in height and 40 square feet in area shall be limited to monument type and shall not be permitted to be internally illuminated.
5. **Lighting:**
   a. Lighting shall be in accordance with the Wichita-Sedgwick County Unified Zoning Code, Section IV; and the amendments thereto, and as provided herein.

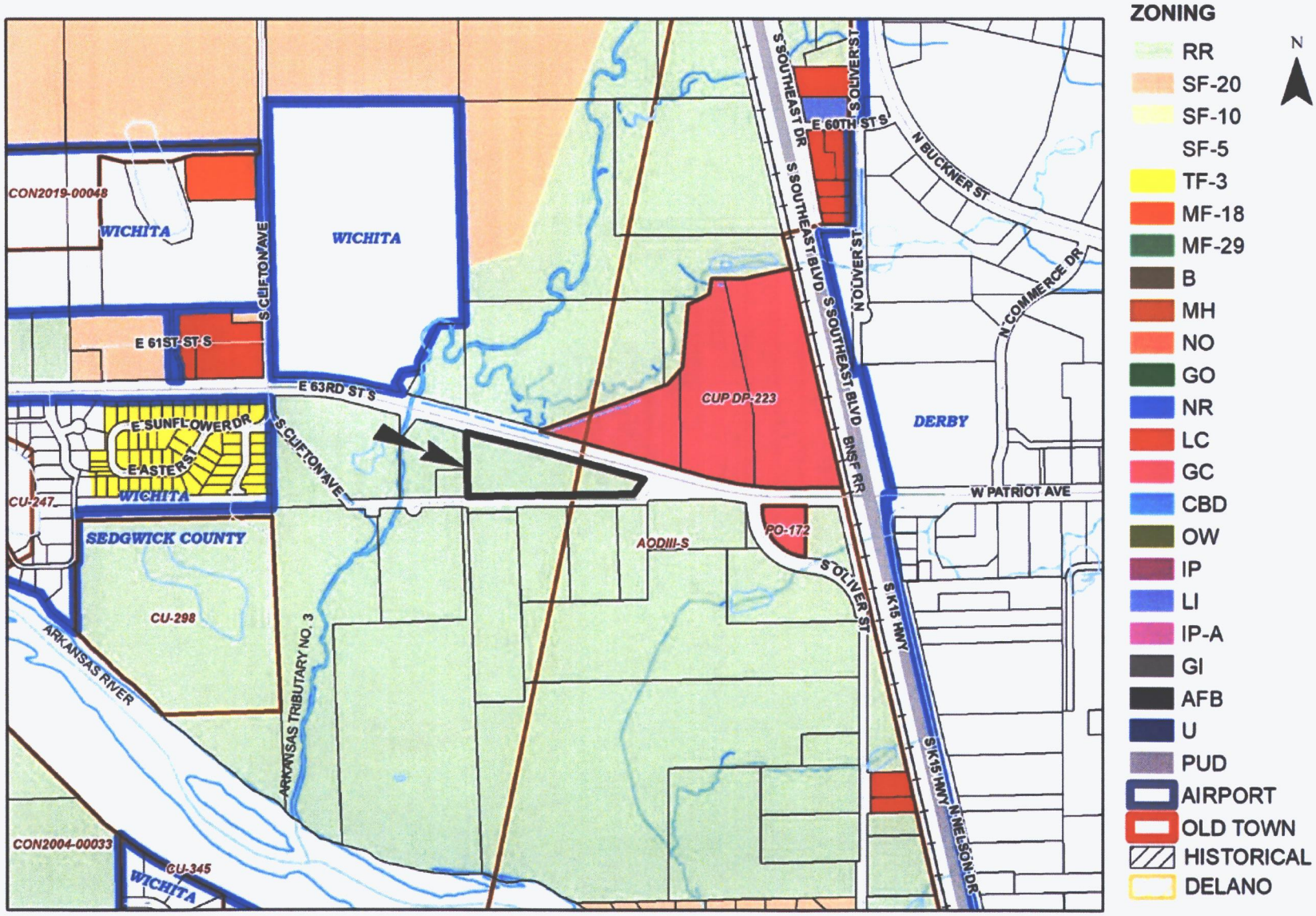
b. All exterior pole lighting shall be shielded to direct light disbursement in a downward direction to prevent light trespass onto adjacent properties.
c. The height of all light poles, including the pole base, is limited to 15 feet within 200 feet of residential zoning districts. This does not apply to building/building-mounted lights.

6. **Screening:** Unless otherwise noted Screening shall be in accordance with the Wichita-Sedgwick County Unified Zoning Code, Section IV, Sec. B, Screening and Lighting.
7. **Parking:** All Parcels, shall be in accordance with the Wichita-Sedgwick County Unified Zoning Code, Section IV-A unless otherwise specified.
8. **Transportation and Parcel Access:**
   a. Cross-lot circulation agreements shall be required at the time of platting to assure internal vehicular movement between parcels within the P.O.
   b. Access controls shall be as shown on the Final Plat and revised upon the P.O.
   c. An overall site circulation plan shall be submitted for review and approval by the Planning Department, in concurrence with the Zoning Administrator, Fire Chief/Marshal, and Traffic Engineer. The circulation plan shall assure smooth internal vehicular and pedestrian movements, and pedestrian connectivity, when appropriate, to the arterial street and within buildings on the P.O.
9. **Title**: The transfer of the title on all or any portion of the land included in the Protective Overlay does not constitute a termination of the plan or any portion thereof; but said plan shall run with the land and be binding upon the present owners, their successors and assigns. However, the Director of Planning, with the concurrence of the Zoning Administrator, may approve minor adjustments to the conditions in this overlay, consistent with the approved development plan, without filing a formal Protective Overlay amendment.
10. 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.
11. Any major changes within this Protective Overlay shall be submitted to the Planning Commission and the Governing Body for their consideration. Amendments, adjustments, or interpretations of the P.O. shall be done in accordance with the Unified Zoning Code.
12. A certificate or Notice of P.O. is required to be recorded with the Sedgwick County Register of Deeds Office upon approval of the P.O.

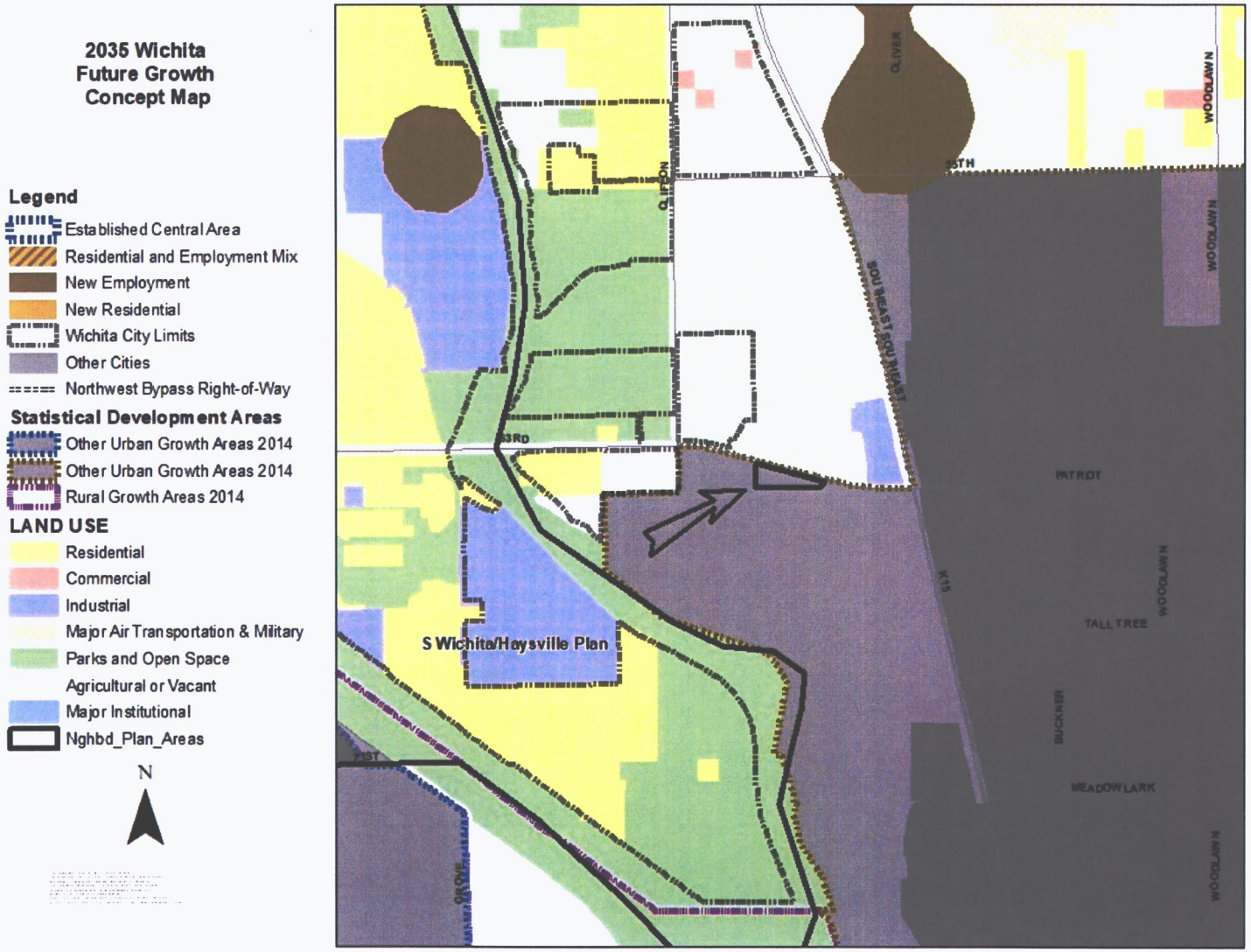
Attachment #2, Aerial Map



Attachment #3, Zoning Map

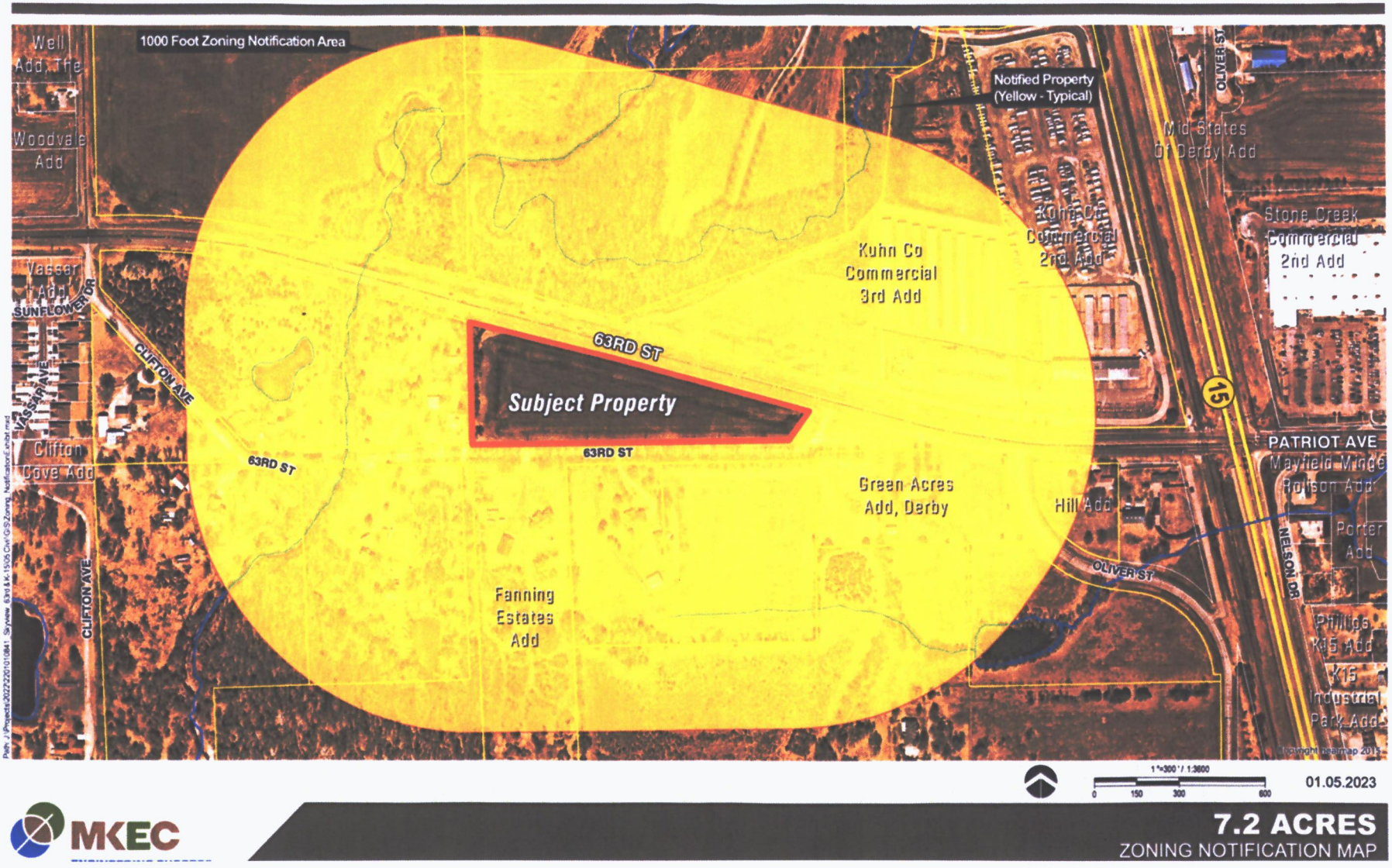


Attachment #4, Land Use Map



Attachment #5, Applicant's Exhibit (1)




1000 Foot Zoning Notification Area
Notified Property
(Yellow - Typical)
Well Add, The
Woodvale Add
Vasser Add
SUNFLOWER DR
VASSAR AVE
CLIFTON AVE
Clifton Cove Add
63RD ST
Subject Property
63RD ST
63RD ST
Kuhn Co Commercial 3rd Add
Kuhn Co Commercial 2nd Add
Green Acres Add, Derby
Hill Add
Fanning Estates Add
OLIVER ST
OLIVER ST
Mid States of Derby Add
Stone Creek Commercial 2nd Add
15
PATRIOT AVE
Mayfield Manor
Robison Add
NELSON DR
Porter Add
Phillips K15 Add
K15 Industrial Park Add
1"=300' / 1:3600
0 150 300 600
01.05.2023
MKEC
7.2 ACRES
ZONING NOTIFICATION MAP

Attachment #7, Site Photos



The subject site (facing north).



Northeast of the subject site.



Tree row south of the subject site (facing east).



Residence south of the subject site.



Residence south of the subject site.



East of the subject site.



Residence west of the subject site.