SECTION III. That this Resolution shall take effect and be in force from and after its adoption and publication.

Commissioners present and voting were:

BETSY GWIN	aye
TIM R. NORTON	aye
THOMAS G. WINTERS	aye
CAROLYN McGINN	aye
BEN SCIORTINO	aye

DATED this 23rd day of January, 2002.

BOARD OF COUNTY COMMISSIONERS OF
SEDGWICK COUNTY, KANSAS

BEN SCIORTINO, Chair
Fifth District

CLERK OF SEDGWICK COUNTY
SEDGWICK COUNTY
KANSAS
KANSAS

ATTEST:

DON BRACE
County Clerk

APPROVED AS TO FORM ONLY:

ROBERT W. PARNACOTT
Assistant County Counselor

(150004)Published in The Wichita Eagle on February 5, 2002.

RESOLUTION NO. 8-02

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 RESOLUTION NO. 84-01.

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, 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.ZON2001-00068

Zone change request from "SF-20" Single-Family Residential to "LI" Limited Industrial, on property described as:

That part of the SE ¼ of Section 26, Township 26, Range 1 West lying south of K-96 Highway, except the west 660 feet thereof and except that part planted as Lot 1, BFI Addition, Sedgwick County, Kansas and except the south 600 feet of the east 600 feet and except that part taken for road. Generally located on the northwest corner of 37th Street North and West Street.

Zone change request from "LC" Limited Commercial to "LI" Limited Industrial, on property described as:

The south 600 feet of the east 600 feet of the SE ¼ of Section 26, Township 26, Range 1 West, except that part taken for road. Generally located on the northwest corner of 37th Street North and West Street.

SECTION II. That upon the taking effect of this Resolution, the notation of such zone change shall be entered in the official zoning atlas on file in the Office of the County Zoning Administrator and in the Office of the Wichita-Sedgwick County Metropolitan Area Planning Department.

B. Newly permitted C&D facilities shall maintain a minimum 150-foot buffer from the edge of the C&D landfill's property line. (The current plan does not comply with entirely comply these design requirements along the east and south sides where the setback ranges between 135 and 30 feet. The site plan will need to be revised in the event the County Commission does not grant a reduction in the size of buffer required.)
C. Surface water drainage and control systems shall divert surface water away from areas where waste is present or from operational areas.
D. Discharge of pollutants is prohibited.
E. C&D facilities shall be reasonably screened from adjacent roads, streets, and commercial or residential properties except at points of ingress and egress, to a minimum height of 8 feet by the use of berms, walls, fences or plantings. (Landscaping is shown along the east and south line of the project, but not along K-96. Unless a waiver is obtained, or the perimeter fill area is to act as the required screen, the site plan will need to be revised.)
F. Landscaping shall be maintained in proper order.
G. Facility property and property within one-half mile from the facility shall be kept reasonably free of debris, litter or vectors resulting from the C&D facility.
H. Access roads to the facility shall be all-weather and negotiable at all times. Load limits on bridges and access roads shall be sufficient to support traffic generated by the facility.

Location restrictions include:

A. C&D facilities shall not be located within the 100-year floodplain unless protected by flood control levees.
B. C&D facilities will not cause significant degradation of wetlands. (Applicant states they have a letter from the Corps of Engineers stating that this is not a wetland area.)
C. C&D facilities will not result in the destruction of critical habitat of endangered or threatened species nor contribute to the taking of same.
D. The vertical separation between the lowest point of the lowest cell and the predicted maximum water table elevation shall be sufficient to maintain a five foot vertical distance between deposited material and the water table elevation.
E. No permit for a C&D facility shall be issued on or after the effective date of this resolution if such area is located within 1 mile of an intake point for any public water supply system. (Staff is unaware of any public wells within a mile of this location.) The owner may petition the County Commissioners for an exception based upon proof of protection of the public water supply.

Given this site's proximity to K-96 Highway and the massive landform that Brooks landfill already creates, it is critical to evaluate this request with respect to the landform this project will ultimately create – a 70 foot high mound – adjacent to Brooks and K-96 Highway. K-96 is a true "gateway" to and from northwest Wichita. The final grades on the site should be "less engineered" looking and more sculptural in appearance. There should also be tree plantings along the base of the fill area with an appropriate setback.

Analysis: The MAPC heard this case on December 20, 2001; their recommendation was to approve both request. The Conditional Use request; subject to 11 conditions. These conditions: Limit dumping to only C & D material; require the application to obtain all required permits prior to commencing operation; Establishment of hours of operation; Delivery routing via West Street; Fencing; Time limit to correct violations; Approval of a drainage plan; Maximum height of 70 feet, berming and landscaping and dedication of right-of way.

Two people spoke at MAPC: One person expressed concern regarding drainage and the potential for increased flooding if this area is filled. The other person was opposed to the uses as he thought housing was a better land use choice.

AGENDA ITEM REQUEST

Proposed Agenda Item: **ZON2001-00068, CON2001-00063 Sedgwick County Zone Change from "SF-20" Single-Family Residential and "LC" Limited Commercial to "LI" Limited Industrial. Associated with a Conditional Use to develop a construction and demolition waste landfill.**

Presented By: **Marvin Krout, MAPD Director**

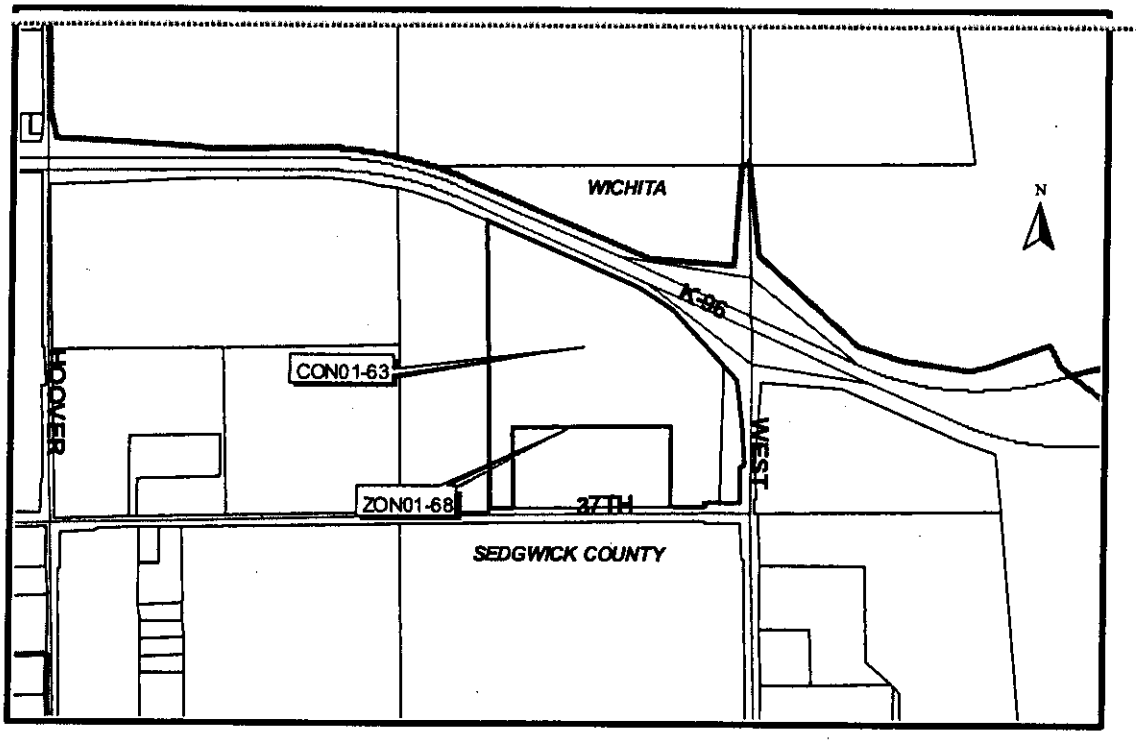
Recommended Action: **1. Adopt the findings of fact of the MAPC and approve the zone change and the Conditional Use permit subject to conditions; adopt the resolution and authorize the Chairman to sign; or**
2. Return to the Planning Commission for reconsideration.
(An override of the Planning Commission's recommendation requires a 2/3rd majority vote of the membership of the governing body on first hearing).

Proposed Agenda Date: **January 23, 2002**

Outside Attendees: **Asphalt Paving, c/o H. T. Ritchie Corp., P. O. Box 7717, Wichita, KS 67277-7717**

Multimedia Presentation: **PowerPoint**

Donations: **n/a**



BACKGROUND: The site is located at the southwest corner of K-96 Highway and West Street. The applicant is seeking "LI" Limited Industrial zoning on the entire application area of 57 acres, and a Conditional Use permit to allow a construction and demolition waste landfill on 35.89 acres of the total 57 acre site. The site is currently zoned "SF-20" Single-family residential and "LC" Limited Commercial. The application area is an upside down "U" shaped tract of un-platted ground. The open end of the "U" shaped

application area encloses an existing solid waste transfer station (Waste Connections) on all sides except the south.

This same applicant has previously received zoning to operate a C&D landfill across the street diagonally from this application area – southeast corner of West and 37th Street. However, the Kansas Department of Health and Environment (KDHE) has withheld the issuance of their permit. At issue is the question: Is the Arkansas River/Wichita-Valley Center Floodway at this location considered to be a navigable river? There is a prohibition on locating landfills within a ½ mile of a navigable river. The applicant has filed legal action against KDHE in the hope that the court will order KDHE to issue the permit for the earlier site. If that were to happen, the applicant states they would not use the site covered by this current application for a C&D landfill while the other site is in operation. The site under consideration today is just over a ½ mile from the river removing that issue from consideration for this application.

The site is currently vacant, and has been used for sand extraction. There is a highway interchange at the K-96 and West Street intersection that provides convenient access to the site for the greater Wichita area. The site plan submitted with the application indicates the access road to the landfill would be located off of 37th Street, approximately 175 feet east of the entrance to the solid waste transfer station. Scales and a scale house are to be located at the end of the access road that would parallel the east line of the transfer station property. Setbacks from the proposed toe of the landfill material to the property line vary in distance from 200 feet to 100 feet. A landscape buffer is depicted along the easternmost frontage of the application area located along 37th Street and along West Street. Three ground water monitoring wells are shown along the east and northern property lines. Based on comments made at a recent County Solid Waste Management Committee meeting: the disposal area would be built up to a height of 70 feet; they expect to receive between 100 to 300 tons of material per day; anticipate a life expectancy between 15 and 45 years; and they expect to recycle 60% or more of the material received. The applicant states they will have crews who sort through the material and divert recyclable and inappropriate material from the C&D landfill to more appropriate facilities (e.g. loads of concrete or asphalt would be sent to Ritchie's asphalt plant across the street; municipal solid waste would be sent to the transfer station).

This site does not need approval for a "transfer station" as the sorting and diverting of inappropriate material from this site is considered to be incidental to the primary C&D landfill operation. The applicant's are not advertising this as an appropriate place to deliver all types of waste, nor do they encourage or want inappropriate materials to be delivered to the site. In order to minimize the number of errant loads, the applicant works with contractors, and others who are likely to be regular customers, to ensure that loads are properly directed to the appropriate disposal facility as they leave the job site.

Surrounding land uses include: the City's closed municipal solid waste landfill and proposed C&D landfill, asphalt processing, sand extraction, rock crushing, C&D landfill (Ritchie property located east of West Street that denied a permit by KDHE), spent sand pits and farm ground. Surrounding properties are zoned "SF-5" Single-family Residential (old landfill which is part of the City of Wichita), "SF-20" Single-family Residential and "CU" to permit a C&D landfill (Ritchie property noted earlier). This same applicant also currently operates a C&D transfer station located at the northeast corner of 29th Street and West.

The project has been reviewed by Sedgwick County's Solid Waste Management Committee and has received their approval. Licensing by the County is required as is conformance with the County's C & D landfill design and operation requirements. Pertinent site design requirements include:

A. No operations shall be located closer than 500 feet of an occupied dwelling, school, or hospital that was occupied on the date when the owner first applied for a permit, unless the owner of such dwelling, school or hospital consents in writing. (A residential structure exists on the northeast corner of 37th and West, but it does not appear to be occupied or used as a dwelling.)