RECOMMENDATION FROM METROPOLITAN AREA PLANNING COMMISSION
TO BOARD OF COUNTY COMMISSIONERS

PROPOSED AGENDA ITEM: ZON2001-00002 – Zone change from "RR" Rural Residential to "GC" General Commercial, located on the northwest corner of 143rd Street East and Highway 254.

PRESENTED BY: Marvin S. Krout, Director of Planning

PROPOSED AGENDA DATE: March 7, 2001

COMMISSION DISTRICT #1

MAPC Recommendation: Approve, subject to the additional provisions of a "P-O" Protective Overlay (9-1).

Staff Recommendation: Deny.

Background/Discussion The applicant is leasing with option to buy 6.14 acres located at the northwest corner of 143rd Street North and Highway 254. The site was originally developed as a gasoline service station prior to adoption of countywide zoning. With the adoption of countywide zoning in 1985, the site was zoned "RR" Rural Residential and remains so zoned today. After countywide zoning went into effect, the service station was identified as a legal non-conforming use in the "RR" Rural Residential district. The applicant is owner of the "Fuel Outlet", a discount gasoline sales concern. The applicant fabricates the support structures and canopies utilized at each of the Fuel Outlet sites. The fabrication activities (cutting and welding of metal components) have been determined by the County Zoning Administrator to be "limited manufacturing" activities requiring "GC" General Commercial zoning. The applicant is seeking "GC" General Commercial in order to conduct "limited manufacturing" activities on this location.

According to the "Unified Zoning Code", limited manufacturing is defined as an establishment engaged in the onsite production of goods by hand manufacturing which generally involves only the use of hand tools or other equipment not exceeding two horsepower.

The closest residence is approximately 1200 feet to the northwest. Another residence is located to the north approximately 1400 feet away. All of the surrounding property is zoned "RR" Rural Residential and is either used for large lot residential or agricultural uses.

The MAPC heard this case on February 8, 2001, and recommended approval 9-1 subject to the provisions of Protective Overlay (P-O) #87. PO #87 restricts uses to

those uses permitted in the "RR" Rural Residential district plus "limited manufacturing" as defined by the Unified Zoning Code, and limited the "GC" General Commercial zoning to the area shown on the attached site (approximately 3.25 acres as opposed to the entire ownership of 6 acres). No one spoke in opposition. Staff was opposed to the establishment of manufactured uses beyond the urban service area. But staff did support a Conditional Use request, filed concurrent with the rezoning, to permit the storage and sale of propane gas, which is a use found typically in rural areas. This use should be added to the Protective Overlay if the rezoning is approved.

Recommended Action:

1. Adopt the findings of fact of the Metropolitan Area Planning Commission and approve the zone change subject to the additional provisions of Protective Overlay #87 district and subject to platting within 1 year; adopt the resolution and authorize the chair top sign; and instruct the Planning Department to withhold publication until all conditions have been complied with; 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).

Applicants:
Dale L and Lois E Murray 6225 N 143rd Street East Wichita KS 67228
Dan Claassen 14300 E 61st Street North Wichita KS 67228

Protestors:
None

Wichita Eagle
Published in The ~~Daily~~ Reporter on October 15, 2001.

RESOLUTION NO. 33-01

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. 178-1997.

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.ZON2001-00002

Zone change request from "RR "Rural Residential and "GC" General Commercial, and to "P-O" Protective Overlay District **# (87)** on property described as:

South 200 feet of the east 300 feet of the following described tract:
That part of the SE 1/4 of Sec. 11, Twp. 26S, R2E of the 6th P.M., Sedgwick County, Kansas, described as commencing at the S.E. Corner of said SE 1/4; thence with an assumed bearing of N 01 degrees 07' 48" W, along the east line of said SE 1/4, 495.14 feet; thence S 88 degrees 52'12"W, 30 feet to a point on the west line of 143rd Street East as established by Condemnation Case No. 95C-1132 for a place of beginning; thence S 18 degrees 09' 36"W, along said right-of-way, 105.95 feet; thence S 01 degrees 07'48"E, 280 feet to the north line of State Highway 254 as established by Condemnation Case No. 95C-1132; thence S 78 degrees 46'04"W, along said right-of-way, 138.30 feet; thence S 89 degrees 07' 11"W, along said right-of-way, 410 feet; thence N 70 degrees 24'29"W, along said right-of-way, 132.41 feet; thence N 01 degrees 07'48" W, 355.62 feet; thence N 88 degrees 52'12"E, 705 feet to the place of beginning. Generally located on the northwest corner of 143rd Street East and Highway 254.

SUBJECT TO THE FOLLOWING PROTECTIVE OVERLAY RESTRICTIONS:

A. The uses permitted on this site shall be restricted to those permitted by the "RR" Rural Residential zoning district plus "limited manufacturing" and agricultural sales and service uses as defined in the Unified Zoning Code.

B. The area covered by the "GC" General Commercial zoning shall be limited to are as shown on the attached site plan.

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.

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

Commissioners present and voting were:

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

DATED this 7th day of March, 2001.

CLERK OF SEDGWICK COUNTY SEDGWICK COUNTY KANSAS KANSAS

BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS

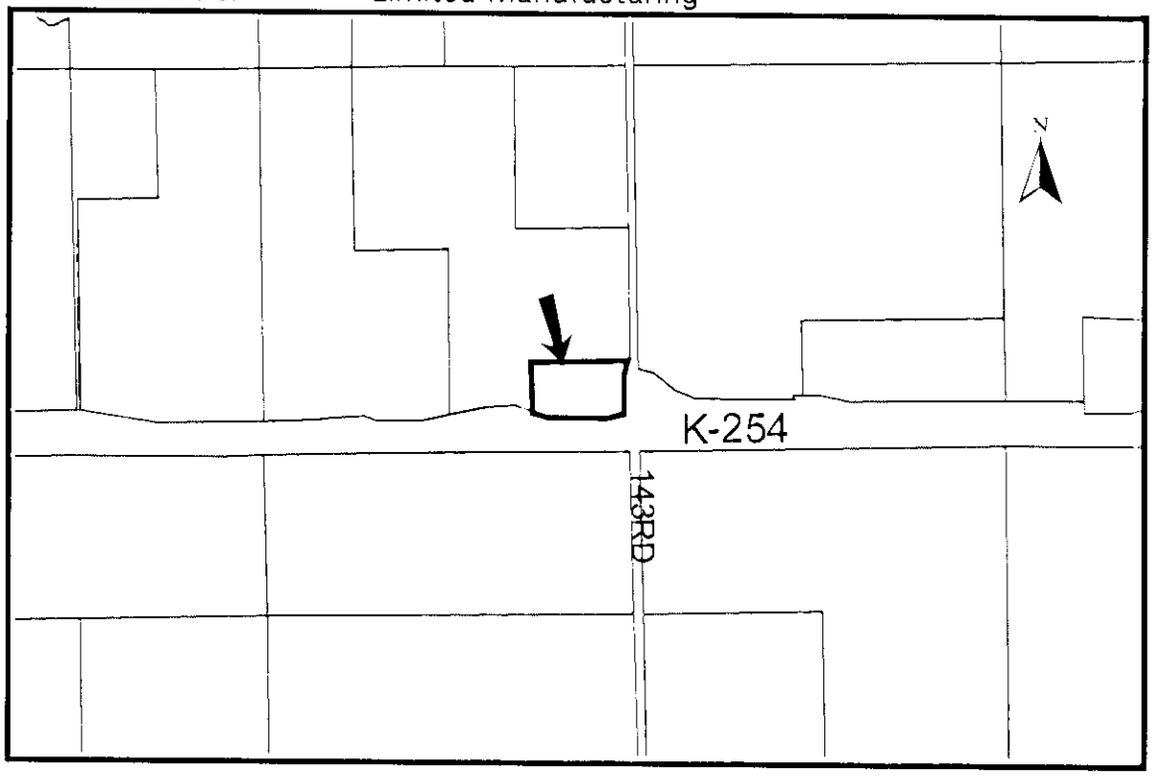
CAROLYN MCGINN, Chair

AGENDA ITEM NO. 6A 6B

STAFF REPORT

MAPC, 7/27/00

CASE NUMBER:	ZON2001-00002
OWNER/APPLICANT:	L&D Real Estate (Owner); Dan Claassen (Agent / Lessee / option to purchase)
AGENT:	Dan Claassen
REQUEST:	GC, General Commercial
CURRENT ZONING:	RR, Rural Residential
SITE SIZE:	6.14 acres
LOCATION:	Northwest corner of 143rd Street East and Highway 254
PROPOSED USE:	Limited Manufacturing



BACKGROUND: The applicant is leasing with option to buy 6.14 acres located at the northwest corner of 143rd Street North and Highway 254. The site was originally developed as a gasoline service station prior to adoption of countywide zoning. With the adoption of countywide zoning in 1985, the site was zoned "RR" Rural Residential and remains so zoned today. After countywide zoning went into effect, the service station was identified as a legal non-conforming use in the "RR" Rural Residential district. The applicant is owner of the "Fuel Outlet", a discount gasoline sales concern. The applicant fabricates the support structures and canopies utilized at each of the Fuel Outlet sites. The fabrication activities (cutting and welding of metal components) have been determined by the County Zoning Administrator to be "limited manufacturing" activities requiring "GC" General Commercial zoning. The applicant is seeking "GC" General Commercial in order to conduct "limited manufacturing" activities on this location.

According to the "Unified Zoning Code", limited manufacturing is defined as an establishment engaged in the onsite production of goods by hand manufacturing which generally involves only the use of hand tools or other equipment not exceeding two horsepower.

The closest residence is approximately 1200 feet to the northwest. Another residence is located to the north approximately 1400 feet away. All of the surrounding property is zoned "RR" Rural Residential and is either used for large lot residential or agricultural uses.

CASE HISTORY: The site has legal non-conforming status for a gasoline service station.

ADJACENT ZONING AND LAND USE:

NORTH: "RR" Rural Residential; large lot residential, agriculture
SOUTH: "RR" Rural Residential; agriculture
EAST: "RR" Rural Residential; agricultural and large-lot residential
WEST: "RR" Rural Residential; agricultural and large-lot residential

PUBLIC SERVICES: Municipal sewer and water services are not available. The site is currently served by on-site services. The Health Department will have to approve the continued use of on-site services at the time of platting.

CONFORMANCE TO PLANS/POLICIES: The "Comprehensive Plan" depicts this site as "rural". Rural areas consist of land outside the 30 year Wichita urban service boundary and small city growth areas. This category of use is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with

provisions for future water and sewer services. Strategy III.B4 states that in those portions of rural unincorporated Sedgwick County located outside the projected urban growth area, commercial development should be limited to those activities that are agriculturally oriented or provide necessary convenience services to residents in the immediate area, or provide highway-oriented services at interchange areas.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be DENIED. This recommendation of denial is based upon fact that the intended use is not consistent with Comprehensive Plan policy and strategy listed above. The requested use is not agriculturally oriented and it does not provide necessary convenience services to residents in the immediate area. The use provides support services for the applicant's "Fuel Outlet" business that has no relationship to agricultural operations, site-based resources, and highway users or for the convenience of nearby residents. According to Comprehensive Plan recommendations, this use should be located in an area that is urbanized or where urban services (municipal water with hydrants, close by fire stations, municipal sewer with monitoring of waste disposal, paved roads, etc.) are scheduled to be extended.

However if the Planning Commission feels the request is appropriate, the application should be subject to the following Protective Overlay conditions:

A. The uses permitted on this site shall be restricted to those permitted by the "RR" Rural Residential zoning district plus "limited manufacturing" uses as defined in the Unified Zoning Code.
B. The area covered by the "GC" General Commercial zoning shall be limited to area shown on the attached site plan.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. Surrounding land is zoned "RR" Rural Residential and is used for large lot residential uses or agricultural pursuits. This area is rural in character.

2. The suitability of the subject property for the uses to which it has been restricted. The site is zoned "RR" Rural Residential which restricts the site to low intensity uses. Only two commercial and industrial uses are permitted by right in the "RR" district, those being a hobby kennel and an asphalt plant, limited. The site also has a legal nonconforming right to a gasoline service station. Given the lack of public services and its distance from any other urban uses or urban population density, the subject property is suitably restricted.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Granting of "GC" General Commercial zoning will set a precedence for this type of zoning at this rural location. The "GC" district permits a wide variety of intense commercial and industrial uses that would not be appropriate at this location.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The intended use is not consistent with Comprehensive Plan policy and strategy guidelines as state above. The requested use is not agriculturally oriented and it does not provide necessary convenience services to rural residents in the immediate area. The use provides support services for the applicant's "Fuel Outlet" business that has no relationship to agricultural operations, site-based resources, and highway travel or for the convenience of nearby residents. According to Comprehensive Plan recommendations, this use should be located inside one of the cities within the county.

5. Impact of the proposed development on community facilities: None identified.