



**Wichita-Sedgwick County
Metropolitan Area
Planning Department**

Philip Michael Hayes
565 W. Douglas
Ste 206
Wichita, KS 67213

September 6, 2024

Baughman Company
Attn: Jay Cook
315 S. Ellis Ave
Wichita, KS 67211

RE: ZON2024-00032/CON2024-00061 – Amend Protective Overlay #351 to allow Entertainment Establishment in the City within 300 feet of residential zoned property. (5130 North Meridian Avenue).

Dear Applicant;

At its regular meeting on **September 3, 2024**, the Wichita City Council considered the above captioned request. The action of the WCC was to **APPROVE** the request.

If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brad Eatherly'.

Brad Eatherly
Current Plans
Senior Planner

Copies to:

Maggie Ballard, Council Member District VI
Ana Lopez, CSR, District VI
Gregory Chinn 2300 W. 51st St. N. Wichita, KS 67204
MABCD

Conditions of Approval:

1. Outdoor Entertainment hours shall be between the hours of 10:00 a.m. and 8:00 p.m. and all Compatibility Noise Standards shall apply per the Unified Zoning Code.
2. There shall be no amplified music outdoors.
3. Alcohol sales and/or consumption shall only take place in accordance with what is allowed per Protective Overlay #351.
4. Amendments, adjustments, or interpretations to this Conditional Use shall be done in accordance with the Unified Zoning Code.
5. The transfer of title of all or any portion of land included within the Conditional Use (or any amendments thereto) does not constitute a termination of the Conditional Use or any portion thereof, but said Conditional Use shall run with the land and be binding upon present owners, their successors and assigns.
6. Development of the site shall be in general conformance with the approved site plan.
7. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing of other remedies set forth in the UZC, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

Recommended Protective Overlay #351 Text (MAPC changes to the current protective overlay are shown in red):

1. Proposed Uses: The subject property shall be limited to the following uses: All uses permitted within the "LC" Limited Commercial Zoning District with the following exceptions: Manufactured Home; Cemetery; Correctional Placement Residence, Limited and General; Marine Facility, Recreational; Monument Sales; Nightclub in the City; Pawn Shop; Sexually Oriented Business in the City; Tavern or Drinking Establishment; Teen Club in the City; Vehicle Repair, Limited; Asphalt or Concrete Plant, Limited and General; Recycling Collection Station; Reverse Vending Machine; Event Center; and Recreation And Entertainment (Indoor). Restaurants that serve liquor can be developed and may serve liquor, as long as food is the primary service of the establishment. *Entertainment Establishment in the City shall be permitted.*
2. Signage shall be per the Wichita City Sign Code, except all signs shall be monument style and limited to 12 feet in height. Portable signs, off-site signs, banners, string pennants and the like shall not be permitted, except for a banner sign permitted for 30 days from the opening of business.
3. All outdoor lighting sources shall employ cut-off luminaries to minimize light trespass and glare. The site shall share similar or consistent parking lot lighting elements (i.e., fixtures, poles, and lamps, and etc.), and the height of light poles shall be limited to 15 feet within 200 feet of abutting residential-zoned property. Extensive use of backlit canopies and neon or fluorescent tube lighting on buildings is not permitted.
4. Rooftop mechanical equipment shall be screened from ground level view per the Unified Zoning Code.
5. Trash receptacles, loading docks, outdoor storage, and loading areas shall be appropriately screened, with similar materials to the main building, to reasonably hide them from ground view.
6. A site plan shall be submitted and approved by the Director of Planning prior to the issuance of building permits.
7. Prior to publishing the ordinance establishing the zone change, the applicants shall record a document with the Register of Deeds indicating that this tract includes special conditions for development on this property.

ORDINANCE NO. 52-546

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. ZON2024-00032

Amendment to Protective Overlay #351 on property zoned LC Limited Commercial, described as:

Lot 1, Block 1, Bolain Addition, Wichita, Sedgwick County, Kansas.

Protective Overlay #351 shall hereby read as follows:

1. **Proposed Uses:** The subject property shall be limited to the following uses: All uses permitted within the "LC" Limited Commercial Zoning District with the following exceptions: Manufactured Home; Cemetery; Correctional Placement Residence, Limited and General; Marine Facility, Recreational; Monument Sales; Nightclub in the City; Pawn Shop; Sexually Oriented Business in the City; Tavern or Drinking Establishment; Teen Club in the City; Vehicle Repair, Limited; Asphalt or Concrete Plant, Limited and General; Recycling Collection Station; Reverse Vending Machine; Event Center; and Recreation And Entertainment (Indoor). Restaurants that serve liquor can be developed and may serve liquor, as long as food is the primary service of the establishment. Entertainment Establishment in the City shall be permitted.
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4. Rooftop mechanical equipment shall be screened from ground level view per the Unified Zoning Code.
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6. A site plan shall be submitted and approved by the Director of Planning prior to the issuance of building permits.
7. Prior to publishing the ordinance establishing the zone change, the applicants shall record a document with

the Register of Deeds indicating that this tract includes special conditions for development on this property.

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.

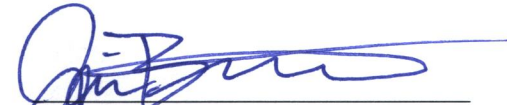
SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

Adopted this 10th day of September, 2024.



Lily Wu, Mayor, City of Wichita


ATTEST:



Jamie Buster, City Clerk

(SEAL)



Approved as to form: 

Jennifer Magaña, City Attorney and Director of Law



AFFIDAVIT OF PUBLICATION


State of Kansas, Sedgwick County, ss:

Jamie Buster, City Clerk

Being first duly sworn, deposes and says:

That I, Jamie Buster, City Clerk of the City of Wichita, Kansas has published the attached notice on the City of Wichita website, www.wichita.gov/LegalNotices, which website is designated as the official City News Outlet Publication Site for the City of Wichita, Kansas by Charter Ordinance No. 240 effective September 4, 2024.

That the attached Notice of Public Hearing / Ordinance No. 52-546 / Resolution No. _____ is a true copy thereof and was published on such website beginning on the 13 day of Sept., 2024



Signature

SUBSCRIBED AND SWORN to before me this 13th day of September, 2024.



Notary Public

(seal)

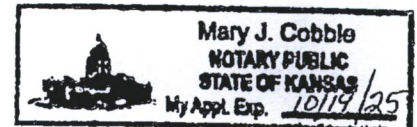
City Clerk's Office

Jamie Buster – City Clerk

City Hall • 13th Floor • 455 N. Main • Wichita, Kansas 67202

316.268.4529 ext. 2805

www.wichita.gov





The Beaufort Gazette
 The Belleville News-Democrat
 Bellingham Herald
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AFFIDAVIT OF PUBLICATION

Account #	Order Number	Identification	Order PO	Amount	Cols	Depth
32522	592480	Print Legal Ad-IPL01941500 - IPL0194150	Ord 52-546	\$111.06	2	66 L

Attention: LaTosha Alvarez
 CITY OF WICHITA/CLERKS OFFICE
 455 N MAIN ST FL 13
 WICHITA, KS 67202

JMBuster@wichita.gov

OCA 150004 PUBLISHED at Wichita.gov/LegalNotices on
 September 13, 2024
 ORDINANCE NO. 52-546

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:

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Lot 1, Block 1, Bolain Addition, Wichita, Sedgwick County, Kansas.

Protective Overlay #351 shall hereby read as follows:

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4. Rooftop mechanical equipment shall be screened from ground level view per the Unified Zoning Code.

5. Trash receptacles, loading docks, outdoor storage, and loading areas shall be appropriately screened, with similar materials to the main building, to reasonably hide them from ground view.

6. A site plan shall be submitted and approved by the Director of Planning prior to the issuance of building permits.

7. Prior to publishing the ordinance establishing the zone change, the applicants shall record a document with the Register of Deeds indicating that this tract includes special conditions for development on this property.

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 10th day of September, 2024.

Lily Wu, Mayor, City of Wichita

ATTEST:

Jamie Buster, City Clerk

(SEAL)

Approved as to form:

Jennifer Magana, City Attorney and Director of Law

IPL0194150

Sep 15 2024

In The STATE OF KANSAS
 In and for the County of Sedgwick

1 insertion(s) published on:

09/15/24

STATE OF KANSAS)

SS

County of Sedgwick)

Mary Castro, of lawful age, being first duly sworn, depose and saith: That he is Record Clerk of The Wichita Eagle, a daily newspaper published in the City of Wichita, County of Sedgwick, State of Kansas, and having a general paid circulation on a daily basis in said County, which said newspaper has been continuously and uninterruptedly published in said County for more than one year prior to the first publication of the notice hereinafter mentioned, and which said newspaper has been entered as second class mail matter at the United States Post Office in Wichita, Kansas, and which said newspaper is not a trade, religious or fraternal publication and that a notice of a true copy is hereto attached was published in the regular and entire Morning issue of said The Wichita Eagle from 09/15/2024 to 09/15/2024.

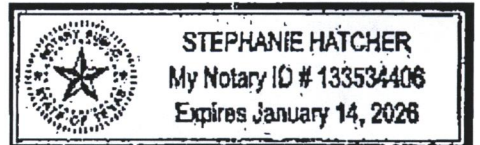
Mary Castro

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

DATED: 09/16/2024

Stephanie Hatcher

Notary Public in and for the state of Texas, residing in Dallas County



Extra charge for lost or duplicate affidavits.
 Legal document please do not destroy!



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 The Belleville News-Democrat
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 Miami Herald
 El Nuevo Herald

The Modesto Bee
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AFFIDAVIT OF PUBLICATION

Account #	Order Number	Identification	Order PO	Amount	Cols	Depth
16399	569966	Print Legal Ad-IPL01819100 - IPL0181910		\$139.62	2	83 L

Attention: Mandy Hebert
 CITY OF WICHITA/PLANNING DEPT
 271 WEST THIRD ST., 2ND FL, SU 203
 WICHITA, KS 67202

MHEBERT@wichita.gov

OCA 150004
 Published in The Wichita Eagle on July 3, 2024
 (One Time Only)
MAPC/BZA July 25, 2024
OFFICIAL HEARING NOTICE

NOTICE IS HEREBY GIVEN that on Thursday, July 25, 2024, 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 person at the Ronald Reagan Building, 271 West Third Street, 2nd Floor, Wichita, KS 67202. Public participation is encouraged (see instructions below). Virtual participation is not available. 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.

BZA2024-00040: Variance request in the City to reduce the minimum lot width from 50 feet to 21 feet at the front setback line for future residential development on property zoned SF-5 Single-Family Residential; located within two blocks south of West Central Avenue and two blocks west of North West Street (516 North Tracy).

BZA2024-00042: Variance request in the City to allow reduced lot size for duplex on property zoned TF-3 Two-Family Residential District; located 70 feet north of West 11th Street North and 135 feet west of North Waco Avenue (1215 North Jackson Avenue).

CON2024-00061: Conditional use request in the City to permit an Entertainment Establishment (Event Center that may provide alcohol and entertainment) on property zoned LC Limited Commercial; located on the east side on North Meridian Avenue and within one-quarter mile south of West 53rd Street North (5130 North Meridian Avenue).

ZON2024-00022: Zone Change request in the City from TF-3 Two-Family Residential to MF-18 Multi-Family Residential to allow for a duplex; generally located at the northwest corner of East Lincoln Street and South Clifton Avenue.

ZON2024-00032: Request in the City to amend Protective Overlay #351 to permit an Entertainment Establishment (with CON2024-00061) on property zoned LC Limited Commercial; located on the east side of North Meridian Avenue and within one-quarter mile south of West 53rd Street North (5130 North Meridian Avenue).

ZON2024-00036: Zone Change request in the City from TF-3 Two-Family Residential to LC Limited Commercial with Protective Overlay # 437; generally located between North Main Street and North Wichita Street and north of West 9th Street North (1025 North Main Street).

Complete legal descriptions are available for public inspection at the Metropolitan Area Planning Department, 271 W. Third St., 2nd Floor, Wichita, Kansas 67202. 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:

1) Attend In-Person at the Ronald Reagan Building, 271 West Third Street, 2nd Floor, Wichita, Kansas 67202. Self-paid parking is available nearby. If you have any written or visual materials you wish to present, please contact Planning Department Graphics staff (316-268-4464) by 5:00 PM, 3 days prior to the meeting.

2) Submit Comments Ahead of Time regarding items on the Planning Commission agenda to the Wichita-Sedgwick County Metropolitan Area Planning Department (Planning Department) – 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. Planning Departments staff make efforts to share all comments but may not be able to share those received after the deadlines below. Please be sure to provide ample time for delivery. Written Comments should be submitted by 5:00 PM the day before the meeting. Video and Audio Comments (mp3, etc.) formats be submitted at least 3 days prior to the MAPC meeting. The comments should indicate which item they pertain to and be less than three (3) minutes in duration.

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

3) If you need accommodations pursuant to the ADA, please contact Planning Staff within one week prior to the scheduled meeting.

Option to View Remotely (Not Participate)

The meeting will be streamed live and recorded. Virtual comment is not available. To view the live stream or recording, follow the link: <https://www.wichita.gov/Planning>.

WITNESS MY HAND on July 3, 2024

Scott Wadle, Secretary

Wichita-Sedgwick County

Metropolitan Area Planning Commission

IPL0181910

Jul 3 2024

In The STATE OF KANSAS

In and for the County of Sedgwick

1 insertion(s) published on:

07/03/24

STATE OF KANSAS)

SS

County of Sedgwick)

Mary Castro, of lawful age, being first duly sworn, deposeth and saith: That he is Record Clerk of The Wichita Eagle, a daily newspaper published in the City of Wichita, County of Sedgwick, State of Kansas, and having a general paid circulation on a daily basis in said County, which said newspaper has been continuously and uninterruptedly published in said County for more than one year prior to the first publication of the notice hereinafter mentioned, and which said newspaper has been entered as second class mail matter at the United States Post Office in Wichita, Kansas, and which said newspaper is not a trade, religious or fraternal publication and that a notice of a true copy is hereto attached was published in the regular and entire Morning issue of said The Wichita Eagle from 07/03/2024 to 07/03/2024.

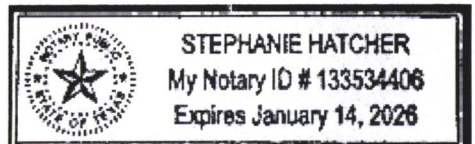
Mary Castro

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

DATED: 07/03/2024

Stephanie Hatcher

Notary Public in and for the state of Texas, residing in Dallas County



Extra charge for lost or duplicate affidavits.
 Legal document please do not destroy!

BACKGROUND: The applicant is requesting an amendment of Protective Overlay (PO) #351 to allow an Entertainment Establishment in the City on property zoned LC Limited Commercial District (LC). The 3.38-acre site is generally located on the east side of North Meridian Avenue and within 300 feet south of West 51st Street North (5130 North Meridian Avenue). The applicant is also requesting a Conditional Use to permit an Entertainment Establishment within 300 feet of a residential zoning district.

Currently, PO #351 allows for all uses in the LC District with the following exceptions: Manufactured Home; Cemetery; Correctional Placement Residence, Limited and General; Marine Facility, Recreational; Monument Sales; Nightclub in the City; Pawn Shop; Sexually Oriented Business in the City; Tavern or Drinking Establishment; Teen Club in the City; Vehicle Repair, Limited; Asphalt or Concrete Plant, Limited and General; Recycling Collection Station; Reverse Vending Machine; Event Center; and Recreation and Entertainment (Indoor). Restaurants that serve liquor can be developed and may serve liquor, as long as food is the primary service of the establishment. PO #351 originally prohibited Entertainment Establishments in the City as a use prior to the definition of the use changing in 2024.

On January 2, 2024, the Wichita City Council approved changes to the Unified Zoning Code (UZC) to define "Entertainment Establishment in the City" as a venue that allows alcohol and live entertainment with a maximum capacity of less than 300 persons. Section III-D.6.w of the Unified Zoning Code (UZC) requires a Conditional Use for Entertainment Establishment in the City when the site is within 300 feet of a Church or Place of Worship, public Park, public or parochial School or residential zoning District. Under this current code, the use established on the property would not be considered a Nightclub in the City. The use would be considered an Entertainment Establishment in the City. The property abuts SF-5 Single-Family Residential District to the north and the northwest. The UZC requires a Conditional Use for Outdoor Service of food or drink as an accessory part of the operation of a Tavern or Drinking Establishment, Nightclub in the City, Event Center, or Entertainment Establishments in the City if the property is located within 300 feet of a Church or Place of Worship, public Park, School or residential zoning District and shall be subject to the following conditions:

- (1) No additional Parking Spaces or restroom facilities need be provided for the initial sixteen occupants to be served in the outdoor area, but Parking and restroom facilities shall be provided to full Code requirements for the portions of the permitted occupant load exceeding sixteen persons.
- (2) No noise generated in conjunction with the outdoor use shall exceed a sound level of five decibels as measured on the 'A' scale of a sound pressure level meter over the normal background noise that is discernible at any property line of a Lot within 1,000 feet that has a residential zoning classification. Normal background noise shall be established by taking the average of ten sound level readings in any ten-minute period.
- (3) The outdoor area shall be Screened from ground level view from any residential-zoned property within 150 feet of the outdoor area, by Screening in accordance with the requirements of Sec. IV-B.
- (4) If lighting facilities are provided, the intensity of light and arrangements of reflectors shall be such as not to interfere with residential Uses. The lighting shall be in compliance with the lighting requirements of Sec. IV-B 4.
- (5) The outdoor Use shall be designed and maintained in compliance with all other licenses, regulations and requirements of the fire, health, and building codes, including requirements for emergency access to or from any barriers that limit ingress or egress.

The subject site borders SF-5 Single-Family Residential District (SF-5) to the north, east and south, which is within the 300-foot threshold requiring a Conditional Use to be permitted on the property. Compatibility Noise standards would apply to the subject site since it is within 500 feet of property zoned MH Manufactured Housing Residential District (MH) or more restrictive.

The property is surrounded by a contiguous tree line that was deemed to meet the screening standards of the UZC when the property was rezoned and Protective Overlay #351 was established in 2020.

Property to the north and east is zoned SF-5 and is developed with agricultural fields. Property to the south is zoned SF-5 and is developed as agricultural/a drainage swale. Property to the west, across North Meridian Avenue, is zoned LC and is developed with agricultural fields. The property's barn is approximately 460 feet to the nearest residential building.

CASE HISTORY: On December 15, 2011, the property was platted at Lot 1, Block 1, Bolain Addition. In 2020, The subject site received a Zone Change from SF-5 to LC with PO #351 (ZON2020-00018).

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Agricultural Field
SOUTH:	SF-5	Agricultural Field/Drainage Swale
EAST:	SF-5	Agricultural Field
WEST:	LC	Agricultural Field

PUBLIC SERVICES: North Meridian is a paved four-lane arterial with no sidewalks on either side. All municipal services are in place and can accommodate the required services to the site. Wichita Transit does not serve the subject site.

CONFORMANCE TO PLANS/POLICIES: The Community Investments Plan: The requested amendment to PO #351 is in conformance with the Wichita-Sedgwick County Comprehensive Plan. The *Community Investments Plan*, identifies the site as "New Residential" on the Future Growth Map Concept Map. This category is described as follows: "*Encompasses areas of land that likely will be developed or redeveloped by 2035 with uses predominately found in the Residential category. Pockets of Major Institutional and Commercial uses likely will be developed within this area as well, based upon market-driven location factors. In certain areas, especially those in proximity to existing industrial uses, highways, rail lines, and airports, pockets of Industrial Uses likely will be developed.*" The area is realizing a lot of new urban development and the proposed amendment to the Protective Overlay and Conditional Use provides a change of use at this location that will support the overall spirit and intent of the Comprehensive Plan to promote new development in the City.

The proposed application is in conformance with the Locational Guidelines of the *Community Investments Plan*. Under the heading of "Design," Locational Guideline 1.d states, "Except in mixed-use development areas, non-residential uses should provide appropriate screening and buffering from residential uses." The site has provided an extensive landscape buffer around the entire property. Also under the heading "Design," Locational Guideline 1.e states, "Non-residential uses should have site design features that limit traffic, noise, lighting, and adverse impacts on surrounding residential land uses." The subject site's landscape screening should limit adverse impacts on surrounding residential land uses.

RECOMMENDATION: Based upon the information available at the time the staff report was completed, staff recommends **APPROVAL** of the requests, subject to the following conditions and to the revised language of Protective Overlay #351:

1. Outdoor Entertainment hours shall be between the hours of 12:00 p.m. (noon) and 10:00 p.m. and all Compatibility Noise Standards shall apply per the Unified Zoning Code.
2. There shall be no amplified music outdoors.
3. Alcohol sales and/or consumption shall only take place in accordance with what is allowed per Protective Overlay #351.
4. Amendments, adjustments, or interpretations to this Conditional Use shall be done in accordance

with the Unified Zoning Code.

5. The transfer of title of all or any portion of land included within the Conditional Use (or any amendments thereto) does not constitute a termination of the Conditional Use or any portion thereof, but said Conditional Use shall run with the land and be binding upon present owners, their successors and assigns.
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3. All outdoor lighting sources shall employ cut-off luminaries to minimize light trespass and glare. The site shall share similar or consistent parking lot lighting elements (i.e., fixtures, poles, and lamps, and etc.), and the height of light poles shall be limited to 15 feet within 200 feet of abutting residential-zoned property. Extensive use of backlit canopies and neon or fluorescent tube lighting on buildings is not permitted.
4. Rooftop mechanical equipment shall be screened from ground level view per the Unified Zoning Code.
5. Trash receptacles, loading docks, outdoor storage, and loading areas shall be appropriately screened, with similar materials to the main building, to reasonably hide them from ground view.
6. A site plan shall be submitted and approved by the Director of Planning prior to the issuance of building permits.
7. Prior to publishing the ordinance establishing the zone change, the applicants shall record a document with the Register of Deeds indicating that this tract includes special conditions for development on this property.

This recommendation of approval is based on the following findings:

1. **The zoning, uses and character of the neighborhood.** Property to the north and east is zoned SF-5 Single-Family Residential and is developed with agricultural fields. Property to the south is zoned SF-5 and is developed as a drainage swale. Property to the west, across North Meridian Avenue, is zoned LC Limited Commercial and is developed with agricultural fields.
2. **The suitability of the subject property for the uses to which it has been restricted:** The property is zoned LC Limited Commercial District with PO #351 and is limited to uses permitted in the LC District with the following exceptions: Manufactured Home; Cemetery; Correctional Placement Residence, Limited and General; Marine Facility, Recreational; Monument Sales;

Nightclub in the City; Pawn Shop; Sexually Oriented Business in the City; Tavern or Drinking Establishment; Teen Club in the City; Vehicle Repair, Limited; Asphalt or Concrete Plant, Limited and General; Recycling Collection Station; Reverse Vending Machine; Event Center; and Recreation and Entertainment (Indoor). Restaurants that serve liquor can be developed and may serve liquor, as long as food is the primary service of the establishment.

3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** An Entertainment Establishment in the City may only be permitted through a Conditional Use when within 300 feet of a residentially zoned property. The Conditions of Approval are designed to mitigate possible negative impacts to neighboring properties.
4. **Length of time subject property has remained vacant as zoned:** The property is not vacant. It has been used as a propane sales and service use for over twenty years.
5. **Relative gain to public health, safety, and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Approval of the request represents a gain to the public in that it contributes to support economic opportunity in the area. Approval of this application is not anticipated to have a significant detrimental impact to public health, safety, or welfare based on the required conditions of approval provided to mitigate possible noise pollution. Denial may represent a loss of economic opportunity for the applicant.
6. **Conformance of the requested change to adopted or recognized Plans/Policies:** The proposed amendment to PO #351 and Conditional Use are in conformance with the *Community Investments Plan* as discussed in the staff report.
7. **Impact of the proposed development on community facilities:** The Planning Department does not anticipate the requested amendment to PO #351, or the Conditional Use will have a significant impact on community facilities. Existing public infrastructure at the site should accommodate the proposed uses.
8. **Opposition or support of neighborhood residents:** At the time the staff report was prepared, staff has received no comments regarding these proposals.

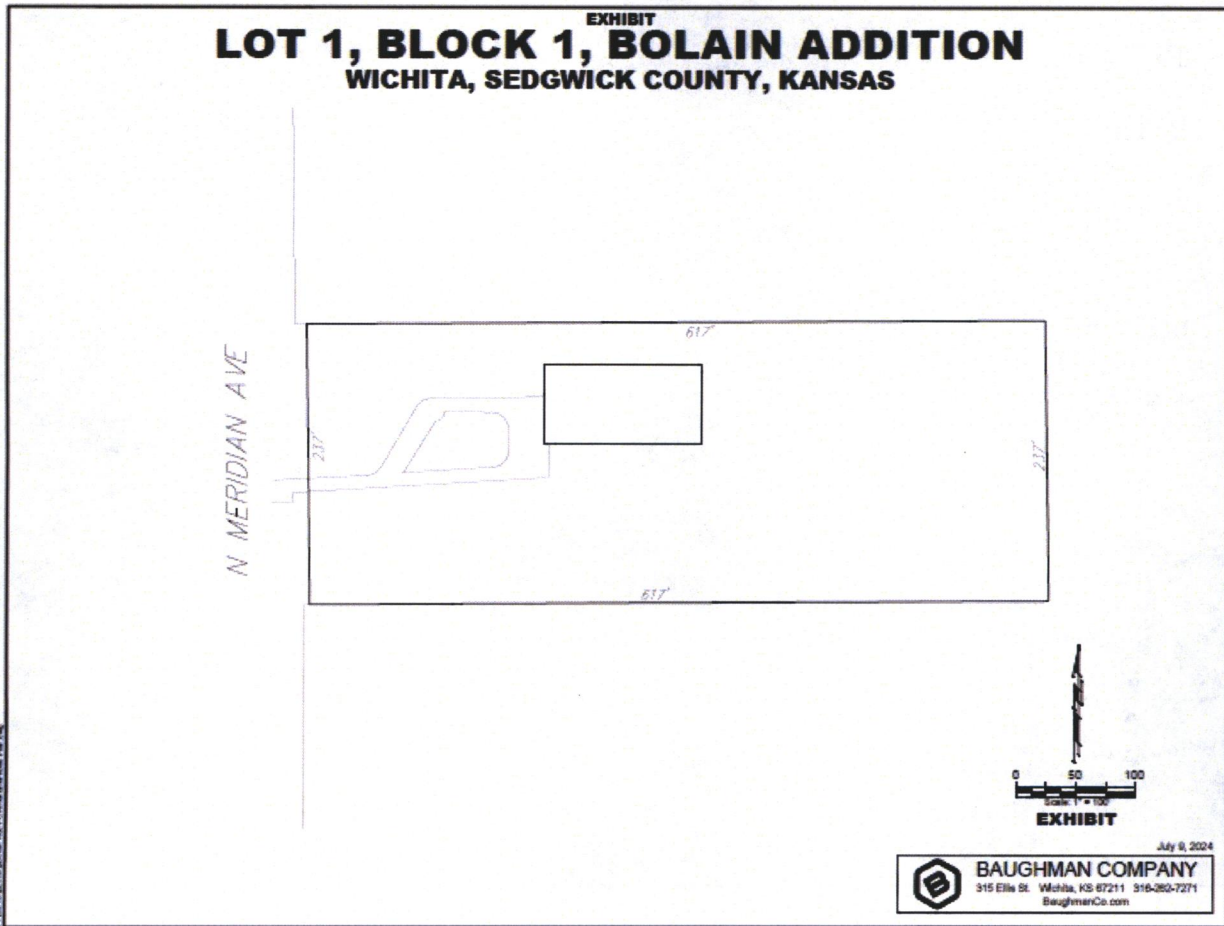
Staff Report Attachments:

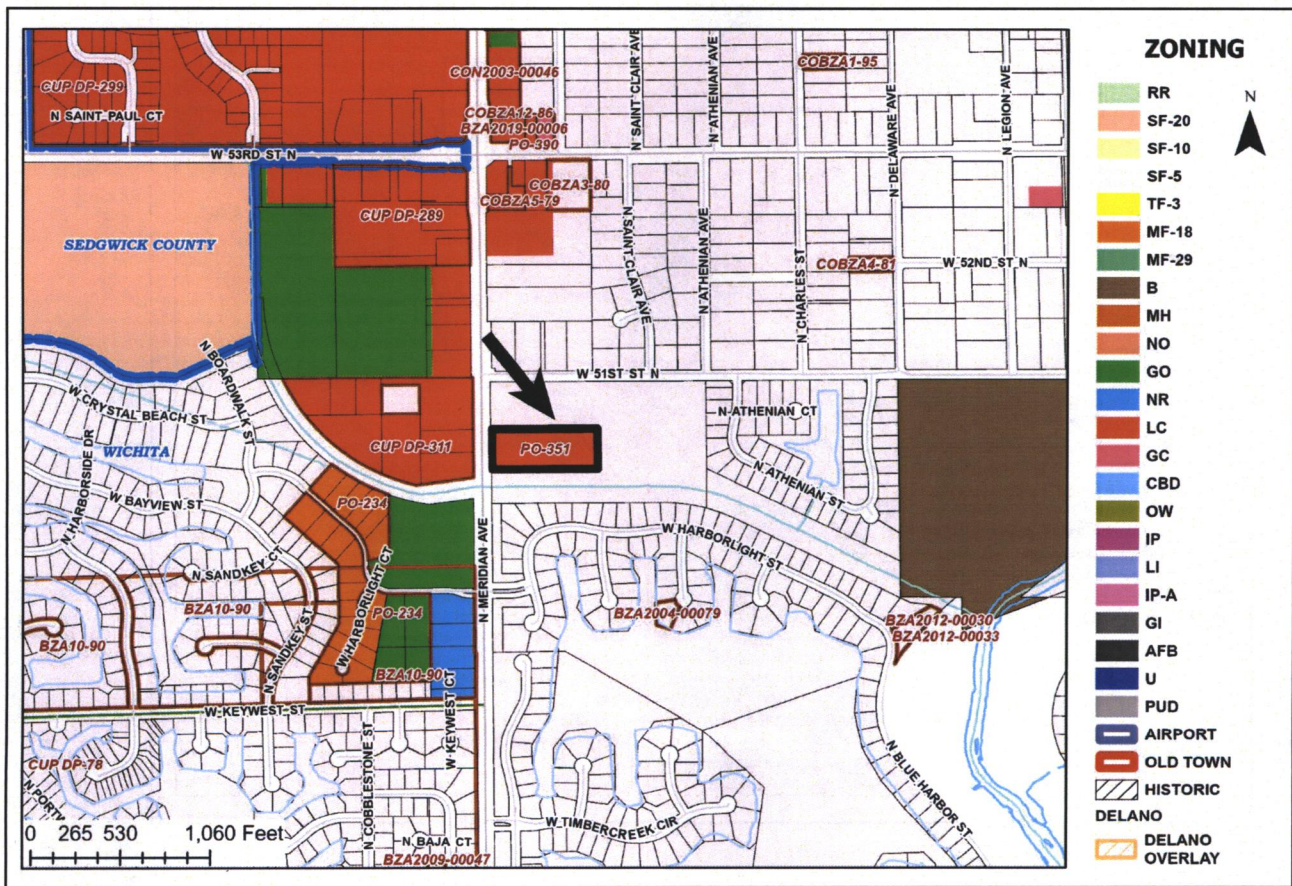
1. Staff Recommended Protective Overlay #351 Text
2. Site Plan
3. Aerial Map
4. Zoning Map
5. Land Use Map
6. Photos

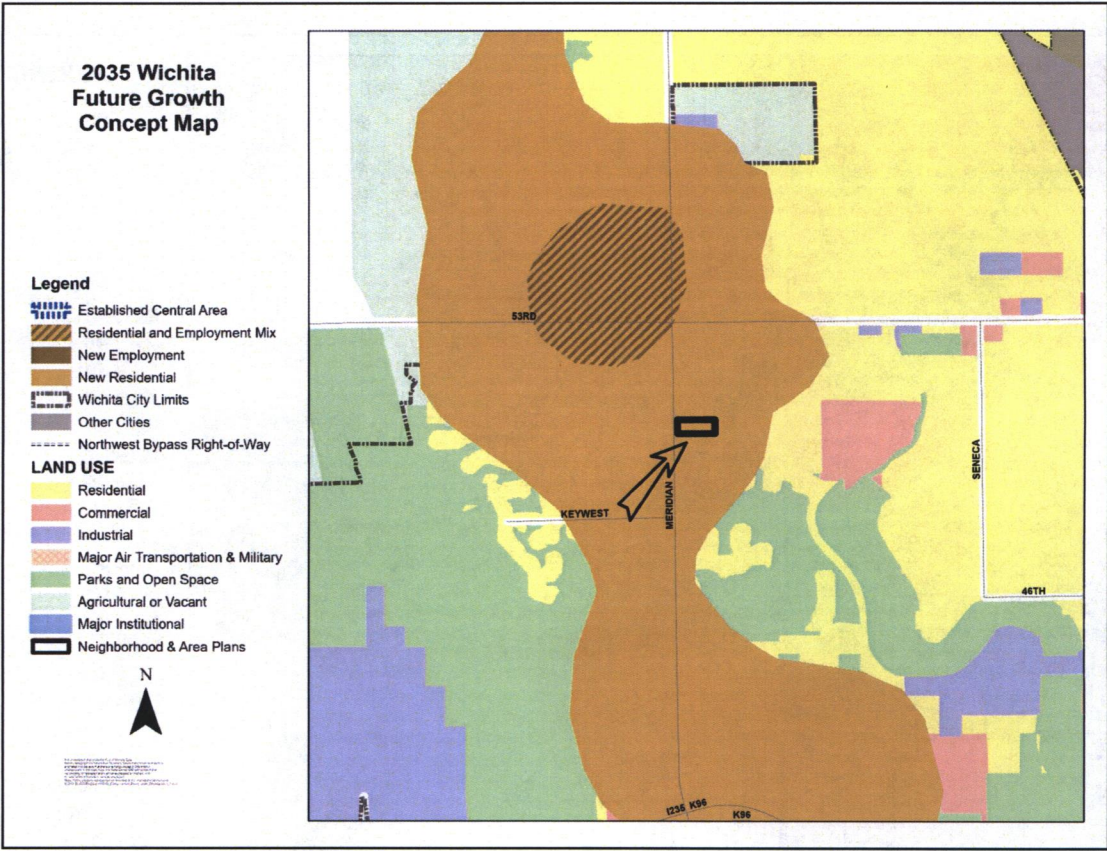
Staff Recommended Protective Overlay #351 Text (staff changes to the current protective overlay are shown in red):

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Site Plan







Looking east into site



Looking south away from site



Looking west away from site



Looking north away from site

