



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

Kathy and Tony Nguyen; Van Le
1440 N Oliver
Wichita, KS 67208

November 15, 2024

RE: CON2024-00212 –A Conditional Use request to allow Entertainment Establishment within 300 feet of residentially zoned property, Generally located on the northeast corner of South Seneca Street and West Pawnee Avenue (1040 West Pawnee Avenue).

Dear Applicant:

At its regular meeting on **October 24, 2024**, the Wichita - Sedgwick County Metropolitan Area Planning Commission considered the above captioned request. The action of the MAPC was to recommend **APPROVAL** of the request with the following conditions:

1. 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 or speakers outdoors.
3. Amendments, adjustments, or interpretations to this Conditional Use shall be done in accordance with the Unified Zoning Code.
4. 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.
5. Development of the site shall be in general conformance with the approved site plan.
6. 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.

No protests were filed against this case. Therefore, the decision of the MAPC is final. If you have any questions concerning this application, please contact our office at 352-4864.

Sincerely,

Brad Eatherly
Current Plans
Senior Planner

CC: Dalton Glasscock, Council Member District IV
Brooke Kauchak, CSR, District IV
Brian and April Hudson 2325 S. Walnut St. Wichita, KS 67213

CONDITIONAL USE RESOLUTION NO. CON2024-00212

WHEREAS, Tong & Kathy Nguyen & Van Le, Owners, pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), request a Conditional Use to allow Entertainment Establishment in the City within 300 feet of residentially zoned property, located at 1040 West Pawnee Avenue, legally described as:

Lot 1, M and B Addition to Wichita, Sedgwick County, Kansas, EXCEPT That part beginning 146 feet South and 165 feet East of the Northwest corner thereof; thence East 122.5 feet; thence South 165 feet; thence West 122.5 feet; thence North 165 feet to the point of beginning; AND EXCEPT That part beginning at the Northwest corner thereof; thence South 122 feet; thence East 165 feet; thence North to the North line of said Lot; thence West to the point of beginning.

WHEREAS, proper notice as required by the Unified Zoning Code and by the policy of the Metropolitan Area Planning Commission (hereinafter referred to as MAPC) has been given; and

WHEREAS, the MAPC did, at the meeting of October 24, 2024, consider said application; and

WHEREAS, the MAPC has authority to permit a Conditional Use, subject to any special conditions deemed appropriate in order to assure full compliance with the criteria of the Unified Zoning Code.

NOW, THEREFORE, BE IT RESOLVED by the Metropolitan Area Planning Commission that this application be approved to allow a Conditional Use to allow Entertainment Establishment in the City within 300 feet of residentially zoned property, located at 1040 West Pawnee Avenue, legally described as:

Lot 1, M and B Addition to Wichita, Sedgwick County, Kansas, EXCEPT That part beginning 146 feet South and 165 feet East of the Northwest corner thereof; thence East 122.5 feet; thence South 165 feet; thence West 122.5 feet; thence North 165 feet to the point of beginning; AND EXCEPT That part beginning at the Northwest corner thereof; thence South 122 feet; thence East 165 feet; thence North to the North line of said Lot; thence West to the point of beginning.

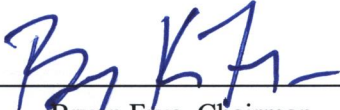
Approved subject to the following conditions:

1. 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 or speakers outdoors.
3. Amendments, adjustments, or interpretations to this Conditional Use shall be done in accordance with the Unified Zoning Code.
4. 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.
5. Development of the site shall be in general conformance with the approved site plan.
6. 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.

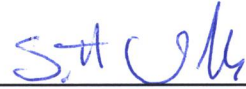
Adopted this 13th Day of December, 2024.

METROPOLITAN AREA PLANNING COMMISSION

ATTEST:



Bryan Frye, Chairman



Scott Wadle, Secretary



The Beaufort Gazette
The Belleville News-Democrat
Bellingham Herald
Centre Daily Times
Sun Herald
Idaho Statesman
Bradenton Herald
The Charlotte Observer
The State
Ledger-Enquirer

Durham | The Herald-Sun
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The Fresno Bee
The Island Packet
The Kansas City Star
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The Olympian

AFFIDAVIT OF PUBLICATION

Account #	Order Number	Identification	Order PO	Amount	Cols	Depth
16399	597810	Print Legal Ad-IPL01969270 - IPL0196927		\$109.38	2	65 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 October 2, 2024
(One Time Only)
MAPC/BZA October 24, 2024
OFFICIAL HEARING NOTICE

NOTICE IS HEREBY GIVEN that on Thursday, October 24, 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. Full notice can be found at www.wichita.gov/LegalNotices.

CON2024-00210: Conditional Use request in the City to allow Ancillary Parking on property zoned TF-3 Two-Family Residential District, generally located on the west side of South Clifton Street, within 200 feet south of East Douglas Avenue (123 & 125 South Clifton, and 3344 E. Oakland).

CON2024-00212: Conditional Use request in the City to allow an Entertainment Establishment (Event Venue which could have entertainment and alcohol) on property zoned LC Limited Commercial District, generally located on the northeast corner of West Pawnee and South Seneca (1040 West Pawnee).

CUP2024-00033: CUP Amendment in the City to CUP DP-317 to allow Warehouse, Self-Service Storage, change building size and height, and exempt Parcel 2 from architectural controls, generally located on the west side of North 127th Street East, within 400 feet south of East 21st Street North.

PUD2024-00017: Zone Change request in the City from SF-5 Single-Family Residential to PUD #134 to establish the West Patrol Station PUD; generally located on the southwest corner of West 13th Street North and North Country Acres Avenue.

PUD2024-00018: Zone change request in the City from LC Limited Commercial District to PUD Planned Unit Development #132 to allow for mixed-use development, generally located on the southeast corner of East Central Avenue and North Oliver Road (4801 East Central Avenue).

PUD2024-00019: Major Amendment to PUD #55 to increase the capacity from 850 to 2,066, generally located on the south side of East Douglas Avenue, within 100 feet east of North Hillside Avenue (3207 East Douglas Avenue).

PUD2024-00020: Zone change request from LC Limited Commercial to PUD Planned Unit Development #133 to permit basic industry, warehousing, and freight terminal with custom development standards, located on the east side of South Seneca St., within 500 feet north of West 47th St. South (4720 South Seneca St.).

VAC2024-00044: Vacation request in the City to vacate a portion of platted access control to permit a 3rd driveway for future EMS station on property zoned LC Limited Commercial, located on the south side of West 13th Street North and within one-half mile west of North Meridian Avenue.

VAC2024-00045: Vacation request in the City to vacate a portion of a platted streetside setback, generally located on the 255 meters northeast side of South Broadway Avenue and East 55th Street South (5505 S Emporia Ave).

VAC2024-00047: Vacation request in the City of a platted access control; Generally located on the southwest corner of West 13th Street North and North Country Acres Avenue.

VAC2024-00048: Vacation request to vacate the plat's text for Reserves A and B, generally located on the south side of East Stonybrook Street, within 275 feet west of North 127th Street East.

VAC2024-00049: Vacation request to vacate the north 20 feet of the south 30 feet of the platted setback to create room for a receiving dock and trash enclosures, generally located on the east side of South Seneca Street, within 500 feet north of West 47th Street South (4720 South Seneca).

ZON2024-00048: Zone change request in the City from TF-3 Two-Family Residential District to MF-18 Multi-Family Residential District to convert the garage into a third dwelling unit, generally located on the east side of South Main Street, within 150 feet north of East Osie Street (1650 South Main Street).

IPL0196927
Oct 2 2024

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

1 insertion(s) published on:

10/02/24

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 10/02/2024 to 10/02/2024.

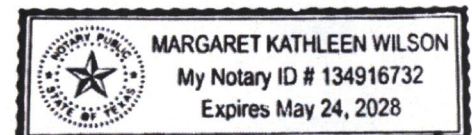
Mary Castro

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

DATED: 10/02/2024

Margaret K. Wilson

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!



STAFF REPORT

MAPC: October 24, 2024
DAB IV: November 6, 2024

CASE NUMBER: CON2024-00212 (City)

OWNER/AGENT: Kathy and Tong Nguyen; Van Le (Applicants)

REQUEST: Conditional Use Request to allow Entertainment Establishment in the City within 300 feet of residentially zoned property.

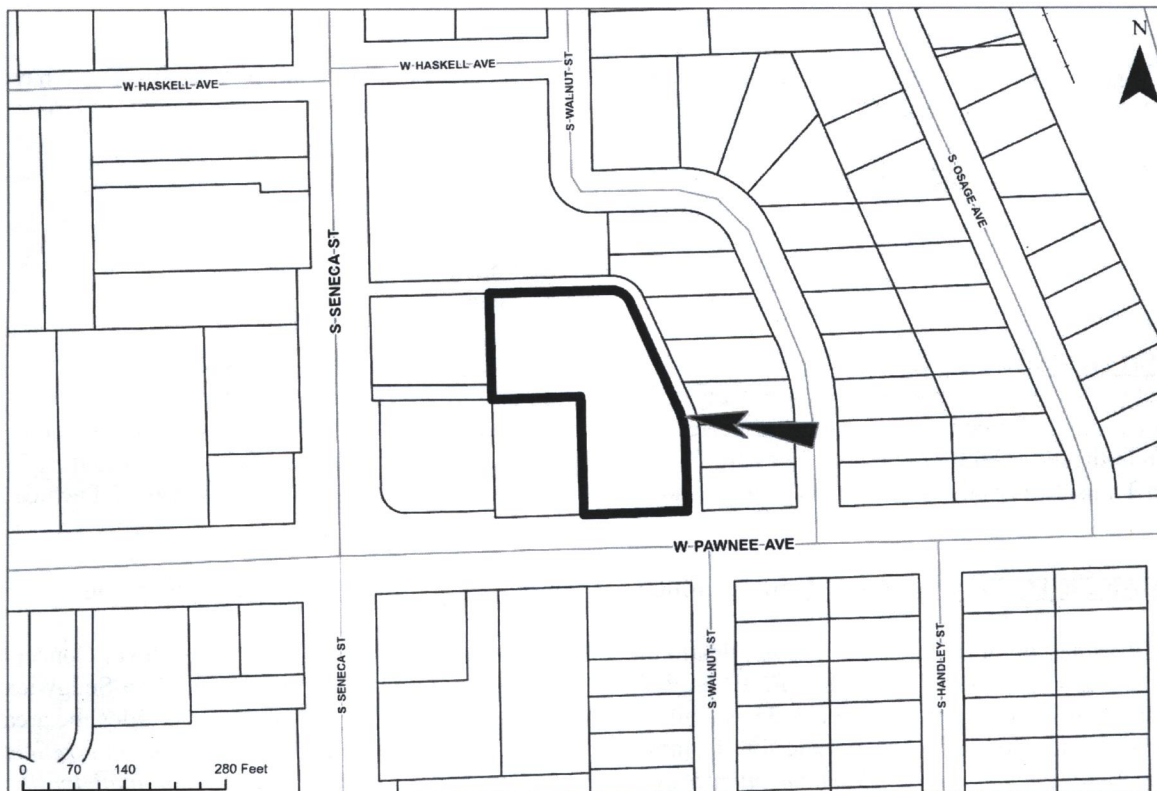
CURRENT ZONING: LC Limited Commercial District

SITE SIZE: 1.35 acres

LOCATION: Generally located on the northeast corner of South Seneca Street and West Pawnee Avenue (1040 West Pawnee Avenue).

PROPOSED USE: Entertainment Establishment

RECOMMENDATION: Approval with conditions.



BACKGROUND: The applicant is requesting a Conditional Use for an Entertainment Establishment within 300 feet of a residential zoning district on property zoned LC Limited Commercial District (LC). The 1.35-acre site is generally located on the northeast corner of South Seneca Street and West Pawnee Avenue (1040 West Pawnee Avenue).

On January 2, 2024, the Wichita City Council approved changes to the Unified Zoning Code (UZO) 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 (UZO) 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. The use would be considered an Entertainment Establishment in the City.

The subject site borders a church to the north and the SF-5 Single-Family Residential District (SF-5) to the north and east, both of which are within the 300-foot threshold requiring Conditional Use approval. 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.

Section IV-B.2 of the Unified Zoning Code (UZO) requires screening of commercial properties when abutting or across a street or alley from residential zoning districts. A portion of the property is currently screened with a six-foot privacy fence to the east which satisfies the screening standards of the UZO. Should the zone change be approved, appropriate screening would need to be installed on the remaining eastern portion of the property line that is not screened as well as the north property line.

The subject site is part of a larger commercial strip development. Properties to the north and east are zoned SF-5 and are developed with a church and single-family dwellings. Property to the south is zoned SF-5 and is developed as a single-family dwelling. Property to the west is zoned LC and is developed with a Vehicle Repair, Limited business.

CASE HISTORY: On November 16, 1965, the property was platted as part of the M and B Addition. There have been no other zoning cases associated with the property.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Church/Single-family dwellings
SOUTH:	SF-5	Single-family dwelling
EAST:	SF-5	Single-family dwellings
WEST:	LC	Vehicle Repair, Limited

PUBLIC SERVICES: The subject site has access to South Seneca Street and West Pawnee Avenue. South Seneca Street is a paved four-lane arterial with dedicated right-and left-turn lanes with sidewalks on both sides. West Pawnee Avenue is a paved four lane arterial with dedicated a dedicated right-and left-turn lanes and sidewalks on both sides. All municipal services are in place and can accommodate the required services to the site. Wichita Transit serves the site on the northeast and southwest corners South Seneca Street and West Pawnee Avenue.

CONFORMANCE TO PLANS/POLICIES: The following plans govern development on the subject site:

Community Investments Plan: The proposed application is in conformance with the 2035 Future Growth Concept Map element of the *Community Investments Plan* based. 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 to be appropriate for "Commercial." This category is described as, "areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. Convenience retail, restaurants, small offices, and personal service uses are located in close proximity to, and potentially mixed with, Residential Uses. Major destination areas (centers and corridors) containing concentrations of commercial, and office uses that have regional market areas and generate high volumes of traffic

are located in close proximity to major arterials or highways and typically are buffered from lower density residential areas by higher density housing types. Although the proposed Entertainment Establishment is abutting both residential properties and a church, staff believes the location is suitable for the proposed use. The conditions of approval are designed to mitigate possible negative impacts to neighboring properties.

The proposed application is in conformance with the Locational Guidelines of the *Community Investments Plan*. Under the heading "Design" Locational Guidelines 1.e states that "*Non-residential uses should have site design features that limit traffic, noise, lighting, and adverse impacts on surrounding residential land uses.*" The proposed conditions should help mitigate any adverse impacts on nearby residential uses.

The Wichita: Places for People Plan: The requested Conditional Use is in conformance with the *Wichita: Places for People Plan*. The *Wichita: Places for People Plan* provides recommendations for urban infill development in the Established Central Area (ECA). In general, the ECA is envisioned as "a place for people - a place that provides for the movement of people - on foot, on bike, and through transit - in balance with automobiles." Ensuring development follows a nodal pattern "which creates a critical mass of activity at the center and transitions in scale and intensity" is key to realizing this vision.

To implement the vision defined for the ECA, six strategies have been identified to help guide the community in their actions to create walkable places within Wichita. Strategy #3 sets out to "Improve the economic feasibility of commercial uses and the markets necessary to support them." Strategy #6 of the *Plan* sets out to "Encourage infill and redevelopment that is contextual to the environment in which it is occurring." Both strategies are being implemented with this request while the conditions of approval are designed to mitigate potential negative effects to nearby properties.

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:

1. 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 or speakers outdoors.
3. Amendments, adjustments, or interpretations to this Conditional Use shall be done in accordance with the Unified Zoning Code.
4. 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.
5. Development of the site shall be in general conformance with the approved site plan.
6. 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.

This recommendation of approval is based on the following findings:

1. **The zoning, uses and character of the neighborhood.** The subject site is part of a larger commercial strip development. Property to the north and east is zoned SF-5 and is developed with a church and single-family dwellings. Property to the south is zoned SF-5 and is developed as a single-family dwelling. Property to the west is zoned LC and is developed with a Vehicle Repair, Limited business.
2. **The suitability of the subject property for the uses to which it has been restricted:** The property is zoned LC Limited Commercial District and is limited to uses permitted in the LC District, including several residential, public and civic, and commercial uses.
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

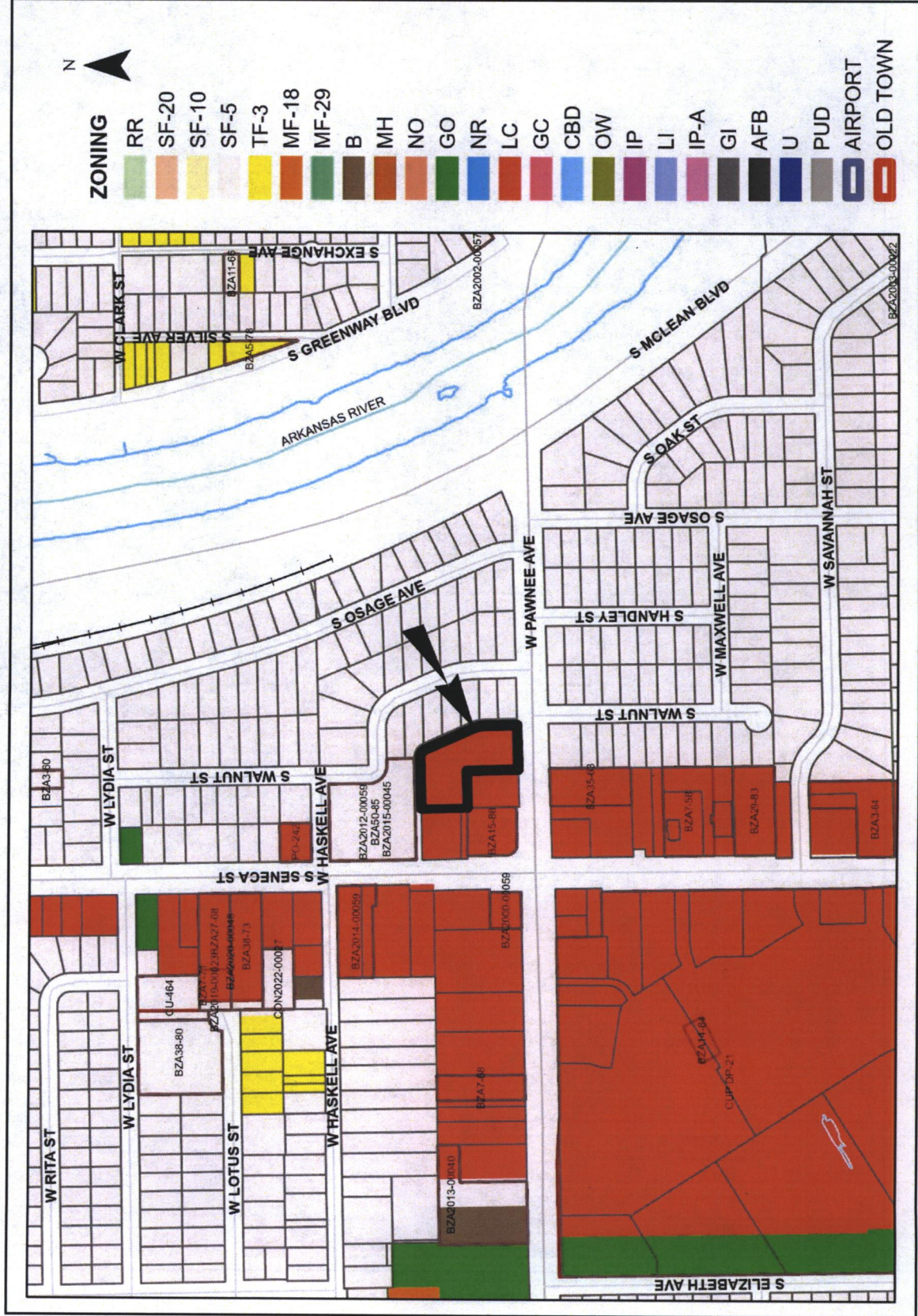
feet of a residentially zoned property. The conditions of approval are designed to mitigate possible negative impacts to neighboring properties.

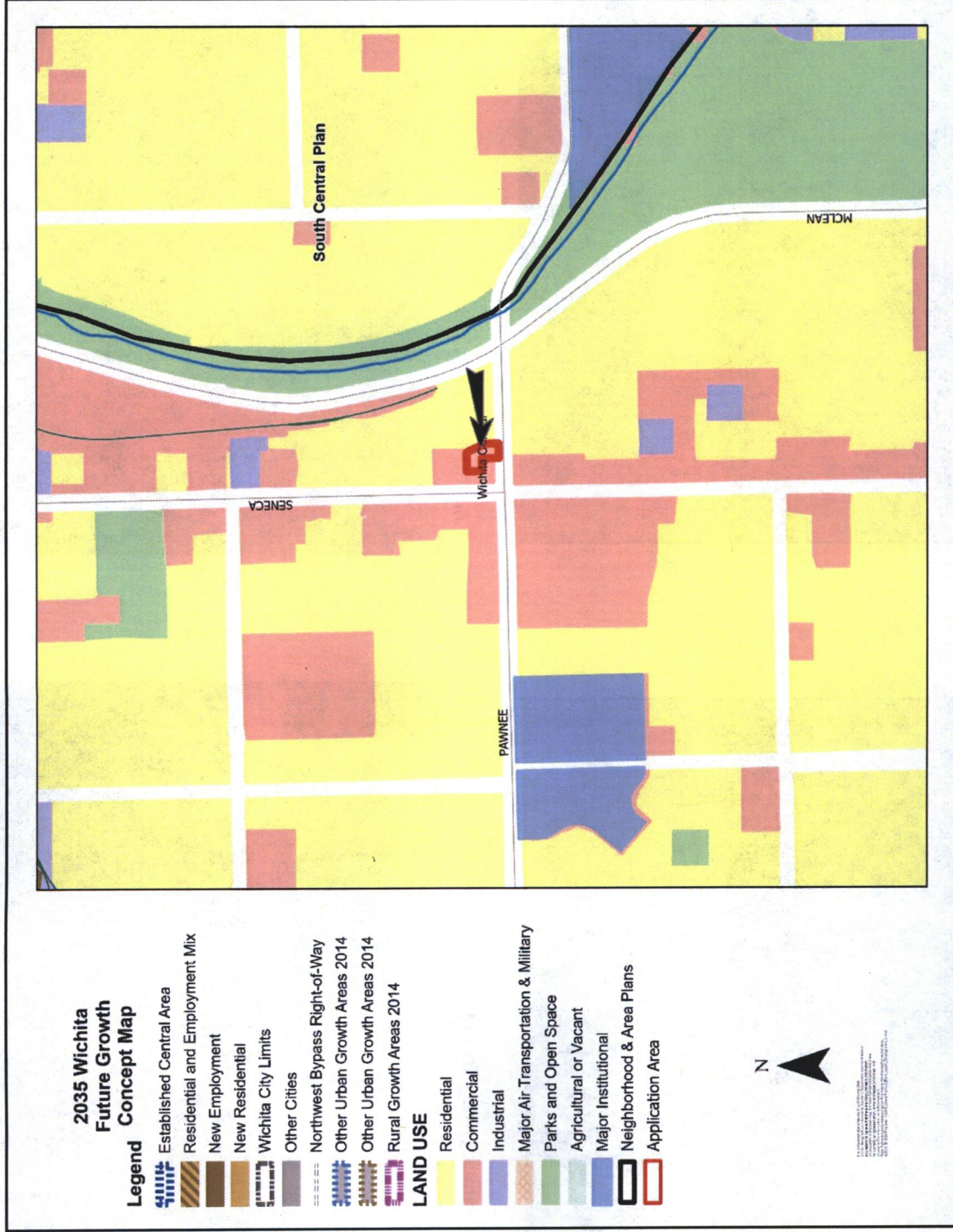
4. **Length of time subject property has remained vacant as zoned:** The property is not vacant. It is developed with a small strip shopping center.
5. **Relative gain to public health, safety, and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Approval of the 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 detrimental effects. 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 Conditional Use is in conformance with the *Community Investments Plan* and *Wichita: Places for People* plan as discussed in the staff report.
7. **Impact of the proposed development on community facilities:** The Planning Department does not anticipate the requested 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:

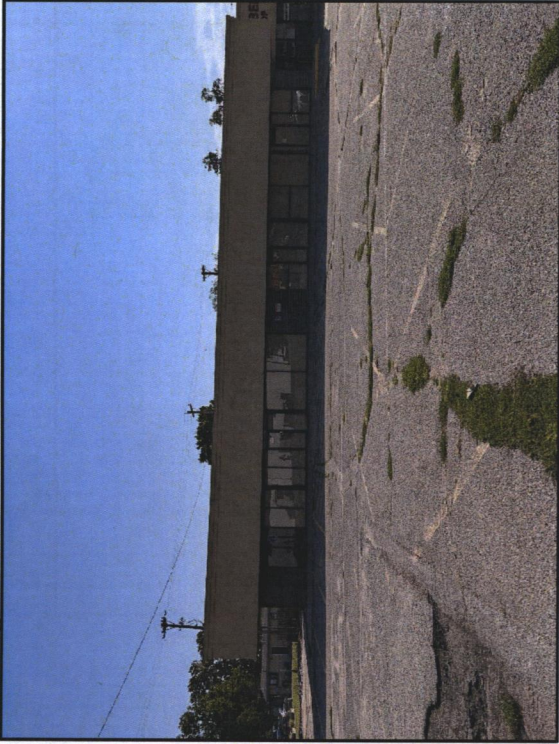
1. Site Plan
2. Aerial Map
3. Zoning Map
4. Land Use Map
5. Photos



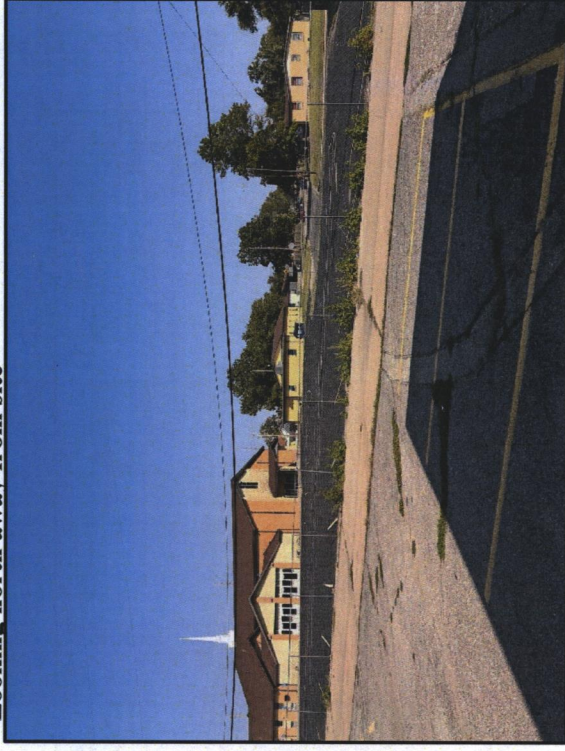




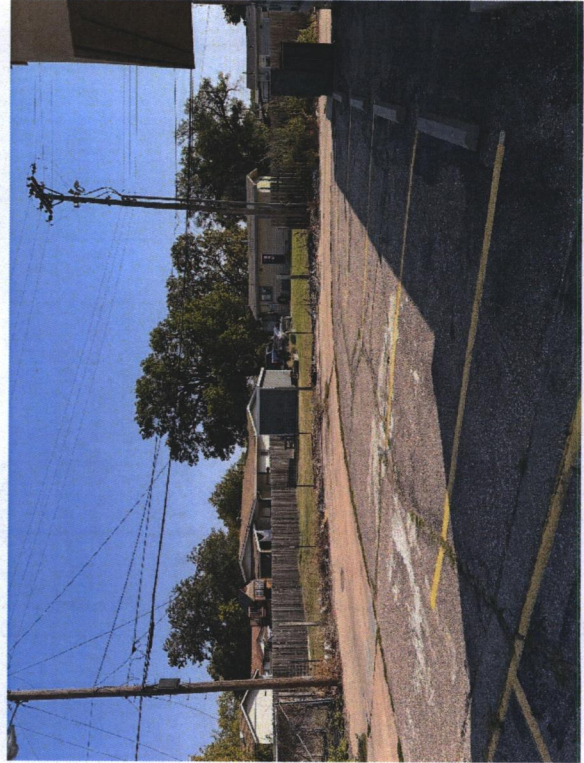
Looking east into site



Looking north away from site



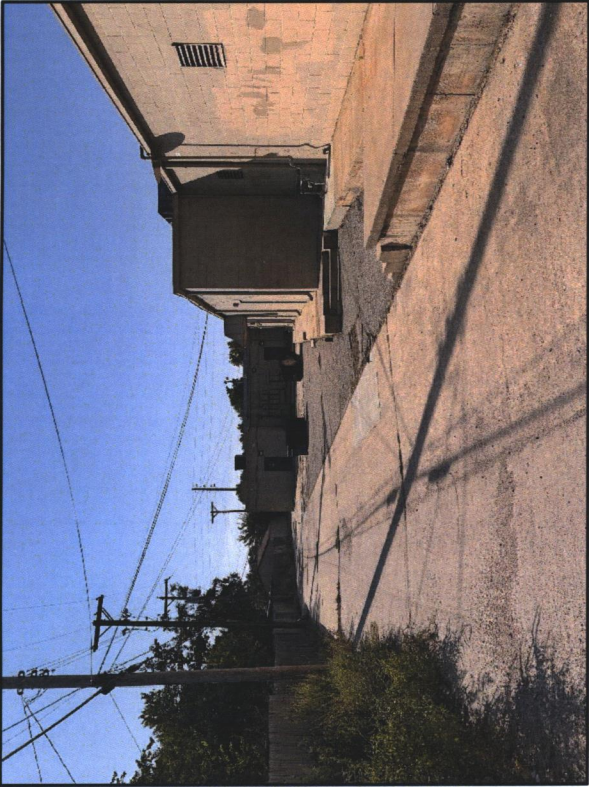
Looking northeast away from site



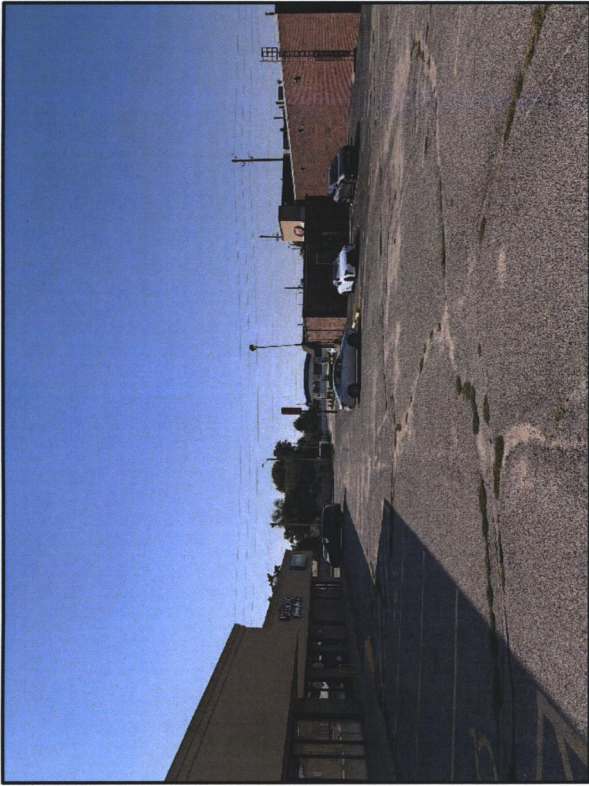
Looking east away from site



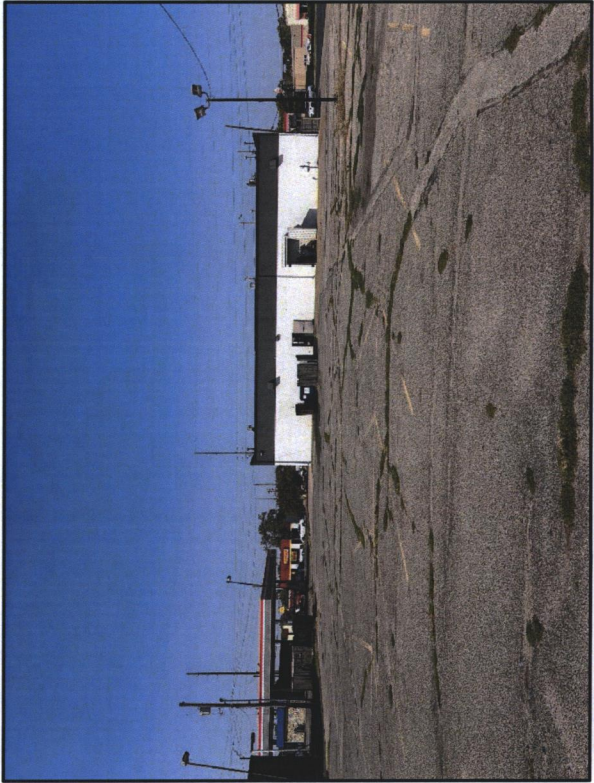
Looking south away from rear of site



Looking south away from site



Looking west away from site



CONDITIONAL USE -SITE PLAN

LEGAL DESCRIPTION: LOT 1 EXC BEG 146 FT S & 165 FT E NW COR THE 122.5 FT S 165 FT W 122.5 FT N 165 FT TO BEG & EXC PT BEG NW COR THEREOF TH S 122 FT E 165 FT N TO N LI SAID LOT W TO BEG M & B ADDITION

Proposed Event Center
Kathy Nguyen
1040 W Pawnee
Wichita, KS 67213
316-516-8114

