

(150004) Published in The Wichita Eagle on April 28, 2017

ORDINANCE NO. 50-442

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. ZON2016-00047

Request amendment to "P-O" Protective Overlay District #134, on property described as:

Lot 1, Block B, Central Bank & Trust, an Addition to Wichita, Sedgwick County, Kansas, generally located on the southeast corner of North Vassar Avenue and East Central Avenue.

SUBJECT TO THE FOLLOWING AMENDED PROTECTIVE OVERLAY RESTRICTIONS:

- A. Provide cross-lot access to the property located to the east. Access shall be as approved by the Traffic Engineer. Access to Central Avenue is limited to one shared curb cut. The shared curb cut shall be created by the subject site and the property located east of the application area, and access control to Central except for one joint opening shall be established. Access to Vassar Avenue is limited to two locations, including access to the trash dumpster if the dumpster is accessed directly from Vassar Avenue. The property is to be developed and maintained in general conformance with a site plan approved by the Director of Planning. If the site installs an outdoor menu or order board the following site development standards are required: Circular drive-thru traffic shall be in a pattern conducive to direct existing traffic toward the Central Avenue curb cut and not onto Vassar Avenue. Primary vehicle queuing is to be on the east and or south side of the building between the building and the eight-foot masonry screening wall. The building is to be located as far north possible. Improvements associated with the outdoor order or menu board shall be completed within two years; otherwise, the provisions associated with the outdoor order or menu board are null and void.
- B. Even though the property is zoned LC, the property would be restricted to uses permitted by right in the Neighborhood Retail ("NR") district as follows: single-family; duplex; multi-family; accessory apartment; assisted living; church; day care, limited and general; library; utility, minor; automated teller machine; bed and breakfast inn; medical service; office, general; parking area, commercial; agriculture; personal care service; personal improvement service and a restaurant that exceeds 2,000 square feet. No sound amplification systems for projecting music or human voice shall be permitted on the property. Drive-through service is permitted. Outdoor menus or order boards are permitted provided there is no sound amplification system for projecting music or human voice. Menu board (without amplification) shall be located on the south or east side of the building in area between the building and screening wall. Menu board must be located within the eastern 2/3 of property width. If the building is located within approximately 16' of the rear

- screening wall, landscape requirement for said area (south 10') currently in the PO, may be exempted for purpose of allowing a vehicle drive.
- C. The development shall meet all landscaping, screening, lighting, building setbacks, compatibility standards and buffering requirements, per the Unified Zoning Code and the Landscape Ordinance, including one shade tree or the equivalent every 20 feet along the residential edge(s) of the development for any nonresidential development, and provide a 10-foot landscape buffer along the south property line; install a solid screening wall a minimum of eight feet in height along the south and southeast property lines where adjacent to SF-5 or TF-3 zoning, and plant trees at a rate of one tree per 20 feet along the south property line and the southern 60 feet of west property line and parking lot landscaping and screening extending to the drive on Vassar, and maintain the existing solid evergreen screen and solid screening fence on the southern 100 feet of the east property line. If an outdoor order board and drive-thru circulations pattern is developed the requirement for a 10-foot landscaping buffer along the east property line shall be eliminated to allow for drive a circulation lane over the easement.
 - D. Trash dumpsters and enclosures shall not be located within any platted or zoning building setback or any compatibility building setback.
 - E. Building height is restricted to a maximum height of 35 feet.
 - F. Restrict freestanding signs to one monument type sign no more than eight feet in height and subject to the sign regulations of the NR district. Off-site billboard, portable and electronic signage is prohibited.
 - G. Require nonresidential buildings to be residential in architectural character and materials, including that metal shall not be used as exterior materials except for incidental accent or trim.
 - H. All uses shall be developed to minimize light trespass and glare from nonresidential uses to residential zoning districts by employing cut-off luminaries and by limiting light fixtures, including base and poles to no more than 15 feet.

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.

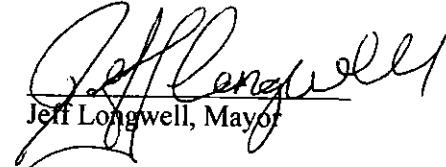
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ADOPTED this 25 day of April, 2017.

ATTEST:



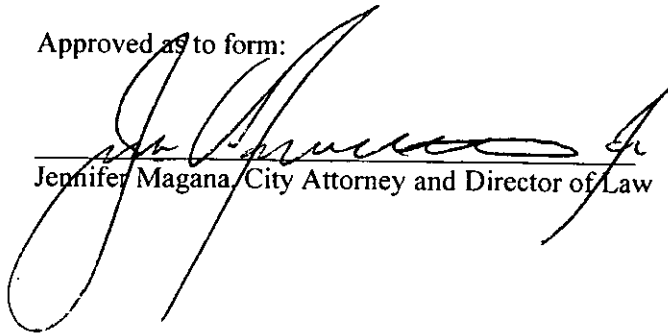
Karen Sublett, City Clerk



Jeff Longwell, Mayor



Approved as to form:



Jennifer Magana, City Attorney and Director of Law

STAFF REPORT
MAPC December 1, 2016
DAB I December 5, 2016

CASE NUMBER: ZON2016-00047

APPLICANT/AGENT: Central and Vassar Development LLC (owner) Paul Grey (agent)

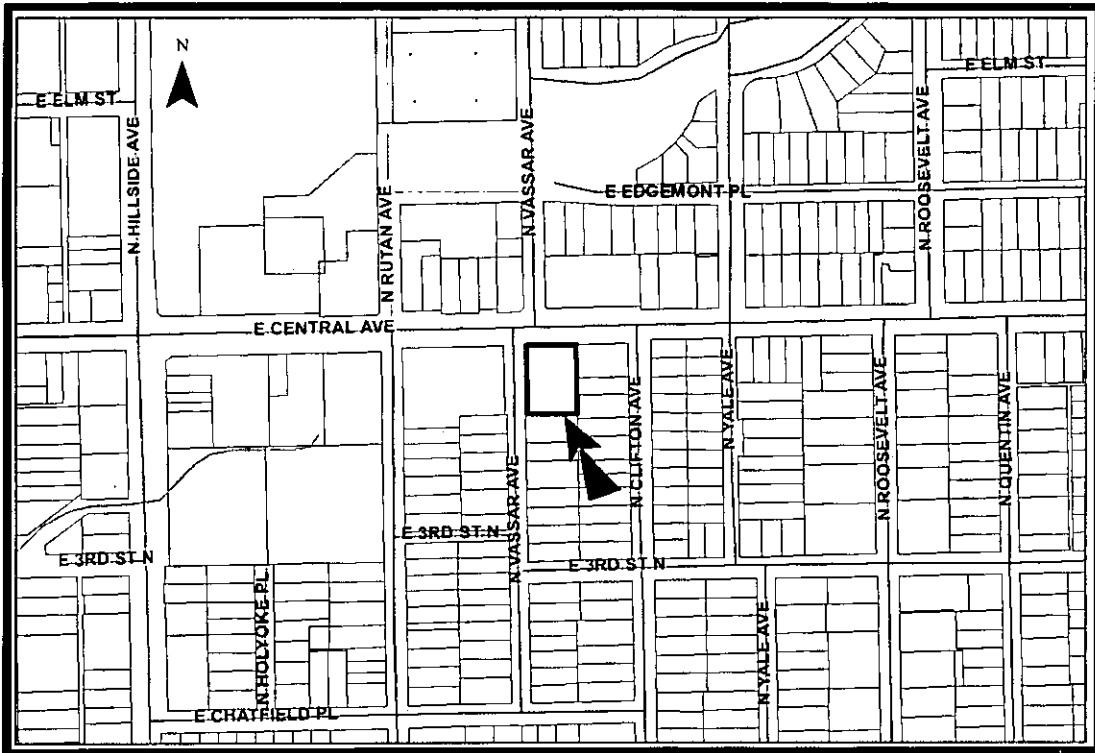
REQUEST: Amend Protective Overlay PO #134

CURRENT ZONING: LC Limited Commercial (GO) subject to Protective Overlay PO #134

SITE SIZE: 0.58 acre

LOCATION: East of North Hillside Avenue on the southeast corner of East Central Avenue and North Vassar Avenue

PROPOSED USE: Allow an outdoor menu board and a sound amplification systems for projecting the human voice for a drive-through restaurant



BACKGROUND: The applicant is requesting an amendment to Protective Overlay #134 (“PO” #134) on the undeveloped LC Limited Commercial (“LC”) zoned property located on the southeast corner of East Central Avenue and North Vassar Avenue. Provision B. of PO #134 states that:

- B. Even though the property is zoned LC, the property would be restricted to uses permitted by right in the Neighborhood Retail (“NR”) district as follows: single-family; duplex; multi-family; accessory apartment; assisted living; church; day care, limited and general; library; utility, minor; automated teller machine; bed and breakfast inn; medical service; office, general; parking area, commercial; agriculture; personal care service; personal improvement service and a restaurant that exceeds 2,000 square feet. No sound amplification systems for projecting music or human voice shall be permitted on the property. No menu or order boards are permitted. Drive-through service is permitted but is restricted to a pick-up window only.

The applicant proposes to allow a sound amplification systems for projecting the human voice and an outdoor menu board, which is prohibited in PO #134, thus the proposed amendment. The result of the proposed amendment would be a drive-through restaurant. The applicant’s elevation shows the restaurant as being one of several tenants of a commercial strip building.

The applicant’s site plan appears to propose using the existing two drives onto Vassar Avenue with no drives onto Central Avenue. As shown on the site plan and an elevation of a proposed commercial strip building, vehicles using the restaurant’s pick-up window would enter the site via the north drive and exit through the south drive. The site plan does not provide a queuing plan that is required for a drive-through restaurant. The site’s proposed two drives onto Vassar is similar to the west adjacent LC and GO General Office (“GO”) zoned Intrust Bank’s two drives onto Rutan Avenue, a local residential street. The bank, located west of the site, across Vassar Avenue, also has drive-through service and a sound amplification system for projecting the human voice. However the bank’s peak operation hours that would generate the most vehicular traffic does not extend into the evening like the restaurants located in this area around the Hillside – Central Avenues intersection. The bank also has a drive onto Central Avenue, thus allowing traffic another option of entering and exiting the bank’s site other than Rutan Avenue. The site plan shows parking along all of its Central Avenue frontage, preventing a drive onto Central Avenue. However, PO #134 requires cross-lot access to the abutting east GO zoned property for a shared drive onto Central Avenue. The site plan does not show the location of the order board, but the applicant has stated that it would be located adjacent to the exterior seating area as shown on the elevation. The site plan does not show the location of a trash dumpster, which is required to be located a minimum of 20 feet from residential zoning and have solid screening with a screening gate. The site plan shows no landscaping or a landscape buffer, which are required per PO #134. The landscape ordinance will also require parking lot screening and a landscaped street yard.

The area’s largest development is the predominately GO zoned Wesley Hospital regional complex located on the northeast corner of North Hillside Avenue and Central Avenue. Other properties located north of the site, across Central Avenue, are GO zoned three-story apartments, a GO zoned Ronald McDonald House used by families of the patients at Wesley, GO zoned Wesley properties, B Multi-Family (“B”) zoned two-story apartments and TF-3 zoned duplexes and single-family residences. Planned Unit Development #14 (“PUD” – PUD2001-00002) is located south of Wesley, across Central Avenue, and two blocks west of the subject site. PUD #14 is developed with a drug store with drive-through service, a four-story motel, parking and two commercial strip buildings that contain restaurants and retail. The drug store is located over 400 feet from the nearest residential property and none of the restaurants have drive-through service. As already noted there is a west adjacent LC and GO zoned bank with drive-through. Other west adjacent west properties are TF-3 Two-Family Residential (“TF-3”) and SF-5 Single-Family Residential (“SF-5”) zoned single-family residences. The abutting east properties are a zoned GO

medical office and TF-3 T and SF-5 zoned single-family residences. The abutting south properties are SF-5 zoned single-family residences.

CASE HISTORY: Case number ZON2003-00069 was a zoning change request from SF-5 and GO zoning to LC zoning. On April 9, 2004, the City Council approved ZON2003-00069 with GO zoning subject to PO #134. On June 19, 2012, the City Council approved ZON2012-00014, which changed the site's GO zoning to LC zoning with amendments to PO#134. The amendment stated that the subject site would be restricted to the uses permitted in the Neighborhood Retail ("NR") zoning district except it would allow a restaurant that exceeds 2,000 square feet and the restaurant would be permitted a drive-up window without audible speakers.

The property is platted as Lot 1, Block B, Central Bank & Trust Addition, recorded on September 10, 1980. The property has been undeveloped for at least the past 25-years.

Staff has had contact with members of the area's single-family residential neighborhood who have protested the application, noting that a restaurant with drive-through service had been denied in the past zoning cases. The protesters inquired what had changed in the area that would trigger the request.

ADJACENT ZONING AND LAND USE:

NORTH: GO, B, TF-3	Apartments, an office building, a regional hospital, duplexes, single-family residences
SOUTH: SF-5	Single-family residences
EAST: GO, TF-3, SF-5	Medical office, single-family residences
WEST: LC, GO, TF-3, SF-5, PUD	Bank, single-family residences, motel

PUBLIC SERVICES: Central Avenue is a four-lane arterial with a center-turn lane at this location. Vassar is a local residential street with 60 feet of full right-of-way adjacent to the subject site. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The "2015-2035 Community Investments Plan" (Plan) categorizes the site as "new residential/employment mix." This category encompasses areas of land that likely will be developed or redeveloped by 2035 with uses predominately of a mixed nature. The regional Wesley Hospital complex and its influence on the area's development is a match for the new residential/employment mix category.

The Plan's locational criteria is comprised of three key elements: development pattern, land use compatibility and design. The proposed amendment will be out of character with the area's development pattern. If approved it will introduce the first drive-through restaurant with an order board and an outdoor sound system amplification system for projecting the human voice to east side of the Hillside – Central Avenues intersection. As noted there is a bank located west across Vassar Avenue from the site with a sound amplification system for projecting the human voice. However the bank's peak operation hours that would generate the most vehicular traffic does not extend into the evening like the restaurants located in this area around the Hillside – Central Avenues intersection. As shown on the site plan all access to and from the site is via the residential street Vassar Avenue. Commercial traffic should not go through residential neighborhoods, but the proposed site plan directs all commercial traffic onto Vassar Avenue, a residential street, which in turn might funnel traffic through the abutting residential neighborhood. The site plan does not incorporate PO #134's required cross-lot access to the abutting east GO zoned property for a shared drive onto Central Avenue. The required shared drive onto Central Avenue would allow more traffic onto Central Avenue and off Vassar Avenue, thus potentially keeping more traffic out of the residential neighborhood.

The Plan's locational criteria also states that higher-intensity development should be discouraged from locating in areas of existing lower-intensity development, particularly established low-density residential areas. The area around the site is part of the long established College Hill – Sleepy Hollow single-family residential neighborhoods (a sample shows most of the homes to have built in the 1920s- 1930s). The intent of PO #134 was to keep high intensity commercial uses that generate late evening high vehicular traffic, such as restaurants with drive-through service, from encroaching into these long established single-family residential neighborhoods.

The site is also located within the “established central area.” The established central area is comprised of the downtown core and the mature neighborhoods surrounding it in a roughly three mile radius, the established central area is the focus area for the Wichita Urban Infill Strategy. The established central area is the focus area for the Wichita Urban Infill Strategy. The infill strategy is to promote compatible uses, which the proposed amendment does not do.

RECOMMENDATION: There has been no change to the development pattern in the area located east of the Hillside – Central Avenues intersection since the 2012 zoning case, ZON2012-00014. The proposed amendment disrupts that development pattern by proposing a more intense commercial use into an established and well maintained single-family residential neighborhoods. Based upon information available prior to the public hearings, planning staff recommends that the request for the amendment that would allow a restaurant with an order board and a sound amplification system for projecting the human voice allowing drive through service be DENIED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The commercial area located east of the Hillside – Central Avenues intersection is developed around the regional serving Wesley Hospital. PUD #14 is located two blocks west of the subject site and is developed with a drug store with drive through service, a four-story motel, parking and two commercial strip buildings that contain restaurants and retail. The drug store is located over 400 feet from the nearest residential property and none of the restaurants have drive-through service. Two GO and B zoned two-three story apartments are located north of the site, across Central Avenue, as are a GO zoned Ronald McDonald House and GO zoned offices. A LC zoned bank with drive-through services (with a sound amplification system) is located west of the site, across Vassar. However the bank's peak operation hours that would generate the most vehicular traffic does not extend into the evening like the restaurants located in this area around the Hillside – Central Avenues intersection, thus not encroaching on the time most people are at home, which in this case home is part of the long established College Hill – Sleepy Hollow single-family residential neighborhoods.
2. The suitability of the subject property for the uses to which it has been restricted: The intent of PO #134 was to keep high intensity commercial uses that generate late evening, high vehicular traffic, such as restaurants with drive-through service, from encroaching into these long established single-family residential neighborhoods, while allowing neighborhood serving retail, including restaurants, to develop on the site, which continues to be undeveloped.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Some of the uses permitted in PO #134, such as “retail, general” have the potential to generate higher traffic volumes, noise, lighting or litter than can be found in the single-family, apartment, office and bank uses abutting or across the street from the subject tract. The proposal to allow a drive-

through restaurant would have significantly detrimentally impact on the abutting single-family residences by the later hours that a drive-through has resulting in a stream of lights from cars queuing in line at hours when other businesses are closed. Trash, vehicular noise and traffic using Vassar to exit the site are other negative impacts on the residential neighborhood.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2015-2035 Community Investments Plan” (Plan) categorizes the site as “new residential/employment mix.” This category encompasses areas of land that likely will be developed or redeveloped by 2035 with uses predominately of a mixed nature. The regional Wesley Hospital complex and its influence on the area’s development is a match for the new residential/employment mix category.

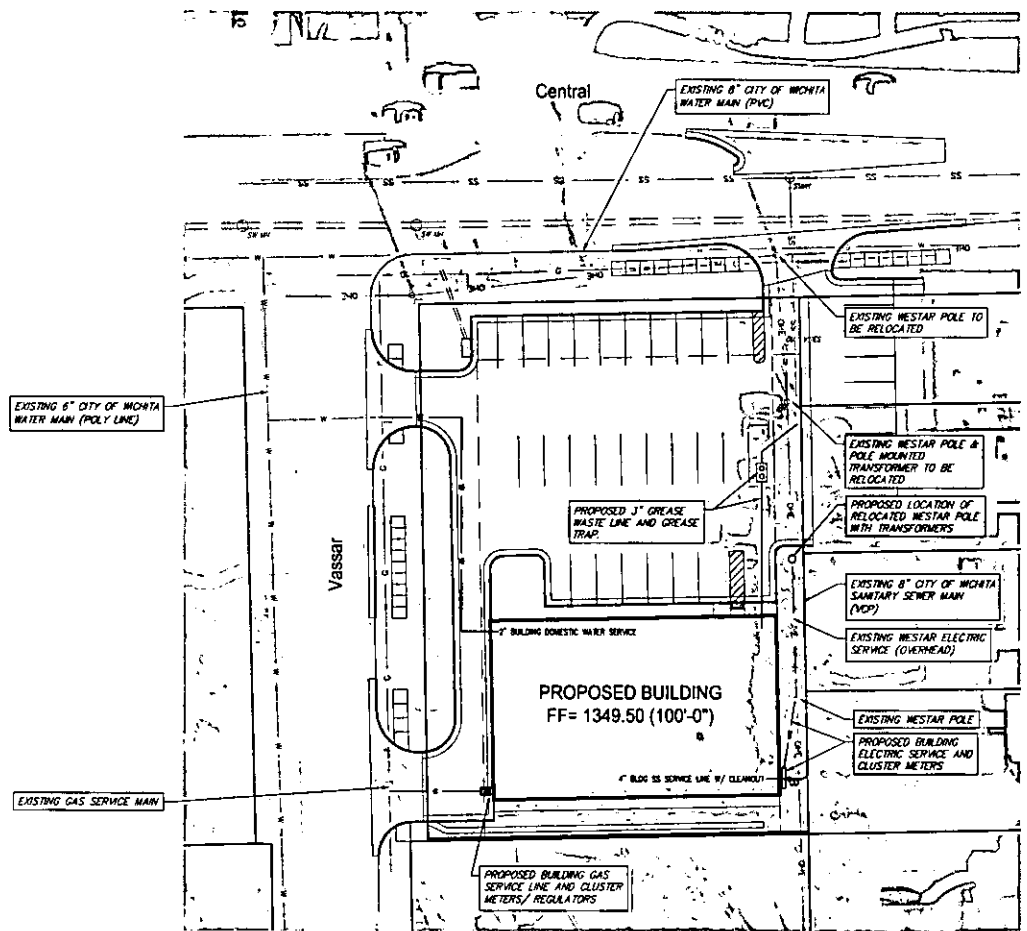
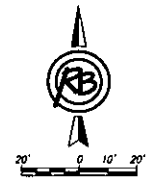
The Plan’s locational criteria is comprised of three key elements: development pattern, land use compatibility and design. The proposed amendment will be out of character with the area’s development pattern. If approved it will introduce the first drive-through restaurant with an order board and an outdoor sound system amplification system for projecting the human voice to east side of the Hillside – Central Avenues intersection. As noted there is a bank located west across Vassar Avenue from the site with a sound amplification system for projecting the human voice. However the bank’s peak operation hours that would generate the most vehicular traffic does not extend into the evening like the restaurants located in this area around the Hillside – Central Avenues intersection. As shown on the site plan all access to and from the site is via the residential street Vassar Avenue. Commercial traffic should not go through residential neighborhoods, but the proposed site plan directs all commercial traffic onto a residential street, which in turn might funnel traffic through the abutting residential neighborhood, avoiding a line of traffic onto to Central off of Vassar. The site plan does not incorporate PO #134’s required cross-lot access to the abutting east GO zoned property for a shared drive onto Central Avenue. The shared drive onto Central Avenue would allow more traffic onto Central Avenue and off Vassar Avenue, thus potentially keeping more traffic out of the residential neighborhood.

The Plan’s locational criteria also states that higher-intensity development should be discouraged from locating in areas of existing lower-intensity development, particularly established low-density residential areas. The area around the site is part of the long established College Hill – Sleepy Hollow single-family residential neighborhoods. The intent of PO #134 was to keep high intensity commercial uses that generate high vehicular traffic at late hours, such as restaurants with drive-through service, from encroaching into these long established single-family residential neighborhoods.

5. Impact of the proposed development on community facilities: The site is served by existing community facilities. Traffic will increase from the property once it is developed; however, existing facilities are adequate to serve anticipated uses.

However, if the MAPC finds the proposed amendment to allow a sound amplification systems for projecting the human voice and an outdoor menu board for a drive-through restaurant appropriate they must provide findings to support the amendment.

ZON/2016-00047



UTILITY PLAN
SCALE 1" = 20' - 0"

LEGAL DESCRIPTION

LOT 1, BLOCK B, CENTRAL BANK & TRUST ADDITION

LEGEND

- 4 ——— EXISTING WATER
- SS ——— EXISTING SANITARY SEWER
- AT&T ——— EXISTING TELECOMMUNICATIONS (AT&T)
- (AT&T OR COX) ——— EXISTING FIBER OPTIC LINE (AT&T OR COX)
- ONE ——— EXISTING WESTAR (OVERHEAD)
- UGE ——— EXISTING WESTAR (UNDERGROUND)
- S ——— EXISTING STORM WATER SEWER
- K ——— EXISTING KANSAS GAS SERVICE

Vassar Strip Center Site Utility Plan			
		RUGGLES & BOHM	
		<small>ENGINEERING SURVEYING LANDSCAPE ARCHITECTURE ARCHITECTURE 100 SOUTH MAIN STREET, SUITE 200, WICHITA, KS 67202 PH: 316.261.1111</small>	
<small>PROJECT NUMBER</small>	<small>NO. JOB NO.</small>	<small>DRAWING SCALE</small>	<small>DATE</small>
101	4097E	1" = 20'-0"	July 2016
<small>DRAWING NO. P.</small>	<small>DRAWING NO. P.</small>	<small>DRAWING NO. P.</small>	<small>DRAWING NO. P.</small>
Central & Vassar Streets			C1.1

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