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ORDINANCE NO. 47-748

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. ZON 2005-18**

Request for Zone change from "SF-20" Single-family Residential District to "IP" Industrial Park Limited District and to PO # 176,

**SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #176:**

1. A building setback of 100 feet shall be provided on the north, south and west property line.
2. The following uses shall be prohibited: auditorium or stadium; animal care, limited and general; convenience store; restaurants with drive-through or in-car service and with more than 2,000 square feet gross floor area; tattooing and body piercing; wireless communication facility;

**AND**

**Case No. ZON 2006-43**

Request for Zone change from "SF-20" Single-family Residential District to "IP" Industrial Park Limited District and to PO # 183,

**SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #183:**

1. A building setback of 100 feet shall be provided on the north, east and west property line.
2. The following uses shall be prohibited: auditorium or stadium; animal care, limited and general; convenience store; restaurants with drive-through or in-car service and with more than 2,000 square feet gross floor area; tattooing and body piercing; wireless communication facility;

for property described as:

Lot 1, Block A, and Reserves A and B, Skyway West Addition, Wichita, Sedgwick County, Kansas.

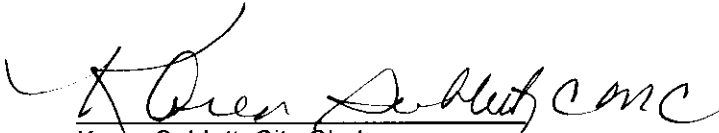
Generally located on the southwest corner of Maize Road and 31<sup>st</sup> Street South.

**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 15 day of January, 2008.

ATTEST:

  
Karen Sublett, City Clerk

  
Carl Brewer, Mayor



(SEAL)

Approved as to form:

  
Gary E. Reberstorf, City Attorney

# AGENDA ITEM REQUEST

**Proposed Agenda Item:** ZON2005-00018- Sedgwick County Zone change from SF-20 Single-family Residential to IP Industrial Park. Generally located approximately one-half mile south of 31<sup>st</sup> Street South on the west side of 103<sup>rd</sup> Street West (Maize Road). (District II)

**Presented By:** John L. Schlegel, Planning Director *JLS*

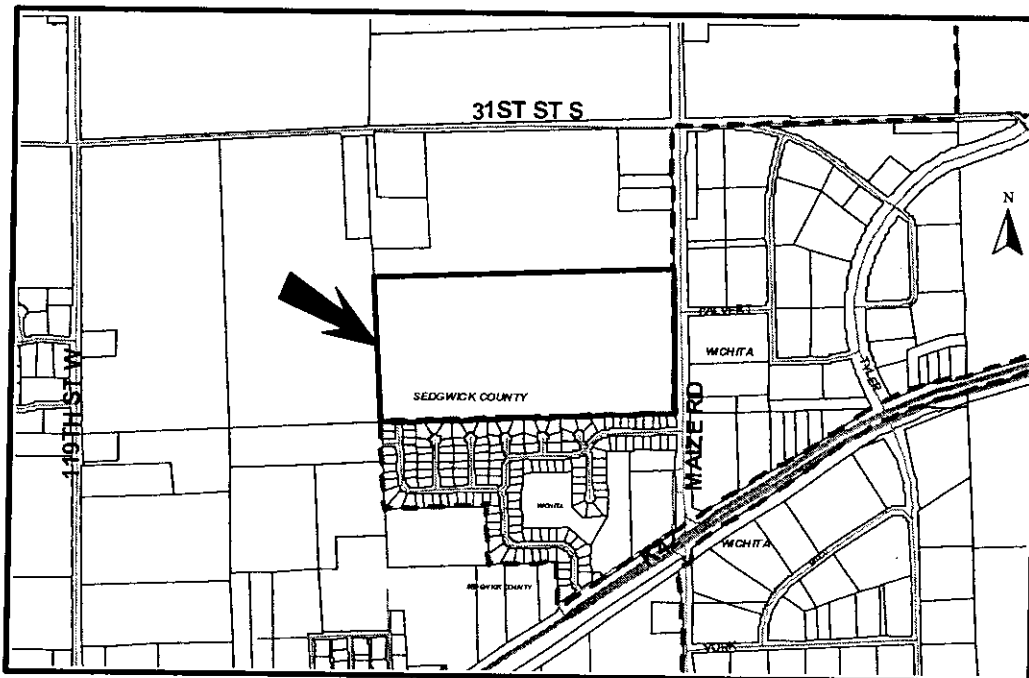
**Recommended Action:** Approve the zone change to IP, subject to platting within one year and the provisions of Protective Overlay #176; adopt the findings of the Metropolitan Area Planning Commission; direct staff to prepare an appropriate resolution after the plat has been approved and authorize the Chairman to sign the resolution.

**Proposed Agenda Date:** August 23, 2006

**Outside Attendees:** John E. Dugan Family Partnership, LP (owner), 2416 Morning Dew, Wichita, KS 67205; Robert W. Kaplan, Kaplan, McMillan & Harris (agent), 430 N Market, Wichita, KS 67202; Baughman Company, PA, c/o Terry Smythe (agent), 315 Ellis, Wichita, KS 67211

**Multimedia Presentation:** Powerpoint

**Donations:** Not applicable



**Background:** The applicant has requested industrial zoning on an 80-acre unplatted tract currently zoned SF-20 Single-family Residential, located approximately one-half mile south of 31<sup>st</sup> Street South on the west side of 103<sup>rd</sup> Street West (Maize Road), in order to offer additional large-scale shovel-ready industrial property in proximity to the airport and K-42. Currently, the property is in agricultural use, with a salt-water remediation well located on the site. The applicant originally requested LI Limited Industrial zoning but indicated agreement with IP Industrial Park zoning with a protective overlay at the MAPC meeting held July 20, 2006. The IP district was recommended by MAPC instead of LI because of the advantages it offers for protecting residential uses from more intensive industrial activities and with higher performance standards, plus the greater complementarities of the IP district with the airport.

Two distinct areas surround this site. The land to the north and west is in agricultural or low-density residential use; to the south it is a single-family residential subdivision, Harvest Ridge Addition. Harvest Ridge has 165 single-family lots platted, 38 lots occupied or under construction and 245 approved as part of a preliminary plat. The unincorporated community of Schulte is located to the southwest of Harvest Ridge Addition. St. Peter the Apostle Catholic Church and school is located in this community. The area east of Maize Road is zoned LI and is a large industrial area, anchored by the Wichita Mid-Continent Airport and Cessna Aircraft. A freight terminal is located on the northwest and northeast corners of K-42 and 103<sup>rd</sup> Street West (Maize Road) and the remaining land north of K-42 is vacant.

The subject tract is one-half mile west of the property owned by Wichita Airport Authority and over one-half mile west of the area labeled 'Airfield, Approach Protection (AO)' of the "Airport Land Use Legend" (Airport Layout Plans for Wichita Mid-Continent Airport, Sheet 16 of 17). The property lies beyond the boundaries of the area identified for acquisition by the Airport master plan. It is within the Airport Airspace Conical Surface map, which regulates structure height. The Wichita Airport Advisory Board briefly discussed the zone change at a meeting on March 6, 2006, with respect to future airport expansion plans and/or protection plans. The board indicated a preference against homes, schools and churches near airports and a desire for large industrial tracts ready for development, concluding by recommending the City of Wichita purchase the parcel and approval of industrial zoning.

The "2030 Wichita Functional Land Use Guide Map, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* visually portrays this area as appropriate for "urban residential" use and within the "Wichita 2030 urban growth area". In contrast, the property east of 103<sup>rd</sup> Street West (not included in the application area) is visually portrayed as "employment/industry center", which is defined as centers or concentrations of employment in industrial, manufacturing, service or non-institutional sectors. Land Use-Industrial **Strategy IV.A1** recommends protecting industrial areas "from encroachment or expansion of residential land uses by requiring appropriate buffers for expansion of the residential use when a nuisance situation is likely to be created." The requested site conforms to the industrial locational guidelines for close proximity to major arterials, belt highways, airports and connection to industrial land to the east of Maize and along K-42. The requested site conflicts with the industrial locational guideline of locating industrial uses away from planned residential areas (Harvest Ridge Addition) and sited to prevent traffic through less intensive land use areas by channeling traffic from the proposed site onto

Maize Road (103<sup>rd</sup> Street West) that then must travel south past Harvest Ridge to K-42 or north through developing residential areas to Kellogg.

**Analysis:** MAPC originally heard the case on May 26, 2005 and voted (10-0) to defer the case indefinitely. An owner of a large tract nearby spoke in opposition. Protests from many residents living along Maize Road north of the request were filed, protesting the proposed zone change to LI.

The MAPC reheard the case on July 20, 2006. Citizens spoke in opposition to the zone change. The applicant indicated agreement with the alternative conditions of IP zoning with a protective overlay and provided handouts showing the type of industrial use proposed for the site. MAPC recommendation (13-0) was to APPROVE IP INDUSTRIAL PARK SUBJECT TO PROTECTIVE OVERLAY #176 WITH THE FOLLOWING CONDITIONS:

1. A building setback of 100 feet shall be provided on the north, south and west property lines.
2. The following uses shall be prohibited: auditorium or stadium; animal care, limited and general; convenience store; restaurants with drive-through or in-car service and with more than 2,000 square feet gross floor area; tattooing and body piercing; wireless communication facility.

The condition of platting, which is a standard condition in zoning cases, was overlooked from the recommendation of MAPC. The Board of County Commissioners can add this condition.

Legally binding protests have been received from 5.68 percent of the property. Many other protests were received outside the legally binding protest area of 200 feet within the city of Wichita and 1,000 feet within the unincorporated area of Sedgwick County (shown on a second protest map covering a larger geographic area), as well as letters and emails expressing opposition.

**Alternatives:**

1. Approve the zone change to IP, subject to platting within one year and the provisions of Protective Overlay #176; adopt the findings of the Metropolitan Area Planning Commission; direct staff to prepare an appropriate resolution after the plat has been approved and authorize the Chairman to sign the resolution, or
2. Return such recommendation to the MAPC with a statement specifying the basis for the BOCC's failure to approve or disapprove.
3. Deny the zone change and override the MAPC recommendation with a 2/3 vote.

**Financial Considerations:** Not applicable.

**Policy Considerations:** The MAPC recommendations are based upon the findings of fact stated in the MAPC minutes.

**Legal Considerations:**   *Approved as to form and signed by County Counselor's Office*



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

August 28, 2017

John E. Dugan Family Partnership, LP  
Attn: John W. Dugan, Manager  
15810 W. 47<sup>th</sup> St. South  
Clearwater, KS 67026

Baughman Company  
Attn: Russ Ewy  
315 Ellis  
Wichita, KS 67211

**Re: ZON2016-00039: City Administrative Adjustment to adjust building setbacks along west property line in PO-176.**

**Legal Description: Lot 1, Block A, Skyway West Addition, Wichita, Sedgwick County, Ks. The property is generally located at the southwest corner of Maize Road and 31<sup>st</sup> Street South**

Dear Applicants:

We have reviewed your request for a Zoning Adjustment to eliminate the 100 foot building setback along the west line of the property.

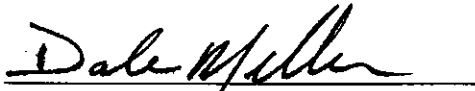
Section V-C.14 of the Unified Zoning Code ("UZC") allows the Planning Director, with the concurrence of the Zoning Administrator, to approve minor adjustments to an approved PO. We find that modifying P.O. #176 to eliminate the 100 foot building setback along the west line of the property meets the conditions required by Sec. V.I.6 of the Code.

Our signatures below indicate that the modifications for P.O. #176 on the aforementioned property is hereby GRANTED, subject to the following conditions:

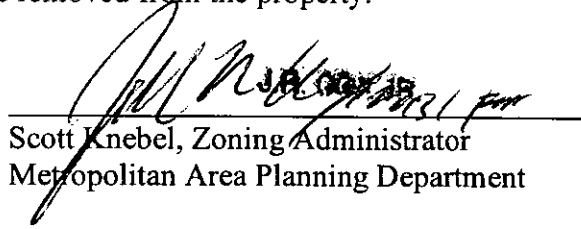
- 1) The site shall conform to all codes including but not limited to building, health and fire.
- 2) The adjustment applies only to the west property line building setback.
- 3) If the Zoning Administrator finds that there is a violation of any of the conditions of the Zoning Adjustment, the Zoning Administrator, in addition to enforcing the other

remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Zoning Adjustment is null and void.

The "Development Application" sign should now be removed from the property.



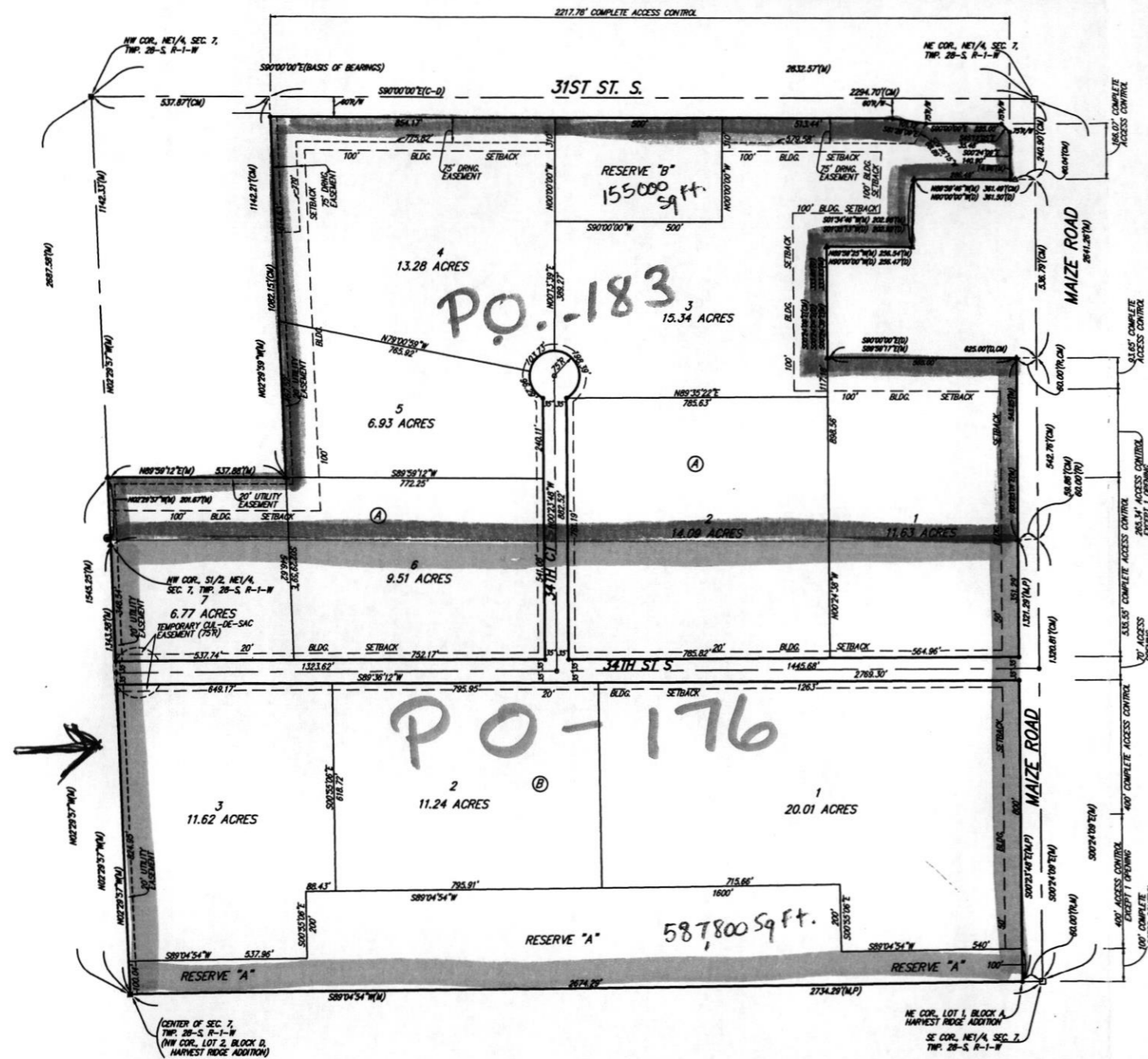
Dale Miller, Director  
Metropolitan Area Planning Department



Scott Knebel, Zoning Administrator  
Metropolitan Area Planning Department

cc: MABCD  
Jeff Blubaugh, Council Member District IV  
Rebecca Fields, Community Services Representative District IV

# FINAL PLAT SKYWAY WEST 5TH ADDITION WICHITA, SEDGWICK COUNTY, KANSAS



- BENCHMARKS:**  
 MAIZE ROAD & 31ST STREET SOUTH - CITY OF WICHITA BENCHMARK DISK  
 200'± WEST OF INTERSECTION, SOUTHEAST CORNER OF HURSTLAND OF R.C.B.C. ELEV. = 1331.82 NAVD83
- = #1 REBAR W/ "BAUGHMAN" CAP (SET)
  - = #1 REBAR W/ "TILE" CAP (FOUND)
  - = 1" IRON PIPE (FOUND)
  - = #4 REBAR (FOUND)
  - △ = #5 REBAR W/ "ARMSTRONG" CAP (FOUND)

MINIMUM BUILDING PAD ELEVATIONS FOR LOWEST OPENING TO THE STRUCTURES		
LOT	BLOCK	ELEVATION NAVD83
3,4	A	1339.0
1,2,3	B	1339.0

- (M) = MEASURED
- (P) = PLATTED
- (S) = DESCRIBED
- (R) = RECORD MEASUREMENT
- (CM) = CALCULATED PER MEASURED INFO
- (C-D) = CALCULATED PER DESCRIBED INFO
- (C-P) = CALCULATED PER PLATTED INFO

State of Kansas) SS We, Baughman Company, P.A., Surveyors in Sedgwick County) do hereby certify that we have surveyed and platted "SKYWAY WEST 5TH ADDITION", Wichita, Sedgwick County, Kansas and that the accompanying plat is a true and correct exhibit of the property surveyed, described as a replat of all of Lot 1, Block A, Skyway West Addition, Wichita, Sedgwick County, Kansas TOGETHER with all of Reserve "A" and Reserve "B", as platted in said Skyway West Addition.

Existing public easements and dedications being vacated by virtue of K.S.A. 12-512(b).

Baughman Company, P.A.

Michael G. Conroy, Surveyor

Know all men by these presents that we, the undersigned, have caused the land in the surveyors certificate to be platted into Lots, Blocks, Streets, and Reserves, to be known as "SKYWAY WEST 5TH ADDITION", Wichita, Sedgwick County, Kansas. The utility easements are hereby granted as indicated for the construction and maintenance of all public utilities. The drainage easements are hereby granted as indicated for drainage purposes. No signs, light poles, private drainage systems, masonry trash enclosures or other structures shall be located within public utility easements unless permitted by the Public Works Department of the appropriate governing body. The temporary cut-de-sac easement is hereby granted as indicated for the construction and maintenance of a temporary cut-de-sac and shall expire at such time as 34th St S is extended further west or terminated as a permanent cut-de-sac. The streets are hereby dedicated to and for the use of the public. Reserve "A" is hereby reserved for landscaping, open space, berms, lakes, drainage purposes, and utilities as confined to easement. Reserve "B" is hereby reserved for landscaping, open space, berms, lakes, and drainage purposes. Reserves "A" and "B" shall be owned and maintained by the current owner, and/or their successors, assigns, and/or a Lot Owners Association. Access controls shall be as depicted on the face of the plat and are hereby granted to the City of Wichita, Kansas. The permitted opening locations shall be as determined by the City Engineer of the City of Wichita, Kansas. The Minimum Building Pad Elevation for the lowest opening to the structures shall be as indicated on the face of the plat.

John E. Dugan Family Partnership, LP  
 John E. Dugan, Trustee of the John E. Dugan Revocable Trust #1, Manager

State of Kansas) SS The foregoing instrument acknowledged before me, this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by John E. Dugan, Trustee of the John E. Dugan Revocable Trust #1, as Manager of the John E. Dugan Family Partnership, LP, on behalf of the limited partnership.

My App'l. Exp. \_\_\_\_\_, Notary Public

SITE PLAN

APPROVED 8/28/17 BY *[Signature]*

This plat of "SKYWAY WEST 5TH ADDITION", Wichita, Sedgwick County, Kansas has been submitted to and approved by the Wichita-Sedgwick County Metropolitan Area Planning Commission, Wichita, Kansas.  
 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2017.  
 Wichita-Sedgwick County Metropolitan Area Planning Commission

David W. Foster, Chairman  
 Dale Miller, Secretary

This plat approved and all dedications shown hereon accepted by the City Council of the City of Wichita, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

Jeff Longwell, Mayor, City of Wichita  
 Karen Sublett, City Clerk

Reviewed in accordance with K.S.A. 58-2005 on this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

Tricia L. Robello, P.S. #1246  
 Deputy County Surveyor  
 Sedgwick County, Kansas

Entered on transfer record this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

Kelly B. Arnold, County Clerk

State of Kansas) SS This is to certify that this plat has been filed for record in the office of the Register of Deeds, this \_\_\_\_\_ day of \_\_\_\_\_, 2017 at \_\_\_\_\_ o'clock \_\_\_\_\_ M; and is duly recorded.

Tonya Buckingham, Register of Deeds

Judy J. Paget, Deputy

SKYWAY WEST 5TH ADDITION

Baughman Company, P.A.

**NOTE:**  
 A drainage plan has been developed for the plat and all drainage easements, rights-of-way or reserves shall remain of established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.