



**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. 51<sup>st</sup> 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.



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

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

July 25, 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,

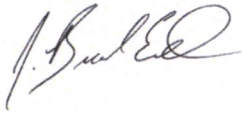
At its regular meeting on **July 25, 2024**, the Wichita-Sedgwick County Metropolitan Area Planning Commission considered the above captioned request. The action of the MAPC was to recommend **APPROVAL** the amendment to the Protective overlay Conditional Use request for the Entertainment Establishment with modification to the first condition, listed below.

Property owners opposed to the application may file with the City Clerk a signed, written protest of the MAPC's recommendation. (Unsigned e-mails are not considered to be legal protests.) To be effective, the protest must be filed by 5:00 p.m. on August 8, 2024. In order to be considered a "valid" petition, the signatures must reflect the correct and entire ownership of the property, the property must be at least partially located within 200 feet of the property for which the application was filed, and must be submitted to the City Clerk by **August 8, 2024, at 5:00 p.m.**

This application will be heard by the District Advisory Board (DAB) VI on **Monday, August 12, 2024** beginning at 6:30 p.m. at the Evergreen Community Center and Library, 2601 N. Arkansas. For more information on this meeting, please contact Community Services Representative for District VI, Ana Lopez at (316) 303-8043 or <mailto:alopez@wichita.gov>. This application will be presented to the Wichita City Council on **Tuesday, September 3, 2024**, beginning at 9:00 a.m.

This is a reminder that the zoning notification signs should now be removed from the property. If you have any questions concerning this application, please contact our office at 316-268-4421.

Sincerely,



Brad Eatherly  
Current Plans  
Senior Planner

CC: Maggie Ballard, Council Member District VI  
Ana Lopez, CSR, District VI  
Gregory Chinn 2300 W. 51<sup>st</sup> St. N. Wichita, KS 67204  
MABCD

**Conditions of Approval (MAPD changes in *red*):**

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.

BE IT ORDAINED BY THE GOVERNING BODY  
OF THE CITY OF WICHITA, KANSAS.

**RESOLUTION NO. 24-304**

**WHEREAS**, Phillip Michael Hayes, Owner, pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requests a Conditional Use to permit an Entertainment Establishment 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), legally described as:

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

**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 July 25, 2024, consider said application; and

**WHEREAS**, the Wichita City Council 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 Wichita City Council that this application be approved to allow a Conditional Use to permit an Entertainment Establishment 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), legally described as:

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

Approved subject to the following conditions:


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.
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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 the other remedies set forth in the UZC, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This Resolution shall take effect and be in force from and after its adoption by the Wichita City Council.

Adopted on 3<sup>rd</sup> day of Sept., 2024.

  
\_\_\_\_\_  
Lily Wu, Mayor, City of Wichita

ATTEST:

  
\_\_\_\_\_  
Jamie Buster, City Clerk

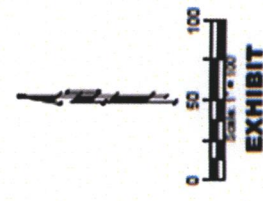
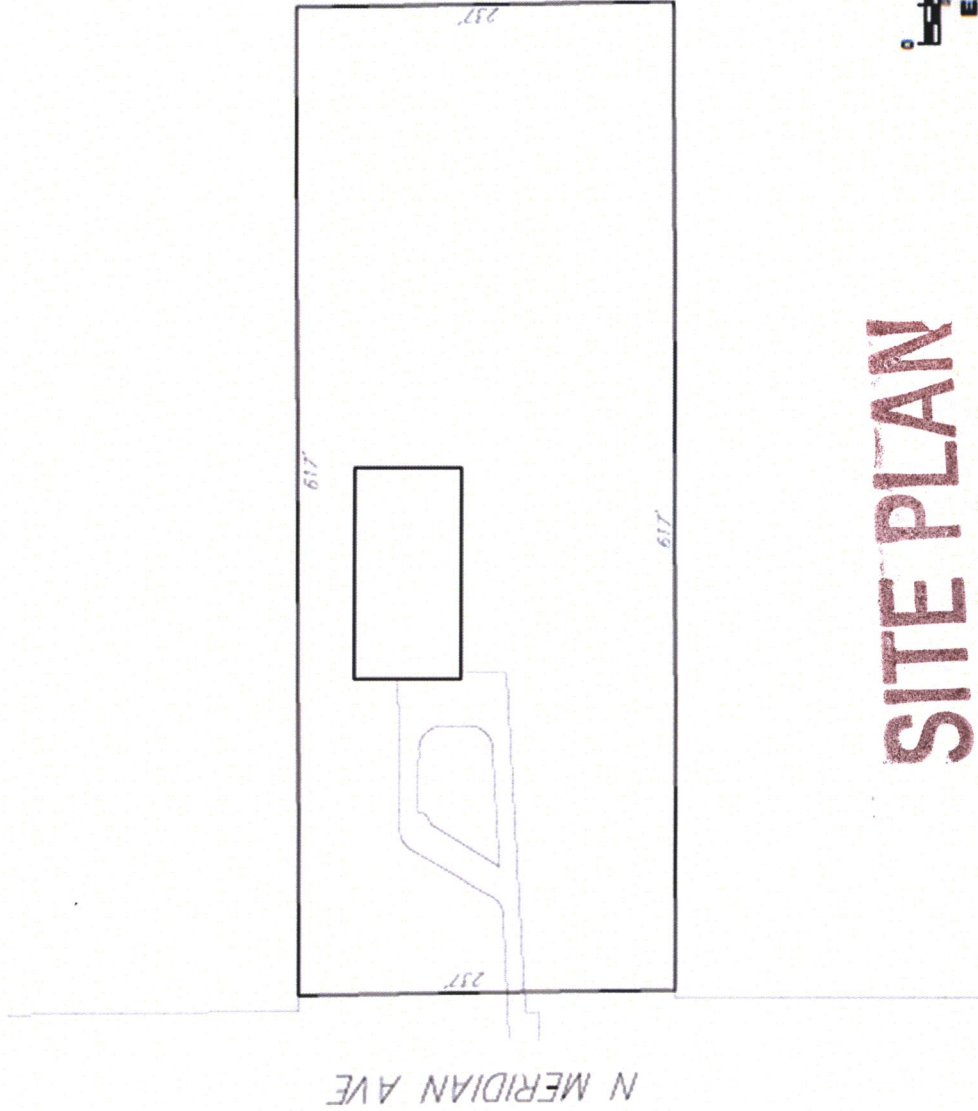
(SEAL)



Approved as to form:   
\_\_\_\_\_  
Jennifer Magaña, City Attorney and Director of Law

**LOT 1, BLOCK 1, BOLAIN ADDITION**  
**WICHITA, SEDGWICK COUNTY, KANSAS**

EXHIBIT



**SITE PLAN**

APPROVED 8/27/24 BY SBE

July 9, 2024

**BAUGHMAN COMPANY**  
315 Elm St. Wichita, KS 67211 316-263-7271  
BaughmanCo.com



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  
 Fort Worth Star-Telegram  
 The Fresno Bee  
 The Island Packet  
 The Kansas City Star  
 Lexington Herald-Leader  
 The Telegraph - Macon  
 Merced Sun-Star  
 Miami Herald  
 El Nuevo Herald

The Modesto Bee  
 The Sun News - Myrtle Beach  
 Raleigh News & Observer  
 Rock Hill | The Herald  
 The Sacramento Bee  
 San Luis Obispo Tribune  
 Tacoma | The News Tribune  
 Tri-City Herald  
 The Wichita Eagle  
 The Olympian

## AFFIDAVIT OF PUBLICATION

| Account # | Order Number | Identification                          | Order PO     | Amount  | Cols | Depth |
|-----------|--------------|---|--------------|---------|------|-------|
| 32522     | 589621       | Print Legal Ad-IPL01926010 - IPL0192601 | RES.# 24-304 | \$92.58 | 2    | 55 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 6, 2024  
 BE IT ORDAINED BY THE GOVERNING BODY  
 OF THE CITY OF WICHITA, KANSAS.  
 RESOLUTION NO. 24-304**

WHEREAS, Phillip Michael Hayes, Owner, pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requests a Conditional Use to permit an Entertainment Establishment 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), legally described as:

Lot 1, Block 1, Bolain Addition, Wichita, Sedgwick County, Kansas.  
 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 July 25, 2024, consider said application; and

WHEREAS, the Wichita City Council 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 Wichita City Council that this application be approved to allow a Conditional Use to permit an Entertainment Establishment 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), legally described as:

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 Approved subject to the following conditions:  
 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 the other remedies set forth in the UZC, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This Resolution shall take effect and be in force from and after its adoption by the Wichita City Council.

Adopted on 3rd 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  
 IPL0192601  
 Sep 6 2024

In The STATE OF KANSAS  
 In and for the County of Sedgwick  
 1 insertion(s) published on:  
 09/06/24

STATE OF KANSAS)  
 SS  
 County of Sedgwick)

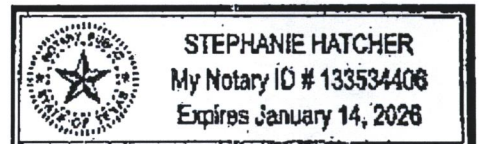
Mary Castro, of lawful age, being first duly sworn, deposeth and saith: That he is Record Clerk of The Wichita Eagle, a daily newspaper published in the City of Wichita, County of Sedgwick, State of Kansas, and having a general paid circulation on a daily basis in said County, which said newspaper has 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 09/06/2024 to 09/06/2024.

*Mary Castro*

I certify (or declare) under penalty of perjury that the foregoing is true and correct.  
 DATED: 09/06/2024

*Stephanie Hatcher*

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

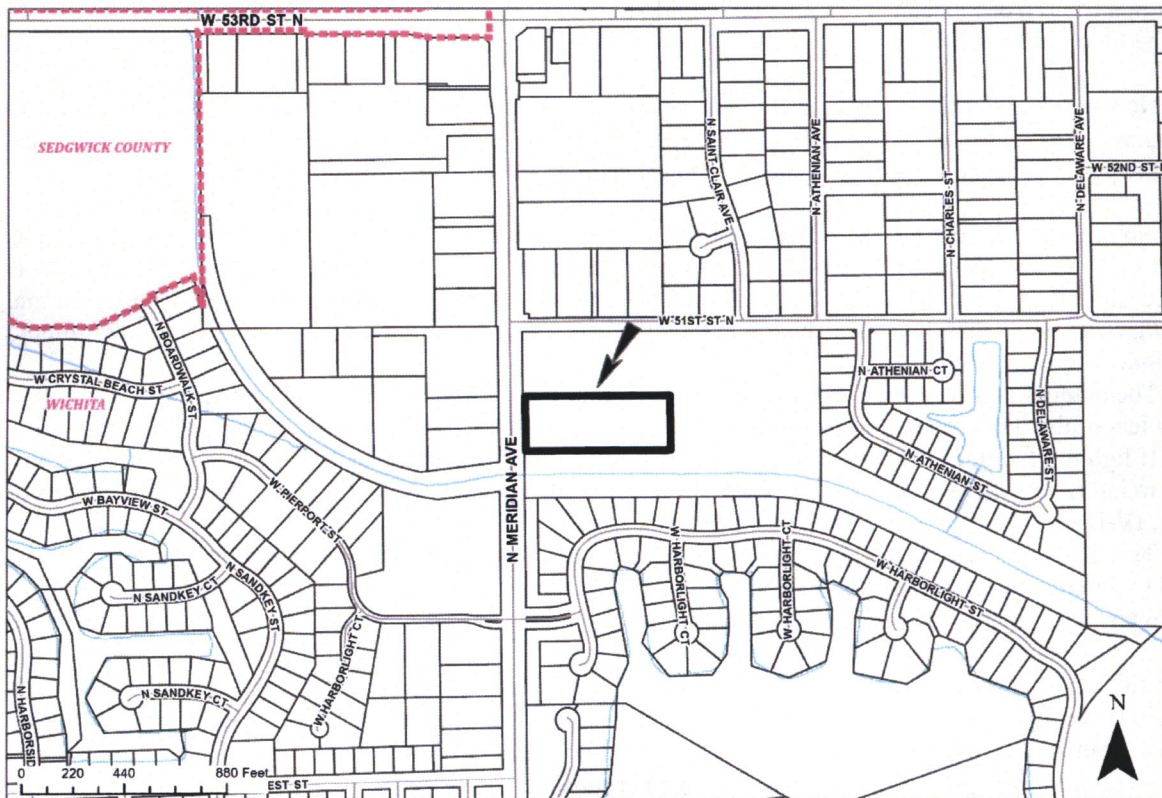


Extra charge for lost or duplicate affidavits.  
 Legal document please do not destroy!

**STAFF REPORT**

MAPC: July 25, 2024  
 DAB VI: August 12, 2024

- CASE NUMBER:** ZON2024-00032/CON2024-00061 (City)
- OWNER/AGENT:** Phillip Michael Hayes (Applicant) / Baughman Company, P.A. (Agent)
- REQUEST:** Amend Protective Overlay #351/Conditional Use Request to allow Entertainment Establishment in the City within 300 feet of residentially zoned property
- CURRENT ZONING:** LC Limited Commercial District with Protective Overlay #351
- SITE SIZE:** 3.38 acres
- LOCATION:** Generally located on the east side of North Meridian Avenue and within 300 feet south of West 51<sup>st</sup> Street North (5130 North Meridian Avenue).
- PROPOSED USE:** Permit additional uses within the Protective Overlay.
- RECOMMENDATION:** Approval with conditions.



**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 51<sup>st</sup> 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.

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ZON2024-00032/CON2024-00061

Metropolitan Area Planning Commission

Page 2

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.
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 (staff 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.*
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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.

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.

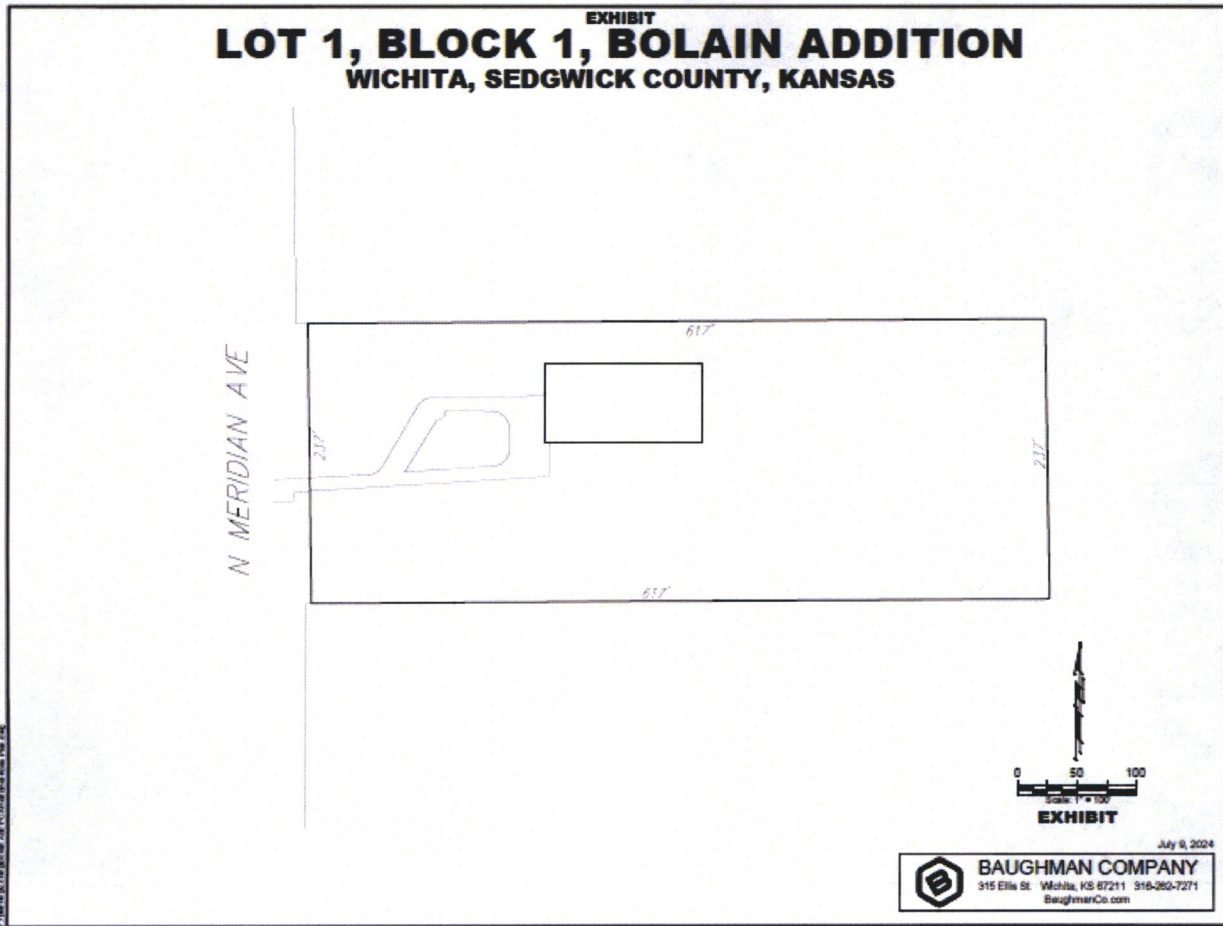
Staff Report Attachments:

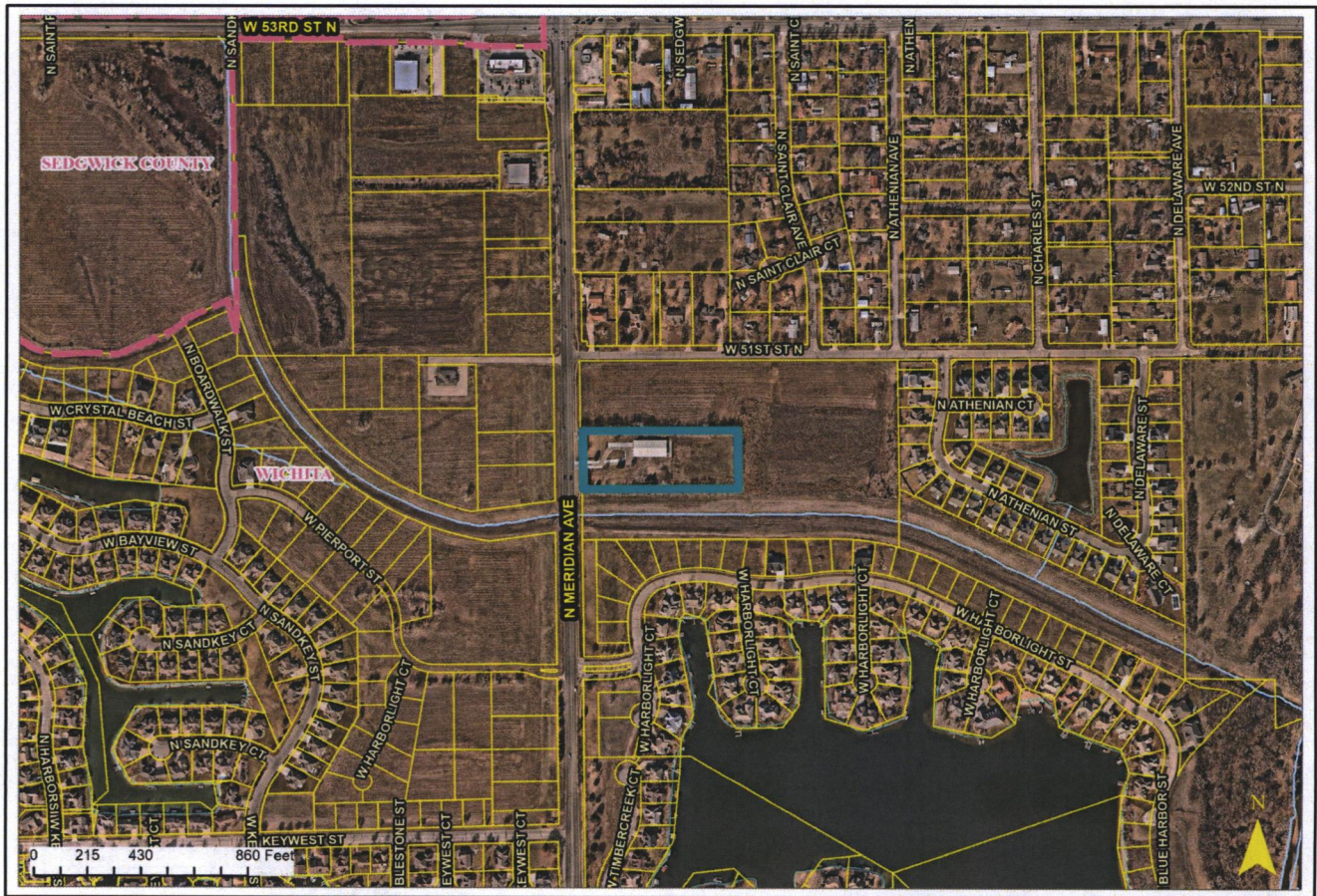
1. Staff Recommended Protective Overlay #351 Text
2. Site Plan
3. Aerial Map
4. Zoning Map
5. Land Use Map
6. Photos

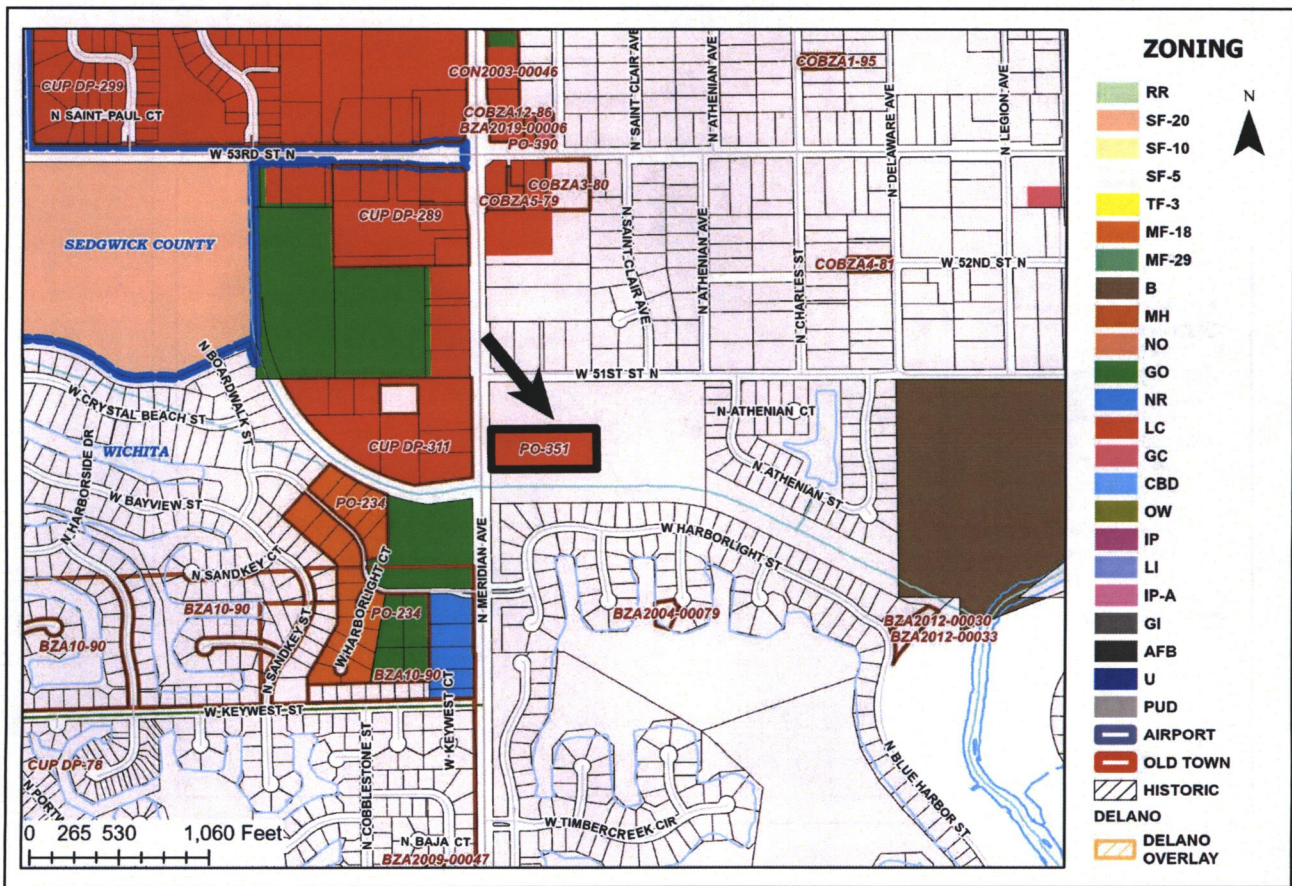
**Staff Recommended Protective Overlay #351 Text (staff changes to the current protective overlay are shown in red):**

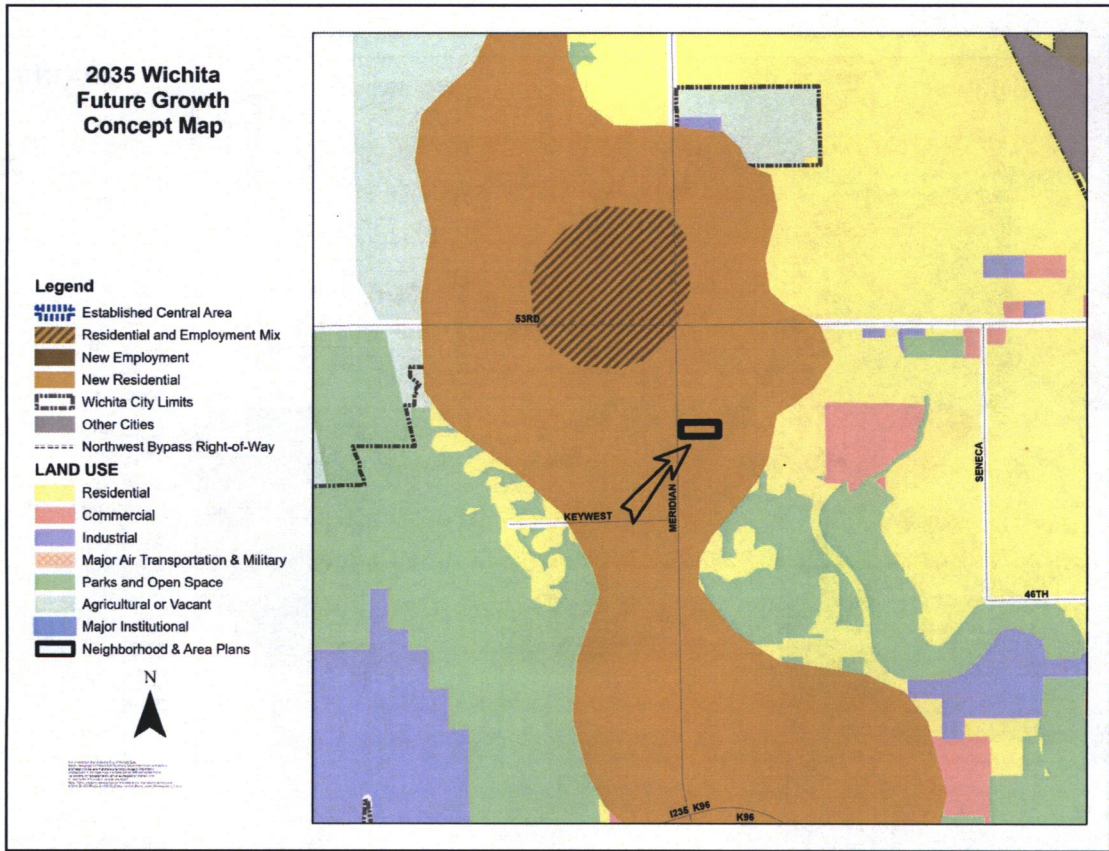
1. Proposed Uses: The subject property shall be limited to the following uses: All uses permitted within the "LC" Limited Commercial Zoning District with the following exceptions: Manufactured Home; Cemetery; Correctional Placement Residence, Limited and General; Marine Facility, Recreational; Monument 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.

Site Plan









**Looking east into site**



**Looking south away from site**



**Looking west away from site**



**Looking north away from site**

