

EXCERPT MINUTES OF THE DECEMBER 3, 2015 WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION HEARING

Case No.: PUD2015-00006 - Cross Road Fellowship Bible, Inc., c/o Pastor Michael Cooper and Jennifer Warner (Owner/Applicant) Baughman, PA, c/o Russ Ewy (Agent) request creation of a new PUD in GC General Commercial and SF-20 Single-family Residential zoning on property described as:

A tract in the SW ¼ of Section 25, Township 27 South, Range 2 West of the 6th Principal Meridian, Sedgwick County, Kansas described as: Beginning at a point on the north right of way line of U.S. Highway 54, as condemned in District Court Case No. A-38302 and 1468.75 feet west of the east line of said SW ¼ (Measured along said Highway right of way); thence west along said Highway right of way, a distance of 80 feet; thence north with a deflection angle to the right of 89°48', a distance of 630.17 feet to a point 736.6 feet north of the south line of said SW ¼; thence west parallel with the south line of said SW ¼, a distance of 750.49 feet to a point 300 feet east of the west line of said SW ¼, said point being the SE corner of Lot 1, Block A, Weber Addition, Sedgwick County, Kansas; thence north parallel with the west line of said SW ¼ and along the east line of said Lot 1, a distance of 218 feet to the NE. corner of said Lot 1; thence west parallel with the south line of said SW ¼ and along the north line of said Lot 1, a distance of 300.06 feet to the west line of said SW ¼; thence north along the west line of said SW ¼, a distance of 895.67 feet; thence east parallel with the south line of said SW ¼, a distance of 1609.15 feet; thence south parallel with the west line of said SW ¼ a distance of 1083.14 feet to a point on the north line of deed recorded at Film 2123, Page 23; thence westerly along the north line of deed recorded at Film 2123, Page 23, a distance of 138.29 feet to the NW. corner of deed recorded at Film 2123, Page 23; thence southerly along the west line of deed recorded at Film 2123, Page 23, a distance of 30.50 feet; thence westerly along the north line of deed recorded at DOC.#.FLM-PG: 28778360, a distance of 341.09 feet; thence southerly, a distance of 630.50 feet to the point of beginning. EXCEPT that part condemned for Highway right of way in Condemnation Case C-10792. Subject to road right of ways of record.

BACKGROUND: The applicant propose to change the unplatted 40-acre Sedgwick County site's GC General Commercial (GC) zoned south half and its SF-20 Single-family Residential (SF-20) zoned north half to PUD Planned Unit Development zoning; PUD #49, the 135th & Kellogg Event Center. The GC and SF-20 zoned Sedgwick County site is located approximately 750-feet north of US-54/Kellogg Street on the east side of 135th Street West. The proposed PUD will be rented out for corporate or professional events, life cycle and other special events. Examples of these events include seminars, meetings, lectures, retreats, birthdays, anniversaries, weddings, reunions, charitable events, fund raisers, art shows, holiday festivals, photography shoots and similar events. These events will be scheduled on an as need basis every day of the year, but not repeated on a weekly basis and not be open to the general public. The applicant also proposes outdoor entertainment and recreation, including water related activities on the proposed expanded pond, with volleyball courts, and an area for inflatables. The outdoor entertainment and recreation area will be open to the general public. The serving and consumption of alcoholic liquor or cereal malt beverages (drinks) on the site is an option for all of the proposed activities. Live music or DJ music for dances for the events are also options. Indoor and outdoor preparation of food for the activities are an option as is a concession stand.

The PUD zoning district is a special zoning district that is intended to encourage innovative land planning and design. Any use may be permitted within the PUD zoning district, provided that it is consistent with the purposes of the Unified Zoning Code (UZC) and the approved PUD plan. A PUD allows consideration of the applicant's event center with the options of providing the serving and consumption of alcoholic liquor or cereal malt beverages and live music or DJ music for dances, as well as some uses permitted by right in the GC zoning district.

The UZC Unified Zoning Code (UZC) defines an "event center in the city" as premises that are frequently rented out for public or private activities that are not repeated on a weekly basis, and that are not open to the public on a daily basis at times other than when an event is scheduled; UZC Sec.II-B.4.m. However, the UZC does not have a definition of an event center in the county, therefore the applicant's request for an event center is not permitted. The proposed PUD zoning allows consideration of an event center in the county. The proposed days of availability are seven (7) days a week, all year. The event center is proposed to be available: Sunday – Thursday, 8 a.m. to 12 p.m.; Friday – Saturday 8 a.m. to 1 a.m. The event center will be rented out for public or private activities that are not repeated on a weekly basis, and that are not open to the public on a daily basis at times other than when an event is scheduled. A maximum of 350 people attending an event is proposed. Based on one parking space per two people (nightclub standard), 175 parking spaces would need to be provided.

The UZC's definition of a "nightclub in the county" is an establishment located in the unincorporated area of the County that provides entertainment, which may include the provision of dancing by employees or patrons, and which may or may not serve food or that provides entertainment as defined in the County's Adult Entertainment Code ("sexually oriented business") so long as such establishment is in compliance with the Adult Entertainment Code. The term nightclub in the county shall not include any establishment in the unincorporated area of the County in which alcoholic liquor or cereal malt beverage of any kind is sold, used, consumed or possessed by any person at any time on the premises of the establishment; UZC Sec.II-B.9.c. The applicant does not propose a "sexually oriented business in the county." The applicant proposes to provide live music or DJ music for dances located in the event center buildings as options for the scheduled events. The applicant also proposes low volume music that will not be a nuisance for weddings, with the exception of allowing musical groups and speaker within 50-feet of the event center buildings. The site's SF-20 zoning does not permit consideration of a nightclub in the county. The site's GC zoning does permit a night club in the county. The site's GC zoning is not typical for property located within the county, but instead reflects the site's and the neighboring properties close proximity to Wichita and US-54/Kellogg Street.

The UZC defines a "tavern and drinking establishment" as an establishment engaged in the preparation and retail sale of alcoholic liquor or cereal malt beverage for consumption on the premises that derives in a six-month period less than fifty percent (50%) of its gross revenues from the sale of food and beverages for consumption on the premises. For the purposes of this code, the term tavern and drinking establishment shall include Class B Club; UZC Sec.II-B.13.b. The applicant proposes the serving and consumption of alcoholic liquor or cereal malt beverages (drinks) on the site as an option for the events. The site's SF-20 zoning does not permit consideration of a tavern and drinking establishment in the county. The site's GC zoned portion allows consideration of tavern and drinking establishment as a Conditional Uses and subject to

Sec. V-D (Conditional Use review procedures) when located within 300 feet of a Church or Place of Worship, public Park, public or parochial School or residential zoning District. The site abuts SF-20 zoning on its north and east sides and is located within 90-feet of SF-5 Single-Family Residential (SF-5) zoning on its west side. The proposed PUD zoning serves the same purpose as a Conditional Use for this activity. The applicant proposes that the site will not operate as a tavern or nightclub, nor will it operate as a Class A or Class B club.

The UZC defines outdoor entertainment and recreation as a privately-owned establishment offering recreation, entertainment or games of skill to the general public or members wherein any portion of the activity takes place in the open. Typical uses include archery ranges, batting cages, golf driving ranges, drive-in theaters, miniature golf courses, "pitch and putt" facilities, tennis courts and amusement rides; UZC Sec.II-B.11.b. The applicant has not prohibited "recreational marine facility," which is a facility relating to recreational boating. Typical uses include boat docks, marinas, boathouses and yacht clubs; UZC Sec.II-B.8.g. This would allow water related activities on the proposed expanded pond. It can be anticipated that with volleyball courts would be included. Outdoor entertainment and recreation is permitted by right in the GC zoning district. The outdoor entertainment and recreation area is open to the general public year round from 10 a.m. to 10 p.m. The sale of alcoholic liquor or cereal malt beverages for consumption on the premises is not prohibited to the general public for outdoor entertainment and recreation.

Currently the 40-acre site is developed with what appears to be two, metal agricultural accessory buildings, a dirt and gravel drive that splits to the north and south of the buildings, continuing on the south side to the east side of the property. There is a small pond located on the northeast side of the site. The south drive connects to Kellogg Street. The site also currently has access onto Harry Street by a gravel drive located on a long, narrow south extension of the site.

The PUD shows the existing pond expanding to cover most of the northeast portion of the site. The applicants propose that outdoor events and outdoor recreation and entertainment are placed at least 100-feet away from the site's north side, 200-feet from the site's east side and 250-feet from the site's west side. These sides of the site either abut or are adjacent to SF-20 or SF-5 zoning. Outdoor events and outdoor recreation and entertainment are allowed up to the 35-foot setback on the south side of the site where it abuts GC zoned land. The PUD proposes 35-foot building setbacks. The PUD proposes landscaping per the UZC while incorporating the existing landscaping. The PUD does not provide screening where it abuts residential zoning. The applicant has proposed that security may be provided. Other provisions of the PUD refer to allowing tents as needed for the events, but not for camping.

The site is located in a relatively small, isolated portion (north of Kellogg Street) of Sedgwick County, with the City of Wichita and city development adjacent to its west, north and east sides. SF-5 Single-Family Residential (SF-5) zoned single-family residential development featuring a public golf course is located in the City of Wichita and is the areas predominate feature. SF-20 zoned agricultural fields abut the north side of the site and these fields are impacted by a flood zone. The SF-5 zoned Auburn Hills Public Golf Course is located approximately 750-feet further north of the site. Extensive SF-5 single-family residential development (subdivisions mid-2000s) abut and follow the golf course. GC and SF-20 zoned agricultural fields and a

farmstead abut the east side of the site and are impacted by a flood zone. The SF-5 zoned Auburn Hills Public Golf Course is located approximately 1,000-feet further east of the site. Extensive SF-5 single-family residential development (subdivisions early-2000s) abut and follow the golf course. Development abutting the south side of the site include a GC zoned retail-warehouse, an antique mall, a self-storage warehouse and agricultural fields. Development located west of the site, across 135th Street West, includes a few SF-5 zoned large tract single-family residences (built 1957, 1968, 181, 1998), SF-5 zoned single-family residential development (subdivisions mid-2000s), the Auburn Hills Public Golf Course and a GC zoned Presbyterian Church (built 1996, 1999, 2004). All development located west of the site is located within the City of Wichita. The requested PUD appears to be the first for this general area.

CASE HISTORY: The GC and SF-20 zoned subject site not platted and there is no evidence of past zoning activity. Planning has received calls requesting information on the PUD or being not in favor of the requested zoning. Their concerns include, but are not limited to: traffic, the number of people allowed per event, drainage, loud music, unruly behavior, the availability of liquor and beer and disruption to the area.

ADJACENT ZONING AND LAND USE:

NORTH: SF-20, SF-5	Agricultural fields, single-family residential subdivisions, public golf course
SOUTH: GC, SF-20, LC	Retail-warehouse, antique mall, self-storage warehouse, agricultural fields
EAST: GC, SF-20, SF-5	Agriculture fields, farmstead, public golf course, single-family residential subdivisions
WEST: SF-5, GC	Large tract single-family residences, agricultural fields, church, single-family residential subdivisions

PUBLIC SERVICES: Water is available to the site. There is no sewer available to the site. Current access to the site is off of 135th Street West, a curbed and paved two-lane, two-way arterial with a center turn lane. The site also currently has access onto Harry Street by a gravel drive located on a long, narrow south extension of the site. Harry Street is a paved two-lane, two-way frontage road at this location. Final access to the site will be determined at the time of platting. A northeast portion of the site is located within a flood zone, which means development within it must be addressed with an approved drainage plan and must meet all standards for construction of buildings/structures on the site, per the County Engineer and Code Enforcement. The flood plain is also located on large portions of the abutting north and east properties.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the “Wichita-Sedgwick County Comprehensive Plan” identifies the north half of the site as “urban residential: and south half as “regional commercial” and located within the City of Wichita’s 2030 urban growth area. The urban residential category encompasses areas that reflect the full diversity of residential development densities and types and residential-serving uses typically found in a large urban municipality. The site’s current SF-20 zoning (on its north half) allows single-family residential, as well as some institutional uses, but not duplexes nor multi-family residential by right. The SF-20 zoning district is suitable for the urban residential category.

The regional commercial category encompasses major destination areas containing concentrations of office, commercial and personal uses that have a predominately regional market areas and high volumes of retail traffic. These areas are located in close proximity to major arterials or freeways. The site has direct access onto the arterial 135th Street West and is located approximately 750-feet north of US-54/Kellogg Street. Major retail malls, major commercial auto dealerships, and big box retail are examples the uses found in this category. The 40-aces site's proposed activities, including water activities centered around a pond seem to be aiming at regional traffic, although it is perhaps somewhat seasonal in its draw. The proposed water activities make the proposed PUD something of a throw-back to an earlier era when outdoor ponds like Meadow Lake and Sandy Beach drew patrons throughout Sedgwick County. The GC zoning district is intended for application primarily within the city of Wichita, although it may be appropriate for application in areas of unincorporated Sedgwick County that have been designated as "Wichita 2030 Urban Growth Area." The GC portion of the site is located within the Wichita 2030 Urban Growth Area and is appropriate for the regional commercial category. The PUD proposes uses not allowed by right in the county and the SF-20 district or that requires a conditional use in the GC zoning district. A PUD is intended to:

- (1) Reducing or eliminating the inflexibility that sometimes results from strict application of zoning standards that were designed primarily for individual lots. The proposed PUD allows one zoning for the entire property whose use, as an indoor-outdoor event venue that permits the consumption of drinks and music for dancing and outdoor recreation and entertainment. The proposed days of availability for the indoor-outdoor event venue is seven (7) days a week, all year. The event center is proposed to be available: Sunday – Thursday, 8 a.m. to 12 p.m.; Friday – Saturday 8 a.m. to 1 a.m. The event center will be rented out for public or private activities that are not repeated on a weekly basis, and that are not open to the public on a daily basis at times other than when an event is scheduled. The PUD's proposed limits lessens the impact on the area's single-family residential character. The area's single-family residential development may be impacted more by the proposed outdoor recreation and entertainment use, which is open to the general public seven days a week, 10 a.m. to 10 p.m. Consumption of drinks is permitted. The outdoor recreation and entertainment use may be somewhat seasonal.
- (2) Allowing greater freedom in selecting the means to provide access, light, open space and design amenities. All of the current development and future development is located within the PUD's 40-acres, which provides ample open space.
- (3) Promoting quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations and land uses. The 40-acre site has county agricultural fields abutting its east and north sides separating it from the single-family residential development located in the city. Future development on these fields will be impacted by a flood zone located on them. The arterial road 135th Street West separates the site from the adjacent west single-family residential development located in the city. 135th Street West provides the site with access to the major arterial US-54-Kellogg Street (750-feet south of the site), away from the area's single-family residential development.
- (3) Allowing deviations from certain zoning standards that would otherwise apply if not contrary to the general spirit and intent of this Code. The PUD allows mixed uses that are not permitted in the county, in the SF-20 zoning district, but are allowed by right in in the GC portion of the site or by consideration and approval of a conditional use.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the proposed PUD be APPROVED, subject to platting within a year and the following revisions to the attached PUD:

- (1) Change General Provision #2 to: Parking shall be provided at the rate of 1 parking spaces per two people.
- (2) Change General Provision #6.I: No outdoor musical groups or speakers allowed.

This recommendation is based on the following findings:

- 1) The zoning, uses and character of the surrounding area: The requested PUD appears to be the first for this general area. The site is located in a relatively small, isolated portion (north of Kellogg Street) of Sedgwick County, with the City of Wichita and city development adjacent to its west, north and east sides. SF-5 Single-Family Residential (SF-5) zoned single-family residential development featuring a public golf course is located in the City of Wichita and is the areas predominate feature. SF-20 zoned agricultural fields abut the north side of the site and these fields are impacted by a flood zone. The SF-5 zoned Auburn Hills Public Golf Course is located approximately 750-foot further north of the site. Extensive SF-5 single-family residential development (subdivisions mid-2000s) abut and follow the golf course. GC and SF-20 zoned agricultural fields and a farmstead abut the east side of the site and are impacted by a flood zone. The SF-5 zoned Auburn Hills Public Golf Course is located approximately 1,000-foot further east of the site. Extensive SF-5 single-family residential development (subdivisions early-2000s) abut and follow the golf course. Development abutting the south side of the site include a GC zoned retail-warehouse, an antique mall, a self-storage warehouse and agricultural fields. Development located west of the site, across 135th Street West, includes a few SF-5 zoned large tract single-family residences (built 1957, 1968, 181, 1998), SF-5 zoned single-family residential development (subdivisions mid-2000s), the Auburn Hills Public Golf Course and a GC zoned Presbyterian Church (built 1996, 1999, 2004). All development located west of the site is located within the City of Wichita. The requested PUD appears to be the first for this general area
- 2) The suitability of the subject property for the uses to which it has been restricted: The north half of the site is zoned SF-20, which primarily permits single-family residential uses. The south half of the site is zoned GC, which is. The GC which is meant to accommodate retail, commercial, office and other complementary land uses. The site could continue to be used as zoned. The site's close proximity to the major arterial US-54/Kellogg Street makes it more suitable for commercial or multi-family residential use.
- 3) Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed provisions and the proposed revisions of the PUD are intended to lessen that possibility of the need for more policing (providing security) in the area as well as the intrusion of loud music (cannot be heard on the neighboring properties) on the neighboring properties.

- 4) Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide” of the “Wichita-Sedgwick County Comprehensive Plan” identifies the north half of the site as “urban residential: and south half as “regional commercial” and located within the City of Wichita’s 2030 urban growth area. The urban residential category encompasses areas that reflect the full diversity of residential development densities and types and residential-serving uses typically found in a large urban municipality. The site’s current SF-20 zoning (on its north half) allows single-family residential, as well as some institutional uses, but not duplexes nor multi-family residential by right. The SF-20 zoning district is suitable for the urban residential category.

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- 5) Impact of the proposed development on community facilities: Because the serving and consumption of alcoholic liquor or cereal malt beverages is allowed to possibly as many as 350 people, there is a possible negative impact on an area, which could increase the presence of Law Enforcement. Enforcement could be problematic for the Metropolitan Area Building and Construction Department’s (MAPCD) Code Enforcement division especially during the weekend and after 5 p.m., when Code Enforcement is not available.

BILL LONGNECKER, Planning Staff presented the Staff Report.

WARREN clarified that staff recommendation was no outdoor music but if this location was within the City limits there was a City Ordinance governing the noise level. He asked if the Commission could require a condition that the applicants meet the City requirements on outdoor music even though the location is in the County. He said his thinking was that if the Sedgwick County Commission approves the application without any restrictions on noise, the applicant's may be able to argue that they are a legal non-conforming use if the area is annexed into Wichita.

LONGNECKER said that was correct, there was a City Ordinance on noise level of outdoor music, but this application will go to the Board of County Commissioners for approval. He said he would have to ask Legal about putting a City standard on property located in the County.

DIRECTOR MILLER said staff's concern was that Sedgwick County did not have any way to measure and enforce the noise level because they don't have an ordinance on that. He said from a practical standpoint, he does not know how the County would enforce that. He said one of the issues that has come up on a previously approved PUD farther west in the County is the adjoining neighbors version of what is loud versus what the event operator thinks it is loud.

LONGNECKER referred to provision H. and commented that low level music is allowed as long as it cannot be heard by neighboring properties; however, no outdoor speakers or musical groups are allowed outside except within 50 feet of the event building.

WARREN asked about approving the application per staff recommendation with no outdoor music, and adding a provision for outdoor music at the time the property is annexed.

DIRECTOR MILLER commented that one of the conditions could be no outdoor music now but it would be allowed once the property is annexed in compliance with the City Ordinance.

RUSS EWY, BAUGHMAN COMPANY, 315 ELLIS, AGENT FOR THE APPLICANT commented that the applicant Jennifer Warner was in attendance to answer any questions regarding the day-to-day operations of the project. He said this is a unique situation because this is located in a heavily zoned commercial area; the general character of the area and the Kellogg frontage. He said he and the clients have discussed at length the noise issue the Commission just mentioned. He said the applicants are straddling the fence so to speak operating in the County prior to annexation into the City. He mentioned two additional provisions they worked on being 6.J. and 6.K. 6.J would read "Noise generation in conjunction with the outdoor entertainment and recreational use shall not exceed the sound level of five decibels as measured on the "A" Scale of a sound pressure meter over the normal background noise that is discernible at any property line within 200 feet of the subject property that has a residential use. Normal background noise shall be established by taking an average of ten sound level readings in any ten minutes." He said he did not know if City Staff or the Commission would consider adding in verbiage of the City Ordinance on noise without actually referring to it per se. He said they are more than willing to work with staff and the Commission on that issue. He said they would also like to add 6.K. that says "All outdoor speakers used in conjunction with the outdoor entertainment and recreation use within 200 feet of residential zoning shall be required to stop all noise generation activities such as music outside of the hours of 10:00 a.m. to 8:00 p.m. between the dates of April 1 and September 30. He said staff indicated that perhaps the outdoor entertainment and recreational areas might be seasonal in nature so the applicant agreed to offer seasonal as well as hourly restrictions to help resolve the issue. He said they are offering those two additional conditions of approval to try to mitigate any of the issues they are hearing today.

EWY commented that 25 of the 40 acres on the site is currently zoned General Commercial GC and all of the uses to the south also fall into that zoning district. He said his clients intend to develop their property to the south for standard commercial uses. He said the property is surrounded by floodplain to the east and a creek bottom to the northwest, west and north which they believe provides a number of built in buffers to mitigate any impact of the project on surrounding properties. He mentioned the diagram of the PUD including expansion of the pond, areas for outdoor recreation, outdoor seating areas, and other areas. He said his office worked on the Waterfront and Rustic Timbers PUD's and borrowed a lot of language from those projects. He concluded by saying that they would like outdoor music for weddings and other events but as far as the outdoor entertainment and recreational areas, they are talking more along the lines of low level background music similar to what you see at the YMCA and Rock River Rapids in Derby, which is located 150 feet away from urban development

ELLISON said he lives within three miles of an area with major activities so he can hear it at night time. He said he believes noise is going to be an issue for the neighbors. He said one way to control the noise would be to direct the speakers towards Kellogg. He said he does not believe he has heard enough information on how the noise can be controlled. He asked if the buildings on site would be expanded or torn down or what. He asked if activities would be taking place inside the buildings.

EWY said he would let the applicant address the question on the buildings. He said he understood the buildings would not be expanded but renovated. He mentioned that this location is approximately 700 feet from a future expressway. He said the 25 acres that is zoned GC is going to generate more traffic and noise although it may be a different type of noise and at different hours. He said they are trading what they can currently do on the property today with no rezoning for an activity with a laundry list of limitations on the type of activities and type of development. He said he believes they are giving away some points and asking for some points. He said the Planning Commission hears arguments on mitigating sound year in and year out. He said there will always be people who are dissatisfied with the way noise is handled.

ELLISON asked if this was a church camp or is it open to the general public.

EWY replied this facility will be open to the general public. He clarified that the church was the contract seller and his clients were the contract buyers and were not affiliated with the church.

WARREN said he his house backed up to Rock Rapids and limiting the hours to 8:00 p.m. alleviated some of his concerns; however, he said any neighbor can put up a boom box, it is just part of life living in the city. He asked how any noise restrictions the Commission placed on the project would be enforced.

MILLER STEVENS said the Commission is being a little naïve about the noise issue because the City of Wichita does not enforce the Noise Ordinance. She said what they do enforce is a "nuisance ordinance" when your neighbor is being too loud and you call the Police. She said she challenges anyone present to find a case where the City has enforced the Noise Ordinance so she feels the Commission is making "much ado about nothing." She said whatever standards the Commission sets will be what's on the books and if it is too noisy the neighbors will complain.

FOSTER asked about development of the pond area and whether the soil will be used onsite.

EWY said they haven't gotten that far in the development process. He said one of the conversations he and his clients had was the possibility of utilizing the dirt for berming purposes. He said the 40 acres and the property to the east is elevated enough that they are out of floodplain so they won't have to use the excavated dirt for in-fill. He said their intent is to use the dirt on site.

FOSTER asked about access control and if there were three access points.

EWY said the Access Management Policy allows for three access points; however, that decision is made at the platting phase. He mentioned that they no longer have access to the driveway to the south because that is part of the condemnation case that will limit any type of use of the "pan handle" area to the south. He said access to the site will come off of 135th Street and added that the site will require more than one point of access.

ELLISON asked if there were plans for any traffic flow studies on the whole intersection.

EWY said he was sure KDOT and their design engineers have studied that intersection traffic flow, but he was not privy to that information. He said his understanding is that KDOT would look at the land use and zoning and what the area would support when they designed the interchange.

EWY concluded by mentioning that as far as parking, they are requesting one space per four people. He said since this is a family oriented type of business, they do not believe it will require the parking that staff is requesting.

FOSTER asked if the applicant wanted to speak.

JENNIFER WARNER, 10874 WEST DORA COURT, APPLICANT said her husband and their partner want to provide a safe place for families to bring kids to play outside and experience different types of water activities. She said they are doing this backwards because normally you have everything in place and then you find the property, but they came across this property and it seemed so perfect for what they were trying to do. She said they will be renovating the arena and updating and keeping the old stadium. She said they are not wanting loud music because this is not that kind of atmosphere. She said the main reasons for music would be the wedding area and giving brides and grooms the option of having a reception outside and low level background music for the water park low level background. She said she toured a Kansas center and the low level music was for atmosphere. She concluded by saying that she understands and respects Mrs. Hall's concerns but wanted her to know that they aren't the type of people that are going to come in and make things uncomfortable. She said they want the surrounding property owners to have their residence and house as their sanctuary area where they can relax and they do not want to impede on that at all.

CHAIR NEUGENT asked County Staff to explain how Sedgwick County handles noise.

KELLY DIXON, METROPOLITAN AREA BUILDING AND CONSTRUCTION DEPARTMENT, 1144 SOUTH SENECA said Sedgwick County has no noise ordinance or any way to enforce that in unincorporated areas. He mentioned that a recently approved PUD with noise restrictions on it has been an enforcement nightmare. He asked how you measure a nuisance.

BARBARA HALL, 1819 SMASCH said she owns 61 acres of property at 1227 135th St, West which is northeast of the property being talked about today. She said the proposed changes will have a very negative affect and impact on the value and uses of her investment property and for all the surrounding single-family home owners who have poured their life savings into their property. She said some say the noise level won't make a difference but she believes it will. She said the proposed use as a family venue with alcohol, adding that she is not opposed to alcohol, sounds more like a nightclub atmosphere. She said the proposed pond will go all the way across to the end of her property. She mentioned that the center would be open seven days a week, will probably have extra lighting and loud speakers and will create noise and traffic which will certainly impact the selling or development of any land in the area. She said there could be quiet, residential living in this area. She added that the wildlife would not be preserved and will probably disappear altogether. She said she purchased this property as an investment and for development of single-family residential homes. She mentioned the recent development of a housing project for retirees south of Kellogg with homes ranging in the neighborhood of \$200,000 to \$400,000. She said the proposal will cause extra traffic and safety issues to deal with. She said the proposed event center will have a negative impact on the area causing the need for more law enforcement and traffic issues. She said 135th Street is only a two-lane road with a middle turn lane. She concluded by pleading with the Planning Commission not to pass the proposal on the grounds that the surrounding neighbor's property values will decrease and safety will be a problem also.

MCKAY asked Mrs. Hall to indicate the property she owned on the aerial map. He asked how much of the land can be developed because of flooding problems.

HALL indicated that she own 25% of the land surrounding the site. She said the plan was to develop all of the property except the portion on the east with 40 residential sites. She said she bought the property to build a home and develop the land.

DAILEY asked won't 40 single-family homes increase traffic in the area.

HALL replied sure they will but residential homes are not like an activity on a daily basis.

DIRECTOR MILLER indicated that single-family homes usually generate 9.7 trips a day.

DAILEY commented so that would be approximately 400 trips per day.

HALL said their concern is people coming and going and serving of alcoholic beverages. She said drinking and driving will be an issue, the noise level and activities all the time. She said people have bought homes in the area for the quiet atmosphere.

MCKAY asked about the floodplain map and what percent of Mrs. Hall's land is in the floodplain.

LONGNECKER said quite a bit of the eastern part of Mrs. Hall's property is in the floodplain which drains into the Calfskin Creek drainage project.

JOHN OBORNEY, 13315 WEST HAVEN STREET, PRESIDENT, AUBURN HILLS 8TH ADDITION HOMEOWNERS ASSOCCATION said he lives just north of the #9 hole in Auburn Hills. He said there are 56 homeowners in that area that he is representing. He said after reviewing the information he has several concerns. He referred to the Staff Report and the phrase "life cycle and other special events" and said he does not know what that means. He said several years ago there was a nightclub at 151st Street and Kellogg and they could hear the music blaring a half mile away until 1-2:00 a.m. at night. He said this proposed event center is located right in their backyard. He said music is a concern. He said you mix alcohol, music and late hours and the Police will probably get involved. He mentioned traffic and that 135th Street had recently been expanded but added he guessed the taxpayers can pay and they can just widen the road again. He mentioned other concerns were the number of people allowed per event, loud music, unruly behavior, and the availability of liquor and beer. He said shutting things down at 8:00 p.m. all week long sounds a lot better to him. He mentioned that a lot of elderly people live in the area. He said this proposal will have a negative impact on the area. He said it sounds like there is no way to enforce the noise unless as a homeowner calls 911 or the Police. He said they would much rather see single-family residential in the area than an entertainment center in their back yard.

DAILEY asked if the clubhouse at Auburn Hills Golf Course serves alcohol.

OBORNEY said it is a public golf course and they serve beer. He added that a lot of property taxes come from this area and he recommend not passing the request.

JOHNSON clarified since the site is in the County there is no DAB recommendation. He asked since this is a unique piece of property would the DAB surrounding the area weigh in.

DIRECTOR MILLER responded that staff does not typically send county cases to DAB boards for review.

JIM EDGINGTON, 806 NORTH BEBE said he owns the property (vacant lot) at 441 South 135th Street. He mentioned the grandfather clause on the property and that the applicant should have to follow City of Wichita rules when the property becomes part of the city. He mentioned the parking lot and said the City has a lot of gravel parking lots which are pretty dusty so he would like to request asphalt for the parking. He mentioned the noise level and the five decibel rating. He said he understands Kellogg will be elevated but come back down to ground level approximately 1,000 feet west of 135th Street so any sound shot to the south will probably hit the asphalt and come right back. He said he has no problem with what the applicant and her partners want to do as long as it is not a bar or rowdy party. He said Kellogg is a noisy road as many of the people who live there already know. He concluded by saying that he doesn't want loud music at 1:00 a.m. on a Thursday or Friday night.

OMAR KADER, 9409 EAST SHANNONWOOD said he was present at the meeting for a class project. He said his input is that in his experience he doesn't think there is anything wrong with what the partners want to do but he doesn't think they should put this in an area where they are not welcome; that they should find another area.

EWY said he believed he has addressed the issues in general terms. He said the Commission is aware of what the site can potentially yield in terms of noise and traffic. He said this use will generate a fraction of the traffic that would happen if this was fully developed for commercial retail uses in addition to dust, pollution, smells and all the other issues that go with a full scale commercial development. He said his clients would like to take 25 acres of commercially zoned land and turn it into something that will take advantage of the natural features of the area. He said this type of use is generally located at the intersection of a major arterial road or expressway that is already surrounded by commercial zoning. He commented that the surrounding property is zoned approximately 90% GC. He said Baughman worked with the former property owner to the northeast and they could not make the residential development work for his pro forma. He said the Special Assessments were too high on a per lot basis. He said the area has been looked at for residential development approximately eight years ago. He said what they are presenting is trying to be sensitive to the surrounding neighbors because he knows event centers have developed a bad reputation in the last year or so.

MOTION: To give the speaker an additional minute.

MCKAY moved, **WARREN** seconded the motion and it carried.

EWY said they have tried to take the better provisions of the Waterfront Development that is in the middle of residential development and the better parts of the Rustic Timers PUD and merge them together to be sensitive to the fact that the location is currently in Sedgwick County but will probably be annexed into the City within one or two years. He said they are trying to be aware of all the rules and regulations and the impact of this development.

FOSTER asked Mr. Ewy to describe the analysis on the multi-family development. He specifically asked what some of the negatives were.

EWY said the issue was access and he believes there may have been an issue with trying to sell GC ground for residential prices. He said Baughman had done some sketch layouts for residential development and residential and multi-family mixed.

FOSTER mentioned using some of the soil on the lake excavation for berming and added that berming has helped in the past on some other projects.

EWY said they do see berming as a possibility and referred to the landscape plan. He said “on the record” they will add a provision to do a landscape plan as part of the redevelopment of the site that shows berming along the perimeter.

FOSTER commented that approximately 60% of the proposed PUD will have some sort of landscape treatment which he feels seems like pretty good low-impact land development.

EWY said they are almost one-quarter mile away from most of the single-family homes in almost all directions which is amazing compared to any other project they have been involved in. He said they are proposing a 200 foot buffer on the east which does not take into account the depth of the lake east to west. He said any activity is going to be a minimum of 500 feet away from the east property line. He said there is approximately one-quarter mile from the north property line before they reach Auburn Hills through creek bottom in addition to the area being fairly heavily wooded. He said to the northwest will be open space with parking areas approximately 250 feet across the creek from those residences as well. He said they are isolated because they are located in the center of a 40-acre piece of ground in addition to the topography and the general nature of the surrounding properties.

ELLISON clarified that the applicant would be willing to berm the property on the west and north side to help with the sound issue. He clarified that would not kill the project if that was what the Commission stipulated.

EWY said the applicant would be willing to berm around the north and east sides of the pond as they are excavating it to the degree and capacity that they can. He said a landscape plan must be submitted to planning staff for review and approval as part of the building permit process. He said they will have to wait and see what the project yields in terms of dirt.

WARREN said the main concerns he is hearing are traffic, alcohol and noise. He said if this area were developed into residential homes they would be looking at approximately 170 residences which would generate a lot more traffic, more alcohol consumption and probably just as much noise. He said this use will not generate that much traffic and he does not see an issue with consumption of alcohol. He said there is a difference between noise that keeps you awake and disturbs your peace and background clutter like he experienced when he lived near Rock Rapids which he got used to. He asked staff how he could form a motion to insure the area comes under City rules on noise once the area is annexed into Wichita.

MILLER said one approach would be to state that once they are annexed into Wichita, they would conform to the City Noise Ordinance.

JOHNSON said he always has problems with these types of cases because he believes that property owners have the right expect some zoning certainty when they buy a piece of property. He said he really wrestles with making up his mind.

DOOL asked staff if they were convinced that the floodplain would not be a problem with the proposed use of the property.

LONGNECKER replied that based on the aerial, the only part of the applicant's property that is located in the flood zone is a portion on the east. He said the rest of the flood zone is located outside the property boundaries.

FOSTER asked about the one-quarter ratio on the parking requirement. He also asked staff to provide comment on what type of surfacing is required on the parking lot.

LONGNECKER said the County allows gravel surfacing for parking lots. He said once the property is annexed into the City, the standard is paving. He added that the County has no landscape ordinance so additional verbiage would need to be added per what the agent offered in terms of landscape and berming. He said the property will be platted and eventually annexed into the City. He said the applicant is asking for retail type parking of one space per three people which staff has no problem with.

EWY said they are proposing one to four on the parking spaces. He said in reviewing the Parking Code, they felt that was more fitting to the type of scale they are looking at. He reiterated that the applicant is asking for one parking space per four people.

DIRECTOR MILLER commented that staff does not object to the one to four ratio on the parking.

MCKAY commented that this is the former Frontier Land USA, and he was glad to see someone doing something with this property.

MOTION: To approve subject to staff recommendation with the addition that when the property is annexed into the City that it meet the City Noise Ordinance and allow one parking space per four people.

MCKAY moved, **WARREN** seconded the motion.

FOSTER asked if the motion included the applicant's offer of berming on the north and west sides of the property and the landscape plan.

MCKAY said he would agree that the applicant provide some kind of buffer, but to specifically require a berm, he didn't know if he wanted to do that in a motion.

FOSTER suggested a landscape plan to include berming.

MCKAY said okay, he would add berming, but added that there were no regulations on berms so he considered it an oxymoron.

The **MOTION** was **AMENDED** (with consent of the second) to include a landscape plan with berming on the north and west sides of the property.

RAMSEY commented that the Commission has reviewed several event centers recently. He said the Sedgwick County Commission has set a precedent on what they are going to approve. He said everything that the speakers brought up toda the Commission has heard before. He said the same fears and other issues they brought up in the long run turned out to be unfounded.

The **MOTION, AS AMENDED** carried (12-0).
