

**EXCERPT MINUTES OF AUGUST 10, 2017, WICHITA-SEDGWICK COUNTY METROPOLITAN
AREA PLANNING COMMISSION MEETING**

Case No ZON2017-00027 – County Zone change from LC Limited Commercial to GC General Commercial on property generally located on the east side of West Street, approximately 400 feet south of West MacArthur Road on property described as:

Beginning at a point 785 feet North of the Southwest corner of the Northwest Quarter of the Northwest Quarter of Section 13, Township 28 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, thence north 132.7 feet to a point 410 feet South of the Northwest corner of the Northwest Quarter of the Northwest Quarter of said Section 13, thence East parallel to the North line of the Northwest Quarter of the Northwest Quarter of said Section 13, 330 feet, thence South 130.2 feet, to a point 785 feet North of the South line of the Northwest Quarter of the Northwest Quarter of said Section 13, thence West 330 feet to the point of beginning, except the West 40 feet for West Street.

BACKGROUND: This application was filed to rezone the subject property from LC Limited Commercial (LC) to GC General Commercial (GC). The subject property is located approximately 380 feet south of the intersection of West MacArthur Road and South West Street, on the east side of South West Street. With this request, the applicant would like to rezone the property to a GC district in order to have an Outdoor Storage and Vehicle Storage facility. This parcel is located in unincorporated Sedgwick County.

The existing parcel is under an acre and is currently unimproved. Following rezoning, the applicant intends to utilize this parcel for the outside storage of boats, campers and other outside items. There are no plans to construct structures of any kind on the site. Access to the site will be the existing asphalt drive.

The applicant has proposed to construct a screening fence along the street frontage per zoning standards. Along the north and east side the applicant proposes to utilize tree planting and landscape screening to fulfill the screening requirement for outside storage uses. This will require the submission of a landscape plan for review by staff.

The surrounding zoning is a mix of residential, commercial and industrial. North of the site is zoned LC though it is largely undeveloped south of West MacArthur Road, with the exception of a Major Utility. South of the site is a mix of LC and SF-20, though it is primarily residential in nature. The northern portion of the adjoining lot (which is a residential home) is zoned LC, rest is zoned SF-20. To the east is LC zoning on vacant agricultural land and SF-20. To the west across South West Street is zoned LI and is largely unimproved or large lot single family houses.

CASE HISTORY: The parcel has not been platted.

ADJACENT ZONING AND LAND USE:

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|------------------|---------------------------------------|
| North: LC | unimproved parcel, energy transformer |
| South: LC, SF-20 | single-family residences |
| East: LC | vacant agricultural land |
| West: LI | large lot single-family residence |

PUBLIC SERVICES: South West Street is a paved arterial street. Municipal Water is available on site, while other services are not. The proposed use should not require additional municipal services to be extended to the site.

CONFORMANCE TO PLANS/POLICIES: The Future Growth Plan Map of the *Community Investment Plan* depicts the subject site as New Employment. This proposed use does not fit neatly within the framework of this category (as this will not employ anyone beyond the property owner), but it does not work against it either.

RECOMMENDATION: Based upon the information available at the time the staff report was prepared, it is recommended the application be approved, subject to the following stipulations.

- (1) A Landscape Plan will be submitted to the Director of Planning for approval prior to the issuance of a Building Permit.
- (2) No structures are to be built on site and the property will remain unpaved.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding zoning is a mix of residential, commercial and industrial. North of the site is zoned LC though it is largely undeveloped south of West MacArthur Road, with the exception of a Major Utility. South of the site is a mix of LC and SF-20, though it is primarily residential in nature. The northern portion of the adjoining lot (which is a residential home) is zoned LC, rest is zoned SF-20. To the east is LC zoning on vacant agricultural land and SF-20. To the west across South West Street is zoned LI and is largely unimproved or large lot single family houses.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned for Limited Commercial, which does not allow for this type of use. The general character of the immediate area is residential and undeveloped land, though based on surrounding zoning and the character of the broader area, this use will be compatible. This property is suitable for a variety of uses, including those listed in the Limited Commercial District. However, the uses listed for the General Commercial District would also be suitable for this location.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of TF-3 zoning and subsequent platting would allow two-family homes to be constructed on the property. The Willow Creek neighborhood to the south and east of the site would be separated from the development by a roughly 250-foot floodway reserve that includes trees and a small creek. The single family residences to the west of the site would be separated from the development by a tree line. Approval of the request should not detrimentally impact nearby property owners.
4. Length of time the property has remained vacant as currently zoned: The property is currently unimproved.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Future Growth Plan Map of the *Community Investment Plan* depicts the subject site as New Employment. This proposed use does not fit neatly within the framework of this category (as this will not employ anyone beyond the property owner), but it does not work against it either.
6. Impact of the proposed development on community facilities: This use should not require the extension of public facilities and services.

KYLE KOBE, Planning Staff presented the Staff Report.

DIRECTOR MILLER commented that the landscape requirement would need to be removed because the County does not have a landscape ordinance.

KOBE replied, Okay.

CHAIR FOSTER asked if that would leave condition number two as a recommendation.

KOBE responded that condition number two came from the applicant and added to reflect what they proposed.

CHAIR FOSTER believes that is appropriate.

RICHARDSON asked that, if part of the approval is that there will be no structure on property or that as of now there are no plans to build one.

KOBE commented that the way that it was communicated to him was that there are no plans at any point; however, that is something the applicant could expand on.

RICHARDSON said if the zoning is approved, there is no way to eliminate structures.

DIRECTOR MILLER is not sure why they would want to say that they could not build a building.

RICHARDSON said since it was volunteered by the applicant, he would like to clarify that they are not prohibiting structures. He asked what is the required screening if any in the County, particularly along the south side of the site.

DIRECTOR MILLER said there would be the standard zoning screening of a six-foot fence anytime there are abutting residential zoning. He commented that the applicant could exchange the fence for landscaping and it would be permitted.

RICHARDSON asked if they are required to screen from the street side.

DIRECTOR MILLER replied no.

RICHARDSON commented that it would be required to screen it on the south and east side as it stands today.

DIRECTOR MILLER stated that it would have to be screen on any side where there is residential zoning.

RICHARDSON would like to know the requirements for paving under general commercial.

DIRECTOR MILLER replied that storage does not require paving.

RICHARDSON stated that under the recommendation based on the following findings in the staff report, number three does not apply to this case and it refers to Willow Creek and duplex zoning.

KOBE stated that it was a mistake.

RICHARDSON said it should be removed from the records.

ELLISONInaudible... does it have to be a separate entrance for this usage.

DIRECTOR MILLER asked if the driveway was included in the legal description for the application area.

KOBE replied that it does not include the driveway.

ELLISON said it is just a drive into the home and takes a left turn to go to the proposed property.

KOBE said the driveway is on the residential lot, which means there, would have to be a separate.

RICHARDSON said recommendation number four says the length of time the property has been vacant as a reason for rezoning and he would like an explanation why it makes a difference.

DIRECTOR MILLER commented that is on of the Supreme Court Golden rules criteria that if it has been zoned and remains vacant for a long period as zoned it is possible that he zoning is restricting the development.

DAILEY asked if this is for personal storage.

KOBE responded that it would be for commercial use.

WILL CLEVINGER, RUGGLES AND BOHM, 924 N. MAIN STREET, WICHITA, KANSAS, AGENT FOR THE APPLICANT said the northerly drive goes into the applied area and the applicant was hoping to utilize that existing drive for access to the storage area. He said that if possible the applicant would like to limit the screening on the south property line with the purpose of being able to maintain and keep an eye out for theft and vandalism. He stands for questions.

RICHARDSON asked if the applicant would be willing to swap the screening on the south for screening on the street side so it would not be visible while driving by.

CLEVINGER said they would probably be willing to do a six-foot privacy fence along the street.

RICHARDSON said he understands why they would want visual access since they are also the owners of the property to the south. He said it would be nice to have screening form the street, since some of the vehicles stored might not be pleasant to look at.

DIRECTOR MILLER clarifies that any vehicle needs to be operable or it would be determined salvage and that is not what is being asked.

RICHARDSON asked what about RV's that do not have a motor.

DIRECTOR MILLER replied if it is not operable, it is salvage.

RICHARDSON asked if that means that, a trailer could not be parked there.

DIRECTOR MILLER said as long as the tires are aired up or can be.

MCKAY commented if the owner decides to sell, should there be a deed restriction regarding the fencing or screening.

DIRECTOR MILLER commented that any new buyers would know of the situation and if it bothered them, they would not buy the property.

MCKAY moved to approve per staff comments with item number three under recommendation based on the following findings heading in the staff report omitted.

WARREN seconds motion.

GREENE commented that the applicant proposed to build a screening fence along the street frontage and on the north and east side and asked since they are offering would it be included as a recommendation.

MCKAY said his motion was move to approve per staff recommendations, omitting number three regarding the recommendation is based on the following findings on the staff report.

CHAIR FOSTER said they would also be striking condition number one about the landscape plan.

DOOL asked if every condition that an applicant adds to the request necessarily become a condition of the approval.

CHAIR FOSTER replied, no necessarily.

GREENE said he agrees and the only reason he brought it up was due to the discussion regarding the landscaping.

CHAIRS FOSTER summarizes the motion for approval per staff recommendation including the striking of condition one regarding of landscaping at the time of the issuance of building and with condition two stated by the applicant with not structured built and the striking of item number three as a correction.

DIRECTOR MILLER said for clarification and to avoid confusion would like the applicant to address the landscaping.

CLEVENGER said originally his client's intent was not to have any screening and then it was their understating that screening was a requirement of the County and the reason for the addition. He said the applicant would desire not to have it but understand if there is a need especially on the front street with a private fence, they will be willing to do it if needed. He said they are no intentions of building any billings at the time but if in the future it is their understanding that a subdivision plat would be required.

DIRECTOR MILLER commented that the term screening and landscape plan are being treated as the same and they are not. He said zoning screening requires at least a six-foot plan while a landscape plan is typically tied to the City's landscape ordinance unless volunteered that the applicant is doing landscape buffer. He would like clarification of what the landscape plan will be and where it's going to go.

CHAIR FOSTER stated that he applicant is comfortable addressing the screening along the roadway as a minimum.

CLEVENGER replied, yes.

ELLISON asked if the approval is for the storage of everything and anything on a grass field with no gravel.

DIRECTOR MILLER storage requires gravel surface.

ELLISON commented that it is currently grass.

DIRECTOR MILLER said they would have to put gravel as a surface as part of the code. He said they cannot have inoperable vehicles but in general commercial unless excluded any kind of material not considered junk or salvage could be stored on site.

CHAIR FOSTER aske the agent if he comfortably understands the idea of screening at a minimum along the roadway.

CLEVENGER said he is not sure what he is being asked for other than the applicant agreeing to the six-foot privacy fence on West Street. He asked if anything else is being asked of him.

CAHIR FOSTER said they are separating land escape and screening and with the discussion regarding the screening along West Street, and would like to know if they are comfortable with it.

CLEVENGER said the applicant is conformable with screening along West Street.

MOTION: To approve subject to staff recommendation with the screening along West Street.
moved, seconded the motion, and it carried (10-2).

ELLISON and **MILES** – nay