

**EXCERPT MINUTES OF SEPTEMBER 20, 2018 WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION MEETING**

CASE NO.: ZON2018-00034 - County Zone Change from RR Rural Residential to General Office (GO) generally located on the northwest corner of East 101st Street North and North 47th Street East (Oliver) on property described as:

The South 496.00 feet of the SE1/4 of the SE1/4 of Sec. 14, T25S, R1E of the 6th P.M., Sedgwick County, Kansas, EXCEPT the South 60.00 feet thereof, AND EXCEPT the East 60.00 feet thereof.

BACKGROUND: The applicant requests the rezoning of the 5.14-acre tract on the west side of Oliver Avenue and north of 101st Street North from RR Rural Residential (RR) to GO General Office (GO). The subject property is being platted as Superior Excavating Addition, which will create 3 lots along 101st Street North, with only the eastern lot at the intersection of 101st Street North and Oliver Avenue being subject to the rezoning to GO. The two other lots will remain RR Rural Residential and be for future residential development. It is important to note that the rezoning to GO will allow the office use, but any outside storage of equipment or other materials associated with the owners business are not permitted within the GO General Office zoning district.

The conceptual site plan for the GO lot shows an office building with two access drives on Oliver Avenue and one on 101st Street North. According to the plat being processed, these access drives have been approved by Sedgwick County Public Works. The staff report for the plat indicates this property is located within the territory of Sedgwick County Rural Water District #2. There are no public sewers within this area, so on-site wastewater systems will be required.

The surrounding neighborhood is a mostly rural and agricultural. There are some residential uses to the southeast; however most of the property in the area is used agriculturally.

CASE HISTORY: As noted above, the subject property is being platted in the Superior Excavating Addition. There are no other zoning actions on this property.

ADJACENT ZONING AND LAND USE:

NORTH:	RR	agricultural
SOUTH:	RR	agricultural
EAST:	RR	agricultural
WEST:	RR	agricultural

PUBLIC SERVICES: Both 101st Street North and Oliver Avenue are paved, two-lane, rural roads with open ditches. The plat being processed at this time is dedicating additional right-of-way to comply with County standards. No public sewers are available. The land is within the Sedgwick County Rural Water District # 2 service territory and will be required to connect if required by that entity. Otherwise, on-site water service will be required.

CONFORMANCE TO PLANS/POLICIES: The 2035 Wichita Future Growth Concept map (MAPC approval November 19, 2015) indicates the site is within the “Rural Area” of Sedgwick County. The designation is acceptable for conversion of rural lands to other uses provided the

necessary rezoning and other development requirements, such as platting, are followed. The overall spirit and intent of this rezoning appears to be in conformance with the policies and guidelines of the adopted Plans for Sedgwick County.

RECOMMENDATION: Based upon the information available at the time the staff report was completed, staff recommends **APPROVAL** the request as submitted. This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The area is rural in nature with mostly agricultural uses. The fact that both 101st Street North and Oliver Avenue are paved makes this case most acceptable to the area. While there are no other commercial uses in the general area, the establishment of office uses in the GO zoning district will not be necessarily out of character with the neighborhood.
2. **The suitability of the subject property for the uses to which it has been restricted:** The property is presently zoned RR Rural Residential but, as noted above, is suitable for conversion to a commercial office use, which would be permitted by this rezoning. GO General Office restricts the property primarily to just office uses, which does limit the potential future uses of the property to some degree; especially the restrictions on outside storage of materials and equipment.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The rezoning of this property to GO General Office is not deemed to have any detrimental impact on surrounding properties. The fact both 101st Street North and Oliver Avenue are paved mitigates the introduction of this use in the rural area.
4. **Length of time the property has been vacant as currently zoned:** The property has been used agriculturally under the current zoning classification, which could continue. The platting could also permit the subject property being used as a residential property.
5. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The 2035 Wichita Future Growth Concept map (MAPC approval November 19, 2015) indicates the site is within the “Rural Area” of Sedgwick County. The designation is acceptable for conversion of rural lands to other uses provided the necessary rezoning and other development requirements, such as platting, are followed. The overall spirit and intent of this rezoning appears to be in conformance with the policies and guidelines of the adopted Plans for Sedgwick County.
6. **Impact of the proposed development on community facilities:** Rezoning of the property would not have any impact on community facilities or resources. The property will rely upon on-site wastewater services and may connect to public water service from Sedgwick County Rural Water District #2. All other services are available.

DAVE YEAROUT, Planning Staff presents the Staff Report.

CHRIS BOHM, GARVER. 8535 E. 21ST NORTH, WICHITA, KS. On behalf of the applicant said Limited Commercial (LC) was considered to begin with and after discussions with Planning Department and knowing there would not be equipment parked on site they decided to go with General Office (GO). He said the site plan of the office is currently being developed by the owners and consistent with the subdivision plat. He said it is very straight forward, an office building with a surface parking lot and why GO is appropriate at this location. He stands for questions.

BETTY TAYLOR, 10460 N. OLIVER, VALLEY CENTER. Said she understood there would be only one access onto Oliver and two on 101st Street and wants to know if that is correct.

YEAROUT replied that the approved plat identifies two access points onto north Oliver and one on 101st Street. He added that County Public works concurred with the access points.

TAYLOR said her concern is that GO allows asphalt and concrete plants, and after the jobs are completed they have to be down after 30 days. She said since the applicant's business is construction, she is concerned that there will be several of the asphalt and concrete plants put up in a year. She said the neighborhood does not need the noise or dirt associated with the plants. She said the applicant may say he won't have those uses but in the future it could change. She said the applicant expressed that he wanted to get his business away from his house because of the noise and dirt and she does not want to have it near her home.

PENNY CLEMENT 105100 N. OLIVER CURRENT ADDRESS 937 W CEDAR WOOD CT ANDOVER, KS. Said she and her husband purchased the lot on the east side of Oliver and slightly north of the proposed site and it is about 30 acres. The intention was to build their dream home to retire to. She opposes the zone change because the environment is rural agricultural and nothing that goes with Office zoning. She notes that the report mentions that is not out of character with the neighborhood and she disagrees. She said the smallest lot in the area with a home on it is ten acres. The proposed site is smaller and to change it to GO is also a huge change. She mentioned that the proposal shows 30 parking spaces, and it does not seem like it would be a small office. She said the area is rural residential and in the photos shown there are no homes across the site, but homes are very close by. She mentioned some of the allowed uses in GO i.e., assistance living, group home, group residence, hospital, nursing facility, a school, bed and breakfast, a recording studio, funeral home, a hotel and motel. She said they are changing an agricultural area and she asks the Commission to deny the request.

RICHARDSON would like clarifications with regard to the asphalt uses and comments made.

YEAROUT said that currently in all zoning districts the asphalt concrete plant limited is permitted by right, subject to specific standards. They are a temporary placement of facilities that are tied to an actual government construction project and not just general construction projects. He said a permanent placement of an asphalt plant is an asphalt plant general and not permitted in GO or RR. He said other uses would trigger a requirement for public sewer which is not currently available at the location.

RICHARDSON asked for clarification on a motel or hotel.

MILLER GO permits a motel/hotel; however, the lack of public sewer makes it a highly unlikely use.

JEFF HUDSON, 9949 N. OLIVER, VALLEY CENTER, KS. Said he's been in the area for 30 years and moved to get away from the City. He said they are currently discussing an office building but later down the road they could bring other uses. He said the land has been farm land for years with most houses using lagoons for waste water and wonders how that would work with a bigger building. He is concerned on what a big lagoon would do to the underground water system that people use. He adds that his neighbor to the north depends on the drainage from the field on the proposed site for his cattle. He opposes the use and would hate to put his house for sale.

BETTY RHODES, 919 N. 1ST, MULVANE, KS Said she is a trustee of the family trust that owns the 80 acres minus five acres that are directly east of Oliver and 101st Street North. She said they bought the property in 1964 and enjoy the rural environment with her kids growing up in the country. She said they have a pond, and the cropland in the corner is being farmed by people in the neighborhood. She drove the area, and a half mile north of 61st Street there is commercial property at the end, and for the next four and a half miles is all residential farm property, crop lands, and new homes. She said adding commercial to the area would be a pathway for people to build more commercial. She said that is not why people live in the area. She said they are reducing agricultural land and reducing the income of people who have farmed the land for years and years. She said commercial is completely foreign to the environment of the area, and at this point in time it is still rural homes and agricultural land.

NANCY WHITAKER, 10655 N. OLIVER, VALLEY CENTER asked if this size of the facility would require a single meter or does it require a hydrant. She would also like to know if the applicant will be drilling his own well.

DIRECTOR MILLER said when the plat was approved the applicant's intent was to obtain rural water service. They would have to get their meter through the rural water district.

WHITAKER wonders if they require more than just a regular meter because there is not enough pressure. She did not know if a commercial facility required more.

DIRECTOR MILLER said for an office use he assumes bathroom and sinks would be the main use. He added that under the zoning code this is not a request for commercial activity and it is a request for office use which is a middle range between residential and commercial.

GEORGE ELDER, 3501 E. 101 ST. NORTH. Said the City and the County are trying to understand the desirability of the community at a National level. He said desirability and land use are a huge part of this conversation. He said zoning is about suitability and utility and while he shares some concerns voiced he believes in activity. He is concerned with the three lots and how in the future it could not just be one but three commercial properties.

DAILEY asked the speaker what his business is in the area.

ELDER replied they are in the City of Kechi and operate a blackberry farm, a goat dairy and creamery

and operate a small Restaurant and a small wood shop.

DAILEY commented that his business probably generates more traffic than the proposed use.

ELDER said that is why he is manifesting concern but not protest.

GREENE said he would like to clarify that it looks like a two lot plat. One plat is identified for general office and the other lot would maintain its rural residential status. If the other lot is changed it would come back to the Planning Commission for reconsideration.

MILES said for clarity it's a three lot plat.

DAVID CLEMENT, 10500 N. Oliver, VALLEY CENTER, KS. Said under the conditional uses there are commercial uses and there is nothing on there that they want around residential. He mentioned possible uses. He said he was present at the Subdivision meeting and said the drawings do not match in regards to the entrances.

MCKAY out 2:53

JOANNE MATTHEWS, 4444 E. 101ST STREET SOUTH, VALLEY CENTER, KS. Said she built her retirement home and investment and now she has commercial property moving next door to her. She said the applicant said his land would remain agricultural and wonders what they have to rely on when they are told something and the applicant turns and does something different. She said the applicant does have a property and business further east of the neighborhood. If she knew there would be commercial property in the area she would have never moved in. She said it's a peaceful neighborhood. She is concerned about her pond, and other ponds in the area, noise, and other pollutants. She opposes based on the information provided in the past and what has transpired. She said she moved out there to a rural community and it is something they are not getting anymore.

CHRIS BOHM said any of the more intensive uses listed for a site in GO or conditional uses they would have to come back to the Commission to be implemented. He said the other lots to the west will remain rural residential, and the intent was to control the right of way and get two access points on 101st to have a cohesive plat that is part of one ownership. With regards to hotels or more intensive uses there is no capability for onsite sanitary sewer or the capability for water. He noted that office is a low user of water with a few sinks and bathrooms. He said the site has the suability for an advanced sewer system to handle the low flows from an office. It has two paved highway roads from the County on the intersection. He said decades ago many of the County intersections were zoned with quadrant LC zoning to prepare for the advancement of development. He said GO is so restrictive that there could be a farming use at the corner that could be more distracting and detrimental to the community as an intense agricultural use. He said it's a low impact use for the site.

RICHARDSON asked if the applicant would be open to a protective overlay to eliminate some uses that they don't intent to have.

BOHM replied that they have not had that discussion, he would have to discuss it with the applicant.

DIRECTOR MILLER said the Commission could recommend that if they approve the request and as a condition of approval they could outline prohibited uses as a condition of approval. He said assuming that the Commission left the motion open ended to allow the request to move ahead with only staff review or if they want it to come back again.

RICHARDSON asked if the Commission could leave the motion open ended and the applicant work it out with staff for a protective overlay.

DIRECTOR MILLER pointed out that in the rural residential district all the uses of asphalt, concrete plant in general, quarrying, landfill, oil, gas, and rock crushing are the same situation as in GO and it would take a conditional use approval. He said that is the reason planning staff did not recommend a protective overlay.

FOSTER said at the Subdivision meeting the applicant did a good job at explaining why he was doing this. He is trying to remember if the applicant's equipment would be at this site.

BOHM said in discussion with the applicant, his work is remote and out of the state and his desire was to have his office away from his home and do administrative functions to run his construction company.

WARREN asked if the site in an area of influence i.e., Park City and, Kechi.

YEAROUT replied it is outside of everybody's area of influence.

DAILEY asked if the applicant's office is inside of his residence.

BOHM replied yes and added that there is a conditional use on the property to allow it.

B. JOHNSON commented that rural residential has some of the same uses that could be approved with a conditional use as well as this zoning. He moves to approve per staff comments.

GREENE seconded the motion.

FOSTER asked if there are any items to not allow at this point in time and a have a protective overlay.

DIRECTOR MILLER replied because of the limited services available, any of the more intense uses like a hotel or motel would not be able to be there because the facility would not make it work. If the Commission feels more secure in putting a list of uses that are prohibited that is within their purview.

MOTION: To approve subject to staff recommendation

B. JOHNSON moved, **GREENE** seconded the motion, and it carried (10-0).
