

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

April 5, 2012

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, April 5, 2012, at 1:30 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Shawn Farney, Chair; David Dennis, Vice Chair; Bob Aldrich; David Foster; Bill Johnson (In @ 1:32 p.m.); Don Klausmeyer; John W. McKay, Jr.; Debra Miller Stevens; M.S. Mitchell; Morrie Sheets; Don Sherman; George Sherman and Chuck Warren. Ron Marnell was absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Jess McNeely, Senior Planner; Derrick Slocum, Associate Planner; Kelly Rundell, Deputy City Attorney; Robert Parnacott, Assistant County Counselor and Maryann Crockett, Recording Secretary

1. Approval of the March 15, 2012 Planning Commission minutes.

MOTION: To approve the March 15, 2012 meeting minutes, as amended.

DENNIS moved, **MITCHELL** seconded the motion, and it carried (10-0-2). **MILLER STEVENS** and **SHEETS** – Abstained.

JOHNSON (In @ 1:32 p.m.)

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB 2012-00003: One-Step Final Plat - MEAD MIDDLE SCHOOL ADDITION**, located south of Harry, east of Hydraulic.

NOTE: This is an unplatted site located within the City of Wichita.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that water and sewer services are available to serve the site.
- B. City Stormwater Management has approved the drainage plan.
- C. Traffic Engineering has approved the access controls. The plat proposes complete access control along Mt. Vernon.
- D. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

- E. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- F. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- G. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- H. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- I. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- J. Perimeter closure computations shall be submitted with the final plat tracing.
- K. Westar Energy advises that if any relocation of the existing service is necessary, it will be at the applicant's expense and they will need to contact Reed Holbrook, Senior Customer Service Account Representative at 261-6360.
- L. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disc. If a disc is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

MCKAY moved, **ALDRICH** seconded the motion, and it carried (12-0-1). **WARREN** – Abstained.

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- 2-2. **SUB 2012-00004: One-Step Final Plat – ELDERSLIE 2nd ADDITION**, located south of 101st St North, along the east side of Hillside.

NOTE: This site is located in the County in an area designated as “rural” by the Wichita-Sedgwick County Comprehensive Plan.

STAFF COMMENTS:

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval.
- B. The site is currently located within the Sedgwick County Rural Water District No. 2. If service is available, feasible and the property is eligible for service, County Code Enforcement recommends connection.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. The platlor’s text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- E. County Public Works has approved the access controls. The plat denotes one opening along Hillside.
- F. County Public Works has approved the drainage plan.
- G. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.
- H. In the surveyor’s certificate, the reference to “K.S.A. 12-512(b)” should read “K.S.A. 12-512b.”
- I. The signature block for the Board of County Commissioners should be revised to read underneath the signature line, “Tim R. Norton, Commissioner, Second District.”
- J. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- L. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- M. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147)

for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- N. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disc. If a disc is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

MCKAY moved, **ALDRICH** seconded the motion, and it carried (12-0-1). **WARREN** – Abstained.

2-3. SUB 2012-00002: Final Plat – MEL HAMBELTON 2ND ADDITION, located east of 119th Street West, on the south side of Kellogg.

NOTE: This is a replat of the Blasi Park Addition in addition to unplatted property.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that water and sewer services are available to serve the site.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the drainage plan subject to additional language being included on the plat or restrictive covenant to clarify the maintenance requirements for Reserve B. At the time of redevelopment, the site Civil Engineer will be required to ensure the plan meets the specific requirements of Chapter 16.32 of the City Code.
- D. In the surveyor's certificate, the reference to "K.S.A. 12-512(b)" should read "K.S.A. 12-512b."
- E. Traffic Engineering has approved the proposed access controls. The plat proposes four openings along Kellogg Drive.

- F. The owner's certificate needs corrected to include the name of the Addition.
- G. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. A covenant shall be submitted regarding ownership and maintenance responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- M. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.

Q. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disc. If a disc is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

MCKAY moved, ALDRICH seconded the motion, and it carried (12-0-1). WARREN – Abstained.

3. PUBLIC HEARING – VACATION ITEMS

3-1. VAC2012-06: City vacation of platted 20' alley right-of-way.

OWNER/AGENT: Kansas Masonic Home, c/o Matthew Bogner (owner); Ruggles and Bohm, PA, c/o Will Clevenger (agent)

LEGAL DESCRIPTION: Generally described as that portion of the platted 20-foot wide north-south alley lying between Reserves D and E, University Avenue and a platted 20-foot wide east-west alley and the same platted 20-foot wide east-west alley lying north of Lots 65-129 and Reserves D and E, all in the Lawrence 6th Addition, and south of the tract owned by the Kansas Masonic Home, all in Wichita, Sedgwick County, Kansas

LOCATION: Generally located south of Maple Street and west of Seneca Street (WCC #IV)

REASON FOR REQUEST: Applicant owns all properties surrounding alleys

CURRENT ZONING: The subject sites are platted alley right-of-ways. The abutting north property is zoned B Multi-Family Residential (“B”) and the abutting south property is zoned MF-29 Multi-Family Residential (“MF-29”).

VICINITY MAP:

The applicant is requesting the vacation of the described east-west and north-south platted 20-foot wide alley right-of-ways (ROWs). The applicant owns all the abutting properties. The property located north of the east-west alley is developed as the Masonic ‘elderly’ living complex, while the property located south of the east-west alley is not developed. The east-west alley runs from Seneca Street (east side) to Martinson Avenue (west side). This alley has curb cuts on both its east and west sides with concrete drive approaches off of each street and has a sand and dirt surface for the rest of its length. This alley is used for vehicular traffic. There are manholes, sewer and water lines (but not Stormwater) in the alley. Westar has power lines and equipment located in the length of the alley. Comments from other franchised utilities have not been received and are needed to determine if they have utilities located within the site. This alley runs parallel with an approximately 362-foot long paved drive that runs from Seneca to the Masonic complex. This drive is located approximately 10 feet north of the east-west alley. The alley is located approximately 150 feet north of the University and Seneca intersection and 350 feet north of the Seneca and Kellogg Street/US 54 interchange.

As platted, the 20-foot wide north-south alley was intended to connect the east-west alley to University Avenue. In reality, the alley has no curb cut or drive onto University and the alley appears to be part of the undeveloped south property. There are no public utilities in this platted alley. Comments from franchised utilities have not been received and are needed to determine if they have utilities located within the alley.

There are four curb cuts and drives onto University into this south property. Three of the drives are paved drives back to the sidewalk running parallel to University and the other is grass. One of the paved drives continues and appears to be used as a gravel drive connecting the east-west alley to University. It functions as the platted alley was intended.

The alleys and their abutting properties are located within the Delano Overlay. The Lawrence 6th Addition was recorded with the Register of Deeds October 11, 1888.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water and Sewer/Stormwater, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of platted alley right-of-ways.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time January 26, 2012, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the described portion of the platted drainage and utility easement and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Dedicate by separate instrument the vacated east-west alley ROW as a utility-drainage-access easement for all public and franchise utilities. Provide/dedicate any additional easement if needed. All approved dedications with original signatures must be provided to Planning prior to going to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (2) If needed, dedicate the vacated north-south alley as a utility/drainage easement. All approved dedications with original signatures must be provided to Planning prior to going to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.

- (3) If needed, dedicate the existing north-south gravel drive from the vacated east-west alley with the concrete approach onto University as an access easement. All approved dedications with original signatures must be provided to Planning prior to going to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (4) As approved by the Traffic Engineer, dedicate by separate instrument complete access control from the vacated east-west alley to University. As approved by the Traffic Engineer, dedicate by separate instrument access control except two openings along the south lot lines of Lots 65-129 and Reserves D and E, all in the Lawrence 6th Addition. All approved dedications with original signatures must be provided to Planning prior to going to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (5) Provide restrictive covenant(s) with original signatures binding and tying the vacated alleys to the abutting properties. The restrictive covenant(s) must be provided to Planning prior to going to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (6) Provide a legal description of the vacated alley ROWs, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action.
- (7) All improvements shall be according to City Standards and at the applicant's expense. As needed, provide required guarantees or approved projects to ensure the continuation of curb and gutter along Seneca, Martinson and University public streets. These must be provided to Public Works prior to the vacation case going to City Council for final action.
- (8) Any relocation or reconstruction of utilities, made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. As needed, provide required guarantees or approved projects to ensure relocation and/or relocation of utilities, including, but not limited to, drainage, sewer, water and franchise utilities.
- (9) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Dedicate by separate instrument the vacated east-west alley ROW as a utility-drainage-access easement for all public and franchise utilities. Provide/dedicate any additional easement if needed. All approved dedications with original signatures must be provided to Planning prior to going to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.

- (2) If needed, dedicate the vacated north-south alley as a utility/drainage easement. All approved dedications with original signatures must be provided to Planning prior to going to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) If needed, dedicate the existing north-south gravel drive from the vacated east-west alley with the concrete approach onto University as an access easement. All approved dedications with original signatures must be provided to Planning prior to going to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (4) As approved by the Traffic Engineer, dedicate by separate instrument complete access control from the vacated east-west alley to University. As approved by the Traffic Engineer, dedicate by separate instrument access control except two openings along the south lot lines of Lots 65-129 and Reserves D and E, all in the Lawrence 6th Addition. All approved dedications with original signatures must be provided to Planning prior to going to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (5) Provide restrictive covenant(s) with original signatures binding and tying the vacated alleys to the abutting properties. The restrictive covenant(s) must be provided to Planning prior to going to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (6) Provide a legal description of the vacated alley ROWs, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action.
- (7) All improvements shall be according to City Standards and at the applicant's expense. As needed, provide required guarantees or approved projects to ensure the continuation of curb and gutter along Seneca, Martinson and University public streets. These must be provided to Public Works prior to the vacation case going to City Council for final action.
- (8) Any relocation or reconstruction of utilities, made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. As needed, provide required guarantees or approved projects to ensure relocation and/or relocation of utilities, including, but not limited to, drainage, sewer, water and franchise utilities.
- (9) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

KLAUSMEYER moved, **G. SHERMAN** seconded the motion, and it carried (12-0-1).
WARREN – abstained.

3-2. VAC2012-07: City request to vacate platted setbacks.

OWNER/APPLICANT: FBN Inc., c/o Perry Duncan (owner)
Max Christensen (agent)

LEGAL DESCRIPTION: The east 25 feet of the platted 90-foot street side yard setback that runs parallel to Woodlawn Boulevard and the west lot line of Lot 1, Block 1, Northborough 4th Addition and the north 15 feet of the platted 80-foot front yard setback that runs parallel Rockhill Lane and the south lot line of Lot 1, Block 1, Northborough 4th Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located south of 21st Street North, on the northeast corner of Rockhill Lane and Woodlawn Boulevard (WCC #II)

REASON FOR REQUEST: Expansion of existing building

CURRENT ZONING: Subject property is zoned LC Limited Commercial (“LC”). Abutting northern and eastern properties are zoned GO General Office (“GO”). Subject property and abutting properties are part of the Northborough Community Unit Plan CUP DP-67. Adjacent western (across Woodlawn Boulevard) and southern (across Rockhill Lane) properties are zoned SF-5 Single-family Residential (“SF-5”)

The applicant proposes to vacate the described setbacks. The request will move the setbacks to the 65-foot Continental Pipe Line Company setback that runs parallel to the site’s west lot line and Woodlawn Boulevard and the site’s south lot line and Rockhill Lane. Inside the Continental setback are multiple Continental easements. The Continental setback and easements were dedicated by separate instrument; Film #235, Pages 1398-1404. The Continental setback and easements are private and cannot be altered by the vacation process. The minimum street yard setback for a CUP is 35 feet; the request establishes a 65-foot setback on the west and south sides of the subject property. There are no public utilities located within the setbacks. The Northborough 4th Addition was recorded with the Register of Deeds March 27, 1987.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works, Water and Sewer, Stormwater, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the platted setback.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time January 26, 2012, which was at least 20 days prior to this public hearing.

2. That no private rights will be injured or endangered by the vacation of the described portion of the platted drainage and utility easement and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Vacate the east 25 feet of the platted 90-foot street side yard setback that runs parallel to Woodlawn Boulevard and the west lot line of Lot 1, Block 1, Northborough 4th Addition and the north 15 feet of the platted 80-foot front yard setback that runs parallel Rockhill Lane and the south lot line of Lot 1, Block 1, Northborough 4th Addition, Wichita, Sedgwick County, Kansas.
- (2) Provide four copies of the updated CUP drawing reflecting the new setbacks. This must be provided to Planning prior to the vacation request proceeds to City Council for final action.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
- (4) All improvements shall be according to City Standards and at the applicant's expense.
- (5) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the east 25 feet of the platted 90-foot street side yard setback that runs parallel to Woodlawn Boulevard and the west lot line of Lot 1, Block 1, Northborough 4th Addition and the north 15 feet of the platted 80-foot front yard setback that runs parallel Rockhill Lane and the south lot line of Lot 1, Block 1, Northborough 4th Addition, Wichita, Sedgwick County, Kansas.
- (2) Provide four copies of the updated CUP drawing reflecting the new setbacks. This must be provided to Planning prior to the vacation request proceeds to City Council for final action.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.

- (4) All improvements shall be according to City Standards and at the applicant's expense.
- (5) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

KLAUSMEYER moved, **G. SHERMAN** seconded the motion, and it carried (12-0-1).
WARREN – abstained.

PUBLIC HEARINGS

4. **Case No.: ZON2012-06** – South Broadway Baptist Church (Chris Bray, Ernest Feeler)/Ruggles & Bohm, P.A. (Will Clevenger, Agent) request a County zone change from RR Rural Residential to SF-20 Single-Family Residential on property described as:

The South 10 acres of the Northwest Quarter of the Southwest Quarter of Section 9, Township 29, Range 1 East of the Principle Meridian, Sedgwick County, Kansas.

BACKGROUND: The applicant, South Broadway Baptist Church, owns 9.78 acres of unplatted land located 1,500 feet north of East 87th Street South, east of South Broadway Avenue. The applicant's acreage has split zoning; the approximate northern 209 feet are zoned RR Rural Residential ("RR") while the approximate southern 121 feet are zoned SF-20 Single-family Residential ("SF-20"). The site is partially developed with a church. The *Wichita-Sedgwick County Unified Zoning Code* ("UZC") permits a "church or place of worship" by right in the SF-20 district, but requires Conditional Use approval in the RR district. The applicant is seeking to rezone the RR zoned portion of the church's ownership to SF-20, thereby providing uniform SF-20 zoning on all of the church's property and eliminate any potential claim the church is a nonconforming use.

Property to the north is zoned SF-20 (SCZ-0599, 1989) and developed as a single-family residential neighborhood, and platted as the Stillwater Addition (Haysville platting jurisdiction). Property located immediately east of the application area is 2.99 acres in size with split zoning identical to the applicant's property (RR and SF-20), and is used for farming and ranching, with improvements. Land located immediately south of the application area is the approximate southern one-third of the applicant's 9.78-acre ownership, and is zoned SF-20. Property located south of the applicant's ownership is zoned also SF-20, and is developed with single-family residences on lots or tracts ranging in size from 12.46 acres to .36 acre. Land located to the west, across Broadway, is zoned SF-20; some of which is platted and some is not. Lot or tract size for property west of Broadway ranges from 5.69 acres (an unplatted tract located immediately west of the application area) to .37 acres (Dennis Addition located along West 85th Street South).

CASE HISTORY: Staff was unable to find any previous cases dealing with the application area.

ADJACENT ZONING AND LAND USE:

NORTH: SF-20, Single-family Residential; single-family residences
SOUTH: SF-20, Single-family Residential; church, single-family residences
EAST: SF-20, Single-family Residential and RR Rural Residential; farming and ranching with improvements
WEST: SF-20; farming and ranching with improvements, single-family residences

PUBLIC SERVICES: The applicant's property has approximately 330 feet of frontage along South Broadway Avenue with 30 feet of half-street right-of-way. It appears the standard half-street right-of-way width for South Broadway is sixty feet. It also appears there are not any public sewer or water services adjacent to the site.

CONFORMANCE TO PLANS/POLICIES: The proposed January 2012 final draft of the *South Broadway Corridor Plan* depicts this site as appropriate for "Neighborhood Mixed Use." The Neighborhood Mixed Use designation includes a mix of residential types and small-scale commercial and institutional use that are typically meant to serve the need of the surrounding neighborhood, but does not allow drive-thru businesses like banks, restaurants or car washes. The property is located within the City of Haysville's Zoning Area of Influence and subdivision jurisdiction. The zone change is scheduled for hearing by Haysville's Planning Commission on March 22, 2012. Platting, if required, will have to be scheduled through the City of Haysville. The site is located within Haysville's 2030 Urban Growth Area, as depicted on the Wichita and Small Cities 2030 Urban Growth Areas map.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within 1-year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property located to the immediate north and south of the application area is zoned SF-20. Property located to the east is split zoned like the subject tract with both RR and SF-20 zoning. Much of the land in the greater neighborhood has been divided into lots or tracts smaller than the subject site and developed with single-family residential uses. There are still some tracts used for farming or ranching. The area has a suburban character, and has, for a considerable time, seen a significant proportion of the neighborhood gradually convert from farming and ranching activities to large-lot residential uses. The casino, located further south, has or will likely add to the continued intensification of uses in the area.
2. The suitability of the subject property for the uses to which it has been restricted: The site is split zoned, RR and SF-20, and developed with a church or place of worship. The RR district requires Conditional Use approval for a church. Approval of the SF-20 request would clear up any questions of non-conforming use, and make the applicant's entire ownership one zoning. Property located on all four sides of the subject tract is zoned SF-20. The requested zone change would allow the subject site to match zoning with the overwhelming majority of the zoning on abutting property and be more suitably zoned.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Since most of the land adjoining the site is zoned SF-20, the requested SF-20 zoning should not detrimentally impact nearby property.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial could leave non-conforming use questions in place and make it difficult for the property to be sold (if sold for church use). Approval should not damage the public's health or safety.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The proposed January 2012 final draft of the *South Broadway Corridor Plan* depicts this site as appropriate for "Neighborhood Mixed Use." The Neighborhood Mixed Use designation includes a mix of residential types and small-scale commercial and institutional use that are typically meant to serve the need of the surrounding neighborhood, but does not allow drive-thru businesses like banks, restaurants or car washes. The property is located within the City of Haysville's Zoning Area of Influence and subdivision jurisdiction. The site is located within Haysville's 2030 Urban Growth Area, as depicted on the Wichita and Small Cities 2030 Urban Growth Areas map.
6. Impact of the proposed development on community facilities: Existing facilities or those that can be obtained through the platting and/or permitting process will be able to meet expected demands generated by this request.

DALE MILLER, Planning Staff presented the Staff Report.

MITCHELL said staff recommendation requires platting within 1 year. He asked about additional right-of-way along Broadway Avenue.

MILLER commented that the area is located within the Hayesville subdivision jurisdiction and unless there are questions, that is not anything Planning Staff would review.

WILL CLEVINGER, RUGGLES & BOHM, AGENT FOR THE APPLICANT said they are currently negotiating with Hayesville and are recommending a 60-foot street dedication along the east side of Broadway Avenue.

MOTION: To approve subject to staff recommendation.

ALDRICH moved, **SHEETS** seconded the motion, and it carried (13-0).

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5. Case No.: ZON2012-07 - L. Wayne Wayman (Owner/Applicant) request to amend provision #2 of PO #221 to allow an offsite billboard on property zoned LC Limited Commercial on property described as:

Lot 1, Edminster Gardens Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant is seeking approval of an Amendment to Protective Overlay ("PO") #221 on property located on the northeast corner of 31st Street South and K-15. Provision No. 2 of PO #221 states that "Signs are to be allowed by sign code except for no off-site or portable signs." The

applicant wishes to remove “off-site” from the provision, thus allowing for the possible future placement of an off-site sign on the subject site.

The Sign Code (Section 24.04.185.q) defines a “Sign, Off-site” as a sign delivering a message or advertising other than the name, occupation or nature of the activities conducted on the premises or the products sold or manufactured thereon. The code recognizes two types of off-site billboards: Off-site Junior Billboard (Section 24.04.185.s) is an off-site sign with any sign face equal to or less than three hundred square feet in area, and not exceeding thirty feet in total height above adjoining grade. An Off-site Standard Billboard (Section 24.04.185.t) is an off-site sign with any sign face greater than three hundred square feet in area, but not exceeding fourteen feet in height and forty-eight feet in length, plus any allowed extensions. Off-site billboard signs may also contain an electronic message center that utilize computer generated messages or some other electronic means of changing copy. The Sign Code also contains development standards, one of which requires a separate review process for the approval of an off-site billboard. Sections 24.04.222 and 24.04.225 of the Sign Code contain the relevant development standards for off-site signs located in the GC district. The regulations are too detailed to be included in this report; however, some of the pertinent requirements and standards are:

1. Section 24.04.222.1 requires new off-site billboards that are closer in distance to residentially-zoned and platted lots on which residential structures may be legally erected or to residential structures than set forth in Section 24.04.222.4.d, must obtain Special Review Approval as outlined in Section 24.04.225.
2. Section 24.04.222.4.d states that except as permitted by Section 24.04.225, Special Review Approval for Off-Site Billboard Sign Permits, no off-site billboard sign shall be erected closer than 300 feet from a platted and residentially-zoned lot on which a primary residential structure can be legally erected or to a residential structure. The distance is to be measured from the nearest lot line of such platted and residentially-zoned lot or residential structure to the closest part of the off-site billboard sign. The 300-foot distance may be reduced to 150 feet when the platted and residentially-zoned lots or residential structure is fully screened from view of the proposed off-site billboard sign by a non-residential building. Section 24.04.222.4.5 states off-site billboards shall comply with all building setbacks.
3. Section 24.04.225 of the Sign Code specifies the special review approval procedure required for approval to locate an off-site billboard in a location that does not comply with the Sign Code’s billboard placement standards. Section 24.04.225.1(a) requires a public hearing and approval by the MAPC, or, if forwarded to the City Council, shall also require their approval and (b) the MAPC is granted the authority to hear and make a recommendation regarding off-site billboards.

In short, the previously mentioned sections of the Sign Code state that new billboards that are proposed to be located closer than 300 feet to a residentially-zoned and platted lot on which a residential structure may be built or to a residential structure require a public hearing and Special Review Approval before and from the MAPC. In this instance, depending on the location of the billboard on the subject site, the billboard would be located within 300 feet from single-family residences located north, northeast and southeast of the subject site.

4. Section 24.04.225.3 requires the applicant to submit the following information regarding the proposed signage: a. A detailed graphic presentation of the subject property site, including property parcel dimensions; b. The location of any other buildings or structures on the site; c. The location,

size and type of any other ground signs on the site; d. The distance of the proposed sign from any buildings, structures or other signs on the site; and e. A detailed representation of the proposed sign, including sign structure and sign face dimensions, total height of the sign, and any related appurtenances such as catwalks.

5. Section 24.04.225.5 specifies the planning director shall prepare a report that addresses the general requirements of the Wichita Sign Code and the following elements as they may be appropriate for the review: a. The zoning, uses and character of the neighborhood; b. The suitability of the subject property for the proposed off-site sign; c. The conformance of the requested off-site sign to the adopted or recognized comprehensive plan or other plans or policies being utilized by the City; d. Opposition or support of neighborhood residents; and e. A consideration of the recommendations of professional staff. It is the applicant's responsibility to demonstrate the proposal meets applicable review criteria.

The zoning of the surrounding property is predominately LC. Property to the north is zoned LC and SF-5 Single-family Residential ("SF-5") and is currently developed with a warehouse, motorcycle dealership and a single-family residence. Property to the west of the subject site (across K-15) is zoned LI Limited Industrial ("LI"), and is currently being used as a landfill with construction services located on the site. Property to the south of the subject site is zoned LC, and is developed with a mobile home park. Property to the east of the subject site is zoned LC and is developed with a vehicle repair shop.

CASE HISTORY: The application area is platted as Lot 1, Edminster Gardens Addition, recorded May 9, 1951. There has been one zone change request (ZON2008-00048) to GC with a PO approved by the City Council on October 28, 2008.

ADJACENT ZONING AND LAND USE:

NORTH:	LC & SF-5	Warehouse & Residence
SOUTH:	LC & LI	Landfill and Construction Services & Mobile Home Park
EAST:	LC	Vehicle Repair & Parking
WEST:	LI	Landfill & Construction Services

PUBLIC SERVICES: All public services are available to the site. 31th Street, along the south side of the subject site, is a paved four-lane minor arterial, (Source: Federal Roadway Functional Classification Map, WAMPO) with approximately 22,000 average daily trips. Southeast Boulevard (K-15) is a paved four-lane freeway and expressway with approximately 30,000 average daily trips. Volutsia Street, along the east side of the subject site, is a paved two-lane local road with no daily trip counts.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as "Local Commercial." "This category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of recommended uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. On a limited presence basis, these areas may also include mini-storage warehousing and small scale, light manufacturing." Comprehensive Plan Land Use-Residential Goal II, Objective B4 states: Evaluate and implement an effective development plan review process to ensure that building placement and height, circulation, signage, screening and lighting or non-residential land uses do not adversely impact residential areas. The Sign Code regulation requiring the special review process described above

implement the Comprehensive Plan's objective. Off-site Billboards are permitted only in the LC, GC, LI, GI and AFB districts.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**, subject to amended provision #2 of Protective Overlay #221:

1. Signs are to be allowed by sign code except for no portable signs.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The zoning of the surrounding property is predominately LC. Property to the north is zoned LC and SF-5 and is currently developed with a warehouse, motorcycle dealership and a single-family residence. Property to the west of the subject site (across K-15) is zoned LI, and is currently being used as a landfill with construction services located on the site. Property to the south of the subject site is zoned LC, and is developed with a mobile home park. Property to the east of the subject site is zoned both LC and is developed with a vehicle repair shop.
2. **The suitability of the subject property for the uses to which it has been restricted:** The property is currently zoned GC, subject to the provisions contained in PO #221, and is currently developed with a warehouse – retail combination. The GC district permits a very wide range of land uses ranging from single-family residential to rather intense retail or commercial uses requiring outside display or storage. As currently zoned the property has economic value and could be developed for uses to which it has been restricted.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Unrestricted Off-site Billboards can introduce intrusive lighting twenty-four hours per day, seven days a week that can be a nuisance to nearby residential uses. The support structures for a billboard can also be viewed as out of character with residential uses. If applicable, the Sign Code required review process offers the potential to minimize detrimental impacts.
4. **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Approval of the request would provide additional outdoor advertising opportunities to the Wichita market. Denial would presumably be an economic loss to the applicant.
5. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The Land Use Guide of the Comprehensive Plan identifies this area as “Local Commercial.” “This category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of recommended uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. On a limited presence basis, these areas may also include mini-storage warehousing and small scale, light manufacturing.” Comprehensive Plan Land Use-Residential Goal II, Objective B4 states: Evaluate and implement an effective development plan review process to ensure that building placement and height, circulation, signage, screening and lighting or non-residential land uses do not adversely impact residential areas. The Sign Code regulation requiring the special review process described

above implement the Comprehensive Plan's objective. Off-site Billboards are permitted only in the LC, GC, LI, GI and AFB districts.

6. **Impact of the proposed development on community facilities:** All services are in place, and any increased demand on community facilities can be handled by current infrastructure.

BILL LONGNECKER, Planning Staff presented the Staff Report. He said DAB III approved the request 6-2.

FOSTER asked if this area was located in one of the visual corridors designated in the Comprehensive Plan.

LONGNECKER replied not that he could find and added that there are already a couple billboards within ¼ mile of the location.

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **DENNIS** seconded the motion, and it carried (13-0).

6. **Case No.: ZON2012-08** – Terradyne Residential LLC (Owner/Applicant) and Poe and Associates, Inc. c/o Tim Austin (Agent) request a City zone change from SF-5 Single-Family Residential to TF-3 Two-Family Residential on property described as:

Lots 1, 2, 3 and 4, Block 2, Terradyne West 3rd Addition to Sedgwick County, Kansas.

BACKGROUND: The applicant requests a zone change from SF-5 Single-family Residential (“SF-5”) to TF-3 Two-family Residential (“TF-3”) on 0.63 acres consisting of Lots 1, 2, 3 and 4, Block 2, Terradyne West 3rd Addition to Wichita, Sedgwick County, Kansas. The subject site is located west of 159th Street East and north of Sharon Lane, 1/3 mile north of Central Avenue. The applicant proposes to develop the property with single-family and / or duplexes. The property has been zoned SF-5 since 2006 but has remained vacant. The applicant is of the opinion that rezoning the property would increase the marketability of the lots without harming the owners of the few lots that have already sold.

Property north of the site is zoned MF-18 Multi-family Residential (“MF-18”), and is currently undeveloped. South of the site is property zoned SF-5, and is currently developed with a single-family residence. Property to the west of the site is also zoned SF-5, and is developed with a golf course/country club use. Property to the east of the site, across North 159th Street East, is in Butler County, and is developed as a golf course/country club.

CASE HISTORY: The site is Lots 1, 2, 3 and 4, Block 2, Terradyne West 3rd Addition to Wichita, Sedgwick County, Kansas, which was recorded with the Register of Deeds July 6, 2010. Lot 35, Block 2, through Lot 47, Block 2, and Lot 34, Block 2, except the South 42.79 feet thereof, all in Terradyne West now Lots 5, 6 and 7, Block 2 and Lot 1 Block 3 of the Terradyne West 3rd Addition was rezoned from SF-5 to MF-18 February 2010 (ZON2009-00039). The site is located outside of the floodplain and was annexed into the City of Wichita in October of 2006.

ADJACENT ZONING AND LAND USE:

NORTH: MF-18 Vacant Residential

SOUTH:	SF-5	Single-family Residences
EAST:	Butler County	Country Club/Residences
WEST:	SF-5	Golf Course

PUBLIC SERVICES: 159th Street East is classified as a two-lane, paved minor arterial road with no traffic counts. The street that accesses the subject area from 159th Street East is North Prairie Dunes Street, which is a two-lane, paved residential road with no traffic counts. Municipal water and sewer does serve the subject area.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as within the 2030 Wichita urban growth area and as appropriate for “urban development mix.” This category encompasses areas of land that will likely be developed or redeveloped within the next 30 years with uses predominately found in the Urban Residential Use category. Since the Land Use Guide was amended in 2005, this subject area has been annexed into the city.

The Comprehensive Plan objective for residential use for Wichita (**Objective III.B**) is to “encourage residential redevelopment, infill and higher density residential development, that maximizes the public investment in existing and planned facilities and services,” as well as **Strategy II.A.1** which recommends that “use Community Unit Plans, Planned Development Districts and zoning as tools to promote mixed use development, higher density residential environments and appropriate buffering.” **Strategy II.B.4** seeks to reduce Evaluate and implement an effective development plan review process to ensure that building placement and height, circulation, signage, screening and lighting for non-residential land uses do not adversely impact residential areas.

Residential Locational Guideline #3 of the *Comprehensive Plan* recommends that medium-density residential uses may serve as a transitional land use between low and high density residential uses, and may also serve to buffer low-density residential uses from commercial uses. The proposed development complies with this guideline. **Residential Locational Guidelines #5** recommends that medium and high-density residential uses should be directly accessible to arterial or collector streets, in order to avoid high traffic volumes in lower density residential neighborhoods; and **#6** medium and high-density residential uses should be sited where they will not overload or create congestion in existing and planned facilities/utilities.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request for the TF-3 Two-family Residential (“TF-3”) zoning be **APPROVED**.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** Property north of the site is zoned MF-18 Multi-family Residential (“MF-18”), and is currently undeveloped. South of the site is property zoned SF-5, and is currently developed with a single-family residence. Property to the west of the site is also zoned SF-5, and is developed with a golf course/country club use. Property to the east of the site, across North 159th St. East, is in Butler County, and is developed as a golf course/country club.

2. **The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned SF-5. The SF-5 zone district primarily restricts the site to residential uses. Because the site is near an interstate highway, it may not be desirable for single-family development.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Approval of the request could double the density at which the subject area could be developed, depending on duplex or other multi-family development. The effect on nearby residents would be increased traffic on North Prairie Dunes Street. However, single-family residences generate more traffic per unit than multi-family residences. The minimum standards of the Unified Zoning Code should mitigate any other potential negative effects on the surrounding residential neighbors.
4. **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Denial presumably could cause the applicant a relative economic loss. Approval could introduce multi-family residential uses as infill development in a country club setting where such uses are increasing in popularity, especially high end condo development.
5. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as within the 2030 Wichita urban growth area and as appropriate for “urban development mix.” This category encompasses areas of land that will likely be developed or redeveloped within the next 30 years with uses predominately found in the Urban Residential Use category.
6. **Length of time the property has remained vacant as currently zoned:** The property was platted for single-family residences in 2006 and replatted in 2010, and is currently undeveloped today.
7. **Impact of the proposed development on community facilities:** Approval of the request should not have a negative impact on community facilities; especially since all sewer and water lines are in place and roads have already been constructed.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

JOHNSON moved, D. SHERMAN seconded the motion, and it carried (13-0).

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7. **Case No.: ZON2012-09** - 21 Webb, LLC and Debra S. and Michael Mildfelt (applicants/ owners) and MKEC Engineering Consultants, Inc. (agent) request a City zone change from NO Neighborhood Office to GO General Office and LC Limited Commercial with an amendment to the Protective Overlay (PO #170) on property described as:

That part of Lot 1, Block 1, Remington Place, an Addition to Wichita, Sedgwick County, Kansas, described as beginning at the Northeast corner of said lot, thence West 125 feet, thence South 240 feet, thence East 55 feet, thence Southeasterly 78.11 feet to the East

line, thence North along a curve 59 feet, thence North 6.25 feet, thence Northwest 81.05 feet, thence North 110 feet to the point of beginning.

AND

Lot 1, Block 1, Remington Place, an Addition to Wichita, Sedgwick County, Kansas, except that part described as beginning at the Northeast corner of said lot, thence West 125 feet, thence South 240 feet, thence East 55 feet, thence Southeasterly 78.11 feet to the East line, thence North along a curve 59 feet, thence North 6.25 feet, thence Northwest 81.05 feet, thence North 110 feet to the point of beginning.

AND

Reserve N, Remington Place, an Addition to Wichita, Sedgwick County, Kansas.

MOTION: To defer to the April 19, 2012 meeting.

FARNEY moved, **MCKAY** seconded the motion, and it carried (13-0).

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8. **Case No.: ZON2012-10** - Lowell Kemp (owner) requests a City zone change from LC Limited Commercial to General Commercial for a Tattoo and Piercing Facility on property described as:

Lots 11, 12 and 13, Block 15, Replat of part of John McCormick's Addition to Wichita, Sedgwick County, Kansas, except that portion thereof deeded to the City of Wichita for street purposes.

BACKGROUND: The applicant requests a zone change from the existing LC Limited Commercial ("LC") to GC General Commercial ("GC") zoning on a 0.18-acre platted property. The subject property is located at the northwest corner of Seneca and Walker; the site is developed with a building on the eastern portion of the site, adjacent to Seneca, with parking on the remainder of the site to the west. The property owner wishes to use a portion of the building on this site for a Tattooing and Body Piercing Facility, the remainder of the building is used for a restaurant.

This portion of Seneca is developed primarily with commercial and industrial uses. Property north of the site is zoned LC. The lot abutting the application area to the north is developed with a single-family residence; further north is a warehouse use. South of the site, across Walker, is an active rail line. South of the rail line is GI General Industrial ("GI") zoned property developed with a wrecking and salvage use. East of the site, across Seneca and north of Walker, is LI Limited Industrial ("LI") zoned property developed with a railroad company facility and a County maintenance facility. East of Seneca and south of Walker is an LC zoned bar/tavern. West of the application area, across a platted but undeveloped alley, is MF-29 Multi-Family Residential ("MF-29") zoned property developed with single-family residences. The lot west of the application area fronts Walker Avenue, it is 100 feet wide, and is developed with a single-family residence on the western 50-feet of the lot. The separation between this single-family residence and the applicant's building is approximately 175 feet.

CASE HISTORY: The property was platted as Lots 11, 12, and 13, Block 15 of the Replat Part of John McCormick's Addition to Wichita in 1910. In February 2012, the Wichita Board of Zoning

Appeals approved a variance for this property to have a Tattoo/Piercing Facility within 200 feet of residential zoning.

ADJACENT ZONING AND LAND USE:

NORTH	LC	Single-family residence, warehousing
SOUTH	GI	Rail line, wrecking and salvage
EAST	LI, LC	Maintenance facilities, bar/tavern
WEST	MF-29	Single-family residences

PUBLIC SERVICES: The subject property has frontage along Seneca, a four-lane arterial street at this location. Walker is a paved, local, two-lane street. Public water and sewer service are currently available to the subject property.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the site as appropriate for “Urban Residential” use, which is not consistent with the current LC zoning. Surrounding property to the south and east of this site is identified as “Employment/Industry Center,” “Major Institutional” and “Local Commercial.” The Commercial Locational Guideline #3 of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting and other activity from adversely impacting surrounding residential areas. The Zoning Code will require screening between the subject property and residential zoning to the west, and regulates light and noise trespass between commercial and residential properties.

RECOMMENDATION: The application area is a relatively small lot currently zoned LC. The applicant requests GC zoning to develop a Tattoo/piercing business in half of the existing building on the site. The surrounding area is a commercial/industrial corridor along Seneca. Immediately south and west of this site is a wrecking/salvage yard in GI zoning with an adjacent active rail line. Staff feels that the requested GC zoning is not out of character with the surrounding zoning or land uses. And, staff notes that Code required screening and compatibility standards should ensure compatibility between the subject site and residential zoning to the west. Based upon the information available prior to the public hearings, planning staff recommends that the request be **APPROVED**.

This recommendation is based on the following findings:

- The zoning, uses and character of the neighborhood:** This portion of Seneca is developed primarily with commercial and industrial uses. Property north of the site is zoned LC. The lot abutting the application area to the north is developed with a single-family residence; further north is a warehouse use. South of the site, across Walker, is an active rail line. South of the rail line is GI zoned property developed with a wrecking and salvage use. East of the site, across Seneca and north of Walker, is LI zoned property developed with a railroad company facility and a County maintenance facility. East of Seneca and south of Walker is an LC zoned bar/tavern. West of the application area, across a platted but undeveloped alley, is MF-29 zoned property developed with single-family residences.
- The suitability of the subject property for the uses to which it has been restricted:** The site could be developed with commercial uses permitted in the LC zoning district. However, the applicant states that the existing building on the site has remained un-leased due to its small size which does not accommodate most LC uses.

3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Approval of the request would allow uses permitted in the GC zoning district, including uses defined as more intense than those permitted in the current LC zoning. However, uses permitted under the requested GC zoning are no more intense than land uses permitted on surrounding properties. Therefore this property will not introduce land uses not already permitted in the immediate area.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the site as appropriate for “Urban Residential” use. Surrounding property to the south and east of this site is identified as “Employment/Industry Center,” “Major Institutional” and “Local Commercial.”
5. **Impact of the proposed development on community facilities:** Traffic generated by GC uses will not exceed the traffic generated by the current permitted LC uses. Therefore, staff does not anticipate any impact on community facilities.

JESS MCNEELY, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

JOHNSON moved, D. SHERMAN seconded the motion, and it carried (13-0).

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9. **Case No.: CON2012-07** - Kerwin Dale Thiessen Revocable Trust (applicant) requests a County conditional use request to allow an accessory apartment on property described as:

The Northwest quarter of the Northwest quarter of the Southwest quarter of Section 1, Township 26 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas.

MOTION: To defer to the April 19, 2012 meeting.

FARNEY moved, MCKAY seconded the motion, and it carried (13-0).

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10. **Case No.: CON2012-08** - Connie Brauer (owner) requests a County conditional use request for an accessory apartment on property described as:

A square parcel of land approximately 675 feet by 675 feet in the Southwest corner of Section 9, Township 28 South, Range 4 West of the 6th P.M., Sedgwick County, Kansas.

BACKGROUND: The applicant requests a Conditional Use to allow an “accessory apartment” on unplatted property located west of South 359th Street West, on the north side of West 39th Street South (36706 West 39th Street South). The applicant proposes to finish a building on the site, creating a second dwelling unit. The 9.84-acre site is zoned RR Rural Residential (“RR”) and is located within the City of Cheney zoning area of influence. The subject site is one quarter mile south and east of Cheney City limits.

The site plan submitted by the applicant shows the accessory apartment north of the primary dwelling on site, and north of most of the outbuildings on the site. Therefore, the accessory apartment will be partially screened from public view on 39th Street South by other buildings on the property. All property surrounding the subject site is zoned RR and is in agricultural use with some farmsteads. Seventeen tracts developed with single-family residences exist southwest of the site, across 39th Street South; each of these tracts is between five and ten acres in size.

Per the Unified Zoning Code, the “Conditional Use” requirements for accessory apartments stipulate the following:

- (a) A maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling.
- (b) The appearance of an accessory apartment shall be compatible with the main dwelling and with the character of the neighborhood.
- (c) The accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling, including that it shall not be subdivided or sold as a condominium.
- (d) The water and sewer service provided to the accessory structure shall not be provided as separate service from the main dwelling.

CASE HISTORY: The property is in the rural area of the county and is currently unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	RR	Agriculture, farmsteads
SOUTH:	RR	Agriculture, farmsteads, large-lot single-family residences
EAST:	RR	Agriculture, farmsteads
WEST:	RR	Agriculture, farmsteads

PUBLIC SERVICES: The property has on-site water and sewer. The Zoning Code requires that accessory apartments connect to the same water and sewer at the primary residence. The applicant will be required to demonstrate to County Code Enforcement that water and sewer capacity is adequate on site to complete the permitting process. The site is located on a paved section-line road with an 80-foot right-of-way.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide, Map as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as within the “Small City 2030 Urban Growth Area” for Cheney.

The policies of the UZC allow one accessory apartment to be associated with a principle dwelling as a Conditional Use if the proposed use is compatible with the principle dwelling, is in character with the surrounding residential development, is accessory to the main structure, remains in a single ownership, and obtains water and sewer service from the main dwelling’s hook-up. An accessory apartment is typically viewed as a compatible use to a single-family residence, as long as there is enough land area and services can be provided for the additional dwelling unit. The proposed accessory apartment must be smaller than the primary residence. An accessory apartment must remain under single ownership and cannot be subdivided off of the subject site and sold off. The condition of the accessory apartment being on the same water and sewer assures that it will not be subdivided and sold off.

RECOMMENDATION: Based upon the information available prior to the public hearing, staff recommends that the request be APPROVED subject to the following conditions:

1. The accessory apartment shall be subject to all requirements of Art III, Sec III-D.6.a of the Unified Zoning Code (UZC) for accessory apartments.
2. The accessory apartment shall be complete within one year of Conditional Use approval, unless such time is extended by the MAPC.
3. The site will be developed as shown on an approved site plan, obtaining and conforming to all applicable permits, including but not limited to building, health, and zoning, including connection to water and sewer.
4. 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 Article VII hereof, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** All property surrounding the subject site is zoned RR and is in agricultural use with some farmsteads. Seventeen tracts developed with single-family residences exist southwest of the site, across 39th Street South; each of these tracts is between five and ten acres in size.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned RR, which accommodates agricultural uses, low-density single-family residential development and complementary land uses. The site is developed with a single-family residence and accessory buildings, and could continue to be used as currently restricted.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Provided that the proposed accessory apartment meets all applicable codes and requirements, it should have no significant impact on the surrounding farmsteads, agricultural fields and nearby residences.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2030 Wichita Functional Land Use Guide, Map as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as within the “Small City 2030 Urban Growth Area” for Cheney.
5. **Impact of the proposed development on community facilities:** If developed in compliance with regulations and recommended conditions of approval, the accessory apartment should have no impact on community facilities.

JESS MCNEELY, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

JOHNSON moved, D. SHERMAN seconded the motion, and it carried (13-0).

11. **Case No.: CON2012-09** - Russell Yost and Cornerstone Baptist Church, Attn: Pastor Michael Schoneweis (applicant/owner) request a County conditional use request for a proposed church on property zoned RR Rural Residential on property described as:

The South 393.5 feet of the North 1180.5 feet of the West 1007 feet of the Southwest Quarter of Section 7, Township 26 South, Range 2 East of the 6th P.M., except the West 30 feet for road.

MOTION: To defer to the April 19, 2012 meeting.

FARNEY moved, **MCKAY** seconded the motion, and it carried (13-0).

COMMISSIONERS G. SHERMAN and **SHEETS** recused themselves from the item.

12. **Case No.: CUP2012-07** – Hartmoor Italian, LLC (Willis E. and Elizabeth K. Hartman) request a CUP Amendment #4 to DP-200 Wilson Properties N.E. Commercial Community Unit Plan to allow a nightclub in the City on property described as:

Lot 1, Block 1, Legacy Park Wilson Estates 2nd Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: Hartmoor Italian, LLC, owns Parcel 3 of the Wilson Property N. E. Commercial Community Unit Plan (CUP), DP-200, located 380 feet south of East 21st Street North, west of North Webb Road. Parcel 3 is 1.37 acres in size, and is zoned LC Limited Commercial (“LC”), subject to the development standards detailed in DP-200, and is developed with a building that houses a private restaurant operated by Lakeside Private Club, LLC. Currently the development standards for a private restaurant in Parcel 3 are limited to some very specific requirements: alcohol service is limited to a restaurant that is open only to private membership (a Class B club); the dance floor is to have less than 450 square feet and the bandstand for live music or a DJ is limited to a maximum size of 32 square feet (CUP Administrative Adjustment 2011-00033, approved September 27, 2011). The applicant wants the restaurant, which will offer the service of alcohol and dancing, to operate as a “drinking establishment” and “caterer” that is regulated by an open to the public license rather than as a Class B private club that is not open to the public. The applicant’s are willing to maintain the area limitations on the dance floor and on the DJ or bandstand.

Per the *Wichita-Sedgwick County Unified Zoning Code (“UZC”)* a “nightclub in the city” is an “entertainment establishment” located in the City that provides entertainment, which may include the provision of dancing by employees or patrons, and where cereal malt beverage or alcoholic liquor are offered, consumed or served to the public or its members, and which may or may not serve food. In general, any establishment offering the consumption of alcohol, live entertainment and/or dancing is defined as a “nightclub in the city.” As currently zoned, Parcel 3 is not permitted to have a “nightclub in the city.” The applicants are requesting an amendment to Parcel 3, DP-200 to add “nightclub in the city” to the list permitted uses allowed in Parcel 3.

In addition to the private restaurant use described above, Parcel 3 currently permits: neighborhood shopping center including financial institutions, restaurants, retail stores, medical and dental clinics, clothing stores, offices, pharmacies, dry cleaning, laundry barber shops, beauty shops, tailors, studios, shoe shops, day care, fitness centers, and all other uses similar in character and intensity. If approved, this amendment would eliminate those public restrictions imposed by CUP Administrative Adjustment 2011-00033. Except for the private restaurant with alcohol service, dancing and live music, the other

parcels located within DP-200 permit similar uses as Parcel 3; however, a few of the parcels are limited to general office and medical service uses only.

Properties located to north of the application area are defined as Parcels 1, 2 and 4 of DP-200. Parcels 1 and 2 are zoned LC and are developed with a drug store and a bank. Parcel 1 permits the following uses: restaurants, retail shops, banks and financial institutions, offices, medical and dental offices or clinics, pharmacies, small animal clinics, and all other uses similar in character and intensity. Parcel 2 permits some of the same uses as Parcel 1 but also permits: laundry, barber and beauty shops, tailor, day care and fitness centers. Parcel 4 is zoned GO General Office (“GO”) and the parcel’s uses are limited to general office and medical services. Parcel 4 is developed with a medical office building. Land located to the west of the subject site is zoned GO, and is Reserve B. Reserve B uses are limited to: detention pond, drainage, open space, fountains, landscaping, gazebos, walks, utilities confined to easements, and pedestrian and street lighting. Reserve B is developed with a drainage detention pond and sidewalk. Land located south of the application area, across a private street, is zoned LC, and is designated as Parcels 12 and 12-A. Parcel 12 is developed with a bank. Parcel 12-A is vacant. Uses permitted on Parcels 12 and 12-A are similar to Parcel 2, described above. The property located to the east, across Webb Road, is zoned LC subject to DP-213, and is developed with a small shopping center containing restaurants, retail sales, convenience store and office uses.

The *UZC* permits a “nightclub in the city” in the LC zoning district subject to Supplementary Use Regulation III-D.6.w. Section III-D.6.w states that a “night club in the city” requires a public hearing if the night club is proposed to be located within 300 feet (measured lot line to lot line) of a church, public park, school, or residential zoning district. In this instance, there are lots zoned SF-5 Single-family Residential (“SF-5”) located approximately 250 feet south of the application area (Legacy Park Wilson Estates Addition). The homes are located farther south of the vacant lot and bank (located south of the application area) noted earlier. The amendment that is the subject of this application constitutes the required public hearing for a “nightclub in the city.”

In comparison to a “nightclub in the city,” a “tavern and drinking establishment” is 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 of its gross revenues from the sale of food and beverages for consumption on the premises. For the purposes of the *UZC*, the term “tavern and drinking establishment” shall include Class B Clubs (clubs open to members only). In general, a “tavern and drinking establishment” permits the service of alcohol but does not allow for dancing and/or live entertainment.

CASE HISTORY: The property is platted as Legacy Park Wilson Estates Addition, recorded June 27, 2000, and Legacy Park Wilson Estates Second Addition, recorded January 15, 2003. DP-200 was approved November 5, 1991, and has been adjusted and amended at least eight times.

ADJACENT ZONING AND LAND USE:

NORTH: LC and GO, subject to DP-200; drug store, bank, offices
SOUTH: LC, subject to DP-200; bank, vacant
EAST: LC, subject to DP-213; convenience store, restaurants, retail sales and offices
WEST: GO, subject to DP-200; detention pond

PUBLIC SERVICES: Access to the site is via a private paved and gutter road that connects to Webb Road. All municipal services are available to serve the site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide indicates the application area is appropriate for “local commercial” uses. The local commercial category contains concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions.

1. In addition to the other uses already allowed in Parcel 3, a “nightclub in the city” shall be permitted; however, the facility’s dance floor is limited to no more than 450 square feet and the bandstand for live music or a DJ is limited to a maximum size of 32 square feet. The “nightclub in the city” shall be operated in conformance with all applicable local, state or federal regulations.
2. The development of this property shall proceed in accordance with the approved development plan, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
3. Approval of this request modifies only the development standards specifically addressed by this amendment and does not modify any other development standards.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The subject lot is located within a larger platted subdivision containing multiple lots. The lots surrounding the subject lot are zoned LC and GO, subject to the development standards contained in DP-200. Lots surrounding the applications area are developed with a: drugstore, multiple offices, banks, convenience store and retail sales. Located farther south and east of the non-residential uses are residential uses.
2. The suitability of the subject property for the uses to which it has been restricted: As currently zoned, the subject site is permitted a wide range of non-residential uses plus a restaurant that may serve alcohol, but alcohol service is limited to a restaurant that is open only to private membership; the dance floor is to have less than 450 square feet and the bandstand for live music or a DJ is limited to a maximum size of 32 square feet. The proposed amendment will allow the restaurant to be open to the public but retain the limitations of the 450 square-foot dance floor and the 32-foot DJ or bandstand area.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: As currently restricted, the service of alcohol is limited to a restaurant open to private membership only, and the size limitations on the dance floor and bandstand area mentioned previously. Approval of the request will allow the restaurant to operate as a “nightclub in the city” open to the public but subject to area restrictions dealing with
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request will allow the restaurant provide the service of alcohol, live entertainment and/or dancing, subject to the recommended area

limitations and be open to the public. The limitations placed upon the dance floor and DJ or bandstand area serve to differentiate this activity from nightclubs in general.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide indicates the application area is appropriate for “local commercial” uses. The local commercial category contains concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw.
6. Impact of the proposed development on community facilities: None identified.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **D. SHERMAN** seconded the motion, and it carried (11-0-2). **G. SHERMAN** and **SHEETS** – Abstained.

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13. **Case No.: PUD2012-01** - Nancy J. Loescher and Donaldson-Loescher Living Trust (owner/applicant) and Poe & Associates, Attn: Tim Austin (agent) request a City request to create a mixed use Planned Unit Development (#37) on property described as:

The South 330 feet of lot 1, Block 2, Mission Addition to Wichita, Sedgwick County, Kansas.

MOTION: To defer to the April 19, 2012 meeting.

FARNEY moved, **MCKAY** seconded the motion, and it carried (13-0).

NON-PUBLIC HEARING ITEMS

Other Matters

CHAIRMAN FARNEY requested that Planning Staff prepare a letter of appreciation to **COMMISSIONER DARRELL DOWNING** thanking him for his service on the Planning Commission.

MOTION: To prepare a letter of appreciation to **COMMISSIONER DOWNING**.

DENNIS moved, **WARREN** seconded the motion, and it carried (13-0).

DIRECTOR SCHLEGEL referred Planning Commissioners to correspondence (handout) from **COMMISSIONER MITCHELL** concerning reduction of Zoning Areas of Influence. He said a workshop session to discuss the issue has been requested. He asked Planning Commissioners to provide possible dates. In addition, he said many of the small cities that will be affected by this matter have requested that they be allowed to participate in the workshop discussion. He said once a date for the workshop has been established, notices will be sent to all cities in Sedgwick County.

MITCHELL requested that Townships also be included in the invitation to participate in the workshop.

MCKAY requested that information and maps on the issue be sent out prior to the workshop. He also mentioned recommendations from the Quad Cities Joint Area Plan Committee.

DIRECTOR SCHLEGEL said the recommendations from the Quad Cities Joint Area Plan Committee have not been adopted by the steering committee, but added that any recommendations would come before the Planning Commission prior to any formal adoption.

MITCHELL said he would provide information for the mail out.

CHAIRMAN FARNEY requested that Commissioners get information for the workshop to **DIRECTOR SCHLEGEL** within the next week.

It was the general consensus of the Commission to hold the workshop after the Planning Commission Meeting on **Thursday, May 3, 2012**, in the Planning Department Large Conference Room, 10th Floor, City Hall, 455 North Main, Wichita, Kansas.

There was brief discussion concerning the estimated length of the meeting, workshop format and the notification process.

G. SHERMAN clarified that the Planning Commission would hold a public hearing on the issue sometime after the workshop.

DIRECTOR SCHLEGEL said that was correct and added that the Planning Commission would need to hold a public hearing because any change to the Zoning Areas of Influence would be an amendment to the Unified Zoning Code (UZC).

MILLER STEVENS said the workshop format is usually for information gathering, not a public hearing and decision making. She asked for clarification of the mission of the workshop.

DIRECTOR SCHLEGEL clarified that the workshop was not for decision making but rather discussion and dialogue between the Planning Commission and City and Township officials to obtain everyone's point of view. He said at that time, the Commission can make a decision as to what direction they want to go. He said Planning Staff will not come to the workshop with a recommendation.

MITCHELL referred to the issue of "The Commissioner" a publication of the American Planning Association provided with the agenda. He requested discussion regarding how statements made in the publication may be considered for the Comprehensive Plan.

DIRECTOR SCHLEGEL suggested that discussion be scheduled at the end of the May 17, 2012 Planning Commission meeting.

The Metropolitan Area Planning Commission adjourned at 2:04 p.m

State of Kansas)
Sedgwick County) ^{SS}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2012.

(SEAL)

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission