METROPOLITAN AREA PLANNING COMMISSION

MINUTES

June 7, 2012

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, June 7, 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; Bob Aldrich; David Foster; John W. McKay, Jr.; Debra Miller Stevens; M.S. Mitchell; George Sherman and Chuck Warren. David Dennis; Bill Johnson; Don Klausmeyer; Ron Marnell; Morrie Sheets and Don Sherman were absent. Staff members present were: Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Kelly Rundell, Deputy City Attorney; Robert Parnacott, Assistant County Counselor and Maryann Crockett, Recording Secretary.

1. Approval of the April 19, 2012 Planning Commission meeting minutes.

MOTION: To approve the April 19, 2012 meeting minutes, as amended.

MITCHELL moved, **ALDRICH** seconded the motion, and it carried (7-0-1). **MILLER STEVENS** – Abstained.

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2. CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS

2-1. SUB2012-00011: One-step Final Plat - Behnke Addition (3 lots changed to 2 lots), located on the east side of Broadway, south of 31st Street South (extended).

NOTE: This is an unplatted site located within the City of Wichita. The applicant proposes single-family residential uses on two lots zoned GC General Commercial. In addition to plat approval, a separate signature block has been included on the final plat as to the City's ownership interest.

STAFF COMMENTS:

A. City of Wichita Public Works and Utilities Department advises that Lots 1 and 2 have access to water. A No Protest Agreement is needed for future extension of sanitary sewer.

B. Since sanitary sewer is unavailable to serve this property, the applicant shall contact City Environmental Services 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.

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. City Stormwater Management has approved the drainage plan.

E. County Surveying advises that the benchmark description and the benchmark graphically shown do not match on the final plat. "Galena Street" should replace "35th Street South" in the benchmark description.

F. The east line of the 35th Street South street dedication should be a dashed line.

G. The Applicant shall guarantee the paving of the proposed streets to the business/industrial street standard. The paving guarantee shall include the installation of a temporary turnaround.

H. Traffic Engineering has approved the street right-of-way widths. A restrictive covenant is needed prohibiting on-street parking.

I. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.

J. 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.

K. This property is within a zone identified by the City Engineer's office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.

L. On the final plat tracing, the MAPC signature block needs to reference "Shawn Farney" as Chair.

M. The applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.

N. The plattor'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.

O. 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.)

P. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.

Q. 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.

R. 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.

S. 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.

T. Perimeter closure computations shall be submitted with the final plat tracing.

U. 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 (8-0).

COMMISSIONER FOSTER recused himself from this item.

2-2. SUB2012-00010: Final Plat - Waterfront 7th Addition, located north of 13th Street North, east of Webb Road.

NOTE: This is a replat of a portion of Waterfront 6th in addition to unplatted property. The applicant requests a zone change (ZON2012-00015) from LI Limited Industrial to GO General Office and proposes single-family dwellings.

STAFF COMMENTS:

A. City of Wichita Public Works and Utilities Department requests a petition for extension of water (distribution) and sewer (lateral) to serve all the lots being platted.

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 applicant's drainage plan.

D. Traffic/City Engineering has approved the 32-foot street right-of-way widths with construction to a commercial street thickness. A restrictive covenant is needed prohibiting on-street parking.

E. "Right-of-way" in the owner's certificate needs replaced with "rights-of-way."

F. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineer (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.

G. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.

H. 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.

I. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.

J. The Castlewood street name is approved. GIS is reviewing the Lakefront street name with the Office of Central Inspection.

K. The spelling of stormwater needs corrected in the owner's certificate.

L. The spelling of "32-foot street right-of-way" shall be corrected in the owner's certificate.

M. The plattor'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.

N. 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.)

O. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.

P. 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.

Q. 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.

R. 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.

S. Perimeter closure computations shall be submitted with the final plat tracing.

T. Westar Energy has requested additional utility easements to be platted on this property.

U. 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 (7-0-1). **FOSTER** – Abstained.

2-3. SUB2012-00009: One-Step Final Plat - Bruce Harris Addition, located east side of West Street, south of Central.

NOTE: This is a replat of a portion of the Knight Acres Addition. The applicant requests a zone change (ZON2012-00016) from SF-20 Single-family Residential and B Multi-family Residential to LC Limited Commercial.

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 the submittal of a revised drainage plan showing the development extending a storm sewer to the proposed parking lot and

building roof drain system. The City will not permit the runoff to leave the drive approaches as shown on the current plan, due to current street flooding conditions.

D. Traffic Engineering has approved the access controls. The plat proposes one opening along West Street.

E. Traffic Engineering has approved the 50-foot street right-of-way along West Street.

F. The plattor'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.

G. 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.)

H. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.

I. 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.

J. 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.

K. 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.

L. Perimeter closure computations shall be submitted with the final plat tracing.

M. 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 (8-0).

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3. PUBLIC HEARING – VACATION ITEMS

3-1. VAC2012-16: City request to vacate a portion of platted complete access control.

APPLICANT/AGENT: Center Pointe Properties Inc. (Owner); K.E. Miller Engineering, P.A. (Agent)

LEGAL DESCRIPTION: Generally described as vacating the west 25 feet of the east 130 feet and the west 25 feet of the east 259 feet of Lot 2, Block 1, Fantasea II Addition to Wichita, Sedgwick County, Kansas

LOCATION: Generally located east of Woodlawn, north of 29th Street North, on the northwest corner of 32nd Street North and Governeour Circle (WCC #I)

REASON FOR REQUEST: Allow access to undeveloped CUP parcel

CURRENT ZONING: The site is zoned GO General Office and is included within Tract 2, Parcel C of the Fantasea CUP (DP-95). Adjacent southern property is zoned SF-5 Single-family Residential. Abutting northern property is zoned GC General Commercial. Abutting western property is zoned MF-18 Multi-family Residential. Adjacent eastern property is zoned MF-18 Multi-family Residential.

The applicant proposes to vacate a portion of platted access control for Lot 2, Block 1, Fantasea II Addition along the site's 32nd Street North frontage to provide two additional access openings. In accordance with the plat, two existing openings for Lot 2 serve the existing development and are located west of the proposed openings. A lot split (LSP2012-00010) has been submitted creating an additional lot (Parcel 2) for the proposed two openings. The proposed easternmost opening would be located 100 feet from Governeour Circle, 100 feet from the other proposed opening.

Traffic Engineering has no objection to the proposed vacation to allow two additional openings to Lot 2 since 32nd Street is not an arterial street. Stormwater Management and City of Wichita Public Works and Utilities Department also have no objection to the proposed vacation.

Westar Energy and Cox Communications have no objection to the proposed vacation; however the companies advised that equipment is located along 32nd Street North. Both companies advised that any relocation or removal of utilities made necessary by this vacation request would be at the applicant's expense. The Fantasea II Addition was recorded with the Register of Deeds on September 22, 1986.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from 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 access control.

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 May 17, 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 portions of access control 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) Per the approval of the Traffic Engineer, vacate the platted access control along the site's 21st Street North frontage to allow four openings to Lot 2, Black 1, Fantasea II Addition, which includes two openings to Parcel 2 of the Lot Split. Provide Planning Staff with a legal description of the approved vacated portion of the complete access control on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. This must be provided to Planning prior to the case going to Council for final action.

(2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Regarding Westar Energy equipment, the applicant can contact Becky Thompson, the Construction Services representative for this area at 316-261-6320.

(3) All improvements shall be according to City Standards and at the applicant's expense, including; (a) the construction of the two new drives from the site onto 32nd Street North and (b) the continuation of the curb and gutter. Provide Public Works with a guarantee (approved project/plans) to ensure that these and any other associated improvements will be made. If the drives are not being immediately constructed, provide a drive approach certificate, which will be recorded with the Register of Deeds. Either the guarantee(s) and/or the drive approach certificate must be provided to Public Works (guarantee) or Planning (drive approach certificate) prior to the case going to Council for final action.

(4) 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) Per the approval of the Traffic Engineer, vacate the platted access control along the site's 21st Street North frontage to allow four openings to Lot 2, Black 1, Fantasea II Addition,

which includes two openings to Parcel 2 of the Lot Split. Provide Planning Staff with a legal description of the approved vacated portion of the complete access control on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. This must be provided to Planning prior to the case going to Council for final action.

(2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Regarding Westar Energy equipment, the applicant can contact Becky Thompson, the Construction Services representative for this area at 316-261-6320.

(3) All improvements shall be according to City Standards and at the applicant's expense, including; (a) the construction of the two new drives from the site onto 32nd Street North and (b) the continuation of the curb and gutter. Provide Public Works with a guarantee (approved project/plans) to ensure that these and any other associated improvements will be made. If the drives are not being immediately constructed, provide a drive approach certificate, which will be recorded with the Register of Deeds. Either the guarantee(s) and/or the drive approach certificate must be provided to Public Works (guarantee) or Planning (drive approach certificate) prior to the case going to Council for final action.

(4) 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.

ALDRICH moved, **FOSTER** seconded the motion, and it carried (8-0).

PUBLIC HEARINGS

4. **Case No.: ZON2012-16** - Harris3, LLC (applicant)/Mark Savoy (agent) request City request for LC Limited Commercial zoning on property zoned B Multi-Family Residential and SF-5 Single Family Residential on property described as:

The West 250 feet of the North one-third of Lot 37 except the North 30 feet thereof, Knight Acres, Sedgwick County, Kansas, except the West 20 feet thereof for street.

AND

The West 250 feet of the South two-thirds of Lot 37, except the South 60 feet thereof, Knight Acres, Sedgwick County, Kansas, except the West 20 feet thereof for street.

BACKGROUND: The application area is located on the east side of North West Street, approximately 350 feet south of West St. Louis Avenue (which is located south of West Central Avenue). The subject property is the western 230 feet of Lot 27, Knight Acres Addition, and contains 1.08 acres. The

approximately western 163 feet of the application area is zoned B Multi-family Residential ("B") while the approximately eastern 67 feet is zoned SF-5 Single-family Residential ("SF-5"). The applicant is seeking LC Limited Commercial ("LC") zoning for the property. The property is currently developed with two single-family residences that are addressed as 438 and 442 North West Street. Each residence has an access drive to West Street. It is proposed that the two existing residences will be demolished and a new commercial building will be built.

Surrounding properties located to the north, south and west are zoned LC, and are developed with a restaurant or retail stores. One LC zoned lot located west of West Street is vacant. Property to the east is zoned SF-5, and is vacant. The applicant owns approximately the northern 80 feet of the land located east of the site. Another person owns the remainder of the SF-5 zoned land located east of the application area.

West Street is a significant commercial arterial, which in 2006 carried in both directions approximately 39,000 vehicles on an average day. Most of the property fronting West Street, between Kellogg Avenue and Central Avenue, has been previously zoned to LC or more intense zoning.

If approved, a six-foot solid screening fence or landscaping or berms or some combination of the three will be required to provide a buffer for the SF-5 zoned land located east (rear) of the site. A minimum rear yard building setback of 15 feet is also required (where LC zoning abuts SF-5 or TF-3 zoning). Building heights are limited to a maximum of 35 feet when located within fifty feet of SF-5 or TF-3 zoned land. Dumpsters and refuse receptacles must be located at least twenty feet from SF-5 or TF-3 zoned property. Roof-mounted equipment, trash receptacles, mechanical equipment and outdoor work and storage areas are required to be screened from ground view from any residential zoning district or public street right-of-way located within 150 feet of those uses. Lighting sources are limited to fifteen feet in height when located within 200 feet of residential zoning districts.

CASE HISTORY: Knight Acres Addition was recorded in 1918. A new plat (the Bruce Harris Addition) encompassing the zoning application area has been submitted, and was heard by the Subdivision Committee on May 10, 2012. The plat requested two points of access to North West Street and depicts a ten-foot utility easement located along the north and east property lines.

ADJACENT ZONING AND LAND USE:

NORTH: LC Limited Commercial; restaurant
SOUTH: LC Limited Commercial; retail store
EAST: SF-5 Single-family Residential; single-family residence
WEST: LC Limited Commercial; retail store, vacant

PUBLIC SERVICES: West Street at this location has fifty-feet of half-street right-of-way, and is developed as a four-lane arterial. The site is located in an area that is fully served by municipal and private utilities.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide map depicts the property as being appropriate for "local commercial" uses. The "local commercial" designation contains concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes: medical or insurance

offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities.

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 has frontage on North West Street, which is a significant commercial arterial, which in 2006 carried in both directions approximately 39,000 vehicles on an average day. Most of the properties fronting West Street, between Kellogg Avenue and Central Avenue, have been previously zoned to LC or more intense zoning and developed with restaurants, retail sales or personal service or personal care uses. Land to the east of the lots fronting North West Street are zoned SF-5 and are vacant or developed with residential uses.

2. The suitability of the subject property for the uses to which it has been restricted: The property is currently zoned B and SF-5. Those two residential zoning districts are less suited to the location today given the extensive amount of LC or more intense zoning found on lots fronting North West Street north and south of the application area. Also, the site's split zoning probably limits the property's development potential.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The development standards required by the various codes should minimize anticipated impacts should the request be approved.

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 would presumably be an economic loss to the applicant. Approval would provide the public with additional commercial building sites along West Street.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide map depicts the property as being appropriate for "local commercial" uses. The "local commercial" designation contains concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities.

6. Impact of the proposed development on community facilities: Existing community facilities are in place or can be guaranteed as part of the subdivision process.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

MCKAY moved, **FOSTER** seconded the motion, and it carried (8-0).

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5. **Case No.: CON2012-24** - Cowskins Holdings, c/o Tony Brand and Kevin Archer (owner/applicant) request a County Conditional Use for Outdoor Recreation, a haunted house on property zoned RR Rural Residential on property described as:

The West 252 feet of the South 63 feet of the Southwest corner of the Northeast Quarter and the access road containing 1.72 acres, Section 21 Township 26, Range 2 West of the 6th P.M., Sedgwick County Kansas.

BACKGROUND: The applicants are requesting a County Conditional Use for "Recreation and Entertainment, Indoor and Outdoor" for a Halloween haunted house and forest on approximately 3-acres of unplatted RR Rural Residential ("RR") zoned land; Unified Zoning Code (UZC) Sec.II-B.11.a.-b. Haunted houses and outdoor Halloween maze/woods (forest) have previously been considered by the MAPC as seasonal Recreation and Entertainment, Indoor and Outdoor Conditional Uses. The UZC permits consideration of Recreation and Entertainment, Indoor and Outdoor as Conditional Use in the RR zoning district with the following minimum conditions (UZC Sec.III-D.6.o):

(1) The property shall be contiguous to an arterial or expressway.
(2) The lighting standards of UZC Sec.IV-B.4 shall be complied with. No string type lighting or banners shall be permitted.
(3) The site shall be in compliance with the noise standards of UZC Sec.IV-C.6.
(4) All driveways, parking, loading, and vehicle circulation areas shall be paved with concrete or asphalt.
(5) The Planning Commission may establish operating hours as part of the Conditional Use approval if the property is located in close proximity to residential areas.
(6) The property shall be properly policed to insure proper maintenance and removal of trash from the premises to eliminate problems to adjacent or public property.

The applicants propose to begin the forest on a Friday, October 12, then on the following Saturday and Sunday and thereafter on the subsequent Fridays, Saturdays and Sundays, and then two nights before Halloween and on Halloween night, for a total of 12 nights. The applicants proposed hours of operation are 5 p.m. to 12 a.m.

The RR zoned site abuts the south side of the Colwich city limits, which places it within Colwich's Area of Zoning Influence. The UZC confirms that the planning commission of a second or third class city (small city) has the authority to review and recommend action on a Conditional Use to the MAPC before it is reviewed by the MAPC. Lack of a recommendation by the small city shall be construed as a recommendation of approval; UZC Sec.VI-D.2. Although not named as an applicant, a letter from Renwick USD 267 states their approval for the applicants using the west parking lot and concession stand located on the Colwich Elementary School property for the 'Spook House.' It also requests the applicants to carry insurance for the 'fund raiser' and name the school district as a co-insured.

The RR zoned site is located west of 167th Street West/1st Street, south of 53rd Street North/Chicago Street, west of Breese Avenue and south of the end of 8th Street. A legal description of the site reveals a dirt private drive coming into the north end the forest. The drive continues north of the forest and intersects with the dirt and gravel 8th Street. 8th Street is 30-foot wide residential street located within the city limits of Colwich. To get to the forest and haunted house one must drive to and thru Colwich. The site is not contiguous to an arterial or expressway as required; see supplemental condition #1 above.

The applicants request a waiver of this condition. A waiver of the supplemental condition will require the request to go to the BoCC for final action.

The applicants' concept plan shows the general layout of the haunted forest with ten temporary haunted houses arranged in a broken ring inside the forest. County Code Enforcement and Permits will require a building permit and inspection for the temporary buildings and bathrooms.

The area around the RR zoned site and outside of the city limits of Colwich is zoned RR. The land is used for agriculture, farmsteads or large tract single-family residences. The City of Colwich abuts the north end of the site's drive. The drive passes the city's drop off area for trees, brush and grass, a Frisbee golf course, single-family residences, and the Colwich Elementary School. The Cowskin Creek abuts the west side of the forest and flows through the area. The Cowskin is the reason the site is located within a FEMA Floodway. The area around the site is located within this FEMA Floodway or a FEMA Flood Zone AH, AE, A, AO.

CASE HISTORY: The property is not platted. The haunted house and forest was in operation last year and the applicant was directed by Sedgwick County Code Enforcement to apply for a Conditional Use, prior to opening the use this year. The RR zoning was essentially established with county-wide zoning in 1985; "R" Rural Residential became "RR" Rural Residential in 1996, with the adoption of the UZC. This request was sent to the Colwich Planning Commission May 22, 2012. However because there was not a quorum, the case was resent to Colwich for the May 29, 2012 Colwich Planning Commission meeting. At the May 29 meeting they recommended approval with the listed conditions.

ADJACENT ZONING AND LAND USE:

NORTH:	RR, Colwich	Agriculture, Colwich; city drop of area for trees, brush and grass, Frisbee golf course, single-family residences, Colwich Elementary School
SOUTH:	RR	Cowskin Creek, agriculture, single-family residences
EAST:	RR	Agriculture, single-family residences
WEST:	RR	Cowskin Creek, agriculture

PUBLIC SERVICES: Access to the site is by a dirt private drive coming into the north end of the forest. The drive continues north of the forest and intersects with the dirt and gravel 8th Street. 8th Street is a 30-foot wide residential street located within the city limits of Colwich. To get to the forest and haunted house one must drive to and thru Colwich. Municipal water and sewer services are not available to serve this site.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" of the *Wichita-Sedgwick County Comprehensive Plan* identifies this area of Sedgwick County as within the Small City (Colwich's) 2030 Urban Growth Area. This category indicates the reasonable direction and magnitude of growth Colwich can expect out to the year 2030, with considerations including, but not limited to, environmental factors. The "1999 – 2010 Comprehensive Development Plan for the Colwich Area" does not specifically identify this site or area, but does note that, "Efforts should be made to preserve 'open space' areas such as woodlands, shelter belts, and areas along the creeks and specifically in the flood plains." The site and area are located within a FEMA Floodway. A seasonal Recreation and Entertainment, Indoor and Outdoor event, such as the proposed Halloween haunted house and forest, will have a minimal impact on this open space. Based on information received from its operation

last year, noise was a concern. The County has no noise ordinance, thus noise will be monitored by Sedgwick County Code Enforcement by complaint.

Haunted houses and outdoor Halloween maze/woods have previously been considered by the MAPC as seasonal Recreation and Entertainment, Indoor and Outdoor Conditional Uses. The UZC permits consideration of Recreation and Entertainment, Indoor and Outdoor as a Conditional Use in the RR zoning district with supplementary use regulations for lighting, noise, driveway/parking surfacing, the option to establish operating hours, maintenance requirements, and a standard stating that street access shall be contiguous to an arterial or expressway. Parking and access to the site are located in the Colwich. The applicant has established operation hours and days. The site is not contiguous to an arterial or expressway as required, thus the applicants will have to request a waiver of this supplementary use regulation. Waivers of any of the supplementary use regulations will require governing body approval.

RECOMMENDATION: The "1999 – 2010 Comprehensive Development Plan for the Colwich Area" does not specifically identify this site or area, but does note that, "Efforts should be made to preserve 'open space' areas such as woodlands, shelter belts, and areas along the creeks and specifically in the flood plains." The site and area are located within a FEMA Floodway. A seasonal Recreation and Entertainment, Indoor and Outdoor event, such as the proposed Halloween haunted house and forest, will have a minimal impact on this open space. Although not named as an applicant, the letter from Renwick USD 267 states their involvement in the request. The letter gives their approval of the applicants using the west parking lot and concession stand located on the Colwich Elementary School property for the 'Spook House.' It also requests the applicants to carry insurance for the 'fund raiser' and name the school district as a co-insured. The letter indicates some community wide support. Therefore, based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED with the following conditions:

(1) Waive the requirement that the property shall be contiguous to an arterial or expressway.
(2) No string type of lighting, no pole lights or banners shall be permitted. Emergency lights only for the site of the haunted house and forest.
(3) No outside speakers. Noise shall be monitored by Sedgwick County Code Enforcement as triggered by complaint.
(4) All driveways, parking, loading, and vehicle circulation areas, shall be surfaced as directed by the Colwich Fire Department and sheriff services.
(5) The haunted house and forest for 2012, will begin Friday, October 12, then on the following Saturday (13th) and Sunday (14th) and thereafter on the subsequent Fridays, Saturdays and Sundays, and then two nights before Halloween and on Halloween night, for a total of 12 nights. Thereafter the haunted house and forest will begin the month of October's second Friday, Saturday and Sunday and the following Fridays, Saturdays and Sundays and including Halloween night and the two nights prior to Halloween night, but for not more than a total of 12 nights. Hours of operation shall be 5 PM to 12 AM on Fridays, Saturdays and Halloween night. Hours of operation shall be 5 PM to 11 PM on Sundays - Thursdays (unless it is Halloween night).
(6) The property shall be properly policed to insure proper maintenance and removal of trash from the premises to eliminate problems to adjacent or public property. The applicant must provide bathroom facilities as approved by Sedgwick County Code Enforcement and Permits. Sedgwick County Code Enforcement and Permits will require a building permit and inspection for the temporary buildings.

(7) An approved site plan, including the legal description of the site, will be present on the site during the times of operation. The site will be developed in general conformance to the approved site plan.
(8) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the surrounding area: The area around the RR zoned site and outside of the city limits of Colwich is zoned RR. The land is used for agriculture, farmsteads or large tract single-family residences. The city of Colwich abuts the north end of the site's drive. The drive passes the city drop off area for trees, brush and grass, a Frisbee golf course, single-family residences, and the Colwich Elementary School. The Cowskin Creek abuts the west side of the forest and flows through the area. The Cowskin is the reason the site is located within a FEMA Floodway. The area around the site is located within this FEMA Floodway or a FEMA Flood Zone AH, AE, A, AO.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR," which primarily permits agriculture and large lot residential uses. The site could continue to be used for agriculture without the Conditional Use.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed Conditional Use could generate an amount noise, traffic and trash that are not typical of the existing rural agricultural 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 *Wichita-Sedgwick County Comprehensive Plan* identifies this area of Sedgwick County as being within the Small City (Colwich's) 2030 Urban Growth Area. This category indicates the reasonable direction and magnitude of growth Colwich can expect out to the year 2030, with considerations including, but not limited to, environmental factors. The "1999 – 2010 Comprehensive Development Plan for the Colwich Area" does not specifically identify this site or area, but does note that, "Efforts should be made to preserve 'open space' areas such as woodlands, shelter belts, and areas along the creeks and specifically in the flood plains." The site and area are located within a FEMA Floodway. A seasonal Recreation and Entertainment, Indoor and Outdoor event, such as the proposed Halloween haunted house and forest, will have a minimal impact on this open space, with the approved Conditional Use.

   Haunted houses and outdoor Halloween maze/woods have previously been considered by the MAPC as seasonal Recreation and Entertainment, Indoor and Outdoor Conditional Uses. The UZC permits consideration of Recreation and Entertainment, Indoor and Outdoor as a Conditional Use in the RR zoning district with supplementary use regulations for lighting, noise, driveway/parking surfacing, the option to establish operating hours, maintenance requirements, and a standard stating that street access shall be contiguous to an arterial or expressway. Waivers of any of the supplementary use regulations will require governing body approval according to the UZC Sec.V-D.6.

5. Impact of the proposed development on community facilities: The requested Conditional Use will generate increased traffic on the Colwich streets.

BILL LONGNECKER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

MCKAY moved, **FOSTER** seconded the motion, and it carried (8-0).

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6. **Case No.: CON2012-25** – Coleman and Becky Lockett (applicants) request a City Conditional Use request for a nightclub in the city within 300' of a church in the Central Business District zone district on property described as:

Lot 7, on Fourth Street, now St. Francis, in J. R. Mead's Addition to the City of Wichita, Sedgwick County, Kansas.

BACKGROUND: The application area is located north of East Douglas Avenue on the east side of North St. Francis Avenue, 130 and 132 North St. Francis Avenue, and is zoned CBD Central Business District ("CBD"). In area the site has a footprint of 6,534 square feet, and is developed with what the county assessor's records describe as a "downtown row building." At the subject site, the applicants operate a restaurant that sells more food than alcohol, which per code, makes the restaurant a drinking establishment restaurant ("DER"). Drinking establishment restaurants are permitted by right in the CBD zoning district. The applicants would like to add live entertainment, specifically a blues band, to the dining experience offered by the restaurant. The applicants have submitted an aerial photocopy as their site plan. They do not plan any exterior expansions. The rooftop with the "x" indicates the application area.

Per the Unified Zoning Code (UZC, Article II, Section II-B.9.b) an establishment that provides any combination of alcohol, live entertainment or dancing is defined as a "nightclub in the city." A "nightclub in the city" is permitted by right in the CBD district unless the nightclub is located within 300 feet of church, place of worship, public park, public or parochial school or residential zoning district. If a "nightclub in the city" is proposed to be located within 300 feet of the previously noted uses the nightclub is no longer allowed by right, and requires Conditional Use approval. In this instance, the Rivercrest Free Methodist Community Church is located at 136 North Emporia, approximately 246 feet east of the applicant's proposed nightclub.

All property abutting and adjacent to the subject site is zoned CBD. Uses immediately surrounding the subject property include: auto service garage, architectural salvage, parking lot and vacant commercial buildings.

The CBD is the only zoning district that does not require the property owner to provide off-street parking.

CASE HISTORY: Case number H85-1 established the East Douglas Avenue Historic District that is entered in the Wichita Register of Historic Places, the Register of Historic Kansas Places and National Register of Historic Places. The application area is located within the East Douglas Avenue Historic District. The property is platted as Lot 7, J. R. Mead's Addition, Wichita, Sedgwick County, Kansas.

ADJACENT ZONING AND LAND USE:

NORTH: CBD; vacant row store, outside storage, auto service garage
SOUTH: CBD; architectural salvage, electrical contractor
EAST: CBD; parking lot

WEST: CBD; auto service garage, vacant commercial building, parking lot

PUBLIC SERVICES: The application area is served by all normally supplied public utilities and services.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide map depicts the site being regulated by the Downtown Development Plan. The CBD district is intended to accommodate retail, commercial, office and other complementary land uses with the downtown core area of the City of Wichita. The UZC permits a "nightclub in the city"

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

A. The Conditional Use permits a "nightclub in the city," which shall be maintained and operated in compliance with all applicable codes, including but not limited to zoning, building, fire and health, and in substantial compliance with the approved site plan.
B. If the Zoning Administrator finds that there is a violation of any of the conditions of approval, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, 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 properties surrounding the application area are zoned CBD, and are developed with a variety of: auto repair, outdoor architectural salvage, vacant commercial, electrical contractor, personal improvement service and institutional uses.

2. The suitability of the subject property for the uses to which it has been restricted: Central Business District zoning is one of the more inclusive zoning districts with respect to the large number of uses permitted by right. The district permits single-family and multi-family residential, office, retail sales and commercial uses requiring outdoor storage and display. Any number of permitted by right uses could be economically viable at this location. As currently zoned, the site is being used as a drinking establishment restaurant, which could be an economically viable use. However, the downtown core area has a number of restaurants and drinking establishments, especially in the Old Town district. Individual owners attempt to differentiate their establishments from the others by establishing some form of branding. To that end, the applicants want to offer both alcohol and live entertainment (a blues band) in a way that differentiates their restaurant from the others, and allows them to effectively compete in the downtown area.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The CBD district permits a "nightclub in the city" by right except for the separation requirements noted above. There are other nightclubs located in the greater downtown area. Approval of the request should not negatively impact nearby properties to any greater extent than that experienced by other business near existing downtown nightclubs in the city.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide map depicts the site being regulated by the Downtown Development Plan. In general, the Downtown Development Plan encourages uses that will attract citizens to live, work and play in the heart of the city. The CBD district is intended to accommodate retail, commercial, office and other complementary land uses with the downtown core area of the City of Wichita.

5. Impact of the proposed development on community facilities: Infrastructure and community services are in place to accommodate the proposed use.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

MCKAY moved, **FOSTER** seconded the motion, and it carried (8-0).

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7. **Case No.: CON2012-26** - Kansas Gas and Electric Company (KG&E), c/o Dena Prentiss (owner) and Southern Star, c/o Richard Bellew (applicant) request a County Conditional Use request for the installation, operation and maintenance of a Natural Gas Pipeline Interconnect Site, a Major Utility, on RR Rural Residential zoned land on property described as:

The Northeast Quarter of Section 22, Township 26 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, except the North 450 feet of the East 450 feet of the West 600 feet thereof.

BACKGROUND: The applicant, Southern Star/Black Hills, is requesting a Conditional Use for the construction of a natural gas pipeline interconnect site on the RR Rural Residential ("RR") zoned site. The proposed used is considered a "Utility, Major" as defined in the Unified Zoning Code (UZC) Sec.III.B.13.j. The UZC permits consideration of a utility, major as a Conditional Use in all zoning districts; UZC Sec.III.D. The site will provide additional gas to support anticipated growth in Sedgwick County.

The RR zoned site is located approximately 1,000 feet west of 151st Street West on the south side of 53rd Street North, which places it within the city of Colwich's Area of Zoning Influence. The site is less than a ¼-mile from the Colwich city limits. The UZC confirms that the planning commission of a second or third class city (small city) has the authority to review and recommend action on a Conditional Use to the MAPC before it is reviewed by the MAPC. Lack of a recommendation by the small city shall be construed as a recommendation of approval; UZC Sec.VI-D.2.

The site plan shows a proposed 100' x 150' fenced in area with; an 8' x 12' flow control building; an 8' x 16' meter building; a 6' instrument panel, and; a 60' tall TIPUP pole for communication to and from the site. The TIPUP pole is licensed to one company for that company's use and not to be shared with or leased to other users. If it was going to allow for other users it would be considered a wireless communication facility and as such would fall under the standards of the "Wireless Communication Master Plan." The RR zoning district's maximum height of 35 feet or 45 feet if located at least 25 feet from all lot lines; there is no maximum height for barns, silos and other similar farm buildings. The applicant has stated that they will reduce the height of the TIPUP pole to 45 feet and have it located a minimum of 25 feet from all lot lines to comply with the RR zoning district's maximum height standards.

The fencing is a 6' tall chain link fence topped by three-strands of barbed wire, making it closer to 9-foot tall. The Unified zoning code requires solid screening on rear and side yards when non residential uses (pipeline interconnect site) abut residential zoning (RR zoning in this case). The site plan shows one proposed access easement onto the site from 53rd Street North. The site plan also shows existing and proposed private pipeline easements, existing and proposed private pipelines, other utilities and a 100-foot setback off of 53rd. If approved the site will a private easement will be dedicated to cover the entire site.

The area around the site is zoned either RR or LI Limited Industrial ("LI"). The RR zoned land is primarily used for agriculture, farmsteads or large tract single-family residences. However there is also a cluster wireless communication facilities with towers over 1,000 feet tall in both the RR and LI zoned areas. The LI zoned properties are dominated by a large KG&E electric power generation station. The city limits of Colwich are less than a ¼ mile from the site, with development in this area including an ornamental park and agricultural land.

CASE HISTORY: The RR zoning was essentially established with county-wide zoning in 1985; "R" Rural Residential became "RR" Rural Residential in 1996, with the adoption of the UZC. This request was sent to the Colwich Planning Commission May 22, 2012. However because there was not a quorum, the case was resent to Colwich for the May 29, 2012 Colwich Planning Commission meeting. At the May 29 meeting they recommended approval with the listed conditions.

ADJACENT ZONING AND LAND USE:

NORTH:	RR, LI, Colwich	Agriculture, single-family residence, wireless communication facility(s), major utilities
SOUTH:	RR, Colwich	Agriculture, wireless communication facility(s)
EAST:	RR, LI	Agriculture, single-family residence, wireless communication facility(s)
WEST:	RR, Colwich	Agriculture, single-family residence, ornamental park

PUBLIC SERVICES: Access to the site is via 53rd Street North, a two-lane paved Sedgwick County Highway. Traffic to the site will be minimal. The site is not served by public sanitary sewer or water; but neither service is required by the proposed use.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide" of the *Wichita-Sedgwick County Comprehensive Plan* identifies this area of Sedgwick County as within the Small City (Colwich's) 2030 Urban Growth Area. This category indicates the reasonable direction and magnitude of growth Colwich can expect out to the year 2030. The "1999 – 2010 Comprehensive Development Plan for the Colwich Area" identifies the site as agricultural.

As proposed the natural gas pipeline interconnect is defined as a utility, major in the UZC. County wide zoning designated this area as R Rural Residential "R" (as of 1996 "RR" Rural Residential). The UZC permits a utility, major in the RR district only with Conditional Use approval.

Transportation/Utilities Locational Guideline number 2 states that utility facilities with significant noise, odor and other nuisance elements should be located away from residential areas. Residential growth in the area has been minimal, as the area is used primarily for crop production. A large area of LI zoning in the area has also discouraged residential development. The applicant has stated that noise should be minimal, as there are no generators and that odor should also be minimal. The County has no noise ordinance.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the Conditional Use be APPROVED, for a utility, major/ natural gas pipeline interconnect site subject to the following conditions:

1. The site shall be developed, maintained and operated in substantial compliance with the approved site plan and in compliance with all applicable laws and regulations. The site plan shall include approved screening and landscaping.
2. The applicant shall provide a public safety plan to the Colwich Fire Department and the Sedgwick County Fire Department, prior to the issuance of building permits. Both the Colwich Fire Department and the Sedgwick County Fire Department will approve 24-7 access to the site.
3. The TIPUP pole shall be no taller than 45 feet tall if located no closer than 25 feet from abutting property.
4. Improvements authorized by this Conditional Use shall be completed within a year of approval by the MAPC or the governing body.
5. 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 VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area around the site is zoned either RR or LI Limited Industrial ("LI"). The RR zoned land and is primarily used for agriculture, farmsteads or large tract single-family residences.

   However there is also a cluster wireless communication facilities with towers over 1,000 feet tall in both the RR and LI zoned areas. The LI zoned properties are dominated by a large KG&E electric power generation station. The city limits of Colwich are less than a ¼-mile from the site, with development in this area including an ornamental park and agricultural land.

2. The suitability of the subject property for the uses to which it has been restricted: The electric site is zoned RR. The RR zoning district supports agricultural activity and this is reflected by the area around the site being used primarily for agriculture. The RR district also maintains a low density development pattern by requiring a minimum lot size of two acres, making the proposed utility, major/ natural gas pipeline interconnect site in the RR zoning district with Conditional Use approval less object able. A large area of LI zoning in the area has also discouraged residential development.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: As proposed the natural gas pipeline interconnect is defined as a utility, major in the UZC. The UZC permits a utility, major in the RR district only with Conditional Use approval. The conditions of approval should minimize any anticipated nuisance elements.

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 site will enhance Southern Star/Black Hills ability to provide its customers with a reliable and adequate supply of gas. Denial would presumably be an economic loss to the applicant and cause the utility a delay in developing the infrastructure necessary to meet future demand.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide" of the *Wichita-Sedgwick County*

Comprehensive Plan identifies this area of Sedgwick County as within the Small City (Colwich's) 2030 Urban Growth Area. This category indicates the reasonable direction and magnitude of growth Colwich can expect out to the year 2030. The "1999 – 2010 Comprehensive Development Plan for the Colwich Area" identifies the site as agricultural.

As proposed the natural gas pipeline interconnect is defined as a utility, major in the UZC. County wide zoning designated this area as R Rural Residential "R" (as of 1996 "RR" Rural Residential). The UZC permits a utility, major in the RR district only with Conditional Use approval.

Transportation/Utilities Locational Guideline number 2 states that utility facilities with significant noise, odor and other nuisance elements should be located away from residential areas. Residential growth in the area has been minimal, as the area is used primarily for crop production. A large area of LI zoning in the area has also discouraged residential development. The applicant has stated that noise should be minimal, as there are no generators and that odor should also be minimal. The County has no noise ordinance.

6. Impact of the proposed development on community facilities: The proposed facility would improve applicants' ability to increase power reliability to Sedgwick County.

BILL LONGNECKER, Planning Staff presented the Staff Report. He reported that the City of Colwich Planning Commission approved the request with conditions at their May 29, 2012 meeting. He said the applicant has requested a chain link fence with weaving for screening instead of the solid screening required by the Unified Zoning Code (UZC).

G. SHERMAN asked for clarification of item #3 under recommendations regarding the height of the pole and location from abutting property.

LONGNECKER responded that the language should be changed to say a 40-foot tall pole.

FOSTER asked staff if they agreed with the applicant's request for a chain link fence with mesh.

LONGNECKER said no, staff did not agree with the request. He added that there will also be landscaping. He also mentioned adding the request of the Colwich Planning Commission that any fence issues be repaired within 30 days of any complaint to the conditions of approval.

ALDRICH asked couldn't that request be handled through administrative adjustment.

LONGNECKER replied this is the public hearing on the case and it can he handled and approved by this body right now.

RICHARD BELLEW, SOUTHERN STAR CENTRAL GAS COMPANY, 4,000 S. SENECA referred to the site plan and said this is a typical site. He said they adhered to all the requests made by Planning Staff. He mentioned the proposed landscaping. He added that they have met with representatives of the Colwich Fire Department and discussed preparedness for any catastrophic issues with the site. He said no other machinery will be installed at the site other than the above ground piping system with 2 buildings to house and gauge the pressure of the pipe. He said the 40-foot pole is for the communications system that monitors the station.

ALDRICH asked the applicant if they agreed with staff recommendations.

BELLEW replied yes.

> **MOTION:** To approve subject to staff recommendation with the addition that any fencing issues be repaired within 30 days.
>
> **ALDRICH** moved, **WARREN** seconded the motion, and it carried (8-0).

NON-PUBLIC HEARING ITEMS

8. Other Matters/Adjournment

Discussion of statements in "The Commissioner" relative to the Wichita-Sedgwick County Comprehensive Plan. (Deferred from 5-17-2012) requested by **COMMISSIONER MITCHELL**.

COMMISSIONER MITCHELL referred to the handout of the "The Commissioner" Winter, 2012 and his written comments regarding various policies, practices and concepts promoted by the American Planning Association (APA). He stated that he highlighted certain phrases that reflected what he felt was an attitude or bent that the APA has with regard to development, land use, preservation, urbanization and sustainability that caused him to ask for the opportunity to discuss this particular edition of "The Commissioner." In addition, he referred to the Spring, 2012 issue, page 6, "Smart Growth Takes Smart Preservation" and other land use controls that he does not believe are appropriate for this part of the United States. He said he has worked with developers, builders and landowners in many parts of the County and that many of them are in agreement that these concepts are approaching taking of property that he believes is unnecessary to do planning. He said fortunately the City hasn't done most of things that he is objecting to. He said the other thing he is concerned about is work on the Comprehensive Plan. He said he has been told, and would like to verify with Planning Staff today, that some of the preliminary work will be done by staff from the Center for Urban Government at Wichita State University (WSU). He said he would like to be clear what their role is in drafting the beginnings of a new Comprehensive Plan.

DAVE BARER said WSU has been working with City and County Staff collecting background data on community change and trends over the last 10 years. He said that data will be supplemented by data from City and County Staff and put together in a background paper on the major challenges facing the community currently and within the next 20 years as they relate to changing demographic and economic trends, population growth and those types of considerations. He said they expect that City, County and MAPD Staff will be developing the Plan in concert with the Planning Commission and others invited to participate in the process.

MITCHELL said he understood there was a move to appoint a large committee to begin work on the Plan.

BARBER said staff briefed the Advance Plans Committee back in February regarding possible composition of a "plan steering committee" consisting of 6-7 Planning Commissioners supplemented by a broader group of key community stakeholders to direct development of the Plan supported by a City/County technical advisory committee. He said no work has moved forward in creation of the

committee; however, they expect to move forward within the next several months and will give the Commission updates as things move forward.

ALDRICH asked staff for examples of what they consider "key stakeholders" and specifically asked if that would include developers.

BARBER said he believes the development community was one of the key stakeholders suggested to participate; however, he said he would have to go back and review the data on the discussion.

ALDRICH said the reason he asked is after reading The Commissioner publication he is concerned about which direction the City's Plan is going. He gave an example the 96 Corridor Plan which included a lot of land preservation which he felt was contrary and defeats the entire purpose of planning for development. He said he feels the statement "smart growth takes smart preservation" is an oxymoron because how can you grow and preserve at the same time. He mentioned subdivisions where access to bike trails and walking paths were requested which puts a tremendous additional burden on the development itself as far as costs are concerned. He said one of his concerns with the green movement is when does common sense rule over the economics of it. He said for years he has asked how much money have we spent on bike trails year-to-date and how many people physically utilize those trails. He said it seems like the City is spending an awful lot of the taxpayers' money to have nice things and "build it and they will come" type amenities, yet if they are not being utilized and the pay back isn't there, where is the fiscal responsibility on that.

BARBER commented that **COMMISSIONER ALDRICH** raised some good points. He said the focus of the new Plan is infrastructure and one of the guiding principles is getting the best return on our investment or "bang for the buck". He said the focus will be priority setting on future infrastructure and priorities of investment. He said with limited funding they will be looking at where is the best place to put those funds.

ALDRICH commented that his concern is when the City builds and continues to build amenities that they cannot sustain where is the maintenance aspect.

BARBER commented that staff is currently gathering data on the City and County's current investment in public facilities and community facilities and although the report is not finished yet, the capital, operation and maintenance costs are in the trillions of dollars. He said the current infrastructure investment information will be used to develop the Plan to guide future community investments.

ALDRICH commented that he is concerned that they have sound planning that is economically feasible and that the City and County are not planning to take on projects and spend money to do things for the sole purpose of getting a federal grant.

BARBER responded that the Planning Commission will have lots of opportunities to engage in the planning process which may take upwards of 2-3 years before it is done.

MILLER STEVENS commented that there was an underlying philosophy of planning in "The Commissioner" that concerns her when they talk about "form based codes." She asked if that was one of the items they would be looking at when the Plan is updated. She said she was glad to hear that WSU's participation is data driven. She said she has some real issues with items in "The Commissioner" as far as being trendy and contemporary.

BARBER responded that the goal is to develop a plan that fits this community. He said staff is not concerned about what is going on in some other communities. He said they are looking for a Plan that is best for this community and one that the community can relate to and embrace. He said part of that process is good community input in terms of surveys, focus groups and steering committee. He said the process itself is very important.

CHAIRMAN FARNEY asked if there was a goal or start date and added that the whole process seemed to be a "moving target."

BARBER said they should see some movement with the next 2 months. He said they are currently in the process of finalizing and validating data on infrastructure. He said the 2011 "asset base" should be finalized by the end of the month and added that the trend data on future populations and plan projections is pretty much together. He said the next phase is developing the Plan based on that data and community input.

CHAIRMAN FARNEY asked about down time and said he was concerned that momentum on the plan may lose energy.

BARBER said there is no planned down time and the process should move forward.

FOSTER said he thought today's discussion was important and the questions being raised before updating the Plan gets underway. He mentioned the Spring, 2012 edition, page 2, particularly the statement "focus on underlying interests, not positions." He said clean water, how you deal with stormwater, infrastructure and transportation are items of interest to be looked at and should be the guiding principles on decision making as opposed to establishing a position. He said he was looking forward to the process.

The Metropolitan Area Planning Commission adjourned at 2:10 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.

_____
John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
(SEAL) Area Planning Commission