

**METROPOLITAN AREA PLANNING COMMISSION**

**MINUTES**

**July 19, 2012**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, July 19, 2012 at 1:30 p.m., in the Planning Department Conference Room, 10<sup>th</sup> 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, Don Klausmeyer, Ron Marnell, John W. McKay Jr., M.S. Mitchell, Morrie Sheets, Don Sherman and George Sherman. Debra Miller Stevens and Chuck Warren were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Robert Parnacott, Assistant County Counselor and Maryann Crockett, Recording Secretary

1. Approval of the July 5, 2012 Planning Commission meeting minutes.

**MOTION:** To approve the July 5, 2012 meeting minutes, as amended.

**MITCHELL** moved, **KLAUSMEYER** seconded the motion, and it carried (8-0-4).  
**DENNIS, MCKAY, SHEETS** and **SHERMAN** – Abstained

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2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2.1 **SUB2012-00017: One-Step Final Plat – SEDGWICK COUNTY FIRE STATION NO. 36**  
**ADDITION:** generally located 1500 feet south of 47<sup>th</sup> Street South, on the west side of Oliver.

NOTE: This is unplatted property located in the County within three miles of the City of Wichita. It is in an area designated as “Wichita 2030 Urban Growth Area” by the Wichita-Sedgwick County Comprehensive Plan. It is located in the Derby Area of Influence.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises of the need to extend water (transmission and distribution) to serve the lot being platted. An Outside-the-City Water Agreement is needed. The property is in the Oaklawn Improvement District’s area for sewer service. An offsite sewer easement is needed.
- 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. County Public Works advises the drainage plan needs to address water quality. A drainage agreement is needed with the property to the south. A stormwater permit and a Notice of Intent are needed from the state.
- D. The plat denotes two openings along Oliver. County Engineering has approved the access controls subject to the openings being defined. Access controls referenced in the plattor’s text shall replace

“City of Wichita” with “appropriate governing body.”

- E. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.
- F. 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.
- G. 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.
- H. The signature block for the Board of Commissioners Chairman should be revised to read underneath the signature line, “Tim R. Norton, Second District.”
- I. A site benchmark is needed.
- J. In the surveyor’s certificate, the reference to “K.S.A. 12-512(b)” should read “K.S.A. 12-512b.”
- K. The spelling of “Corps of Engineers” needs corrected.
- L. The signature block for the owner and notary public needs to be corrected to reference the Chairman of the Board of Commissioners, “Tim R. Norton, Second District.”
- 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 plator’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, Route 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. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- V. 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](mailto:kwilson@wichita.gov)).

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

**DENNIS** moved, **JOHNSON** seconded the motion, and it carried (12-0).

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**3. PUBLIC HEARING – VACATION ITEMS**

**3-1. VAC2012-19: City request to vacate a rural water easement dedicated by separate instrument.**

**APPLICANT/AGENT:** Surgicare of Wichita, c/o Mark Worsham (applicant) MKEC, c/o Brian Lindebak (agent)

**LEGAL DESCRIPTION:** Generally described as vacating the west 20 feet of the Rural Water easement dedicated by separate instrument (Film 1420 – Page 1540-1541, March 8, 1993), located along the west lot line of Lot 4, Block 1, Greenwich Business Center Addition, Wichita, Sedgwick County, Kansas

**LOCATION:** Generally located south of 29th Street North on the east side of Greenwich Road (WCC #II)

**REASON FOR REQUEST:** Not needed

**CURRENT ZONING:** The site and the abutting and adjacent northern, eastern and western (across Greenwich Road) properties are zoned LI Limited Industrial (“LI”). Adjacent southern (across 27<sup>th</sup> Street North) properties are zoned SF-5 Single-Family Residential (“SF-5”)

The applicant proposes to vacate the described portion of the rural water easement dedicated by separate instrument. There are no utilities located in easement. The Greenwich Business Center Addition was recorded with the Register of Deeds November 9, 2007; the Rural Water #1 easement dedicated by separate instrument was recorded March 8, 1993.

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 & Sewer/Storm Water, 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 rural water easement dedicated by easement.

- 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 June 28, 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 rural water easement dedicated by 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) Abandonment or relocation/reconstruction of any/all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. Provide approved project numbers to Planning prior to the case going to City 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, including the relocation of any Rural Water lines. Provide any needed easements for relocated utilities, prior to this case going to City Council for final action.
- (3) All improvements shall be according to City Standards and at the applicant’s expense. 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) Abandonment or relocation/reconstruction of any/all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. Provide approved project numbers to Planning prior to the case going to City 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, including the relocation of any Rural Water lines. Provide any needed easements for relocated utilities, prior to this case going to City Council for final action.
- (3) All improvements shall be according to City Standards and at the applicant's expense. 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, **SHEETS** seconded the motion, and it carried (12-0).

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**3-2. VAC2012-20: City request to vacate platted access control.**

**APPLICANT/AGENT:** Gateway Plaza, LLC, Attn: George Laham; Motorcar Realty, LLC, Attn: Thomas M. Mack (Owners); MKEC Engineering Consultants, Inc., Attn: Brian Lindebak (Agent)

**LEGAL DESCRIPTION:** Generally described as vacating all access controls platted along the frontage of Greenwich Road abutting Lots 4 through 9, Block 1, Kiser West Addition to Wichita, Sedgwick County, Kansas, except that part replatted as Kiser West 2<sup>nd</sup> Addition, an addition to Wichita, Sedgwick County, Kansas

**LOCATION:** Generally located 500 feet south of 13th Street North on the west side of Greenwich Road (WCC #II)

**REASON FOR REQUEST:** Adjust access controls to correspond with medians built in Greenwich Road

**CURRENT ZONING:**

The site is zoned LC Limited Commercial and is included within Parcels 4 through 9 of the Kiser West CUP (DP-254). Abutting southern property is zoned LI Limited Industrial. Abutting northern property is zoned GC General Commercial. Abutting western property is zoned LI Limited Industrial. Adjacent eastern property is zoned LC Limited Commercial and TF-3 Two-family Residential.

The applicant proposes seven access openings for Lots 4 through 9 in the Kiser West Addition along the site's Greenwich Road frontage in conjunction with boundary shifts. The plat and associated CUP permit four openings for these undeveloped lots. Five proposed openings are limited to rights-in/out movements and two openings (for Lot 6 and Lot 9) are full movement drives. The access openings were adjusted to align with the medians constructed in Greenwich Road.

Traffic Engineering supports the proposed vacation to adjust the access controls as requested. The proposed openings are in accordance with the access management standards. Stormwater Management and City of Wichita Public Works and Utilities Department have no objection to the proposed vacation. Westar Energy has no objection to the proposed vacation and no objections have been received from other franchised utilities. The Kiser West Addition was recorded with the Register of Deeds on January 29, 2002.

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 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 June 28, 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 platted 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 property's Greenwich Road frontage to allow seven openings to Lots 4 through 9, Block 1, Kiser West Addition, which includes a full movement drive for Lot 6 and Lot 9. 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) Provide boundary shifts to the County Clerk which reflect the reconfigured lots and adjust the access controls and lot sizes in the Kiser West CUP DP-254.

- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (4) All improvements shall be according to City Standards and at the applicant's expense, including:
  - (a) the construction of the new drives from the site onto Greenwich Road 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.
- (5) 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 property's Greenwich Road frontage to allow seven openings to Lots 4 through 9, Block 1, Kiser West Addition, which includes a full movement drive for Lot 6 and Lot 9. 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) Provide boundary shifts to the County Clerk which reflect the reconfigured lots and adjust the access controls and lot sizes in the Kiser West CUP DP-254.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (4) All improvements shall be according to City Standards and at the applicant's expense, including:
  - (a) the construction of the new drives from the site onto Greenwich Road 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.
- (5) 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, **SHEETS** seconded the motion, and it carried (11-0-1).  
**G. SHERMAN** – Abstained

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**3-3. VAC2012-21: City request to vacate portions of a platted utility easement, floodway easement and reserve.**

**APPLICANT/AGENT:** Beech Lake Investment LLC, c/o Steve Clark (applicant) MKEC, c/o Brian Lindebak (agent)

**LEGAL DESCRIPTION:** Generally described as vacating a portion of a platted 20-foot utility easement located along the south side of Lot 1, Block 1, Waterfront Third Addition, portions of platted floodway easements located along a northeast portion of Lot 1, Block 1, and Waterfront Third Addition and the southern portion of said lot and a portion of the platted Reserve C (as recorded on the Waterfront Addition), located along the south side of Lot 1, Block 1, Waterfront Third Addition, Wichita Sedgwick County, Kansas (see attached exhibit)

**LOCATION:** Generally located north of 13th Street North, south of Waterfront Parkway, on the east side of Webb Road (WCC #II)

**REASON FOR REQUEST:** Proposed future development.

**CURRENT ZONING:** The site and all abutting northern, southern and eastern properties are zoned LI Limited Industrial (“LI”). Adjacent western properties (across Webb Road) are zoned SF-5 Single-Family Residential (“SF-5”).

The applicant proposes to vacate a portion of a platted utility easement. There is a sewer line in the easement. This sewer line and easement crosses (east to west) a portion of Reserve C’s lake. The applicant has provided an exhibit showing the general area of the vacation and showing a proposed relocated replacement easement. The applicant will be required to turn in a private project for relocation of the sewer line and an easement dedicated by separate instrument for review and approval by Public Works.

The plat’s drawing shows the floodway easement, while the plattor’s text references “Easements for the constructed and maintenance of public utilities and drainage as indicated on the accompanying plat, are hereby granted to the public.” The applicant will be required to turn in plans for review and approval by Public Works/Stormwater.

The plattor's text states that Reserve C, Waterfront Addition, has been platted for monuments, landscaping, irrigation, open space, lakes, a floodway, drainage sidewalks and berming. The applicant wished to vacate the described portions of the Reserve C and to vacate the plattor's text to eliminate all those uses Reserve C has been restricted to. The applicant will be required to turn in plans to Public Works/Stormwater for review and approval as well as restrictive covenant(s) binding and tying the vacated portion of Reserve C to Lot 1, Block 1, Waterfront Third Addition. It also states that it shall be owned and maintained by the lot owner or homeowners association. The owner of Reserve C, Waterfront Addition and Lot 1, Block 1, Waterfront Third Addition is the applicant.

Comments from franchised utilities have not been received and are needed to determine if they have utilities located within the site. The Waterfront Third Addition was recorded with the Register of Deeds June 24, 2004. The Waterfront Addition was recorded with the Register of Deeds January 24, 2003.

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 & Sewer/Storm Water, 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 portions of the platted utility easement, floodway easements and reserve.

- 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 June 28, 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 the platted utility easement, floodway easements and reserve 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) Provide Public Works/Water and Sewer/Stormwater with a private project for relocation of the sewer line and an easement dedicated by separate instrument for review and approval by Public Works. Abandonment or relocation/reconstruction of any/all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. Provide approved project numbers to Planning prior to the case going to City Council for final action.
- (2) Provide franchise utilities with any needed project plans for the abandonment or relocation of the utilities for review and approval. Abandonment or relocation/reconstruction of any/all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. Provide approved project numbers to Planning prior to the case going to City Council for final action.

- (3) The applicant will be required to turn in plans for review and approval by Public Works/Stormwater in reference to the floodway easement. Provide Public Works/Stormwater with any needed easements The approval of the plans must be provide to Planning prior to the case going to City Council for final action. The easement(s) must be provided to Planning prior to the case going to City Council and subsequent recording with the Register of Deeds.
- (4) Provide Planning with a legal description of the vacated utility easement, floodway easement and reserve C on a Word document, via e-mail. This must be provided to Planning prior to the case going to City Council for final action.
- (5) Provide original restrictive covenant(s) binding and tying the vacated portion of Reserve C to Lot 1, Block 1, Waterfront Third Addition. This must be provided to Planning prior to the case going to City Council and subsequent recording with the Register of Deeds.
- (6) 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) Provide Public Works/Water and Sewer/Stormwater with a private project for relocation of the sewer line and an easement dedicated by separate instrument for review and approval by Public Works. Abandonment or relocation/reconstruction of any/all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. Provide approved project numbers to Planning prior to the case going to City Council for final action.
- (2) Provide franchise utilities with any needed project plans for the abandonment or relocation of the utilities for review and approval. Abandonment or relocation/reconstruction of any/all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. Provide approved project numbers to Planning prior to the case going to City Council for final action.
- (3) The applicant will be required to turn in plans for review and approval by Public Works/Stormwater in reference to floodway easement. Provide Public Works/Stormwater with any needed easements The approval of the plans must be provide to Planning prior to the case going to City Council for final action. The easement(s) must be provided to Planning prior to the case going to City Council and subsequent recording with the Register of Deeds.
- (4) Provide Planning with a legal description of the vacated utility easement, floodway easement and reserve C on a Word document, via e-mail. This must be provided to Planning prior to the case going to City Council for final action.

- (5) Provide original restrictive covenant(s) binding and tying the vacated portion of Reserve C to Lot 1, Block 1, Waterfront Third Addition. This must be provided to Planning prior to the case going to City Council and subsequent recording with the Register of Deeds.
- (6) 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, **SHEETS** seconded the motion, and it carried (11-0-1).  
**FOSTER** – Abstained

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**3-4. VAC2012-22: City request to vacate platted setbacks, street, reserve and easements.**

**APPLICANT/AGENT:** Krug South Residential, LLC & Garden Walk Owners Association, c/o Kevin Mullen (applicant) MKEC, c/o Brian Lindebak (agent)

**LEGAL DESCRIPTION:** Generally described as vacating all of the platted 25-foot front yard building setback on Lots 49, 50, 51, 52 and 53, & the platted 40-foot Burning Tree street right-of-way adjoining the platted Reserve J & all of the platted Reserve J, & the platted 20-foot utility easement running parallel to the east lot lines of Lots 52 and 53, all Block 2, Krug South Addition, Wichita, Sedgwick County, Kansas

**LOCATION:** Generally located south of 21st Street North, north of the rails to trails bike path, west of 143rd Street East and south of the Burning Tree and Rock Hill Streets intersection (WCC #II)

**REASON FOR REQUEST:** Future development

**CURRENT ZONING:** The site and all abutting and adjacent properties are zoned SF-5 Single-Family Residential (“SF-5”).

The applicant proposes to vacate the described portions of the platted setbacks, street, reserve and easements. A sewer line and manholes are located in a portion the platted easement and the platted cul-de-sac street right-of-way. There are no stormwater or water lines in the site. Comments from franchised utilities have not been received and are needed to determine if they have utilities located within the site. The Krug South Addition was recorded with the Register of Deeds March 1, 2007.

The SF-5 Single-Family Residential (“SF-5”) zone subject lots’ platted 25-foot front setbacks is the same as the Unified Zoning Code’s (“UZC”) minimum front setback for the SF-5 zoning district. The

applicant can either dedicate by separate instrument front setbacks for the subject lots (restrictive covenant), reflecting the SF-5 zoning district's minimum front setback or what it would be if adjusted (20-foot) or allow the ("UZC") minimum front setback for the SF-5 zoning district to cover the subject lots.

The applicant proposes to vacate the unimproved, cul-de-sac portion of the platted 40-foot Burning Tree public street right-of-way and Reserve J. The applicant has dedicated by separate instrument a replacement cul-de-sac; DOC#/FLM: 29283996. The new cul-de-sac has eliminated Reserve J and allowed the abutting Lots 49-53 to extend into what was the platted cul-de-sac, thus creating larger lots. The plattor's text states that Reserve J has been platted for utilities confined to easements, berms, monuments, landscaping, irrigation and open space. The applicant wished to vacate Reserve J and to vacate the plattor's text to eliminate all those uses Reserve J has been restricted to. Reserve J is proposed to become public street right-of-way (DOC#/FLM: 29283996). The plattor's text also states that Reserve J shall be owned and maintained by a homeowners association. The owner of Reserve J is the applicant and the head of the homeowners association.

The applicant will need to dedicate new easements for Lots 52 and 53. If the applicant vacates any portion of the platted drainage and utility easement located along the south portions of Lots 51 and 52 the applicant will need to dedicate new drainage easements and if needed provide drainage plans for review and approval by Stormwater/Public Works.

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 & Sewer/Storm Water, 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 portions of the platted setbacks, street, reserve and easements.

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 June 28, 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 the platted setbacks, street, reserve and easements and that 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) Any relocation or reconstruction of all utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense, including the relocation of the sewer line and manholes and shall be to City Standards. If needed provide a private project for relocation of the sewer line and manhole. The approved private project number must be provided to Planning prior to the case going to City Council and subsequent recording with the Register of Deeds.

- (2) Provide all needed easements for relocated utilities. These must be provided to Planning prior to the case going to City Council and subsequent recording with the Register of Deeds.
- (3) Provide original restrictive covenant(s) binding and tying the vacated portion of the vacated cul-de-sac public street right-of-way to Lots 49-53., Block 1, Waterfront Third Addition. These must be provided to Planning prior to the case going to City Council and subsequent recording with the Register of Deeds.
- (4) Dedicate by separate instrument front setbacks for the subject lots (restrictive covenant), reflecting the SF-5 zoning district's minimum front setback or what it would be if adjusted (20-foot) or allow the Unified Zoning Code's minimum front setback for the SF-5 zoning district to cover the subject lots.
- (5) Provide Planning with a legal description of the vacated utility easements, street right-of-way and reserve on a Word document, via e-mail. This must be provided to Planning prior to the case going to City Council for final action.
- (6) Provide a copy of any recorded boundary shifts for the case file.
- (7) All improvements shall be according to City Standards and at the applicant's expense. 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) Any relocation or reconstruction of all utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense, including the relocation of the sewer line and manholes and shall be to City Standards. If needed provide a private project for relocation of the sewer line and manhole. The approved private project number must be provided to Planning prior to the case going to City Council and subsequent recording with the Register of Deeds.
- (2) Provide all needed easements for relocated utilities. These must be provided to Planning prior to the case going to City Council and subsequent recording with the Register of Deeds.
- (3) Provide original restrictive covenant(s) binding and tying the vacated portion of the vacated cul-de-sac public street right-of-way to Lots 49-53., Block 1, Waterfront Third Addition. These must be provided to Planning prior to the case going to City Council and subsequent recording with the Register of Deeds.

- (4) Dedicate by separate instrument front setbacks for the subject lots (restrictive covenant), reflecting the SF-5 zoning district's minimum front setback or what it would be if adjusted (20-foot) or allow the Unified Zoning Code's minimum front setback for the SF-5 zoning district to cover the subject lots.
- (5) Provide Planning with a legal description of the vacated utility easements, street right-of-way and reserve on a Word document, via e-mail. This must be provided to Planning prior to the case going to City Council for final action.
- (6) Provide a copy of any recorded boundary shifts for the case file.

All improvements shall be according to City Standards and at the applicant's expense. 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, **SHEETS** seconded the motion, and it carried (12-0).

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**3-5. VAC2012-23: City request to vacate a platted drainage and utility easement.**

**APPLICANT/AGENT:** Krug South Residential LLC, Attn: Kevin Mullen; Garden Walk Owners' Association, Attn: Kevin Mullen (Owner); MKEC Engineering Consultants, Inc. (Agent)

**LEGAL DESCRIPTION:** Generally described as vacating all of a platted 20-foot drainage and utility easement centered on the common lot line of Lots 1 and 2, Block 1, Krug South Second Addition, as addition to Wichita, Sedgwick County, Kansas except the southernmost ten feet thereof.

**LOCATION:** Generally located 1500 feet west of 143rd Street East, south of 21st Street North, on the southeast corner of Castle Rock Street and Castle Rock Court (WCC #II)

**REASON FOR REQUEST:** No utilities exist in the easement

**CURRENT ZONING:** The site is zoned SF-5 Single-family Residential. Abutting southern and eastern properties are zoned Single-family Residential. Adjoining northern and western properties are zoned Single-family Residential.

The applicant proposes to vacate the platted 20-foot drainage and utility easement centered between Lots 1 and 2, Block 1, Krug South 2<sup>nd</sup> Addition.

City Stormwater Management and City of Wichita Public Works and Utilities Department have no objection to the proposed vacation. Westar Energy has no equipment located within the subject easement and has no objection to the vacation request. No objections have been received from other franchised utilities. The Krug South 2<sup>nd</sup> Addition was recorded with the Register of Deeds on February 13, 2008.

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 platted drainage and utility easement.

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 June 28, 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 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) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (2) All improvements shall be according to City Standards and at the applicant's expense.
- (3) 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) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (2) All improvements shall be according to City Standards and at the applicant's expense.
- (3) 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, **SHEETS** seconded the motion, and it carried (12-0).

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Other Matters/Adjournment

**DIRECTOR SCHLEGEL** informed Planning Commissioners that the MAPC needs to appoint a representative to the Delano Design Review Committee.

**MOTION:** To nominate Bill Johnson to the Delano Design Review Committee.

**MCKAY** moved, **MARNELL** seconded the motion, and it carried (12-0)

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**DIRECTOR SCHLEGEL** updated the Planning Commissioners regarding the process of the Comprehensive Plan update and some future projects attributed to the Comprehensive Plan update.

The Metropolitan Area Planning Commission adjourned at 1:55 p.m.

State of Kansas            )  
Sedgwick County        ) <sup>ss</sup>

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

