

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

March 7, 2013

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, March 7, 2013 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: David Dennis, Chair; George Sherman, Vice Chair; Bob Aldrich; David Foster; Matt Goolsby; Bill Johnson; John W. McKay Jr.; M.S. Mitchell; Don Sherman; Debra Miller Stevens and Chuck Warren (In @ 1:31 p.m.). Commission members absent were: Shawn Farney and Don Klausmeyer. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Jess McNeely, Senior Planner; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Jeff Vanzandt, Assistant City Attorney, Robert Parnacott, Assistant County Counselor and Maryann Crockett, Recording Secretary.

1. Approval of the February 21, 2013 MAPC meeting minutes.

MOTION: To approve the February 21, 2013 meeting minutes, as amended.

MCKAY moved, **ALDRICH** seconded the motion, and it carried (8-0-2). **MILLER STEVENS** and **SHERMAN** - Abstained.

WARREN (In @ 1:31 p.m.)

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

2-1. SUB2013-00002: One-Step Final Plat – HING ADDITION.

NOTE: This is a replat of a portion of the Fairlawn Acres Addition.

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 applicant's drainage plan subject to revisions being completed.
- D. The legend should include "SE CAP".
- E. 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.
- F. 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.

- G. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.
- H. 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.)
- I. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- J. 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.
- K. 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.
- L. 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.
- M. Perimeter closure computations shall be submitted with the final plat tracing.
- N. Westar Energy has requested additional utility easements to be platted on this property. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- O. 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.

G. SHERMAN moved, **ALDRICH** seconded the motion, and it carried (10-0-1).
JOHNSON – Abstained.

2-2. SUB2013-00006: One-Step Final Plat – KOCH CAMPUS ADDITION.

NOTE: This is a replat of the Koch Office Park Addition, the Koch Office Park 2nd Addition and the Koch Office Park 3rd Addition in addition to unplatted property. The plat includes the relocation of 37th Street North. The applicant requests a zone change (ZON2013-00001) from SF-5 Single-family Residential and LC Limited Commercial to LI Limited Industrial for a portion of the property.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that water and sewer services are available to serve the site.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the applicant's drainage plan.
- D. The paving of 37th Street will be handled through a private project. The paving agreement will need to be approved by City Council prior to the plat approval.
- E. Traffic Engineering has requested the establishment of a temporary road easement for the existing 37th Street right-of-way by separate instrument until the new street alignment is completed.
- F. The standard language regarding vacation statutes need to reference "K.S.A. 12-512b, as amended".
- G. The City Council certificate should be corrected to reference "all dedications shown hereon accepted by the City Council of the City of Wichita, Kansas...".
- H. The scale needs to specify "1 inch = 100 feet."
- I. The plat proposes five access openings along Hillside, five openings along 37th Street North, and one opening along Oliver. Traffic Engineering has required complete access control along the north side of 37th Street North to Reserve A. The westernmost opening along 37th Street North on Sheet 4 needs to be labeled as "1 opening". The southernmost three openings along Hillside need to be labeled as "in conformance with the Wichita/Sedgwick County Access Management Standards." The access controls need to be referenced in the plat's text.
- J. The plat's text shall note the dedication of the street to and for the use of the public.
- K. 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.

- L. Provisions shall be made for ownership and maintenance of the proposed reserves. A covenant shall be submitted regarding ownership and maintenance responsibilities.
- M. 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.
- N. 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 Engineer's office.
- O. The spelling of "stormwater" should be corrected in the platting text.
- P. The recording information for all pipeline easements shall be indicated on the face of the plat.
- Q. "Lot 1, Block 1" should be denoted on all of the sheets.
- R. County Surveying advises that the legal description does not match the plat boundary.
- S. 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.
- T. The platting 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.
- U. 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.)
- V. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- W. 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.

X. 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.

Y. 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.

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

AA. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.

BB. 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, **MITCHELL** seconded the motion, and it carried (11-0).

2-3. SUB2013-00007: One-Step Final Plat – ABSOLUTE NATURAL STONE ADDITION.

NOTE: This is an unplatted site located within the City of Wichita. The site has been approved for a zone change (ZON2012-00005) from SF-5, Single-family Residential and LC Limited Commercial to GC General Commercial. A Protective Overlay #267 was also approved for this site addressing permitted uses, setbacks, landscaping, lighting, noise, and screening.

STAFF COMMENTS:

A. City of Wichita Public Works and Utilities Department requests the extension of water (transmission and distribution) to serve the lot being platted.

B. The applicant shall contact City of Wichita Environmental Health to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage. 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 subject to the following conditions:
1. Provide a minimum pad elevation on the face of the plat,
 2. The drainage plan is updated that delineates the offsite drainage from the public storage building roofs and the parking lot east of the plat.
 3. Either the plat grants a 10-foot wide drainage easement for surface runoff for the offsite runoff or a cross-lot drainage easement is granted to adjacent properties.
 4. Obtain a drainage easement from the KTA to discharge the outfall of the stormwater management facility into highway right-of-way.
- E. County Surveying requests to be contacted regarding the plat boundary.
- F. The standard language regarding vacation statutes may be deleted since this is not a replat.
- G. Provisions shall be made for ownership and maintenance of the proposed reserves. A covenant shall be submitted regarding ownership and maintenance 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. A Protective Overlay Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved Protective Overlay and its special conditions for development on this property.
- J. Traffic Engineering has required a guarantee for the paving of the frontage road.
- K. The spelling of “stormwater” needs corrected in the platting text.
- L. 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.
- M. The platting 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, 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.
- 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 easements. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- 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.

G. SHERMAN moved, **ALDRICH** seconded the motion, and it carried (10-0-1).

B. JOHNSON – Abstained.

2-4. SUB2013-00008: One-Step Final Plat – FRONTGATE ADDITION.

NOTE: This is a replat of four lots in a portion of the Central Office Park 2nd Addition which includes a loop street.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department requests the 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 drainage plan, subject to the submittal of a draft subdivision master lot grading plan. A final master grading plan shall be finalized prior to the submittal of the construction plans.

- D. Traffic Engineering has approved the access controls. The plat proposes one street opening along Central.
- E. The Applicant shall guarantee the paving of the proposed internal streets. City Engineering requests a petition for 50% of the paving for the upgrade of Jackson Heights.
- F. As the plat consists of multi-family lots abutting non-arterial streets, the Subdivision regulations require sidewalks along the street frontage which shall be included within the paving petition.
- G. Since this plat proposes the platting of narrow street right-of-way with adjacent 15-foot street, drainage and utility easements, a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- H. Since Reserve B includes a swimming pool, “neighborhood swimming pool” shall be specified in the plat’s text and a site plan shall be submitted with the final plat, for review and approval by MAPD. The site plan shall include the information indicated in the Subdivision Regulations. The design for the pool must be submitted to Environmental Services for review prior to issuing a building permit for the pool.
- I. The parking areas within Reserves C and E are included as “parking easements” and are wider than the 50 feet maximum specified by the Subdivision Regulations. The parking easements have been referenced in the plat’s text specifying that the easements are granted for residential parking only and that no obstructions shall be constructed or placed within the easements. The Subdivision Regulations permit these design standards to be modified by the plat upon the approval of the Planning Commission.
- J. 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.
- K. 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.
- L. The plat denotes that no building setback will be required in Reserve C along Frontgate. Due to the 15-foot street, drainage and utility easement, structures will need to be at least 15 feet from Frontgate. This represents an adjustment of the standard of 20 feet for narrow residential streets. The plat includes a Note that all lots have a 5-foot interior side yard setback which represents an adjustment of the Zoning Code standard of 6 feet for the SF-5 Single-family District unless lots are less than 6,000 square feet. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission.
- M.A Protective Overlay Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved Protective Overlay and its special conditions for development on this property.

- N. GIS has requested Ritchfield and Richfield Cir be replaced with Herrington or Lynnrae. Tamarac should be labeled as "TAMARAC LN".
- O. The scale needs to specify "1 inch = 50 feet."
- P. The applicant shall meet with Traffic Engineering to discuss Reserve D adjoining the property to the south.
- Q. For any lots with existing tree rows that may be impacted by the installation of utilities, it is recommended that 20-foot utility easements be platted in order to allow for the installation of the utilities without damage to such tree rows.
- R. 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.
- S. The platting 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.
- T. 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.)
- U. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- V. 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.
- W. 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.
- X. 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.
- Y. Perimeter closure computations shall be submitted with the final plat tracing.

Z. Westar Energy has requested additional utility easements to be platted on this property. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.

AA. 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.

JOHNSON moved, **FOSTER** seconded the motion, and it carried (10-0-1).

MCKAY – Abstained.

2-5. LSP2013-00003: Lot Split – ONE KELLOGG PLACE 2ND ADDITION.

This proposed lot split is for Lot 3, Block A, One Kellogg Place 2nd Addition (LSP2013-00003). The property is zoned LI Limited Industrial and divides a 4.83-acre lot into two lots (denoted as Parcel B-1 and B-2). The maximum lot width-to-depth ratio of 3 to 1 for industrial lots is exceeded by both lots and a modification needs to be approved by MAPC.

Westar Energy advises that any removal or relocation of existing utilities due to this lot split will be at the applicant's expense.

The Subdivision Committee may recommend a modification of the design criteria in Article 7 of the Subdivision Regulations only if it finds that the strict application of the design criteria will create an unwarranted hardship, the proposed modification is in harmony with the intended purpose of the Subdivision Regulations and the public safety and welfare will be protected.

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

MCKAY moved, **MITCHELL** seconded the motion, and it carried (11-0).

3. PUBLIC HEARING – VACATION ITEMS

3-1. VAC2013-00002: County request to vacate a portion of a platted floodway reserve easement, generally located east of 127th Street East, approximately 1/4-mile north of 39th Street South, north of Twin Mill Street, on the west side of Triple Crown Street.

APPLICANT/AGENT: Brock Beran (applicant/owner) Mark Savoy (agent)

LEGAL DESCRIPTION: Generally described as a northeastern portion of the platted floodway reserve located on Lot 6, Block B, Twin Mill Estates Addition (see attached legal and exhibit)

LOCATION: Generally located east of 127th Street East, approximately 1/4-mile north of 39th Street South, north of Twin Mill Street, on the west side of Triple Crown Street (BoCC #5)

REASON FOR REQUEST: Remove to allow building

CURRENT ZONING: Subject property and all abutting and adjacent properties are zoned RR Rural Residential (“RR”)

The applicant is requesting consideration to vacate a portion of the platted floodway reserve easement located on Lot 6, Block B, Twin Mill Estates Addition. The plattor’s text states that the maintenance and repair of the floodway reserve easement(s) is the responsibility of the Twin Mill Estates Addition’s HOA, until such time that the appropriate governing body takes over the floodway reserve easement(s). It also states that no buildings, grading, fill or creation of channels can happen within the floodway reserve easement(s) unless approved by the Engineer of the appropriate governing body. The subject floodway reserve easement is not located within a FEMA Flood Zone or Floodway. There are no utilities located in the floodway reserve easement. The Twin Mill Estates Addition was recorded with the Sedgwick County Register of Deeds July 21, 2011.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from County Engineering, County Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the platted floodway reserve 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 February 14, 2013, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the described portion of the platted floodway reserve easement 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 utilities made necessary by this vacation shall be the responsibility of the applicant and at the applicant’s expense. If necessary provide all plans and any guarantees needed by utilities to ensure improvements will be completed. This must be provided prior to the case going to the County Commission for final action.

- (2) All improvements shall be according to County Standards and at the expense of the applicant, including any drainage improvements/infrastructure. If necessary provide all plans and any guarantees needed by County Public Works to ensure improvements will be completed. This must be provided prior to the case going to the County Commission for final action.
- (3) Provide a legal description of the vacated portion of the platted floodway reserve easement as approved by County Public Works. Provide to Planning on a Word document, via e-mail to be used on the Vacation Petition and Vacation Order. This must be provided prior to the case going to County Commission for final action.
- (4) Per MAPC Policy Statement #7, all conditions 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 applicant and at the applicant's expense. . If necessary provide all plans and any guarantees needed by utilities to ensure improvements will be completed. This must be provided prior to the case going to the County Commission for final action.
- (2) All improvements shall be according to County Standards and at the expense of the applicant, including any drainage improvements/infrastructure. If necessary provide all plans and any guarantees needed by County Public Works to ensure improvements will be completed. This must be provided prior to the case going to the County Commission for final action.
- (3) Provide a legal description of the vacated portion of the platted floodway reserve easement as approved by County Public Works. Provide to Planning on a Word document, via e-mail to be used on the Vacation Petition and Vacation Order. This must be provided prior to the case going to County Commission for final action.
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request 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.

JOHNSON moved, **G. SHERMAN** seconded the motion, and it carried (11-0).

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- 3-2. **VAC2013-00003: County request to vacate a platted front setback**, generally located east of 279th Street West, north of 61st Street North, on the south side of Busy Bee Lane (Andale Area of Zoning Influence).

OWNER/APPLICANT: Stanley E. and Susan K. Engels

LEGAL DESCRIPTION: The south 6 feet of the platted 30-foot front yard setback that runs parallel to the north lot line of Lot 4, Block 2, Bluestem Acres Second Addition, Sedgwick County, Kansas

LOCATION: Generally located east of 279th Street West, north of 61st Street North, on the south side of Busy Bee Lane (Andale Area of Zoning Influence, BoCC #3)

REASON FOR REQUEST: Proposed addition to the attached garage

CURRENT ZONING: Subject property and all abutting and adjacent properties are zoned RR Rural Residential ("RR")

The applicants propose to vacate the south 6 feet of the platted 30-foot front yard setback, on the described lot, resulting in a 24-foot front yard setback. The Unified Zoning Code's (UZC) minimum front yard setback for the RR zoning district is 30 feet, when it is located along a rural residential road; UZC, Sec.III-B.2.d(3) & Sec.III-E.1.e(3). If the setback was not platted the applicants could have requested an Administrative Adjustment that would reduce the RR zoning district's minimum 30-foot front yard setback by 20%, resulting in a 24-foot front yard setback. Reduction beyond the 24-foot front yard setback would require a variance, which is a separate public hearing process. There is a platted 20-foot wide utility easement located within the platted setback; this will not be impacted by the request. There is a 50-foot wide portion of a platted floodway reserve located within the platted setback; this will not be impacted by the request. There are no utilities located within the described setback. The Bluestem Acres Second Addition was recorded with the Register of Deeds October 9, 2002.

Because the site is located within the City of Andale's Area of Zoning Influence, consideration and recommendation by their planning commission is required. The Andale Planning Commission will consider this case at their March 6, 2013, meeting.

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

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time February 14, 2013, which was at least 20 days prior to this public hearing.

2. That no private rights will be injured or endangered by the vacation of the described portion of the platted setback 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) Vacate the south 6 feet of the platted 30-foot front yard setback that runs parallel to the north lot line of Lot 4, Block 2, Bluestem Acres Second Addition, Sedgwick County, Kansas.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
- (3) All improvements shall be according to County Standards and at the applicant's expense.
- (4) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the south 6 feet of the platted 30-foot front yard setback that runs parallel to the north lot line of Lot 4, Block 2, Bluestem Acres Second Addition, Sedgwick County, Kansas.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
- (3) All improvements shall be according to County Standards and at the applicant's expense.
- (4) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

JOHNSON moved, **G. SHERMAN** seconded the motion, and it carried (11-0).

3-3. VAC2013-00004: City request to vacate platted access control, generally located south of 13th Street North, on the west side of Maize Road, south of Maize Court.

APPLICANT/AGENT: Maize Road Partnership, c/o Mile Loveland (applicant/owner)
Baughman Company, PA, c/o Russ Ewy (agent)

LEGAL DESCRIPTION: Generally described as vacating that portion of platted complete access control along the east lot lines of Lots 1 & 2, Huntington Park Addition, to allow a drive from said lot's west lot line onto 135th Street West, Sedgwick County, Kansas.

LOCATION: Generally located south of 13th Street North, on the west side of Maize Road, south of Maize Court (WCC #V)

REASON FOR REQUEST: Associated with a possible Commercial Lot Split

CURRENT ZONING: The site and adjacent northern properties are zoned LC Limited Commercial ("LC"). Abutting western and southern properties are zoned SF-5 Single-Family Residential ("SF-5"). Adjacent eastern properties are zoned TF-3 Two-Family Residential ("TF-3").

The applicant proposes to shift the platted permitted access onto Maize Road, based on a possible Commercial Lot Split; there is no record of a Commercial Lot Split being filed with the Planning Department on this site. There currently are three permitted access drives onto Maize Road. The applicant's exhibit shows the north permit drive shifting approximately 70 feet south and lining up with the south end of the reconfigured Lot 1. This places the proposed drive 170 feet south of the public road, Maize Court; as platted it was 100 feet south of Maize Court. The site has approximately 457.91 feet of Maize Road frontage remaining for the permitted/platted two drives. The current Subdivision standard for a full movement drive is 400 feet between drives or for a right-in – right-out drive, 200 feet between drives. East of the site, across Maize Road, there are no drives onto Maize Road from the TF-3 Single-Family Residential zoned subdivision, thus no conflicting drives. Maize Road is a four lane arterial at this location. There is no raised median at this location. Per the Subdivision Regulations, 10-104, Modification of Design Criteria, the MAPC may modify design criteria. In the past staff has recommended modified design criteria, which has been approved by the MAPC.

There is public water located in the Maize Road right-of-way. There is no sewer or manholes located in area of the vacation request. The Huntington Park Addition was recorded with the Register of Deeds January 8, 1998.

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/Stormwater, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of platted complete 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 February 14, 2013, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the described portion of the platted complete access control 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) Per the approval of the Traffic Engineer, vacate the platted complete access control along the site's Maize Road frontage to shift the north allowed access drive. 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 (including Stormwater) made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (3) Dedicate access control to reflect the relocated access/drive. This must be provided to Planning prior to the case going to Council for final action.
- (4) Provide an approved Lot Split to Planning, which reflect the reconfigured lots. This must be provided to Planning prior to the case going to Council for final action. Adjust CUP DP-153 to reflect the reconfigured lots.
- (5) All improvements shall be according to City Standards and at the applicant's expense, including;
(a) the construction of the new drive from the site onto Maize Road, and (b) the continuation of the curb and gutter and sidewalk. Provide Public Works with a guarantee (approved project/plans) to ensure that these and any other associated improvements will be made. If the drive is 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.

- (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) Per the approval of the Traffic Engineer, vacate the platted complete access control along the site's Maize Road frontage to shift the north allowed access drive. 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 (including Stormwater) made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (3) Dedicate access control to reflect the relocated access/drive. This must be provided to Planning prior to the case going to Council for final action.
- (4) Provide an approved Lot Split to Planning, which reflect the reconfigured lots. This must be provided to Planning prior to the case going to Council for final action. Adjust CUP DP-153 to reflect the reconfigured lots.
- (5) All improvements shall be according to City Standards and at the applicant's expense, including; (a) the construction of the new drive from the site onto Maize Road, and (b) the continuation of the curb and gutter and sidewalk. Provide Public Works with a guarantee (approved project/plans) to ensure that these and any other associated improvements will be made. If the drive is 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.
- (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.

JOHNSON moved, **G. SHERMAN** seconded the motion, and it carried (11-0).

PUBLIC HEARINGS

4. **Case No.: ZON2013-02** – West 47 LLC/K.E. Miller engineering, P.A. request County request for a zone change from LC Limited Commercial to GC General Commercial on property described as:

Beginning at the northwest corner of the Northwest Quarter of Section 24, Township 28 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence East along the north line of said quarter section to the west line of the Third Addition to Chitwood Estates, Sedgwick County, Kansas; thence South along the west line of said addition 570 feet; thence West parallel with the north line of said quarter section and along the north line of 48th Street South as platted in the Fourth Addition to Chitwood Estates, Sedgwick County, Kansas, 624.25 feet to the west line of the quarter section; thence North 570 feet to the place of beginning, all in Sedgwick County, Kansas.

BACKGROUND: The application area is 6.91 vacant, unplatted LC Limited Commercial (“LC”) zoned acres located at the southeast corner of West 47th Street South and South West Street. The site’s LC zoning was established in 1958 as part of a City of Wichita three-mile ring extra-territorial zoning action, and has remained undeveloped. It is Planning staff’s understanding the property was recently sold at auction and the new owner believes rezoning the property to GC General Commercial (“GC”) subject to a Protective Overlay (“PO”) would attract new interest in the site.

The applicant is requesting GC zoning subject to the following PO:

- A. The development parcel contains 6.91 acres, more or less.
- B. Prohibited uses: group residence, general and limited; correctional placement residences, limited and general; kennel, boarding, breeding or training and hobby; riding academy or stable, tattooing and body piercing facility.
- C. The transfer of title on all or any portion of the land included in the development does not constitute the termination of the overlay or any portion thereof; but said overlay shall run with the land for development and be binding upon the present land owners, their successors and assigns and their lessees unless amended. However, the Planning Director, with the concurrence of the Director of the Metropolitan Area Building and Construction Department, may approve minor adjustments to the conditions of this overlay, consistent with the approved development plan.
- D. Landscape and Parking Lot screening shall be in accordance with the City of Wichita Landscape Ordinance. A landscape plan, prepared by a landscape architect licensed in the State of Kansas, indicating the location, type and specification of plant material shall be submitted to the planning department for their review and approval prior to the issuance of any building permit(s).
- E. Minimum Setback Requirements:
 - Front Setback 20 feet
 - Side Setback 0 feet
 - Rear Setback 0 feet
- F. All signs shall be per City Code for property zoned GC except that the CUP standards for signage shall control if in conflict with the Sign Code.
- G. Parking shall be in accordance with the Wichita-Sedgwick County Unified Zoning Code.
- H. An owners association agreement providing for the maintenance of reserves, open spaces, internal devices, parking areas, drainage areas, etc., shall be filed by the time the plat is filed of record.

- I. All drainage ways and easements shall be determined at the time of platting.
- J. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.

The applicant also proposes to substitute a fence in place of the code required masonry wall abutting residential zoning.

The application area is located on the southern end of the South West Street corridor located south of Kellogg to 47th Street South that has significant amounts of LI zoning. The South West Street corridor south of I-235 has a mix of: LI Limited Industrial (“LI”), LC, MH Manufactured Home (“MH”), TF-3 Two-family Residential (“TF-3”) and SF-20 Single-family Residential (“SF-20”) zoning. Limited Industrial zoning is the predominate zoning north of the subject site, south of I-235. As a result of the mix of zoning there is a mix of uses ranging from vacant land, County maintenance yard, single-family residential and duplex residences. South of the application area the land is zoned for residential uses and there are large tracts developed with single-family residences.

CASE HISTORY: The property was zoned LC in 1958.

ADJACENT ZONING AND LAND USE:

North:	TF-3, LC, LI; two-family residential, undeveloped, Sedgwick County maintenance yard
South:	SF-20; single-family residences
East:	SF-20; single-family residences
West:	LC; single-family and a nightclub

PUBLIC SERVICES: West 47th Street South has 50 feet of half-street right-of-way along the subject site’s northern frontage. Currently, 47th Street is a paved two-lane road. South West Street has 40 feet of half-street right-of-way along the subject site’s western frontage. Currently, South West Street is a paved two-lane road. The County standard for section-line arterial roads is 60 feet of half-street right-of-way widening out to 75 feet of half-street right at the intersection. West 48th Street South, located along the southern boundary of the subject tract, is a two-lane sand and gravel residential street with 30 feet of half-street right-of-way. It appears that a sand and gravel cul-de-sac for West Chitwood Street has been constructed on the subject tract. A public water main is located along the west side of South West Street, across from the subject property. A sanitary sewer main is located along the north side of West 47th Street South.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for “local commercial” uses. Local commercial uses include 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. On a limited basis, these areas may also include mini-storage warehousing and small scale, light manufacturing uses.

The *Wichita-Sedgwick County Unified Zoning Code* (“UZC”) requires properties held under unified control that are zoned LC or GC to be subject to the UZCs Community Unit Plan (“CUP”) Overlay or a Protective Overlay.

RECOMMENDATION: Based on the information available at the time the report was completed, staff recommends the request for GC General Commercial zoning subject to the development standards contained in the Protective Overlay be approved subject to platting within one year of approval:

- A. The development parcel contains 6.91 acres, more or less.
- B. Prohibited uses: group residence, general and limited; correctional placement residences, limited and general; kennel, boarding, breeding or training and hobby; riding academy or stable, tattooing and body piercing facility.
- C. The transfer of title on all or any portion of the land included in the development does not constitute the termination of the overlay or any portion thereof; but said overlay shall run with the land for development and be binding upon the present land owners, their successors and assigns and their lessees unless amended. However, the Planning Director, with the concurrence of the Director of the Metropolitan Area Building and Construction Department, may approve minor adjustments to the conditions of this overlay, consistent with the approved development plan.
- D. Landscape and Parking Lot screening shall be in accordance with the City of Wichita Landscape Ordinance. A landscape plan, prepared by a landscape architect licensed in the State of Kansas, indicating the location, type and specification of plant material shall be submitted to the planning department for their review and approval prior to the issuance of any building permit(s).
- E. Minimum Setback Requirements:
 - Front Setback 20 feet
 - Side Setback 0 feet
 - Rear Setback 0 feetIrrespective of the setbacks listed above, there shall be a minimum building setback of 35 feet along the east property line.
- F. All signs shall be per City Code for property zoned GC except that the CUP standards for signage shall control if in conflict with the Sign Code.
- G. Parking shall be in accordance with the Wichita-Sedgwick County Unified Zoning Code.
- H. An owners association agreement providing for the maintenance of reserves, open spaces, internal devices, parking areas, drainage areas, etc., shall be filed by the time the plat is filed of record.
- I. All drainage ways and easements shall be determined at the time of platting.
- J. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
- K. A 6 to 8-foot masonry screening wall is required along the east property line. A 6 to 8-foot screening fence shall be required along the rear or side lot line that has frontage along a public street that has residential zoning on the opposite side of the street.
- L. Access control shall be established at the time of platting; however, West 48th Street South shall not be used as access to the site for any nonresidential uses unless the street is paved.
- M. Drainage requirements shall be established at the time of platting.

- N. All buildings with the subject site shall share similar architectural character, colors and construction materials and utilize similar light standards and fixtures.
- O. Unless modified by the Protective Overlay, all the applicable development standards of Article III, Section III-C.2 CUP Community Unit Plan Overlay District of the UZC shall apply as well as other applicable code required development standards.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The application area is located on the southern end of the South West Street corridor located south of Kellogg that has significant amounts of LI Limited Industrial (“LI”) zoning. The South West Street corridor south of I-235 has a mix of: LI, LC, MH Manufactured Home (“MH”), TF-3 Two-family Residential (“TF-3”) and SF-20 Single-family Residential (“SF-20”) zoning. Limited Industrial zoning is the predominate zoning north of the subject site, south of I-235. As a result of the mix of zoning there is a mix of uses ranging from vacant land, County maintenance yard, single-family residential and duplex residences. South of the subject site there are a number of large lots developed with residential uses zoned a mix of SF-20 and SF-5 Single-family Residential (“SF-5”).
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned LC which permits a wide range of residential, office and retail commercial uses. LC zoned property is usually a sought after commodity. The fact that the property is unplatted may be responsible for its undeveloped status. The corner lots located to the north and west are also zoned LC. The LC lot to the north is vacant while the LC property to the west is developed with a nightclub. The lot to the northwest is developed with a County maintenance yard and is zoned LI. Once platted the existing LC zoning might make the site more attractive.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Surrounding property is a mix of zoning and uses; ranging from LI to SF-20, which permit a County maintenance yard and single-family residences. GC zoning would allow more intense uses when compared to the LC district, such as “vehicle sales,” “monument sales,” “RV campground” “printing and publishing, general” “recreation and entertainment, outdoor,” “vehicle repair, general,” manufacturing, general” or a “welding or machine shop.” However, the proposed development standards are recommended as a way to limited detrimental impacts.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Presumably the applicant could experience an economic loss since the property has sat vacant all this time as currently zoned. Approval would permit more intense uses closer to the residences; however, approval might also eliminate a vacant piece of ground.
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 site as appropriate for “local commercial” uses. Local commercial uses include 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. On a limited basis, these areas may also include mini-storage warehousing and small scale, light manufacturing uses.

6. Length of time the property has remained vacant as currently zoned: The property has sat vacant as currently zoned since 1958.
7. Impact of the proposed development on community facilities: At the time of platting additional right-of-way will be requested to meet current street and intersection standards. Existing facilities or facilities required as a condition of platting should limit any negative impact on existing services.

DALE MILLER, Planning Staff presented the Staff Report.

FOSTER referenced Condition E. related to setbacks. He said he thought Protective Overlays (PO's) were generally more restrictive; however, the setbacks listed meet General Commercial GC zoning guidelines. He asked the reason for that and put for the idea of a 35-foot setback on east side.

MILLER mentioned that the vacant lot adjacent to the site is unplatted and it was his understanding that the site will be platted as one giant lot but as the intended use is unknown at this point in time, he was trying to account for any possible lot splits in the future that may front different directions. He said he wanted to protect homes to the east and along 47th Street. He said that is why he required a wooden fence along 47th street and a masonry fence on the east side of the property.

ALDRICH asked staff to explain the 3-mile zoning.

MILLER explained that the City does not have that provision anymore but added that State Statute allows cities to review and pass on zoning within 3 miles of their city limits.

ALDRICH asked if they were looking at possible annexation in the future.

MILLER said they have filed a request for annexation.

ALDRICH asked why because the surrounding property is still in the County.

MILLER referred to the pink line on the aerial and said if you are on one side of the street, you can annex the other side of the street. In addition, he said the applicant referenced the City of Wichita Landscape Ordinance in their Protective Overlay. He added that the applicant is going to want City services.

ALDRICH asked who was pushing for annexation, staff or the applicant.

MILLER said any time a plat is eligible to be annexed, it has been City policy to request annexation at the time of platting.

ALDRICH asked does that absolutely, positively have to happen.

MILLER said you could make the argument that it is unnecessary; however, that has been the policy and the practice.

ALDRICH commented that this looks like an island annexation, especially looking at the surrounding property.

DENNIS asked staff to speak about item K. on the protective overlay regarding the recommendation of the masonry wall as opposed to the fencing the applicant requested.

MILLER said the agent was present but he believes the applicant has agreed to the masonry wall. He said he quoted what the applicant requested and showed what staff recommended in the Staff Report.

KIRK MILLER, K.E. MILLER, AGENT FOR APPLICANT, 516 S. MARKET said they agree with staff comments and the masonry wall. He said the reasons they are looking at rezoning the property is because uses they are looking at could require outdoor storage and warehousing which are not allowed in Limited Commercial LC zoning. He said there may be some concerns about outdoor storage, but said they are looking more at storage of equipment, materials and other items of value. He added that the site would be secured for the uses they are looking at.

G. SHERMAN asked if the stored items would be taller than 6-8 feet.

MILLER said they don't have a user for the location yet; however, construction types of items probably wouldn't extend above a fence but pieces of machinery may.

ALDRICH asked about annexation of the property

K. MILLER said the City asked for annexation so they submitted the application. He said if they need to be annexed to get City services, then they need to be annexed.

DENNIS verified that they would install the masonry wall.

MARTHA FINLEY, 4910 S. ILLINOIS mentioned that all the homes to the south of the lot are on wells and they are concerned about groundwater contamination.

K. MILLER pointed out that across the street there is industrial zoning and to the east of the location there are some commercial buildings. He said the request is not out of character with some of the surrounding area. He added that this location has been zoned Limited Commercial LC since 1958. He said it was platted a long time before anything happened in the area.

CHAIRMAN DENNIS said he didn't know if Mr. Miller could answer the question Ms. Finley brought up.

K. MILLER said he believed the Health Department would have issues with any uses that might contaminate the groundwater. He said they also have to have interior stormwater treatment on site and stormwater detention, etc.

MOTION: To approve subject to staff recommendation.

MITCHELL moved, **MCKAY** seconded the motion, and it carried (10-0-1).

JOHNSON – Abstained.

5. **Case No.: CUP2013-02** – Price Transportation, Inc. (owner) First Student, Inc. (applicant) Patrick Hughes, Adam Jones Law request a City request for Amendment #2 for the GC zoned CUP DP-86, to allow vehicle Storage on a portion of it on property described as:

Beginning at the Northeast corner of Lot 1, thence South 310.29 feet, thence Southwesterly 82.22 feet, thence West 349.66 feet, thence North 235.50 feet, thence West 409.20 feet, thence Northwest 106.68 feet, thence Southwest 56.82 feet, thence West 77.84 feet, thence North 156.50 feet, thence East 978.76 feet to the beginning, Dukes Diamonds Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: On January 5, 2012, the MAPC considered CUP2011-00041, amendment #2 to the GC General Commercial (“GC”) zoned CUP DP-86, Duke’s Diamonds Community Unit Plan’s Parcel C. The applicant proposed to add as permitted uses the parking of operable school buses (used by USD 259) while not in use, during nights, weekends, holiday breaks, semester breaks and teacher in-service days. The applicant also proposed the storage of the operable buses in a space efficient configuration during summer breaks, as opposed to a typical parking configuration. This request was in addition to and not in substitution of the “parking” currently permitted in DP-86, which the Zoning Administrator determined included school bus parking; the Unified Zoning Code (“UZC”) Sec. II-B.10.c “Commercial Parking.”

During the meeting the MAPC was informed that there were challenges to the Zoning Administrator’s opinion that the parking of buses for over 72 hours during USD 259’s holiday breaks, teacher in-service, and semester breaks, was an incidental, subordinate and an accessory use to the permitted parking uses (including school bus parking) on the site and thus allowed in the GC zoned DP-86. Because of the challenges to the Zoning Administrator’s opinion, the MAPC deferred action on the request until the appeals were determined. Subsequently after an appeal to the BZA and appeals to two district courts, the court’s final ruling was that the Zoning Administrator’s opinion was correct; the parking of school buses for over 72 hours during USD 259’s holiday breaks, teacher in-service day, and semester breaks, was an incidental, subordinate and accessory use to the primary office and vehicle parking uses (including school bus parking) on the site and thus allowed in the GC zoned DP-86. Prior to the court’s ruling the applicant was moving the buses off site and back to the site every 72 hours to keep compliant with the UZC’s definition of parking.

However, from the beginning of this process the Zoning Administrator has never considered the parking of the school buses over the summer break as an incidental, subordinate and accessory type of parking; he considered it “Vehicle Storage.” He advised the applicant it would take approval of an amendment to DP-86 to allow the parking of the school buses over the summer break. Although the GC zoning district is the first that allows vehicle storage yards, Parcel C of DP-86 specifically prohibits vehicle storage. Today the MAPC will consider an amendment to allow vehicle storage on Parcel C of DP-86, more specifically the storage of 100 school buses for USD 259 during the summer break. The summer break is from May to mid August. The site is paved and marked and has a fence around it with a gate.

The only access to the site and the area is by Seneca Street, a paved two-lane local street with a 70-foot right-of-way at this location. Seneca ends at its north end at the old SF-5 Single-Family Residential (“SF-5”) zoned 52-acre Ripley Power Plant site, located approximately ¼-mile north of the site. The south portion of Seneca intersects with 37th Street North, a two lane paved minor arterial, located approximately ¼ mile south of the site. To get to 37th Street, Seneca crosses over the I-235 and K-96 highways. There is a stop sign at the north end of the Seneca – 37th intersection.

The applicant's GC (ZON2009-00022/PO-235) zoned bus parking and staging area/offices abut the north side of the subject site. Also abutting the north side of the site is an SF-5 zoned non-conforming practice driving track, that was once associated with USD 259 and the Wichita Area Technical College (USD 259 Addition, recorded May 10, 1979). Further north are a LI Limited Industrial ("LI") zoned warehouse-office combination, a vacant single-family residence, vacant LC Limited Commercial ("LC") zoned land, undeveloped SF-5 land as well as the already mentioned SF-5 zoned Ripley site. The Ripley site has not been used as a power plant for decades, but still has power plant infrastructure. It is now used as a Westar training facility. The Ripley site also has a 300-foot tall wireless tower/facility (CON2009-00017). Beyond the Ripley site are SF-5 zoned oil/gas storage tanks. East of the site across Seneca, there are four (4) large lot, SF-5 zoned single-family residences (1994-2001) built around a SF-5 zoned retired sand pit as well as SF-5 zoned undeveloped land. A GC zoned church related outdoor recreation (dirt track?) abuts the west side of the site. The GC zoned site also has a wireless communication tower/facility. Further west there is undeveloped SF-5 and SF-20 Single-Family Residential ("SF-20") land. There are multiple CUP and Conditional Use overlays in the area. The Big Ditch marks the north and east boundary of the area. I-235 and K-96 highways mark the south side of the area. Mostly SF-5 and a few MF-29 and MF-18 Multi-Family Residential zoned urban density residential developments are located south of the highways along 37th Street North.

CASE HISTORY: CUP DP-86, Duke's Diamond Community Unit Plan was approved May 9, 1978. The companion zoning case to DP-86, Z-2028, was also approved at this date; a change from "AA" One-Family Residential (now SF-5 zoning) to "C" General Commercial (now GC zoning). The property was platted as the Duke's Diamond Addition and recorded October 18, 1978. Amendment #1 approved a change to the signage provisions on January 8, 2004. A Commercial Lot Split, SUB2010-00043, was approved October 10, 2010, and created the subject site; Parcel C out of Parcel A. The Lot Split was a requirement of CUP2010-00019, an Administrative Adjustment request to: (1) alter the parcel boundaries of Parcel A, and; (2) permit vehicle parking for longer than 72 hours, with conditions, and; (3) increase the maximum light level. The request for the increase in the maximum light level was denied as was the request for vehicle parking for longer than 72 hours. Subsequent appeals to allow or not allow the parking of buses for over 72 hours during USD 259's holiday breaks, teacher in-service days, and semester breaks, as an incidental, subordinate and an accessory use to the permitted parking uses (including school bus parking) on the site have been considered by: the Wichita Board of Zoning Appeals (BZA2010-64, January 25, 2011); the Sedgwick County District Court of Appeals (May 17, 2011) and; another Sedgwick County District Court of Appeals (May 11, 2012). These actions have ultimately allowed the parking of buses for over 72 hours during USD 259's holiday breaks, teacher in-service days and semester breaks, as an incidental, subordinate and an accessory use to the permitted parking uses (including school bus parking) on the site.

ADJACENT ZONING AND LAND USE:

NORTH: GC, SF-5, LC, LI	School bus parking, non-conforming practice driving track, warehouse-office combination, single-family residence, Westar training facility, wireless tower/facility
SOUTH: GC, K-96/I-235, SF-5 TF-3, MF-29, MF-18	Playing fields, stadium seating, multi-lane highway right-of-way, residential uses
EAST: SF-5, GC	Single-family residences, small motor repair, vacant land, recreational lake
WEST: GC, SF-5, SF-20	Church related outdoor recreation, wireless tower/facility, vacant land

PUBLIC SERVICES: The site's only access is Seneca Street, which is classified as a local street at this location. Seneca is a paved two-lane street with a 70-foot right-of-way at this location, which ends at the Westar Ripley Power plant site. The south portion of Seneca intersects with 37th Street North after it crosses over the I-235 and K-96 highways. 37th is a paved two-lane minor arterial. There is a stop sign on the north side of the Seneca – 37th intersection. Seneca also intersects the dirt road 40th Street North, which provides no access to other streets, dead ending in the west and not extending east beyond Seneca. There is no water or sewer available to the site, but the applicant's have petitioned for both utilities. All other utilities are available.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide Map", identifies the application area as "Major Institutional." This category includes institutional facilities of a significant size and scale or operation and could include a range of uses such as government facilities, military bases, libraries, schools, cemeteries, churches, hospitals and medical treatment facilities. The GC zoned site had originally been developed as a playing field complex, including parking; CUP DP-86. DP-86's uses are not easily identified as Major Institutional, perhaps its past affiliation with a church, Word of Life Ministries, led to this categorization. A Vehicle Storage Yard does not fit the Major Institutional category. The GC zoning district permits parking and vehicle storage by right; however, DP-86 does not permit vehicle storage.

The area's LI, GC and LC zoned properties and their corresponding non-residential developments as well as the area's non-conforming industrial uses on SF-5 zoned land all have access only through a local road, Seneca Street, which they share with four (4) SF-5 zoned single-family residences (1994-2001) and undeveloped land. By adopted locational criteria, none of the non-residential uses and zoning should be located along this portion of Seneca. However, with the exception of ZON2009-00022, CON2009-0001 and a small GC zoned portion of a platted single-family lot, it appears all of the non-residential zoning and commercial/industrial uses in the area were in place prior to 1979. These commercial and industrial uses should be: located in close proximity to and provide good access to major arterials; should not feed directly into local streets and into residential areas, and; should be located away from existing or planned residential areas and sited so as not to generate commercial/industrial traffic through less intensive land use areas. Seneca provides access to one road, the minor arterial 37th Street North. 37th is a paved two lane arterial that begins a sharp bend and raise at its intersection with Seneca going over the Big Ditch. 37th also provides access to and from mostly single-family residential neighborhoods. The site's area's commercial and industrial uses are located within close proximity to each other and all must use Seneca for access in and out of the area.

RECOMMENDATION: Non-residential zoning and development patterns established prior to 1979 then recently continued by ZON2009-0022 and CON2009-00017 have established commercial/industrial traffic in the area, which is served by a local road and is also used by four single-family residences, which were established 1994 – 2001. The most recent commercial use introduced into the area is 1st Students' (applicant) school bus parking, some maintenance and regular dispersal of school buses during USD 259's school year. The 1st Student site's dispersal of school buses onto Seneca during USD 259's school year is by far the highest traffic generator using this portion of Seneca. The current and possible future traffic volume (and the commercial vehicles/school buses) does not match the ability of Seneca to handle it. However, vehicle storage, specifically the storage of USD 259 school buses during the summer months of the school year will not increase traffic on Seneca. Based on these factors, plus the information available prior to the public hearing, staff recommends the request be **APPROVED**, with the following conditions:

- (1) Vehicle storage on Parcel C, DP-86 shall be limited to the storage of school buses used by USD 259, from late May to mid August, as it most closely reflects USD 259's summer months and shall be limited to 100 buses.
- (2) The Unified Zoning Code's parking standards shall apply to all of DP-86's uses. Provide a parking analysis of DP-86 within 60 days of approval by the appropriate governing body.
- (3) Provide a revised site plan for review and approval by the MAPD, within 60 days of approval by the appropriate governing body.
- (4) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article 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 applicant's GC (ZON2009-00022/PO-235) zoned bus parking and staging area/offices abut the north side of the GC zoned subject site. Also abutting the north side of the site is an SF-5 zoned non-conforming practice driving track, that was once associated with the USD 259 and the Wichita Area Technical College (USD 259 Addition, recorded May 10, 1979). Further north are a LI Limited Industrial ("LI") zoned warehouse-office combination, a vacant single-family residence, and vacant LC Limited Commercial ("LC") zoned land, undeveloped SF-5 land as well the SF-5 zoned Ripley power plant site. The Ripley site has not been used as a power plant for decades, but still has power plant infrastructure. It is now used as a Westar training facility. The Ripley site also has a 300-foot tall wireless tower/facility (CON2009-00017). Beyond the Ripley site are SF-5 zoned oil/gas storage tanks. There are four (4) large lot, SF-5 zoned single-family residences (1994-2001) built around a retired sand pit as well as undeveloped land, located east of the site across Seneca. One of the residences has a small patch of GC zoning on his property, which allows him to run a business off of his residential lot. A GC zoned church related outdoor recreation (dirt track?) abuts the west side of the site. This GC zoned site also has a wireless communication tower/facility. Further west there is undeveloped SF-5 and SF-20 Single-Family Residential ("SF-20") land. There are multiple CUP and Conditional Use overlays in the area. The Big Ditch marks the north and east boundary of the area. I-235 and K-96 highways mark the south side of the area. Mostly SF-5 and a few MF-29 and MF-18 Multi-Family Residential zoned urban density residential development is located south of the highways along 37th Street North.
- (2) The suitability of the subject property for the uses to which it has been restricted: The uses allowed by the GC zoned DP-86 is not out of character with the area's non-residential zoning and development. How can it be out of character, when it has been a feature of the area since its approval in 1978. However the area's non-residential zoning and development is in close proximity to the more recently developed (1994-2001) SF-5 zoned single-family residences. This is an area of incompatible uses living side by side.
- (3) Extent to which removal of the restrictions will detrimentally affect nearby property: Allowing the storage of USD 259's school buses (per the applicant's site plan) on the site during the summer months should not increase the possibility of having more traffic on Seneca Street during the summer.

- (4) Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The “2030 Wichita Functional Land Use Guide Map”, identifies the application area as “Major Institutional.” This category includes institutional facilities of a significant size and scale or operation and could include a range of uses such as government facilities, military bases, libraries, schools, cemeteries, churches, hospitals and medical treatment facilities. The site had originally been developed as a playing field complex, including parking; DP-86. DP-86’s uses are not easily identified as Major Institutional, perhaps its past affiliation with a church, Word of Life Ministries, led to this categorization. A Vehicle Storage Yard does not fit the Major Institutional category. The GC zoning district permits parking and vehicle storage by right, however DP-86 does not permit vehicle storage.

The area’s LI, GC and LC zoned properties and their corresponding non-residential developments as well as the area’s non-conforming industrial uses on SF-5 zoned land all have access only through a local road, Seneca Street, which they share with four (4) SF-5 zoned single-family residences (1994-2001) and undeveloped land. By locational criteria none of the non-residential uses and zoning should be located along this portion of Seneca. However, with the exception of ZON2009-00022, CON2009-0001 and a small GC zoned portion of a platted single-family lot, it appears all of the non-residential zoning and commercial/industrial uses in the area were in place prior to 1979. These commercial and industrial uses should be: located in close proximity to and provide good access to major arterials; should not feed directly into local streets and into residential areas, and; should be located away from existing or planned residential areas and sited so as not to generate commercial/industrial traffic through less intensive land use areas. Seneca provides access to one road, the minor arterial 37th Street North. 37th is a paved two lane arterial that begins a sharp bend and raise at its intersection with Seneca going over the Big Ditch. 37th provides access to and from mostly single-family residential neighborhoods. The area’s commercial and industrial uses are located within close proximity to each other and all must use Seneca as the only access in and out of the area.

- (5) Impact of the proposed development on community facilities: The commercial traffic on this portion of Seneca Street, which is classified as a local street, exceeds what Seneca was built for. However allowing buses to be stored when school is out during the summer months should not increase the traffic on Seneca.

BILL LONGNECKER, Planning Staff presented the Staff Report. He said DAB VI recommended approval with the conditions listed in the Staff Report. He said staff has not heard from any of the surrounding neighbors.

ALDRICH mentioned Mr. Longnecker’s comment about not hearing from the neighbors and asked if the area of notification was just north of K-96.

LONGNECKER said notification was between 750-1,000 feet radius all around the site.

ALDRICH said he was concerned about the impact on residents along 37th Street.

LONGNECKER said the impact has already been decided because buses move in and out of the location all year long. He said the impact of this request is that 100 buses will be sitting at the location all summer. He said he understands buses are moved every 72 hours at the lot. He commented that homeowner’s associations were part of the mail out.

FOSTER referenced page 4 of the Staff Report where it indicated that “non-residential uses should not be located along this portion of Seneca.” He said he believes that speaks to a whole series of mistakes of this entire use. He asked staff to review the site plan to make sure he fully understood it.

LONGNECKER indicated where the buses would be parked for the summer on the aerial site map.

DENNIS verified that the area will hold 100 buses.

JOHN BILLINGMEIR, 4141 NORTH SENECA STREET, SENIOR LOCATION MANAGER FOR FIRST STUDENT indicated that First Student has been in business in Wichita since 2010. He said they have two locations, one at 4141 N. Seneca St. and another location at 3610 S. 29th St. He said the first year they were in operation they ran summer school buses from the S. 29th St. property. He said under the current Community Unit Plan (CUP) guidelines, all First Student buses located on this property must be moved every 72 hours. He said to facilitate that, they ran summer school buses from the N. Seneca St. lot. He said various summer programs call for use of approximately 110 buses, 4 days a week in addition to the buses they have to move to comply with the provisions of the CUP which equate to approximately 460 trips a day on and off the north lot. He said there are 250 buses on the north lot currently but what they would like to do is move 150 buses to the south lot and store 100 buses on the south lot, eliminating the need to run summer school buses off of the Seneca St. lot. He said the N. Seneca location is a training facility so they would be running 15-20 buses a day depending on the number of applicants and size of classes. He said this would be less of an impact if they are allowed to store the buses at this location over the summer time.

ALDRICH asked Mr. Billingmeir if he thought moving buses along a two-lane street had a negative or positive effect.

BILLINGMEIR responded there will be an impact no matter where the facility is located.

DENNIS verified that what the applicant was saying is if they can store 100 buses at this location it will reduce the number of buses going in and out of the facility because they will move operations to the south lot.

MOTION: To approve subject to staff recommendation.

MCKAY moved, **MITCHELL** seconded the motion, and it carried (10-1). **GOOLSBY** – No.

DENNIS said he would vote in favor of the request, but he has felt all along that this is the absolute wrong place for all of these buses and this has never been the right decision nor will it ever be the right decision. He said this request will lessen buses going in and out of the facility. He said he believes this location is a serious mistake and he has never approved of the way this has been handled.

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6. **Case No.: CUP2013-03** - MRP – Metro, LLC; Karen Hildebrand (applicants); Poe & Associates c/o Tim Austin (agent) request a City request for Amendment #4 to the GC General Commercial zoned CUP DP-194, to allow a Boarding Kennel and an outside dog run on Parcel #1 on property described as:

Lot 2, Block 1, Home Design Center Second Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant seeks an amendment to Parcel 2a of the Home Design Center Community Unit Plan (CUP) DP-194 to permit “Kennel - Boarding, Breeding, Training.” The CUP is zoned GC General Commercial (“GC”) subject to the development standards contained in DP-194. DP 194 limits the uses on Parcel 2a to: general office; office/warehouse; office/showroom; light manufacturing as permitted in GC zoning; professional office; furniture, carpet, lumber, plumbing and similar furnishing outlets; appliances, equipment and fixture supplier outlets; light commercial uses limited to home/office supply, decorating, construction material and design stores; restaurants per administrative adjustment; retail sales per administrative adjustment and vehicle sales with indoor storage and display per administrative adjustment.

The proposed dog grooming and kennel business would be in the south end of the strip commercial building on Parcel 2a. The applicant proposes a 20x20 foot screened dog run in the grassed area adjacent to the building. Kennels are a permitted use in the GC district, subject to the following Zoning Code supplementary conditions: a minimum lot area of five acres unless all animals are harbored indoors with no discernible noise or odor at the property lines; outdoor runs located behind the front setback line and located at least 200 feet from any dwelling unit and 50 feet from contiguous property lines; screening provided by a structure, solid or semi-solid fencing, landscape materials, earth berms or natural site features maintained for the purpose of concealing the view of the animals behind such feature on contiguous properties. The application area can meet the code required supplementary conditions.

DP-194 contains 20 acres divided into six parcels; all parcels are also zoned GC except for the southernmost parcel which is zoned LC Limited Commercial (“LC”). Property north of the site includes the commercial strip center housing the subject site. Property northwest of the site is vacant, property northeast of the site is developed with an office building. South of the application area are office/warehouse uses and vacant land. South and west of the site is a vacant movie theater (North Rock 14) and associated parking. Further west is an office development in the former North Rock 6 movie theater. East of the site is vacant land, further east is an MF-29 Multi-family Residential (“MF-29”) zoned apartment complex; the nearest dwelling units to the site are over 350 feet away.

CASE HISTORY: The Home Design Center CUP and GC zoning was approved by the MAPC in 1989 and by the City Council in 1990. The application is within the Home Design Center 2nd Addition, recorded in 1992. The CUP was amended three times, most recently in 2003 for a zone change to LC and to permit LC uses in the southernmost parcel, Parcel 3. CUP administrative adjustments in 1992 permitted specialty retail sales and indoor auto sales; an adjustment in 1995 permitted restaurants. Several administrative adjustments since 2005 shifted parcel lines, created new parcels, and adjusted sign standards.

ADJACENT ZONING AND LAND USE:

NORTH:	GC	Strip commercial center, vacant
SOUTH:	GC	Warehouse/office, vacant
EAST:	GC, MF-29	Vacant, apartment complex
WEST:	GC	Vacant movie theater, office

PUBLIC SERVICES: All public services are available at the site. Penstemon is a paved, two-lane local street with a 70-foot right of way. 32nd Street North is a paved, two-lane collector street at this location with a 70-foot right of way.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide Map depicts the subject site as an “Employment/Industry Center.” The Employment/Industry Center category encompasses areas with uses that constitute centers or concentrations of employment of an industrial, manufacturing, service or non-institutional nature. The range of uses includes manufacturing and fabrication facilities, warehousing and shipping centers, call centers and corporate offices.

RECOMMENDATION: The existing CUP permits land uses considered more intense than the requested kennel use, such as limited manufacturing. If the applicant meets the supplementary use conditions of the Zoning Code, the proposed kennel should have no impact on surrounding property owners. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. DP-194 is amended to permit “Kennel - Boarding, Breeding, Training” on Parcel 2a only. The site shall be developed, operated and maintained in compliance with an approved site plan and all applicable local, state and federal regulations, including but not limited to the zoning code, building codes and health codes.
2. The CUP Amendment for a “Kennel - Boarding, Breeding, Training” for dogs shall comply with Section III.D.6.k of the Wichita-Sedgwick County Unified Zoning Code. No dogs shall be harbored outdoors. Dogs may use the screened outdoor area for short durations and only while supervised by a kennel employee. Discernable noise or smell from dogs at the property line shall be considered a violation of the CUP Amendment and the Unified Zoning Code.
3. The applicant shall submit a site plan for review and consideration for approval by the Planning Director prior to the operation of a kennel on the site and within 60 days of final CUP Amendment approval. The site plan shall demonstrate compliance with Section III.D.6.k of the Wichita-Sedgwick County Unified Zoning Code. The site plan shall limit the outdoor dog run to a 20x20 foot area, and shall provide a solid screen fence for the outdoor dog run area.
4. The number of animals to be boarded shall not exceed 20 at any one time.
5. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after final approval or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property north of the site includes the commercial strip center housing the subject site. Property northwest of the site is vacant, property northeast of the site is developed with an office building. South of the application area are office/warehouse uses and vacant land. South and west of the site is a vacant movie theater (North Rock 14) and associated parking. Further west is an office development in the former North Rock 6 movie theater. East of the site is vacant land, further east is an MF-29 zoned apartment complex; the nearest dwelling units to the site are over 350 feet away.

2. The suitability of the subject property for the uses to which it has been restricted: The site could continue to be used as zoned and subject to the development standards of DP-194.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Zoning Code standards and the proposed development standards should mitigate the proposed kennel's impacts on surrounding property. No residential areas will be impacted by the proposed kennel.
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 subject site as an "Employment/Industry Center." The Employment/Industry Center category encompasses areas with uses that constitute centers or concentrations of employment of an industrial, manufacturing, service or non-institutional nature. The range of uses includes manufacturing and fabrication facilities, warehousing and shipping centers, call centers and corporate offices. The CUP Amendment request is consistent with the Employment/Industry Center designation.
5. Impact of the proposed development on community facilities: The proposed CUP Amendment should have no impact on community facilities.

JESS MCNEELY, Planning Staff presented the Staff Report. He said the applicant would like to have the limit at 60 dogs which would be 50 square feet per dog and staff is fine with that recommendation. He mentioned that Kansas State standards don't give a specific number of square feet per dog, just that the dog has to be able to turn around in the space. He added that Colorado has a standard of 15 square feet per dog so they feel 50 square feet per dog is more than enough to board 60 dogs. He referenced the letter of opposition as a handout. He mentioned that this would be an amendment to the CUP because the CUP currently does not allow a dog kennel. In addition, he mentioned that two neighbors spoke against the request at the DAB meeting. He said DAB II voted to approve the application. He finished by mentioning that he believed members of the public were present to speak to the Commission regarding the item.

G. SHERMAN asked staff to define the solid screen fence with regard to recommendations as far as height and materials are concerned. He asked if it the fence could be chain link with slats in it.

MCNEELY said the UZC defines a solid screening fence between 6-8 feet. He said typically wood is used for material. He referred the question to the applicant or agent. He added that the Commission could specify the material to be used for the fence.

G. SHERMAN said he is familiar with "doggy day care" facilities that put all the dogs outside at once to run and play. He said this application indicates a dog will be brought out and then back in; however, he said he feels no discernable noise at the property line is a joke. He asked if the Commission has any control on how the outside area is used. He asked can they take 15-20 dogs out there at once and let them run around.

MCNEELY said he understood the intent was to only take the dogs out for supervised, short duration potty breaks; that this outdoor area was not a play area. He said the Commission could put a time limit and a limited on the total number of dogs if they are concerned that this not become a play area.

FOSTER asked about State Regulations on limitations or size requirements for outdoor runs.

MCNEELY said staff is not aware of any State Regulations but the applicant may be. He said the outdoor run must be at least 50 feet from the southeast property. He said because they must have a 50 foot buffer to the southeast property line that limits the size of the outdoor area, which will limit the total number of dogs. He said he doesn't think the intent is to let a whole bunch of dogs out there at one time.

JEFF VANZANDT, ASSISTANT CITY ATTORNEY Vanzandt under the Kansas Pet Animal Act, any time there are more than 19 dogs, the facility has to be regulated and certified by the State. He added that Title 6 of the City Code addresses size of kennels and other issues. He said the applicant will have to abide by both State and local regulations.

DENNIS commented that if there are 60 dogs at the facility and they let 1 dog out at a time for say 10 minutes, it will take 10 hours to get through all the dogs so that will be a full time job for someone.

MCNEELY said the number of dogs is not based on the outdoor area which is intentionally being kept small so it is not a play area. He said the indoor space of 3,200 square feet is how they will accommodate the 50 square feet per dog. He said according to the agent for the applicant, they don't anticipate ever having that many dogs but they want to have a buffer for peak times.

DENNIS commented that the limiting factor for him was the outdoor size and the amount of time it take to run 60 dogs through there.

ALDRICH asked if the State had a limit on the number of dogs based on the size of the kennel.

VANZANDT said he did not know the specific requirements of the Kansas Pet Animal Act. He said if the applicant has more than 19 dogs, they will have to comply with State requirements.

JOHNSON commented that he was sure the facility would need to be licensed.

MCKAY clarified that this was not set up like a traditional kennel. He said there will be one door to the outside area, not a bunch of small doors so dogs can come and go from their individual kennels. He said dogs can't go in and out on their own; someone has to open the door.

MCNEELY said that is correct.

TIM AUSTIN, POE & ASSOCIATES, AGENT FOR THE APPLICANT said they are in agreement with staff comments. He introduced the applicant Karen Hildebrand.

KAREN HILDEBRAND, APPLICANT, 6652 EAST 44TH COURT NORTH commented that she knows a kennel sounds bad but what she hopes to do is grooming and while the animals are waiting to be picked up they can run around inside like a doggy day care. She said the occasional boarding will be for people who are familiar with their operation and want to keep their pets in a safe environment. She said she didn't think there would be boarding, but she wants to be able to provide that. She said the outdoor area is small because it will be for quick potty breaks 2-3 dogs at a time. She said the main focus of the facility will be grooming and the dogs inside playing. She said this is a nice location and they do not want this to be a typical kennel with dogs barking and a bad smell. She said she has a hard time leaving her dogs with other people so she wants a home setting and safe place to board animals. She referred to Article 24 from the State Animal Act and quoted the section regarding kennel size which was not very specific. She mentioned that they also have to pass an inspection and get a Kennel

License. She said the number 60 was a maximum number if everyone wanted to get their dogs groomed and boarded for say Christmas. She said they don't see that number as a daily occurrence; however, they wanted the flexibility to go up to that number in case holidays were busy.

AUSTIN said they were thinking of a 6-foot, wooden fence because they believe they will be working with smaller dogs. He said if an issue arises, the fence can be increased in height. He said the leasing agent (Classic Real Estate) indicates the space has been vacant for 3 years. He said the out of state property owner has talked to all of the other tenants in the strip center and there were no objections from the other tenants.

WARREN asked the applicant if the Commission put a limit of 15 dogs at a time in the outside area for a period of 15 minutes would that be okay.

The applicant and agent both responded that would be fine.

D. SHERMAN asked if there was a space inside for the dogs to run around.

HILDEBRAND said there would 6-7 overnight suites or kennel areas, an area for grooming and an open area where dogs can run and play.

MILLER STEVENS commented that it was a small area outside. She asked how they were going to manage the waste.

HILDEBRAND said waste will be picked up as soon as it happens. She also mentioned that they are going to install rubber flooring that is easy to clean and also deadens sound.

BILL RAMSEY, 1832 WINDHAM said he was present to plead with the Commission to stop this madness which he believes should never have gotten this far. He said this was insane. He briefly reviewed statistics that if a dog goes out to potty 3 times a day and there are 20 animals; that is 60 visits a day for 365 days which equals 21,900 potty breaks or 219,000 potty breaks on a 10-year lease. He said at the DAB meeting the applicant was talking about 20 dogs, and now they have jumped the number up to 60 dogs. He said he can't even compute those numbers. He mentioned 1 dog going out to potty every 8 minutes including getting the dog out, back and cleaned up. He said someone has a full time job and he doesn't see how anyone can afford to do that. He said it doesn't make any sense and someone needs to figure it out. He referred to his business adjacent to the location. He indicated it has been there for 20 years and he has owned it for 10 years. He said the only thing that separates his business from the doggy run is a paved alley. He referred to the apartment complex where people exit down Pesterman. He also added that the apartment dwellers walk their pets in the area. He said anyone that knows anything about dogs inside fences, when they hear a noise or smell anything they are going to bark. He said his clients park out front and when they get out of their car and slam the door the dogs outside are going to bark, you can't expect them not to. He mentioned having 15 dogs in the outside area at a time. He asked do you know how much noise that is going to be? He said the Commissioners were smarter than that. He asked why this has gone this far. He said he doesn't understand how anyone could put this together other than the agent alluding to the fact that this location has been vacant for a long period of time so let's do this. He said he was pleading and begging for the Commission's help. He asked the Commission to please not approve this. He thanked the Commission for listening to him.

MOTION: To approve application with a limit of 60 dogs total at the facility and 15 dogs, for a total of 15 minutes in the dog run at one time.

ALDRICH moved, **WARREN** seconded the motion.

FOSTER said he did not feel this was an appropriate use for a commercial area and offered a substitute motion to deny the application.

SUBSTITUTE MOTION: To deny the application.

FOSTER moved, **MCKAY** seconded the motion.

G. SHERMAN said he is going to support the substitute motion because he said he understands the business aspect and originally thought that they could take a dog outside occasionally. He said at first he thought this isn't a bad idea but the more he listened he does not think having this facility at this location is a good thing.

ALDRICH mentioned property rights and uses. He said this property has been vacant for 3 years and this is a viable, taxpaying business which is not as severe as some of the other uses allowed by right that could move in there.

FOSTER said to expand on his thought, he recognizes that this is a valuable business that meets a very important need for the community; however, he does not feel this is the right location.

WARREN said he feels this is the exact right location because of the nature of the other businesses around it. He mentioned the Derby Water Park and the concerns and fears that the noise would hinder the quality of life for the people who lived in area. He said what happened was there was a little noise but it wasn't that bad, it was more like a dinner party. He said he cannot believe that the noise of this is going to be so bad that it is going to affect someone's business and their ability to do business. He mentioned limiting the number of dogs and limiting the time they are outside. He said he is not saying there is going to be no noise, but asked where you would have these businesses. He said he feels this is a perfect location so he is going to support the original motion.

JOHNSON clarified with the original motion maker that the 15 dogs for 15 minutes was supervised.

ALDRICH responded yes and added that could be spelled out in the motion.

JOHNSON said in that case he would support the original motion.

DENNIS said he had reservations about the application with 20 dogs but might have supported that motion; however at 60 dogs with 15 dogs outside at a time, he said he can't support that because he does not believe this is the right place or the right neighborhood. He said he was going to support the substitute motion.

D. SHERMAN asked the speaker if he was against any kennel at the location or was it the number of dogs that was being requested.

RAMSEY said he had no problems with a dog grooming business, but they can't get into the boarding part without some kind of potty area. He said he was against the noise. He added that when this application was presented to the District Advisory Board it was 1 dog outside at a time with 1 person. He said now they are up to 60 dogs total with 15 dogs outside at a time. He said the Staff Report refers to no noise or smell and he believes the applicants will be breaking the law. He said with 15 dogs in a fenced in area there is going to be noise. He also asked who was going to come out and monitor the facility.

D. SHERMAN repeated his question, was Mr. Ramsey against any kennel or was it the number of dogs.

RAMSEY said he supported dog grooming but he can't support boarding. He said they wouldn't need a potty area for grooming animals.

ALDRICH asked the agent to respond.

AUSTIN said just for clarification, staff comments in the Staff Report did not have limitations on the number of dogs outside at one time. He said if the Commission thinks it should be less than 15, they are willing to have that consideration.

DENNIS asked how the application was presented to the DAB. He asked was it presented as a total of 20 dogs.

AUSTIN said they talked about the operations and taking 1 dog out at a time. He said it never got to the level of discussion as to the total number of dogs. He said if the Commission feels 15 dogs is too many, they are open to any limitations the Commission would like to set. He said the 60 dogs are going to be inside so that number to him is irrelevant. In addition, he said that would be the maximum number of dogs. He said the issue seems to be how many dogs are allowed outside at one time and how much noise they would make. He said if the Commission says 1 dog outside at a time, they are fine with that although it will cause more trips outside.

G. SHERMAN he said when he first reviewed the case he thought this was a perfect location because there were no homes very close and 20 dogs walked outside 1 at a time he was supportive of. However, he said when you get into numbers like 60 dogs inside all the time, the more dogs inside, the more dogs they have to get outside and 15 dogs outside with all the barking and jumping around will be making a lot of noise.

The **ORIGINAL MOTION** to approve the application per staff recommendation failed (4-7).
DENNIS, FOSTER, GOOLSBY, MCKAY, MILLER STEVENS D. SHERMAN and G. SHERMAN – No.

The **SUBSTITUTE MOTION** to deny the application passed (7-4). **ALDRICH, JOHNSON, MITCHELL and WARREN** – No.

Other Matters/Adjournment

PRELOADED TABLETS FOR PLANNING COMMISSION MEETINGS

DIRECTOR SCHLEGEL commented that the Wichita Area Metropolitan Planning Organization (WAMPO) has requested preloaded tablets of all agenda reports and backup materials that would be waiting for them at each meeting. He said staff would still send out the agenda, staff reports and backup materials electronically to Commissioners; however, mailed, paper packets would not be an option. He said the Federal agency that oversees WAMPO has agreed to split the cost of the tablets with the Planning Department. He asked Commissioners if they would be willing to go electronic for the Planning Commission meetings.

JOHNSON commented that he gets his packets electronically; he can print the items he wants to so he thinks it would be a great idea.

ALDRICH asked about the cost compared to what is being spent now.

DIRECTOR SCHLEGEL said staff has done a cost comparison and this would be a savings. He said the tablets would be paid for by the second year. He said total cost for 30 tablets would be around \$15,000 split between WAMPO and the Planning Department (\$7,500 each).

G. SHERMAN asked about blueprints for the Subdivision Committee.

DIRECTOR SCHLEGEL said those blueprints that cannot be provided electronically will be passed out at the Subdivision Committee meeting.

The Metropolitan Area Planning Commission adjourned at 3:03 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 _____, 2013.

(SEAL)

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