

METROPOLITAN AREA PLANNING COMMISSION

Minutes

April 18, 2013

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, April 18, 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; David Foster (In @ 1:38 p.m.); Matt Goolsby; Bill Johnson; Joe Johnson; Don Klausmeyer; John W. McKay, Jr.; and M.S. Mitchell. Commission members absent were: Debra Miller Stevens, Don Sherman and Chuck Warren. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Jess McNeely, Senior Planner; Jeff Vanzandt, Assistant City Attorney, Robert Parnacott, Assistant County Counselor and Maryann Crockett, Recording Secretary.

1. Approval of the prior MAPC meeting minutes.

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

MCKAY moved, **MITCHELL** seconded the motion, and it carried (6-0-2).
J. JOHNSON and **G. SHERMAN** – Abstained.

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

2-1. SUB2013-00015: Final Plat – K-96 and GREENWICH NORTH ADDITION.

NOTE: This unplatted site is located in the County adjoining Wichita's boundary and annexation is required.

STAFF COMMENTS:

- A. As this site is adjacent to Wichita's municipal boundaries, the applicant shall submit a request for annexation. The final plat shall not be scheduled for City Council review until annexation has occurred.
- B. City of Wichita Public Works and Utilities Department advises that water is available, but transmission and distribution in-lieu-of-assessment fees are needed. Sewer (main and lateral) needs to be extended to the lot being platted.
- 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 requested revisions to the applicant's drainage plan in addition to the following:
 1. Provide an easement for offsite drainage, if necessary.
 2. The site needs a minimum pad table, based on the pond elevations.
 3. A reserve or easement is needed adjoining the pond at the time of the development.
 4. A cross-lot drainage agreement or easement is needed to the south.

- E. The plat boundary needs to be a solid line.
- F. County Surveying has advised the gas line easement and the sanitary sewer easement need to be located.
- G. The platlor's text references a utility easement that is not shown.
- H. Traffic Engineering has requested a corner clip.
- I. County Surveying has advised the legend on the final plat needs to include all of the symbols.
- J. County Surveying has advised that the plat shall not be recorded until all monuments have been set.
- K. County Surveying advises the plat needs to show what distances are measured, recorded and calculated.
- L. Traffic Engineering has required access controls. The applicant has agreed to include on the face of the plat the following: "The location of all access openings shall be in accordance with minimum spacing requirements of the Wichita/Sedgwick County Access Management Standards."
- M. Since the property adjoins railroad tracks, 150 feet of complete access control needs to be dedicated along MacArthur Road from the centerline of the nearest railroad track.
- N. The standard language regarding vacation statutes need to reference "K.S.A. 12-512b, as amended."
- O. 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.
- P. GIS has requested abbreviations for the street types.
- Q. The MAPC signature block needs to reference "John L. Schlegel, Secretary."
- R. The applicant shall submit a copy of the instrument, which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the appropriate governing body.
- S. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.
- T. 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.

- 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. Westar Energy has requested additional utility easements to be platted on this property. The easement along the west property line may be established by separate instrument. The applicant will be responsible for any relocation or removal of any Westar distribution equipment made necessary by this plat.
- 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.

MITCHELL moved, **KLAUSMEYER** seconded the motion, and it carried (8-0).

PUBLIC HEARING – VACATION ITEMS

- 3-1. **VAC2013-00007: City request to vacate a portion of a sanitary sewer easement dedicated by separate instrument**, generally located on the north side of 29th Street North and east of Ridge Road.

OWNER/AGENT: HCW LLC, c/o Gary Fultz (owner) Baughman Company, PA, c/o Phil Meyer (agent)

LEGAL DESCRIPTION: Generally described as the 20-foot wide sanitary sewer easement dedicated by separate easement (DOC#/FLM-PG: 29007660) located on Lot 1, Block 1, Ridge Port Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located on the north side of 29th Street North and east of Ridge Road (WCC #V)

REASON FOR REQUEST: Associated with an approved Commercial Lot Split for future development

CURRENT ZONING: The site is zoned LC Limited Commercial (“LC”) with DP-310 overlay. Abutting eastern and adjacent southern properties are zoned SF-5 Single-Family Residential. Abutting northern property is zoned SF-5 and TF-3 Two-Family Residential (“TF-3”). Abutting and Adjacent western properties are zoned LI Limited Industrial (“LI”).

The applicant proposes to vacate the described 20-foot wide sanitary sewer easement dedicated by separate easement (DOC.#/FLM-PG: 29007660). There are no utilities located in the easement. The Ridge Port Addition was recorded with the Register of Deeds June 8, 1998.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from Public Works/Water & Sewer, 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 sanitary sewer easement dedicated by separate 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 March 28, 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 sanitary sewer easement dedicated by separate 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) Vacate that portion of the described 20-foot wide sanitary sewer easement dedicated by separate easement (DOC#/FLM-PG: 29007660), as approved by Public Works/Water & Sewer. Provide Planning Staff with a legal description of the approved vacated portion of the sanitary sewer easement dedicated by separate easement on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition prior to the case going to Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. As needed provide any impacted utilities with project plans for the abandonment or relocation of utilities for review and approval. Abandonment or relocation/reconstruction of any/all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. Provide approved project plans as needed provided to Planning prior to the case going to Council for final action.
- (3) Provide any needed easements for relocated utilities. Provide to Planning prior to the case going to Council for final action.
- (4) All improvements shall be according to City Standards and at the applicant's expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate that portion of the described 20-foot wide sanitary sewer easement dedicated by separate easement (DOC#/FLM-PG: 29007660), as approved by Public Works/Water & Sewer. Provide Planning Staff with a legal description of the approved vacated portion of the sanitary sewer easement dedicated by separate easement on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition prior to the case going to Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. As needed provide any impacted utilities with project plans for the abandonment or relocation of utilities for review and approval. Abandonment or relocation/reconstruction of any/all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. Provide approved project plans as needed provided to Planning prior to the case going to Council for final action.

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

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

J. JOHNSON moved, **B. JOHNSON** seconded the motion, and it carried (8-0).

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- 3-2. **VAC2013-00008: City request to vacate platted access control**, generally located on the northwest corner of Webb Road and 13th Street North.

OWNER/AGENT: Beech Lake Investment LLC (owner), MKEC Engineering (agent)

LEGAL DESCRIPTION: Generally described as vacating portions of platted complete access control along the Webb Road frontage of Lot 1, Block 1, Foliage Center Addition (south site) and Lot 1, Block 1, Foliage Center 2nd Addition (north site) along the 13th Street North frontage of Lot 1, Block 1, Foliage Center Addition, as recorded on the Sedgwick County, Kansas.

LOCATION: Generally located on the northwest corner of 13th Street North and Webb Road (WCC #II)

REASON FOR REQUEST: Future development

CURRENT ZONING: The south site is zoned LC Limited Commercial ("LC") with DP-282 overlay and the north site is zoned NO Neighborhood Office ("NO"). Adjacent southern properties are zoned LC and GO General Office ("GO"). Abutting western and northern properties are zoned SF-5 Single-Family Residential ("SF-5"). Adjacent eastern properties are zoned LI Limited Industrial ("LI").

Currently Lot 1, Block 1, Foliage Center Addition (south site) is permitted two (2) full movement drives onto Webb Road and one (1) full movement drive onto 13th Street North. Currently Lot 1, Block 1, Foliage Center 2nd Addition (north site) is permitted one (1) full movement drive on the north 60 feet of its 232.49 feet of Webb Road frontage. The applicant proposes to shift the south permitted drive on Lot

1, Block 1, Foliage Center Addition 30-40 feet north and close the north permitted drive. The applicant proposes to basically flip this north permitted drive from Lot 1, Block 1, Foliage Center Addition to the south end of Lot 1, Block 1, Foliage Center 2nd Addition. The applicant proposes to open up a second drive on the west end of Lot 1, Block 1, Foliage Center Addition's 13th Street frontage.

The two subject subdivisions are located across Webb Road from a large spent sand pit, Waterfront Addition, Reserve C, that has platted complete access control along Webb, thus there are no conflicting drives. The proposed new drive on the south end of Lot 1, Block 1, Foliage Center 2nd Addition will be located approximately 110 feet from the permitted drive on the subject site. It will be located approximately 230 feet from the permitted south drive on the subject site. The shifted permitted south drive will be located approximately 325 feet from the 13th – Webb intersection; an increase of approximately 40 feet from the intersection.

Lot 1, Block 1, Foliage Center Addition is located across 13th Street North from Lots 1 & 2, Country Club Park Addition, which has one permitted drive along 13th. The permitted drive for the subject site lines up with the permitted drive for the Country Club Park Addition. The nearest drives to the proposed drive are 170 feet west of it on the north side of 13th and approximately 180 feet east of it on the south side of 13th. 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. Webb Road and 13th Street North are four lane arterials with turn lanes 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 are utilities located in the Webb Road and 13th Street right-of-ways. The Foliage Center Addition was recorded with the Register of Deeds January 26, 2009. The Foliage Center 2nd Addition was recorded with the Register of Deeds April 9, 2008.

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 portions of platted access control.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time March 28, 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 portions of the platted 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 sites' Webb Road and 13th Street North frontages to shift an existing drive and allow the two proposed points of access. Provide Planning Staff with a legal description of the approved vacated portion of the complete access control on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. This must be provided to Planning prior to the case going to Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (3) Dedicate access control to reflect the relocated access/drives. This must be provided to Planning prior to the case going to Council for final action.
- (4) All improvements shall be according to City Standards and at the applicant's expense, including:
 - (a) the construction of the new drives from the sites onto Webb Road and 13th Street North, and
 - (b) the continuation of the curb and gutter and side walk. Provide Public Works with a guarantee (approved project/plans) to ensure that these and any other associated improvements will be made. If the drives are not being immediately constructed, provide drive approach certificates, which will be recorded with the Register of Deeds. Either the guarantee(s) and/or the drive approach certificate(s) must be provided to Public Works (guarantees) or Planning (drive approach certificates) prior to the case going to Council for final action.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Per the approval of the Traffic Engineer, vacate the platted complete access control along the sites' Webb Road and 13th Street North frontages to shift an existing drive and allow the two proposed points of access. Provide Planning Staff with a legal description of the approved vacated portion of the complete access control on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. This must be provided to Planning prior to the case going to Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.

- (3) Dedicate access control to reflect the relocated access/drives. This must be provided to Planning prior to the case going to Council for final action.
- (4) All improvements shall be according to City Standards and at the applicant's expense, including:
 - (a) the construction of the new drives from the sites onto Webb Road and 13th Street North, and
 - (b) the continuation of the curb and gutter and side walk. Provide Public Works with a guarantee (approved project/plans) to ensure that these and any other associated improvements will be made. If the drives are not being immediately constructed, provide drive approach certificates, which will be recorded with the Register of Deeds. Either the guarantee(s) and/or the drive approach certificate(s) must be provided to Public Works (guarantees) or Planning (drive approach certificates) prior to the case going to Council for final action.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

J. JOHNSON moved, **B. JOHNSON** seconded the motion, and it carried (8-0).

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- 3-3. VAC2013-00009: City request to vacate a portion of setback established by vacation (V-2184),** generally located south of 13th Street North, south of North Maize Court, on the west side of Maize Road.

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

LEGAL DESCRIPTION: Generally described as vacating the west 35 feet of the platted 70-foot setback located along the east side of Lot 1 and the west 35 feet of the 70-foot setback established by vacation case V-2184, located along the east side of Lot 2, all in the Huntington Park Addition, Wichita 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 future development

CURRENT ZONING: The site (DP-153) 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 vacate the west 35 feet of the platted 70-foot setback located along the east side of Lot 1 and the west 35 feet of the 70-foot setback established by vacation case V-2184, located along the east side of Lot 2, all in the Huntington Park Addition. V-2184 vacated the west 80 feet of a platted 150-foot platted setback. The setbacks also run parallel with the Maize Road right-of-way. The LC Limited Commercial (“LC”) zoned site has Community Unity Plan (CUP) DP-153 overlay. The minimum setback for a CUP is 35 feet from all street right-of-way and alleys; Unified Zoning Code (UZC) Sec.III-C.2.b.(2)(a)1). There are no utilities and no platted easements 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 portions of a platted setback and a setback established by vacation.

- 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 March 28, 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 a setback established by vacation 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) Provide Planning Staff with a legal description of the approved vacated portions of the setbacks on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. This must be provided to Planning prior to the case going to Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (3) 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 and setbacks.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required

documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide Planning Staff with a legal description of the approved vacated portions of the setbacks on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. This must be provided to Planning prior to the case going to Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (3) 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 and setbacks.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

J. JOHNSON moved, **B. JOHNSON** seconded the motion, and it carried (8-0).

3-4. VAC2013-00010: City request to vacate an easement dedicated by separate instrument, generally located south of K-96, on the west side Greenwich Road.

OWNER/AGENT: Regency Development Company LLC, c/o Mike Boyd (owner)
MKEC Engineering, c/o Brian Lindebak (agent)

LEGAL DESCRIPTION: Generally described as the 10-foot wide utility easement dedicated by separate easement (DOC.#/FLM-PG: 29085927) located on Lot 11, Block 1, Regency Lakes Commercial 2nd Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located south of K-96, on the west side Greenwich Road (WCC #II)

REASON FOR REQUEST: Future development

CURRENT ZONING: The site (DP-234) and abutting northern, southern and eastern properties are zoned LI Limited Industrial (“LI”). Abutting western property is zoned SF-5 Single-Family Residential.

The applicant proposes to vacate the described 10-foot wide utility easement dedicated by separate easement (DOC.#/FLM-PG: 29085927). There is water and a fire hydrant located in the easement. The Regency Lakes Commercial 2nd Addition was recorded with the Register of Deeds February 26, 2004.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from Public Works/Water & Sewer, 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 utility easement dedicated by separate 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 March 28, 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 utility easement dedicated by separate 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) Vacate that portion of the described 10-foot wide utility easement dedicated by separate easement (DOC.#/FLM-PG: 29085927), as approved by Public Works/Water & Sewer and Fire. Provide Planning Staff with a legal description of the approved vacated portion of the utility easement dedicated by separate easement on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition prior to the case going to Council for final action.
- (2) Relocation or reconstruction of the hydrant and water line, made necessary by this vacation shall be the responsibility of the applicants and at the applicants’ expense. Provide the impacted utilities with project plans for the abandonment or relocation of utilities for review and approval. Abandonment or relocation/reconstruction of any/all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. Provide approved project plans as needed provided to Planning prior to the case going to Council for final action.
- (3) Provide any needed easements for relocated utilities. Provided to Planning prior to the case going to Council for final action.
- (4) All improvements shall be according to City Standards and at the applicant’s expense.

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

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate that portion of the described 10-foot wide utility easement dedicated by separate easement (DOC.#/FLM-PG: 29085927), as approved by Public Works/Water & Sewer and Fire. Provide Planning Staff with a legal description of the approved vacated portion of the utility easement dedicated by separate easement on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition prior to the case going to Council for final action.
- (2) Relocation or reconstruction of the hydrant and water line, made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide the impacted utilities with project plans for the abandonment or relocation of utilities for review and approval. Abandonment or relocation/reconstruction of any/all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. Provide approved project plans as needed provided to Planning prior to the case going to Council for final action.
- (3) Provide any needed easements for relocated utilities. Provided to Planning prior to the case going to Council for final action.
- (4) All improvements shall be according to City Standards and at the applicant's expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

J. JOHNSON moved, **B. JOHNSON** seconded the motion, and it carried (8-0).

FOSTER (In @1:38 p.m.)

PUBLIC HEARINGS

3. **Case No.: ZON2013-04** - K-2 Properties, c/o Kirk Richards (applicant/owner) request a City zone change request from SF-5 Single-family Residential to TF-3 Two-family Residential on property described as:

Lot 2, Block 5, Golden Gardens Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant is requesting TF-3 Two-Family Residential (“TF-3”) zoning on the SF-5 Single-Family Residential (“SF-5”) zoned Lot 2, Block 5, Golden Gardens Addition. The applicant proposes to develop the site, located on the southwest side of Zoo Boulevard and Illinois Street, with a duplex. There is a garage on the site which may or may not stay on the site; this is not a permitted use for the SF-5 or TF-3 zoning district. Per the Unified Zoning Code (“UZC”), the TF-3 zoning district requires a minimum lot size of 6,000-square feet with a minimum width of 35 feet for a duplex. The applicant’s 9,454-square foot (60-foot – 49.5-foot/13-foot x 160-foot) site exceeds these minimum requirements.

The SF-5 site is located on the short, irregular shaped block of unimproved Illinois Street. Illinois intersects at an angle with the arterial street Zoo Boulevard on its north side and the collector street, 9th Street on its south side. The front yard of the site is exposed to the vehicular traffic traveling on the northwest – southeast Zoo Boulevard. The site’s block is a mix of SF-5 zoned single-family residences (1920-1986) and an outdoor playground for a daycare and B Multi-Family Residential (“B”) zoned four-plexes (1940) and a parking lot for a DER or Tavern. Abutting or adjacent to the west of the site are LC Limited Commercial (“LC”) zoned tire sales, retail, office strip, day care and a DER or Tavern. North of the site and across Zoo Boulevard, a section of the City’s bike path and Rail Road right-of-way are TF-3 zoned single-family residences.

CASE HISTORY: The site is platted as Lot 2, Block 5, Golden Gardens Addition, recorded December 18, 1929. The City’s GeoZone map’s aerial shows the site to have the garage on it since at least 1997.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5, TF-3 Single-family residences
SOUTH: SF-5, B Single-family residences, day care playground, parking lot
EAST: B, SF-5 Four-plexes, single-family residences
WEST: LC Tire sales, retail, office strip, day care, a DER or Tavern

PUBLIC SERVICES: Illinois Street is an unimproved local residential street at this location. Zoo Boulevard is a paved four-lane arterial street with center turn lanes at this location. 9th Street is a paved two-lane collector street at this location. All public services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The ‘2013 Land Use Guide of the Comprehensive Plan’ identifies the site as “Urban Residential.” The Urban Residential category encompasses areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality. The UZC identifies TF-3 zoning as being generally compatible with the urban residential category.

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

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The SF-5 site is located on the short, irregular shaped block of unimproved Illinois Street. Illinois intersects at an angle with the arterial street Zoo Boulevard on its north side and the collector street, 9th Street on its south side. The front yard of the site is exposed to the vehicular traffic traveling on the northwest – southeast Zoo Boulevard. The site’s block is a mix of SF-5 zoned single-family residences (1920-1986) and an outdoor playground for a daycare and B Multi-Family Residential (“B”) zoned four-plexes (1940) and a parking lot for a DER or Tavern. Abutting or adjacent to the west of the site are LC Limited Commercial (“LC”) zoned tire sales, retail, office strip, day care and a DER or Tavern. North of the site and across Zoo Boulevard, a section of the City’s bike path and Rail Road right-of-way are TF-3 zoned single-family residences.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned SF-5 and could be developed with a single-family residence. Its close proximity to the arterial Zoo Boulevard exposes the front yard to Zoo’s vehicular traffic without any visual buffer and a minimum of physical space. This proximity to Zoo makes the site less attractive for single-family residential development.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Impact will be minimal, as a duplex will not be out of character with the area, which has two four-plexes located east of the site, across Illinois Street. A duplex on the site is preferably to allowing the site to remain vacant.
- (4) **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Approval of the request would allow more opportunity for residential development on a site that appears to have been vacant (with the exception of the non-conforming garage) since at least 1997.
- (5) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The ‘2013 Land Use Guide of the Comprehensive Plan’ identifies the site as “Urban Residential.” The Urban Residential category encompasses areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality. The UZC identifies TF-3 zoning as being generally compatible with the urban residential category.
- (6) **Impact of the proposed development on community facilities:** All services are in place. The main impact will be on this short, unimproved section of Illinois Street by the additional vehicular traffic generated by the development on the subject site. Traffic will be generated by a duplex instead of a single-family residence. Any other increased demands on community facilities can be handled by current infrastructure.

BILL LONGNECKER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

KLAUSMEYER moved, **B. JOHNSON** seconded the motion, and it carried (9-0).

4. **Case No.: ZON2013-05 and CON2013-07-** Beech Lake Investment (applicant/owner) and MKEC c/o Gene Rath (agent) request a City zone change request from NO Neighborhood Office to GO General Office, with a Conditional Use for a bank on property described as:

Lot 1, Block 1, Foliage Center 2nd Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicants are requesting GO General Office (“GO”) zoning with a Conditional Use for a bank on the undeveloped, platted, NO Neighborhood Office (“NO”) zoned 1.39-acres located north of 13th Street North, on the west side of Webb Road. Banks are not a permitted use in the NO zoning district. Banks can be considered in the GO zoning district with a Conditional Use.

Property located south of the site is undeveloped and zoned LC Limited Commercial (“LC”) with a Community Unit Plan (“CUP”) overlay DP-282. Property abutting the north and west sides of the site are SF-5 Single-Family Residential (“SF-5”) zoned single-family subdivisions. The subdivisions are gated with private streets and CUP overlays. There is a wall separating the site from the abutting north and west residential development, as well as a landscape berm along a portion of the abutting west residential development. Property located east of the site, across Webb Road, is zoned LI Limited Industrial (“LI”) and is developed around a retired sand pit as the ‘Waterfront’s’ mix of restaurants, retail buildings, office buildings and a hotel/motel.

CASE HISTORY: The City Council approved ZON2008-00004 changing the zoning of the site from SF-5 to NO at their March 25, 2008, meeting, subject to platting. The property is platted as Lot 1, Block 1, Foliage Center 2nd Addition, recorded April 9, 2008. The City’s GeoZone aerials show the site to be undeveloped since at least 1997.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5	Single-family residential
SOUTH: LC	Undeveloped land
EAST: LI	Restaurants, retail, office
WEST: SF-5	Single-family residential

PUBLIC SERVICES: Both Webb Road and 13th Street North are four-lane arterials with center turn lanes. All services are available at this location.

CONFORMANCE TO PLANS/POLICIES: The ‘2013 Land Use Guide of the Comprehensive Plan’ (Plan) identifies the site as “urban residential.” The urban residential category encompasses areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality. The UZC identifies GO zoning as appropriate for office development and generally compatible with the “local commercial” or “regional commercial” categories of the Plan. The prior approval of ZON2008-00004 changed the zoning of the site from SF-5 to NO and effectively removed the site from the urban residential category.

RECOMMENDATION: Based on the information available prior to the public hearing, planning staff recommends that the request for GO zoning with a Conditional Use for a bank/financial institution be **APPROVED**, subject to the following conditions:

1. Roof-mounted equipment, trash receptacles, ground level heating, air conditioning and mechanical equipment shall be screened from ground level view along Webb Road and any residentially zoned property.
2. A 15-foot wide landscape buffer shall run parallel to the site's west and north property line, where it abuts residential zoning. Landscaping shall be 1.5 times the Landscape Ordinance. No lights or trash receptacles allowed within the landscape buffer.
3. The maximum building height shall be 35 feet. The predominate building material will be a mix of architectural block that will break up the surface of the building(s).
4. Pole lights shall be a maximum height of 15 feet, including fixtures, lamps and base. All lighting shall be shielded to direct light disbursement in a downward direction and away from residential areas/zoning.
5. Signs shall be a monument type, otherwise all signs shall be as permitted in the NO zoning district. No off-site, billboard, temporary or portable signs shall be permitted. NO LED signs.
6. The site shall be developed in general conformance with the approved site plan.
7. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** Property located south of the site is undeveloped and zoned LC Limited Commercial ("LC") with a Community Unit Plan ("CUP") overlay DP-282. Property abutting the north and west sides of the site are SF-5 Single-Family Residential ("SF-5") zoned single-family subdivisions. The subdivisions are gated with private streets and CUP overlays. There is a wall separating the site from the abutting north and west residential development, as well as a landscape berm along a portion of the abutting west residential development. Property located east of the site, across Webb Road, is zoned LI Limited Industrial ("LI") and is developed around a retired sand pit as the 'Waterfront's' mix of restaurants, retail buildings, office buildings and a hotel/motel.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site has remained undeveloped since at least 1997, with its zoning progressing from SF-5, to NO and, if approved, GO. The GO zoning allows more opportunities for development in an area that has experienced significant non-residential development since 2004-2006.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The conditions of the Conditional Use will help minimize the impact of the development.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The '2013 Land Use Guide of the Comprehensive Plan' (Plan) identifies the site as "urban residential." The urban residential category encompasses areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in

large urban municipality. The UZC identifies GO zoning as appropriate for office development and generally compatible with the “local commercial” or “regional commercial” categories of the Plan. The prior approval of ZON2008-00004 changed the zoning of the site from SF-5 to NO and effectively removed the site from the urban residential category.

5. **Impact of the proposed development on community facilities:** The relative small size of the site and the development permitted by the GO zoning will mean that impact on community facilities will be minimal.

BILL LONGNECKER, Planning Staff presented the Staff Report. He referred to the top of Page 3 of the Staff Report. He said the landscape buffer has been changed from 15 feet to 12 feet. He said it will be smaller on the east side of the property to allow for a drive.

GENE RATH, MKEC ENGINEERING, AGENT FOR THE APPLICANT said they are in agreement with staff comments. He mentioned that there are existing walls on the north and west sides of site already in place that provide screening and separation from residential zoning.

MOTION: To approve subject to staff recommendation.

MCKAY moved, **GOOLSBY** seconded the motion, and it carried (9-0).

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5. **Case No.: ZON2013-06** - Chuck and Connie Woodard (owners)/Baughman Company, P.A., Russ Ewy (agent) request a City zone change request from B Multi-family Residential to NO Neighborhood Office on property described as:

Lots 24, 26, 28, 30 & 32, on Central Avenue, Central Avenue Subdivision in Prospect Place Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The application area is located at the southeast corner of North Terrace Drive (located east of Hillside) and East Central Avenue. The property is currently zoned B Multi-family Residential (“B”), and is developed with an approximately 4,200 square-foot office building that has been used for “medical services.” “Medical services” are the only office use permitted by-right in the B zoning district. The applicants’ would like to increase the range of office uses that could legally be located on the property; therefore, the applicants’ are requesting the site to be rezoned to NO Neighborhood Office (“NO”). A driveway from Terrace Drive provides access to a parking lot located at the rear of the existing building. There is also a driveway to Central Avenue. The applicant also owns LC Limited Commercial (“LC”) zoned land located east of the parking area located on the subject tract; that property is developed with a parking lot that has a driveway to North Pershing Avenue, and is used to meet the off-street parking needs of the applicant’s office building.

Surrounding property has a variety of zoning: SF-5 Single-family Residential (“SF-5”), TF-3 Two-family Residential (“TF-3”); NO; GO General Office (“GO”) and LC. Neighboring property is developed with: single-family residences, duplexes, offices, restaurant and retail.

Uses permitted in the NO district by-right but not in the B district are “office, general” and “automated teller machine” (ATM).

CASE HISTORY: The property was zoned B before 1960. In 1888 the property was platted as the Central Avenue Sub of Prospect Place.

ADJACENT ZONING AND LAND USE:

North: TF-3, NO, GO; Duplexes, offices, offices
South: SF-5, TF-3; single-family residences, duplex
East: LC; retail, restaurant
West: TF-3, SF-5; duplexes, single-family residences

PUBLIC SERVICES: East Central Avenue is a paved four-lane arterial. At the application area's location Central Avenue has 30 feet of half-street right-of-way. North Terrace Drive has 25 feet of half-street right-of-way. In 2006 East Central Avenue between Hillside and Oliver had an average daily traffic volume of approximately 17,000 to 19,000 vehicles. The site is served by all of the usual utilities.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide Map depicts this site as being appropriate for "Local Commercial," which can contain concentrations of predominately commercial, office and personal services that do not have a significant regional market draw. The range of uses includes medical and insurance offices, auto repair and service stations, grocery stores, florists shops, restaurants and personal service facilities.

RECOMMENDATION:

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Surrounding property has a variety of zoning: SF-5 Single-family Residential ("SF-5"), TF-3 Two-family Residential ("TF-3"); NO; GO General Office ("GO") and LC. Neighboring property is developed with: single-family residences, duplexes, offices, restaurant and retail. The segment of East Central Avenue, between Oliver and Hillside has retained a residential and low intensity use character when compared to other mile segments of East Central Avenue.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned B, which permits a wide range of residential uses – single-family, two-family and multifamily – a few institutional uses – church, school or park – and an even more limited range of commercial uses – recreational marine facility and medical service. However, the site is small, approximately 20,000 square feet, and is developed with an office building that limits the range of uses available on the site. The site may be suitably zoned; however, the limitations of the existing office building and medical services as the only office use allowed severely limit the use of the property.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Rezoning the property to NO will add only two new by-right uses, general office and ATM, which should not negatively impact nearby property owners. The site is already developed with an office building and associated parking, so approval of the request will not introduce uses with drastically different characteristics or impacts.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request would allow the property owner a larger number of office uses, making his property presumably more marketable, which would benefit the public in having a greater choice in office space in a neighborhood setting or walkable office services.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide Map depicts this site as being appropriate for "Local Commercial," which can contain concentrations of predominately commercial, office and personal services that do not have a significant regional market draw. The range of uses includes medical and

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

6. Impact of the proposed development on community facilities: Existing publicly supplied services are in place and are able to accommodate expected need.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

KLAUSMEYER moved, **B. JOHNSON** seconded the motion, and it carried (9-0).

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6. **Case No.: ZON2013-07** – Jack H. Kester (applicant/owner), Jeff Lange (applicant/contract purchaser) and Baughman Company PA, c/o Russ Ewy (agent) request a County zone change request from SF-20 Single Family Residential to LI Limited Industrial on property described as:

Lot 1, Block A, Meek First Addition to Wichita, Sedgwick County, Kansas.

DENNIS announced that the item has been deferred until the next Planning Commission meeting on May 9, 2013.

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7. **Case No.: CON2013-05** - L. Wayne Wayman (applicant), Clear Channel Outdoor, c/o David Mollhagen (agent) request City Off-site Billboard Special Review for an off-site sign within 300 feet of residences in GC General Commercial zoning on property described as:

Lot 1, Edminster Gardens, Sedgwick County, Kansas.

BACKGROUND: The application area is a 1-acre GC General Commercial (“GC”) zoned site at the northeast corner of K-15 and 31st Street South; the site is used for a warehouse-retail combination according to the county tax assessor’s database. The site appears to meet all off-site sign requirements except that the sign location is within 300 feet of residential zoning and development. The Sign Code Section 24.04.225(a) states: *“An application for a permit for installation of a new or enlarged (size or height) off-site billboard sign located closer to a residentially-zoned lot or use than allowed by Section 24.04.222.4d of this code (300 feet) shall require a public hearing and approval by the Planning Commission or, if forwarded to the Wichita City Council for final action, shall require approval by the Wichita City Council.”* The proposed sign location is approximately 150 feet from the nearest residential property line, and over 290 feet from the nearest residential structure. The proposed sign location has commercial buildings between the sign and residences to the north and east; the existing buildings could partially screen the sign from the residences, as will existing deciduous trees on the residential properties. The applicant’s drawings demonstrate a 12 by 24-foot sign (or a “junior billboard”) at 36 feet tall, cantilevered horizontally two feet over a 16-foot tall building. The Sign Code limits billboard height to 30 feet, unless the sign is over a building and then it requires an eight-foot vertical separation between the sign and building. The site has adequate room for the sign without cantilevering it two feet over the building; the sign would be better screened by commercial buildings if the sign is limited to the code required 30-foot height limit.

Property north of the site along K-15 is zoned LC Limited Commercial (“LC”) and developed with warehousing and retail; also north of the site is property zoned SF-5 Single-family Residential (“SF-5”)

and developed with single-family residences. South of the site, across 31st Street South, is an LC zoned manufactured home park. East of the site, across Volutsia, is LC zoned property developed with a warehouse. West of the site, across K-15, is LI Limited Industrial (“LI”) zoned property used by a paving and materials contractor.

CASE HISTORY: The property was platted as Lot 1 of the Edminster Gardens Addition in 1951. The site received a zone change from LC to GC in 2008, establishing protective overlay PO-221 on the property. PO-221 prohibits certain land uses, it prohibited off-site and portable signs, it limits light poles to 15 feet in height with down shielding and it prohibits light poles within the building setbacks. In 2012, MAPC granted the property owner an amendment to PO-221 eliminating the off-site sign prohibition.

ADJACENT ZONING AND LAND USE:

NORTH	LC, SF-5	Warehouse, retail, single-family residences
SOUTH	LC	Manufactured home park
EAST	LC, GC	Warehouse, retail, single-family residences
WEST	LI	K-15, paving and material contractor

PUBLIC SERVICES: The site has direct access to K-15, a four-lane paved highway at this location. All normal public services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide, as amended in May 2005, of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* designates this site as “Local Commercial.” The Local Commercial designation includes commercial, office and personal service uses that do not have a significant regional market draw, and may include mini-storage and small light-manufacturing uses.

RECOMMENDATION: The proposed sign is consistent with commercial and industrial zoning and uses along the K-15 highway frontage. However, the MAPC required review is because of the sign’s proximity within 300 feet of residential zoning and uses. The protective overlay on this site previously prohibited off-site signs, and the PO limits light pole height and locations to protect nearby residences. Staff finds that permitting the requested off-site sign cantilevered over a commercial building, at a 36-foot height, would make the sign visible from nearby residences and yards. Limiting the sign to 30 feet would allow commercial buildings on the site to better screen the sign from nearby residences. Based upon information available prior to the public hearings, planning staff recommends that the requested special review for an off-site sign within 300 feet of a residential zoned lot be APPROVED, subject to the following conditions:

1. The sign shall conform to all Sign Code requirements, except that the sign is permitted within 300 feet of a residential zoned lot.
2. The site shall be developed and maintained in accordance with the approved site plan and elevation drawing.
3. The sign shall be limited to 30 feet in height.
4. The applicant shall obtain all permits necessary to construct the sign and the sign shall be erected within one year of approval, unless such time period is extended by the MAPC.
5. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth

in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property north of the site along K-15 is zoned LC and developed with warehousing and retail; also north of the site is property zoned SF-5 and developed with single-family residences. South of the site, across 31st Street South, is an LC zoned manufactured home park. East of the site, across Volutsia, is LC zoned property developed with a warehouse. West of the site, across K-15, is LI zoned property used by a paving and materials contractor.
2. The suitability of the subject property for the uses to which it has been restricted: The existing site could be used for a wide variety of uses allowed by the current GC zoning. MAPC approval is required to allow the off-site sign within 300 feet of residential zoning.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: If the off-site sign is screened by commercial buildings on the site, it should have little to no impact on residences to the north and east. If the sign is permitted to cantilever over a commercial building at 36 feet in height, it will be visible from nearby residences and yards. Nighttime lighting of the sign could compound its visibility from residences.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide, as amended in May 2005, of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* designates this site as “Local Commercial.” The Local Commercial designation includes commercial, office and personal service uses that do not have a significant regional market draw, and may include mini-storage and small light-manufacturing uses.
5. Impact of the proposed development on community facilities: The proposed off-site sign should have no additional impact on community facilities.

JESS MCNEELY, Planning Staff presented the Staff Report.

He referred to the hand out memorandum amending condition number 3 on page 3 of the Staff Report as follows: “The sign face shall be angled so as to not be visible from any SF-5 zoned property. The sign rear shall be fully screened, with screening extending past the sign face. The screening elevation drawing shall be approved by Planning Staff.” He referred to the media presentation provided by the applicant depicting the cantilevered sign 36 feet in height versus the 30 foot high sign that would be impacted by existing on-site signs in the area along K-15.

FOSTER mentioned the image on the back of the sign. He said it was his experience that a dark color or tone that relates to building works best.

MCNEELY said staff recommended a neutral color that will be minimally invasive; however, the applicant felt the color of sky might blend in better.

FOSTER said there are many shades of blue. Battleship grey might work better.

G. SHERMAN asked if the sign was intended to be LED.

MCNEELY replied yes and said the applicant will go through the details on the LED sign. He mentioned that the sign has the capacity to be dimmed at night.

DAVID MOLLHAGEN, CLEAR CHANNEL OUTDOOR, 3405 N. HYDRAULIC, APPLICANT said the image on the back of the sign was called “cloudy morning” which it was on the day the picture was taken, so they thought that would blend in better. He gave a brief presentation including images of the proposed 12’ x 24’ sign at 36 feet in height versus 30 feet. He also provided information on digital signs with static messages and no movement, no motion and no video; how the federal government is regulating digital signs and how lights can be focused directionally, and dimmed and undimmed at sunset and sunrise. He concluded by mentioning the use of signs for public service announcements, live updates, sports scores, Amber Alerts and other emergency alerts. He said Clear Channel wants to make a difference in the community by working with local entities. He mentioned that Clear Channel was a recipient of the “Activist Award” from the Wichita Crime Commission.

GOOLSBY asked if the applicant was in agreement with staff conditions.

MOLLHAGEN said yes.

MCKAY clarified that the applicant was requesting a sign 36 feet in height.

MOLLHAGEN said that was correct, 36 feet in height.

MOTION: To approve subject to staff recommendation as amended by Staff.

B. JOHNSON moved, **J. JOHNSON** seconded the motion, and it carried (8-1).

G. SHERMAN – No.

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8. **Case No.: CON2013-06** – Builder’s Inc., (applicant) requests a City Conditional Use request for Parking, Ancillary in TF-3 Two family Residential zoning on property described as:

Lots 125, 126 and the North half of the vacated alley adjacent on the South of lot 126, Overlook Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant requests a Conditional Use to allow ancillary parking on a TF-3 Two-family Residential (“TF-3”) zoned property. The property was formerly used for a single-family residence. The site is located one lot north of Central and west of Dellrose, behind a strip center. The strip center currently houses a mixture of retail, office, services, and restaurant uses. The strip center has a similar parking lot west of the subject site, also in TF-3 zoning, and approved by a Board of Zoning Appeals action in the 1980s. The applicant’s site plan demonstrates 13 parking spaces, a front and side yard setback free of parking spaces, and a 6-foot tall cedar screening fence along the north property line.

Property north and east of the site is zoned TF-3 and developed with single-family residences. Property south of the site is zoned LC Limited Commercial (“LC”) and developed with a commercial strip center. Property west of the site is zoned TF-3 and is used for ancillary parking in support of the commercial strip center.

Per the Unified Zoning Code (UZC) Sec.III-D.6.p., ancillary parking may be permitted with a Conditional Use in the TF-3 zoning district. The UZC supplementary use conditions for ancillary parking in TF-3 include: parking must be within 600 feet of the supported use, must be for passenger vehicles only, shall not permit parking spaces within the required front setback, must meet city paving and design standards, must be screened in accordance with the UZC and meet the Landscape Code, must meet UZC lighting requirements, is limited to signage for the orientation of the parking area, and is prohibited from being a fee based parking area.

CASE HISTORY: The site was platted as Lots 125 and 126 of the Overlook Addition to Wichita in 1914. A former alley between the residential and commercial lots was vacated.

ADJACENT ZONING AND LAND USE:

NORTH:	TF-3	Single-family residences
SOUTH:	LC	Commercial Strip Center
EAST:	TF-3	Single-family residences
WEST:	TF-3	Ancillary parking

PUBLIC SERVICES: The subject property has direct access to Dellrose, a residential street. The site also has access, through the abutting existing parking lot, to Pershing, also a residential street.

CONFORMANCE TO PLANS/POLICIES: The ‘2030 Land Use Guide of the Comprehensive Plan’ identifies the site as “Urban Residential.” The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in large urban municipality.

RECOMMENDATION: The proposed parking is similar to the parking lot immediately west of the site, in support of the same commercial strip center. The existing parking lot does not appear to have any impact on nearby residences. Based on the information available prior to the public hearing, staff recommends that the request be APPROVED, subject to the following conditions:

1. Use of the TF-3 zoned site shall include Ancillary Parking, and shall conform to the UZC, Sec.III-D.6.p.
2. The site shall be in conformance with the approved site plan.
3. Lighting on the site shall be no taller than 12 feet and shall be shielded downwards and away from residences to the north.
4. The site shall submit a landscape plan, to be approved by planning staff, in conformance with the Landscape Ordinance.

5. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The staff recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** Property north and east of the site is zoned TF-3 and developed with single-family residences. Property south of the site is zoned LC and developed with a commercial strip center. Property west of the site is zoned TF-3 and is used for ancillary parking in support of the commercial strip center.
2. **The suitability of the subject property for the uses to which it has been restricted:** The property is zoned TF-3 and was developed with a single-family residence in 1929. The non-residential zoning and uses abutting this site to the south provides the opportunity for consideration of ancillary parking on the site.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Ancillary parking on a site this size, when developed with the UZC supplementary conditions, should have little impact on nearby property. The proposed parking will support the abutting commercial uses, alleviating on-street parking in the neighborhood.
4. **Conformance of the requested change to adopted or recognized Plans/Policies:** The ‘2030 Land Use Guide of the Comprehensive Plan’ (Plan) identifies the site as “Urban Residential.” The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in large urban municipality.
5. **Impact on Community Facilities:** Impact on community facilities will be minimal.

JESS MCNEELY, Planning Staff presented the Staff Report.

FOSTER referred to the picture of the parking lot to the west. He mentioned the varying heights of fencing and asked if there was some reasoning for that. He said it seems appropriate to go to an 8-foot fence at this new location.

BRAD SMISOR, BUILDERS, INC., 1081 SOUTH GLENDALE, APPLICANT said they have owned the strip center for a number of years and parking has been a problem. He said when the house came up for purchase, they decided to buy it with the intent to place parking on the property. He said they thought a 6-foot fence would keep it the same height as the adjacent fencing, but he said they don’t have any problem with going to an 8-foot fence. He mentioned that they built a walkway through the center a number of years ago to aide people coming from the back to the front of the building, which has helped; however, he said they still need additional parking.

ADAM GROOM, 1246 S. TODD COURT, WICHITA, KANSAS said he owns a residential property on the street that he rents out. He said he imagines a lot of the parking problem is due to Bella Luna being located at the strip. He said they have really good food. He said he had some general questions. He said seeing the picture of the house, it looks like a nice house and the applicant bought the property

with the house on it. He asked who was fronting the cost for construction of the parking lot and how are they compensated for that. He said essentially they are taking a house with living space out of commission for a parking lot. He asked would the applicant front the cost and then be compensated by tenants in the commercial area. He asked for clarity on how the costs would be apportioned out. He asked about parking versus a nice residential area. He said the older homes capture the hearts and minds of people when they see them. He noted that there was parking in the front of the center and in the back. He questioned the value of taking a nice residential area out of commission in a fully developed neighborhood for additional parking.

SMISOR said Builders Inc. will be paying to have the house torn down and have the additional parking lot put in. He said they consider it the cost of doing business and are not planning to pass on costs to any of the tenants.

MOTION: To approve subject to staff recommendation and the provision that the fence match the highest point of the fence to the west.

MCKAY moved, **KLAUSMEYER** seconded the motion, and it carried (9-0).

DENNIS mentioned that there were two openings on the committee that was developing the Comprehensive Plan and asked for volunteers. He also mentioned that at the next meeting the Planning Commission needed to elect a new Chairman for the Board of Zoning Appeals. He also asked if any of the Commissioners wanted to change their sub-committee assignments, to let him know. Finally, he said Commissioner Mitchell was looking for someone to replace him on WAMPO, since he volunteered to represent the Planning Commission on a temporary basis.

The Metropolitan Area Planning Commission adjourned at 2:13 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