

# METROPOLITAN AREA PLANNING COMMISSION

## MINUTES

**May 9, 2013**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, May 9, 2013 at 1:30 p.m., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: David Dennis, Chair; George Sherman, Vice Chair; David Foster; Matt Goolsby; Bill Johnson; Joe Johnson; Don Klausmeyer; John W. McKay Jr.; Debra Miller Stevens; M.S. Mitchell; Don Sherman (in @ 1:36 p.m.) 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 April 4, 2013 meeting minutes, as amended

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

**MOTION:** To approve the April 18, 2013 meeting minutes, as amended

**MCKAY** moved, **MITCHELL** seconded the motion, and it carried (9-0-2). **MILLER STEVENS** and **WARREN** – Abstained.

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB2013-00012: One-Step Final Plat – TODD PARKER ADDITION.**

NOTE: The site has been approved for a zone change (ZON2008-00021) from SF-5 Single-family Residential to LC Limited Commercial. The Parker Addition CUP (CUP2008-00015, DP-313) was also approved for this site.

### STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that water and sewer services are available to serve the site.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the drainage plan.
- D. The plat denotes two access openings along Central. One opening along 127<sup>th</sup> Street East will be denoted on the final tracing. Traffic Engineering has approved the access controls subject to the plat specifying that the openings are “per Access Management Standards”.
- E. Traffic Engineering has requested a traffic impact report. No traffic improvements are required.

- F. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- G. County Surveying advises the described bearings in the legal description do not match the described bearings as shown on the face of the plat.
- H. County Surveying requests the final plat tracing show the recording information for the sanitary sewer easement recorded on film 1897, page 21.
- I. GIS has requested abbreviations for the street types and directionals.
- J. 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.
- K. 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.
- 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. 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](mailto:kwilson@wichita.gov)).

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

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

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**2-2. SUB2013-00017: One-Step Final Plat – TRAVEL AIR CITY 2ND ADDITION.**

NOTE: This is a replat of a portion of the Travel Air City 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 drainage plan.
- D. Traffic Engineering has approved the access controls. The plat proposes one access opening along Webb Road.
- E. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.
- F. 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.

- G. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.
- 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. 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](mailto:kwilson@wichita.gov)).

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

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

D. SHERMAN (in @1:36 p.m.)

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**PUBLIC HEARING – VACATION ITEMS**

**3-1. VAC2013-00011: City request to vacate a portion of platted access control**, generally located south of 19th Street North, on the west side of Webb Road.

**APPLICANT/AGENT:** Webb Road Partners, LLC, c/o Dr. Do (applicant/owner) MKEC, c/o Brian Lindebak (agent)

**LEGAL DESCRIPTION:** Generally described as vacating that portion of platted complete access control along the east lot lines of Lots 1, Block 1, Wilson Estates Medical Addition, to allow a drive from said lot onto Webb Road, Wichita Sedgwick County, Kansas.

**LOCATION:** Generally located south of 19th Street North on the west side of Webb Road (District II)

**REASON FOR REQUEST:** Associated with a possible Commercial Lot Split and rezoning

**CURRENT ZONING:** The site is currently zoned GO General Office (“GO”), however there is a requested zone change to LC Limited Commercial (“LC”); ZON2013-00008. The site has overlay CUP-260 in effect. Abutting north and west properties are zoned GO. Adjacent south and east properties are zoned SF-5 Single-Family Residential (“SF-5”).

The applicant proposes to shift the platted permitted access onto Webb Road, based on a possible Commercial Lot Split and a rezoning of the site to LC Limited Commercial (“LC”); ZON2013-00008. There is one platted, permitted 30-foot drive/access allowed on the site’s 267.97 feet of frontage and it is located 24.83 feet south of the site’s north lot line. The applicant proposes one right in – right out drive on the site’s south end, meaning there will be approximately 183 feet of separation between the permitted and proposed drives. The current Subdivision standard for a full movement drive is 400 feet between drives and 200 feet between right-in – right-out drives. East of the site, across Webb Road, the Eastminster Addition has one drive that appears to line up with the site’s permitted drive. The Eastminster Addition’s other permitted drive is located approximately 365 feet further north, itself lining up with a private street, these being the nearest drives north of the subject site’s permitted drive. The City’s 100-foot wide rails-to-trails abuts the south side of the site and another approximately 270 feet further south of the rails-to-trails is a public street. There appears to be no conflicting drives. Webb Road is a four lane arterial 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 is public water located in this portion of Webb Road. The proposed drive would cross a platted drainage and utility easement. The proposed drive would also cross into a 100-foot wide KG&E easement. The Wilson Estates Medical Addition was recorded with the Register of Deeds January 8, 2003.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water & Sewer/Storm Water, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described 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 April 18, 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 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 south end onto Webb Road for a 30-foot wide right-in – right-out 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, sewer, and Westar equipment made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide approved project numbers for relocated utilities. This must be provided to Planning prior to the case going to Council for final action.
- (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. Dedicate cross lot access between the newly created lots to allow access onto Webb Road. The Lot Split and the dedication of cross lot access must be provided to Planning prior to the case going to Council for final action. Adjust CUP DP-260 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 Webb 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 south end onto Webb Road for a 30-foot wide right-in – right-out 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, sewer, and Westar equipment made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide approved project numbers for relocated utilities. This must be provided to Planning prior to the case going to Council for final action.
- (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. Dedicate cross lot access between the newly created lots to allow access onto Webb Road. The Lot Split and the dedication of cross lot access must be provided to Planning prior to the case going to Council for final action. Adjust CUP DP-260 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 Webb 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.

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

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**3-2. VAC2013-00012: City request to vacate a portion of a platted setback**, generally located south of Harry Street, east of 127th Street East, on the north side of Equestrian Circle.

**OWNER/APPLICANT:** Don Klausmeyer Construction LLC (owner/applicant), Baughman Co., c/o Phil Meyer (agent)

**LEGAL DESCRIPTION:** The north 5 feet of the platted 30-foot front yard setback that runs parallel to the south lot line of Lot 47, Block 2, Equestrian Estates Addition, Wichita, Sedgwick County, Kansas

**LOCATION:** Generally located south of Harry Street, east of 127th Street east, on the north side of Equestrian Circle (District II)

**REASON FOR REQUEST:** Encroachment

**CURRENT ZONING:** Subject property and all abutting and adjacent properties are zoned Planned Use Development (“PUD”) PUD-12

The applicant proposes to vacate the north 5 feet of the platted 30-foot front yard setback, on the described PUD zoned lot, resulting in a 25-foot front yard setback. The Unified Zoning Code (UZC) does not have any minimum setback standards for the PUD zoning district. PUD-12 does not list any setback standards, thus the platted setbacks of the Equestrian Estates Addition are in effect; a platted 30-foot front yard setback. PUD-12 is an urban scale, single-family residential development/subdivision (lots being approximately +/- 12,000-square feet) that has designated open spaces and reserves to allow the boarding and riding of horses as stated within the PUD. Equestrian Circle, the public street the site has frontage on, has 58-foot of right-of-way (ROW); an accepted Subdivision standard for residential streets. Because of the single-family use of the urban scale lots and the width of the ROW, it seems reasonable to apply the 25-foot minimum front yard setback standard of the SF-5 Single-Family Residential (“SF-5”) zoning district as a point of reference. Any encroachment beyond 6 feet (20% of the platted 30-foot setback) will require a variance. There are no platted easements or utilities within the described portion of the platted setback. The Equestrian Estates Addition was recorded with the Register of Deeds October 2, 2001.

Note: There were protests to this request at the April 25, 2013, Subdivision Committee (SD) meeting. Because of the protests, the SD vote/recommendation on this case was 2-2. Because there is not a required quorum for SD votes/recommendations, the 2-2 vote is neither a vote to approve or deny; it is a deadlock. The applicant was instructed to seek possible resolution with the HOA and provide a surveyed site plan showing/confirming the extent of the encroachment, all before the May 9, 2013, MAPC meeting. The applicant, the Equestrian Estates Homeowners and HOA have reached an amiable agreement and the protests have been resolved; see attached e-mail.

The required survey of the site will be passed out to the members of the MAPC prior to the start of their May 9, 2013, MAPC meeting.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from Public Works, Stormwater, Water and Sewer, Traffic, 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 April 18, 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) Provide a stamped survey showing the portion of the single-family residence encroaching into the platted 30-foot setback. Provide Planning with an approved legal description of the encroachment to be used on the Vacation Order on a Word document via E-mail. This must be provided to Planning prior to the case going to the City Council for final action.
- (2) Vacate the north 5 to 6 feet (based on the encroachment verified by the survey) of the platted 30-foot front yard setback that runs parallel to the south lot line of Lot 47, Block 2, Equestrian Estates Addition, Wichita, Sedgwick County, Kansas.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
- (4) All improvements shall be according to City Standards and at the applicant's expense.

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

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommendation was a 2-2 deadlock, with the following conditions:

- (1) Provide a stamped survey showing the portion of the single-family residence encroaching into the platted 30-foot setback. Provide Planning with an approved legal description of the encroachment to be used on the Vacation Order on a Word document via E-mail. This must be provided to Planning prior to the case going to the City Council for final action.
- (2) Vacate the north 5 to 6 feet of the platted 30-foot front yard setback that runs parallel to the south lot line of Lot 47, Block 2, Equestrian Estates Addition, Wichita, Sedgwick County, Kansas.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
- (4) All improvements shall be according to City Standards and at the applicant's expense.
- (5) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

**B. JOHNSON** moved, **J. JOHNSON** seconded the motion, and it carried (10-0-2). **KLAUSMEYER** and **MCKAY** - Abstained.

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**PUBLIC HEARINGS**

3. **Case No.:** **ZON2013-00007** - Jack H. Kester (applicant/owner); Jeff Lange (applicant/contract to purchase); Baughman Company, PA, c/o Russ Ewy (agent) request a County zoning change 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.

**BACKGROUND:** The applicants are requesting LI Limited Industrial (“LI”) zoning on the platted, Single-Family Residential (“SF-20”) zoned 2.75-acres located south of 42nd Street South, on the east side of West Street. The site currently has a manufactured home with a detached garage/accessory building and a small shed located on it. If approved the entire contract to purchase/applicant’s property will be zoned LI.

The site is located within the south-most end of an extensive area of mostly LI zoned land beginning at Kellogg Avenue/US 54 Highway (north end), east from the Big Ditch, past West Street to Meridian and Pawnee Avenues at its widest point and ending at 47<sup>th</sup> Street South. LI zoned property used to store/display portable storage units abuts the south and east sides of the site; ZON2007-00052/Protective Overlay-198 (“PO”). Further south there is a small GC General Commercial (“GC”) zoned self-storage development and a MH Manufactured Housing (“MH”) zoned manufactured home park. LI zoned equipment sales and rental business abuts and is adjacent to north sides of the site; ZON2012-00034/PO-271. LI zoned manufacturing, office-warehouse distribution, farmland, vacant land, and Sedgwick County’s West Side Public Works Yard are located west of the site, across West Street.

**CASE HISTORY:** The property is platted as Lot 1, Block A, Meek First Addition, recorded September 24, 1982.

**ADJACENT ZONING AND LAND USE:**

NORTH: LI	Equipment sales and rental business
SOUTH: LI, GC, MH	Storage/display of portable storage units, self storage units, manufactured home park
EAST: LI	Storage/display of portable storage units
WEST: LI	Warehouse distribution, manufacturing, farmland, vacant land, Sedgwick County’s West Side Public Works Yard

**PUBLIC SERVICES:** West Street is a paved two-lane minor arterial at this location with a 100-foot right-of-way (ROW). The 2030 Transportation Plan of the Comprehensive Plan designates this portion of West Street to be improved into a four-lane arterial; however, the project was not included in the most recent CIP adoption. The nearest traffic count for this stretch of West Street is at the intersection with the paved two-lane, minor arterial MacArthur Road, located north of the subject site. At that intersection there are 13,420 Vehicle Trips per day running north and south along West Street. All other services are available at this location.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide” identifies the site as “Employment Industry Center.” The Employment Industry Center 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, shipping centers, call centers and corporate offices. The LI zoning district has uses that are generally compatible with the Employment Industry Center category.

The “Industrial Locational Guidelines of the Comprehensive Plan” recommend that industrial uses:

- (1) Should be located in close proximity to support services and provide good access to major arterials, truck routes, belt highways, utility trunk lines, rail spurs, airports and as extensions of existing industrial

uses: the site will have direct access to the arterial West Street, is less than a ½-mile from the minor arterials 47<sup>th</sup> Street South and MacArthur Road and approximately 1 ¼-mile south of I-235.

(2) Should not feed directly into local streets in residential areas: access to the site will not be through any residential areas, but through the minor arterial West Street.

(3) Should be located away from existing or planned residential areas, and sited so as not to generate industrial traffic through less intensive land use areas: the site is located within the south-most end of an extensive area of mostly LI zoned land beginning at Kellogg Avenue/US 54 Highway, east from the Big Ditch, past West Street to Meridian and Pawnee Avenues at its widest point and ending at 47<sup>th</sup> Street South.

**RECOMMENDATION:** The contract to purchase/applicant owns the abutting southern and eastern property, therefore attaching that property's PO to this application is reasonable. Based on the information available prior to the public hearing, planning staff recommends that the request for "LI" Limited Industrial zoning be APPROVED, subject to the following provisions of a Protective Overlay:

1. All uses permitted by right in the "LI" zoning district except the following uses: correctional facility; correctional placement residence, limited and general; day reporting center; kennel, boarding/breeding/training; night club in the city; pawn shop; secondhand store; sexually oriented business in the city or the county; tattooing and body piercing facility (city); tavern and drinking establishment; asphalt or concrete plant, limited and general; and grain storage.
2. Screening shall be per Unified Zoning Code; however, any fences or walls shall be constructed of a consistent pattern and color.
3. Storage of merchandise shall be allowed outside an enclosed building only in compliance with the general screening standards of the Unified Zoning Code and the following additional standards: no outdoor storage or work areas shall be permitted in any building setback; and; no required off-street parking space or loading area shall be utilized for storage; and; items stored outdoors shall be screened from view from West Street or any residentially zoned property.
4. Roof-mounted equipment and loading docks, trash receptacles, ground level heating, air conditioning and mechanical equipment, free-standing coolers or refrigeration units, outdoor storage including portable storage containers, outdoor work areas or similar uses shall be screened from ground level view along West Street and any residentially zoned property.
5. All signs shall be limited to signs that would be allowed in the "LC" Limited Commercial zoning district; no off-site, billboard or portable signs shall be permitted except for off-site signs advertising uses located within this tract that shall be allowed to have signage placed on signs fronting West Street.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The site is located within the south-most end of an extensive area of mostly LI zoned land beginning at Kellogg Avenue/US 54 Highway (north end), east from the Big Ditch, past West Street to Meridian and Pawnee Avenues at its widest point and ending at 47<sup>th</sup> Street South. LI zoned property used to store/display portable storage units abut the south and east sides of the site; ZON2007-00052/Protective Overlay-198 ("PO"). Further south there is a small GC General Commercial ("GC") zoned self-storage development and a MH Manufactured Housing ("MH") zoned manufactured home park. LI

zoned equipment sales and rental business abuts and is adjacent to north sides of the site; ZON2012-00034/PO-271. LI zoned manufacturing, office-warehouse distribution, farmland, vacant land, and Sedgwick County's West Side Public Works Yard are located west of the site, across West Street.

2. **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned SF-20 Single-family Residential and currently has a manufactured home with a detached garage/accessory building and a small shed located on it; a permitted use. However, the site is surrounded by LI zoned properties, making it less desirable as a single-family residential site. The requested LI zoning is not out of character with the area and would allow uses more typical of the area.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The site's proposed PO with its use restrictions, screening requirements, setback requirements, etc., are comparable to or are the same as the other POs in the area.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The "2030 Wichita Functional Land Use Guide" identifies the site as "Employment Industry Center." The Employment Industry Center 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, shipping centers, call centers and corporate offices. The LI zoning district is generally compatible with the Employment Industry Center category. As noted in the "Conformance to Plans and Policies" portion of the MAPC report, the site meets the Industrial Locational Guidelines of the Comprehensive Plan.
5. **Impact of the proposed development on community facilities:** This proposed industrial zoning would create additional traffic on West Street.

**BILL LONGNECKER**, Planning Staff presented the Staff Report.

**MOTION:** To approve subject to staff recommendation.

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

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4. **Case No.: CUP2013-08** – Ast-Morgan Partnership, c/o Homer Morgan (owner); Stephen M. Joseph (agent) request a City amendment to DP-194 (#4) to allow a tavern/drinking establishment on the General Commercial zoned Parcel 2B on property described as:

Lots 2 and 3, Block 1, Home Design Center 3rd Addition to Wichita, Sedgwick County, Kansas.

**BACKGROUND:** The GC General Commercial ("GC") zoned site, Parcel 2B, is located within the GC and LC Limited Commercial ("LC") zoned DP-194, the Home Design Center Community Unit Plan ("CUP"). DP-194 is located one block east of Rock Road, on the northeast corner of 29<sup>th</sup> Street North and Penstemon Street. The applicant is requesting amendment #4 to DP-194 to allow a "tavern and drinking establishment." The Unified Zoning Code defines a tavern and drinking establishment as "...an establishment engaged in the preparation and retail sale of alcoholic liquor or cereal malt

beverage for consumption on the premises that derives in a six-month period less than fifty percent (50%) of its gross revenues from the sale of food and beverages for consumption on the premises.”; UZC, Sec.II-B.13.b. The site had been a full service restaurant (Drinking Eating Restaurant/DER) until the sale of alcoholic liquor or cereal malt beverages exceeded the 50% gross revenues in a six month period.

The UZC permits taverns and drinking establishments in the GC zoning district, but requires a Conditional Use when located within 300 feet of “church or a place of worship,” public park, “school,” or residential zoning; UZC, Sec.III-D.w. The site abuts MF-29 Multi-Family Residential (“MF-29”) zoned apartments on its east side. An amendment to the CUP substitutes for the required Conditional Use.

The proposed tavern/drinking establishment is a stand-alone building (the Chalet, established in the late 1990s) located within the GC and LC zoned DP-194. A landscape plan for the proposed Chalet was approved in 1997. The landscape plan also showed 80 parking spaces. A tavern/drinking establishment requires more parking than a restaurant; one space per two occupants, as opposed to one space per three occupants. The applicant needs to provide the seating capacity of the building to address the new parking standards if the amendment to the CUP is approved. Other developments within DP-194 include:

- Located west of the site, across Penstemon Street, are a GC zoned vacant theater and undeveloped land.
- Located north of the site there are two GC zoned office-warehouses, a retail strip, and undeveloped land.
- Located south of the site there is a LC zoned medical-office strip.

Other developments in the area, but outside DP-194, include the already noted MF-29 zoned apartments abutting the east side of the site and LC zoned office strips located southwest of the site across Penstemon Street. A large SF-5 Single-Family Residential (“SF-5”) zoned church and single-family residences are located approximately 400 feet south and southeast of the site, across 29<sup>th</sup> Street North. As noted, the site is located a block east of Rock Road, possibly east Wichita’s busiest road, with traffic being generated by Rock’s abutting commercial zoning and development.

**CASE HISTORY:** DP-194, the Home Design Center CUP and the associated zone changes, Z-2978, from R-5 General Residence, BB Office, and LC Light Commercial to C Commercial was approved by the Wichita City Council on January 9, 1990, subject to platting. The site is located on Lot 2, Block 1, Home Design Center 3<sup>rd</sup> Addition, which was recorded with the Register of Deeds June 12, 1996. A 1996 amendment was approved to remove Parcel 4 from DP-194. A 1997 amendment to expand the theater on Parcel 4 was denied. A 2003 amendment was approved to change the zoning on Parcel 3 from GO General Office (“GO”) to LC; CUP2003-00045 and ZON2003-00043. A 2013 amendment to allow a boarding and breeding kennel on Parcel 4 was denied; CUP2013-00003. From October 2012, through January 2013, the applicant was advised to apply for an amendment to DP-194 to allow a tavern/drinking establishment, due to the sale of alcoholic liquor or cereal malt beverages exceeding the 50% gross revenues in a six month period. In January 2013, the applicant was denied their DER renewal application, thus the application.

**ADJACENT ZONING AND LAND USE:**

NORTH:	GC	Office warehouses, undeveloped land, retail strip
SOUTH:	LC, SF-5	Medical - office strip, single-family residences, church
EAST:	MF-29	Apartments
WEST:	GC, LC	Vacant theater, undeveloped land, office strips, Wal-Mart

**PUBLIC SERVICES:** The site has a drive onto Penstemon Street. Penstemon is a paved, two-lane, short, local street that directs its abutting commercial developments to its intersections with the arterial 29<sup>th</sup> Street North on its south side and the urban collector 32<sup>nd</sup> Street North on its north side. 29<sup>th</sup> has four lanes with a center turn lane and a raised median located directly across from the east portion of DP-194. 32<sup>nd</sup> is a paved two lane street. Both 29<sup>th</sup> and 32<sup>nd</sup> intersect Rock Road, located a block west of the site. There are stop lights at the 32<sup>nd</sup> and Rock intersection. The 2011-2012 traffic counts for the 29<sup>th</sup> and Rock intersection are: 12,370 – 13,313 east – west trips per day and 25,759 – 23,960 south – north trips per day. All utilities are available to the site.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide” depicts this location as being appropriate for “employment – industry center,” which contains 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 site’s past use as a DER and proposed use as a tavern/drinking establishment are not typical uses listed for the employment – industry center category; a DER and a tavern/drinking establishment are more of a local commercial type of use. However, locating a tavern/drinking establishment within DP-194 with its office-warehouses, and retail and office – medical strips is not inappropriate, as its impact on those uses will be minimal. The most negative impact will be on the east abutting apartment complex.

The UZC requires a Conditional Use for a tavern/drinking establishment when it is located within 300 feet of a Church or Place of Worship, public Park, public or parochial School or residential zoning District; the site abuts MF-29 zoned apartments on its east side. An amendment to the CUP substitutes for the required Conditional Use. The site is not currently permitted for a tavern/drinking establishment. Approval may introduce a tavern/drinking establishment as a new use to the area, although the site appears to have been operating as a tavern/drinking establishment for at least the last half year.

The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed tavern/drinking establishment is located within an existing commercial - warehouse-office development, with no direct access through residential neighborhoods. There are no proposed physical changes to the site. Existing office-warehouses, retail strips and office – medical strips buildings are adjacent to and abutting its west, south, and north sides.

**RECOMMENDATION:** Based upon the information available prior to the public hearings, planning staff recommends that the request for an amendment to DP-194 to allow a tavern/drinking establishment on Parcel 2B be **APPROVED**, with the following conditions:

- (1) No outside loudspeakers or entertainment are permitted.

- (2) Provide the seating capacity of the building to address the new parking standards for a tavern/drinking establishment within 60 days after approval of this case by the Governing Body.
- (3) The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.
- (4) If the Zoning Administrator finds that there is a violation of any of the conditions of the amendment to the CUP, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the amendment to the CUP is null and void.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** Besides the site's suspended DER, developments within GC and LC zoned DP-194 include a vacant theater, office-warehouses, a retail strip, a medical-office strip and undeveloped land. Other developments in the area, but outside DP-194, include MF-29 zoned apartments abutting the east side of the site and LC zoned office strips located southwest of the site across Penstemon Street. A large SF-5 zoned church and single-family residences are located approximately 400 feet south and southeast of the site, across 29<sup>th</sup> Street North. The site is located a block east of Rock Road, possibly east Wichita's busiest road, with traffic being generated by Rock's abutting commercial zoning and development.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned GC, which accommodates a wide range of commercial uses (both local and regional in their draw), such as the suspended DER and if the amendment to the DP-194 is approved a tavern/drinking establishment.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Typical concerns about taverns/drinking establishments include bad behavior resulting from unlimited liquor sales and the hours of the tavern/drinking establishment having a detrimental impact on the abutting MF-29 zoned apartments.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The "2030 Wichita Functional Land Use Guide" depicts this location as being appropriate for "employment – industry center," which contains 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 site's past use as a DER and proposed use as a tavern/drinking establishment are not typical uses listed for the employment – industry center category; a DER and a tavern/drinking establishment are more of a local commercial type of use. However, locating a tavern/drinking establishment within DP-194 with its office-warehouses, and retail and office – medical strips is not inappropriate, as its impact on those uses will be minimal. The most negative impact will be on the east abutting apartment complex.

The UZC requires a Conditional Use for a tavern/drinking establishment when it is located within 300 feet of a Church or Place of Worship, public Park, public or parochial School or

residential zoning District; the site abuts MF-29 zoned apartments on its east side. An amendment to the CUP substitutes for the required Conditional Use. The site is not currently permitted for a tavern/drinking establishment. Approval may introduce a tavern/drinking establishment as a new use to the area, although the site appears to have been operating as a tavern/drinking establishment for at least the last half year.

The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed tavern/drinking establishment is located within an existing commercial - warehouse-office development, with no direct access through residential neighborhoods. There are no proposed physical changes to the site. Existing office-warehouses, retail strips and office – medical strips buildings are adjacent to and abutting its west, south, and north sides.

- (5) **Impact of the proposed development on community facilities:** It is possible that approval of this request could result in an increased demand for police services.

**BILL LONGNECKER**, Planning Staff presented the Staff Report.

**MOTION:** To approve subject to staff recommendation.

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

- 5. **Case No.: ZON2013-08 and CUP2013-09** – Webb Road Partners, LLC c/o Dr. Do (owner); MKEC Engineering c/o Brian Lindebak (agent) request a City zone change from GO General Office to LC Limited Commercial, and amending DP-260 by splitting Parcel 9 on property described as:

Lot 1, Block 1, Wilson Estates Medical Park Addition to Wichita, Sedgwick County, Kansas.

**BACKGROUND:** The applicant requests LC Limited Commercial (“LC”) zoning subject to the amended development standards of the Wilson Estates Medical Park Commercial Community Unit Plan (“CUP”) DP-260. The 2.49 acre vacant site is zoned GO General Office (“GO”); the entire DP-260 is zoned GO and developed with medical office type uses. The applicant wishes to split the existing Parcel 9 into two parcels, associated with a lot split on the property. The applicant requests LC zoning but limited to NR Neighborhood Retail (“NR”) uses, except that drive-through uses would be permitted and restaurant and retail sizes would not be limited. The applicant anticipates restaurant/café and/or retail development on the site.

The site is located at the southeast corner of the CUP, at the northwest corner of Webb Road and the 17<sup>th</sup> Street rail corridor. The south 100 feet of the application area is a utility easement, providing a significant buffer between the site and the nearest residences south of the rail corridor. Property north and west of the site are zoned GO within DP-260 and are developed with medical office uses. South of the site, across the rail corridor, is an SF-5 Single-family Residential (“SF-5”) zoned neighborhood. East of the site, across Webb, is an SF-5 zoned church. Southeast of the site, across Webb, is the LI Limited Industrial (“LI”) zoned Waterfront development.

**CASE HISTORY:** The site is located within the Wilson Estates Medical Park Addition, platted in 2003. The site was rezoned to GO with DP-260 in 2002.

**ADJACENT ZONING AND LAND USE:**

NORTH:	GO	Medical office
SOUTH:	SF-5	Rail corridor, single-family residential
EAST:	SF-5	Church
WEST:	GO	Medical office

**PUBLIC SERVICES:** Webb Road is a section line arterial street at this location with four travel lanes and a central turn lane at the major entrances to DP-260. All utilities are available to the site, and the CUP indicates that all utilities will be placed underground.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide of the Wichita-Sedgwick County Comprehensive Plan identifies the site as appropriate for “Local Commercial” uses. The Local Commercial category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw.

**RECOMMENDATION:** The existing CUP has standards for signage, landscaping, screening, architecture and circulation to ensure the development is compatible with surrounding uses. The proposed zone change and parcel split will not make the site any less compatible with surrounding uses. Based upon information available prior to the public hearings, planning staff recommends that the proposed CUP and zone change be APPROVED, subject to replatting within one-year and the following condition:

- A. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, 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: The site is located at the southeast corner of the CUP, at the northwest corner of Webb Road and the 17<sup>th</sup> Street rail corridor. The south 100 feet of the application area is a utility easement, providing a significant buffer between the site and the nearest residences south of the rail corridor. Property north and west of the site are zoned GO within DP-260 and are developed with medical office uses. South of the site, across the rail corridor, is an SF-5 zoned neighborhood. East of the site, across Webb, is an SF-5 zoned church. Southeast of the site, across Webb, is the LI zoned Waterfront development.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned GO and could be developed with General Office and Medical Service uses. The proposed zone change with restrictions would allow the additional NR service, retail and restaurant uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The additional uses permitted by this zone change and CUP amendment are minimal and should have no impact on

nearby property. The utility easement on the southern 100 feet of this site, along with the 100-foot rail corridor, will keep commercial uses a minimum of 200 feet from the nearest residential property.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide of the Wichita-Sedgwick County Comprehensive Plan identifies the site as appropriate for “Local Commercial” uses. The Local Commercial category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw.

5. Impact of the proposed development on community facilities: The proposed zone change and CUP amendment should have minimal impact on community facilities above the potential impact of the previous restrictions on the site.

**JESS MCNEELY**, Planning Staff presented the Staff Report.

**MOTION:** To approve subject to staff recommendation.

**MCKAY** moved, **KLAUSMEYER** seconded the motion, and it carried (11-0-1). **G. SHERMAN** – Abstained.

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- 6. Case No.: CUP2013-11** - County Club Park Association, LP, c/o Tom Mack (applicant/owner) MKED c/o Brian Lindebak (agent) request a City CUP Amendment to DP-186, Country Club Park, Parcel 1, to allow a Bank or Financial Institution on property described as:

The North 450 feet of Lot 2, Country Club Park Addition to Wichita, Sedgwick County, Kansas.

**BACKGROUND:** The GO General Office (“GO”) zoned site, Parcel 1, is located within the GO and LC Limited Commercial (“LC”) zoned DP-186, the Country Club Park Community Unit Plan (“CUP”). DP-186 is located on the southwest corner of 13<sup>th</sup> Street North and Webb Road. The applicant is requesting Amendment 1 to DP-186, Parcel 1, to allow a “bank or financial institution by right.” The Unified Zoning Code (UZC) allows a bank or financial institution to be considered in the GO zoning district with a Conditional Use; UZC, Sec.III-B.12.c.(3). An amendment to the CUP substitutes for the required Conditional Use. Approval of a Conditional Use or a CUP amendment does not grant ‘permitted by right’ status to a use that is not listed as such in the base zoning district, a zoning change is required for that. The applicant has also proposes a shift to the common parcel line of Parcels 1 (subject site) and 3. The boundary shift will reduce the size of Parcel 1 by approximately 35,523.4-square feet and reduce its maximum gross floor area by 11,102-square feet. The undeveloped GO zoned Parcel 3 will grow in size by what Parcel 1 has lost. The LC zoned Parcel 2 is developed as a 4 story office building.

Property located north of the site, across 13<sup>th</sup> Street North, is undeveloped and zoned LC Limited Commercial (“LC”) with the CUP overlay DP-282. North of DP-282 is more undeveloped land that has a recently approved zone change, ZON2013-00005, to GO and an associated Conditional Use, CON2013-00007, for a bank or financial institution; MAPC May 18, 2013. SF-5 Single-Family Residential (“SF-5”) zoned single-family subdivisions are also located north of the site, across 13<sup>th</sup>. The subdivisions are gated with private streets and CUP overlays. The LI Limited Industrial (“LI”) zoned ‘Waterfront’ development mix of restaurants, retail buildings, office buildings and a hotel/motel built

around a retired sand pit is located northeast of the site, across the 13<sup>th</sup> – Webb Road intersection. East of the site, across Webb Road, is LI zoned property with a retired sand pit located along its Webb frontage. This land used to be a recreational area for employees of what is now known as the Beechcraft Aircraft company and today it resembles an under used park or undeveloped land. The SF-5 zoned Wichita Collegiate private school grounds abut the west and south sides of the subject DP-186, with its track and football field abutting the west side of the subject Parcel 1.

**CASE HISTORY:** DP-186, the Country Club Park CUP and the associated zone changes, Z-2923, from AA One-Family and LC Light Commercial to BB Office and LC Light Commercial was approved by the Wichita City Council on August 16, 1988, subject to platting. The site is platted as Lot 2, the Country Club Park Addition, recorded December 6, 1988. BZA9-89 was approved March 28, 1989, as a variance to reduce the required parking. The site appears to be undeveloped since at least the time of the plat being recorded.

**ADJACENT ZONING AND LAND USE:**

NORTH: SF-5, LC Single-family residential, undeveloped land  
SOUTH: LC Private school educational complex, including playing fields  
EAST: LI Undeveloped land  
WEST: SF-5 Football field and track of a private school educational complex

**PUBLIC SERVICES:** Both Webb Road and 13th Street North are four-lane arterials with center turn lanes. The 2009-2011 traffic counts for the 13<sup>th</sup> and Webb intersection are: 14,875 – 14,766 east – west trips per day and 20,719 – 14,980 south – north trips per day. All utilities are available to the site. 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 “local commercial.” The local commercial category encompasses areas of predominately commercial, office and personal service uses that do not have a significant regional draw. The range of uses includes medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. It may also include, on a limited basis, mini-storage warehouses and small scale, light manufacturing. The UZC identifies GO zoning as appropriate for office development and being generally compatible with the local commercial category of the Plan. A bank can be considered by the Conditional Use process or an amendment to a CUP. A bank falls into the range of uses in the local commercial category.

**RECOMMENDATION:** Based on the information available prior to the public hearing, planning staff recommends that the request for an amendment to DP-186, Parcel 1 for a bank/financial institution and a shift to the common parcel line of Parcels 1 (subject site) and 3. be APPROVED, subject to the following conditions:

- (1) The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.
- (2) If the Zoning Administrator finds that there is a violation of any of the conditions of the amendment to the CUP, the Zoning Administrator, in addition to enforcing the other

remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the amendment to the CUP is null and void.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** DP-186 has an undeveloped GO zoned Parcel 3 and the LC zoned Parcel 2, which is developed as a 4 story office building. Property located north of the site, across 13<sup>th</sup> Street North, is undeveloped and zoned LC Limited Commercial (“LC”) with the CUP overlay DP-282. North of DP-282 is more undeveloped land that has a recently approved zone change, ZON2013-00005, to GO and an associated Conditional Use, CON2013-00007, for a bank or financial institution; MAPC May 18, 2013. SF-5 Single-Family Residential (“SF-5”) zoned single-family subdivisions are also located north of the site, across 13<sup>th</sup>. The subdivisions are gated with private streets and CUP overlays. The LI Limited Industrial (“LI”) zoned ‘Waterfront’ development mix of restaurants, retail buildings, office buildings and a hotel/motel built around a retired sand pit is located northeast of the site, across the 13<sup>th</sup> – Webb Road intersection. East of the site, across Webb Road, is LI zoned property with a retired sand pit located along its Webb frontage. This land used to be a recreational area for employees of what is now known as the Beechcraft Aircraft company and today it resembles an under used park or undeveloped land. The SF-5 zoned Wichita Collegiate private school grounds abut the west and south sides of the subject DP-186, with its track and football field abutting the west side of the subject Parcel 1.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site has remained undeveloped since at least 1988. The amendment to DP-186 allows the opportunity for a bank 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 DP-186 will help minimize the impact of the development. A similar request, located approximately a ¼-mile north of the site, for a zone change to GO with a Conditional Use for a bank was approved at the April 18, 2013, MAPC meeting; ZON2013-00005 and CON2013-00007 .
- (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 “local commercial.” The local commercial category encompasses areas of predominately commercial, office and personal service uses that do not have a significant regional draw. The range of uses includes medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. It may also include, on a limited basis, mini-storage warehouses and small scale, light manufacturing The UZC identifies GO zoning as appropriate for office development and being generally compatible with the local commercial category of the Plan. A bank can be considered by the Conditional Use process or an amendment to a CUP. A bank falls into the range of uses in the local commercial category.
- (5) **Impact of the proposed development on community facilities:** The relative small size of the site and the development permitted by the CUP and the GO zoning will mean that impact on community facilities will be minimal.

**BILL LONGNECKER**, Planning Staff presented the Staff Report.

**MOTION:** To approve subject to staff recommendation.

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

7. **Case No.: CON2013-08** - Hope Mennonite Church/Marcus Loganbill request a City Conditional Use permit for a columbarium on property zoned SF-5 Single-Family Residential on property described as:

Lot 1, Hope Mennonite Church Addition to Wichita, Sedgwick County, Kansas.

**BACKGROUND:** The application area is zoned SF-5 Single-family Residential (“SF-5”), contains approximately 3.06 platted acres, is developed with the Hope Mennonite Church and associated parking, and is located on the east side of North Maize Road, 1,700 feet north of East Central Avenue. Hope Mennonite Church is requesting Conditional Use approval to construct a columbarium - a structure containing recesses in which urns containing the ashes of those cremated may be placed. The proposed columbarium is to be located north of the northeast corner of the existing church, approximately 17 feet from the north property line, which is an interior side yard. The proposed columbarium is to be seven feet wide by two feet deep, and five feet tall. (See the attached site plan and drawings labeled: “estimating copy,” “preliminary drawings,” “unlabeled drawing depicting dimensions” and “spring 2003 hope memorial garden initial design.”)

Properties located to the north, east and south are zoned SF-5 and developed with single-family residences. Properties located to the west, across North Maize Road, are zoned GO General Office (“GO”), and are developed with offices and single-family residences.

Among the concerns created by a request for a Conditional Use to permit a cemetery or columbarium is the long-term viability of the church and the church’s ability to provide for the long-term maintenance of a cemetery. Financing by traditional lending institutions can sometimes be problematic for small congregations. If the church fails, the long-term maintenance responsibility of a cemetery or columbarium can potentially then fall upon a governmental entity if no other private entity can be found to accept management and maintenance responsibilities.

**CASE HISTORY:** The property is platted as the Hope Mennonite Church Addition.

**ADJACENT ZONING AND LAND USE:**

North: SF-5; single-family residential  
South: SF-5; single-family residential  
East: SF-5; single-family residential  
West: GO, SF-5; general office and residential

**PUBLIC SERVICES:** At the application site, North Maize Road has 50 feet of half-street right-of-way. The site is served by, or has access to, all publicly supplied utilities.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide map depicts the site as being appropriate for “major institutional” uses. Major institutional uses include a range of uses such as government facilities, libraries, schools, cemeteries, churches, hospital and medical treatment facilities.

**RECOMMENDATION:** Based upon the information available at the staff report was prepared staff recommends approval subject to the following conditions:

- A. The Conditional Use permits a columbarium whose dimensions are substantially the same height, length and width as depicted on the approved site plan. The columbarium shall be located in generally the same location as shown as on the approved site plan.
- B. The columbarium shall be developed and maintained in conformance with all applicable local, state or federal laws or regulations.
- C. If the Zoning Administrator finds that there is a violation of any 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: North Maize Road is a significant arterial, carrying over 21,500 average trips per day. Property to the north, east and south is all zoned SF-5 and is developed with single-family residences. Properties located to the west, across North Maize Road, are zoned GO General Office (“GO”), and are developed with offices and single-family residences.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned SF-5, which permits a church by-right. The property has been developed with a church, and could continue to be used as currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed columbarium is relatively small, seven feet wide by two feet deep, and five feet tall, and is screened by evergreens to the extent that few adjoining property owners are likely to notice it. The recommended conditions of development should minimize any physical impacts to nearby property owners.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request will provide additional burial choices. Denial presumably would be a hardship to the church in that they have members have expressed an interest in the facility.
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 being appropriate for “major institutional” uses. Major institutional uses include a range of uses such as government facilities, libraries, schools, cemeteries, churches, hospital and medical treatment facilities.

6. Impact of the proposed development on community facilities: None identified.

**DALE MILLER**, Planning Staff presented the Staff Report

**DENNIS** mentioned that the Commission required a protective covenant insuring future maintenance of the property on a recent cemetery issue.

**MILLER** responded that is what DAB V recommended.

**MARCUS LOGANBILL, AGENT FOR THE APPLICANT, HOPE MENNONITE CHURCH** said the applicant is fine with the condition for the covenant.

**MOTION:** To approve subject to staff recommendation including a protective covenant assigning future maintenance of the property to the owner of Lot 1, Hope Mennonite Church Addition.

**MITCHELL** moved, **G. SHERMAN** seconded the motion, and it carried (12-0).

8. Case No.: CON2013-09 - Catholic Diocese of Wichita (owner)/ Fr. Stuart Smeltzer (St. Joseph Catholic Church) and Jennifer Riddel (day care operator) request a City Conditional Use to permit a General Day Care for up to 12 children on property described as:

Lots 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 27, Block 11, Junction Town Company Addition to the City of Wichita, Sedgwick County, Kansas.

**BACKGROUND:** The applicant is seeking Conditional Use approval for a “day care, general” for up to 12 children and two employees at the existing St. Joseph Church and School complex located approximately 300 feet south of West Douglas Avenue, on the west side of South Millwood Avenue. The site contains 1.03 platted acres, and is zoned SF-5 Single-family Residential (“SF-5”). The attached site plan indicates the day care would be housed within the school building located north of the church. Parking for the proposed day care will be located in the existing 70-space parking lot located on the east side of Millwood Avenue that also serves both the school and the church.

The Unified Zoning Code (UZC) requires one off-street loading space per 10 students for day cares with 11 or more children capacity. In this instance, the applicant will need to identify one loading space on the site plan; it is permissible to identify a parking space as the loading space. The UZC also requires one space per teacher / employee, plus one per vehicle used in the center, plus one per ten children based upon the enrollment above 12. In this instance the applicant will need to supply a total of four off-street parking / loading spaces: one loading space, two off-street parking spaces for the two employees and one for the children. The existing parking for the church is a legal non-conforming use. Elementary schools are required to provide one space per teacher / employee, plus five visitor spaces. The school has 15 employees and would require a total of 20 off-street parking spaces. It appears the 70-space parking lot located east of Millwood has enough spaces to account for typical weekday daily parking demand for the school and the proposed day care.

The property located north of the site is zoned SF-5; property located further north, fronting East Douglas Avenue, is zoned LC Limited Commercial (“LC”). Property east of the site is zoned SF-5, and is owned by the Church and is developed with a meeting hall and a parking lot. The lots located to the south are zoned SF-5 and TF-3 Two-family Residential. The lots to the west are also zoned SF-5. Surrounding land is predominantly residential with some institutional and commercial uses located in the larger area surrounding the site.

**CASE HISTORY:** The property is platted as Lots 15-27, Block 11, Junction Town Company Addition.

**ADJACENT ZONING AND LAND USE:**

North: SF-5 and LC; single-family residence, railroad track, row stores  
South: SF-5, TF-3, MF-18; single-family, two-family, three and four family residences  
East: SF-5; assembly building, parking (this half-block is owned by the Church)  
West: SF-5; residences (most of this half-block is owned by the Church)

**PUBLIC SERVICES:** Millwood Avenue is a two-lane local street that has approximately 80 feet of right-of-way. Other normally supplied public utilities are available to the site.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide map depicts the site as being appropriate for “major institutional” The major institutional category includes facilities of a significant size and scale of operation and could include a range of uses such as government facilities, military bases, libraries, schools, cemeteries, churches, hospital and medical treatment facilities. The site is also located within the Delano Neighborhood Plan boundaries and is depicted on that plan’s recommended land use map (Figure 15, Delano Neighborhood Plan) as being appropriate for Institutional Uses.

**RECOMMENDATION:** Based upon the information available at the time the report was prepared, planning staff recommends approval, subject to the following conditions:

- A. The Conditional Use permits a “day care, general” for up to 12 children.
- B. The “day care” shall be developed, operated and maintained in general conformance with the approved site plan, and in conformance with all applicable local, state or federal laws or regulations. Pick up and loading spaces shall not be located in street right-of-way and may be accounted for by a parking space.
- C. 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: The application area is an older neighborhood located in one of the oldest parts of the city. The zoning in the area surrounding the application area is predominately zoned SF-5, with some scattered lots zoned TF-3 or MF-18. There are lots fronting West Douglas Avenue that are zoned LC. The land use in the area is predominately residential with some institutional uses.
- 2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-5 and is developed with a school and a church; both uses that are permitted by-right in the SF-5 district. The property could continue to be used as currently developed; however, the addition of a “day care, general” as proposed should not change the character of the site nor impact surrounding property.
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: The property is already developed with a church and school. The addition of a day care with twelve children to the school and church complex will likely go unnoticed by nearby property owners.
- 4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request will provide additional day care choice to the area.

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 being appropriate for “major institutional” The major institutional category includes facilities of a significant size and scale of operation and could include a range of uses such as government facilities, military bases, libraries, schools, cemeteries, churches, hospital and medical treatment facilities. The site is also located within the Delano Neighborhood Plan boundaries and is depicted on that plan’s recommended land use map (Figure 15, Delano Neighborhood Plan) as being appropriate for Institutional Uses.
6. Impact of the proposed development on community facilities: The site is fully served by public services and facilities.

**DALE MILLER**, Planning Staff presented the Staff Report.

**MOTION:** To approve subject to staff recommendation.

**KLAUSMEYER** moved, **MITCHELL** seconded the motion, and it carried (11-0-1).  
**MCKAY** – Abstained.

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9. **Case No.: PUD2013-01** - Wichita Table tennis Center, Inc., c/o Les Ruthven (applicant/owner); Poe and Associates, Inc., c/o Tim Austin (agent) request a City Planned Unit Development (PUD) to create the Sunset PUD on property described as:

Lot 1 and Lot 2 EXCEPT the East 15 feet of the North 25 feet of a Replat of Part of Kitchenmeister’s Subdivision of Block 3, in Schweitter’s 2nd Addition to Wichita, Sedgwick County, Kansas.

**BACKGROUND:** The applicants propose replacing the existing LC Limited Commercial (“LC”) and B Multi-family Residential (“B”) zoning on this property with PUD #40, the Sunset Planned Unit Development (“PUD”), see the attached PUD document. According to the Unified Zoning Code (UZC), a PUD is intended to:

- (1) Reduce or eliminate the inflexibility that sometimes results from strict application of zoning standards that were designed primarily for individual lots;
- (2) Allow greater freedom in selecting the means to provide access, light, open space and design amenities;
- (3) Promote quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations and land uses; and
- (4) Allow deviations from certain zoning standards that would otherwise apply if not contrary to the general spirit and intent of this Code.

The applicant’s one-acre site is developed with an 18,214 square foot building on the north end of the site. The building was originally a movie theater, built in 1950. The remainder of the site is a B zoned parking lot supporting the building. The parking is paved but is not marked with parking spaces and does not have UZC required screening from surrounding residential properties. The applicant has used the site for table tennis and as a rental Event Center for wedding receptions and similar functions. To continue use of the site as a rental reception facility where alcohol may be provided, the applicant could have requested a zone change to LC on the entire site along with a Conditional Use request for Nightclub in the City. Because of the land use mixture on the site and other complexities brought on by

the re-use of this older building, the applicant instead requests a PUD that restricts land uses on the property and deals with other development standards governed by the UZC.

The applicant proposes all uses permitted by right in LC zoning, with adult entertainment and sexually oriented businesses, vehicle sales, and industrial uses prohibited. Event Center in the City is proposed as permitted with: catered food and alcoholic beverages by an appropriately licensed caterer only; dancing and entertainment permitted; occupation limited to 299 unless a fire suppression system is installed; occupation limited to 550 upon installation of a fire suppression system and adequate parking provided at a rate of 1 space per 3 occupants; restrooms provided per building code; no outdoor activities; and the Event Center hours are limited to midnight Sunday through Thursday, and 2 am Friday and Saturday. Other proposed general provisions of the PUD: allow the existing zero-lot line building setbacks on the north, east and west sides of the building and a 205-foot rear building setback; allow signs per the LC zoning district; and require that the UZC screening requirements be met if the building area is expanded by more than 30%. The PUD document demonstrates 88 total parking spaces; however, an alley is shown in the middle of the parking lot, and curb cuts on the PUD document do not line up with existing curb cuts. The applicant's proposed occupancy of 299, with the demonstrated 88 parking spaces, results in a 3.4 person to parking space ratio.

Property north of the site, across Harry, is zoned LC and developed with auto repair and retail uses. East and west of the building, along Harry, is LC zoning with single-family residences to the east and an auto repair and multi-family residential uses to the west. East of the site, across the alley, is TF-3 Two-family Residential ("TF-3") zoning with single and two family residences. South and west of the site, across Lulu, is B zoning with single family residences and some vacant land west of the site.

**CASE HISTORY:** The northern two-thirds of the site was replatted as Lots 1 and 2 of F & A Kitchenmeister's Subdivision in 1950, along with a 20-foot alley running east-west through the parking lot. The alley appears to be owned by the applicant, although no vacation case is evident. The remaining southern portion of the site was platted as odd Lots 21 through 27 of the F & A Kitchenmeister's Subdivision in 1887.

**ADJACENT ZONING AND LAND USE:**

NORTH:	LC	Auto repair, retail
SOUTH:	B	Single-family residential
EAST:	LC, TF-3	Single and two-family residential
WEST:	LC, B	Auto repair, multi-family residential, single-family residential

**PUBLIC SERVICES:** The site has frontage along East Harry, a paved, four-lane arterial street with a 60-foot right-of-way. The parking lot has four access points from Lulu, a paved, two-lane local street with an 80-foot right-of-way. All other utilities are available to the site.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide of the Wichita-Sedgwick County Comprehensive Plan identifies the site as appropriate for "Local Commercial" uses. The Local Commercial category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw.

**RECOMMENDATION:** Planning Staff notes that the Table Tennis Center and the rental reception facility have existed in the neighborhood without significant problems. Neighboring property owners east and west of the parking lot contacted staff with a desire for adequate parking and parking lot screening. The applicant is requesting to increase the intensity of permitted uses on the site with an Event Center with late hours, large numbers of people, and catered alcohol permitted. Staff finds that the minimum standards of the UZC, such as parking lot screening, parking space marking, and dumpster screening, could mitigate the impact of this facility on surrounding neighbors. Based on information available prior to the public hearing, staff recommends the request be **APPROVED** subject to the following conditions:

- A. The applicant shall ensure the east-west running alley through the site is vacated prior to the PUD becoming effective.
- B. The applicant shall amend the PUD document drawing to show parking and drive aisles which align with curb cuts.
- C. Amend General Provision #2 to state: “A minimum of 88 parking spaces shall be provided for a 299-person occupancy. If the occupancy is 300 people or more, parking shall be provided at a rate of 1 parking space per three people. All parking shall be paved and marked per city standards prior to the PUD becoming effective.”
- D. Amend General Provision #3 to add: “No signs shall be permitted south or east of the building, no building signs shall be permitted on the south or east building facades.”
- E. Amend General Provision #5 to state: “The parking lot shall be screened from the abutting residential property to the south and from the residential properties across the alley to the east, per the UZC. 36-inch tall parking lot screening shall be required along the Lulu street frontage. Dumpsters on the site shall be screened from ground view per the UZC.”
- F. Amend General Provision #6d to replace the number 330 with 299.

This recommendation is based on the following findings:

- (1) The zoning, uses and character of the neighborhood: Property north of the site, across Harry, is zoned LC and developed with auto repair and retail uses. East and west of the building, along Harry, is LC zoning with single-family residences to the east and an auto repair and multi-family residential uses to the west. East of the site, across the alley, is TF-3 zoning with single and two family residences. South and west of the site, across Lulu, is B zoning with single family residences and some vacant land west of the site.
- (2) The suitability of the subject property for the uses to which it has been restricted: The site could continue to be used as currently zoned for Recreation and Entertainment, Indoor. The proposed Event Center with catered alcohol would require a Conditional Use permit for Nightclub in the City, or the proposed PUD.
- (3) Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed PUD permits an Event Center with late hours, large numbers of people, and catered alcohol permitted. Staff proposed conditions should mitigate impacts on the surrounding neighborhood by providing car headlight screening, and screening to create separation and mitigate some noise.

- (4) Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The 2030 Wichita Functional Land Use Guide of the Wichita-Sedgwick County Comprehensive Plan identifies the site as appropriate for “Local Commercial” uses. The Local Commercial category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw.
- (5) Impact of the proposed development on community facilities: This portion of Harry can accommodate the traffic generated by this facility. The proposed Event Center could increase public safety calls to this location for police, fire, and EMS services at late hours.

**JESS MCNEELY**, Planning Staff presented the Staff Report.

**MOTION:** To approve subject to staff recommendation.

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

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**MOTION:** To take item 12 (DER2013-00003) before item 11 (Sedgwick County Solid Waste Management Plan Five Year Update).

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

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**NON-PUBLIC HEARING ITEMS**

**10. Case No.: DER2013-00003** - The City of Derby seeks Unilateral Annexation of the Hillsdale Addition.

**Background:** On March 12, 2013, the City of Derby passed Resolution No. 14-2013 authorizing a public hearing on May 14, 2013, for the purposes of considering the unilateral annexation of property eligible under KSA 12-520(a) and known as the Hillsdale Addition (14 individual platted lots) located immediately north of and adjacent to the City of Derby.

Prior to unilaterally annexing property, Kansas statutes require that a plan be prepared indicating the means by which city services will be extended to the area proposed for annexation. The City of Derby has submitted to the MAPD, a copy of the service plan describing the extension of services to the annexation area.

**Analysis:** Kansas statutes governing unilateral annexations provide for official notification to certain local officials, including planning commissions having jurisdiction in the area. Additionally, Kansas statutes require that the planning commission review the proposal and make a finding of compatibility or incompatibility with any adopted land use or comprehensive plans related to the area and the annexing city.

After review by staff, it has been determined that the Hillsdale Addition (generally located at 60<sup>th</sup> St. South and west of Woodlawn Boulevard, adjacent to the City of Derby) proposed for unilateral annexation falls within the City of Derby 2030 Urban Growth Area as designated within the Wichita-Sedgwick County Comprehensive Plan *Preparing for Change*, adopted and updated by the Metropolitan

Area Planning Commission and the Board of County Commission in May 2005. Furthermore, the property falls within Derby's future urban growth area as identified in the latest version (December 2006) of the City of Derby Comprehensive Plan Growth Areas Map. Staff has concluded that the proposed unilateral annexation by the City of Derby is consistent with the Wichita-Sedgwick County Comprehensive Plan.

Staff notes that the Hillsdale Addition was subject of a unilateral annexation by the City of Derby in December 2011. The City chose not to proceed with the annexation at that time until a specialized residential zoning district was created for the Hillsdale Addition to accommodate its unique large-lot residential character.

**Recommended Action:** That the Metropolitan Area Planning Commission pass a motion finding the unilateral annexation proposed by Resolution No. 14-2013 of the City of Derby to be consistent with the adopted Wichita-Sedgwick County Comprehensive Plan.

**DAVE BARBER**, Planning Staff presented the Staff Report.

**MILLER STEVENS** asked if Derby was successful in developing a new zoning district.

**BARBER** replied that the Derby Staff Planner indicates that a new district has been developed that is better suited to the nature, character and density of that particular area. He said they are satisfied that this will accommodate most of the needs of the impacted individuals.

**FOSTER** asked about the current status of sewage facilities; are they on lagoons and how is that dealt with in the zoning.

**BARBER** replied that he did not know because that is a level of detail that Planning Staff does not typically get involved in. He said Planning Staff's evaluation was whether or not the proposed annexation was consistent with the Comprehensive Plan.

**BOB PARNACOTT, ASSISTANT COUNTY COUNSELOR** said the County Commission conducts a review of the service plan. He said it was discussed at a meeting and the sewage facilities currently consist of lagoons. He said extension of sewer lines was suggested if the subdivision owners petitioned for sewers.

**MOTION:** That the unilateral annexation proposed by Resolution No. 14-2013 of the City of Derby is consistent with the adopted Wichita-Sedgwick County Comprehensive Plan.

**MITCHELL** moved, **MCKAY** seconded the motion, and it carried (11-0-1).  
**C. WARREN** – Abstained.

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Sedgwick County Solid Waste Management Plan Five Year Update

**SUSAN ERLLENWEIN, SEDGWICK COUNTY, DIRECTOR OF ENVIRONMENTAL RESOURCES** reviewed a PowerPoint presentation with slides that covered the following topics in the Sedgwick County Solid Waste Management Plan Five Year Update:

Kansas Department of Health and Environment (KDHE) requirements include changes to the Plan since the last update; updated demographics; Solid Waste Committee members; current solid waste system; updated solid waste data; and future.

Demographics:

Sedgwick County consists of:

- 20 incorporated cities
- 26 unincorporated townships
- U.S. Bureau of the Census data shows that Sedgwick County's population in 2010 was 498,365
  - Increase of 10% since the 2000 Census
  - Population is expected to grow 0.4% per year through year 2030
  - Expanding to approximately 531,888 citizens

**ERLENWEIN** also reviewed municipal solid waste analysis, collection, and collection contracts indicating that Garden Plain, Goddard, Haysville, Maize and Mulvane currently do not have contracts for trash collection or recycling.

**ERLENWEIN** said on December 3, 2012, the Solid Waste Committee reconfirmed their commitment to transfer stations as the disposal option for solid waste. She said they also reconfirmed their commitment to citing a local, County-owned landfill and exploring new waste technologies.

**ERLENWEIN** gave facts and figures concerning amount of solid waste generated at both transfer stations, 5-year trend, recycling and 5-year trend, composting facilities and Sedgwick County's household hazardous waste facility. She also talked about specific wastes including small quantity generators, construction and demolition (C&D) materials, storm debris, Christmas trees, electronics, medical waste and white goods, tires and lead acid batteries. She said the Committee has recommended changing the current Solid Waste Plan to allow transfer stations to accept commercially produced C&D materials.

**ERLENWEIN** said public education includes numerous efforts to inform and educate citizens and businesses about issues related to solid waste in Sedgwick County including trade shows; presentations; literature and an online recycling guide.

**ERLENWEIN** explained that in June 2012, the Board of County Commissioners voted to keep 2013 rates as they were in 2012. She said the fee helps fund certain components of the Solid Waste Plan. She said those fees are \$5.70 per year for residential rate and \$4.10 to \$8.19 per year for nonresidential.

**ERLENWEIN** concluded the presentation by summarizing the Solid Waste Committee's key recommendations as follows:

- that all cities in the County have a solid waste collection contract or franchise in place by January 1, 2016
- 2 container sizes (65 and 96 gallon) with a minimum charge of \$1 per extra bag and minimum price difference of \$2 between cart sizes.
- trash collection rates must include single-stream recycling (bundled).
- participation in recycling will be voluntary.

- to change the current Solid Waste Plan to allow transfer stations to accept commercially produced C&D materials.
- the County fund a permanent pharmaceutical drop-off box program.
- increase education in focused solid waste areas.

**ERLENWEIN** asked the Planning Commission to vote that the Solid Waste Plan was in compliance with the Wichita-Sedgwick County Comprehensive Plan.

**MILLER STEVENS** asked why the committee voted to recommend a change on how C&D materials are handled.

**ERLENWEIN** said at the time the decision was made; Brooks Landfill was debating whether or not they should be open to the public. She said the Committee may have felt there was a lack of disposal options for C&D materials. She said since Brooks has decided to stay open and accept C&D waste, it is no longer an issue.

**G. SHERMAN** referred to **ERLENWEIN**'s figures on transfer station capacity, and said if C&D materials are allowed to go to the transfer stations, that may eat up that future capacity fast.

**ERLENWEIN** said that was one of issues she was going to talk to the County Commission about in making their decision.

**GOOLSBY** asked about the low return on redemption of the 4,500 coupons issued and asked if the County planned on using the coupon program again.

**ERLENWEIN** commented that it was about a 30% rate of return; however, staff did not want to issue more coupons than they had funding for in case everyone used the coupons issued. She also mentioned that after the 6-month long coupon "dead date" they received numerous phone calls from people who said they had just found their coupon and could they still use it. She said they would like to try the program again but with more advertisement and a shorter window of opportunity to use the coupons.

**MITCHELL** asked if any disposal sites were being considered for demolition material.

**ERLENWEIN** said yes, at the northwest corner of 55<sup>th</sup> Street South and Ridge Road. She said she has been working with the applicant, County Commission and Solid Waste Committee on the issue. She said there is a public water supply well within one-half mile of the location. She said they are going to obtain the services on an independent third party to look at whether the well will be impacted by the C&D landfill.

**MITCHELL** asked hasn't the Planning Commission approved that recommendation to the County Commission.

**ERLENWEIN** said the Planning Commission and the County Commission approved the zoning; however, the Construction and Demotion Regulations on how close a C&D landfill can be to a public water supply well were not taken into account.

**MITCHELL** commented that the Planning Commission did not know about the well at that time.

**ERLENWEIN** said the well issue did not come up until later when the application went before the Solid Waste Committee.

**DENNIS** asked if there was a cost for the public to drop off materials for composting.

**ERLENWEIN** said yes there is a cost to drop off and pick up compost materials.

**DENNIS** asked if there was a charge to drop off materials at the hazardous waste site.

**ERLENWEIN** said there is no cost for residents; however, there is a fee for small businesses. She said the swap and shop is also free to residents.

**DENNIS** referred to the waste characterization study and mentioned that a majority of materials could be recycled. He said when you compare the amount of materials coming in with what is being recycled, there seems to be an imbalance. He asked why such a small percentage of materials is being recycled.

**ERLENWEIN** said his analysis was correct but added that they are seeing recycling grow as they are providing more single stream curbside containers. She added that studies have shown the people will recycle if it is easy. She said if people don't have to separate paper, plastic, and metal and don't have to wash materials, more people will recycle.

**DENNIS** clarified that there was no separation of materials at the transfer station.

**ERLENWEIN** said there are time, safety and labor factors to consider with separation of materials.

**DENNIS** commented that some communities do separate materials.

**ERLENWEIN** said yes, it is called dirty recycling and there are huge buildings with conveyor belts where they pay people to separate the materials out.

**FOSTER** mentioned several inconsistencies on numbers and typographical errors within the report.

**MOTION:** That the Solid Waste Management Plan Five Year Update is consistent with the Wichita-Sedgwick County Comprehensive Plan.

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

The Metropolitan Area Planning Commission adjourned at 2:20 p.m.

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

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-

Sedgwick County Metropolitan Area Planning Commission, held on \_\_\_\_\_, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

(SEAL)

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