

**METROPOLITAN AREA PLANNING COMMISSION**

**MINUTES**

**August 8, 2013**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, August 8, 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; Joe Johnson; Don Klausmeyer; John W. McKay, Jr.; Debra Miller Stevens (Out @ 2:55 p.m.); Carol Neugent; Don Sherman (In @ 1:48 p.m.; Out @ 3:00 p.m.) and Chuck Warren (In @ 1:33 p.m.; Out @ 2:55 p.m.). Steve Anthimides; Bill Johnson; and M.S. Mitchell were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Jeff Vanzandt, Assistant City Attorney and Maryann Crockett, Recording Secretary.

1. Approval of the July 25, 2013 MAPC meeting minutes.

**MOTION:** To approve the July 25, 2013 meeting minutes, as amended.

**KLAUSMEYER** moved, **MCKAY** seconded the motion, and it carried (8-0-1).  
**J. JOHNSON** – Abstained.

**WARREN** (In @ 1:33 p.m.)

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2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB2013-00029: One-Step Final Plat – CLEAR CREEK 2ND ADDITION**, located south of Kellogg, west of 143rd Street East.

NOTE: This is a replat of a portion of the Clear Creek Addition which consists of a revised street layout.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department requests that sewer be extended to serve all lots (lateral). Water needs to be extended to serve all lots (distribution and transmission).
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the applicant's drainage plan.
- D. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- E. County Surveying recommends the legal description include all the lot numbers, block numbers and streets being replanted.
- F. County Surveying advises in the legal description the bearing of N00°33'49"E needs corrected.

- G. County Surveying advises the bearing along the north line of Lot 10, Block 1 needs corrected.
- H. County Surveying advises in the acknowledgment for Garden State Bank, "Maple Shade 2nd Addition" needs corrected.
- I. The reserves are indicated as providing for "blanket" utility uses. These utilities should be restricted to easements that are located within the reserves to avoid conflict with the possible locations of structures indicated therein (e.g. signs and walls).
- J. Since this is a replat of a previous Addition involved with the ownership and maintenance of reserves for that Addition, but not being replatted by this Addition, a restrictive covenant shall be provided which provides for this Addition to continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.
- K. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a restrictive covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- L. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- M. The spelling of "benchmark" needs corrected.
- N. GIS has approved the new street names.
- O. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- Q. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Westar Energy has requested additional easements. Heide Hancock is the contact for this plat and can be contacted at 316-261-6554. Any relocation and or removal of existing utilities due to this plat will be at the applicant's expense.
- V. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disc. If a disc is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: [kwilson@wichita.gov](mailto:kwilson@wichita.gov)).

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

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

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**3. PUBLIC HEARING – VACATION ITEMS**

- 3-1. **VAC2013-00023: City request to vacate the plattor's text to amend the uses permitted in a platted reserve,** generally located north of Douglas Avenue, between McLean Boulevard and Sycamore Street.

**OWNER/AGENT:** City of Wichita, c/o John Philbrick (owner) Ferris Consulting, c/o Greg Ferris (agent)

**LEGAL DESCRIPTION:** Generally described as vacating the plattor's text to amend the uses allowed in the platted Reserve B, West Wichita Addition, Wichita, Sedgwick County, Kansas

**LOCATION:** Generally located north of Douglas Avenue, between McLean Boulevard and Sycamore Street (WCC #VI)

**REASON FOR REQUEST:** Allow the drilling of an oil or gas well (associated with CON2013-00014)

**CURRENT ZONING:** The site and abutting and adjacent northern, western, and eastern properties are zoned CBD Central Business District (CBD). Abutting southern properties are zoned LI Limited Industrial (LI). The site is located in the Delano Overlay.

The applicant is requesting that the uses allowed the platted Reserve B, West Wichita Addition be vacated and amended to allow drilling of an oil or gas well, in associated with CON2013-14. CON2013-14 is a request to permit the drilling of an oil or gas well. Other actions associated with CON2013-14 include approval of an amendment to the Oil and Gas Well District Map and approval of a special permit for the drilling of an oil or gas well all on the subject site. CON2013-14 is to be considered at the August 8, 2013, Metropolitan Area Planning Committee (MAPC) meeting, which is when VAC2013-23 will be considered.

As already noted Reserve B is part of the West Wichita Addition, recorded August 5, 1872. The vacant Reserve B has been reconfigured through the years by the building of McLean Boulevard, separating its east side from its original proximity to the Arkansas River and a replatting of its southern portion into the Sycamore Addition, recorded January 24, 1969. All but one of the West Wichita Addition's five reserves was located along the Arkansas River, separating the river from the plat's 'regular' shaped lots.

The platlor's text does not assign any use to Reserve B or any of the 4 other reserves in the West Wichita Addition. It simply states that "Irregular lots and reserves are indicated by figures." Subdivision regulations, Art.11-102, define a Reserve as "...an area of property within a subdivision that is platted for specific uses, e.g., open space, landscaping, entry monuments, recreational facilities, utilities and drainage, floodway, private street, etc." It has been the practice (not a policy) of staff to identify reserves without specific uses to be regarded as open space, therefore the application to amend the text to permit oil and gas drilling, while retaining it as open space. The vacation request is contingent on approval of CON2013-14 and the associated approval of an amendment of the Oil and Gas Well District Map and approval of a special permit for the drilling of an oil or gas well all on the subject site.

There is no water or sewer is located in the platted reserve. There are no platted easements located in the platted reserve; any easements located on the site have been dedicated by separate instrument. Stormwater has facilities located along the Sycamore Street side of the platted reserve. The platted reserve is located within a FEMA Zone, protected by a levee. No other utilities appear to be located within the described platted reserve.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, 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 platlor's text to amend the uses allowed in the described platted reserve.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time July 18, 2013, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by vacating the platlor's text to amend the uses allowed in the platted reserve, and that the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Vacate the plattor's text, amending it by allowing the drilling of an oil or gas well, while retaining its use as open space. Final approval of VAC2013-23 is contingent on approval of CON2013-14 and the associated approval of an amendment to the Oil and Gas Well District Map and approval of a special permit for the drilling of an oil or gas well all on the subject site.
- (2) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to City Council for final action.
- (3) All improvements shall be according to City Standards and at the applicants' expense.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the plattor's text, amending it by allowing the drilling of an oil or gas well, while retaining its use as open space. Final approval of VAC2013-23 is contingent on approval of CON2013-14 and the associated approval of an amendment to the Oil and Gas Well District Map and approval of a special permit for the drilling of an oil or gas well all on the subject site.
- (2) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to City Council for final action.
- (3) All improvements shall be according to City Standards and at the applicants' expense.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

**MOTION:** To defer item 3-1 until after item 5 has been heard.

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

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**3-2. VAC2013-00024: City request to vacate a portion of platted access control,**  
generally located north of K-96 on the east side of Oliver Avenue.

**APPLICANT/AGENT:** Great Plains Ventures, c/o Marque C. Peer (applicant/owner) MKEC,  
c/o Brian Lindebak (agent)

**LEGAL DESCRIPTION:** Generally described as vacating that portion of platted complete access control along the west lot line of Lot 1, Great Plains Business Park 2<sup>nd</sup> Addition, to allow a drive from said lot's west lot line onto Oliver Avenue, Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located north of K-96 Highway, on the east side of Oliver Avenue (WCC #I)

**REASON FOR REQUEST:** Accommodate future development

**CURRENT ZONING:** The site and adjacent and abutting eastern and northern properties are zoned LI Limited Industrial (LI). Adjacent western properties are zoned SF-5 Single-Family Residential ("SF-5"). K-96 State Highway and its interchange abut the south side of the site.

The applicant proposes an additional drive onto Oliver Avenue from the subject site's south 200 feet; Lot 1, Great Plains Business Park 2<sup>nd</sup> Addition. Currently there is one permitted drive from the site onto Oliver, located in the site's north 195.76 feet; the site has 395.76 feet of Oliver frontage. The site also has access onto 35<sup>th</sup> Street North on its north side. The site has no access onto the abutting south K-96 right-of-way. The K-96 frontage road runs parallel to the site, directing access onto and off of Oliver approximately 1,000 feet from its intersection with Oliver. A long, irregular shaped, unplatted, undeveloped SF-5 zoned tract is located west of the site, across Oliver. The unplatted tract's only access is Oliver. Access onto the unplatted tract will be determined at the time of platting; as such there currently are no conflicting drives across Oliver with the site. Oliver is a four-lane arterial with a raised median at this location; the raised median will also prevent conflicting drives with the unplatted SF-5 zoned site located west of the site across Oliver. The raised median will also insure that the subject site's proposed drive is right-in-right out. The current Subdivision standard for a right-in – right-out drive is 200 feet between drives. 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 sewer located along the site's Oliver right-of-way. There are no other utilities located in area of the vacation request. The Great Plains Business Park 2<sup>nd</sup> Addition was recorded with the Register of Deeds March 31, 1992.

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

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time July 18, 2013, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by vacating the described portion of 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 200 feet of Oliver Avenue's frontage to allow one right-in – right-out access drive. Provide Planning Staff with a legal description of the approved vacated portion of the complete access control on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. This must be provided to Planning prior to the case going to Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide all needed plans for review and approval by utilities. Provide Planning with any approved plans as approved by the utilities. This must be provided to Planning prior to the case going to Council for final action.
- (3) Dedicate access control to reflect the approved access onto the site's south 200 feet of Oliver Avenue's frontage. This will be recorded with the Vacation Order with the Register of Deeds. This must be provided to Planning prior to the case going to Council for final action.
- (4) All improvements shall be according to City Standards and at the applicant's expense, including;  
(a) the construction of the new drive from the site onto Oliver Avenue, and (b) the continuation of the curb and gutter and side walk. Provide Public Works with a guarantee (approved project/plans) to ensure that these and any other associated improvements will be made. If the 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.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Per the approval of the Traffic Engineer, vacate the platted complete access control along the site's south 200 feet of Oliver Avenue's frontage to allow one right-in – right-out access drive. Provide Planning Staff with a legal description of the approved vacated portion of the complete access control on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. This must be provided to Planning prior to the case going to Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide all needed plans for review and approval by utilities. Provide Planning with any approved plans as approved by the utilities. This must be provided to Planning prior to the case going to Council for final action.
- (3) Dedicate access control to reflect the approved access onto the site's south 200 feet of Oliver Avenue's frontage. This will be recorded with the Vacation Order with the Register of Deeds. This must be provided to Planning prior to the case going to Council for final action.
- (4) All improvements shall be according to City Standards and at the applicant's expense, including:  
(a) the construction of the new drive from the site onto Oliver Avenue, and (b) the continuation of the curb and gutter and side walk. Provide Public Works with a guarantee (approved project/plans) to ensure that these and any other associated improvements will be made. If the 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.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

**WARREN** moved, **GOOLSBY** seconded the motion, and it carried (10-0).

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**3-3. VAC2013-00025: City request to vacate a portion of platted access control,**  
generally located on the northeast corner of 37th Street North and Rock Road.

**APPLICANT/AGENT:** Premier Investment Company, LLC, c/o Gregory J. Hoff  
(applicant/owner) MKEC, c/o Brian Lindebak (agent)

**LEGAL DESCRIPTION:** Generally described as vacating that portion of platted complete access control along the south lot lines of Lots 1 & 2, Block 2, Rent-A-Center Addition, to allow a full movement drive onto 37<sup>th</sup> Street North from Lot 1's east side/lot line and to allow four drives onto 37<sup>th</sup> Street North from Lot 2, Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located north of 37<sup>th</sup> Street North, on the east side of Rock Road (WCC #II)

**REASON FOR REQUEST:** Accommodate future development

**CURRENT ZONING:** The site and abutting and eastern properties are zoned LI Limited Industrial (LI). Adjacent southern properties are zoned LI and LC Limited Commercial (LC). Adjacent northern properties are zoned LI and SF-5 Single-Family Residential (SF-5). Adjacent western properties are zoned SF-5 and LC.

The applicant proposes to change the right-in – right-out 40-foot wide drive located on the east side of Lot 1, Block 2, Rent-A-Center Addition into an 80-foot wide full movement drive. Lot 1 currently has two permitted/platted drives onto 37<sup>th</sup> Street North; Lot 1 has 438.08 feet of 37<sup>th</sup> Street frontage. The applicant also proposes four drives along Lot 2's 1,237 feet of 37<sup>th</sup> Street frontage. Lot 2 currently has no permitted/platted drives onto 37<sup>th</sup> Street North.

Lot A, Comotara Industrial Park is located south of the site, across 37<sup>th</sup>. Lot A has 4 permitted/platted drives onto 37<sup>th</sup>. Currently Lot A has two drives onto 37<sup>th</sup>. Both the permitted/platted and existing drives onto 37<sup>th</sup> on Lot A must be considered in regards to conflicting drives with the subject site.

37<sup>th</sup> is a four-lane arterial at this location. The current Subdivision standard for a right-in – right-out drive is 200 feet between drives and 400 feet between full movement drives. 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, hydrants and Stormwater equipment located along the site's 37<sup>th</sup> Street North frontage. The Rent-A-Center Addition was recorded with the Register of Deeds December 2, 1986.

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

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time July 18, 2013, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by vacating the described portion of 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 37<sup>th</sup> Street North frontage. Provide Planning Staff with a legal description of the approved vacated portion of the complete access control on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. This must be provided to Planning prior to the case going to Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide all needed plans for review and approval by utilities. Provide Planning with any approved plans as approved by the utilities. This must be provided to Planning prior to the case going to Council for final action.
- (3) Dedicate access control to reflect the approved access/drives. This will be recorded with the Vacation Order with the Register of Deeds. This must be provided to Planning prior to the case going to Council for final action.
- (4) All improvements shall be according to City Standards and at the applicant's expense, including; (a) the construction of the new drives from the site onto 37<sup>th</sup> Street North, (b) the continuation of the curb and gutter and side walk, and (c) the replacement of any right-of-way trees taken down for the drives. Provide Public Works and Parks with a guarantee (approved project/plans) to ensure that these and any other associated improvements will be made. If the drives are not being immediately constructed, provide a drive approach certificate, which will be recorded with the Register of Deeds. Either the guarantee(s) and/or the drive approach certificate must be provided to Public Works (guarantee) or Planning (drive approach certificate) prior to the case going to Council for final action.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Per the approval of the Traffic Engineer, vacate the platted complete access control along the site's 37<sup>th</sup> Street North frontage. Provide Planning Staff with a legal description of the approved vacated portion of the complete access control on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. This must be provided to Planning prior to the case going to Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide all needed plans for review and approval by utilities. Provide Planning with any approved plans as approved by the utilities. This must be provided to Planning prior to the case going to Council for final action.

- (3) Dedicate access control to reflect the approved access/drives. This will be recorded with the Vacation Order with the Register of Deeds. This must be provided to Planning prior to the case going to Council for final action.
- (4) All improvements shall be according to City Standards and at the applicant's expense, including; (a) the construction of the new drives from the site onto 37<sup>th</sup> Street North, (b) the continuation of the curb and gutter and side walk, and (c) the replacement of any right-of-way trees taken down for the drives. Provide Public Works and Parks with a guarantee (approved project/plans) to ensure that these and any other associated improvements will be made. If the drives are not being immediately constructed, provide a drive approach certificate, which will be recorded with the Register of Deeds. Either the guarantee(s) and/or the drive approach certificate must be provided to Public Works (guarantee) or Planning (drive approach certificate) prior to the case going to Council for final action.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

**WARREN** moved, **GOOLSBY** seconded the motion, and it carried (10-0).

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**PUBLIC HEARINGS**

4. **Case No.: CUP2013-00018** (Deferred from 7-25-13) – City request for a Major Amendment for the LC Limited Commercial zoned DP-12 to allow short term and seasonal outdoor retail sales, arts and crafts display and sales, farmer's markets, nursery and garden equipment display and sales, display of cars, RVs, boats, farm equipment and motorcycles, outdoor recreation and entertainment, and food and beverage sales associated with all outdoor events on property described as:

Lot One (1) Kellogg Mall Addition, Sedgwick County, Kansas.

**CHAIRMAN DENNIS** announced that the applicant has requested deferral of the item.

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5. **Case No.: CON2013-00014** (Deferred from 7-11-13) - the City of Wichita (John Philbrick) and Trek AEC (Alan Degood) / Ferris Consulting (Greg Ferris) request a City conditional use, special permit and amendment to oil and gas district map to permit oil and gas drilling on property described as:

Part of Reserve "B", Map of West Wichita, Sedgwick County, Kansas, described as commencing at the S.W. Corner thereof; thence N00°00'00"E, along the West line of said Reserve "B", 248.60 feet to the N.W. corner of Lot 1, Sycamore Addition to Wichita, Kansas, Sedgwick County, Kansas, for a point of Beginning; thence N67°23'00"E, along the Northwesterly line of said Sycamore Addition, 100.00 feet; thence N60°29'00"E, along the Northwesterly line of said

Sycamore Addition, 274.60 feet to the N.E. corner of said Sycamore Addition; thence N33°39'00"W, along the extended Northeasterly line of said Sycamore Addition, 165.10 feet to the intersection with the center line of vacated 1st. Street; thence N89°49'35"W, along the center line of said vacated 1st. Street, 239.79 feet to the West line of said Reserve "B"; thence S00°00'00"W, along the West line of said Reserve "B", 311.90 feet to the point of beginning.

**BACKGROUND:** The City of Wichita owns the 1.6 acres zoned CBD Central Business District (CBD) that are the focus of this application. The property is located 650 feet north of West Douglas Avenue, between North Sycamore and North McLean Boulevard (200 North Sycamore). The City was approached about the possibility of drilling an oil or gas well on certain properties owned by the City. The City advertized a Request for Proposals to drill an oil and gas well on City owned property, and Trek AEC was selected. Various drill sites were evaluated by the City and Trek AEC. The subject site was selected as the most appropriate.

If approved, a drilling rig or derrick 110 feet tall will be moved to the site. Actual drilling activity will take between ten and fourteen days. The power for the rig will be generated by a diesel engine. The noise associated with drilling is said to be similar to typical construction activity or that of a crane moving building frames. If the well is productive, the drilling equipment would be replaced with pumping equipment within sixty days of the completion of drilling. During the switchover from drilling to pumping, the rig would be removed and screening, tank storage and drive approaches would be installed. The applicant believes the site should not generate any significant odor as the facility can be equipped with odor scrubbing carbon filters. The proposed structure to enclose the storage tanks will be designed to also act as the containment vessel in case of leakage. With respect to the site's proximity to the Arkansas River, it is the applicant's belief that the Kansas Corporation Commission's and the Corps of Engineers' regulations will insure protection of the river. See the applicant's attachments for the: site plan, tank storage design, screening wall, photo of drilling rig, sketch of drilling rig and pumping equipment. If the well is a producer, the applicant estimates oil removal trucks would visit the site approximately three to four times a week to remove the produced oil.

The applicant is seeking recommendations of approval for three actions that would allow "oil and gas drilling" on the application area. The requested actions are: 1) amendment of the Oil and Gas Well District Map to include the subject site within an area that permits oil and gas well drilling; 2) approval of a special permit for the drilling of an oil or gas well and 3) approval of a conditional use to permit the drilling of an oil or gas well.

#### Amendment of the Oil and Gas Well District Map

Chapter 25.04 of the Wichita City Code is entitled "Oil and Gas Wells," and describes some of the approval processes required to drill an oil and gas well within the City of Wichita. Section 25.04.020 requires the Metropolitan Area Planning Department (MAPD) to prepare and maintain a map describing the areas in which the drilling and operation of wells may be lawful. City Code Section 25.04.015 states that oil and gas well drilling is prohibited in all areas within the corporate limits of the City except in those areas defined by ordinance and shown on the Oil and Gas Well District Map. The ordinance also states it is unlawful to drill an oil or gas well in any area not shown on the Oil and Gas Well District Map.

In 1982 an Oil and Gas Well District Map was prepared (case number DR81-17) and adopted by the Metropolitan Area Planning Commission (MAPC) on April 4, 1982, and the Board of City Commissioners on May 8, 1982; however, the application area is not located within a mapped area that permits oil and gas well drilling. Therefore, the applicants are requesting an amendment to the Oil and

Gas Well District Map to designate the application area as an area eligible for oil and gas exploration. A copy of the current Oil and Gas Well District Map is attached and also depicts the proposed amendment area. Amendment of the Oil and Gas Well District Map requires City Council approval; therefore, the MAPC is requested to make a recommendation of approval or denial to the City Council regarding the map amendment request.

The Oil and Gas Well District Map was amended most recently in 2005 for a location on the north side of 33<sup>rd</sup> Street North, midway between Highway 96 and Hillside, case number DR2005-00019. The map amendment was associated with conditional use application CON2005-00023.

#### Special Permit Approval

Section 25.04.030 is a section of the City Code dealing with oil and gas wells that states “It is unlawful for any person to drill or commence operations for the drilling of a well...without first [having] obtained a special permit from the board of commissioners of the city and a drilling permit...as provided by Section 28.04.181-3 of the City of Wichita Zoning Ordinance.” City Code Section 28.04.181-3.1-4 was part of the previous City of Wichita’s Zoning Ordinance, which was in effect before March of 1996, that authorized the City Council to approve certain uses, such as oil and gas drilling, by special permit in the areas designated on the Oil and Gas Well District Map. However, that section of the old code was not carried over into the current zoning ordinance (the *Wichita-Sedgwick Unified County Zoning Code* (UZC) that was adopted in March of 1996). Some of the older zoning code’s special permit provisions are repeated in the City’s Oil and Gas Wells regulations found in Chapter 25.04, referenced above and described in more detail below. Since the special permit is required by Section 25.04.030, it is requested that the MAPC make a recommendation regarding approval or denial of the Special Permit.

#### Conditional Use Approval

The UZC permits “oil and gas drilling” in the CBD only with conditional use approval (Article III, Section III-B.19.c(4)). The UZC does not have additional supplemental development standards for “oil and gas drilling,” relying instead upon Chapter 25.04 and whatever reasonable development standards are deemed appropriate as part of the specific conditional use application review process. The MAPC is requested to make a recommendation of approval subject to conditions or denial regarding the conditional use to permit oil and gas well drilling.

#### Summary of Other Oil and Gas Wells Requirements Found in Chapter 25.04

City Code Sections 25.04.040 and 25.04.050 require the applicant to obtain a drilling permit from the superintendent of the Office of Central Inspection (today’s Metropolitan Area Building and Construction Department “MABCD”) after approval of the special permit. After completion of the well, the applicant is required to file a completion report with MABCD. The regulation permits one well in the same producing horizon in a drilling unit.

Information required of the applicant at the time a drilling permit is filed includes: 1. Evidence that all owners of record of mineral interests attributed to the property have had an opportunity to participate in the lease and have been notified in writing. 2. Proof that a valid lease has been executed. 3. Statement that at least one-eighth of the gross production of the well shall be distributed to the mineral rights owners. (This requirement has been modified by the proposed Oil and Gas Lease agreement to 15 percent.) 4. Statement that Kansas Corporation Commission (KCC) lease spacing requirements have been met. 5. Statement that all fluids, sediments, brines, wastes or other materials associated with drilling and operation of the well will be properly handled and disposed. 6. Submission of a site plan showing the facilities for the handling and storage of well production. 7. Submission of an agreement to remove improvements within sixty days after abandonment or non-production of the well. 8.

Submission of a statement that if the well is productive that only the equipment and facilities necessary to operate the well will be maintained on-site, and that the site will be restored to original condition, within sixty days of well completion. 9. Submission of agreement to remove drilling wastes within thirty days of well completion (Sections 25.04.060.1-9).

The drilling company is also required to provide a \$100,000 surety bond (Section 25.04.100(a)), and to save and hold the city free and harmless from all suits or damage claims related to the oil well and an indemnity or casualty insurance policy or policies: \$500,000 for injury; \$500,000 for injury; \$100,000 for property damage and two million dollars of additional coverage (Section 25.04.110). The well is to be spaced, located, drilled, operated and maintained in conformance with applicable state laws and regulations (Section 25.04.110).

Section 25.04.150(1)-(16) details specific drilling and production regulations. Some of the regulations include: 1. Surface pipe is to be run and set at least three hundred feet into the ground. 2. Surface pipe must be cemented top to bottom. 3. Adequate well head safety devices shall be used and fluids shall be confined. 4. The location and equipment shall be fenced during drilling operations. 5. Permanent production equipment is to be enclosed in accordance with the special permit. 6. All drilling fluids shall be contained in portable tanks. 7. Produced waters shall be disposed of in accordance with KCC requirements. 8. Fluids are not to be run into or stored in earthen pits. 9. Pumping units shall be set on a steel or concrete base and the location's surface shall be graded to surrounding grade. 10. All pumping units must be electrically driven. 11. Storage tanks are to be covered and vents are to be filtered. Burning of gas or fumes is prohibited. 12. Storage tanks are to be enclosed with a minimum two-foot high dike with enough area to hold one and one-half times the capacity of all tanks. 13. Equipment is to be kept clean. 14. Storage tanks are to be equipped with automatic shutoff devices. 15. The owner/operators are responsible for the immediate clean-up and disposal of any spillage at the site. 16. All wells shall be equipped with a blowout prevention device.

Finally, Section 25.04.220 requires abandoned wells to be filled and plugged.

#### Summary of the Draft Oil and Gas Lease Agreement

A draft lease agreement has been completed between the City and Trek AEC; some of lease agreement stipulations are:

1. It prohibits horizontal drilling. It restricts drilling to vertical wells, with some limited deviation from vertical to allow directional drilling. No surface seismic testing is allowed on the subject site.
2. Prior to start of drilling, the applicant has to show the City the specific location of the well and the aesthetic appearance of their proposed equipment and facilities. The City can veto the applicant's plan, with reasonable cause.
3. The applicant must use portable tanks to contain all fluids (drilling mud, saltwater, brines, etc.) used during or created from drilling. Open pits are prohibited.
4. The applicant agreed to continuously cement surface casings to a depth to be determined.
5. Both Kansas Corporation Commission and KDHE must approve the applicant's plans and will provide some oversight.
6. The lease allows the applicant to drill 24/7, but it requires the applicant to comply with the City's noise standards. "Tripping out or in," which is the noisiest part of the operation, is prohibited between 10:00 p.m. and 7:00 a.m.
7. If the well is productive, the applicant will construct specially designed structures and install landscaping that screens their surface equipment to the satisfaction of the City. The stated intent is to

have whatever pumping and storage facilities that are needed to be installed in such a way as to blend into the surrounding area and to not be noticeable.

8. If the well is not productive, the applicant must plug the well and restore the site as nearly as practicable to the original contour and condition.

9. The lease requires that the applicant to assume all liability and carry liability insurance (the amount to be determined).

10. The applicant is required to commence drilling within 12 months following the date of execution of the lease, and a well shall be deemed to be commenced when a rig capable of drilling to a total depth of 5,000 feet below the surface is erected on a drillsite and has begun actual drilling activity.

#### Zoning and Land Use Surrounding the Application Area

The application area is located within the Delano neighborhood, but was excluded from the Delano Neighborhood Overlay (zoning) District, which prohibits “oil and gas drilling.” The Delano neighborhood is a mixed use district that contains residential, commercial and industrial uses. Delano also contains some of the city’s older commercial buildings, especially those commercial uses located along West Douglas Avenue.

Property to the immediate north of the subject site is zoned CBD, and is currently vacant; however, the *Project Downtown: The Master Plan for Wichita* (November 2010, page 6.13), hereafter referred to as the Downtown Master Plan, indicates North Sycamore is proposed to be re-routed east to McLean Boulevard along or near the subject site’s northern property line. The land located north of re-routed Sycamore is shown as the location of the new library and may include public plazas, housing, restaurant and recreation facilities. Northeast of the application area, at the southeast corner of West Second and McLean Boulevard, the Downtown Master Plan indicates new housing with ground-floor retail is appropriate. Currently, two development proposals are under consideration. Land immediately south of the subject site is currently developed with warehouses and commercial buildings, and is zoned LI Limited Industrial (LI). Further south, the lots that front West Douglas are zoned GC General Commercial (GC), and are developed with commercial buildings. The Downtown Master Plan depicts the property to the south as being appropriate for new housing. Immediately to the east of the site is McLean Boulevard, which at last count carried in excess of 10,000 vehicle trips on an average day. Further east of McLean Boulevard is Arkansas River bank land that is used for open space and parkland. The Downtown Master Plan indicates this property should continue to be used for open space to accommodate the Riverfest and other public events. East of the Arkansas River is property zoned CBD, some of which is developed with the Broadview Hotel while other portions are vacant. The vacant land located north of the Broadview Hotel is proposed by the Downtown Master Plan to be a mixed use development. Properties to the west of the application are also zoned CDB, and are currently developed with a construction company and warehousing. The Downtown Master Plan indicates the property to the west of Sycamore is appropriate for additional new housing.

**CASE HISTORY:** Conditional Use 2011-00013 permitted a temporary wireless communications facility on wheels to be located on the property. Department Review 2011-00004 rezoned the property to CBD. Department Review 2002-00011 established the Delano Overlay District; however, this property was ultimately not included within the Delano Overlay District.

#### **ADJACENT ZONING AND LAND USE:**

North: CBD; vacant

South: LI; warehousing, commercial buildings

East: CBD; McLean Boulevard, public park and outdoor recreation, Arkansas River  
West: CBD; construction company, warehouse

**PUBLIC SERVICES:** All public services necessary to drill an oil or gas well are either available or can be obtained through the conditional use or special permit reviews.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide map depicts the site as being appropriate for “park and open space” land use. *The Project Downtown: The Master Plan for Wichita* (November 2010), page 6.13, depicts the site as being appropriate for mixed-use development, including housing and retail. See the Zoning and Land Use Surrounding the Application Area section above for additional Downtown Master Plan recommendations. The Downtown Master Plan did not anticipate this type of use.

**RECOMMENDATION:** Based upon the information available at the time the staff report was written, staff recommends the conditional use for an oil and gas well be approved contingently with the following contingencies that must be satisfied prior to final approval and subject to the following conditions:

- A. Final approval of the conditional use to permit an oil and gas well is contingent upon the approval of amendment to the Oil and Gas Well District Map by the City Council to include the subject site. Failure to obtain an amendment to include the subject site within a mapped area that permits oil and gas well drilling will result in the conditional use being deemed null and void.
- B. Prior to commencement of drilling, the applicant shall obtain all applicable permits, licenses, inspections or approvals from, but not limited to, the City of Wichita, including the Metropolitan Area Building and Construction Department, and the Kansas Corporation Commission, necessary to legally drill an oil or gas well at the subject site.
- C. In addition to any other permits, licenses, inspections or approval required to legally drill an oil or gas well at the subject site, the conditions of approval for this conditional use also include all applicable provisions of the Oil and Gas Lease agreement and the Addendum To Oil And Gas Lease agreement between Trek AEC and the City of Wichita.
- D. The applicant shall obtain from the Traffic Engineer applicable approvals required to use City streets or bridges when over-weight or over-sized equipment is transported to the site.
- E. Prior to issuance of the special permit required by Chapter 25.04 of the City Code, the applicant shall submit a final site and landscape plan for review and approval by the Director of Planning that depicts all the conditions of approval, including but not limited to: location of wells, screening and landscaping materials and details, access and parking, location of well servicing equipment, lighting, and detail of the exterior materials for tank storage structure(s).
- F. The perimeter of the site outside of the required screening wall shall be landscaped. An eight-foot high screening wall shall be installed on all four sides. Landscaping and screening shall be installed at such time as directed by the Planning Director and no earlier than 60 days after established production. It is the responsibility of the applicant to notify the Planning Director of the date of established production.
- G. After the conclusion of drilling and oil or gas production, or abandonment, the applicant shall submit to the Director of Planning for review and approval a site plan that depicts final grades and details regarding any as-built improvements and/or landscaping/screening that are to remain on the site. All final grades, as-built improvements or landscaping/screening are to be established or removed within six months of abandonment of the well or the end of production.
- H. The applicant is required to commence drilling within 12 months following the date of execution of the lease, and a well shall be deemed to be commenced when a rig capable of drilling to a total

depth of 5,000 feet below the surface is erected on a drillsite and has begun actual drilling activity.

- I. The City reserves the right to dedicate portions of the site for the possible relocation of Sycamore Street.
- J. The site shall be developed, maintained and operated in compliance with all the applicable conditions of approval, including this conditional use and special permit. If the Zoning Administrator finds that there is a violation of any of the provisions or conditions of approval, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code or remedies set forth in Chapter 25.04, may, with the concurrence of the Director of the Metropolitan Area Building and Construction Department, 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 located within the Delano neighborhood, but was excluded from the Delano Neighborhood Overlay (zoning) District, which prohibits “oil and gas drilling.” The Delano neighborhood is a mixed use district that contains residential, commercial and industrial uses. Delano also contains some of the city’s older commercial buildings, especially those commercial uses located along West Douglas Avenue. Property to the immediate north of the subject site zoned CBD and is vacant. Land to the south is developed with warehouses and commercial buildings, and is zoned LI Limited Industrial (LI). Immediately to the east of the site is McLean Boulevard, which at last count, carried in excess of 10,000 vehicle trips on an average day. Further east of McLean Boulevard is the Arkansas River. East of the Arkansas River is property zoned CBD that comprises the center of Wichita’s downtown area. Properties to the west are also zoned CDB and developed with a construction company.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned CBD. The CBD district permits a very wide range of commercial, office and residential uses. The site could be used as currently zoned for a use that should be economically viable.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: During the drilling phase the requested activity would likely temporarily generate an increase in heavy truck and equipment traffic, noise and lighting. If the well is a producer, in time there may also be additional maintenance activities that require heavy truck traffic and those activities may temporarily generate noise and lighting. However, compliance with the conditions of approval should minimize anticipated impacts.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial would presumably represent a loss of economic opportunity for both the applicants. If the well is a producer, approval would benefit the public in the form additional domestic oil supplies.
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 “park and open space” land use. *The Project Downtown: The Master Plan for Wichita* (November 2010), page 6.13, depicts the site as being appropriate for mixed-use development. Approval of the conditional use does not conflict with either of the plan’s recommended uses. Once drilling is completed, the well can be screened, landscaped or enclosed in such a manner as

to not impede development on surrounding properties in a manner consistent with adopted plans or policies.

6. Impact of the proposed development on community facilities: Existing facilities or needed improvements are in place or will be obtained as part of the permitting process.

**DIRECTOR SCHLEGEL** commented that the City is a co-applicant on the application and on behalf of the City he was requesting that the Commission not take any action on the item at today's meeting. However, because this public hearing has been advertised and the agenda posted, the Commission can hold the public hearing and take public testimony. He said the reason for delaying any action is that the City has not completed vetting of the co-applicant.

**DALE MILLER**, Planning Staff presented the Staff Report. He said the District VI Advisory Board recommended denial 4-2. He referred to the DAB memo and other correspondence regarding the application provided as hand outs.

**D. SHERMAN** (In @1:48 p.m.)

**G. SHERMAN** asked about the alternate site map provided as a handout.

**MILLER** indicated that the map was provided by Jeff Fluhr, President, Wichita Downtown Development Corporation (WDDC) who would address it.

**J. JOHNSON** asked if anyone else was speaking on behalf of the City.

**DIRECTOR SCHLEGEL** indicated just the Staff Report and recommendation.

**NEUGENT** referenced the oil and gas map attached to the Staff Report and asked if 2005 was the only time the map has been amended.

**MILLER** replied correct. He said the application area that was covered in the 2005 amendment was out in the County.

**NEUGENT** referenced Item #5 under findings in the Staff Report relative to the Comprehensive Plan and policies. She referenced the phrase "does not conflict" and asked if that meant this conforms to the plan?

**MILLER** replied that if this is not a producing well, this will be a very temporary activity. He said the applicant will shut the well down and as required by the condition in the lease and return the property to the way it is today. He said if it is a producing well, depending on how long it produces (there have been some estimates as long as 20 years) then it will essentially be a temporary use and when the drilling is done, the area will be returned back to its original configuration. He said this use does not preclude use of the space as open space and park area as recommended by various plans. He said in that sense, the use complies with adopted plans.

**NEUGENT** clarified than staff considers 20 years a temporary use? She also confirmed that because this is considered a temporary use that is what makes it conform to the Comprehensive Plan.

**MILLER** said if this proposed use was going to permanently tie up the site with some use that was not appropriate based on existing plans, then an argument could be made that it is not consistent with plans; however, various plans show this area as park and open space which it can quickly become if it is not a producing well or the use can be deferred 20 years and become park and open space once the well has stopped producing. He said in the life of a City 20 years is not that long.

**NEUGENT** asked if this weren't a temporary use, would an oil well be in conformance with the Comprehensive Plan.

**MILLER** said he thought it could be based on the fact that the pump and equipment that is being installed is not going to stop the site from being used as park and open space.

**MILLER STEVENS** indicated she has a concern about open space and the fencing in of a temporary structure which will restrict access to the public for 20 years or longer. She said once the well is plugged, do the arrangements guarantee that the area will be returned to the original open space by the applicant or does the City have to do that.

**MILLER** said the way he understands the lease, the applicant is required to return the site to its former condition and that is repeated in the conditions of the conditional use permit.

**MILLER STEVENS** asked who was going to be responsible for the new street construction.

**MILLER** said he assumes the City but he doesn't know.

**DIRECTOR SCHLEGEL** referred to item G. of the Staff Report which clarified responsibilities of the applicant upon completion of any drilling and abandonment of the oil well.

**FOSTER** asked if there is some person of knowledge or expert with knowledge of oil, gas or geology representing the City or has the City relied upon the applicant for that information.

**MILLER** referred the question to Director Schlegel.

**DIRECTOR SCHLEGEL** said the City has not hired any outside experts for the conditional use permit; however, outside legal counsel has been retained for lease negotiations and to address any concerns the City might have regarding operating an oil well on the site.

**FOSTER** referred to the Staff Report regarding insurance and liability and asked how those amounts will be determined.

**MILLER** said those requirements are set out in Chapter 25 of the City's Oil and Gas Ordinance.

**FOSTER** indicated he has reviewed those requirements and commented that they seem a little low to him. He asked if they have been looked at and updated.

**MILLER** said he is not aware that the Ordinance has been looked at.

**DIRECTOR SCHLEGEL** clarified that the outside legal counsel retained by the City recommended higher insurance limits and that issue will be addressed in the lease.

**FOSTER** asked about the type of fencing during drilling operations

**MILLER** said the applicant is proposing an 8-foot tall masonry wall, but added he would let the applicant address that.

**FOSTER** commented that he reviewed Kansas Corporation Commission (KCC) and Kansas Department of Health and Environment (KDHE) regulations with regard to an “end use” plan requirement.

**MILLER** said under the lease conditional use permit, the area will be turned back into park and open space.

**FOSTER** commented that usually a plan is required that exhibits what the area will look like.

**MILLER** indicated the requirement is to return it to what it is today.

**FOSTER** confirmed that the depth on item #4 in the Staff Report would go to 300 feet on the surface casing.

**MILLER** indicated that was the requirement in the oil and gas ordinance, but the applicant may drill deeper. He referred that question to the applicant.

**FOSTER** referred to item #5 in the Staff Report regarding KCC and KDHE providing some oversight which seemed a little vague to him.

**MILLER** referred that question to the applicant.

**FOSTER** asked about the alternate site to the West of the current site and asked if this was one of the other locations that were looked at as referred to in the Staff Report.

**MILLER** referred the question to Director Schlegel.

**DIRECTOR SCHLEGEL** indicated that specific location was not discussed with the applicant.

**MCKAY** asked who JM Hadix, Geological Consultant, was representing.

Staff commented that they thought that was one of the speakers at today’s meeting.

**G. SHERMAN** referred to the site plan and asked what the portable storage containers were for.

**MILLER** indicated he would let the applicant address that.

**DENNIS** asked about any minimum lot size for the three actions of amending the oil and gas well map, special permit and conditional use permit for drilling.

**MILLER** said he did not believe a minimum lot size was part of the UZC; however, he said he would let the applicant address what they would typically need in terms of site size.

**DENNIS** said if this proposal is approved and the applicant strikes oil, won't the Planning Commission be flooded with a whole bunch of other requests in the area because this will set a precedent.

**DIRECTOR SCHLEGEL** suggested letting the co-applicants address that question.

**DENNIS** mentioned owning land in western Kansas with a gas well and that everyone in the entire section received royalties even though the well is located on his land. He said the City has one acre, but if there is a pool of oil beyond the one acre, who else owns rights to the oil and how it that determined.

**DIRECTOR SCHLEGEL** suggested letting the co-applicants address that question.

**DENNIS** clarified that the application was for one well, then two more. He asked if those would be drilled at once or will they bring those two wells back to the Commission for approval. He said the Staff Report says two weeks and the drilling is done and he does not believe that.

**MILLER** suggested letting the co-applicants address that question.

**DENNIS** mentioned the building to house the tanks and apparently additional tanks out in the open to be bermed. He asked how any accidental spillage will be handled.

**MILLER** suggested letting the co-applicants answer that item.

**G. SHERMAN** referred to the Staff Report that mentions it will take approximately 60 days to switch from drilling to pumping. He said he was pretty sure the building and fencing will not be built in 60 days. He asked if there was a requirement for installation of the wall and landscaping within a certain period of time.

**MILLER** indicated the lease addresses that issue.

**DIRECTOR SCHLEGEL** said the lease provides 60 days for submission of a site plan for approval by the City. He said those items would need to be in place before the applicant could start production.

**G. SHERMAN** clarified that there would be drilling and provided oil was discovered, the applicant would have 60 days to submit a site plan and construction would be completed at the site before the start of production.

**DIRECTOR SCHLEGEL** suggested letting the co-applicants explain how that would be accomplished. He said storage tanks cannot be located at the site without the building, so the plan will need to be integrated.

**DENNIS** asked why the City needs to pick up the cost of street reconstruction.

**DIRECTOR SCHLEGEL** explained that the relocation of Sycamore and McLean is being driven by construction of the new library, if and when that gets built. He indicated that the City is not relocating the intersection at this time. He said street maintenance is a City function.

**MILLER STEVENS** referred to the site plan that showed two potential drilling sites; however, the Staff Report refers to one well. She asked is there a potential for three wells and if so, will the applicant have to come back to the Planning Commission each time for each well.

**MILLER** said the Staff Report is a quote from the Chapter 25 Ordinance. He said he will let the applicant speak to the number of wells.

**MCKAY** requested clarification that the Commission is discussing the one location and not the alternate location.

**DIRECTOR SCHLEGEL** said that is correct; that is the site that was advertised and for which public hearing notices were mailed out. He said if a new site is considered the conditional use process of advertising, public hearing notices, etc. will need to begin all over again.

**GREG FERRIS, AGENT FOR TREK AEC, CO-APPLICANT** said the City put out a Request for Proposal (RFP) asking for proposals to drill oil wells in downtown Wichita. He said Trek AEC was selected to negotiate with the City. He said as part of that RFP Trek AEC was required to go through the processes of special use, conditional use and map amendment, which was why they were at the Planning Commission today. He said they met with the City over a number of months and discussed preferred locations. He said this site was the City's preferred location.

**FERRIS** mentioned the site map provided by Jeff Fluhr, from Wichita Downtown Development Corporation (WDDC). He clarified that location has nothing to do with the proposal he is presenting today. He said he has met with the apartment complex developers across the street from the Trek AEC proposed site and they are very comfortable with the location the applicant has proposed. He said once he reviews the site plan he will explain why this is a better location than the site proposed by WDDC to the west.

**FERRIS** referred to a map of the mineral use rights areas owned by the City the applicant is acquiring in the process of the lease negotiation. He commented that there has been significant misrepresentation of the facts regarding the proposed project. He said there is no "fracking" or horizontal drilling associated with the project. He said the lease with the City specifically states that "fracking" or horizontal drilling is not allowed. He mentioned that there will also be significant odor remediation associated with the project. He added that there is no investment by the City, other than allowing the applicant to use the land. He said the City initiated the new street alignment which is associated with other development in the area; that was not something the applicant requested.

**FERRIS** commented that the drilling techniques the applicant will use will have no impact on surrounding buildings. He introduced Alan Degood, Geologist with Trek AEC, who he said had over 30 years of experience drilling oil wells in Kansas and was available to answer specific questions on the project.

**FERRIS** said the project must comply with all noise ordinance regulations. He reviewed the drilling apparatus which will be vertical about 1,500 feet down with a diagonal drill of about 3,500 feet because the actual oil pool is under Century II. He said they reviewed sites in and around Century II; however, there was no adequate location for the drilling process on the east side of the river. He said the triple casing will go down 300-400 feet, depending on the rock and soil formation in the area. He said groundwater in the area is estimated at 100 feet, so they will be well below that and will have protections in place. He said the building will have concrete walls to protect against any possible spills. He said the above ground portable storage tanks for shavings and water, etc. are in lieu of pits which the City is not allowing the applicant to use. He said the tanks will be drained and hauled off on a regular basis. He said the site will include a solid masonry wall around the entire perimeter and a 15-foot

landscape buffer. He said the south portion of the site is reserved for a future trail. He mentioned security gates and space provided to the north of the site for the realignment of Sycamore Street. He said the potential additional tanks are required to be in the building. He said the additional drill sites are on the site plan in case there is a large pool of oil. He said they may want to put additional drills in the ground; however, they will not be in the same 10-acre unit. He said the initial 10-acre unit will be almost exclusively City and State property. He said when the bottom of the pool is reached a 10-acre square will be diagrammed and the applicant will be required to get a lease from anyone within that square.

**FERRIS** said this process will all be underground pumping. He referred to a photograph and drawing of typical oil drilling rigs and then referred to the submersible oil pump that will be used on this project. He mentioned the filtration system that will insure that no odors or chemicals are released into the atmosphere. He mentioned vents in the buildings and said the brick façade is designed to fit in with the character of the Delano neighborhood.

**MOTION:** To give the applicant an additional 7 minutes.

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

**FERRIS** said this type of process is not a unique situation, that these types of drills are located in Oklahoma and Texas. He said they are designed so there will be no odors and there are significant environmental controls in place; in addition to screening and landscaping.

**FERRIS** said the conditional use meets that criterion because this basically an industrial area with office uses. He said until the apartment complex is built, there are no residential uses within several hundred feet of this use. He said this is a commercial area that lends itself to ingress/egress for the tanker trucks they expect in the area 3-5 times a week. He mentioned deliveries at QuikTrip and said they don't believe there will be an impact on the streets or public uses any more than any other development in the area. He mentioned that this area has been vacant for 40 years. He said another 20 years of not having a park at the location is still very temporary. He said because of all the protections in place, the applicant does not see a detrimental impact on any of the surrounding area.

**FERRIS** mentioned public purpose and said the City will receive a significant royalty based on an oil find. He said if there is no oil, this all goes away; the applicant will cap the well and restore the surface the way the lease requires. He said if they do find oil, they will be required to do everything laid out in the lease and conditional use permit. He said they anticipate that if oil is found, the return to the City will be between \$15 and \$100 million dollars. He referred to the map of the area and said anyone can't just go drill a well willy-nilly; you must have a 10-acre unit and leases for that unit. He said he believes the City developed the RFP to come up with alternative revenue sources to build the library and help fund downtown development projects. He said they believe this meets the criteria for a conditional use permit and that the map amendment will not have a negative effect on the community in any way.

**MILLER STEVENS** referenced the 10-acre lease area and said the application identifies a 1.6 acre area. She asked if the applicant's lease with the City includes additional property.

**FERRIS** referred to a City map and indicated the lease with the City is outlined in yellow. He commented that the conditional use and map amendment is for the drill site itself, which is all the Planning Commission needs to deal with. He said if the applicant finds oil in the lease area and discovers it is a large pool and wants to move in other directions, they will need to secure leases from

the private property owners. He said the Planning Commission is being asked to look at the pump site which doesn't have anything to do with where the oil is located. He said they are looking for approval for the above ground portion of the proposal.

**MILLER STEVENS** asked who has royalty rights, and clarified that the City receives 15%.

**FERRIS** said the City and State have rights and added that royalties are still being negotiated. He said because of the size of the City parcel, they may receive 100% of the 10 acre unit. He said that can't be determined until they drill because when the drill hits the bottom that is the center point of the 10-acres.

**FOSTER** confirmed that the lease with the State of Kansas was for the river.

**FERRIS** said that was correct as per the RFP.

**FOSTER** asked about the design of the masonry wall around the proposed drill site.

**FERRIS** indicated that will be determined by the City and that the applicant must submit a site plan for City approval.

**FOSTER** recommended that the wall be painted out with a brick appearance. He referred to questions in the DAB VI memorandum. He asked how this proposal will affect the structure of surrounding buildings.

**FERRIS** said fracking is what causes problems; however, this drilling technique is different. He said when you are drilling at 1,500 feet; there isn't much disturbance above ground.

**FOSTER** asked if this will cause ground water contamination.

**FERRIS** said he doesn't believe these types of wells have done that and mentioned the triple casing. He asked Alan Degood, Trek AEC, to explain the triple casing.

**ALAN DEGOOD, 155 NORTH MARKET, TREK AEC** briefly explained the drilling process saying they would drill down 30-40 feet and install a conductor casing, which keeps the fluid from washing the hole out and getting bigger. He said the drilling rig itself will drill down to 300-400 feet into hard rock and there will be no fresh water below that point. He said the casing is then run into the line. He said 300 water wells have been drilled in the area. He said their well will have the conductor, and surface casing down to 300-400 feet and production tubing.

**FOSTER** asked what if the price of oil crashes.

**FERRIS** said if oil crashes to \$50 a barrel, the City make \$7-\$50 million. He said if the price of oil crashes to \$20 a barrel, this may not be a feasible well. He said the City lease requires that the well must be in production. He said they don't believe that is an issue.

**FOSTER** mentioned the appropriateness of the location and asked about the other preferred site.

**FERRIS** said the applicant's preferred site was located where the River Vista Project is. He said the second preferred site was the parking lot east of the site, which also had a development so this is the City's preferred location. He mentioned preliminary plans for the area to the west with a possible

library/village concept site, bike path and realignment of Sycamore. He said development opportunities for less than one acre of ground would be maybe an office building. He said they think this is an appropriate site and moving it will have some consequences that are not positives for the area.

**FOSTER** asked if those consequences were the drilling aspects of the project.

**FERRIS** said if they were to drill from the proposed alternative site, they would have to get drilling rights from every single property owner between the field and the drill. He said the current site goes under State and City property, which the applicant already has lease rights on. He said in addition, changing the location would add about \$400,000 to the cost of the drill.

**FOSTER** asked about the gas to oil ratio.

**FERRIS** said the applicant is not interested in producing gas at this site, they are drilling for oil.

**WARREN** asked about environmental protections proposed by the applicant, such as locating the tanks inside a building and asked or is that standard procedure.

**FERRIS** said if the applicant had a choice, they would locate the tanks outside; however, because of how the building is required to be designed; the applicant is going to have to submit plans for approval by various City Departments. He said this is not new technology and is a proven way to operate, just not what people are used to seeing in the Midwest.

**D. SHERMAN** clarified the key drivers for being at this location is because the City wants the applicant at this site.

**FERRIS** said the number one driver is the applicant needs to be close enough to where they believe there is oil to be able to drill. He said they can look at different locations but there may be other issues that prohibit drilling at that location. He said the number two driver is where the City wants the site.

**D. SHERMAN** clarified that the developers of River Vista had no problems with the proposed site.

**FERRIS** said he spoke with those developers this morning and the one thing they asked the applicant to do was to look at moving the drill sites further to the west. He said they have not seen the new drawings but the applicant did say they would do what the other developers are happy with. He said the developers specifically told him they had no problems with the applicant being on this location.

**D. SHERMAN** clarified that the applicant believes the pool of oil is located under Century II.

**FERRIS** replied they hope it is.

**D. SHERMAN** asked why the rig couldn't be located in the river adjacent to Century II.

**FERRIS** said it could be located in the river, but they could not do the kind of pump they are proposing five feet above the ground. He said if the rig was located in the river it has to be out of the water and it would be much more visible. He said the applicant wouldn't want to locate the rig in the river because there are so many other restrictions. He added that they did not believe the Corp of Engineers would allow drilling in the river.

**DIRECTOR SCHLEGEL** said in reference to the statement made by the agent that this was the “City’s preferred site.” He didn’t want the Planning Commission to infer that the City was trying to sell the applicant on this site. He said this is an acceptable site to the City and acceptable to the applicant. He said the applicant’s preferred site was as the agent described earlier on the west bank where River Vista will be located or another site on the east bank labeled Catalyst Site Two on the map.

**G. SHERMAN** asked if the portable storage containers would be removed after drilling.

**FERRIS** said the storage containers would only be needed during drilling so they would be removed. He added that for at least two weeks the location is going to look like a construction site including fencing.

**G. SHERMAN** reviewed timing of the proposal including erecting the building, installing tanks, drilling, etc. He said the Staff Report mentions 60 days to switch pumping. He said he didn’t think the rest of the construction would be complete in 60 days. He asked what the timeline was from when the applicant decides this is a good well location to completion of the site.

**FERRIS** mentioned 60, 90 or 120 days for the masonry wall and building. He said there are certain requirements and regulations that have to be met once they hit oil.

**G. SHERMAN** asked if there was anything in the lease that said the additional wells must be drilled within a specific period of time.

**FERRIS** said they have two years to drill the other wells.

**G. SHERMAN** verified that the other proposed site would cost an extra \$400,000.

**FERRIS** said that was correct and added that there would be an extra 500-600 feet for the directional drill as well as ingress/egress issues.

**NEUGENT** commented that she worked for a City that lost two potable water well fields to salt water contamination due to an oil field so she wanted to follow up on the contamination issues raised at the DAB meeting. She said she understands that regulations have changed significantly; however, she asked the applicant to explain how that won’t happen these days.

**DEGOOD** explained that most salt water pollution occurred in ground water back at the turn of the century through about 1950. He said oil companies were allowed to dig a big earthen pit and dump salt water in that, the idea was that the water would evaporate; however, they found out that it seeped down and went into the ground water. He said another way the ground water can become polluted is when the secondary water flooding goes in and there is a leak in the casing or tubing. He said the State no longer allows open water pits or pressure greater than what could split the tubing or casing. He said the State requires that the wells be tested yearly for pressure on the back side.

**J. JOHNSON** commented that although it would cost more to drill the well at the alternative location, if the applicant had a real producer it would be worth it correct.

**FERRIS** said maybe, but added that there were other issues other than just that cost with the alternate site.

**J. JOHNSON** asked if there was any cheaper way to find out if there is oil under Century II.

**FERRIS** said they could go to Century II and drill straight down; however, if they did that they couldn't come back and drill another well at this location. He said the reason Mr. Degood believes there is oil under Century II is that in 1969 a 2,000 foot well was drilled at Century II as part of the Kansas Independent Oil and Gas Association (KIOGA) annual conference. He said those records indicate the geology looks like there might be oil there. He said the applicant is willing to invest hundreds of thousands of dollars but asking them to speculate and invest several hundred thousand dollars more for the alternative site, it becomes another issue.

**J. JOHNSON** said a couple of hundred thousand dollars is insignificant if the oil is there.

**FERRIS** said that would be asking the applicant to spend several hundred thousand dollars at another site to find out if they can come back to this site and drill. He said right now the applicant is willing to spend 100% of the cost to investigate this possibility. He said even if the applicant did spend the extra money to find out if there was oil, what would be the point.

**J. JOHNSON** said it would justify moving the site.

**FERRIS** said the alternate site recommended is a worse site for the area. He said even if they found oil, there is no guarantee that they can drill from that site because they would have to have 100% consent from all the property owners.

**MCKAY** mentioned salt water coming out with the oil and asked how that was going to be disposed of.

**DEGOOD** said salt water disposal wells can be drilled. He said the City drilled a salt water disposal well in Cowtown in the early 1980's. He said it wasn't hazardous waste but it was not something you would want to put in the river or stormwater system. He said if that is the case, they will have to ask permission to use one of their drill sites as a disposal well to get rid of the water in a formation known as the Arbuckle that includes thousands of salt water disposal sites.

**FERRIS** clarified that the lease does not allow the applicant to just drill the salt water well; they have to go through the City's environmental process.

**NEUGENT** mentioned problems in Haysville and said salt water disposal is an issue. She asked how that would be addressed.

**MILLER STEVENS** and **WARREN** (Out @ 2:55 p.m.)

**FERRIS** mentioned contamination of ground water that happened because of the events that took place above the 300-400 foot threshold. He said the Arbuckle is under that level. He said it is more likely that they will deal with salt water disposal off-site. He said if a salt water disposal well is approved at the location, the drilling happens at the rock formations, which are much deeper.

**NEUGENT** clarified so depth takes care of the problem.

**D. SHERMAN** (Out @3:00 p.m.)

**FOSTER** mentioned the alternative site and said it looks like there is only one major private entity that might affect moving to that site.

**FERRIS** said regardless, they would have to get permission from all private property owners. In addition, he said that is not a good site to put an oil well, in his opinion. He mentioned the size of developable ground in the area and compared their proposed one acre tract with the nine acre alternate tract, which he believed needed to be protected because it was more developable.

**FOSTER** said he was looking at the issue from two different angles, one was the above ground impact and two was the feasibility of below ground effort. He said the alternate site looks like a good spot based on the transition of the design into the industrial aspects of Delano. He said the project seems to make a lot of sense over there. He said he doesn't know why the open space being discussed can't be incorporated into the library.

**FERRIS** referred to pictures of the types of buildings in the area. He mentioned problems with access to the alternate site. He said the alternate site makes no sense from a drilling stand point and is a negative from a development standpoint. He asked why the applicant would do that for a site that is going to look far better than surrounding properties when it is completed.

**FOSTER** clarified that the wall was going to be 8-feet high. He asked about vegetation to screen the site from the River Vista Development

**FERRIS** said they are screening a solid brick building that looks far better than other buildings in the area.

**NEUGENT** noted that the parcel was not located in the Delano Overlay District and does not fall under those standards; however, it does look like a lot of care has gone into the design. She asked if the design standards were considered.

**FERRIS** said yes.

**DIRECTOR SCHLEGEL** clarified that the City requested a design that would fit in with the older structures along west Douglas.

**DENNIS** asked about the well drill back in the 1960's and if that indicated that there was a 10-acre pool under Century II.

**FERRIS** responded that the 10 acres is the rule of the KCC and that you must have the lease rights from all the owners within that 10-acre unit. He said the 10-acre unit is determined from the bottom of the drill.

**DENNIS** asked how the applicant knew that they weren't pulling oil from beyond the 10 acres.

**DEGOOD** said if the well produces at a commercial rate they will be back drilling to another 10 acres adjoining the first drilling site. He said they have the right and the obligation to drill the next 10-acre location or they can be forced to give that up for someone else to drill it. He said Kansas State Law says it is a basic 10-acre unit. He said it is very difficult to tell if you are draining someone else's pool or not.

**DENNIS** clarified that there will be three possible wells and one of them will be a possible salt water disposal well.

**FERRIS** indicated no the applicant wants the right to drill three oil wells. He explained that once the well is drilled they will have more information on what is down there. He said they will be required to get another lease if they want to drill another 10 acres site.

**DENNIS** clarified that there would be three separate wells at three separate locations and that the applicant would deal with salt water disposal in another way.

**FERRIS** indicated they would probably dispose of salt water off site but they would look at those options.

**DENNIS** asked aren't the core samples public information.

**DEGOOD** said the State of Kansas allows the operator to keep information tight for one year; however, sometimes that is pretty difficult if people observe how many barrels are being removed from the site daily.

**FERRIS** referred to a map of the area and indicated that the applicant has lease rights to all that is in blue.

**DENNIS** said if this is approved it will set a precedent of allowing oil drilling in downtown Wichita. He said he doesn't know how they can say that it is okay for the City to drill but not anyone else.

**FERRIS** said one of the requirements of the conditional use is that there is some public benefit and the Planning Commission has the right to take that into consideration. He said they believe they have demonstrated that there is significant public benefit.

**DEGOOD** commented that the map may be a bit misleading and indicated that an oil and gas lease goes to the center of the street which fills in the river and streets in blue on the map

**FERRIS** said it is impossible to accumulate a 10-acre tract without incorporating the City's lease.

**DENNIS** clarified that the additional storage tanks will be located inside a building.

**FERRIS** replied yes, that is part of the lease.

**DIRECTOR SCHLEGEL** clarified that the Commission did not have a copy of the lease just the conditional use and map amendment request.

**FERRIS** said if the Planning Commission wants to make an additional condition that storage tanks be located inside a building, the applicant does not have a problem with that.

**J. JOHNSON** asked a procedural question about asking the applicant additional questions at the next meeting and moving on to taking public testimony.

**KENT ROWE, 3353 NORTH 159<sup>TH</sup> STREET EAST** provided a hand out of a document entitled "Oil Exploration Under Cities: *Private Profit, Public Risk.*" He asked the Planning Commission to wake up

and work together. He said he has a background in oil rig accident investigation, pipe line inspection and fire safety engineering. He said oil exploration under Cities has a special risk attached to it and mentioned blow out risk assessment. He said the risk management data is manufactured for the purposes of insurance. He asked the Commission when spills, fires and catastrophic blow outs occur, who pays. He said accidents do happen. He mentioned geological formations and that this was an oil exploration drilling operation that will drill into unknown strata that could lead to a blow. He said Kansas is number two to Texas in issuing permits and according to a former employee of the Kansas Geological Survey the process is out of control in the State of Kansas. He said although drilling has increased in Kansas, no additional inspectors have been added to regulate the wells.

**MOTION:** To give the speaker an additional 2 minutes.

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

**ROWE** briefly reviewed complications associated with drilling. He mentioned a picture of an oil drill blow taken in Iran that had over one mile of drill pipe in the air. He said blow outs still occur and are a risk in metropolitan areas and even though technology has improved depths are going lower and equipment is being pushed to work at high pressures and high temperatures. He concluded by referring to the acceptable risk and unacceptable risk area of the Schlumberger, 1999 graph in the handout.

**JOHN STEVENS, 3125 EAST BOSTON** made reference to pictures that were being passed around to the Commissioners. He said he did not believe the Commission should allow the drilling of an oil and gas well in downtown Wichita. He said he spent 23 years in the production of drilling wells. He said it concerns him that anyone who knows what can go wrong with oil and gas drilling would want to put this project in such a complicated space. He said when you are this close to public assets the risk of a catastrophe and possible damage to property and citizens in the area is extensive. He briefly described three different scenarios from his personal experience that demonstrated how it is possible for unexpected things to happen that no one can anticipate at oil and gas operations. He said the process of drilling for oil and gas has a level of hazard that far exceeds any other business. He mentioned the cost of Worker's Compensation Insurance for oil workers.

**MOTION:** To give the speaker an additional 2 minutes.

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

**STEVENS** said if the Commission allows the project, it should be completely fenced. He said liability insurance should be high enough to include the possible cleaning up of the Arkansas River. He mentioned the smell, large trucks (semis) and noise and stated that Delano is not a good place for oil and gas operations.

**JEFF FLUHR, PRESIDENT, WICHITA DOWNTOWN DEVELOPMENT CORPORATION (WDDC), 507 EAST DOUGLAS AVENUE** said he appreciated the opportunity to present the concerns the WDDC has with the proposed item. He mentioned that 32 months ago the Planning Commission unanimously adopted the Project Downtown Plan along with the City Council and Sedgwick County Commission. He said since that time they have seen remarkable investment in downtown and progress is under way along Douglas Avenue. He briefly reviewed progress indicating that 160 residential units have been completed and over 240 are under construction, with an additional 450 under final design. He said two new hotels have reopened and another hotel was completely restored. He said there is also activity in commercial markets and construction of the new library and

convention center. He referred to the catalyst one site on the map to be developed by the Laham Group in addition to approval for 154 more residential units across Market along Waterwalk. He said the development estimate for both projects is worth more than \$30 million.

**FLUHR** said their concern is how the current project will impact progress that is underway as well as what is planned. He said they believe the project will affect the urban village planned for this area as well as some of the projects Laham Development wants to initiate. He said the River Vista site is tight and one of the important parts of the project is the commercial aspects including an office building fronted onto McLean. He said urban design includes uses that complement each other and that will create activity and mixed use development that fosters the urban core.

**FLUHR** referred to the alternate site that has been discussed at the meeting and also mentioned land the City owns around Lawrence Dumont Stadium and if perhaps that could be a possibility. He said they want to insure that the project does not impact development that is going to happen now and in the coming years ahead. He said there are concerns about odors and what is in place if the systems designed to take care of those do not work correctly. He asked how that might impact the residential units in area and the rest of the folks in Delano with the southern winds. He asked what were the safeguards to insure that investment in the area isn't curtailed or hindered because of this project. He said the WDDC welcomes the opportunity to work with the City. He said they would welcome the opportunity to sit down with the City, this team, the other development group to make sure that this will not impact other development as the Downtown Plan moves forward.

**KAREN CRAVENS, DELANO UNITED, 320 NORTH FERN** said she believe the City of Wichita is rushing into this. She said the City's oil and gas ordinances were written 30 years ago and don't take modern techniques into account. She asked the Commission to decline the application for now until the City's oil and gas ordinance is revised and brought more up to date. She said if here is oil down there, there will be oil drilling all over downtown Wichita. She said the other reason they would like deferral is they have questions regarding leases and titles that may require some "homework." She said there is at least one pump jack sitting in Delano that has been abandoned for many years that is not on the KCC records. She said they don't know if the well was abandoned in place or was hauled into the area. She said she feels the buildings in Delano are looking pretty good and a whole lot better than they did ten years ago when the Delano Plan went into place. She commented that this location is in sight of the clock tower. She said they liked the building but not the eight-foot masonry wall that they feel will be decorated by some "free lance muralist's" in the future. She said this area has been talked about as an empty field and mentioned the bike/pedestrian path to the south. She referred to the Delano Plan which originally had green space at each end of the path; however, she reported that the whole western end has been sold off and lost. She said Delano does have plans for the location other than just green space such as a farmer's market pavilion. She said they have been fund raising on their own because they got tired of waiting for the City and said that the City has promised the area some things. She said they realize the economy is tough. She said if the City sells off this piece of land they will lose the hearts and minds of the people of Delano.

**NEUGENT** asked Ms. Cravens to explain her statement that Delano was promised open space on both ends of the bike/pedestrian path.

**CRAVENS** referred to a map from the Delano Plan. She referred to the triangle (formerly Junction Town) on the west end of the path that was to have been a park or green space. She commented that they do not have a public square in Delano. She said whenever they want to host an event; they have to

close Douglas which hurts businesses along the street. She said a number of segments of the triangle to the west have been sold off by the City.

**FERRIS** said the City is requiring \$10 million worth of insurance on the project so the applicant is covering any risk that might occur. He said they believe this is not a high pressure area and there are no drill stem tests required. He said State Law establishes the 330 feet from the drill site and the 10 acres. He said the realignment of Sycamore is where the City anticipates the River Vista project. He apologized if his comments offended anyone and said he loves Delano; that he grew up there and had a business there but his point was the building they are proposing at this location is just as nice as anything in Delano. He said they are not rushing into the project and have been working with City staff since November, 2012. He mentioned the 1982 ordinance and said there have been many staff amendments that go well beyond the requirements of the ordinance.

**DIRECTOR SCHLEGEL** said the City was requesting that the Planning Commission not take any action on the item until after the vetting process is complete.

**NEUGENT** asked about the lease agreement referred to in the Staff Report. She said it would be hard for her vote for approval without seeing the relevant provisions of the lease agreement.

**DIRECTOR SCHLEGEL** commented that all of the items will go to the City Council simultaneously. He said the draft lease being negotiated with Trek AEC is not finalized and will not come before the Planning Commission.

**NEUGENT** said the lease is part of the provisions of the conditional use permit the Commission is being asked to consider. She said it would be nice to know what in the lease is applicable.

**MILLER** said the Staff Report summarizes the parts of the lease agreement that are applicable to the land use question.

**NEUGENT** said she appreciated that; however, she said she would like to know what a specific provision is if it is included in the conditions. She referred to page 6 of the Staff Report, item C which refers to the applicable provisions of the oil and gas agreement.

**DIRECTOR SCHLEGEL** said staff is not able to present the lease agreement to the Commission at this time so staff summarized the applicable provisions within that lease agreement that are relative to the conditional use permit.

**NEUGENT** asked if the lease provisions would be specifically spelled out in the conditions in the Staff Report.

**DIRECTOR SCHLEGEL** said staff could specifically spell out the lease provisions.

**G. SHERMAN** asked about closing the public hearing.

**DIRECTOR SCHLEGEL** suggested deferring to a date certain.

**MOTION:** To defer the item until the September 12, 2013 Planning Commission Hearing and keep the public hearing open.

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

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Other Matters/Adjournment

The Metropolitan Area Planning Commission adjourned at 4:00 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)

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