

**METROPOLITAN AREA PLANNING COMMISSION**

**Minutes  
September 12, 2013**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, September 12, 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: George Sherman, Vice Chair; Steve Anthimides; David Foster; Matt Goolsby; Bill Johnson; Joe Johnson; Don Klausmeyer; John W. McKay Jr.; M.S. Mitchell; Debra Miller Stevens; Carol Neugent; and Chuck Warren (In @ 1:34 p.m.) . David Dennis and Don Sherman were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Jess McNeely, Senior Planner; Jeff Vanzandt, Assistant City Attorney and Maryann Crockett, Recording Secretary.

1. Approval of the August 22, 2013 Planning Commission meeting minutes.

**MOTION:** To approve the August 22, 2013 meeting minutes, as amended.

**MILLER STEVENS** moved, **J. JOHNSON** seconded the motion, and it carried (7-4).  
**ANTHIMEDES, J. JOHNSON, MITCHELL** and **NEUGENT** and Abstained.

- 
- 1.1. Election of Chair and Vice Chair

Chair

**COMMISSIONER MITCHELL** nominated **COMMISSIONER KLAUSMEYER** as Chair.  
**COMMISSIONER MCKAY** seconded the nomination. **COMMISSIONER KLAUSMEYER** was elected Chair unanimously.

**WARREN** (In @ 1:34 p.m.)

Vice Chair

**COMMISSIONER MCKAY** nominated **COMMISSIONER GOOLSBY** as Vice Chair.  
**COMMISSIONER J. JOHNSON** seconded the nomination. **COMMISSIONER GOOLSBY** was elected Vice Chair unanimously.

**COMMISSIONER KLAUSMEYER** in the Chair.

- 
2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB2013-00035: One-Step Final Plat – C & S ESTATES ADDITION.**

**NOTE:** This site is located in the County in an area designated as “Valley Center 2030 Urban Growth Area” by the Wichita-Sedgwick County Comprehensive Plan. It is located in the Valley Center Area of Influence.

STAFF COMMENTS:

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact Metropolitan Area Building and Construction Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. County Public Works has approved the applicant's drainage plan subject to including the standard drainage note on the final plat tracing: "A drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater."
- D. The applicant proposes complete access control across Lot 1 and one opening for Lot 2. County Public Works has requested the access controls be denoted on the face of the plat. The access controls shall be referenced in the plat's text as follows: "All access controls are hereby granted to the appropriate governing body".
- E. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.
- F. GIS has requested abbreviations for the street types and directionals: "81<sup>st</sup> Ct N" and "81<sup>st</sup> St N".
- G. 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.)
- H. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- I. 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.
- J. 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.

- K. 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.
- L. Perimeter closure computations shall be submitted with the final plat tracing.
- M. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- N. 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.

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

-----  
**2-2. SUB2013-00036: One-Step Final Plat - QUIKTRIP 14TH ADDITION.**

**NOTE:** This is an unplatted site located within the City of Wichita.

**STAFF COMMENTS:**

- A. City of Wichita Public Works and Utilities Department requests a guarantee for relocation and/or abandonment of private utilities within the site area. A guarantee is requested for the extension of the public sewer line (lateral). A 5-foot utility easement is needed along the north property line. The plat and utility plan propose making the private sewer line along 31<sup>st</sup> into a public line. The line will need to be televised by the applicant and all taps need to be sealed at the main. If the line is not up to City Standards, improvements will need to be made at the applicant's expense. A manhole is needed over the existing sewer line at the northeast end of the plat to separate the remaining private sewer system from the proposed public line in 31<sup>st</sup> Street.
- 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 a drainage concept.
- D. Traffic Engineering has approved the access controls. The plat proposes two openings along 31<sup>st</sup> Street South and complete access control along K-15 Highway.

- E. In the surveyor's certificate, the reference to "K.S.A. 12-512b" should read "K.S.A. 12-512b, as amended."
- F. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- G. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.
- H. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- I. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- J. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- K. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- L. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- M. Perimeter closure computations shall be submitted with the final plat tracing.
- N. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- O. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disc. If a disc is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: [kwilson@wichita.gov](mailto:kwilson@wichita.gov)).

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

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

-----  
**3. PUBLIC HEARING – VACATION ITEMS**

**3-1. VAC2013-00030: City request to vacate an easement described in the plattor's text,**  
generally located west of Seneca Street on the south side of Harry Street.

**APPLICANT/OWNER:** Layne Western Company c/o Rusty Redding & Layne Christensen  
(applicant/owner)

**LEGAL DESCRIPTION:** Generally described as vacating the 10-foot wide utility easement  
that runs parallel to the south lot line of Lots 1, 2, & 3, Merton Park  
Addition, Wichita, Sedgwick County, Kansas

**LOCATION:** Generally located east of Seneca Street, on the south side of Harry Street  
(WCC #IV)

**REASON FOR REQUEST:** No utilities located in easement

**CURRENT ZONING:** The site and all abutting and adjacent southern and eastern properties are  
zoned LI Limited Industrial (LI). Abutting and adjacent western and  
northern properties are zoned LC Limited Commercial (LC) and LI.

The applicant proposes to vacate the 10-foot wide utility easement that runs parallel to the south lot line of Lots 1, 2, & 3, Merton Park Addition. All utility easements are described in the plattor's text, in regards to their location and size; see exhibit. There are no public utilities in the subject easement. Comments from Stormwater are required. Comments from franchised utilities have not been received and are needed to determine if they have utilities located within the subject easement. The Merton Park Addition was recorded with the Register of Deeds Aug 3, 1939.

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 utility easement described in the plattor's text.

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 August 22, 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 utility easement described in the plattor's text, 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) Contact Lee Sailsbury at 261-6859 for Westar equipment.
- (2) Abandonment or relocation/reconstruction of any/all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. Provide approved project numbers or approval by the franchised utility representatives to Planning prior to the case going to City Council for final action.
- (3) Provide any needed easements for relocated utilities, prior to this case going to City Council for final action.
- (4) Provide Planning with a legal description of the vacated utility easement on a Word document, via e-mail. This must be provided to Planning prior to the case going to City Council for final action.
- (5) 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) Contact Lee Sailsbury at 261-6859 for Westar equipment.
- (2) Abandonment or relocation/reconstruction of any/all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. Provide approved project numbers or approval by the franchised utility representatives to Planning prior to the case going to City Council for final action.
- (3) Provide any needed easements for relocated utilities, prior to this case going to City Council for final action.
- (4) Provide Planning with a legal description of the vacated utility easement on a Word document, via e-mail. This must be provided to Planning prior to the case going to City Council for final action.

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

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

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

-----  
**3-2. VAC2013-00031: City request to vacate a portion of a platted drainage and utility easement and an access easement dedicated by separate instrument,** generally located south of 21st Street North on the east side of Maize Road.

**OWNER/AGENT:** Bennington Place, LLC., c/o Mike Brand (owner) Luminous Neon, Inc., c/o Byron West (agent)

**LEGAL DESCRIPTION:** Generally described as the platted drainage easement and a joint access easement dedicated by separate instrument (FLM 1689/PG 557), located east of the Maize Road intersection, in the Timber Ridge 5<sup>th</sup> Addition, Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located on the east side of Maize Road and south of 21 Street North (WCC #V)

**REASON FOR REQUEST:** Monument sign

**CURRENT ZONING:** Subject property and all adjacent and abutting properties are zoned LC Limited Commercial (LC)

The applicant is requesting consideration for the vacation of portions of a platted drainage easement and an access easement dedicated by separate instrument (FLM 1689/PG 557), located east of the Maize Road intersection, in the Timber Ridge 5<sup>th</sup> Addition. The subject drainage easement and the subject access easement occupy the same space at this location. The applicant proposes to place a monument sign in a portion of the subject easements. There is a raised median with roll over curb located in the area of the proposed encroachment. NOTE: The joint access easement dedicated by separate instrument (FLM 1689/PG 557) is a private easement and as such the City has no jurisdiction in regards to vacating it.

The site appears to be behind the LC Limited Commercial's (LC) minimum 20-foot front yard setback. West of the subject easements there is a platted 25-foot wide utility easement that has a sewer line in it that must not be encroached into. The site is located within CUP DP-197 and must be reviewed for approval of the proposed monument if the vacation request is approved. If needed the applicant must adjust or amend DP-197. The Timber Ridge 5<sup>th</sup> Addition was recorded with the Register of Deeds September 26, 2012.

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 the platted drainage easement.

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 August 22, 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 the platted drainage easement, and that the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Vacate only that portion of the platted drainage easement as described in an approved legal description, as provided by a licensed surveyor and approved by City Water & Sewer/Public Works and the Traffic Engineer. Provide all required plans for review as provided by a licensed surveyor and the sign company. Provide Planning Staff the approved legal description of the vacated portion of the subject easement, as provided by a licensed surveyor, via e-mail on a Word document. This must be provided to Planning prior going to City Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer and franchised utilities/Westar with any needed plans for review for location of utilities. Contact Marsha Jesse at 261-6734 for Westar equipment.
- (3) Provide a guarantee or approved plans for the relocation of any utilities. This must be provided to Planning prior going to City Council for final action.
- (4) Adjust or Amend CUP SDP-197 as needed. This must be provided to Planning prior to going to City Council for final action.
- (5) All improvements shall be according to City Standards.
- (6) If needed retain the easement until all utilities have been relocated or a guarantee for relocation of the utilities has been accepted by the City/franchised utilities and the new easements for the relocated utilities has been recorded with the Register of Deeds.

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

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate only that portion of the platted drainage easement as described in an approved legal description, as provided by a licensed surveyor and approved by City Water & Sewer/Public Works and the Traffic Engineer. Provide all required plans for review as provided by a licensed surveyor and the sign company. Provide Planning Staff the approved legal description of the vacated portion of the subject easement, as provided by a licensed surveyor, via e-mail on a Word document. This must be provided to Planning prior going to City Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer and franchised utilities/Westar with any needed plans for review for location of utilities. Contact Marsha Jesse at 261-6734 for Westar equipment.
- (3) Provide a guarantee or approved plans for the relocation of any utilities. This must be provided to Planning prior going to City Council for final action.
- (4) Adjust or Amend CUP SDP-197 as needed. This must be provided to Planning prior going to City Council for final action.
- (5) All improvements shall be according to City Standards.
- (6) If needed retain the easement until all utilities have been relocated or a guarantee for relocation of the utilities has been accepted by the City/franchised utilities and the new easements for the relocated utilities has been recorded with the Register of Deeds.
- (7) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

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

-----  
**3-3. VAC2013-00033: City request to vacate a portion of a platted alley,** generally located east of Waco Avenue, south of Harry Street, between Water and Wichita Streets.

**APPLICANT/AGENT:** SCA Properties, LLC, c/o James H Maybrier (owner) William M Johnson (agent)

**LEGAL DESCRIPTION:** Generally described as the north 202 feet of the platted 20-foot wide alley abutting Harry Street on the north, Lots 1-15 (odd), Smith and Stover's Addition on the west, and Lots 2-16 (even), Englishes 6th Addition on the east side, Wichita, Sedgwick County, Kansas

**LOCATION:** Generally located east of Waco Avenue, on the south side of Harry Street, between Wichita and Water Streets (WCC #III)

**REASON FOR REQUEST:** Improvements/redevelopment to property

**CURRENT ZONING:** The subject site is public alley right-of-way. The abutting and adjacent properties are zoned SF-5 Single-Family Residential (SF-5), TF-3 Two-Family Residential (TF-3) and LC Limited Commercial (LC).

The applicant is requesting the vacation of the north 202 feet of the platted 20-foot wide alley abutting Harry Street on the north, Lots 1-15 (odd), Smith and Stover's Addition on the west, and Lots 2-16 (even), Englishes 6th Addition on the east side. There is a sewer line and manholes in the described portion of the alley. Comments from franchised utilities have not been received and are needed to determine if they have utilities located within the site. The request will create a dead-end alley. The applicant owns all the abutting properties and the request is associated with ZON2013-00020, which, if approved will rezone the abutting SF-5 Single-Family Residential (SF-5), TF-3 Two-Family Residential (TF-3) zoned properties to LC Limited Commercial (LC). If approved the zoning and vacation request will facilitate the expansion of the applicants property and place more control on who access these properties. The Smith and Stover's Addition was recorded March 8, 1886, and the Englishes 6th Addition to Wichita, was recorded May 25, 1885.

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 the platted alley.

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 August 22, 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 the platted alley, 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) Dedicated by separate instrument a 20-foot wide east-west alley to either Wichita or Water Streets to prevent the remaining alley from becoming a dead end alley. All approved dedications with original signatures must be provided to Planning prior going to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (2) Provide restrictive covenant(s) with original signatures binding and tying the vacated alley to the abutting properties. The restrictive covenant(s) must be provided to Planning prior going to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) Provide a legal description of the vacated alley ROWs, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicant's expense. Provide any needed guarantees for a curb cut onto Wichita or Water Streets for the required east-west alley. This must be provided to Planning prior going to City Council for final action.
- (5) Any relocation or reconstruction of public and franchised utilities, made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. As needed, provide required guarantees or approved projects to ensure relocation and/or relocation of utilities, including, but not limited to, drainage, sewer, water and franchise utilities. Contact Lee Salsbury at 261-6859 for Westar equipment.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Dedicated by separate instrument a 20-foot wide east-west alley to either Wichita or Water Streets to prevent the remaining alley from becoming a dead end alley. All approved dedications with original signatures must be provided to Planning prior going to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.

- (2) Provide restrictive covenant(s) with original signatures binding and tying the vacated alley to the abutting properties. The restrictive covenant(s) must be provided to Planning prior going to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) Provide a legal description of the vacated alley ROWs, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicant's expense. Provide any needed guarantees for a curb cut onto Wichita or Water Streets for the required east-west alley. This must be provided to Planning prior going to City Council for final action.
- (5) Any relocation or reconstruction of public and franchised utilities, made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. As needed, provide required guarantees or approved projects to ensure relocation and/or relocation of utilities, including, but not limited to, drainage, sewer, water and franchise utilities. Contact Lee Sailsbury at 261-6859 for Westar equipment.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

**G. SHERMAN** moved, **FOSTER** seconded the motion, and it carried (11-0-1).

**B. JOHNSON** – Abstained.

- 
- 3-4. **VAC2013-00034: City request to vacate platted utility easement and platted drainage easement,** generally located on the southwest corner of Central Avenue and Webb Road.

**OWNER/AGENT:** Investment Properties LC (owner) MKEC, c/o Brian Lindebak (agent)

**LEGAL DESCRIPTION:** Generally described as vacating the platted 10 foot wide utility easement running parallel to the west lot line of Lot 1 and the platted 10-foot wide drainage easement running parallel to most of the south lot line of the same Lot 1, all in the Forest Hills Office Park Second Addition, Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located on the southwest corner of Central Avenue and Webb Road (WCC #II)

**REASON FOR REQUEST:** Associated with future development

**CURRENT ZONING:** The site, abutting southern and western and adjacent northern properties are zoned LC Limited Commercial (LC). Adjacent eastern properties are zoned LI Limited Industrial (LI).

The applicant proposes to vacate the platted 10 foot wide utility easement running parallel to the west lot line of Lot 1 and the platted 10-foot wide drainage easement running parallel to most of the south lot line of the same Lot 1, all in the Forest Hills Office Park Second Addition. There are no public utilities in the platted 10 foot wide utility easement, nor is there a parallel easement on the west, abutting Lot 1, Forest Hills Office Park Third Addition. It appears there is no public drainage equipment in the platted 10 foot wide drainage easement. However there is a parallel platted 10-foot wide drainage easement on the south, abutting Lots 2 & 3, Forest Hills Office Park Fourth Addition. It appears there is surface drainage in the area of the drainage easements. Westar has utilities located within the area of the vacation. The Forest Hills Office Park Second Addition was recorded with the Register of Deeds November 5, 1980.

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

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 August 22, 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 portions of the platted utility easement and platted drainage easement, and that the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Abandonment or relocation/reconstruction of any/all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. Provide approved project numbers or approval by the franchised utility representatives to Planning prior to the case going to City Council for final action.
- (2) Provide any needed easements for relocated utilities, prior to this case going to City Council for final action. Stormwater comments: In the event the Central & Webb Rd storm sewer system is unable to convey the stormwater runoff, do these drainage easements act as an emergency overflow route during a heavy rain? If so, it needs to be determined if additional drainage easements need to be granted over and through this property.

- (3) Westar has utilities located within the area of the vacation of the platted 10-foot wide utility easement. Contact Becky Thompson, the Area Rep at 261-6320 for direction in regards to Westar's equipment.
- (4) Provide Planning with a legal description of the vacated utility easement on a Word document, via e-mail. This must be provided to Planning prior to the case going to City Council for final action.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Abandonment or relocation/reconstruction of any/all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. Provide approved project numbers or approval by the franchised utility representatives to Planning prior to the case going to City Council for final action.
- (2) Provide any needed easements for relocated utilities, prior to this case going to City Council for final action. Stormwater comments: In the event the Central & Webb Rd storm sewer system is unable to convey the stormwater runoff, do these drainage easements act as an emergency overflow route during a heavy rain? If so, it needs to be determined if additional drainage easements need to be granted over and through this property.
- (3) Westar has utilities located within the area of the vacation of the platted 10-foot wide utility easement. Contact Becky Thompson, the Area Rep at 261-6320 for direction in regards to Westar's equipment.
- (4) Provide Planning with a legal description of the vacated utility easement on a Word document, via e-mail. This must be provided to Planning prior to the case going to City Council for final action.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

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

-----  
**3-5. VAC2013-00035: City request to vacate a portion of a platted setback and a platted utility easement,** generally located south of Central Avenue, on the west side of Webb Road.

**OWNER/AGENT:** Investment Properties LC (owner) MKEC, c/o Brian Lindebak (agent)

**LEGAL DESCRIPTION:** Generally described as vacating the platted 40-foot & 30-foot interior side yard setbacks running parallel to the north lot lines of Lots 1, 2 & 3 and the platted 10-foot wide utility easement running parallel to the east, interior lot line of Lot 2, all in the Forest Hills Office Park Fourth Addition, Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located south of Central Avenue, on the west side of Webb Road (WCC #V)

**REASON FOR REQUEST:** Associated with future development

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

The applicant proposes to vacate the platted 40-foot and 30-foot wide interior side yard setbacks running parallel to parallel to the north lot lines of Lots 1, 2 & 3 and the platted 10-foot wide utility easement running parallel to the east, interior lot line of Lot 2, all in the Forest Hills Office Park Fourth Addition. The minimum interior side yard setback for the LC zoning district is 0 feet or 5 feet if one is provided; UZC Sec.III-B.14.d.(5). There is a 20-foot and 10-foot wide private drainage easement located within the platted setbacks that must not be encroached into.

There appears to be a water line in the north portion of the platted 10-foot utility easement. There is a water easement dedicated by separate instrument abutting the north side of the subject easement. The Forest Hills Office Park Fourth Addition was recorded with the Register of Deeds December 1, 1982.

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 a platted setbacks and a platted utility easement.

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 August 22, 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 portions of the platted utility easement and platted setbacks, and that the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Provide Planning Staff with a legal description of the approved vacated portions of the setbacks and utility easement 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 any needed additional easements prior to the case going to Council for final action.
- (3) Stormwater comments: In the event the Central & Webb Rd storm sewer system is unable to convey the stormwater runoff, do these drainage easements act as an emergency overflow route during a heavy rain? If so, it needs to be determined if additional drainage easements need to be granted over and through this property.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide Planning Staff with a legal description of the approved vacated portions of the setbacks and utility easement 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 any needed additional easements prior to the case going to Council for final action.
- (3) Stormwater comments: In the event the Central & Webb Rd storm sewer system is unable to convey the stormwater runoff, do these drainage easements act as an emergency overflow route during a heavy rain? If so, it needs to be determined if additional drainage easements need to be granted over and through this property.

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

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

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

-----  
**PUBLIC HEARINGS**

4. **Case No.: CON2013-00014** (Deferred from August 8, 2013) - 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.

**DIRECTOR SCHLEGEL** requested that the Commission defer action on the item until the October 10, 2013 meeting to allow completion of the vetting process. He recommended that the Commission allow anyone present at the meeting to provide testimony.

**KLAUSMEYER** asked if the applicant or agent should speak or should the Commission go right to public comments.

**DIRECTOR SCHLEGEL** said that was up to the Commission. He said a Staff Report was presented at the last meeting. He mentioned the Commission might want to hear from the applicant.

**MCKAY** commented that the Commission heard the Staff Report, applicant's presentation and public testimony at the last meeting. He said the Commission did everything but vote on the issue.

**MOTION:** To defer the item until the October 10, 2013 Planning Commission meeting, and allow additional public comment at this meeting.

**J. JOHNSON** moved, **ANTHIMEDES** seconded the motion, and it carried

(11-0-1). **G. SHERMAN** –Abstained.

**WARREN** asked if the applicant would be allowed to speak.

**G. SHERMAN** suggested the applicant be allowed rebuttal.

**KLAUSMEYER** said the Commission could allow the applicant to speak if they so desire.

**J. JOHNSON** said the applicant has already made a presentation but they could be allowed rebuttal to today's public testimony.

**MCKAY** noted for the record that the Commission has received 18 e-mails on the item.

**KENT ROWE, 3353 N. 159<sup>TH</sup> STREET EAST 67228** said he was present on behalf of the Wichita State University sustainability group which is a group of faculty members including scientists, engineers and geologists who vehemently oppose this proposed action for downtown Wichita. He said this is a gamble with a very low payoff. He added that the proposal was high risk for a number of reasons. He said the volume is dependent upon the area of the oil times the depth times the porosity which is a complete unknown at those depths. He mentioned the Monte Carlo risk analysis which indicated that on a wild cat well, an exploratory well in an undeveloped field probabilities for any oil recovery whatsoever are 10%-13% so consequently the risks far outweigh the benefits. He mentioned street maintenance, site preparation, scraping, run off and permanent disfigurement of the park area. He said the issue has caught national and international notoriety because of its bizarre nature. He mentioned that the Delano District is hosting a green celebration on the drilling site September 28. He said they will have solar and wind generators charging electric cars, music and information on the direction the Delano area will eventually go. He said they want to promote zero emissions living without the possibility of pollution. He said when the rocks are fractured that far down, that is a permanent fissure there for geological time. He mentioned that Bill Macibbon from 350.org has agreed to come to Wichita and speak on the issue on September 28. He mentioned the sustainability course being offered at Friends University. He also mentioned a major experiment on generating power in downtown Wichita. He commented that the Oklahoma City Medical Center uses wind power and asked why it can't be done here. He said the future lies in green technology, green jobs and a green way of living.

**SUSAN SHOCKET, 319 S. EXPOSITION 67213** said she lives right down the street from this location. She said she has lived in Delano since 1985 and raised her family there. She said she owns a business at 1110 W. Maple in addition to a non-profit that is housed in Delano. She said they have put in gardens in the City and senior center. She said she has a vested interest in the area. She said she has watched the area grow from nothing and now buildings are going for a lot of money. She said this is the 21<sup>st</sup> Century; the City should not be looking at oil options. She said she will be sending letters on this issue. She said oil is dirty. She said she tries to pick up trash in the neighborhood. She mentioned that in 2008 her son was in the engineering program at West High and they built a full windmill to power the score board as a class project but were told that they could not do that because of City regulations so they had to tear it down which she said was disappointing. She concluded by saying that the City needs to move forward.

**GREG FERRIS, AGENT FOR TREK AEC** said the risk analysis referred to by the first speaker is totally irrelevant because all of the risks are with the developer. He said if there is no oil there is no

project and the well will be capped and the ground restored. He said all the risk for this venture is on the shoulders of the applicant and not on the City in any way, shape or form. He said this is a multi-million dollar company that has looked at the site and determined that the risk is worthwhile.

**FERRIS** referred to an updated presentation with several pictures of the area including the area directly west of the site. He commented that one of the obligations of the Planning Commission was to look at the character of the neighborhood and whether the proposal fits into character of the neighborhood. He referred to the area south of the site. He said the Commission has seen slides of the applicant's proposed site and it is a better view than exists today on that site. He said they believe the proposal meets the criteria for approval and other than neighborhood opposition.

There was brief discussion concerning leaving the public hearing open.

**MITCHELL** commented that the public has had two opportunities to provide comment.

**MOTION:** To end the public hearing on this item.

**MITCHELL** moved, **NEUGENT** seconded the motion, and it carried (9-2-1). **FOSTER** and **MILLER STEVENS** – No. **G. SHERMAN** – Abstained.

5. **Case No.: ZON2013-00019** - Joseph and Delores Koury, Stacy A. Gensler and Gideon Ofisi / MKEC Engineering consultants, Inc. (Brian Lindebak) request a City zone change request from TF-3 Two family Residential to LC Limited Commercial on three lots on property described as:

Lots 43, 44, 45, 46, 47, 48 & 49, Overlook Addition to Wichita, Sedgwick County, Kansas.

**BACKGROUND:** The applicants are requesting LC Limited Commercial (LC) for three platted lots (identified as 516, 520 and 524 North Dellrose Avenue or Lots 43-49 on the attached aerial photo labeled as QuikTrip 389) that contain .56 acre, and are zoned TF-3 Two-family Residential (TF-3), and which are located 300 feet north of East Central Avenue, on the east side of North Dellrose Avenue (northwest of the intersection of East Central Avenue and North Oliver Avenue). All three lots that comprise the zoning application area are developed with single-family residences that front Dellrose Avenue.

QuikTrip intends to build a bigger convenience store than the existing store located at the northwest corner of East Central and North Oliver (addressed on the attached aerial map QuikTrip 389 as 4730 East Central) and to change the store's front orientation from Central Avenue to Oliver Avenue (see the attached site plan identified as QuikTrip No. 389R). In order to accomplish the proposed redevelopment, QuikTrip has recently purchased, or has agreements to purchase, the three residential properties that comprise the zoning application area. QuikTrip has also purchased, or has agreements to purchase, the LC zoned office property located east of the application area, and north of the existing convenience store (identified on the attached aerial as 519 and 525 North Oliver or Ruffin 4<sup>th</sup> Addition).

As noted above, the existing convenience store faces East Central Oliver. The front of the proposed convenience store is to be shifted to face North Oliver with the gas pump island located south of the relocated store. Two points of vehicular access are proposed along both East Central Avenue and North Oliver Avenue; all four of these access points are proposed to be full movement openings. Currently

there is an existing 12-foot alley that widens to 16 feet located behind the sports museum (addressed on the aerial as 4700 East Central) and the existing convenience store that provides a connection between Dellrose and North Oliver without using Central. The alley also provides access to seven parking spaces located behind the sports museum and the museum's dumpster. A replat of QuikTrip's entire ownership (the three lots that comprise the zoning application area plus the property on which the existing convenience store sits and the office building that fronts North Oliver located north of the existing convenience store) has been submitted (QuikTrip 15<sup>th</sup> Addition, SUB2013-00039). The replat of the property will vacate all but six feet of the existing alley. A 14-foot access easement/driveway from Dellrose will be located behind the sports museum, and will replace the vacated alley to allow the sports museum to continue to access the previously noted seven parking spaces and the dumpster located in the rear of the sports museum. The location of the proposed access easement/driveway from Dellrose will line up with a lot located on the west side of Dellrose that has been approved for ancillary parking (CON2013-00006) that supports a strip commercial use located across Dellrose. Dellrose Avenue has 25 feet of half-street right-of-way and is a local residential street that allows curbside parking.

The site plan indicates monument signage, 17 feet 3 inches high, is proposed on East Central and on North Oliver. Signage along Dellrose should be prohibited. A building signage plan was not submitted with the application; however, there should not be any building signage facing Dellrose or be located on any part of the north facing wall located directly south of the TF-3 zoned property or within 140 feet of Dellrose Avenue right-of-way (measured west to east from Dellrose right-of-way).

Ten-foot building setbacks are proposed along the north, west and south property lines. A 20-foot building setback is shown along the east property line. Per Article III, Section III-E.1.e(6) of the Unified Zoning Code (UZC), in the case of a corner lot, a front setback shall be provided along the shorter street frontage. In this instance, the front of the property is located along East Central. Compatibility building setback standards require 25-foot setbacks to be located along the west and north property lines where adjacent or abutting TF-3 zoning.

Light standards located within 200 feet of residential zoning are restricted to a maximum height of 15 feet, including the pedestal. Cutoff or shielded light fixtures are also required. Unless fully screened or shielded downward from view from single- or two-family residential uses, wall-pak lighting should be prohibited on the north and west property lines.

The UZC requires zoning screening along Dellrose and along the north property line. Zoning screening can be provided by solid six to eight feet tall fencing, berms, landscaping or some combination of the three. The Landscape Ordinance requires parking lot screening when new parking spaces are located within 150 feet of residential uses, and a landscape screening buffer is required within 15 feet of the north property line. Zoning screening may also act as parking lot screening.

As indicated above, the properties located east and south of the application area are zoned LC, and are developed with the existing convenience store and an office building while the properties located straight west of the application area, across Dellrose Avenue, and north are zoned TF-3 Two-family Residential and are developed with single-family residences. An LC zoned sports museum is also located south of the site. A GO zoned office building is also located east of the site.

**CASE HISTORY:** The site's zoning was most likely established in 1921 with the City's first zoning code. The 1937 zoning map indicates the application area was zoned the "A" Residence District that permitted one- and two-family residences, churches and temples, as well as home occupations.

**ADJACENT ZONING AND LAND USE:**

North: TF-3; single-family residence

South: LC; sports museum

East: LC; office building

West: TF-3; parking lot and single-family residences

**PUBLIC SERVICES:** The application area has been developed for many years and is served by all normally supplied utilities. Dellrose Avenue has 25 feet of half-street right-of-way and is a paved local residential street that allows curb-side parking.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for "urban residential" uses. The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The Metropolitan Area Planning Commission (MAPC) has an unofficial policy of generally supporting zoning applications that represent an expansion of existing businesses. The Central Northeast Area Plan Proposed Land Use Map 6 depicts the site as appropriate for retail and commercial services.

**RECOMMENDATION:** Based upon the information available at the time the staff report was prepared, it is recommended the request be approved subject to the following Protective Overlay:

- A. There shall be no free standing signage allowed along Dellrose Avenue. There shall be no building signage facing west or north.
- B. Unless completely screened or shielded to direct lighting downward from view from single- or two-family residential uses, wall-pak or similar building lighting is prohibited on the north and west building elevations.
- C. Building height is limited to a maximum of 35 feet.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The application area is surrounded by a mix of uses and zoning. Single-family residences, zoned TF-3, are located to the north and west. There is an LC zoned sports museum, convenience store and office building located south, southeast and east of the application area. A GO zoned office building is also located east of the application area. The application area is part of a larger site that is proposed to be redeveloped with a new convenience store that will have frontage on Oliver, Central and Dellrose. Dellrose is a paved local residential street that primarily has single-family residences built along its right-of-way.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned TF-3, which permits primarily single-family and two-family residential uses. The subject

properties are developed with older single-family homes that appear to be occupied and maintained. The properties that are the subject of this application could continue to be economically viable as residential uses.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request will expand LC zoning to Dellrose Avenue, which is a local residential street characterized by single-family residential development. The LC zoning district is a medium intensity commercial district that permits a wide range of retail, office and multi-family uses not permitted in the TF-3 district. The recommended conditions of approval dealing with signage and lighting, and code required screening, lighting, landscaping, building setbacks and height should minimize anticipated negative impacts to nearby property.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Presumably approval would be an economic benefit to the applicants, and the convenience shopping of the larger community would be enhanced with a larger and more efficient retail use. If the request is approved, the potential hardship to the remaining residential property owners located on Dellrose Avenue are increased non-resident traffic, noise, light glare and fugitive trash generated by a 24-hour a day, seven-day a week establishment.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for “urban residential” uses. The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The Metropolitan Area Planning Commission (MAPC) has an unofficial policy of generally supporting zoning applications that represent an expansion of existing businesses. The Central Northeast Area Plan Proposed Land Use Map 6 depicts the site as appropriate for retail and commercial services.
6. Impact of the proposed development on community facilities: A plat of the application and the larger proposed redevelopment area has been submitted and will address needed improvements, such as the re-routing of sanitary sewer, storm water as well as other transportation and utility needs.

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

**FOSTER** referred to the east side of the site plan. He asked if the monument signs were located in the right-of-way.

**MILLER** said signage cannot be located in the right-of-way.

**FOSTER** asked if the application was going to require a minor street permit.

**MILLER** said the application would need permission from the Traffic Engineer and a minor street permit.

**BRIAN LINDEBAK, MKEC ENGINEERING, AGENT FOR THE APPLICANT** introduced a representative for the **APPLICANT, MIKE WOOTEN, REAL ESTATE MANAGER, QUIKTRIP CORPORATION, TULSA, OKLAHOMA.**

**LINDEBAK** said they are in agreement with staff comments. He said they have met with the neighbors on one occasion and also at the District Advisory Board (DAB) meeting with no opposition. He referred the questions on signage and landscaping to Mr. Wooten.

**WOOTEN** mentioned the great feedback they received from the neighbors at the Country Overlook Neighborhood Association meeting they attended. He said the neighbors did have concerns regarding buffering and they have been working with them to come up with a solution. He said they believe they have a great project at this point working with neighborhood input. He said the purpose of the project is to increase the capacity at the location. He mentioned the location at south Hillside and said this will be similar with additional entrances. He said they have rotated the building to better fit parameters and front Oliver. He said they tried numerous layouts of the site and one of the reasons for acquiring the three properties was to provide adequate buffering. He mentioned that the three lots were 140 feet deep. He referred to a presentation board and briefly described the landscaping, fence and additional shrubbery at the site. He mentioned the percentage of landscaping required for LC Limited Commercial adjacent to residential. He said the neighbors were concerned with screening and placement of the fence. He said after the meeting with the neighbors they developed a couple of different options including increasing the landscape buffer and adding evergreens. He said another option addressed the neighbor's safety concerns and desire for a view down the street. He said although the UZC requires a 6-foot screening wall, numerous neighbors wanted screening with trees and a half wall so they could still see what was happening down the street. He said that made them feel safer not to be blocked off so to speak. He said they have worked with staff and the neighborhood associations. He said they received their first objection today and he believes that person is present to speak at today's meeting. He said he would be happy to answer any questions.

**FOSTER** asked the applicant to address the site plan that indicates the monument sign is in the street right-of-way.

**LINDEBAK** commented that the applicant has been working with staff on the right-of-way requirements and will be applying for a minor street privilege. He mentioned that they will be replatting the property.

**WOOTEN** said there is not sufficient right-of-way for any future improvements for the City. He said they are trying to meet future right-of-way requirements either by moving the monument sign back or filing for a minor street privilege permit.

**FOSTER** mentioned the northwest corner of the site and asked if the plan to lower the fence for the last 37 feet to 4-feet in height has been finalized.

**WOOTEN** he said that plan will meet what the neighborhood wants based on the feedback they received. He said although a 4-foot fence goes against city code, with the screening and fence they believe they will be able to meet both requirements.

**FOSTER** asked if it would be appropriate to rely on staff review to finalize some of the unanswered questions and revised conditions on the application.

**MILLER** said that would be correct. He mentioned that the signage isn't on the site plan or under consideration. He said the application consists of the three lots on Dellrose. He said; however, the Commission could review and comment on the entire site plan. He said when staff became aware that the applicant wanted to lower the height of the fence, they requested additional screening which could consist of fencing, berming and landscaping or a combination of all three. He said if the Planning Commission feels the shorter screening is appropriate, they can include that in their recommendation.

**MCKAY** asked about the location of the fence and if it goes to the property line.

**MILLER** said the fence will go along the property line adjacent to TF-3 Two-family Residential zoning.

**MCKAY** commented that the other side of the site along Oliver is where it is dangerous.

**MILLER** said technically the applicant does not have to provide a fence between LC Limited Commercial and GO General Office zoning.

**BRIAN BLUE, 341 N. ST. JAMES 67206** said he is a partner in a small real estate company that owns property at 544 N. Dellrose which is three houses north of what will be torn out. He said they have several concerns. He said they understand that part of what the Planning Commission does is to regulate precedence. He said allowing LC zoning on those three lots could extend onto the west side of Dellrose. He asked what prevents extending LC zoning to three more lots, and taking over the whole neighborhood. He said encroaching a block west of what is the traditionally commercial area is opening a can of worms. He added that Dellrose is a very narrow street and people park on it. He said this will increase traffic flow. He said QuikTrips are open 24 hours. He mentioned people going to the store at 3:00 a.m. after they have been to bars and partying in addition to people who work second and third shifts stopping to get a cup of coffee. He said their primary concern is for the safety of people in the neighborhood and reducing the traffic count to help maintain property values. He said when you increase the size of a facility; you increase the number of people that go there. He said traffic for retail is great, but traffic for a neighborhood kills the neighborhood community.

**LINDEBAK** noted that this is an existing store and the reason for the rezoning request is to increase the buffer between the residential neighborhood. He said they will be adding a significant green space and he believes the applicant should be commended for that. He said there has been additional redevelopment in the corridor which they believe speaks to the character of what is happening in the area.

**WOOTEN** commented that at the meeting the neighbors were comfortable with the use including all access points. He said they have received tremendous support from folks in the community.

**G. SHERMAN** asked how deep the landscaped area was.

**WOOTEN** said the next door neighbor said she wants to be able to look down the street when she sits on her porch so he roughly calculated that to be approximately 37 feet for the 4-foot wall.

**G. SHERMAN** asked what was on the other side of the wall.

**WOOTEN** referred to the presentation board depicting the landscaping.

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

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

**MCKAY** asked if it would be appropriate to ask staff to deal with code issues and the final site plan.

**MILLER** said if the Commission was comfortable allowing the 4-foot fence which is less than the code requirement, they need to instruct staff to include that in the conditions because staff did not have the authority to allow that.

**MCKAY** mentioned the exit onto Dellrose near the sports complex. He said he is not opposed to the 4-foot fence but was concerned with the distance back.

**MILLER** referred to the aerial of the property and clarified the location and distance of the screening fence and property line, open space, location of underground fuel tanks and parking. He said the neighbor will see an open grass area to the south and the back of the sports museum and possibly trees required as part of the screening.

**DIRECTOR SCHLEGEL** suggested that the Commission include the fencing provision in the motion. **MCKAY**, with the permission of the second **WARREN**, **amended** the motion to include a 4-foot fence, no more than 37 feet back.

**J. JOHNSON** asked if the Commission should pick a landscape option.

**MILLER** stated that the landscape ordinance is approved administratively and staff will sign off on that. He said the applicant will be required to submit a landscape plan, which they have not done yet.

**MCKAY** clarified that according to the landscape renderings, the applicant was going to provide more landscaping than the minimum required by the UZC.

**WOOTEN** replied yes, that was their full intent.

**MCKAY**, with the permission of the second **WARREN**, **amended** the motion to include that the landscaping be similar to the rendering the applicant provided at the meeting.

The **AMENDED MOTION** carried (12-0).

- 
6. **Case No.: ZON2013-00020** - SCA properties, LLC (owner/applicant) / William M. Johnson (agent) request a City zone change request from SF-5 Single Family Residential and TF-3 Two-family Residential to LC Limited Commercial on property described as:

The South 8 feet of lot 11 and all of lots 13, 15, 17, 19, 21 and 23, on Water Street, Smith and Stover's Addition to Wichita, Sedgwick County, Kansas.

AND

The South 8 feet of lot 12 and all of lots 14, 16, 18 and 20, on Water Street, English's 6th Addition to Wichita, Sedgwick County, Kansas.

**BACKGROUND:** The applicant proposes to rezone all or parts of 11 SF-5 Single-Family Residential (SF-5) and TF-3 Two-Family Residential (TF-3) zoned lots to LC Limited Commercial (LC). The requested LC zoning will allow the applicant to expand his flooring and carpet (retail) business located a block east of Waco Avenue, on the south side of Harry Street, between Wichita and Water Streets. The subject site is a mixture of vacant land and vacant buildings.

The area has mostly LC zoned property all along Harry Street, from the Arkansas River on the west, then east to Broadway and beyond. The immediate area's LC zoning is typically 150 feet deep off of Harry, with properties developed as small office, a vacant erotic sports bar, the Black Sabbath motorcycle club, a liquor store, smoke shop, auto repair limited, tire sales, personal services, single-family residences, a church and apartments. SF-5, TF-3, and MF-29 Multi-Family Residential zoned single-family residences abut the rear yards of the LC zoned uses that have the Harry Street frontage. The subject site has SF-5 and TF-3 zoned single-family residences (built 1900-1920s) abutting its south side. SF-5 and LC zoned single-family residences, a church parking lot and auto repair are located east and west of the site, across Water and Wichita Streets. The applicants current LC zoned business and properties abut the north side of the site.

**CASE HISTORY:** The subject properties were originally platted as part of the Smith and Stover's Addition, recorded March 8, 1886, and the Englishes 6<sup>th</sup> Addition to Wichita, recorded May 25, 1885. The applicant also has a request to vacate a portion of the platted alley that separates the east and west sides of the subject properties, VAC2013-00033, which is on today's MAPC agenda.

**ADJACENT ZONING AND LAND USE:**

NORTH:	LC	Carpet and flooring business, retail, single-family residences, apartments, vacant erotic sports bar
SOUTH:	SF-5, TF-3	Single-family residences
EAST:	LC, SF-5	Church parking lot, single-family residences, church
WEST :	LC, SF-5	Auto repair, single-family residences

**PUBLIC SERVICES:** Harry Street as this location is a paved four-lane arterial with 60 feet of right-of-way. Water and Wichita Streets are paved local streets with 70 feet of right-of-way. All utilities are available to the site.

**CONFORMANCE TO PLANS/POLICIES:** The "2030 Wichita Functional Land Use Guide" (Guide) map depicts this site as appropriate for "urban residential" uses. The urban residential category encompasses areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality. The UZC identifies SF-5 and TF-3 zoning as being generally compatible with the urban residential category, while the requested LC zoning is not compatible with the urban residential category.

The requested LC zoning is generally compatible with the Guide's "local commercial" category. Property so designated is appropriate for commercial, office and personal service uses that do not have a significant regional market draw, such as: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. The subject properties have frontage along the local residential streets Wichita and Water Streets, which could allow vehicular access through the adjacent and abutting single-family residential neighborhoods. However, the subject properties are part of an existing business that has frontage along the arterial Harry Street, which means that traffic can be directed towards Harry, thus partially meeting the locational criteria of the Comprehensive Plan. Access to and from the site can be addressed by the Traffic Engineer as part of the associated vacation case VAC2013-00033. The Planning Commission has in the past considered and supported the expansion of some existing business.

If approved all development standards for the site will be applied, including, but not limited to, access, parking, screening, landscaping, compatibility standards and paving.

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

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area has mostly LC zoned property all along Harry Street, from the Arkansas River on the west, then east to Broadway and beyond. The immediate area's LC zoning is typically 150 feet deep off of Harry, with properties developed as small office, a vacant erotic sports bar, the Black Sabbath motorcycle club, a liquor store, auto repair limited, tire sales, personal services, single-family residences, a church and apartments. SF-5, TF-3, and MF-29 Multi-Family Residential zoned single-family residences abut the rear yards of the LC zoned uses that have the Harry Street frontage. The subject site has SF-5 and TF-3 zoned single-family residences (built 1900-1920s) abutting its south side. SF-5 and LC zoned single-family residences, a church parking lot and auto repair are located east and west of the site, across Water and Wichita Streets. The applicants current LC zoned business and properties abut the north side of the site.
2. The suitability of the subject property for the uses to which it has been restricted: The subject properties are zoned SF-5 and TF-3 which permits single-family residential and duplexes. The location of the subject properties, along the local residential streets Wichita and Water, and their zoning is not out of character with the abutting and adjacent properties. What is out of character with the residential neighborhood is the vacant land and buildings that are located on the subject properties, as a 1997 aerial shows more development on those lands. This is probably a result of the applicant's incremental acquisition of these properties.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Redevelopment of these properties will remove vacant buildings and fill vacant lands all subject to the current development standards, including, but not limited to, access, parking, screening, landscaping, compatibility standards and paving. If approved the requested zoning would allow a neighborhood business to expand and perhaps ensure its continued presence.

4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The applicant is seeking the LC zoning to expand his flooring and carpet business.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide” (Guide) map depicts this site as appropriate for “urban residential” uses. The urban residential category encompasses areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality. The UZC identifies SF-5 and TF-3 zoning as being generally compatible with the urban residential category, while the requested LC zoning is not compatible with the urban residential category.

The requested LC zoning is generally compatible with the Guide’s “local commercial” category. Property so designated is appropriate for commercial, office and personal service uses that do not have a significant regional market draw, such as: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. The subject properties have frontage along the local residential streets Wichita and Water Streets, which could allow vehicular access through the adjacent and abutting single-family residential neighborhoods. However, the subject properties are part of an existing business that has frontage along the arterial Harry Street, which means that traffic can be directed towards Harry, thus partially meeting the locational criteria of the Comprehensive Plan. Access to and from the site can be addressed by the Traffic Engineer as part of the associated vacation case VAC2013-00033. The Planning Commission has in the past considered and supported the expansion of some existing business.

If approved all development standards for the site will be applied, including, but not limited to, access, parking, screening, landscaping, compatibility standards and paving.

6. Impact of the proposed development on community facilities: Possibly more traffic on Water and Wichita Streets, as reviewed by the Traffic Engineer. Drainage will have to be addressed prior to development, as reviewed by Stormwater.

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

**FOSTER** asked about the diagram on page 5 of the Staff Report.

**LONGNECKER** said that needed to be deleted. He added that the DAB approved the zone change unanimously.

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

**WARREN** moved, **J. JOHNSON** seconded the motion, and it carried (11-0-1).

**B. JOHNSON** – Abstained.

- 
7. **Case No.: CUP2013-00025** - Austin Rogers (applicant) and Saleem and Waseema Shahzad (owners) request a City CUP Amendment to DP-265, the Crystal Creek Commercial Plaza CUP, to permit businesses in Parcel 3 to exceed 8,000 square feet in size on property described as:

Lot 3, Block D, CRYSTAL CREEK ADDITION, a subdivision in the City of Wichita, Sedgwick County, Kansas.

**CHAIRMAN KLAUSMEYER** announced that the application had been withdrawn by the applicant.

8. **Case No.: CON2013-00017** - Theodore W. Maisch, Sr., for Irr. Marital Trust and Maisch Family Limited Partnership (applicant) /Robert W. Kaplan of Klenda Austermann, LLC (agent) request a City of Conditional Use to permit a Nightclub on property described as:

Lots 2, 4, 6, 8, 10 and 12, Ida Avenue AND Lots 1, 3, 5, 7, 9 & 11, Laura Avenue, Lincoln Street Addition to Wichita, Sedgwick County, Kansas.

**BACKGROUND:** The application area, 1103 and 1111 East Lincoln Street, is located at the southeast corner of East Lincoln Street and South Ida Avenue, and is zoned LC Limited Commercial (LC). Located on the site are two small commercial buildings. One building, addressed as 1103 East Lincoln Street, is located on the northwest corner, and is a retail liquor store. The second building, addressed as 1111 East Lincoln Street, is located at the northeast corner of the site, and was, up until July 28, 2011, used as “drinking establishment restaurant” (DER) with an Entertainment Establishment (EE) license that permitted live entertainment, but not dancing. The applicant wishes to reopen or convert the building at 1111 East Lincoln from a DER and Entertainment Establishment to a “Nightclub in the City.”

Nightclub in the City is defined by the “Wichita-Sedgwick County Unified Zoning Code” (UZC) as “...an Entertainment Established located in the City that provides entertainment, which may include the provision of dancing by employees or patrons, and where cereal malt beverage or alcoholic liquor are offered, consumed or served to the public or its members, and which may or may not serve food. When the Nightclub in the City qualifies as an “Adult Entertainment Establishment” under Chapter 3.05 of the Code of the City of Wichita, its Uses shall be governed in this Code by the requirements for “Sexually Oriented Businesses in the City.”

The UZC permits a Nightclub in the City in the LC zoning district subject to Article III, Section III-D.6.w that states that a Nightclub in the City is permitted by-right in the LC zoning district unless the property on which the proposed Nightclub in the City is situated within 300 feet of a church, public park, public or parochial school or residential zoning district. If the property proposed for a Nightclub in the City is located within 300 feet of the uses described above, a Conditional Use shall be required.

The subject property abuts MF-29 Multi-family Residential (MF-29) zoned property immediately to the south, and is adjacent to other MF-29 zoned property located to the southwest, across Ida Avenue, and southeast, across the alley located immediately east of the subject site. Surrounding properties are primarily zoned LC; however, there are lots zoned MF-29 located to the south, southeast and southwest. Surrounding properties are developed with a mix of vehicle repair, retail sales and single-family residences. Lincoln Street is classified as an “arterial” street.

In 2011, 1111 East Lincoln, the address of the structure proposed for the nightclub, had a maximum occupancy of 105 persons. The UZC requires one parking space per two occupants for a Nightclub in the City, resulting in a total on-site parking requirement of 53 spaces. The application area contains a

total of 32 spaces. 1103 East Lincoln, the address of the retail liquor store, has approximately 500 square feet, which results in an off-street parking requirement of two spaces, leaving the total application area's remaining 30 spaces for the proposed nightclub; however, if the proposed nightclub is to have the same occupancy as the previous DER, the site is short 23 parking spaces. However, the site's parking situation is addressed by UZC Article III, Section III-E.1.a and b that permit a nonconformity such as lack of off-street parking to continue so long as there is not an increase on the premises of more than 30 percent floor area or 50 percent value and there is not a change in use to a more intensive use. Past use of 1111 East Lincoln as a DER with an entertainment establishment license for live entertainment is equivalent to current definition that the service of alcohol plus live entertainment or dancing equals a Nightclub in the City. Therefore, the requested Conditional Use does not constitute an intensification of use on the site.

**CASE HISTORY:** The site's existing LC zoning appears to have been established in 1921 with the adoption of the City's first zoning map.

**ADJACENT ZONING AND LAND USE:**

North: LC; single-family residence, vehicle repair  
South: MF-29; single-family residences  
East: LC; single-family residence  
West: LC; retail/commercial

**PUBLIC SERVICES:** East Lincoln Street is classified as an arterial street, and has approximately 68-feet of right-of-way. The location is in an area of Wichita that has been developed and served by municipal utilities and services for many years.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide map depicts the site as being appropriate for "local commercial" uses. The local commercial category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities.

The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

**RECOMMENDATION:** Based upon the information available prior to the public hearings, planning staff recommends that the request for a Conditional Use for a nightclub be **APPROVED**, with the following conditions:

- (1) No outside loudspeakers or outdoor entertainment is permitted without Conditional Use approval.
- (2) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The application area is located along East Lincoln, an arterial street that is zoned with either LC or General Commercial (GC) zoning for one block west to Washington Avenue and three blocks east to Lulu Avenue. Some of these properties are development with single-family residences; however, many are developed with commercial or retail, office, office-warehouse, vehicle repair and sales uses.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC and has been the site of a DER with an entertainment establishment license. Under the current code and licensing requirements a DER with an entertainment establishment is classified as a Nightclub in the City. LC zoning permits a wide range of uses; however, the structure at 1111 East Lincoln is fairly small and probably is not too attractive to LC uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The site is zoned LC and has been the site of a DER with an entertainment establishment license. Under the current code and licensing requirements a DER with an entertainment establishment is classified as a Nightclub in the City; therefore, the request does not add a use that has not been previously permitted.
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 of the request would presumably be an economic hardship upon the property owner since he apparently has a prospective nightclub tenant.
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 "local commercial" uses. The local commercial category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities.

The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

6. Impact of the proposed development on community facilities: The location is in an area of Wichita that has been developed and served by municipal utilities and services for many years. The proposed Conditional Use should not impact community facilities to any greater extent than past uses on the property.

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

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

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

- 
9. **Case No.: CON2013-00018** – Terry Young (owner) and Chris Kingsolver (agent) request a City Conditional Use for a Nightclub within 300 feet of residential zoning in LC Limited Commercial zoning on property described as:

Lot 1, Tudor Addition, Wichita, Sedgwick County, Kansas

**BACKGROUND:** The applicant seeks a Conditional Use to permit a Nightclub in the City on property zoned LC Limited Commercial, generally located North of Skinner and west of Hydraulic (1861 S. Hydraulic). The site is developed with a single building (built in 1970) used as a bar/tavern/lounge according to the County Tax Assessor’s database. The applicant now wishes to obtain an Entertainment Establishment license to allow karaoke. Under the Unified Zoning Code (UZC) the combination of an Entertainment License and serving alcohol is defined as a Nightclub. Nightclub in the City is a permitted land use in the LC zoning district. However, the application area is within 300 feet of residential zoning and a park; the UZC requires that Nightclubs, Taverns and Drinking Establishments located within 300 feet of residential zoning, a church, school or park be subject to Conditional Use review to determine if the particular site is suitable for the operation of a Nightclub, Tavern or Drinking Establishment. The applicant’s site plan (see attached) indicates 21 parking spaces. The UZC requires one parking space per two patrons for a Nightclub.

North of the site is a GO General Office zoned apartment complex. South of the site is LC zoned warehousing and offices. East of the site is a TF-3 Two-family Residential zoned City Park and west of the site is a B Multi-family Residential zoned apartment complex. Single and two-family residences exist one block west of the site on Greenwood Avenue. At least one other drinking establishment exists a block south of the application area on Hydraulic.

**CASE HISTORY:** The property was platted as Lot 1 of the Tudor Addition in 1971.

**ADJACENT ZONING AND LAND USE:**

NORTH:	GO	Apartment complex
SOUTH:	LC	Warehousing, offices
EAST:	TF-3	City park
WEST:	B	Apartment complex

**PUBLIC SERVICES:** The site has direct access points onto Hydraulic and Skinner. Hydraulic is a four-lane arterial street at this location with a 50-foot half-street right of way width. All normal public services are available to the site.

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

**RECOMMENDATION:** Historically this site has been a neighborhood bar/tavern/lounge. This business is not out of character with the surrounding neighborhood (other bars exist in the neighborhood) and it does not appear to have negative impacts on the surrounding neighborhood. However, one neighboring resident states that the existing business does have negative impacts on the

neighborhood. The proposed Conditional Use for a Nightclub would only change the existing use by allowing an Entertainment Establishment license which permits dancing, live performances and karaoke. The site appears to meet all other zoning code requirements. All property owners within 200 feet of the site have been notified of this request; one neighboring property owner contacted staff opposed to the request. Staff feels that code requirements and the recommended conditions will mitigate impacts on the surrounding neighborhood, and that the Conditional Use for a Nightclub will not necessarily change the business' impact on the neighborhood. Based upon information available prior to the public hearings, planning staff recommends that the Conditional Use request be APPROVED, subject to the following conditions:

1. The Conditional Use shall be limited to the building space identified on the approved site plan, and shall use only the parking identified on the approved site plan.
2. The site shall be developed in general conformance with the approved site plan and in compliance with all city ordinances, including but not limited to: zoning, sign, building, fire and health codes and licensing requirements. Failure to conform to any city code and/or failure to maintain proper licensing will be a violation of the Conditional Use.
3. The parking lot shall be kept free of all trash and debris. No loitering, congregating or excessive noise shall be permitted in the parking lot. No outside loudspeakers or entertainment shall be permitted.
4. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: North of the site is a GO zoned apartment complex. South of the site is LC zoned warehousing and offices. East of the site is a TF-3 zoned City Park and west of the site is a B zoned apartment complex. Single and two-family residences exist one block west of the site on Greenwood Avenue. At least one other drinking establishment exists a block south of the application area on Hydraulic.
2. The suitability of the subject property for the uses to which it has been restricted: The building could be used for a wide variety of LC uses allowed by the current zoning without a Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: A nightclub could bring more late night activity and traffic to this location than the existing drinking establishment. However, this site has been used for a drinking establishment without significant impact on the surrounding neighborhood. The proposed conditions should keep parking limited to the applicant's site, and should mitigate noise and trash issues associated with the facility.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide, as amended in May 2005, of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* designates this site as "Local

Commercial.” The Local Commercial category includes commercial, office and personal services that do not have a significant regional market draw.

5. Impact of the proposed development on community facilities: The facility should have no significant impact on streets and utility services. The proposed use will increase the need for oversight from the police and MABCD to ensure compliance with licensing requirements and other conditions of approval.

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

**FOSTER** asked about the DAB recommendation.

**MCNEELY** reported that DAB I recommended approval of the application.

**G. SHERMAN** clarified that conformance to codes included the noise ordinance and that if there is a violation of the noise ordinance, the permit could be revoked.

**MCNEELY** responded yes.

**CHRIS KINGSOLVER, AGENT FOR THE APPLICANT, TERRY YOUNG OWNER OF RUMORS BILLIARDS AND GRILL** said the location has been in operation as a drinking establishment for the past 27 years. He said the conditional use expired in 2008 which was before the required entertainment license, so they are seeking to get that reinstated.

**LLOYD BRUNETT, 1911 SOUTH HYDRAULIC** said he had one concern and one request. He said there are two residences to the south even though this is listed as light commercial. He said he lives just south of the location. He said his concerns are from previous experience. He said the businesses south of the location and north of him have a parking area right next to his home that can accommodate 15-16 cars. He said the lot is utilized by people who frequent the bar and are leaving around midnight under the influence of alcohol. He said they are noisy and rowdy, have arguments and slam car doors 4 feet from his house and the parking lot wall. He proposes that a “no parking after hours” sign be placed at the location.

**J. JOHNSON** asked Mr. Burnett if he has spoken to the business owner.

**BURNETT** said he understands that the applicant has made arrangements to pay for use of the property at night. He said the property owner has the right to lease that property to the establishment for parking.

**KINGSOLVER** said the location still has an approved drinking establishment license. He said the owner does have a parking agreement with the neighbor directly south at Skinner and Hydraulic at 1901 S. Hydraulic. He said there is no agreement with the owner at 1907 Hydraulic. He said the applicant would be willing to work with Mr. Burnett to provide some type of barrier, maybe a wooden privacy fence.

**J. JOHNSON** said he does have some sympathy with the property owner.

**KLAUSMEYER** said the Commission is not looking at the property Mr. Burnett is referring to although it is associated with the property.

**J. JOHNSON** said it was something he could take into consideration when he votes for or against the application.

**MCNEELY** commented that even if a no parking sign was placed on the property, late at night there is no one there to enforce it. He said barriers could be placed to keep people out of the parking lot.

**WARREN** commented that the property under discussion is owned by a third party not even involved with the application. He said although he empathizes with Mr. Burnett, the person who owns the property is not present and what he is asking for is outside the scope of the Planning Commission.

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

**WARREN** moved, **MCKAY** seconded the motion, and it carried (11-1). **J. JOHNSON** – No.

-----  
**10. Case No.: CON2013-00019** – Kirby Jantz and Chad Jantz (owners) request a City Conditional Use for a rock crusher on LI Limited Industrial zoned property on property described as:

Lot 3 and lot 12, Block 1, Airport Industrial Park Addition to Wichita, Sedgwick County, Kansas.

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

Other Matters/Adjournment

The Metropolitan Area Planning Commission adjourned at 2:45 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.

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

(SEAL)

Area Planning Commission