

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

November 21, 2013

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, November 21, 2013 at 1:30 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Don Klausmeyer; Chair; David Foster; Bill Johnson; Joe Johnson; M.S. Mitchell; Don Sherman; Debra Miller Stevens and Chuck Warren. Steve Anthimides; David Dennis; Matt Goolsby; John McKay Jr.; Carol Neugent and George 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; Sharon Dickgrafe, Chief Deputy City Attorney, Robert Parnacott, Assistant County Counselor and Maryann Crockett, Recording Secretary.

1. Approval of the prior MAPC meeting minutes. There were no minutes.
2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**
 - 2-1. **SUB2013-00043: One-Step Final Plat - NAHOLA ADDITION.**

NOTE: This is a replat of the Mission Addition and includes the vacation of a portion of Elm. The site has been approved for a zone change from SF-5 Single-family Residential to PUD Planned Unit Development (PUD2012-00001, PUD #37).

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises sewer services are available to serve the site. Water needs extended (distribution) to serve Lots 2 and 3.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the drainage plan subject to revisions along with drainage easements needed at the time of development for an emergency overflow route and a detention pond.
- D. The applicant proposes a private street turnaround for Elm. In accordance with the Subdivision Regulations, the private street shall be platted as a Reserve for private street purposes (Reserve A) and referenced in the plattor's text.
- E. The applicant shall guarantee the paving of the private street to a public street paving standard. As private improvements, such guarantee shall not be provided through the use of a petition.
- F. A restrictive covenant shall be submitted regarding the private street, which sets forth ownership and maintenance responsibilities. The plattor's text shall reference the platting of Reserve A for private street purposes and an emergency access easement.
- G. In accordance with the PUD approval, an emergency access easement is required for Lot 2 from Elm. Standard gating and signing are required per City Fire Department standards.

- H. City Fire Department has approved a paved turnaround in accordance with residential cul-de-sac standards.
- I. Traffic Engineering has approved the access controls.
- J. In the surveyor's certificate, the reference to "K.S.A. 12-512(b), as amended" should read "K.S.A. 12-512b, as amended."
- K. An access easement shall be established by separate instrument to provide access from Lot 3 to Lot 2. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- L. This property is within a zone identified by the City Engineer's office as likely to have groundwater at some or all times within ten feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineer's office.
- M. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- N. A PUD Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved PUD and its special conditions for development on this property.
- O. "Lots, Block and a Reserve" shall be referenced in the plattor's text.
- P. Approval of this plat will require a waiver of the lot depth-to-width ratio of the Subdivision Regulations for Lot 1 which is limited to TF-3 uses per the PUD. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width.
- Q. In the legend, underground should be spelled as one word and Terra needs corrected.
- R. The utility easement needs to be referenced in the plattor's text.
- S. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- T. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- U. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.

- V. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- W. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- X. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Y. Perimeter closure computations shall be submitted with the final plat tracing.
- Z. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- AA. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disc. If a disc is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

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

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

2-2. SUB2013-00044: One-Step Final Plat – RIVER VISTA VILLAGE ADDITION.

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

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that water and sewer services are available to serve the site.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.

- C. City Stormwater Management has approved the applicant's drainage plan subject to drainage easements being established at the time of development.
- D. The plat proposes two openings along MacLean including one full movement opening. City Fire Department has requested an emergency access opening at the north end of Lot 1. The plat's text shall state the location of the openings is per the approval of Traffic Engineering. A cross-lot access agreement is needed for Lot 2.
- E. County Surveying advises the legal description needs corrected within the 6th and 7th lines from the bottom.
- F. County Surveying advises the southerly and easterly lines of the 25-foot utility easement needs bearings and distances.
- G. The spelling of the stormwater easement for Lot 3 needs corrected.
- H. 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.
- I. 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.)
- J. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- K. 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.
- L. 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.
- M. 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.
- N. Perimeter closure computations shall be submitted with the final plat tracing.

- O. Westar Energy has requested additional utility easements to be platted on this property. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- P. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disc. If a disc is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

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

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

2-3. SUB2013-00046: One-Step Final Plat – WEST HIGH SCHOOL 2ND ADDITION.

NOTE: This is a replat of a portion of the Franklin Yikes Addition in addition to unplatted property.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises water (transmission and distribution) and sewer services (mains) are available. The applicant needs to extend laterals to serve the area.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the applicant's drainage plan subject to revisions along with a drainage easement to cover all portions of the plat below the calculated 100-year ponding elevations. The proposed drainage easement is to prohibit future building in this area.
- D. The plat proposes one opening along Lincoln in alignment with Sycamore. Traffic Engineering has approved the access controls.
- E. This property is within a zone identified by the City Engineer's office as likely to have groundwater at some or all times within ten feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineer's office.
- F. The Applicant has platted a 15-foot building setback along Lincoln which represents an adjustment of the Zoning Code standards which requires a 25-foot front yard setback for the MF-29 district. The Applicant has platted a 15-foot building setback along Osage which represents an adjustment of the Zoning Code standards which requires a 20-foot street side yard setback for the MF-29 district. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission.

- G. 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.
- H. 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.
- I. 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.)
- J. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- K. 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.
- L. 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.
- M. 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.
- N. Perimeter closure computations shall be submitted with the final plat tracing.
- O. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- P. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disc. If a disc is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

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

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

3. **PUBLIC HEARING – VACATION ITEMS**

3-1. **VAC2013-00038: City request to vacate a platted street on property,** generally located west of McLean Boulevard on the south side of Maple Street.

APPLICANT/AGENT: Chris S. Cole (applicant)

LEGAL DESCRIPTION: Generally described as the platted 30-foot LeClede Avenue half street right-of-way that abuts the west sides of Lots 1, 2 and 3, Shirk's 1st Subdivision and the east and north sides of Lot 1, the Waterwalk West Addition, ending at its intersection with Maple Street on its north side, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located west of McLean Boulevard on the south side of Maple Street (WCC #4)

REASON FOR REQUEST: Removing the last remnant of LeClede Avenue

CURRENT ZONING: The site is a public street right-of-way. All abutting and adjacent properties are zoned LI Limited Industrial (LI), LC Limited Commercial (LC) and B Multi-Family Residential (B).

The applicant proposes to vacate the east half of the unimproved, platted, 30-foot LaClede Avenue half street right-of-way that abuts the west sides of Lots 1, 2 and 3, Shirk's 1st Subdivision and the east and north sides of Lot 1, the Waterwalk West Addition, ending at its intersection with Maple Street on its north side. LaClede Avenue was originally platted as Winne Avenue on the Winne's Addition; recorded March 16, 1908. On October 29, 1910, the Shirk's 1st Subdivision was recorded; this is the applicant's property/subject subdivision, which was created by platting the west 120 feet of Reserve A, Winne's Addition. Winne Avenue is shown as LaClede Avenue on the Shirk's 1st Subdivision. Southern portions of the Winne's Addition and Shirk's 1st Subdivision, including portions of Winne/LaClede Avenue were later condemned for Kellogg Street; District Court Case No. A-60844. The Waterwalk West Addition was created out of portions of the Winne's Addition and Shirk's 1st Subdivision, it also vacated the west half of the remaining portion of LaClede Avenue; recorded September 27, 2012. If approved, the vacation would remove the last remnant of LaClede Avenue located between Douglas Avenue and Kellogg Street. Currently LaClede Avenue looks like a private drive.

There is a water line located within the LeClede Avenue right-of-way. Stormwater is located within the Maple Street right-of-way, in the vicinity of the LeClede Avenue - Maple Street intersection. There are no other utilities located within the site.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from Public Works, Water & Sewer, Stormwater,

Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the portion of the unimproved, platted, 30-foot LeClede Avenue half street right-of-way.

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 October 31, 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 street right-of-way 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) Dedicate the vacated portion of the unimproved, platted, 30-foot LeClede Avenue half street right-of-way as a utility easement. This must be provided to Planning prior to the case going to the City Council and subsequent recording with the Register of Deeds.
- (2) Any relocation or reconstruction of all utilities made necessary by this vacation shall be the responsibility of the applicants, at the applicants' expense and shall be to City Standards. If needed provide a private project for relocation of utilities. The approved private project number must be provided to Planning prior to the case going to the City Council and subsequent recording with the Register of Deeds.
- (3) Provide original restrictive covenant binding and tying the vacated portion of the vacated street right-of-way to applicants' abutting property. This must be provided to Planning prior to the case going to the city Council and subsequent recording with the Register of Deeds.
- (4) Provide Planning with a legal description of the vacated street 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) Dedicate the vacated portion of the unimproved, platted, 30-foot LeClede Avenue half street right-of-way as a utility easement. This must be vprovided to Planning prior to the case going to the City Council and subsequent recording with the Register of Deeds.

- (2) Any relocation or reconstruction of all utilities made necessary by this vacation shall be the responsibility of the applicants, at the applicants' expense and shall be to City Standards. If needed provide a private project for relocation of utilities. The approved private project number must be provided to Planning prior to the case going to the City Council and subsequent recording with the Register of Deeds.
- (3) Provide original restrictive covenant binding and tying the vacated portion of the vacated street right-of-way to applicants' abutting property. This must be provided to Planning prior to the case going to the city Council and subsequent recording with the Register of Deeds.
- (4) Provide Planning with a legal description of the vacated street 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.

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

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- 3-2. **VAC2013-00039: City request to vacate a portion of street right-of-way, along the south side of Central Avenue,** generally located west of Jackson Heights Street, midway between Greenwich Road and 127th Street East.

APPLICANT/AGENT: City of Wichita (applicants/owner); Baughman Company, PA, c/o Russ Ewy (agent)

LEGAL DESCRIPTION: Generally described as the south 10 feet of the Central Avenue right-of-way abutting the north sides of Reserves B & C, and the platted 5 foot setback that runs parallel to the north side of Reserve B, all in the Frontgate Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located midway between 127th Street East and Greenwich Road, west of Jackson Heights Street, on the south portion of Central Avenue (WCC II)

REASON FOR REQUEST: Clean up a survey

CURRENT ZONING: The site is a public street right-of-way. All abutting and adjacent properties are zoned GO General Office (GO) and SF-5 Single-Family Residential (SF-5)

The applicants propose to vacate the south 10 feet of the Central Avenue right-of-way abutting the north sides of Reserves B & C, and the platted 5 foot setback that runs parallel to the north side of Reserve B, all in the Frontgate Addition. Central Avenue is a minor arterial at this location. Sewer and Stormwater appear to be located in the proposed area of the vacation of the south 10 feet of Central Avenue. If approved Central Avenue will have 50 feet of half-street right-of-way at this location. All utilities located within Reserves B & C will be confined to easements (per the plattor's text), which is what the vacated right-of-way will revert into. Drainage is already permitted in both reserves.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Fire, Stormwater, Traffic, 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 south 10 feet of the Central Avenue right-of-way and the platted 5 foot setback.

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

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 October 31, 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 public street right-of-way and the platted setback, and that the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) The vacate right-of-way will become the northern portion of Reserves B and C, the Frontgate Addition. Per the plattor's text both of these reserves allow drainage. Provide an original restrictive covenant binding and tying the vacated portion of Central Avenue to the abutting subject reserves. These must be provided to Planning prior to the case going to the County Commission and subsequent recording with the Register of Deeds.
- (2) As needed dedicate the described vacated portion of the Central Avenue as a utility easement, located within Reserves B and C, the Frontgate Addition. This is as directed in the plattor's text. This must provided to Planning prior to the case going to City Council and subsequent recording with the Register of Deeds.
- (3) Rededicate the 5 foot setback that runs parallel to the north side of Reserve B, Frontgate Addition. This must provided to Planning prior to the case going to City Council and subsequent recording with the Register of Deeds.

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

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) The vacate right-of-way will become the northern portion of Reserves B and C, the Frontgate Addition. Per the plattor's text both of these reserves allow drainage. Provide an original restrictive covenant binding and tying the vacated portion of Central Avenue to the abutting subject reserves. These must be provided to Planning prior to the case going to the County Commission and subsequent recording with the Register of Deeds.
- (2) As needed dedicate the described vacated portion of the Central Avenue as a utility easement, located within Reserves B and C, the Frontgate Addition. This is as directed in the plattor's text. This must provided to Planning prior to the case going to City Council and subsequent recording with the Register of Deeds.
- (3) Rededicate the 5 foot setback that runs parallel to the north side of Reserve B, Frontgate Addition. This must provided to Planning prior to the case going to City Council and subsequent recording with the Register of Deeds.
- (4) Any relocation or reconstruction of all utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense shall be to City Standards. If needed provide a private project for relocation of utilities. The approved private project number must be provided to Planning prior to the case going to City Council and subsequent recording with the Register of Deeds.
- (5) Provide Planning with a legal description of the vacated street on a Word document, via e-mail. This must be provided to Planning prior to the case going to City Council for final action.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County

Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

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

3-3. VAC2013-00040: County request to vacate a portion of an easement dedicated by separate instrument on property, generally located on the southeast corner of 55th Street West and 81st Street North.

APPLICANT/AGENT: David L Wilkerson (applicant/owner)

LEGAL DESCRIPTION: Generally described as the vacating all but the west 100 feet of the City of Wichita Water Well Easement dedicated by separate instrument (Film 1468, Page 116 and Film 148, Page 119) and that south portion of said easement where the primary residence encroaches into said easement. Said easement is located in the north 90-(+) 100 feet of Lot 1, Schneider Addition, Sedgwick County, Kansas.

LOCATION: Generally located on the southeast corner of 55th Street West and 81st Street North (BoCC #4)

REASON FOR REQUEST: Remove encroachment of a shed and the house and allow the construction of an accessory building

CURRENT ZONING: Subject property and all abutting and adjacent properties are zoned RR Rural Residential (“RR”) or are located in the city of Valley Center

The applicant is requesting consideration to vacate all but the west 100 feet of the City of Wichita Water Well Easement dedicated by separate instrument (Film 1468, Page 116 and Film 148, Page 119) and that south portion of said easement where the primary residence encroaches into said easement. The applicant’s water well is also located within the subject easement. The subject easement is located in the north (and running parallel) 90-(+) 100 feet of Lot 1, Schneider Addition. The City of Wichita proposes one production well on this remaining easement and a monitoring well and a test hole or two. A portion of the Little Arkansas River Floodway is located approximately 320 feet west of the site. Said easement is part of the Equus Beds well field, but is not located in the Equus Beds recharge area. There is no sewer or franchised utilities located within the Wichita Water Well Easement. The Schneider Addition was recorded with the Sedgwick County Register of Deeds June 7, 2001. Because the site is located within the City of Valley Center’s Area of Zoning Influence, the request will also go to the Valley Center Planning Commission for review and recommendation.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from County Engineering, County Fire, City Water and Sewer, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the Wichita Water Well Easement dedicated by separate instrument.

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 October 31, 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 City of Wichita Water Well Easement dedicated by separate instrument, 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) A stamped survey will show the extent of the encroachment of the primary structure and the applicant's water well into the Wichita Water Well Easement. The survey must also show the applicant's septic system and any and all lateral fields in regards to their proximity or encroachment into the Water Well Easement. This must be provided prior to the case going to the County Commission for final action.
- (2) No future sewer system or expansion of the existing sewer system shall be located within 100 feet of the Water Well Easement. Rededicate the remaining Wichita Water Well Easement with the just noted restrictions. This must be provided prior to the case going to the County Commission for final action. The required survey will be recorded as an attachment to the required rededication of the Wichita Water Well Easement.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant and at the applicant's expense. If necessary provide all plans and any guarantees needed by utilities to ensure improvements will be completed. This must be provided prior to the case going to the County Commission for final action.
- (4) Provide a legal description of the vacated portion of the Water Well Easement as approved by City Water and Sewer. Provide to Planning on a Word document, via e-mail to be used on the Vacation Petition and Vacation Order. This must be provided prior to the case going to County Commission for final action.
- (5) 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) A stamped survey will show the extent of the encroachment of the primary structure and the applicant's water well into the Wichita Water Well Easement. The survey must also show the applicant's septic system and any and all lateral fields in regards to their proximity or encroachment into the Water Well Easement. This must be provided prior to the case going to the County Commission for final action.
- (2) No future sewer system or expansion of the existing sewer system shall be located within 100 feet of the Water Well Easement. Rededicate the remaining Wichita Water Well Easement with the just noted restrictions. This must be provided prior to the case going to the County Commission for final action. The required survey will be recorded as an attachment to the required rededication of the Wichita Water Well Easement.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant and at the applicant's expense. If necessary provide all plans and any guarantees needed by utilities to ensure improvements will be completed. This must be provided prior to the case going to the County Commission for final action.
- (4) Provide a legal description of the vacated portion of the Water Well Easement as approved by City Water and Sewer. Provide to Planning on a Word document, via e-mail to be used on the Vacation Petition and Vacation Order. This must be provided prior to the case going to County Commission for final action.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

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

PUBLIC HEARINGS

4. **Case No.: ZON2013-00033** - Jeffrey Niedens (owner) request a City zone change from SF-5 Single-family Residential to TF-3 Two-family Residential on property described as:

The East 150 feet of Lot 23, Park Vista Addition, Sedgwick County, Kansas.

BACKGROUND: The applicant requests TF-3 Two-Family Residential (TF-3) zoning on a vacant, platted lot. The .23-acre site is currently zoned SF-5 Single-Family Residential (SF-5). The Unified Zoning Code requires a minimum lot size of 3000 square feet per dwelling unit for duplex development. The site's 9,900 square feet could accommodate one duplex with a total of two dwelling units.

The surrounding neighborhood is primarily zoned SF-5 and developed with single-family residences. A mixture of TF-3 zoning, multi-family zoning and office zoning exists within surrounding blocks. North of the site on Edwards Street are SF-5 zoned single-family residences and TF-3 zoned duplexes and single-family residences. South of the site on Edwards Street are SF-5 zoned single-family residences and a GO General Office (GO) zoned multi-family development. East of the site are SF-5 zoned single-family residences, TF-3 zoned duplexes one block to the east and MF-29 Multi-family Residential (MF-29) zoned multi-family dwellings on 10th Street. West of the site are SF-5 zoned single-family residences, an electric utility facility and TF-3 zoned single and two-family residences three blocks to the west.

CASE HISTORY: The site was platted as a portion of Lot 23 of the Park Vista Addition in 1933. Aerial photographs back to 1997 show the site vacant.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5, TF-3	Single-family residences, duplexes
SOUTH:	SF-5, GO	Single-family residences, apartments
EAST:	SF-5, TF-3, MF-29	Single-family residences, duplexes, apartments
WEST:	SF-5, TF-3	Single-family residences, duplexes, electric utility

PUBLIC SERVICES: Edwards Street is a paved, two-lane local street at this location with a 60-foot right-of-way. All public services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The *2030 Wichita Functional Land Use Guide* of the Comprehensive Plan identifies the site as “urban residential.” The urban residential category encompasses areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality. The UZC identifies TF-3 zoning as being generally compatible with the urban residential category.

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

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The surrounding neighborhood is primarily zoned SF-5 and developed with single-family residences. A mixture of TF-3 zoning, multi-family zoning and office zoning exists within surrounding blocks. North of the site on Edwards Street are SF-5 zoned single-family residences and TF-3 zoned duplexes and single-family residences. South of the site on Edwards Street are SF-5 zoned single-family residences and a GO zoned multi-family development. East of the site are SF-5 zoned single-family residences, TF-3 zoned duplexes one block to the east and MF-29 zoned multi-family dwellings on 10th Street. West of the site are SF-5 zoned single-family residences, an electric utility facility and TF-3 zoned single and two-family residences three blocks to the west.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned SF-5 and could be developed with a single-family residence, similar to

most surrounding properties. The site has remained vacant as zoned for a significant amount of time.

- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Impact on surrounding property due to the requested zone change should be minimal; duplexes and TF-3 zoning are common within the surrounding blocks. A duplex on the site could be better for the neighborhood than a vacant lot.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The *2030 Wichita Functional Land Use Guide* of the Comprehensive Plan identifies the site as “urban residential.” The urban residential category encompasses areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality. The UZC identifies TF-3 zoning as being generally compatible with the urban residential category.
- (5) **Impact of the proposed development on community facilities:** All services are in place, any increased demand on community facilities can be handled by existing infrastructure.

JESS MCNEELY, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

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

5. **Case No.: ZON2013-00034 and CON2013-00030** - Barakeh Property LLC / K.E. Miller Engineering, P.A. request a City zone change from SF-5 Single-family Residential and GC General Commercial to LI Limited Industrial and City Conditional Use to permit wrecking/salvage on property described as:

Lot 1, Wilson & Brown Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The application area is 2.13 acres located on the north side of East MacArthur Road, 1,680 feet east of I-135 (1200 East MacArthur Road). The property is platted as the Wilson & Brown 2nd Addition, and is currently occupied by Auto Recyclers of Kansas, which appears to be engaged in “wrecking and salvage” activity. The first approximately 55 feet of the application area is zoned SF-5 Single-family Residential (SF-5); the remaining approximately 389 feet of the property is zoned GC General Commercial (GC). The applicant is requesting LI Limited Industrial (LI) zoning and “conditional use” approval to permit “wrecking and salvage.” The reason given by the applicant for the current application is an intention to build a canopy next to the existing building that fronts East MacArthur. See the attached site plan which depicts the existing building and the proposed canopy. The existing building and proposed canopy will be used to support the site’s existing “wrecking and salvage” operation. The site plan also indicates the applicant leases property for his business activities from the property owner located to the east. Existing fencing is shown on the site plan as are 17 parking spaces.

In 2010, the applicant was granted LI zoning and a “conditional use” for “wrecking and salvage” on an abutting three acres located immediately west of the northernmost 219 feet of the current application (labeled on the site plan as “area already approved for wrecking/salvage.” If approved, the current

application would bring the site's use into conformance with existing Unified Zoning Code (UZC) standards. The applicant's agent indicates the current business had been in operation at this location for some 10 to 12 years. The applicant also owns the land located immediately west of the application area, south of the three acres noted above that were zoned LI with a "conditional use" to permit "wrecking and salvage" (labeled on the site plan "area not approved for wrecking/salvage, but owned by applicant)."

The UZC permits a "wrecking and salvage yard" in the LI Limited Industrial (LI) and GI General Industrial (GI) districts, subject to Supplementary Use Regulations Section III-D.6.e and dd. "Wrecking and salvage yard" in the LI and GI districts may be approved as a "conditional use" provided that such operation: 1) is not abutting an arterial street, expressway or freeway; 2) in the opinion of the Planning Commission, will not adversely affect the character of the neighborhood; and 3) is enclosed by a fence or wall not less than eight feet in height and having cracks and openings not in excess of five percent of the area of such fence. The outdoor storage and/or bailing of junk, scrap, paper, bottles, rags or similar materials are prohibited.

The submitted site plan and legal description for the zone change and the "conditional use" do not appear to comply with Supplementary Use Regulation Section III-D.6.e.1 that does not permit "wrecking and salvage" operations on property abutting an arterial street, expressway or freeway. The segment of East MacArthur Road abutting the application is designated by the 2030 Transportation Plan as an arterial street. There is a longstanding interpretation by the "zoning administrator" that if a "wrecking and salvage" operation is located 150 feet away from street right-of-way then the "wrecking and salvage" use is judged to comply with Supplementary Use Regulation III-D.6.e.1. The 150-foot distance falls approximately at the rear of the existing building shown on the site plan. The UZC permits the City Council to modify or waive Supplementary Use Regulations. The site plan also depicts the removal of existing fencing along the front of the proposed canopy, which would not be consistent with Supplementary Use Regulation III-D.6.e.3.

A presumed nonconforming salvage yard is located on GC zoned property that abuts the application area's east property line (labeled on the site plan as "leased property." To the east there is a restaurant on abutting GC zoned land. Further east, there is also a MH Manufactured Housing (MH) zoned manufactured home park. To the west is a LI zoned wrecking and salvage yard and a GC zoned vehicle storage yard. Located south of the site, across MacArthur Road is a LC zoned apartment complex and GC zoned vacant land. The Arkansas River is located directly north of the site, including the Wichita-Valley Center Riverside Levee.

CASE HISTORY: On November 7, 1963, the MAPC approved a request to zone some or all the application area from AA One-family Residential (today's SF-5 district) to C General Commercial district (today's GC district). Also on November 7, 1963, the MAPC approved the Wilson and Brown Addition. The MAPC's November 7, 1963, minutes also indicate Charles P. Brown stated that he wanted to build a masonry-type building to be used for retail and wholesale of automobile parts and storage of such parts. In 2005, the property was granted an "administrative adjustment" to waive the 25-foot compatibility setback to construct a new building on property zoned GC adjoining SF-5 zoning (BZA2005-000044).

ADJACENT ZONING AND LAND USE:

North: Unzoned; Arkansas River and I-135 right-of-way

South: GC and LC; apartments and vacant

East: GC and LC; nonconforming wrecking and salvage, restaurant/commercial building

West: LI and GC; wrecking and salvage, vehicle storage, contractor's storage yard

PUBLIC SERVICES: The application area is part of a site that has access to MacArthur Road, a principal arterial street that is four lanes with a raised median and a center turn lane between Broadway and Hydraulic. I-135 crosses over MacArthur but has no access to it. Traffic volumes at MacArthur and Broadway were approximately 12,000 AADT (annual average daily traffic) in 2007.

CONFORMANCE TO PLANS/POLICIES: The *2030 Wichita Functional Land Use Guide* map of the Comprehensive Plan classifies the general location as appropriate for "local commercial" development. Wrecking/salvage yards are an inappropriate use for this classification. However, there is an existing LI zoned and "conditional use" approved salvage operation located to the west on property owned by the applicant. There is also and a presumed nonconforming "wrecking and salvage" use located to the east. In similar circumstances the MAPC has often viewed similar requests as an expansion of an existing use, and allowed the request despite the map designation.

The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial uses should be located in close proximity to support services and provide good access to major arterials, truck routes, belt highways, utility trunk lines, along railroads, near airports and as extensions of existing industrial uses; the site has access to an arterial and the other uses north of MacArthur are more intensive than normally associated with local commercial designation. Industrial uses should be located away from existing or planned residential areas, and sited so as not to generate travel through less intensive land uses. The proposed site is located across from three isolated residences (one is on commercial zoning), and near some manufactured home parks. The application area is located near the new senior apartments under construction to the southeast but the apartments are being constructed on LC zoned land and they are located farther from this site than the existing nonconforming salvage operation.

RECOMMENDATION: Based upon this information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to the following conditions:

1. The Conditional Use shall permit the dismantling, storage and shipping of motor vehicles, appliances and other industrial scrap materials.
2. The site shall be developed and operated in compliance with all of the conditions of UZC, Art III, Sec. III-D.6.e, including the use of approved fencing or wall materials, and the approved site plan. The site plan shall be revised to provide screening where required by the code or as a condition of approval. If necessary, a revised site plan that depicts all conditions of approval shall be submitted within 30 days of final approval for review and approval by the Director of Planning.
3. Employee parking spaces shall be provided per the UZC on an area paved with asphalt or concrete.

4. Stored materials, containers or bales shall be stored on a surface approved the Metropolitan Area Building and Construction Department.
5. No scrap vehicles or scrap metal/appliances waiting to be processed shall be visible from ground-level view from any public right-of-way or abutting properties.
6. Storage of all of scrap materials (vehicles, metals, appliances, etc., including bales of the just mentioned) waiting to be processed and the containers they are stored in shall be organized and be installed in an orderly manner, including an exposed perimeter, as specified by Environmental Services to prevent rodent harborage and breeding.
7. The applicant shall maintain at all times an active program for the eradication and control of rodents.
8. Weeds shall be controlled within the subject property and adjacent to and along the outside perimeter of the screening fence.
9. Any locking devices on entrance gates shall meet Fire Department requirements. Access to and within the site shall be provided by fire lanes per the direction and approval of the Fire Department.
10. Access to the subject property shall be provided for on-going inspections of the site for groundwater and soil contaminants by Environmental Services and other applicable governmental agencies. If the inspections determine it to be necessary, the applicant shall be required to install monitoring wells and/or perform soil testing on the property to monitor the quality of groundwater and/or soil, and shall pay the cost of an annual groundwater and/or soil test for contaminants as designated by the Environmental Services.
11. Notification shall be given to Environmental Services of any on-site storage of fuels, oils, chemicals, or hazardous wastes or materials. A disposal plan for fuels, oils, chemicals, or hazardous wastes or materials shall be placed on file with Environmental Services. All manifests for the disposal of fuels, oils, chemicals, or hazardous wastes or materials must be kept on file at the site and available for review by the Environmental Services.
12. The applicant shall implement a drainage plan approved the City Engineer prior to the commencement of operations that minimizes non-point source contamination of surface and groundwater.
13. The applicant shall obtain and maintain all applicable local, state, and federal permits necessary for the operation of the storage of scrap metal waiting to be processed and storage of the scrap metal bales.
14. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: A presumed nonconforming salvage yard is located on GC zoned property that abuts the application area's east property line. To the east there is a restaurant on abutting GC zoned land. Further east, there is also a MH Manufactured Housing (MH) zoned manufactured home park. To the west is a LI zoned wrecking and salvage yard and a GC zoned vehicle storage yard. Located south of the site, across MacArthur Road is a LC zoned apartment complex and GC zoned vacant land. The Arkansas River is located directly north of the site, including the Wichita-Valley Center Riverside Levee.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned GC and SF-5. General Commercial zoning permits a wide range of residential, office, retail and commercial uses, but not "wrecking and salvage. The GC zoned portion of site could continue to be economically viable. The SF-5 district has a very limited number of permitted uses, none of which would be considered appropriate given the SF-5's mid-mile location abutting a four-lane arterial and surrounded by GC, LC and LI zoning. If the requested LI zoning is not granted, the MAPC should consider rezoning the SF-5 zoned portion of the application area to GC.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental effects on nearby property are lessened by the recommended conditions of approval, which include screening and monitoring of environmental impacts. These are particularly important due to the proximity of the site to the river. The presence of the existing nonconforming salvage operation on the east means that it is not introducing a new use to the area.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial would presumably represent an economic hardship to the current business occupant in that his expansion options would be limited. Approval would provide expanded wrecking and salvage options to the general public.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The *2030 Wichita Functional Land Use Guide* of the Comprehensive Plan classifies the general location as appropriate for "local commercial" development. Wrecking/salvage yards are an inappropriate use for this classification. However, there is an existing nonconforming salvage operation to the east, which, has in the past been viewed as an expansion of an existing use, and allowed despite the map designation. The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial uses should be located in close proximity to support services and provide good access to major arterials, truck routes, belt highways, utility trunk lines, along railroads, near airports and as extensions of existing industrial uses; the site has access to an arterial and the other uses north of MacArthur are more intensive than normally associated with local commercial designation. Industrial uses should be located away from existing or planned residential areas, and sited so as not to generate travel through less intensive land uses. The proposed site is located across from three isolated residences (one is on commercial zoning), and near some manufactured home parks. It is near the new senior apartments under construction to the southeast but the apartments are being constructed on LC

zoned land and they are located farther from this site than the existing nonconforming salvage operation.

6. Impact of the proposed development on community facilities: All utilities are available to the site. The use of this property should have limited impact on community facilities.

DALE MILLER, Planning Staff presented the Staff Report.

MITCHELL said he is concerned that the drawing/site plan provided with the application seems to encroach into flood control right-of-way.

MILLER suggested that the Commission approve the application subject to site plan review and modification.

MITCHELL said he would agree to that.

KIRK MILLER, K.E. MILLER ENGINEERING, P.A., 172 LEWIS, AGENT FOR THE APPLICANT said they agree with staff comments.

MOTION: To approve subject to staff recommendation.

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

6. Case No.: ZON2013-00035 – Pirotte Real Estate, Inc. (applicant); Boughman Company PA c/o Russ Ewy (agent) request a City zone change from GO General Office to LC Limited Commercial on property described as:

Lot 4, Block 1, Regency Plaza Addition, Sedgwick County, Kansas.

BACKGROUND: The applicant's GO General Office (GO) zoned site is developed with an office building. The applicant intends to continue office use on the site, but desires increased signage as allowed under LC Limited Commercial (LC) zoning. The applicant submitted a voluntary Protective Overlay (PO) restricting land uses to those permitted in the GO zoning district, but permitting signage in accordance with LC zoning under the Sign Code, see the attached letter from the applicant. The Sign Code allows a maximum of 32 square feet for pole or monument signs in GO zoning; it allows .8 square feet per linear foot of arterial street frontage in LC zoning, not to exceed 300 square feet. Building signs in GO zoning are limited to 32 square feet; building signs in LC zoning are permitted up to 20 percent of building elevation per building tenant, not to exceed a total of 400 square feet.

The application area is at the commercial corner of Central and Maize with LC zoning at each corner and larger commercial developments at the northwest and southwest corners of the intersection. North of the site, across Squaw Lane, are SF-5 Single-family Residential (SF-5) zoned single family residences. South of the site are LC zoned office and retail developments. East of the site is an MF-18 Multi-family (MF-18) Residential zoned duplex. West of the site, across Maize, is an LC zoned retail development anchored by a big box retail store.

CASE HISTORY: The site was platted as Lot 4, Block 1 of the Regency Plaza Addition in 1980.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Squaw Lane, single-family residences
SOUTH:	LC	Office, retail
EAST:	MF-18	Duplex
WEST:	LC	Retail

PUBLIC SERVICES: The site has access to Maize, a five-lane arterial with a 110-foot right of way. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The “2013 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies the site as “local commercial.” The local commercial category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw.

RECOMMENDATION: The requested LC zoning is consistent with surrounding zoning and uses, a PO should protect residential neighbors to the east and north of Squaw Lane from land uses and signage. The requested zone change will permit signage that is already permitted on all surrounding LC zoned properties. Based upon the information available prior to the public hearings, planning staff recommends that the request for LC zoning be **APPROVED** subject to a Protective Overlay with the following conditions:

1. The subject property shall be limited to those uses as permitted by the GO zoning district only.
2. Signs shall be permitted in accordance with the City of Wichita Sign Code for the LC zoning district. No building signs are permitted on the north or east building facades facing residential zoning. A pole or monument sign shall not be permitted on the northern 80 feet of the Maize Road frontage.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The application area is at the commercial corner of Central and Maize with LC zoning at each corner and larger commercial developments at the northwest and southwest corners of the intersection. North of the site, across Squaw Lane, are SF-5 zoned single family residences. South of the site are LC zoned office and retail developments. East of the site is an MF-18 zoned duplex. West of the site, across Maize, is an LC zoned retail development anchored by a big box retail store.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The existing GO zoning allows the existing office development. However, this office location, surrounded by LC zoning, does not have similar sign rights as surrounding properties under the current GO zoning.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Abutting properties to the south are zoned LC, the proposed PO should protect residences north and east of the site.

- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2013 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies the site as “local commercial.” The local commercial category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw.
- (5) **Impact of the proposed development on community facilities:** The existing Maize Road and public utilities accommodate the current land use.

JESS MCNEELY, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

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

7. **Case No.: CON2013-00029** – Shamrock Properties II, LLC (owner/applicant) requests a City Conditional Use to permit accessory parking on property zoned TF-3 Two-family Residential on property described as:

Lot 9, Block U, University Park Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant is requesting a Conditional Use to allow “ancillary parking” on the TF-3 Two-Family Residential (TF-3) zoned Lot 9, Block U, University Park Addition. Per the Unified Zoning Code (UZC), ancillary parking may be permitted with a Conditional Use in the TF-3 zoning district; UZC, Article III, Section III-D.6.p. The site is located three blocks west of Oliver Avenue on the northeast corner of 13th Street North and Belmont Avenue. The site’s single-family residence has recently been torn down. The ancillary parking lot will support the abutting LC Limited Commercial (LC) and GC General Commercial (GC) zoned Furniture on Consignment showroom and warehouse. The proposed use will be the first extension of a nonresidential use into the abutting and adjacent single-family residential neighborhood.

An aerial of the site shows approximately 64 marked on-site parking spaces for the existing Furniture on Consignment showroom and warehouse. The UZC, Article IV, Section IV-A.4., requires one parking space per 500-square feet for large retail, such as a furniture store, and one parking space per 2,000-square feet for the first 20,000-square feet and one parking space per 5,000-square feet past the first 20,000-square feet. The applicant appears to have the required parking, but has stated that some of these spaces are temporarily occupied by trucks bringing in furniture.

The site has TF-3 and SF-5 Single-Family Residential (SF-5) zoned single-family residences (built late 1940s) abutting and adjacent to the north, west (across Belmont Avenue) and south (across 13th Street North). The TF-3 zoned MacDonald Municipal golf course is also located south of the site across 13th Street North. Properties abutting and adjacent to the east side of the site include the already mentioned LC and GC zoned Furniture on Consignment showroom and warehouse, LC zoned auto parts store, an indoor shooting range, an OW Office-Warehouse (OW, ZON2002-00060/PO-118) zoned Furniture on Consignment warehouse, LC zoned small retail strip, a bank, auto repair, small retail and the recently completed Wal-Mart Neighborhood Market grocery store. There may be one vacant LC zoned restaurant in the area. Commercial property in this area has been experiencing reinvestment and

redevelopment, as represented by the Wal-Mart Neighborhood Market grocery store taking over most of the largely vacant and declining Ken Mar shopping center.

CASE HISTORY: The site is platted as Lot 9, Block U, University Park Addition, which was recorded with the Register of Deeds February 2, 1948. There has been one written protest to this request. DAB I will consider this request at their December 2, 2013, meeting.

ADJACENT ZONING AND LAND USE:

NORTH: TF-3, SF-5 Single-family residences

SOUTH: TF-3, LC Municipal golf course, single-family residences, auto garage, retail

EAST: LC, GC, OW Furniture store and associated warehouses, indoor shooting range, auto parts store, small strip retail, Wal-Mart grocery store, small retail

WEST: TF-3, SF-5 Single-family residences

PUBLIC SERVICES: The subject property has direct access onto Belmont Avenue, a paved residential street. The site also has direct access onto 13th Street North, a four-lane minor arterial street. 13th Street North is currently under construction from Oliver Avenue on the east end to the Interstate Highway 235 interchange on the west end. The project was let on June 15, 2012, construction started in early August 2012, and is scheduled for completion at the end of November 2013.

CONFORMANCE TO PLANS/POLICIES: The “2030 Land Use Guide of the Comprehensive Plan” identifies the site as “urban residential.” The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in large urban municipality. The UZC identifies TF-3 zoning as being generally compatible with the urban residential category.

The applicant’s request for a Conditional Use for parking to support the existing LC and GC zoned furniture show room and warehouse is appropriate for “local commercial” types of use. The furniture show room and its warehouses are not out of character with the area’s other commercial uses, although the area’s other commercial uses are smaller than the furniture show room and its warehouses. The Wal-Mart Neighborhood Market grocery store is the second largest development in the area located off of 13th Street North and Oliver Avenue. The proposed parking is smaller in scale than other parking lots in the area. The conditions attached to the Conditional Use can address site design issues. In the past, the MAPC has considered Conditional Uses for the redevelopment and expansion of commercial businesses on a site by site review.

The site is located within the “Central Northeast Area Plan.” The Area Plan encourages retention and improvements to single-family residences. It also encourages the retention of the area’s businesses. The area has lost a single-family residence that may become a parking lot that supports the immediate area’s largest existing business.

RECOMMENDATION: The site’s proposed Conditional Use for ancillary parking does not match the site being identified on the “2030 Land Use Guide of the Comprehensive Plan” as urban residential, but it does meet the Comprehensive Plan’s Locational criteria of having direct access onto an arterial. The proposed Conditional Use provides additional small scale parking for the largest business in the area. Based on the information available prior to the public hearing, MAPD staff recommends the application be APPROVED, subject to the following conditions.

1. The applicant shall submit a site plan for review and approval by the Planning Director, within 30 days of approval by the MAPC or the City Council. The site will be developed according to the approved site plan. The site plan shall include, but not be limited to, solid screening along the north and west sides where the site is abutting or adjacent to residential uses and zoning, all proposed lighting (no taller than 12 feet and directed away from all residential uses and zoning), landscaping along the north, west and south sides where the site is abutting or adjacent to residential uses and zoning.
2. Dedicate complete access control along Belmont Avenue and 13th Street North. Access to the parking lot will be cross lot access from the applicant's abutting east property, Reserve A, Ken Mar Addition.
3. A drainage plan shall be submitted for review and approval by Stormwater prior to the issuance of any paving permits for the parking lot.
4. All of the UZC, Article III, Section III-D.6.p. shall be in effect.
5. All trash receptacles or similar type of receptacles shall have 6-foot tall approved solid screening around it. The gate shall be of similar materials as the screening.
6. All improvements shall be completed within one year of the approval of the Conditional Use by the MAPC or the City Council.
7. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
8. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The staff's recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The TF-3 zoned site has TF-3 and SF-5 zoned single-family residences (built late 1940s) abutting and adjacent to the north, west (across Belmont Avenue) and south (across 13th Street North). The TF-3 zoned MacDonald Municipal golf course is also located south of the site across 13th Street North. Properties abutting and adjacent to the east side of the site include the LC and GC zoned Furniture on Consignment showroom and warehouse, LC zoned auto parts store, an indoor shooting range, another OW Office-Warehouse (OW) zoned Furniture on Consignment warehouse, LC zoned small retail strip, a bank, auto repair, small retail and the recently completed Wal-Mart Neighborhood Market grocery store. There may be one vacant restaurant in the area. Commercial development in this area has been experiencing reinvestment and redevelopment, as represented by the Wal-Mart Neighborhood Market grocery store taking over most of the largely vacant and declining Ken Mar shopping center.
2. **The suitability of the subject property for the uses to which it has been restricted:** The property is zoned TF-3. There was a single-family residence that has recently been torn down. The property is still suitable for a single-family residence or a duplex, although having 13th Street North frontage probably makes the site less desirable for single-family residential. The abutting LC and GC zoned furniture sales showroom and warehouse on the site's east side provides the opportunity for consideration of non-residential development on the site.

3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Ancillary parking on a site this small when developed with the Conditional Use, will have a minimum negative effect on the area. The proposed parking will support the largest business located among the other commercial development along the Oliver Avenue – 13th Street North area. The proposed use will be the first extension of a nonresidential use into the abutting and adjacent single-family residential neighborhood.
4. **Conformance of the requested change to adopted or recognized Plans/Policies:** The “2030 Land Use Guide of the Comprehensive Plan” identifies the site as “urban residential.” The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in large urban municipality. The UZC identifies TF-3 zoning as being generally compatible with the urban residential category.

The applicant’s request for a Conditional Use for parking to support the existing furniture show room and warehouse is appropriate for “local commercial” types of use. The furniture show room and its warehouses are not out of character with the area’s other commercial uses, although the area’s other commercial uses are smaller than furniture show room and its warehouses. The Wal-Mart Neighborhood Market grocery store is the second largest development in the area, located off of 13th Street North and Oliver Avenue. The proposed parking is smaller in scale than other parking lots in the area. The conditions attached to the Conditional Use can address site design issues.

In the past, the MAPC has considered Conditional Uses for the redevelopment and expansion of commercial businesses on a site by site review. The applicant proposes the additional parking to support their existing business.

The site is located within the “Central Northeast Area Plan.” The Area Plan encourages retention and improvements to single-family residences. It also encourages the retention of the area’s businesses. The area has lost a single-family residence that may become a parking lot that supports the immediate area’s (off of 13th Street North and Oliver Avenue) largest existing business.

5. **Impact on Community Facilities:** Impact on community facilities will be minimal.

BILL LONGNECKER, Planning Staff presented the Staff Report. He noted corrections to the Staff Report as follows: the front page should be corrected to read West of Oliver and on Page 3, Condition #2 should be amended to allow a drive onto Belmont. He added that the purpose of the application was to allow the applicant to add 16 – 20 spaces to the 110 spaces they already have.

MOTION: To approve subject to staff recommendation.

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

8. **Case No.:** **CON2013-00031** – Rick and Jean Horsch (applicant/owner); Baughman Company, PA, c/o Russ Ewy (agent) request a County Conditional Use to permit the expansion of existing agriculture sales and service (CU-398) on property described as:

That part of the Southeast Quarter of Section 32, Township 28 South, Range 2 West of the Sixth Principal Meridian, Sedgwick County, Kansas, described as follows: Beginning at a point 580 feet south of the Northeast corner of said Southeast Quarter; thence West 871.2 feet; thence South 250 feet; thence East 871.2; thence North 250 feet to the point of beginning, all subject to road rights-of-way of record; TOGETHER WITH that part of the Southeast Quarter of Section 32, Township 28 South, Range 2 West of the Sixth Principal Meridian, Sedgwick County, Kansas, described as follows: Beginning at a point 830 feet south of the Northeast corner of said Southeast Quarter; thence west 871.2 feet; thence South 250 feet; thence East 871.2; thence North 250 feet to the point of beginning, all subject to road rights-of-way of record.

BACKGROUND: The applicants are proposing an amendment to CU-398, a Conditional Use for “agricultural sales and service” on a 3-acre, RR Rural Residential (RR) zoned tract. CU-398 was specifically for the sale of agricultural utility trailers. The applicants propose to expand the site to 10-acres, increase the display of trailers for sale from 10 to 80 trailers, increase the display areas, and build an additional 4,800-square foot building for sales and service. The applicants’ site plan reflects these changes and the layout of the existing display areas, the existing shop, the applicants’ existing home, the existing lagoon, proposed display area, proposed building, proposed setbacks and fencing.

The RR zoned site is located north of 71st Street South and Kansas State Highway 42, on the west side of 183rd Street West in rural Sedgwick County. The site is surrounded by RR zoned agricultural land, scattered single-family residences (built 1930 - 1960s). A small trailer park is located east of the site, across 183rd Street South. Diocese property developed with a church (1991), rectory, parish hall and a small cemetery (CON2008-00035) is located southwest of the site. There is also a small cluster of nonresidential uses located in close proximity to the 183rd Street West - 71st Street South – Kansas State Highway K-42 intersections. The Clonmell Coop - grain elevator (COBZA6-94) and the Sedgwick County Clonmell Public Works maintenance yard are located south and southeast of the site. The Clonmell yard has a 300-foot tall self- supporting galvanized steel, lattice, microwave communication tower; CON2012-00047. There is also a small LC Limited Commercial (LC) zoned old gas station – store building turned into a flea store and restaurant located southeast of the site; ZON2019-00016/PO-233.

CASE HISTORY: CU-398, a Conditional Use for agricultural sales and service was approved June 13, 1996. The applicant has two letters supporting the request.

ADJACENT ZONING AND LAND USE:

NORTH:	RR	Single-family residence, agricultural fields
SOUTH:	RR, LC	Agricultural fields, church with rectory, parish hall and cemetery, flea store with restaurant, coop-grain elevator, public works maintenance yard with 300-foot communication tower
EAST:	RR	Small trailer park, agricultural fields
WEST:	RR	Agricultural fields

PUBLIC SERVICES: There is no public sewer available. The site is served by a lagoon and Rural Water District #4. The site has direct access onto 183rd Street West a paved two-lane County Highway.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the Wichita-Sedgwick County Comprehensive Plan identifies this area as “rural.” The rural classification is

outside of any city's growth area and is intended to accommodate agricultural uses, rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County and predominately large lot residential development. When the original Conditional Use, CU-398 was approved it was considered a complementary land use for this predominately agricultural area, with conditions. The proposed amendment to CU-398 requires a Conditional Use.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the proposed Conditional Use be APPROVED, subject to the following conditions:

- (1) The site will be developed in conformance to an approved site plan and shall be used for the display and sales of no more than 80 agricultural utility trailers. All service or repair work conducted on the site shall entirely within a building. No body or fender work shall be permitted.
- (2) All display and customer parking areas shall be surfaced with asphalt, crushed gravel or rock.
- (3) One non-illuminated 12-square foot, 12-foot tall sign is permitted.
- (4) No outdoor amplification system shall be permitted.
- (5) If the the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the surrounding area:** The area is located in rural Sedgwick County with RR zoned agricultural fields and scattered single-family residences. A small trailer park is in the area as well as a small church with a rectory, parish hall and cemetery. A small cluster of nonresidential uses are located in close proximity to the 183rd Street West - 71st Street South – Kansas State Highway K-42 intersections. The uses are the Sedgwick County Clonmell Public Works maintenance yard with a 300-foot self- supporting galvanized steel, lattice, microwave communication tower and the Clonmell Coop - grain elevator. A small LC zoned old gas station – store building turned into a flea store and restaurant located is also located in the area.
2. **The suitability of the subject property for the uses to which it has been restricted:** The rural Sedgwick County site is zoned RR, which primarily permits agriculture uses and large lot residential uses. The site has a Conditional Use, CU-398, which allows the display and sale of no more than 10 agricultural utility trailers, with conditions, on 3-acres. The applicants' request is a significant increase in the size of the site (10-acres) and the number of agricultural utility trailers (80) for display and sales. As presented it would seem that this equipment is going to have a market based in rural Sedgwick County, Kansas. Although the site is located in rural Sedgwick County, it is adjacent to the 183rd Street West – Kansas State Highway 42, both paved arterial roads.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The increase in the size of the site and the increase the number of agricultural utility trailers (80) for display and sales would seem to indicate strong sales for this product and as such an increase in

traffic to the area is possible. The conditions attached to the Conditional Use should minimize negative impact of the development.

- 4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2030 Wichita Functional Land Use Guide” of the Wichita-Sedgwick County Comprehensive Plan identifies this area as “rural.” The rural classification is outside of any city’s growth area and is intended to accommodate agricultural uses, rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County and predominately large lot residential development. When the original Conditional Use, CU-398 was approved it was considered a complimentary land use for this predominately agricultural area, with conditions. The proposed amendment to CU-398 requires a Conditional Use.
- 5. **Impact of the proposed development on community facilities:** There could be an increase in traffic.

BILL LONGNECKER, Planning Staff presented the Staff Report.

RUSS EWY, BAUGHMAN, AGENT FOR THE APPLICANT said he would stand for questions.

FOSTER referenced page 3 of the Staff Report regarding the increase in size of the site to accommodate up to 80 trailers. He asked if there were 80 types of trailers that needed to be displayed.

EWY responded no sir; however, he added that the issue is the differential between trailers on display for sale, trailers on site for service and/or repair and trailers beings stored for clients waiting to pick them up. He indicated the applicant sells all different kinds of trailers including everything from horse trailers, to trailers for personal lawn mowers to trailers big enough to haul a back hoe.

FOSTER asked staff if they have received any phone calls related to case from surrounding neighbors.

LONGNECKER said staff has received two letters of support that were included with the Staff Report.

MOTION: To approve subject to staff recommendation.

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

NON-PUBLIC HEARING ITEMS

- 9. Approval of 2014 Planning Commission Meeting Calendar

MOTION: To approve subject to staff recommendation.

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

The Metropolitan Area Planning Commission adjourned at 1:55 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

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

(SEAL)

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