

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

December 5, 2013

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, December 5, 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 Dennis; David Foster; Bill Johnson; John McKay Jr.; M.S. Mitchell; Carol Neugent; George Sherman; Debra Miller Stevens and Chuck Warren. Steve Anthimides; Matt Goolsby; Joe Johnson; 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, Robert Parnacott, Assistant County Counselor and Maryann Crockett, Recording Secretary.

1. Approval of the prior MAPC meeting minutes:

Approval of the October 24, 2013 Minutes.

MOTION: To approve the October 24, 2013 meeting minutes, as amended.

MCKAY moved, **G. SHERMAN** seconded the motion, and it carried (8-0-2). **MILLER STEVENS** and **MITCHELL** - Abstained.

Approval of the November 21, 2013 Minutes.

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

WARREN moved, **MITCHELL** seconded the motion, and it carried (6-0-4). **DENNIS, MCKAY, NEUGENT** and **G. SHERMAN** - Abstained.

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

There were no Subdivision items.

3. **PUBLIC HEARING – VACATION ITEMS**

- 3-1. **VAC2013-00041: City request to vacate a portion of a platted street side yard setback on property,** generally located south of 21st Street North, west of Tyler Road, on the northeast corner of Westport and Westfield Streets (9224 Westport Street).

APPLICANT/OWNER: Earl K. Snodgrass & Wilma J. O’Kraekel (owners)

LEGAL DESCRIPTION: Generally described as the east 3 feet of the platted 15-foot street side yard setback located parallel to the west property line of Lot 15, Block K, Jamesburg Addition & the Westfield Street right-of-way, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located south of 21st Street North, west of Tyler Road, on the northeast corner of Westport Street and Westfield Street (9224 W. Westport Street, WCC #V)

REASON FOR REQUEST: Build a detached garage

CURRENT ZONING: Subject property and all adjacent and abutting properties are zoned SF-5 Single-Family Residential (SF-5)

The applicants are requesting consideration for the vacation of east 3 feet of the platted 15-foot street side yard setback located parallel to the west property line of Lot 15, Block K, Jamesburg Addition & the Westfield Street right-of-way. The subject corner lot is zoned SF-5 Single-Family Residential (SF-5). The Unified Zoning Code's (UZC) minimum street yard setback for the SF-5 zoning district is 15 feet, i.e., the same as the subject site's platted 15-foot street side yard setback. If the setback was not platted the applicants could have applied for an Administrative Adjustment to reduce the street side yard setback by 20%, resulting in a 3 foot reduction; the same reduction the applicants are requesting. To reduce the subject setback by more than 20% requires a variance, which is a separate public hearing process. There is platted 10-foot utility easement located within the subject setback. Neither water nor sewer appears to be located within the platted easement. Stormwater appears to have equipment located in the abutting right-of-way. There are no utilities located within the proposed vacated portion of the platted street side yard setback. The Jamesburg Addition was recorded with the Register of Deeds March 25, 1981.

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 street side yard 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 November 14, 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 side yard 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) Vacate the east 3 feet of the platted 15-foot street side yard setback located parallel to the west property line of Lot 15, Block K, Jamesburg Addition & the Westfield Street right-of-way.
- (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. 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

- (3) All improvements shall be according to City Standards.
- (4) 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 the east 3 feet of the platted 15-foot street side yard setback located parallel to the west property line of Lot 15, Block K, Jamesburg Addition & the Westfield Street right-of-way.
- (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. 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
- (3) All improvements shall be according to City Standards.
- (4) 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.

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

-
- 3-2. **VAC2013-00042: City request to vacate the plattor's text to amend the uses permitted in a platted reserve on property,** generally located on the west side of Greenwich Road, midway between 13th and 21st Streets North, on the north side of the rails to trails path.

- APPLICANT/AGENT:** Slawson Commercial Properties, LLC, c/o Jerry Jones (applicant/owner)
PEC, c/o Charlie Brown (agent)
- LEGAL DESCRIPTION:** The plattor's text of the Oak Creek 2nd Addition, Wichita, Sedgwick County, Kansas, to allow an additional use in Reserve O
- LOCATION:** Generally located on the west side of Greenwich Road, midway between 13th & 21st Streets North, on the north side of the rails to trails (WCC #V)
- REASON FOR REQUEST:** Parking lot
- CURRENT ZONING:** Subject property and abutting north and west properties are zoned LC Limited Commercial (LC) and are located within CUP DP-274. Abutting south property is the SF-5 Single-Family Residential (SF-5) and LI Limited Industrial (LI) zoned rails to trails. Adjacent east property is zoned SF-20 Single-Family Residential (SF-20)

The applicant is requesting consideration for the vacation of plattor's text to amend the uses allowed within Reserve O, Oak Creek 2nd Addition. Per the Oak Creek 2nd Addition's plattor's text ... "Reserves 'K' - 'O' are hereby platted for landscaping, ponds, drainage, sidewalks & utilities confined to easements." Reserve O is 100-ft wide and entirely occupied by a 100-ft wide KG&E easement dedicated by separate instrument; Misc Bk 594, PG 590. Westar has power lines located within the subject reserve and its easement. Westar (as represented by Greg Roy) will consider a conditional approval allowing parking in their easement subject to final review and approval of construction documents, including an approved drainage plan. Stormwater is in agreement to allow parking within Reserve O, per their review and approval of a drainage plan submitted by the applicant. No other utilities are located in Reserve O. The Oak Creek 2nd Addition was recorded with the Register of Deeds October 6, 2006.

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 plattor's text to amend the uses allowed within the described platted reserve.

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 November 14, 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 plattor's text to amend the uses allowed within the described platted reserve, and that the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Per the approval of Stormwater and Westar, the plattor's text will be amended to allow a parking lot in Reserve O, Oak Creek 2nd Addition. All other uses permitted in Reserve O will remain in effect.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
- (3) All improvements shall be according to City Standards.
- (4) 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.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Per the approval of Stormwater and Westar, the plattor's text will be amended to allow a parking lot in Reserve O, Oak Creek 2nd Addition. All other uses permitted in Reserve O will remain in effect.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
- (3) All improvements shall be according to City Standards.
- (4) 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.

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

PUBLIC HEARINGS

B. JOHNSON recused himself from the item and left the bench.

- 4. Case No.: ZON2013-00036** – Jesri Investment, LLC (applicant); Jim McCann (agent) request a City amendment to Protective Overlay 267 to permit an offsite billboard on property described as:

Lot 1, Block A, Absolute Natural Stone Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant seeks an amendment to Protective Overlay (PO) #267 on GC General Commercial (GC) zoned property located south of Kellogg and one-quarter mile west of 127th Street East. Provision No. 18 of PO #267 states “No off-site signs, unless approved by the MAPC or the governing body after a review of the proposed sign.” The applicant now seeks MAPC approval for a 30-foot tall, 10 by 40-foot LED billboard off-site sign; see the attached site plan and visual documents. The applicant will place the sign outside of right-of-way where it will not impede planned Kellogg improvements and will not require relocation.

The Sign Code (Section 24.04.185.q) defines a “Sign, Off-site” as a sign delivering a message or advertising other than the name, occupation or nature of the activities conducted on the premises or the products sold or manufactured thereon. The code recognizes two types of off-site billboards: Off-site junior billboard (Section 24.04.185.s) is an off-site sign with any sign face equal to or less than three hundred square feet in area, and not exceeding thirty feet in total height above adjoining grade. An off-site standard billboard (Section 24.04.185.t) is an off-site sign with any sign face greater than three hundred square feet in area, but not exceeding fourteen feet in height and forty-eight feet in length, plus any allowed extensions. The applicant’s proposed 10 by 40-foot sign is classified as an off-site standard billboard. Off-site billboard signs may also contain an electronic message center that utilize computer generated messages or some other electronic means of changing copy. The off-site sign location and specifications appear to meet all other Sign Code requirements for an off-site sign at this location.

This site was rezoned from SF-5 Single-family Residential (SF-5) and LC Limited Commercial to GC, subject to PO #267, in 2012 (ZON2012-00005). In the 2012 rezoning, the applicant chose to do a PO in lieu of a Community Unit Plan (CUP). The GC zoning request was to accommodate a stone cutting business, consistent with the Zoning Code definition for construction sales and services.

Properties abutting the east and west sides of the site are zoned GC. East of the site is a warehouse/retail use and a wireless communication tower approved by CON2000-54. West of the site is a self-storage warehouse development. Further west is retail development in CUP DP-196, the One Kellogg Place Commercial Community Unit Plan. North of the site, across Kellogg, is unplatted, SF-5 zoned property; staff anticipates this SF-5 zoned Kellogg frontage to rezone for future non-residential uses. South of the site is the applicant’s remaining GC zoned property and the Kansas Turnpike.

CASE HISTORY: The application area was platted as Lot 1, Block A, Absolute Natural Stone Addition to Wichita, recorded May 23, 2013. The property was rezoned to GC with PO #267 in 2012.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5, LC, GC	Kellogg/US 54, vacant land, auto repair, car dealerships
SOUTH:	SF-5	I-35, single-family residential subdivision
EAST:	GC	Vacant retail/construction sales and service, tree farm, I-35
WEST:	GC, LI	Self-storage, regional retail, car dealership

PUBLIC SERVICES: Kellogg/US 54 is a paved, four-lane US Highway with turn lanes, a median and dirt frontage roads at this location. Improvements to Kellogg will take the northern 88 feet of this site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide depicts the site as being appropriate for “Regional Commercial.” The Regional Commercial category encompasses major destination areas that contain concentrations of commercial, office and personal services that have predominately regional market areas and high volumes of regional traffic. Typically they are located in close proximity to freeways or major arterials and include such uses as major retail malls, major car dealerships and big box retail.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**, subject to amended provision No. 18 of PO #267:

“One off-site sign is permitted, to be placed outside of right-of-way where it will not impede planned Kellogg improvements and will not require relocation. The off-site sign is limited to 10 by 40 feet in size and 30 feet in height, and shall conform to the approved site plan and elevation drawings. The off-site sign shall conform to all Sign Code requirements.”

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood:** Properties abutting the east and west sides of the site are zoned GC. East of the site is a warehouse/retail use and a wireless communication tower approved by CON2000-54. West of the site is a self-storage warehouse development. Further west is retail development in CUP DP-196, the One Kellogg Place Commercial Community Unit Plan. North of the site, across Kellogg, is unplatted, SF-5 zoned property; staff anticipates this SF-5 zoned Kellogg frontage to rezone for future non-residential uses. South of the site is the applicant’s remaining GC zoned property and the Kansas Turnpike.
- 2. The suitability of the subject property for the uses to which it has been restricted:** The property is currently zoned GC, subject to the provisions contained in PO #267. As currently zoned, the property could be developed for uses to which it has been restricted.
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property:** Nearby property is commercial and industrial highway frontage. Four billboards exist within this mile. A billboard at this location should have no impact on 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:** Approval of the request would provide additional outdoor advertising opportunities to the Wichita market. Denial would presumably be an economic loss to the applicant.

5. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The 2030 Wichita Functional Land Use Guide depicts the site as being appropriate for “Regional Commercial.” The Regional Commercial category encompasses major destination areas that contain concentrations of commercial, office and personal services that have predominately regional market areas and high volumes of regional traffic. Typically they are located in close proximity to freeways or major arterials and include such uses as major retail malls, major car dealerships and big box retail.
6. **Impact of the proposed development on community facilities:** All services are in place, and any increased demand on community facilities can be handled by current infrastructure.

JESS MCNEELY, Planning Staff presented the Staff Report.

FOSTER mentioned that off-site signage is pretty consistent along Kellogg. He noted a trend of applicants returning for off-site signage following approval of a zone change. He asked at what point does the intensity of so many signs begin raise to raise questions about aesthetics.

MCNEELY commented that the particular site was rezoned fairly recently (in 2012) from SF-5 Single-family Residential to GC General Commercial with a PO Protective Overlay in lieu of a CUP Community Unit Plan. He said the PO prohibited off-site signs. He said if the PO was not on the property, the applicant could just get a permit for the sign. He said other than the PO, the site meets all requirements as far as the number of off-site signs and zoning within a mile.

FOSTER asked about the minimum distance between signs.

MCNEELY said this sign meets the minimum distance between off-site signs requirement.

MOTION: To approve subject to staff recommendation.

MCKAY moved, **MITCHELL** seconded the motion, and it carried (8-1-1). **FOSTER** – No; **B. JOHNSON** – Abstained.

B. JOHNSON back on the bench.

5. **Case No.: ZON2013-00037** - USD 259, c/o Shane Shumacher (Owner/Applicant); Ruggles and Bohm, P.A., c/o Will Clevenger (Agent) request a City request for a zone change from MF-29 Multi-family Residential zoning to GO General Office on property described as:

That part of Lot 1, Block L, Planeview Subdivision No 1, being a subdivision in Section 2, Township 28 South, Range 1 East of the 6th. Principal Meridian, in Sedgwick County, Kansas, described as beginning at the point of tangency on the south line of said Lot 1; thence southwesterly along said right of way line, 9.00 feet; thence northwesterly at right angles, 133.00 feet; thence northeasterly at right angles, 160.00 feet; thence southeasterly at right angles, 143.81 feet to the south line of said Lot 1, being a curve to the left and having a radius of 1060.0 feet; thence along said curve 151.52 feet to the place of beginning.

BACKGROUND: The applicant requests a zone change from MF-29 Multi-family Residential (MF-29) to GO General Office (GO) on a .5-acre site along the east side of the existing Jardine Middle School. The subject site is located along Ross Parkway, approximately ¼ mile east of Hillside and ½ mile south of Pawnee. The applicant proposes to develop the property with a medical facility in association with the middle school. A school is a permitted use under the existing MF-29 zoning; the proposed medical clinic requires a change in zoning. The application area is owned by USD 259 who will maintain ownership of the property.

The medical facility will be opened year round and will serve Jardine Middle School students, faculty and the surrounding neighborhood. Development on the site will be required to meet screening, building height, dumpster location, landscaping, parking and all other requirements of the Unified Zoning Code. See the proposed site plan attached to this report.

Property north of the site, across Gypsum Creek, is zoned MF-29 and is developed with a combination of multi-family, two-family and single-family residences in the Plainview Neighborhood. Property south of the site is also zoned MF-29 and developed with a combination of multi-family, two-family and single-family residences in the Plainview Neighborhood. East of the site is GC General Commercial (GC) zoned property developed with an office and warehouse north of Ross Parkway, and developed with an apartment complex south of Ross Parkway. West of the site is an LC Limited Commercial (LC) zoned skilled nursing facility.

CASE HISTORY: The site is described as Lot 1, Block L of the Planeview Subdivision No. 1 to Wichita, recorded in 1955.

ADJACENT ZONING AND LAND USE:

NORTH:	MF-29	Gypsum Creek; multi, two and single-family residences
SOUTH:	MF-29	Multi, two and single-family residences
EAST:	GC	Office/warehouse, apartment complex
WEST:	LC	Skilled nursing facility

PUBLIC SERVICES: Ross Parkway is a paved, two-lane urban collector with a landscaped median and a 120-foot right of way. All other utilities are available at the site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the site as appropriate for “Major Institutional” use. Major Institutional is a category that includes institutional facilities of a significant size and scale of operation and could include a range of such uses as government facilities, military bases, libraries, schools, cemeteries, churches, hospital and medical treatment facilities.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request for the GO General Office (GO) zoning be **APPROVED.**

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** Property north of the site, across Gypsum Creek, is zoned MF-29 and is developed with a combination of multi-family, two-family and single-family residences in the Plainview Neighborhood. Property south of the site is

also zoned MF-29 and developed with a combination of multi-family, two-family and single-family residences in the Plainview Neighborhood. East of the site is GC zoned property developed with an office and warehouse north of Ross Parkway, and developed with an apartment complex south of Ross Parkway. West of the site is an LC zoned skilled nursing facility.

2. **The suitability of the subject property for the uses to which it has been restricted:** The subject site is zoned MF-29 and developed with a middle school and associated facilities. The property could continue to be used as zoned.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The parking lot screening, lighting, and compatibility standards of the Unified Zoning Code and the landscaped street yard requirements of the Landscape Ordinance will mitigate vehicle lights, site lighting and other activity from impacting the surrounding neighborhood.
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 appropriate for “Major Institutional” uses. Major Institutional is a category that includes institutional facilities of a significant size and scale of operation and could include a range of such uses as government facilities, military bases, libraries, schools, cemeteries, churches, hospital and medical treatment facilities.
5. **Impact of the proposed development on community facilities:** Approval of the request should have no impact on community facilities. The proposed medical clinic will become a community facility serving the immediate surrounding neighborhoods.

JESS MCNEELY, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

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

-
6. **Case No.: CON2013-00024** - AT&T Mobility and SFB, LCC request a City Conditional Use to permit a 125-foot wireless communication facility on LI Limited Industrial zoned property.

CHAIR KLAUSMEYER announced that the application has been withdrawn.

-
7. **Case No.: CON2013-00027** – Steps to Life, Inc. (owner); Westar Energy, c/o Allyson Wetter (applicant) request a County Conditional Use for an electrical substation in RR Rural Residential zoning on property described as:

BACKGROUND: The applicant, Westar Energy, is requesting a Conditional Use for an electric substation on the undeveloped RR Rural Residential (RR) zoned site. The Unified Zoning Code’s (UZC) definition of a “utility, major” includes electrical substations; UZC, Article II., Section II-B.13.i. The UZC permits a utility, major in the RR district only with Conditional Use approval. The unplatted site is located approximately ½-mile south of 47th Street South on the west side of Webb Road.

The site will provide the power needed for the anticipated growth in this part of Sedgwick County, which is located within the City of Wichita's 2030 growth area and the City of Derby's Area of Zoning Influence. The site abuts the north side of the SF-20 Single-Family Residential (SF-20) zoned Steps to Life parochial school. The SF-20 zoned parochial school is the exception for the area, as the rest of the area is made up of RR zoned agricultural fields and scattered single-family residences (built 1918-2005). The closest residence is located approximately 85 feet southeast of the site, across Webb Road. There are six residences located within a ¼-mile of the site. McConnell Air Force is located approximately 1 ½-mile northwest of the site.

The site plan shows the electrical substation located within a 200-foot (x) 310-foot area, enclosed by a nine-foot tall simulated stone wall. The site plan shows the layout of the substation's equipment including two 75-foot tall transmission dead-end poles, the tallest structures of the substation's equipment. There will be flood lights mounted on top of the wall directed into the substation. The applicant anticipates a minimal increase in noise generated by the facility, noting that the new equipment that will be used is quieter than the equipment used in the past. The County does not have a noise ordinance. The site plan shows one drive onto Webb Road. The substation's equipment area is located 82.68 feet from the south property line, 220.84 feet from the west property line, 220.84 feet from the north property line and 76.09 feet from its east, Webb Road frontage. There is a 20-foot setback located parallel to the south and north property lines, a 25-foot setback located parallel to the west property line and a 30-foot setback located parallel to the east property line. These setbacks reflect the minimum RR zoning district's setbacks.

CASE HISTORY: The RR zoning was essentially established with county-wide zoning in 1985; R Rural Residential (R) became RR Rural Residential in 1996, with the adoption of the UZC. The Derby Planning Commission considered CON2013-27 at their November 21, 2013 meeting and unanimously recommended approval subject to platting within a year and the following conditions:

1. The site shall be developed, maintained and operated in substantial compliance with the approved site plan and in compliance with all applicable laws and regulations.
2. Lighting shall be no taller than 12 feet and shall be directed away all residential uses and zoning
3. 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.

ADJACENT ZONING AND LAND USE:

NORTH:	RR	Agricultural fields
SOUTH:	SF-20, RR	Parochial school, single-family residences, agricultural fields,
EAST:	RR	single-family residences, agricultural fields
WEST:	RR	Agricultural fields, single-family residence

PUBLIC SERVICES: Access to the site is via Webb Road, a section line road that is a sand and gravel Gypsum Township road, at this location. Traffic to and from the site will be minimal. The site is not served by public sanitary sewer. The site is located within Rural Water District 3. Neither sewer nor water service is required by the proposed use.

CONFORMANCE TO PLANS/POLICIES: The “Wichita and Small Cities 2030 Urban Growth Areas Map” depicts this site as being inside of the City of Wichita’s 2030 urban growth area, which means that there is potential for urban develop to occur in the near future on land so designated. The proposed electrical substation will provide the power needed for the anticipated growth in this part of Sedgwick County.

The “2030 Wichita Functional Land Use Guide Map” identifies the site as being in the “urban development mix.” The urban development mix category encompasses land that is likely to be developed in the next 30-years with uses predominately found in the “urban residential use” category. However there is likelihood that concentrations or pockets of “major industrial uses,” “local commercial uses” and “park and open space uses” may also be developed in this area. The urban development mix category is an area waiting for development trends.

The electric substation is defined as a utility, major in the UZC. The UZC permits a utility, major in the RR district only with Conditional Use approval.

Transportation/Utilities Locational Guideline number 2 states that utility facilities with significant noise, odor and other nuisance elements should be located away from residential areas. The proposed electrical substation is located in a portion of Sedgwick County with a mix of agricultural fields and scattered single-family residences. There are six residences located within a ¼-mile of the site. Residential growth in the area has been minimal, as the area is used primarily for agriculture. The applicant has stated that any noise increase should be minimal, as the replacement equipment is significantly quieter than the current equipment; the County has no noise ordinance.

The site is located within the City of Derby’s Area of Zoning Influence and as such the Derby Planning Commission will consider CON2013-00027 at their November 21, 2013, meeting; UZC, Article V., Section V-B.4.d. If the Derby Planning Commission recommends denial before the December 5, 2013, MAPC meeting and the MAPC recommends approval, CON2013-00027 will proceed to the Sedgwick County Board of County Commissioners (BoCC/Governing Body) for final action; UZC, Article V., Section V-D.6. It takes a unanimous vote all of the BoCC members to overturn the small city’s recommendation of denial; UZC, Article V., Section V-D.9.

The “Derby Comprehensive Plan’s Future Land Use Map” shows the site’s future use to be “rural suburban acreage.” The “Derby Comprehensive Plan’s Growth Area Map” shows the site projected as being in a “long-term growth area.” The proposed electrical substation would not seem to be in conflict with the City of Derby’s long range plans for the area the site is located in.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the Conditional Use be APPROVED, for a utility, major/electric substation subject to platting within a year and the following conditions:

1. The site shall be developed, maintained and operated in substantial compliance with the approved site plan and in compliance with all applicable laws and regulations.
2. Lighting shall be no taller than 12 feet and shall be directed away from all residential uses and zoning
3. 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:** The site abuts the north side of the SF-20 Single-Family Residential (SF-20) zoned Steps to Life parochial school. The SF-20 zoned parochial school is the exception for the area, as the rest of the area is made up of RR zoned agricultural fields and scattered single-family residences (built 1918-2005). The closest residence is located approximately 85 feet southeast of the site, across Webb Road. There are six residences located within a ¼-mile of the site. McConnell Air Force is located approximately 1 ½-mile northwest of the site.
2. **The suitability of the subject property for the uses to which it has been restricted:** The electric substation site is zoned RR. The RR zoning district supports agricultural activity and this is reflected by the area around the site being used for agriculture. The RR district also maintains a low density development pattern by requiring a minimum lot size of two acres, making the proposed utility, major /electric substation suitable in the RR district with Conditional Use approval appropriate.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The applicant anticipates a minimal increase in noise generated by the facility, noting that the new equipment that will be used is quieter than the equipment used in the past. The County does not have a noise ordinance. The electrical substation will generate less traffic than the single-family residences in the area and possibly the agricultural uses in the area, thus minimizing the impact on Webb Road, which is gravel Gypsum Township road at this location. The conditions of approval should minimize the anticipated nuisance elements.
4. **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Approval of the site will enhance Westar Energy's ability to provide its customers with a reliable and adequate supply of electricity. Denial would presumably be an economic loss to the applicant and cause the utility a delay in developing the infrastructure necessary to meet future demand.
5. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The "Wichita and Small Cities 2030 Urban Growth Areas Map" depicts this site as being inside of the City of Wichita's 2030 urban growth area, which means that there is potential for urban development to occur in the near future on land so designated. The proposed electrical substation will provide the power needed for the anticipated growth in this part of Sedgwick County.

The "2030 Wichita Functional Land Use Guide Map" identifies the site as being in the "urban development mix." The urban development mix category encompasses land that is likely to be developed in the next 30-years with uses predominately found in the "urban residential use" category. However there is likelihood that concentrations or pockets of "major industrial uses," "local commercial uses" and "park and open space uses" may also be developed in this area. The urban development mix category is an area waiting for development trends.

The electric substation is defined as a utility, major in the UZC. The UZC permits a utility, major in the RR district only with Conditional Use approval.

Transportation/Utilities Locational Guideline number 2 states that utility facilities with significant noise, odor and other nuisance elements should be located away from residential areas. The proposed electrical substation is located in a portion of Sedgwick County with a mix of agricultural fields and scattered single-family residences. There are six residences located within a ¼-mile of the site. Residential growth in the area has been minimal, as the area is used primarily for agriculture. The applicant has stated that any noise increase should be minimal, as the replacement equipment is significantly quieter than the current equipment. The County has no noise ordinance.

The site is located within the City of Derby's Area of Zoning Influence and as such the Derby Planning Commission will consider CON2013-00027 at their November 21, 2013, meeting; UZC, Article V., Section V-B.4.d. If the Derby Planning Commission recommends denial before the December 5, 2013, MAPC meeting and the MAPC recommends approval, CON2013-00027 will proceed to the Sedgwick County Board of County Commissioners (BoCC/Governing Body) for final action; UZC, Article V., Section V-D.6. It takes a unanimous vote all of the BoCC members to overturn the small city's recommendation of denial; UZC, Article V., Section V-D.9.

The "Derby Comprehensive Plan's Future Land Use Map" shows the site's future use to be 'rural suburban acreage.' The "Derby Comprehensive Plan's Growth Area Map" shows the site projected as being in a "long-term growth area." The proposed electrical substation would not seem to be in conflict with the City of Derby's long range plans for the area the site is located in.

6. **Impact of the proposed development on community facilities:** The proposed facility would improve Westar Energy's ability to provide the anticipated power needs to this area of Sedgwick County.

BILL LONGNECKER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

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

-
8. **Case No.: CON2013-00032** –Theodore and Amy Bender request a County Conditional Use to permit a Rural Home Occupation on 22 acres in RR Rural Residential zoning with up to 8 employees and with up to 25,000 square feet of building space on property described as:

BACKGROUND: The applicants are requesting approval as a "rural home occupation" use the fabrication of metal, and the waiver of certain development standards associated with the operation of a "rural home occupation." The development standards requested to be waived are:

- 1) The requirement that a rural home occupation be located more than 120 feet from an off-site residence. There are 80 feet between the applicants' southern property line and a house located to the south.
- 2) Rural home occupations are limited to a maximum of 3,000 square feet of floor. The applicants propose 25,000 square feet of floor area, including their existing building floor area.
- 3) Rural home occupations are limited to the equivalent of four full-time employees. The applicants request permission for up to eight full-time employees.

Initially the applicants repaired farm machinery on the site; however, in the near past the applicant has begun to fabricate metal railings. The metal railings vary in size from small sections such as a two-step stairs and railing to larger sections, such as a 20-step stairs and railing section. The steel used to fabricate the steps and railings is brought in on semi-tractor trailers, approximately twice a month, and shipped out via pick-up truck and trailer. The applicant currently has five full-time employees. Currently, the hours of operation are 8:00 a.m. to 5:00 p.m., Monday through Friday.

The subject property is 20.62 acres of unplatted RR Rural Residential (RR) zoned land located northeast of the intersection of East 117th Street North and North 143rd Street East. Most of the application area is undeveloped, and is used for agricultural purposes. The northern approximately 3.78 acres are developed with a 1,866 square-foot residence, built in 1887; a 5,000 square-foot shed that is at least partially used to support the rural home occupation; a 2,310 square-foot "old barn," a sizeable rock parking area located south of the residence, a lagoon, a sports court and a livestock pen. (See the portion of the attached site plan labeled "current site plan.") The applicant proposes to demolish the "old barn" and replace it with a 20,000 square-foot "new shed," and expand the driveway/parking area. (See the portion of the attached site labeled "future site plan.")

All land surrounding the application area is zoned RR. To the east is a 57 acre tract used for agriculture. Southeast of the site are two smaller tracts, one and one-half acres and 4.63 acres that are developed with residences. These two residences are the closest off-site residences, located approximately 80 feet and 234 feet (property line to property line) away. Straight south of the application area is 142 plus acres used for agriculture. Southwest of the site are 151 acres, also used for agricultural pursuits. West of the application area is 73 acres used for agricultural purposes. Northwest of the application area, approximately 269 feet (property line to property line), 4.51 acres developed with a residence. Land located immediately north and east of the application area is used for agriculture, and is 57 acres in area.

The Unified Zoning Code (UZC) permits certain land uses to occur in residential and rural areas under conditions that will ensure their compatibility with the character of the area in which the home or rural occupation is located (Article IV, Section IV-E). The development standards associated with home and rural home occupations are intended to permit residents to engage in certain uses that are compatible with residential land uses and to ensure that such uses do not adversely affect the integrity of residential and rural areas. The UZC divides those uses permitted in residential and rural areas into two types, "home occupations" and "rural home occupations." "Home occupations" are those uses that are permitted, subject to certain development standards, in a dwelling unit regardless of the property's zoning. "Rural home occupations" refer to an additional set of uses, when compared to a "home occupation" that may be permitted in the RR or SF-20 Single-family Residential districts if they are operated in compliance with applicable development standards.

Development standards for “rural home occupations” are, in part, as follows (Article IV, Section IV-E.7.a-h):

- a. Each lot shall be located upon a public road and shall contain a minimum of five acres. (The applicants have 20 plus acres which has 1,925 feet of frontage along North 143 Street East, and 500 feet of frontage along East 117th Street North.)
- b. A “rural home occupation” must be located at least 120 feet from residences located off-site. (The application area is located within 80 feet of an off-site residence (measured property line to property line), but there are approximately 1,700 feet between the property line of the tract containing the off-site residence and the structures proposed to contain the rural home occupation.)
- c. The rural home occupation may be conducted in an accessory structure having a floor area equal to the floor area of the principal residence or up to 3,000 square feet, whichever is greater. (Currently the applicant is using a 5,000 square-foot structure with hopes of expanding to a new shed containing 15,000 square feet of floor area. The property is unplatted and will be required to plat when building permit is requested.)
- d. Outdoor storage is permitted provided the storage area does not exceed 10,000 square feet. (There are also screening and location of outside storage requirements in the code; however, it does not appear that the applicant has outside storage of materials.)
- e. No more than the equivalent of four full time employees or persons, other than persons occupying the dwelling unit as their residence, shall be employed at any rural home occupation site. (The applicant indicates he has five full time employees and would like the potential to increase the number of employees.)
- f. Only the standards of Sections IV-E, 3.a and c apply to rural home occupations: a. No alteration of the principal structure or premises shall be made that changes the character or appearance thereof. b. No equipment shall be used that creates noise, vibration, electrical interference, smoke or particulate matter emission, or odors that are in excess of ordinary and usual conditions prevailing in the immediate neighborhood as determined by the zoning administrator.
- g. One onsite, free standing (or attached to an accessory building), non-illuminated sign up to 12 square feet in size located outside of public right-of-way shall be permitted.
- h. Rural home occupations that do not meet one or more of the conditions listed above, but are limited on no less than two acres may be approved as Conditional Uses in accordance with the requirements and procedures for Conditional Uses in this Code.

Land uses permitted as “rural home occupations” that are most similar to that proposed by the applicant include: assembly, maintenance and repair of agricultural implements and equipment; blacksmith shop, welding, heat treating and machine shop or uses determined by the zoning administrator to be similar in character to those listed (UZC Article IV, Section IV-E.8.c.g and t).

CASE HISTORY: The property’s RR zoning would have been established with county-wide zoning in 1985.

ADJACENT ZONING AND LAND USE:

North: RR; agriculture

South: RR; agriculture and two residences

East: RR; agriculture
West: RR; agriculture

PUBLIC SERVICES: East 117th Street North and North 143rd Street East are both sand and gravel section-line roads with 60 feet of right-of-way that are maintained by Lincoln Township. East 101st Street North, located roughly two and one-half miles to the south, is the closest paved road. The site utilizes a lagoon and either uses a well or rural water.

CONFORMANCE TO PLANS/POLICIES: The “Wichita and Small Cities 2030 Urban Growth Areas” map depicts the site as a “rural area.” The rural functional land use category includes land outside the 2030 urban growth areas for Wichita and the small cities. This category 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 larger lot residential exurban subdivisions with provisions for individual, or community water and sewer services. As indicated above, the UZC contains guidelines and development standards regarding the types of uses that are appropriate as a “rural home occupation.” The UZC also provides for deviation of the development standards of rural home occupations by the Conditional Use review process.

RECOMMENDATION: Based upon the information available at the time the staff report was filed, it is recommended the request be approved subject to the following conditions:

- A. In addition to the other listed uses allowed by right as a “rural home occupation,” this Conditional Use permits metal fabrication from previously prepared steel subject to the “rural home occupation” standards contained in the Wichita-Sedgwick County Unified Zoning Code unless specifically modified by this Conditional Use. The production of steel or other metals from extracted or raw materials is prohibited.
- B. The “rural home occupation” shall be allowed up to 25,000 square feet of floor area.
- C. The “rural home occupation” shall be allowed up to eight full-time employees.
- D. Hours of operation for the rural home occupation permitted by this Conditional Use shall be limited to the hours between 6:00 a.m. and 8:00 p.m., Monday through Saturday.
- E. The “rural home occupation” shall be allowed to be conducted within 80 feet of an off-site residence.
- F. The “rural home occupation” shall be developed, operated and maintained in compliance with the approved site plan. If necessary, the applicant shall submit a revised site plan that reflects the final conditions of approval. The revised site plan shall be submitted prior to commencing activities approved by this Conditional Use.
- G. The “rural home occupation” shall comply with all other applicable codes and regulations, including, but not limited to, fire, zoning, subdivision, sanitation and building codes.
- H. 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:** The area surrounding the application area is overwhelmingly rural in character, with agricultural use being the dominate land use. There

are four residences located within a half-mile of the application area. All of the land located in Sedgwick County and within several miles of the application area is zoned RR.

2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned RR which permits primarily agricultural activities and large-lot residences (2-acre minimum lot size). The RR district permits rural home occupations subject to the development standards discussed above. The property could be used for economically viable uses as currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request will clarify that “metal fabrication” under the recommended conditions is similar to listed rural home occupation uses such as “machine shop” or “assembly, maintenance and repair of agricultural implements.” The application area is 20 plus acres, which provides ample room for the proposed activities. The recommended conditions of approval should minimize identifiable impacts.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial would presumably represent a loss in economic opportunity for the applicants to expand their business. Approval will increase local competition for the products the applicants produce.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “Wichita and Small Cities 2030 Urban Growth Areas” map depicts the site as a “rural area.” The rural functional land use category includes land outside the 2030 urban growth areas for Wichita and the small cities. This category 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 larger lot residential exurban subdivisions with provisions for individual, or community water and sewer services. As indicated above, the UZC contains guidelines and development standards regarding the types of uses that are appropriate as a “rural home occupation.” The UZC also provides for deviation of the development standards of rural home occupations by the Conditional Use review process. The remote location of the proposed rural home occupation and the acreage on which it is proposed mitigate the proposed scale and number of employees, making the proposal substantially in conformance with adopted policies.
6. Impact of the proposed development on community facilities: None identified. The conditions of approval should minimize anticipated impacts on community facilities.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

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

-
9. **Case No.: CON2013-00033** – Christian Faith Center (owner/applicant), c/o Wade Moore, Jr. requests a City Conditional Use request for a day care, general on SF-5 Single family Residential zoned property on property described as:

BACKGROUND: The applicant is requesting a Conditional Use to permit a “day care, general” on the SF-5 Single-Family Residential zoned, platted 4.18-acre subject site. The subject site is located between 24th Street North (north side), Estelle Avenue (west side) and Ellen Street (south and east sides). The subject site is a vacant USD 259 public school, Mueller Elementary. The school is now owned by the Christian Faith Center, which proposes to open a portion of it as a day care, general for 100 children. The “Wichita-Sedgwick County Unified Zoning Code” (UZC, Article II, Section II-B.4.b.), defines a day care, general, as a day care center that provides care, protection and supervision for more than ten (10) individuals at any one time, including those under the supervision or custody of employees. Per the UZC, a day care, general, is permitted in the SF-5 zoning district only by Conditional Use approval, with conditions; Article III, Section III-D. The UZC, Article III, Section III-D 6.i. supplementary use regulations for a day care, general, are: day care centers shall comply with all applicable state regulations; outdoor play shall be limited to the hours of 7:30 a.m to 6:30 p.m. if located within 100 feet of a lot containing a dwelling unit; and the provisions for parking in Article IV, Section IV-A.4. may be provided by shared parking when the day care is located within an existing church or place of worship, and the day care shall provide convenient off-street loading spaces equivalent to one space per ten students.

All surrounding, adjacent properties are zoned SF-5 and are developed as single-family residences (built in the early 1950s), with the exception of a SF-5 zoned church located a block north of the site. The site is located in the middle of a single-family residential neighborhood.

CASE HISTORY: The property is platted as Reserve E, Audrey Matlock Heights 1st Addition, which was recorded with the Register of Deeds March 19, 1951.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family residences, church
SOUTH:	SF-5	Single-family residences
EAST:	SF-5	Single-family residences
WEST:	SF-5	Single-family residences

PUBLIC SERVICES: The site has two drives onto Ellen Street, a paved two-lane local residential street with a 60-foot of right-of-way. Public water and sewer service are available at the subject property.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide of the Comprehensive Plan” (Guide) identifies the subject site as appropriate for “major institutional” uses, reflecting the subject site’s past land use as an elementary school. Uses of a significant scale and scale of operation such as school, churches, government facilities, military bases, libraries, cemeteries, hospitals and medical facilities are found in this category. The UZC lists day care, general as a “public and civic” use type, which most closely matches the major institutional use category of the Guide.

The site is located within the “Central Northeast Area Plan” (Area Plan). The Area Plan does not address the challenge of reoccupying and using a vacant public school property with its large building, parking and playground. USD 259 has sold several school properties in the past (+) 10-years, some similar to the subject site’s elementary school in that they were located in a single family residential neighborhood, served by residential streets and residential collector streets. Some of the sold schools have been redeveloped as apartments, while others are partially occupied or still vacant. The proposed

day care could provide a neighborhood service and would partially occupy the school building, helping keep the building maintained and alive to future uses that could occupy more of the school.

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

1. In addition to the uses permitted by right in the SF-5 district, a Day Care, General and pre-school is permitted for 100 students. The maximum number of students can be increased by Administrative Adjustment or an amendment to the Conditional Use, whichever is appropriate by the UZC.
2. All applicable requirements of Article III, Section III-D.6.i. of the UZC shall be met.
3. The site shall be developed in general conformance with the approved site plan.
4. The Day Care, General shall be developed and operated in compliance with all federal, state, and local licensing, ordinances and regulations.
5. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

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

1. **The zoning, uses and character of the neighborhood:** All surrounding, adjacent properties are zoned SF-5 and are developed as single-family residences (built in the early 1950s), with the exception of a SF-5 zoned church located a block north of the site. The site is located in the middle of a single-family residential neighborhood.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned SF-5, which is a zoning district primarily limited to low density residential uses and a few compatible non-residential uses such as religious institutions, parks or schools. The site was an elementary school, which is permitted in the SF-5 zoning district by right. The challenge of the now vacant school site is to attract compatible new uses into the SF-5 zoned single-family residential neighborhood. The proposed day care and pre-school can be considered an appropriate use for the single-family residential neighborhood.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The site currently a vacant school. The vacant school is the largest building and development in the area. Approving a Conditional Use for a day care is less detrimental to the neighborhood than allowing the structural decline of a large vacant building and the large school yard. Even with the school building partially occupied by a day care and pre-school, it will be a challenge to maintain the large building and the site.
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" (Guide) identifies the subject site as appropriate for "major institutional" uses, reflecting the subject site's past land use as an elementary school. Uses of a significant scale and scale of operation such as school, churches, government facilities, military bases, libraries, cemeteries, hospitals and medical facilities are found in this category. The UZC lists day care, general as a

“public and civic” use type, which most closely matches the major institutional use category of the Guide.

The site is located within the “Central Northeast Area Plan” (Area Plan). The Area Plan does not address the challenge of reoccupying and using a vacant public school property with its large building, parking area and playground. USD 259 has sold several school properties in the past (+) 10-years, some similar to the subject site’s elementary school in that they were located in a single family residential neighborhood, accessed by residential streets and residential collector streets. Some of the sold schools have been redeveloped as apartments, while others are partially occupied or still vacant. The proposed day care and pre-school could provide a neighborhood service and would partially occupy the school building, helping keep the building maintained and alive to future uses that could occupy more of the school building and site.

5. **Impact of the proposed development on community facilities:** Traffic for the drop-off and pick-up of children would resemble the traffic pattern for a small elementary school. The site has adequate drop-off queuing space to prevent impacting traffic flow onto the abutting residential streets 24th Street North, Estelle Avenue and Ellen Street. All other community facilities are in place to serve the proposed use.

BILL LONGNECKER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

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

10. **Case No.: CON2013-00034** - Oscar Lopez (owner) request a City Conditional Use request to permit a detached accessory apartment in SF-5 Single family Residential zoning on property described as:

Lot 4, Pleasant Acres Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicants request a conditional use for an “accessory apartment” on property zoned SF-5 Single-family Residential (SF-5), the site is located on the west side of North High and north of 11th Street North (1201 N. High). The property is currently developed with a single-family residence built in 1949, a detached garage and a detached structure proposed to be an accessory apartment. The property is approximately one-half acre in size, the site dimensions are 75 feet wide by 240 feet deep.

All properties immediately surrounding the site are zoned SF-5 and developed with single-family residences. GO General Office zoning and non-residential uses exist north of the site along the 13th Street Frontage. A B Multi-family Residential (B) zoned apartment complex exists 1-1/2 blocks northwest of the site. TF-3 Two-family Residential (TF-3) zoning exists east and west of the site, approximately two blocks in each direction.

The Wichita-Sedgwick County Unified Zoning Code (“UZC”) defines an “accessory apartment” (Art. II.Sec. II-B.1.b) as a dwelling unit that may be wholly within, or may be detached from a principal single-family dwelling unit. Accessory apartments are also subject to supplementary use regulation Art. III.Sec.III-D.6.a (1) a maximum of one accessory apartment may be allowed on the same lot as a single-

family dwelling unit that may be within the main building, within an accessory building or constructed as an accessory apartment; (2) the appearance of an accessory apartment shall be compatible with the main dwelling unit and with the character of the neighborhood; (3) the accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling unit, and the ownership shall not be divided or sold as a condominium and (4) the water and sewer service provided to the accessory apartment shall not be provided as separate service from the main dwelling. Electric, gas, telephone and cable television utility service may be provided as separate utility services.

The SF-5 zoning district property development standards call for a minimum rear setback of 20 feet for principal structures; however, accessory structure rear building setback (Sec. III-D.7.e(1)) shall be at least ten feet from the centerline of any platted or dedicated alley, and if no alley exists, then five feet from the rear lot line; accessory structures may be within three feet of a side lot line if on the rear half of the property. Accessory structures may not utilize more than one-half of any required rear yard, and shall not exceed 60 percent of the allowable height limit for the zoning district unless the accessory structure conforms to principal structure setback requirements. The SF-5 zoning district maximum height is 35 feet, 60 percent of which is 21 feet. The UZC parking standards require one off-street parking space per single-family residence and one per accessory apartment. The submitted site plan appears to conform to UZC requirements.

CASE HISTORY: The site was platted as Lot 4 of the Pleasant Acres Addition to Wichita in 1950.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5, B, GO	Single-family residences, apartment complex, offices
SOUTH:	SF-5	Single-family residences
EAST:	SF-5, TF-3	Single-family residences, duplex
WEST:	SF-5, TF-3	Single-family residences, duplex

PUBLIC SERVICES: The property is serviced by all publicly supplied municipal services. North High and 11th Street North are paved, local streets at this location with sixty feet of right-of-way each.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide map depicts this site as appropriate for “urban residential.” 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 range of housing types found includes single-family detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units.

RECOMMENDATION: The neighborhood has a mixture of land uses and housing types. This lot is deeper than average city lots, and therefore has enough room to accommodate the accessory apartment and associated parking. An existing drainage easement west of the site creates an additional 30 feet of separation from the nearest residence to the accessory apartment. Based on information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The Conditional Use permits one single-family accessory apartment on the site. The site shall be developed and maintained in general conformance with the approved site plan and elevation drawings.

2. The site shall be developed and maintained in conformance with all applicable regulations, including but not limited to: local zoning, including Article III, Section III-D.6 .a.(1)-(4); building, fire and utility regulations or codes.
3. 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 VII hereof, 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: All properties immediately surrounding the site are zoned SF-5 and developed with single-family residences. GO zoning and non-residential uses exist north of the site along the 13th Street Frontage. A B zoned apartment complex exists 1-1/2 blocks northwest of the site. TF-3 zoning exists east and west of the site, approximately two blocks in each direction.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned SF-5 which permits the existing single-family residence. The property could continue to be used for one single-family residence; the depth of the property easily accommodates an accessory apartment and the additional required parking space.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request should not detrimentally impact nearby properties. The accessory apartment site is well separated from neighboring lots. The conditions of approval should minimize any impacts.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide map depicts this site as appropriate for “urban residential.” 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 range of housing types found includes single-family detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units.
5. Impact of the proposed development on community facilities: If this request is approved, the site is served by municipal services that are able to accommodate projected demand created by this request.

JESS MCNEELY, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

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

DIRECTOR SCHLEGEL reported that staff would like to schedule the Activate Wichita presentation for the December 19, 2013 Planning Commission agenda. He explained that the program is a continuation of the community engagement process started with the community survey done by WSU. He said a report was compiled using the 4,000 responses to the survey. He said the Commission would

have an opportunity to vote on spending priorities for future community needs such as infrastructure, community facilities, etc.

MITCHELL asked how the results would be tallied.

SCHLEGEL said these responses will be separate from the survey results, and added that a report should be completed by February, 2014.

MITCHELL suggested that the results could be used by the Committee working on the next Comprehensive Plan.

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