

**WICHITA-SEDGWICK COUNTY**  
**METROPOLITAN AREA PLANNING COMMISSION**

**MINUTES**

**February 6, 2014**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, February 6, 2014 at 1:37 p.m., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Matt Goolsby; Vice Chair; David Dennis; David Foster; Bill Johnson; Joe Johnson; Debra Miller Stevens; Don Sherman and Chuck Warren. Steve Anthimides; Don Klausmeyer; John McKay, Jr.; M.S. Mitchell; 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; Jeff Vanzandt, Assistant City Attorney; Robert Parnacott, Assistant County Counselor and Maryann Crockett, Recording Secretary.

1. Approval of the January 23, 2014 MAPC meeting minutes.

**MOTION:** To approve the January 23, 2014 meeting minutes, as amended.

**DENNIS** moved, **D. SHERMAN** seconded the motion, and it carried (5-0-3).  
**D. SHERMAN, J. JOHNSON, WARREN** - Abstained.

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2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

**FOSTER** recused himself from the item.

- 2-1. **SUB2011-00055: One-Step Final Plat – FOX RIDGE PLAZA ADDITION**, located South of 37th St. North, on the East side of Maize Road.

NOTE: This is a replat of a portion of the Maize School South Campus Addition. The site has been approved for a zone change (ZON2011-00038) from SF-5 Single-family Residential to LC Limited Commercial. The site is also subject to the Fox Ridge Plaza Community Unit Plan (CUP2011-00042, DP-330) for the south portion of the plat.

**STAFF COMMENTS:**

- A. City of Wichita Public Works and Utilities Department advises that the applicant needs to extend sewer (lateral) to serve all lots being platted. All lots have access to water but will have transmission and distribution in-lieu-of-assessment fees required.
- 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. A guarantee/petition is needed for the public stormwater sewer and stormwater drain improvements. A cross-lot drainage agreement is needed. Additional drainage easements are needed on the face of the plat for the proposed stormwater sewer systems. The reserve area needs to be revised to include the 100-year flood or a second reserve developed to be owned by USD 266.

- D. County Surveying advises that the dimensions on the Reserve Detail of 44.70' and 47.83' should be adjusted.
- E. Traffic Engineering has required a guarantee for upgrading Silver Fox to City standards. A solid line shall replace the dashed line where Silver Fox changes from a public street to a private street.
- F. GIS has requested the street name be "Silver Fox St".
- G. As the plat consists of commercial lots abutting a non-arterial street, the Subdivision regulations require a sidewalk along Silver Fox.
- H. The full movement drive along Maize will not be denoted on the final plat tracing. A note shall state that "Access control along Maize will be in accordance with access management standards".
- I. In accordance with the CUP approval, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- J. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineer (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- K. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- L. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- M. The language in the surveyor's certificate shall reference "an addition to Wichita, Sedgwick County, Kansas".
- N. In the surveyor's certificate, the reference to "K.S.A. 12-512b" should read "K.S.A. 12-512b, as amended."
- O. 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.

- P. 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.)
- Q. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- R. 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.
- S. 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.
- T. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one 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.
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. Westar Energy has requested additional utility easements. One of the easements will be established by separate instrument. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- W. A compact disk (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 disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: [kwilson@wichita.gov](mailto:kwilson@wichita.gov)).

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

**B. JOHNSON** moved, **WARREN** seconded the motion, and it carried (7-0-1).  
**FOSTER** – Abstained.

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- 2-2. **SUB2014-00002: One-Step Final Plat – GRUNDMEYER ADDITION AT THE MOORINGS**, located North of 45th Street North (extended), East of West Street (extended).

NOTE: This is a replat of a portion of the Moorings 5<sup>th</sup> Addition and Moorings North Addition.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that the applicant is currently being served by sewer and water.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the applicant's drainage plan.
- D. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.
- E. The plat's text references drainage and utility easements, and drainage easements that are not denoted on the face of the plat.
- F. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineer (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- G. 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.
- H. Approval of this plat will require a waiver of the lot depth-to-width ratio of the Subdivision Regulations. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. The Subdivision Committee recommends a modification of the design criteria in Article 7 of the Subdivision Regulations as it finds that the strict application of the design criteria will create an unwarranted hardship, the proposed modification is in harmony with the intended purpose of the Subdivision Regulations and the public safety and welfare will be protected.
- I. 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.

- J. 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.)
- K. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- L. 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.
- M. 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.
- N. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one 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.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- Q. A compact disk (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 disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: [kwilson@wichita.gov](mailto:kwilson@wichita.gov)).

**NEIL STRAHL**, Planning Staff presented the Staff Report. He said this was a replat that incorporated a portion of the Reserve and cleaned things up. He said the Subdivision Committee recommended approval of the plat at last week's meeting.

**DON ENGEL, 4922 N. PORTWEST COURT** said he was on the Board of Directors for the Moorings, 5<sup>th</sup> Addition. He asked if this replat created a separate addition, or was the home still considered part of the Moorings 5<sup>th</sup> Addition. He said the homeowner has not paid his homeowners dues for the last six months and they would like to collect them. He said he would like to get clarification so he can report to the board.

**STRAHL** said this is creating a new subdivision and new addition; however, he said any responsibilities for maintenance of previous reserves are still in place. He said staff cannot speak to HOA rules and regulations as they are a private matter.

**WARREN** asked if the Commission was doing anything that changes the nature of the HOA by approving the replat.

**JEFF VANZANDT, ASSISTANT CITY ATTORNEY** indicated he would have to review the HOA declarations to be sure.

**WARREN** said he couldn't vote in favor of the plat until that question was answered.

**KRIS ROSE, BAUGHMAN COMPANY, AGENT FOR THE APPLICANT** said they are requesting replatting because the new owner wants to do some additional construction on the site. He said when the Moorings North Addition was originally platted it included property that the developer did not own. He said instead of going back through the platting process, they obtained a "consent for ratification" to the plat from Grundmeyer, the original property owner. He referred to Reserve A which will be part of this plat. He also mentioned a previous lot split which will be included in the replat so the entire plat will become one lot. He said in his opinion, the HOA owns the Reserve which is part of the lake so if the applicant wants to use the lake he will have to join the HOA.

**WARREN** said he understands it is not the Planning Commission's business to get involved in HOA's but by the same token, he wants to insure that this action will not infringe on a pre-existing contract with the HOA. He said he doesn't want to create a legal problem for someone down the line.

**ROSE** commented that these types of plats happen all the time. He said this meets Subdivision Regulations and the HOA is a private matter between the applicant and the HOA.

**DIRECTOR SCHLEGEL** said staff supports the agent's position that this is a private matter between the HOA and the property owner. He said staff recommends that the plat not be held up since it meets the requirements of the Subdivision Regulations.

**STRAHL** said staff does not receive the HOA rules and regulations with the plat. He said any restrictive covenants regarding existing reserves would be retained. He suggested the owner may include a restrictive covenant stating that the owner would retain his responsibilities on any platted Reserve, if the owner is receptive to that.

**ROSE** said he did not think the owner would agree to that; however, if the Planning Commission adds that restriction, the owner would have to accept the request.

**DENNIS** asked about removing land from Reserve A and adding it to a piece of property.

**ROSE** explained that the original plat of Moorings North included property that belonged to the homeowner in the Reserve. He said the owner retained ownership of the property in the Reserve (by signing the "consent for ratification") and this replat corrects that mistake.

**FOSTER** asked for clarification of Reserve A and also when control and responsibility for the Reserve passes from the developer to the HOA.

**ROSE** indicated Reserve A on the aerial map.

**MOTION:** To defer the item two weeks (February 20, 2014).

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

**FOSTER** said although one of the broad goals of the subdivision regulations is to get things “cleaned up,” he said he wants to clarify the situation before moving forward so he supports deferring the item.

**DENNIS** said although he may agree philosophically, this is a platting issue and he didn’t see any reason why this shouldn’t move forward. He said the HOA is a completely separate private issue, but he doesn’t have any problem deferring the item.

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

**DENNIS** moved, **B. JOHNSON** seconded the motion.

**B. JOHNSON** mentioned that the matter may end up in court anyway.

**FOSTER** said he is not satisfied that the Reserve issue has been laid to rest.

The **ALTERNATE MOTION** failed (4-4). **FOSTER, GOOLSBY, J. JOHNSON** and **WARREN** – No.

The **ORIGINAL MOTION** carried (5-3). **B. JOHNSON, D. SHERMAN** and **MILLER STEVENS** – No.

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**3. PUBLIC HEARING – VACATION ITEMS**

**3-1. VAC2013-00045: City request to vacate access controls,** generally located to North Meridian north of K-96 (southeast corner of Meridian and Driftwood).

**APPLICANT/AGENT:** South Harbor LLC, c/o Brad Bachman (applicant/owner), Poe & Assoc., c/o Tim Austin (agent)

**LEGAL DESCRIPTION:** Generally described as vacating that portion of platted complete access control located along the west lot line of Lot 39, Harbor Isle South Addition, to allow a drive onto Meridian Avenue, Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located north of K-96 on the southeast corner of Meridian Avenue and Driftwood Street (WCC #VI)

**REASON FOR REQUEST:** Accommodate future development

**CURRENT ZONING:**

The site is zoned NR Neighborhood Retail and is part of CUP DP-285. Adjacent eastern (across Waterford Street), western (across Meridian Avenue) and northern (across Driftwood Street) properties are zoned LC Limited Commercial. Adjacent northern (across Driftwood Street) and abutting and adjacent southern properties are zoned SF-5 Single-Family Residential.

The applicant proposes to vacate the platted complete access control located along Lot 39, Harbor Isle South Addition's west lot line to provide a drive onto Meridian Avenue. Meridian Avenue is a four-lane principle arterial with a flat marked median at this location. Neither the site plan nor the applicant has indicated if the proposed drive is a full movement or right in-right-out drive. Neither the site plan nor the application has stated the width of the drive. The proposed drive's north side is located 170.60 feet south of the Driftwood Street – Meridian Avenue intersection. As shown on the applicant's site plan and scaled off of the City's GeoZone aerial, the proposed drive generally lines up with the north, permitted drive on Lot 1, Block 1, Moorings 6<sup>th</sup> Addition, which is located west of the site, across Meridian Avenue. The nearest permitted drive is located west of the site, across Meridian Avenue is approximately 430 feet south of the proposed drive. The nearest permit drive south of the site, located on the east side of Meridian Avenue would be over 800 feet away. The current Subdivision standard for a right-in – right-out drive is 200 feet between drives or arterial intersections and 400 feet between full movement drives or arterial intersections. Per the Subdivision Regulations, 10-104, Modification of Design Criteria, the MAPC may modify design criteria. In the past staff has recommended modified design criteria, which has been approved by the MAPC.

The site plan also shows a proposed drive onto Driftwood Street, a residential street with 64 feet of right-of-way at this location. The Harbor Isle South Addition has no platted access control off of the site onto Driftwood Street. CUP DP-285 was approved showing a drive off of the site onto Driftwood Street.

The applicant's site plan shows two existing power poles in the area around the proposed drive, noting that the north power pole will be relocated. Google Map confirms the close proximity of these two power poles. Google Map also shows a City right-of-way tree that will have to be removed and a utility box located to the north of the of the north power pole. City Water is located within the Meridian Avenue right-of-way. City Sewer appears to be located in the Driftwood – Waterford Streets' intersection or Reserve D, Harbor Isle South Addition. The Harbor Isle South Addition was recorded with the Register of Deeds October 3, 2005.

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

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 January 2, 2014, 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 complete access control, and that the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Per the approval of the Traffic Engineer, vacate the platted complete access control along the site's Meridian Avenue's frontage to allow one drive. The one drive shall be located either in line with the north drive on Lot 1, Block 1, Moorings 6<sup>th</sup> Addition (located west of the subject site, across Meridian Avenue), or south of said drive on Lot 1, Block 1, Moorings 6<sup>th</sup> Addition, per K-DOT standards. Provide Planning Staff with a legal description of the approved vacated portion of the complete access control on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. This must be provided to Planning prior to the case going to Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide all needed plans for review and approval by utilities. Provide Planning with any approved plans as approved by the utilities. Marsha Jesse is the Westar Representative for the Northwest area and can be contacted at 316-261-6734. This must be provided to Planning prior to the case going to Council for final action.
- (3) Dedicate access control to reflect the approved access/drive. The one drive shall be located either in line with the north drive on Lot 1, Block 1, Moorings 6<sup>th</sup> Addition (located west of the subject site, across Meridian Avenue), or south of said drive on Lot 1, Block 1, Moorings 6<sup>th</sup> Addition, per K-DOT standards. This will be recorded with the Vacation Order with the Register of Deeds. This must be provided to Planning prior to the case going to Council for final action.
- (4) All improvements shall be according to City Standards and at the applicant's expense, including; (a) the construction of the new drives from the site onto Meridian Avenue, (b) the continuation of the curb and gutter and sidewalk, and (c) the replacement of the right-of-way tree taken down for the drives. Provide Public Works and Parks with a guarantee (approved project/plans) to ensure that these and any other associated improvements will be made. If the drives are not being immediately constructed, provide a drive approach certificate, which will be recorded with the Register of Deeds. Either the guarantee(s) and/or the drive approach certificate must be provided to Public Works (guarantee) or Planning (drive approach certificate) prior to the case going to Council for final action.
- (5) Adjust CUP DP-285 to show the approved drive.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Per the approval of the Traffic Engineer, vacate the platted complete access control along the site's Meridian Avenue's frontage to allow one drive. The one drive shall be located either in line with the north drive on Lot 1, Block 1, Moorings 6<sup>th</sup> Addition (located west of the subject site, across Meridian Avenue), or south of said drive on Lot 1, Block 1, Moorings 6<sup>th</sup> Addition, per K-DOT standards. Provide Planning Staff with a legal description of the approved vacated portion of the complete access control on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. This must be provided to Planning prior to the case going to Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide all needed plans for review and approval by utilities. Provide Planning with any approved plans as approved by the utilities. Marsha Jesse is the Westar Representative for the Northwest area and can be contacted at 316-261-6734. This must be provided to Planning prior to the case going to Council for final action.
- (3) Dedicate access control to reflect the approved access/drive. The one drive shall be located either in line with the north drive on Lot 1, Block 1, Moorings 6<sup>th</sup> Addition (located west of the subject site, across Meridian Avenue), or south of said drive on Lot 1, Block 1, Moorings 6<sup>th</sup> Addition, per K-DOT standards. This will be recorded with the Vacation Order with the Register of Deeds. This must be provided to Planning prior to the case going to Council for final action.
- (4) All improvements shall be according to City Standards and at the applicant's expense, including; (a) the construction of the new drives from the site onto Meridian Avenue, (b) the continuation of the curb and gutter and sidewalk, and (c) the replacement of the right-of-way tree taken down for the drives. Provide Public Works and Parks with a guarantee (approved project/plans) to ensure that these and any other associated improvements will be made. If the drives are not being immediately constructed, provide a drive approach certificate, which will be recorded with the Register of Deeds. Either the guarantee(s) and/or the drive approach certificate must be provided to Public Works (guarantee) or Planning (drive approach certificate) prior to the case going to Council for final action.
- (5) Adjust CUP DP-285 to show the approved drive.
- (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.

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

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**PUBLIC HEARINGS**

**D. SHERMAN** recused himself from the item.

4. **Case No.: CON2013-00037** - Walter Dean and Brenda J. Lorenz / Allison A. Wetter, (Westar Energy, Inc.) County Conditional Use request to expand a legal non-conforming major utility for an electric substation in RR Rural Residential zoning, within the Garden Plain zoning area of influence on property described as:

Commencing at the Northeast corner of the Northeast Quarter of Section 35, Township 27 South, Range 4 West of the 6th P.M., Sedgwick County, Kansas; thence bearing S89 degrees 03'08"W, along the North line of said Northeast Quarter, a distance of 233.71' to the point of beginning; thence continuing along the North line of said Northeast Quarter, bearing S89 degrees 03'08"W, a distance of 25.00'; thence bearing S00 degrees 00'39"W, parallel with the East line of said Northeast Quarter, a distance of 673.80 feet to the centerline of Sand Creek, thence along the center line of Sand Creek bearing N58 degrees 30'08"E a distance of 117.64'; thence bearing N54 degrees 04'38"E, a distance of 119.90' feet; thence bearing S75 degrees 23'15"E, a distance of 28.23'; thence bearing S82 degrees 54'35"E, a distance of 34.24 feet, to a point where the center line of Sand Creek intersects the East line of said Northeast Quarter, thence bearing North 00 degrees 00'39"E along the East line of said Northeast Quarter, a distance of 318.90 feet; thence bearing S8903'08"W, parallel with the North line of said Northeast Quarter, a distance of 233.71' feet; thence bearing N00 degrees 00'39"E, parallel with the East line of said Northeast Quarter, a distance of 238.71 feet to the point of beginning.

**BACKGROUND:** Westar Energy, Inc. is requesting conditional use approval for a "utility, major" to permit the expansion of an existing electric substation on property that is zoned RR Rural Residential (RR). Westar Energy, Inc. currently has a non-conforming electric substation located at the southwest corner of West 15<sup>th</sup> Street South (West Harry Street) and South 327<sup>th</sup> Street West. The existing substation occupies approximately .51 acre (145 feet, east to west and 156 feet, north-south) of the company's ownership. With the current application, Westar Energy, Inc. wishes to add 2.27 acres to the company's existing ownership that will allow the existing facility to be upgraded. See the attached site plan. The proposed improvements will allow Westar Energy, Inc. to comply with new minimum power reliability standards established for western Sedgwick County and the city of Garden Plain, and to bring the existing substation into zoning compliance. See the attached letter of explanation.

The proposed site plan indicates the site will be enclosed by a chain link fence. The north fence line is to be set back from the West 15<sup>th</sup> Street South right-of-way 20 feet. A new 24-foot wide drive is proposed off of West 15<sup>th</sup> Street South. A 75-foot tall transmission pole is located on the northeast corner of the site and will remain. A 21-foot wide driveway is currently located approximately 55 feet south (measured from the centerline of the driveway) of the intersection of West 15<sup>th</sup> Street South and South 327<sup>th</sup> Street West; it is proposed for this drive to remain. A second driveway (24-foot wide) exists approximately 160 feet south of the intersection of West 15<sup>th</sup> Street South and South 327<sup>th</sup> Street West;

the applicant proposes to replace that drive with another drive located approximately 235 feet south of the intersection. The improved part of the application area is to be graveled.

The application area is located in a very rural portion of Sedgwick County. All surrounding land is zoned RR, and is used for farming or ranching with scattered farmsteads. There are two residences located within 1,000 feet of the site.

In part, the “Wichita-Sedgwick County Unified Zoning Code” defines a “utility, major” as generating plants, electrical switching facilities, primary substations and similar facilities of agencies that are under public franchise or ownership to provide the general public with electricity, gas, heat, steam or similar service. “Utility, major” uses are permitted in the RR district only with conditional use approval.

The application is eligible for a platting exemption per “Wichita-Sedgwick County Unified Zoning Code” Section 3-105(D).

The application area is located in the Garden Plain “zoning area of influence.” The application is scheduled to be heard by the Garden Plain Planning Commission on January 29, 2014.

**CASE HISTORY:** The site’s existing RR zoning was applied in 1985 when Sedgwick County adopted county-wide zoning.

**ADJACENT ZONING AND LAND USE:**

North: RR; agriculture  
South: RR; agriculture  
East: RR; agriculture  
West: RR; agriculture

**PUBLIC SERVICES:** West 15<sup>th</sup> Street has 120 feet of full right-of-way. South 327<sup>th</sup> Street West has 40 feet of full street right-of-way. The substation does not require sewer or water services.

**CONFORMANCE TO PLANS/POLICIES:** The Wichita and Small Cities 2030 Urban Growth Areas map classifies the application area as a rural area, which is defined as: land located outside the 2030 urban growth areas for Wichita and the small cities. The rural area 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.

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

1. The Conditional Use permits the installation of a “utility, major” as defined in the Wichita-Sedgwick County Unified Zoning Code.
2. The site shall be developed, maintained and operated in substantial compliance with the approved site plan, the conditions of approval and in compliance with all applicable local, state or federal laws and regulations.
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 the conditional use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The application area is located in a very rural portion of Sedgwick County. All surrounding land is zoned RR, and is used for farming or ranching with scattered farmsteads. There are two residences located within 1,000 feet of the site.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned RR, which permits a limited range of agricultural, large-lot residential and public uses. Part of the site is already developed with an electric substation, which cannot be expanded without conditional use approval. For the applicant, without the “conditional use” the site’s RR zoning is unsuitable for the intended use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: As previously noted part of the site is already developed with an electric substation. Approval of the request will not introduce a use that is not already present and the recommended conditions of approval should mitigate anticipated impacts to nearby properties.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request will assist with the long term delivery of electricity to the area served by the substation, which benefits the public’s health, safety and welfare. Denial would create a substantial burden to the utility and its ability to meet the standards by which electric service is evaluated.
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 classifies the application area as a rural area, which is defined as: land located outside the 2030 urban growth areas for Wichita and the small cities. The rural area 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.
6. Impact of the proposed development on community facilities: Approval of the request would enhance the delivery of electric service to the area served by the substation. An electric substation does not require sewer or water service.

**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 (7-0-1). **D. SHERMAN** – Abstained.

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**NON-PUBLIC HEARING ITEMS**

Other Matters/Adjournment

The Metropolitan Area Planning Commission adjourned at 2:34 p.m.

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

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

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

(SEAL)

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