WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

MINUTES

March 6, 2014

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, March 6, 2014 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; Matt Goolsby; Vice Chair; David Dennis; David Foster; Bill Johnson; John McKay, Jr.; M.S. Mitchell; Bill Ramsey; Debra Miller Stevens and Chuck Warren (Out @2:55 p.m.). Joe Johnson, Don Sherman, George Sherman and Carol Neugent were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Jess McNeely, Senior Planner; Jeff Vanzandt, Assistant City Attorney and Robert Parnacott, Assistant County Counselor.

1. To approve the February 20, 2014 or MAPC meeting minutes.

MOTION: To approve the February 20, 2014 meeting minutes, as amended.

MCKAY moved, **B. JOHNSON** seconded the motion, and it carried (8-0-1). **WARREN** – Abstained. **GOOLSBY** was out of the room.

---

2. CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS

2-1. SUB2010-00032: Revised One-Step Final Plat – SIERRA POINTE ADDITION, located on the Southwest corner of Pawnee and 127th St. East.

Note: This is an unplatted site located within the City. A zone change (ZON2010-00018) was approved from SF-5 Single-family Residential to LC Limited Commercial for a portion of the property subject to platting. The Pawnee and 127th Commercial CUP (CUP2010-00011, DP-322) was also approved.

This revised plat includes one additional lot.

STAFF COMMENTS:

A. City of Wichita Water Utilities Department advises that Lots 1-6 have access to water and will have transmission and distribution in lieu of assessments. Water needs to be extended (transmission and distribution) to serve Lots 7-12. Sewer needs to be extended (mains and laterals) to serve all lots being platted.

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.

D. Traffic Engineering has approved the access controls. Access controls have been platted along both Pawnee and 127th Street East as being in accordance with the access management standards.

E. Traffic Engineering requests a petition for left-turn and right-turn decel lanes to major openings.

F. County Surveying advises the basis of bearings in the legal description and as shown on the face of the plat should match.

G. The Subdivision Committee has required the applicant to participate in the paving of 127th St. East.

H. The standard language regarding vacation statutes need to reference "K.S.A. 12-512b, as amended".

I. In accordance with the CUP, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.

J. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.

K. 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.)

L. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.

M. 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.

N. 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.

O. 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.

P. Perimeter closure computations shall be submitted with the final plat tracing.

Q. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.

R. 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).

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

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

2-2. SUB2013-00030: One-Step Final Plat – CORNERSTONE BAPTIST CHURCH ADDITION, located north of 61st Street North, on the east side of 63rd Street East.

NOTE: This unplatted site is located in the County. The property is in an area designated as "Kechi 2030 Urban Growth Area" by the Wichita-Sedgwick County Comprehensive Plan. It is located in the Kechi Area of Influence. A Conditional Use (CON2012-00009) for a Church has been approved for this site.

STAFF COMMENTS:

A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact Metropolitan Area Building and Construction Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval.

B. The site is currently located within the Sedgwick County Rural Water District No. 1. If service is available, feasible and the property is eligible for service, Metropolitan Area Building and Construction Department recommends connection.

C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.

D. County Public Works has approved the applicant's drainage plan. A Notice of Intent is needed from the State and a stormwater permit application.

E. The land surveyor shall file a reference report for each section corner per K.S.A. 58-2011.

F. The plat denotes one opening along Woodlawn. County Public Works has approved the access controls.

G. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.

H. 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.

I. Approval of this plat will require a waiver of the lot depth-to-width ratio. 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.

J. 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.

K. 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.)

L. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.

M. 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.

N. 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.

O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

P. Perimeter closure computations shall be submitted with the final plat tracing.

Q. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.

R. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disc. If a disc is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

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

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

2-3. SUB2014-00001: Final Plat – SCHOLFIELD HONDA COMMERCIAL ADDITION, located South of Kellogg, East of Woodlawn.

NOTE: This is a replat of the Scholfied-Hatchett 3rd Addition, McHugh East Mission 2nd Addition, Ripstra Addition and the Eastridge Addition. A portion of the site has been approved for a zone change (ZON2013-00023) from SF-5 Single-family Residential and TF-3 Two-family Residential to Limited Commercial. This site is also included within the Scholfield Honda Commercial Community Unit Plan (CUP2013-00031, DP-305).

STAFF COMMENTS:

A. City of Wichita Public Works and Utilities Department advises that water and sewer services are available to serve the site. A guarantee is needed for the abandonment of the 8-inch water line in Orme from Drury to Governeour by cut and cap at Drury and Governeour.

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. Revisions may be needed with the final site design, per the Stormwater manual design requirements.

D. Traffic Engineering has approved the access controls. The plat proposes complete access control along Orme as required by the zone change. Two openings are proposed along both Mission and Governeour Road. Three openings are proposed along Kellogg Drive.

E. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.

F. As the plat consists of a commercial lot abutting non-arterial streets, the Subdivision regulations require sidewalks along the street frontages. A Sidewalk Certificate in lieu of a guarantee may be provided.

G. The site is located within the Maximum Mission Area of the Air Installation Compatible Use Zone (AICUZ) study to identify noise impact areas around McConnell Air Force Base. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that

adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.

H. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.

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 plattor'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.

K. 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.)

L. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.

M. 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.

N. 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.

O. 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.

P. Perimeter closure computations shall be submitted with the final plat tracing.

Q. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.

R. 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).

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

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

2-4. **SUB2014-00007: One-Step Final Plat – CAPALL BAILE ADDITION,** located on the located on the east side of 143rd Street East, south of 31st Street South.

NOTE: This site is located in the County within three miles of Wichita's boundaries. The property is located in an area designated as "Wichita 2030 Urban Growth Area" by the Wichita-Sedgwick County Comprehensive Plan. The property has been approved for a conditional use (CON2009-00047) for boarding kennels and a conditional use (CON2001-00050) for horse breeding and veterinarian services.

STAFF COMMENTS:

A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact Metropolitan Area Building and Construction Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval.

B. The site is currently located within the Sedgwick County Rural Water District No. 3. If service is available, feasible and the property is eligible for service, Metropolitan Area Building and Construction Department recommends connection.

C. City Public Works and Utilities Department has requested a No Protest Agreement for future sanitary sewer expansion.

D. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.

E. County Public Works has approved the drainage plan subject to revisions. The developer intends to utilize the existing pond adjacent to the property for water quality and quantity purposes. An agreement between these two properties needs to be provided.

F. The standard language regarding vacation statutes need to reference "K.S.A. 12-512b, as amended".

G. County Surveying advises there is a conflict with the bearings shown. The north line of the northwest quarter is "N 89°42'55" E" and the other lines that should be parallel are "N 89°42'25" E".

H. County Surveying advises the legal description needs corrected to reference the west line of the northwest quarter.

I. The plat denotes one opening along 143rd Street East. County Public Works has approved the access controls.

J. The owner's signature block and acknowledgment should state the representative capacity of the signors (e.g. "managing members").

K. The City Council certification needs to be added as this plat is located within three miles of the City of Wichita.

L. The signature block for the Board of Commissioners Chairman should be revised to read underneath the signature line, "David M. Unruh, First District".

M. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.

N. The plattor's text shall include the correct the spelling of "stormwater".

O. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

P. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.

Q. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.

R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

T. Perimeter closure computations shall be submitted with the final plat tracing.

U. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.

V. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disc. If a disc is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

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

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

2-5. SUB2014-00008: One-Step Final Plat – WEST 54 INDUSTRIAL 2ND ADDITION, located on the South of Kellogg, west of West Street.

NOTE: This is a replat of the West 54 Industrial Addition which includes the west half of the vacated street to the east and the south portion of the abandoned railroad right-of-way to the north.

STAFF COMMENTS:

A. City of Wichita Public Works and Utilities Department advises that water and sewer services are available to serve the site.

B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.

C. Stormwater Management has approved the drainage plan subject to a drainage easement extending to the abandoned railway. Site development will need to address nuisance water near the northwest corner of the plat.

D. County Surveying advises the legal description needs to be corrected to "lying westerly of and abutting the northerly extension of the east line of the west 23.00 feet of said Lot 3".

E. The Applicant has platted a 3-foot building setback along a portion of Irving which represents an adjustment of the Zoning Code standard of a 20-foot front setback for the LI Limited Industrial District. A contingent 20-foot building setback should be platted through the existing building. The plattor's text should specify that the contingent setback is effective upon all subsequent reconstruction.

F. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.

G. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

H. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.

I. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.

J. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

K. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

L. Perimeter closure computations shall be submitted with the final plat tracing.

M. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.

N. A compact 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).

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

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

---

3. PUBLIC HEARING – VACATION ITEMS

1. VAC2014-00003: City request to vacate a portion of a platted easement on property, generally located south of Lincoln Street, south of Zimmerly Street, on the *west side of Broadway Avenue.*

OWNER/AGENT: USD 259, c/o Shane Schumacher (owner/applicant)

LEGAL DESCRIPTION: Generally described as vacating the north 112.28 feet of the platted north to south 20-foot wide platted utility easement located approximately in

the middle of the south 137.28 feet of Lot 1, Block A, Hamilton Middle School Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located south of Lincoln, on the north side of Boston Avenue and on the west side of Broadway Avenue (WCC #III)

REASON FOR REQUEST: Associated with future development

CURRENT ZONING: The east half of the site is zoned LC Limited Commercial and the west half is zoned SF-5 Single-Family Residential. Adjacent northern properties (across Zimmerly Street) are zoned LC and TF-3 Two-family Residential. Adjacent western properties (across Market Street) are zoned TF-3 and MF-29 Multi-family Residential. Adjacent southern properties (across Boston Avenue) are zoned LC and B Multi-family Residential. Adjacent western properties (across Broadway Avenue) are zoned LC and GC General Commercial.

The applicant proposes to vacate the north 112.28 feet of the platted north to south 20-foot wide platted utility easement located approximately in the middle of the south 137.28 feet of Lot 1, Block A, Hamilton Middle School Addition. There is a sewer line and manhole located in the platted easement. The subject easement ends at its intersection with a platted 10-foot wide east-west utility easement that runs parallel with the south lot line of Lot 1, Block A, Hamilton Middle School Addition and Boston Avenue. The applicant will need to provide plans to Public Works/Water & Sewer for relocating/abandoning the sewer line and manhole. Westar has a power pole located in the area of the platted utility easement. The Hamilton Middle School Addition was recorded with the Register of Deeds September 5, 2011.

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 utility easement.

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time February 13, 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 utility easement, and that the public will suffer no loss or inconvenience thereby.

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

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

(1) Provide plans to Public Works/Water & Sewer for relocating/abandoning the sewer line and manhole. Abandonment or relocation/reconstruction of any/all utilities made necessary by this

vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. The approved plans PPS number must be provided to Planning prior to this case going to City Council for final action.

(2) Provide any needed dedication of easement(s) by separate instrument for relocated sewer and other utilities, prior to this case going to City Council for final action. The easement(s) and Vacation Order will be sent to City Council for subsequent recording with the Register of Deeds.

(3) Retain any needed easement and/or provide any needed dedication of easement(s) by separate instrument for the Westar equipment. The approved Westar easement must be provided to Planning prior to this case going to City Council for final action.

(4) Provide Planning with a legal description of the vacated utility easement on a Word document, via e-mail. This must be provided to Planning prior to the case going to City Council for final action.

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

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

(1) Provide plans to Public Works/Water & Sewer for relocating/abandoning the sewer line and manhole. Abandonment or relocation/reconstruction of any/all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. The approved plans PPS number must be provided to Planning prior to this case going to City Council for final action.

(2) Provide any needed dedication of easement(s) by separate instrument for relocated sewer and other utilities, prior to this case going to City Council for final action. The easement(s) and Vacation Order will be sent to City Council for subsequent recording with the Register of Deeds.

(3) Retain any needed easement and/or provide any needed dedication of easement(s) by separate instrument for the Westar equipment. The approved Westar easement must be provided to Planning prior to this case going to City Council for final action.

(4) Provide Planning with a legal description of the vacated utility easement on a Word document, via e-mail. This must be provided to Planning prior to the case going to City Council for final action.

(5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are

not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

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

PUBLIC HEARINGS

4. **Case No.: CON2014-00001** – Paulino Sanchez, Noemy Sanchez, Pamela S. Pirotte (owners) and SCC/AT&T Wireless, c/o Justin Anderson (applicant/agent) request a City Conditional Use to permit a 140-foot tall wireless communication facility on SF-5zoned property (Deferred from 2-20-14) described as:

Lot 136, Van View Addition, Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant, AT&T Mobility, is seeking a Conditional Use to permit the construction of a wireless communication facility with a 140-foot tall, wireless, galvanized steel, monopole tower (monopole tower) within a 100-foot (x) 100-foot lease site on the 4.82-acre SF-5 Single-Family Residential zoned lot; Lot 136, Van View Addition. Access to the lease site and monopole tower is by a proposed access easement to Legion Street. The proposed access will run between the subject property's single-family residence and the south common property line. Per the amended Wireless Communication Facility Ordinance (adopted by the WCC 4-08-08 & BoCC 4-9-08), new undisguised ground-mounted wireless communication facilities over 65-feet in height in the SF-5 zoning district may be considered as a Conditional Use on a site by site analysis.

The SF-5 zoned lot is located approximately midway between Meridian Avenue and Seneca Street, north of 57th Street North (which has no access onto Legion Street) on the west side of Legion Street. The most direct access onto Legion Street is off of 53rd Street North. The site is currently developed with a single-family residence built in 1921. The site is located within a SF-5 zoned single-family residential neighborhood, with most of the homes in the immediate area being built in the 1920s-1940s. These homes are located on large tracts or lots. More recently built homes (1970s-1980s) in the area are located on urban scale City subdivisions. The Little Arkansas River is located approximately 850 feet east of the site. The proposed lease site is located: approximately 140 feet from the abutting south SF-5 zoned lot, and; approximately 100 feet from the abutting north SF-5 zoned lot, and; approximately 480 feet from the adjacent (across Legion Street) east SF-5 zoned lot. The exception to this single-family residential neighborhood is the west, abutting SF-20 Single-Family Residential zoned 36.86-acre Monsanto agricultural research field. The GO General Office zoned Monsanto research offices are part of the western portion of this acreage and are located along Meridian Avenue. The Monsanto property is an isolated portion of Sedgwick County. The SF-20 zoned portion of the Monsanto's site permits consideration of new undisguised ground-mounted facilities/towers up to 120 feet as a Conditional Use.

The applicant's Radio Frequency (RF) Engineer has stated that the proposed facility is needed to provide the future 4th Generation Long Term Evolution (4G LTE) capacity needs of AT&T's customers. The 4G LTE technology is the fourth generation of mobile communication technology and is touted as

an upgrade to the currently and still widely used 3G technology. Most tower sites will continue to support the 3G networks for many years. In the meantime the 4G LTE technology allows the users of the tower sites to migrate from simple voice communication to high-speed data for sending pictures and video from their more sophisticated smartphones. However, as the network evolves from 3G to 4G LTE technology and beyond, more tower sites are required because 4G coverage areas tend to be geographically smaller and many of Wichita's and Sedgwick County's existing towers' capacity is maxed out as they continue to supply the current 3G technology. The move towards 4G LTE technology could lead to more contentious public forums in regards to Conditional Use applications for wireless communication facilities with cell towers, as cell towers move into areas where residential development is dominate. The challenge is the balancing of the technology-driven supply side of the industry, with the marketplace demands and the public expectations for an orderly and attractive environment.

The applicant has provided current coverage and projected coverage maps showing the impact of the site in providing 4G LTE service to the area. The applicant has not provided the current coverage/capacity provided by any facilities in the area that use the current 3G technology. The RF Engineer states that there are no facilities in the area of the proposed site that would allow co-location opportunities and provide the desired coverage/capacity. The agent has stated that there is a Kansas Public Telecommunication Services, Inc., guyed line tower located just over a mile from the site, but does not state if they had contacted the tower owner for co-location. Staff has spoken with the agent about several other possible site's in the area including the abutting SF-20 zoned Monsanto's site, the cluster of partial developed (Wal-Mart) LC Limited Commercial zoned properties located approximately a half-mile southwest of the site at the 53rd Street North and Meridian Avenue intersection and the LI Limited Industrial zoned property located less than three-quarters of a mile northeast of the site. The agent has stated that those properties had no interest in a lease site of the wireless communication facility and its monopole tower.

The proposed tower and associated communication frequencies and wattages must meet standards determined by the Federal Aviation Administration (FAA) to pose no hazard to air navigation or interfers with other radio/communication frequencies. The applicant has not provided an analysis of airspace in the area, which must be provided to staff prior to building permits being issued. Tower lighting must meet the FAA requirements for aircraft warning. The proposed galvanized surface of the tower will blend into the sky more readily than a red or white paint, which meets the intent of the "Design Guidelines" of the "Wireless Communication Master Plan." The proposed 140-foot tower must allow co-location for at least three (3) other providers. The applicant has indicated that the tower will have all antenna arrays located within the proposed tower.

CASE HISTORY: The subject site is Lot 136, Van View Addition, which was recorded with the Register of Deeds August 17, 1922. The site was annexed into the City between 1991 and 2000. At 6:30 PM, Thursday, February 20, 2014, the North End Riverview Neighborhood Association (NA) met at the Salvation Army Camp Hiawatha to discuss CON2014-00001. Bill Longnecker, MAPD - Senior Planner, Current Plans, attended the meeting as did Rex Curry, SSC, agent for AT&T Wireless. The NA did not vote on the application, but comments on the application included: placing a tower in the backyard of a single-family zoned single-family residence sets an undesirable precedence, and; the facility would devalue the homes of the area, and; the facility was not in character with the area, and; they did not want to look at a 140-foot tall tower, and; health concerns.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family residences
SOUTH:	SF-5	Single-family residences
EAST:	SF-5	Single-family residences
WEST:	SF-20, GO, SF-5	Agricultural research, single-family residences

PUBLIC SERVICES: The site is served by City water. City sewer service has not been extended to the area where the site is located; sewer is a septic system. No municipally supplied public services are required. The applicant will extend electrical and phone service to the site. The site has proposed an access easement to Legion Street, a paved, curbless residential street.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide Map" identifies the site as being "urban residential." The urban residential category reflects the full diversity of residential development densities and types typically found in a large municipality. Elementary and middle school facilities, churches, playgrounds, parks and other similar residential serving uses may also be found in this category. The UZC considers a wireless communication facility a commercial type of use. The proposed wireless communication facility with its 140-foot tall tower is proposed to provide the future 4G LTE capacity needs of AT&T's customers in this part of Wichita.

The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. It states that all towers comply with the compatibility setback standards. The applicant's site plan shows the 140-foot tall monopole tower meeting the compatibility setback standards, as it is located entirely within the owner's 4.82-acre property. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area as much as possible. The proposed 140-foot tall monopole tower is located in the back yard of an SF-5 zoned single-family residence, which in turn is located in a SF-5 zoned residential neighborhood. The presence of the proposed of the monopole tower would alter the pre-existing character of the area. The proposed location of the wireless facilities is not in close proximity to the residential area, it is in the residential area; 2) Minimize the height, mass, or proportion. Making the monopole tower shorter or changing its profile to a lattice tower would still compromise the area's single-family residential development/character and set an undesirable precedence of approving the location of wireless communication facilities and their towers in the back yards of SF-5 zoned single-family residences; 3) Minimize the silhouette. For this site, there is no way to minimize the silhouette of the monopole tower. A lattice tower similar to those used by the City, may reduce the silhouette; 4) Use colors, textures, and materials that blend in with the existing environment. There are no colors, textures, or materials that would help a 140-foot tall monopole tower of this size blend in with the existing environment; 5) Be concealed or disguised as a flagpole, clock tower, or church steeple. The area presents no opportunities for disguising the proposed tower as a clock tower or church steeple. It is hard to see any softening of the monopole tower's presences in attempting to disguise it as a 140-foot tall flag pole; 6) Be placed in areas where trees and/or buildings obscure some or all of the facility. The applicant proposes planting 14 junipers around the facility. There are trees on the site that could help obscure a tower. Proposed and existing trees may cancel the visual impact of the first 30 feet of the proposed 140-foot tall tower; 7) Be placed on walls or roofs of buildings. The opportunity is not present; 8) Be screened through landscaping, walls, and/or fencing. As stated, the applicant is proposing to plant 14 junipers around the facility. The proposed junipers will be spaced 15 feet apart, center to center of each juniper. This spacing will provide solid screening when the junipers mature and with proper care provide a more attractive and efficient

screening than a 6-8-foot tall wooden privacy fence; and 9) Painting towers red and white instead of using strobe lighting. The applicant has stated that there will be no strobes and that it will be a galvanized steel finish. NOTE: Since the time the Wireless Communication Master Plan was first adopted, the FAA changed their regulations to require daytime strobe lighting; whereas, when the plan was adopted, the FAA allowed painted towers red and white instead of using strobe lighting.

The site is not designated on the "Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map." The site is located in Airport Hazard Zone D, which allows a maximum height of 300 feet.

RECOMMENDATION: Based on the information available prior to the public hearings, planning staff recommends that the request be DENIED. This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The site is located within a SF-5 zoned single-family residential neighborhood, with most of the homes in the immediate area being built in the 1920s-1940s. These homes are located on large tracts or lots. More recently built homes (1970s-1980s) in the area are located on urban scale City subdivisions. The Little Arkansas River is located approximately 850 feet east of the site. The proposed tower lease site is located: approximately 140 feet from the abutting south SF-5 zoned tract, and; approximately 100 feet from the abutting north SF-5 zoned tract, and; approximately 480 feet from the adjacent (across Legion Street) east SF-5 zoned tract. The exception to this single-family residential neighborhood is the west, abutting SF-20 Single-Family Residential zoned 36.86-acre Monsanto agricultural research field. The GO General Office zoned Monsanto research offices are part of the western portion of this acreage and are located along Meridian Avenue. The Monsanto property is an isolated portion of Sedgwick County. The SF-20 zoned portion of the Monsanto's site permits consideration of new undisguised ground-mounted facilities up to 120 feet as a Conditional Use.

2. **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned SF-5 and is currently developed with a single-family residence, which is appropriate for this area.

3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Approval of locating a wireless communication facility and its 140-foot tall, galvanized steel, monopole tower in the back yard of a SF-5 zoned single-family residence sets an undesirable precedence of approving the location of them in the back yards of SF-5 zoned single-family residences.

4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan:** The "2030 Wichita Functional Land Use Guide Map" identifies the site as being "urban residential." The urban residential category reflects the full diversity of residential development densities and types typically found in a large municipality. Elementary and middle school facilities, churches, playgrounds, parks and other similar residential serving uses may also be found in this category. The UZC considers a wireless communication facility a commercial type of use. The proposed wireless communication facility with its 140-foot tall tower is proposed to provide the future 4G LTE capacity needs of AT&T's customers in this part of Wichita.

The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. It states that all towers comply with the compatibility setback standards. The applicant's site plan shows the 140-foot tall monopole tower meeting the compatibility setback standards, as it is located entirely within the owner's 4.82-acre property. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area as much as possible. The proposed 140-foot tall monopole tower is located in the back yard of an SF-5 zoned single-family residence, which in turn is located in a SF-5 zoned residential neighborhood. The presence of the proposed of the monopole tower would alter the pre-existing character of the area. The proposed location of the wireless facilities is not in close proximity to the residential area, it is in the residential area; 2) Minimize the height, mass, or proportion. Making the monopole tower shorter or changing its profile to a lattice tower would still compromise the area's single-family residential development/character and set an undesirable precedence of approving the location of wireless communication facilities and their towers in the back yards of SF-5 zoned single-family residences; 3) Minimize the silhouette. For this site, there is no way to minimize the silhouette of the monopole tower. A lattice tower similar to those used by the City, may reduce the silhouette; 4) Use colors, textures, and materials that blend in with the existing environment. There are no colors, textures, or materials that would help a 140-foot tall monopole tower of this size blend in with the existing environment; 5) Be concealed or disguised as a flagpole, clock tower, or church steeple. The area presents no opportunities for disguising the proposed tower as a clock tower or church steeple. It is hard to see any softening of the monopole tower's presences in attempting to disguise it as a 140-foot tall flag pole; 6) Be placed in areas where trees and/or buildings obscure some or all of the facility. The applicant proposes planting 14 junipers around the facility. There are trees on the site that could help obscure a tower. Proposed and existing trees may cancel the visual impact of the first 30 feet of the proposed 140-foot tall tower; 7) Be placed on walls or roofs of buildings. The opportunity is not present; 8) Be screened through landscaping, walls, and/or fencing. As stated, the applicant is proposing to plant 14 junipers around the facility. The proposed junipers will be spaced 15 feet apart, center to center of each juniper. This spacing will provide solid screening when the junipers mature and with proper care provide a more attractive and efficient screening than a 6-8-foot tall wooden privacy fence; and 9) Painting towers red and white instead of using strobe lighting. The applicant has stated that there will be no strobes and that it will be a galvanized steel finish. NOTE: Since the time the Wireless Communication Master Plan was first adopted, the FAA changed their regulations to require daytime strobe lighting; whereas, when the plan was adopted, the FAA allowed painted towers red and white instead of using strobe lighting.

The site is not designated on the "Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map." The site is located in Airport Hazard Zone D, which allows a maximum height of 300 feet.

5. **Impact of the proposed development on community facilities:** FAA approval should ensure that the proposed tower is not a hazard to air navigation (including the need or not for lighting) and that the tower does not interfere with other radio/communication frequencies. No municipally supplied public services are required.

However, if the MAPC finds the location of the 100-foot (x) 100-foot wireless communication facility with a 140-foot tall wireless, galvanized steel, monopole tower an appropriate use on the SF-5 zoned lot, the following conditions are recommended:

A. This request must have the approval by the FAA in determining the proposed wireless communication facility with its 140-foot tall monopole tower carrying AT&T's 4G LTE pose no hazard to air navigation or interferes with other radio/communication frequencies. The applicant shall submit a current copy of FAA approval to the MAPD and the Code Enforcement Office prior to the issuance of a building permit.
B. All requirements of Art. III Sec. III.D.6.g. of the Unified Zoning Code shall be met.
C. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
D. The support structure shall be a monopole design, as shown on the elevation and that generally conforms to the approved site elevation and that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
E. The support structure shall not exceed 140 feet in height and shall be designed and constructed to accommodate communication equipment for at least three (3) wireless service providers.
F. The tower site shall be developed in general conformance with the approved revised site and a landscape plan. These plans must show the type and size of fencing around the site, parking, all light poles, lights, power poles, cabinets, equipment or buildings within the fenced in site or in the immediate area if it is to be used by the site. The plan must identify existing and/or proposed trees and shrubs, give their total numbers and their general size to determine if it meets screening requirements of the Unified Zoning Code (UZC) Art. IV, Sec. IV-B.3.b.1. If evergreens are planted they must be a minimum size of 5-foot at the time of their planting (but be taller than 8-foot when mature) and planted on 15-foot centers. The site plan must identify the all utility and or access easements. A proposed access easement must be recorded with the Register of Deeds. If a surface is needed for the drive/access easement, it must be approved by the Zoning Administrator. All improvements and construction of the facility/tower shall be completed within a year and before the facility becomes operational.
G. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations. Provide the Stormwater Engineer with any required plans for review and approval of the site.
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.

BILL LONGNECKER, Planning Staff presented the Staff Report.

JUSTIN ANDERSON, SELECTIVE SITE CONSULTANTS (SSC), AGENT FOR AT&T MOBILITY, 9990 WEST 109th STREET, SUITE 300, OVERLAND PARK, KANSAS said he was present to ask approval of the request. He said they would not normally choose a residential area in which to put a commercial use. He said old sites provided coverage for voice and texting. He said new sites require more compact areas because they run on higher frequencies and push a lot more data on fiber lines and different antennas that are for video streaming, emails sending photos. He said the location is 430 feet off Legion which is a setback that is well beyond the requirement. He said the

location of the proposed cell tower is actually closer to Monsanto who they tried to work with, but Monsanto pretty much said being a wireless landlord was not in their business plan. He said they also tried to work with properties to the west, such as Wal-Mart. He said they are trying to find a site that will provide the new capacity for Sullivan, Meridian, 53rd and the top of Monsanto field. He said the target area is this neighborhood, and he understands the neighbors are not all that keen on having a wireless tower in their back yard. However, he added that this wireless site will serve hundreds if not thousands of users every day. He mentioned that there are 20 to 30 electric poles sticking up in the air on every single street in this neighborhood. He said they could install 10 or 15 shorter towers instead of this one to do the job. He said there are other sites in town where the zoning is different but the intent is the same; to provide wireless coverage. He said there is a 160-foot monopole at 2031 Woodrow Street on GC General Commercial zoning that is about 220 feet away from a residence located SF-5 Single-family Residential zoning. He said this location is over 400 feet from the closest residence. He mentioned there is another 120-foot monopole at 320 West 21st Street in GO General Office zoning 40 feet away from a residence. He said his point was these towers are safe and are being built to the International Building Code (IBC) and the International Electrical Code (IEC). He said they also meet all state and national requirements and all of the engineers on the project are Kansas licensed. He said they are hoping to provide a service and are not trying to be bad neighbors. He mentioned a previous case for a mono-cross at the Woodland Community Church. He mentioned a height restriction of 75-feet at the site because of Beechcraft so they ended up withdrawing the application. He said the design of these sites is within such a small threshold it is not cost effective to lower the height or locate towers in areas where they are not needed or areas with existing coverage. He said he would stand for questions.

RICK SMITH, 6120 NORTH LEGION, WICHITA, KANSAS said his property is a few blocks away from this site. He asked the Commission to uphold the recommendation contained in the Staff Report and the DAB VI recommendation to deny the application. He said this is a residential neighborhood and people bought their homes and property in the area because of location, location, location. He said while there are arguments both ways whether the project will hurt property values, he said a Court in New Mexico did award a plaintiff a judgment against the city of Santa Fe for constructing a tower. He said the award wasn't based upon actual decline in property value; it was based upon the perceived property value. He said everyone he has talked to in the neighborhood is against this proposal. He said the bottom line is when you wake up in the morning would you rather see a yard and landscaping or a communications tower. He mentioned the Wireless Communications Master plan prepared by the Metropolitan Area Planning Department. He said it recommends that no single communications tower should be over 65 feet in SF-5 zoning. He asked why a 145-foot tall communications tower was even being thought about at this location. He said he was in real estate and believes this will lower property values. He mentioned that the study submitted by AT&T shows some evidence from the 90's, when property values were going up anyway, that cell towers do not hurt property values but that study is antiquated. He said he has seen nothing more recent that upholds that. He urged the Commission, on behalf of all the citizens that are being affected by this tower to uphold the Staff Report and DAB recommendation.

JOHN STARK, 5518 NORTH SULLIVAN, WICHITA, KANSAS said he would like to thank the Planning Department for a thorough review and recommendation of denial. He said he thinks Planning Staff have done a good job of defining the issues. He mentioned that SF-5 residential zoning is the most restrictive zoning classification that there is. He said the neighbors feel having a 140-foot tall monopole in the area will be detrimental. He said he understands that sixty-feet is the height limit in residential

zoning. He said this cell tower will stick up like the Seattle Space Needle except that it will not be as amazing looking. He said the neighbors feel this is an inappropriate use of the property that will detrimentally impact nearby property values. He said it is incumbent upon the city to try to maintain property values. He said close to 75 people attended the North End Riverview Neighborhood Association meeting last week and that everyone, except an AT&T representative, were opposed to this project. He also mentioned that District Advisory Board VI unanimously recommended denial of the project. He said the neighbors feel this application does not meet the review criteria on at least five major points. He concluded by stating that allowing the project to proceed will set an undesirable precedent of allowing commercial projects on single-family residential zoned properties.

GERRI WATTS, 5241 NORTH CHARLES, WICHITA, KANSAS, PRESIDENT OF THE NORTH END RIVERVIEW HOMEOWNERS ASSOCIATION which has been in existence for three years. He said this project is a good example of why neighborhood associations are so very important because neighbors would never have heard about this tower without the association. He referred to a map of the location of the proposed tower in the middle of the home association boundaries. He mentioned that there are unincorporated areas not an eighth of a mile away that could be considered for location of the cell tower. He mentioned a tower located at 33rd Street North and Amidon Avenue where all the trees and the landscaping is dead. He asked who is going to maintain the property so it doesn't become blighted. He said he had a feeling that there are probably several towers around the City that are probably blighted right now.

GRETCHEN RUPERT, 5626 LEGION, WICHITA, KANSAS said she has lived in her residence about 27 years and also owns the property right next to her at 5660 Legion. She said she knows all her neighbors are opposed to the proposed tower. She said they moved to this location originally as a place on the river; full of nature and natural beauty. She said she agreed with all the other neighborhood speakers, this just does not fit in with that concept at all. She said she is also concerned about possible health impacts of these cell towers. She said enough research has not been done to prove that there are no detrimental impacts.

DAWNA RUGGLES, 5702 LEGION, WICHITA, KANSAS said she and her husband live at that address. She said she was not going to repeat what everyone has already said in opposition of the project. She said last year she planted 200 bulbs and 130 Irish mums to beautify her front yard so when people drive down Legion they would see flowers and nature. She said that is what the neighborhood looks like now and she does not want to waste the flowers because all people will see is the tower instead.

ANDERSON said the applicant did not choose this site to offend anyone or to blight a specific neighborhood. He said they actually deferred their application to attend the North End Riverview meeting. He said they have tried to accommodate the neighbors concerns; however, he doesn't believe there is anything that can be done as far as stealthing the tower, putting up a canister or lowering the tower by 20 feet. He said the project is a 140-foot monopole in a residential neighborhood. He said as far as the site that was mentioned that has some mismanaged landscaping, that could be due to the weather; that could not be an AT&T site. He said as far as property values are concerned, that is a case of perception. He said they can go back and forth all day long finding cases on Google or whatever search engine. He asked that the Commission base its findings on facts, not perceptions. He referred to the aerial map of the area that showed the unincorporated area belonging to Monsanto and the entire red square where Wal-Mart is located. He said Wal-Mart was also not interested in having a tower on their

property. He concluding by stating that they also tried to located at 53rd and Meridian but that was outside the coverage area.

MITCHELL commented that the drawing on the board differs from the one Commissioners received in their agenda packets as far as the location of the tower on the site is concerned. He said this map shows the tower close to the street. He said the map provided with the Staff Report shows the tower located near the Monsanto property line.

ANDERSON indicated the blue line on the map is a 430-foot access all the way back to near Monsanto. He said the tower is located more in Monsanto's back yard than anyone else's.

GOOLSBY asked how maintenance of the site is handled. He said some companies hire landscape companies to take care of lawn and landscape at these sites. He asked if that was common practice.

ANDERSON said they have an operations team who fix the internal radios and basically make sure the site is functioning correctly, and they are supposed to report any maintenance issues, including trees that may have died. He said some jurisdictions require applicants to put in some type of maintenance bond. He said it is common practice to use landscape companies for initial installation; however, typically wireless companies like to depend on their employees to report things.

DENNIS noted that the Staff Report states there is a tower just over a mile from the site, but it does not indicate if AT&T contacted the owner of that tower with respect to co-location.

ANDERSON said AT&T is on that tower now.

DENNIS clarified so that tower was not a possibility?

ANDERSON said that question goes to his point about new capacity sites versus coverage sites. He said this proposed site helps off load traffic from that site as well as push new data that is on more modern phones.

MITCHELL said even though it was difficult to do, he was going to recommend approval of the application based on prior experience with what neighbors and adjacent property owners have told us would happen, and what has actually happened in the vicinity of other towers. He said he believes the neighbors are out of their realm of their expertise when they say it is going to ruin property values.

MOTION: To approve the request with the alternate conditions recommended by staff.

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

DENNIS proposed an alternate motion to deny the application based upon the fact that this is a 140-foot tower in the middle of a residential district.

SUBSTITUTE MOTION: To deny the request per staff recommendation.

DENNIS moved, **FOSTER** seconded the substitute motion.

WARREN said he agreed with COMMISSIONER MITCHELL. He said several months ago he was driving to work when out of nowhere he saw this tower pop up close to where he works. He said when he called the City and asked when the tower went up they said about four years ago. He said cell towers have become part of our life. He said he is in the real estate business and he has seen no evidence that property values have been diminished as a result of cell towers. He asked if this was moved a hundred-foot to the west, would that alleviate some of the neighbors concerns.

LONGNECKER said the LI Limited Industrial zoning district allows for a higher tower.

WARREN said this is a fairly low density area in terms of the number of houses and it is becoming more difficult to find appropriate locations for cell towers. He said he would vote against the substitute motion and for the original motion.

GOOLSBY commented that when we go to use our cell phones we want them to work. He said his generation sees cell phone towers just as critical as utility poles, stormwater maintenance, facilities and roads. He said we live in the 21st Century and cell phone towers are a necessity to have that infrastructure and the luxury of cell phones. He commented that the Planning Commission agenda is on his cell phone and we have to have the towers to do that. He said he would vote against the substitute motion and in favor of the original motion.

SUBSTITUTE MOTION to deny failed (3-7). **KLAUSMEYER, GOOLSBY, MCKAY, MITCHELL, B. JOHNSON, RAMSEY** and **WARREN** - No**.**

ORIGINAL MOTION to approve, subject to staff's alternate conditions carried (7-3). **DENNIS, FOSTER** and **MILLER-STEVENS** – No.

----

5. **Case No.: CON2014-00002** – Stephen W. and Gloria K. Peacock (property owner, applicant and agent) request a County Conditional Use to permit "kennel, boarding, breeding and training" at 2858 South 127th Street East on property described as:

A tract of land beginning 1,980.64 feet North of the Southwest corner of the Southwest Quarter; thence North to a point 345 feet South of the Northwest corner; thence East to the East line of the West half; thence South to a point East of beginning; thence West to the point of beginning EXCEPT 50 feet for road on the West, Section 2, Township 28, Range 2 East of the 6th P.M., Sedgwick County, Kansas.

BACKGROUND: The applicants are seeing Conditional Use approval for a "kennel, boarding, breeding and training." The application area is approximately 9.48 (320 feet by 1,273.68 feet) unplatted acres located on the east side of South 127th Street East, approximately 3,080 feet south of East Pawnee Road. As depicted on the applicant's aerial photo the site contains a residence located approximately 760 feet east of South 127th Street East and 112 feet south of the application's north property line. Fifty-four feet north of the house and 833 feet east of East 127th Street South is an existing 30 by 50-foot accessory building. The applicant proposes to convert the 30 by 50-foot accessory building into the kennel and add fenced outdoor kennels and runs to the south side of the accessory building. The accessory building is located 30 feet south of the north property line, and approximately 186 feet from an off-site residence, located straight north of the proposed kennel. The kennel will operate on a "by appointment only" basis with general hours of operation of 7:00 a.m. to 7:00 p.m. The applicant's

property is zoned SF-20 Single-family Residential (SF-20), which permits a boarding, breeding and training kennel only with Conditional Use approval, subject to the Supplementary Use Regulations contained in Section III-D.6.k(1)-(3) of the Wichita-Sedgwick County Unified Zoning Code (UZC).

The UZC's Supplementary Use Regulations state:

(1) The minimum lot size for a boarding, breeding or training kennel is five acres, unless all animals are harbored indoors with no discernible noise or odor at the property lines. The application area contains approximately 9.48 acres.
(2) Outside runs, holding pens or other open-air enclosures and shelters shall be located behind the front setback line and located at least 200 feet from any off-site dwelling unit and at least 50 feet from contiguous property lines. The SF-20 zoning district has a 25-foot front setback and a 10-foot interior side setback. As shown on the applicant's site plan, the proposed kennel is located approximately 833 feet east of East 127th Street South and 30 feet south of the north property line. The proposed outdoor pens and runs are approximately 210 feet south of the closest off-site residence, and are 80 feet south of the north property line, approximately 833 feet east of the west property line, at least 180 feet from the south property line and 394 feet from the east property line.
(3) Screening shall be provided except for those facilities located 600 feet or more from contiguous property lines. Screening fencing must be at least four feet high. The converted building will provide screening for the outdoor kennels located south of the converted building. The property located directly north of the proposed kennel has a significant tree row that provides the required screening. Should the off-site screening be removed, of if there are gaps that do not provide solid screening, the applicant will be responsible to replace code required screening or fill in any gaps in code required screening.

Properties abutting the application area vary in size from 78 acres to 4.67 acres. Land located west of East 127th Street South is 156 acres used for agriculture. All nearby properties are zoned SF-20 and are used for large-lot residential and/or farming or ranching. Unified School District 259 owns SF-5 Single-family Residential (SF-5) zoned land approximately 500 feet northwest of the application that is scheduled to be developed into a new high school.

CASE HISTORY: The property's current SF-20 zoning was assigned in 1985 when Sedgwick County adopted county-wide zoning.

ADJACENT ZONING AND LAND USE:

North: SF-20; single-family residences
South: SF-20 with a variance to allow an accessory structure in front of the principal structure; single-family residences
East: SF-20; ranch with a single-family residence
West: SF-20; agriculture

PUBLIC SERVICES: East 127th Street South is a sand and gravel road with approximately 100 feet of right-of-way. The site is served by an on-site waste-water system and by either on-site well or rural water district.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita and Small Cities 2030 Urban Growth Areas map indicates the property is located inside Wichita's 2030 Urban Growth Area, which means the area is expected to develop by the year 2030. The UZC permits boarding, breeding and training kennels with conditional approval, subject to Supplementary Use Regulation Section III-D.6.k(1)-(3) noted above.

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

1. The Conditional Use shall permit a "kennel, boarding, breeding and training" for up to 35 dogs.
2. The kennel shall be developed, operated and maintained in compliance with the approved site plan and will all applicable local, state or federal regulations, resolutions or statutes. In the event that any required screening is located offsite is removed, the applicant shall be responsible to provide Code required screening.
3. The kennel operator shall have on file proof of rabies vaccinations for all dogs harbored at the facility.
4. Cleaning of the boarding kennel facility shall be performed as often as necessary to maintain sanitary conditions. A suitable method of eliminating excessive water from any kennel enclosures shall be provided. Interior surface materials shall be constructed of non-porous materials or materials approved by Metropolitan Area Building and Construction Department.
5. Sufficient quantities of food and water shall be provided to keep the dogs in good physical health. The animals shall be fed at least once daily and provided clean water at all times. Food and water containers shall be located to minimize contamination and shall be cleaned as often as necessary to maintain sanitary conditions.
6. All waste materials shall be disposed of in such a manner to minimize odors and disease hazards. The kennel shall be maintained in a sanitary manner as required by applicable codes. All solid waste generated by the kennel must be removed from the site, unless specifically approved by MAB&CD, and shall not be discharged into residential sewage facilities (lagoon or septic systems) or any other unapproved on-site disposal system.
7. The animals confined in the kennel shall be maintained in good physical condition, free of infectious disease and parasites.
8. The applicant shall obtain all applicable permits including, but not limited to building, health and zoning.
9. The boarding facility shall be open to the unannounced inspection by MAB&CD personnel during normal business hours.
10. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator 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 properties surrounding the application area are zoned SF-20, and vary in size from 4.67 acres up to 156 acres. The small tracts are developed with single-family residences. The larger tracts may have single-family residences and be used for ranching. The largest tract is used for agricultural purposes. The City of Wichita city limits are located within 500 feet to the northwest of the application, and that site is expected to be developed as a USD 259 high school. Currently the character of the area is a suburban

residential development located in a predominately agricultural area; however, development pressure is expected to increase within the projected 2030 time frame.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-20, which primarily permits single-family residential use on lots at least 20,000 square feet or larger in size. Other nonresidential uses, such as churches, schools or public parks, customarily found in residential areas are also permitted. The site is developed with a single-family residence and will retain economic value as currently zoned. It is not unusual for SF-20 zoned land to have accessory uses approved through the Conditional Use process.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request should not detrimentally impact adjacent properties provided the kennel is developed, operated and maintained in compliance with Code requirements and conditions of approval.

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 would provide the public with additional kennel services. Denial would presumably represent a loss of economic opportunity to the applicant.

5. Opposition or support of neighborhood residents: At the time this report was prepared, staff had not received a negative comments regarding the application. Staff has received e-mails from two residents - 2950 South 127th Street East and 2920 South 127th Street East - expressing support for the application.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita and Small Cities 2030 Urban Growth Areas map indicates the property is located inside Wichita's 2030 Urban Growth Area, which means the area is expected to develop by the year 2030. The UZC permits boarding, breeding and training kennels with conditional approval, subject to Supplementary Use Regulation Section III-D.6.k(1)-(3) noted above.

6. Impact of the proposed development on community facilities: Traffic can be expected to increase to the site; however, existing facilities are adequate to handle expected minor increases.

DALE MILLER, Planning Staff presented the Staff Report.

FOSTER referred to condition number two and asked if there was some sort of timing that should be set for replacing required screening.

MILLER said the time limit would be addressed during any enforcement action. He said Code Enforcement would set a time limit to replace the screening.

FOSTER said as long as staff thinks Code Enforcement will cover the issue then he is fine.

STEVE PEACOCK, APPLICANT indicated they have received great support from their neighbors. He said the building and the trees would provide screening.

MOTION: To approve subject to staff recommendation.

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

---

6. **Case No.: CON2014-00003** - John Murray, Greg Mies (applicants) request a County Conditional Use request for a rock crusher in SF-20 Single family Residential zoning on property described as:

A tract in the Northeast Quarter of Section 20, Township 28 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, described as beginning at the Northwest corner thereof; thence North 90 degrees 00' East along the North line of said Northeast Quarter 1138.53 feet more or less to a point 1528.71 feet West of the Northeast corner of said Northeast Quarter; thence South parallel with the East line of said Northeast Quarter 208.71 feet; thence East parallel with the North line of said Northeast Quarter 208.71 feet; thence South parallel with the East line of said Northeast Quarter 2459.25 feet to a point on the South line of said Northeast Quarter; thence West 1329.05 feet to the Southwest corner of said Northeast Quarter; thence North 2671.38 feet to the point of beginning.

BACKGROUND: The applicants request a Conditional Use for Rock Crushing in SF-20 Single-family Residential (SF-20) zoning on 80 acres located south of 47th Street South and ½ mile west of Tyler. The applicant's submitted site plan would restrict the rock crushing activity to a much smaller area of approximately five acres (see the attached site plan). The site falls within the Wichita Airport Hazard Zoning Map Area C and within the Mid-Continent Airport Overlay along the extended centerline of an instrument runway. Airport staff strongly encourages an approval condition requiring the applicant to submit a Form FAA 7460-1 *Notice of Proposed Construction or Alteration* and then receive from the FAA a *Determination of No Hazard to Air Navigation* demonstrating no adverse impact, no safety hazards, and no risk to air navigation approaches.

The applicant indicates to staff that a water system on the rock crusher mitigates dust from the crushing process. The applicant anticipates 10 to 15 trucks per day visiting the site; most anticipated traffic will be from customers picking up product. The applicant intends to mitigate vehicle-generated dust on the site by improving the drive to an all-weather rock surface. The applicant indicates that the rock crusher equipment is mobile, it moves off the site to be used at other locations, and the applicants intend to use this site for approximately two years.

The application area is zoned SF-20 which generally permits by right agricultural activities, larger lot residential uses and a limited set of nonresidential uses; SF-20 is generally compatible with the "Wichita 2030 Urban Growth Area" designation of the *Wichita-Sedgwick County Comprehensive Plan*. Per the Wichita-Sedgwick County Unified Zoning Code (UZC), "Rock Crushing" in the SF-20 district requires Conditional Use approval. The Sedgwick County Tax Appraiser lists the current land use of this property as "farming/ranching operations."

All land surrounding the subject tract is zoned SF-20, with the predominant land use being agriculture. The closest home to the application area, measured from the application area site plan boundary to the residential property line, is approximately 400 feet. Other farmstead residences lie within 600 to 1400 feet of the site in all directions. Mapped floodplain exists on the east side of the application area, but does not exist within the site plan limited rock crushing area.

CASE HISTORY: The property was zoned SF-20 when the County adopted county-wide zoning in 1985.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-20	Agriculture, farmstead
SOUTH:	SF-20	Agriculture, farmstead
EAST:	SF-20	Agriculture, single-family residence, farmstead
WEST:	SF-20	Agriculture, farmstead

PUBLIC SERVICES: 47th Street South and Tyler are both two-lane, un-paved County section line roads. 47th Street south has a 50-foot right of way at this location and Tyler has an 80-foot right of way. No public water or sewer is available at the site.

CONFORMANCE TO PLANS/POLICIES: The Wichita and Small Cities 2030 Urban Growth Areas map depicts the site as being within the Wichita 2030 Urban Growth Area. This category identifies Wichita's urban fringe areas that are presently undeveloped but have the potential to be developed by the year 2030, based upon population growth projections and market trends. The site is one mile south of the existing City limit along Macarthur Road.

RECOMMENDATION: The proposed use could potentially cause no more vehicle-generated dust than a large agricultural use, which is permitted by right. Staff concurs with Airport officials in recommending FAA approval as a condition. Staff feels that the recommended conditions, along with a time limit, should ensure that surrounding property and potential future development is not impacted by the rock crusher use. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

A. The site shall be developed and operated in conformance with the approved site plan and all applicable codes to include but not limited to zoning, building, fire and environmental regulations. All rock crushing operations and material storage shall take place within the designated site plan area.
B. Prior to rock crushing operations, the applicant shall submit to the FAA a Form FAA 7460-1 *Notice of Proposed Construction or Alteration,* and then receive from the FAA a *Determination of No Hazard to Air Navigation* demonstrating no adverse impact, no safety hazards, and no risk to air navigation approaches.
C. Rock crushing operations on the site shall not create dust which travels on to surrounding properties.
D. All vehicular drives on the site, work and parking areas shall be surfaced with an all-weather material, which may include crushed rock, to minimize dust on the site.
E. All conditions shall be met and operations begun within one year of final approval or the Conditional Use shall be null and void. Time extensions may be approved with an administrative adjustment to the Conditional Use.
F. The rock crushing operation shall cease and all equipment and material shall be removed from the site two years after final approval. This time limit may be extended with an Amendment to the Conditional Use.
G. If the Zoning Administrator finds that there is a violation of any of the provisions or 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: All land surrounding the subject tract is zoned SF-20, with the predominant land use being agriculture. The closest home to the application area, measured from the application area site plan boundary to the residential property line is approximately 400 feet. Other farmstead residences lie within 600 to 1400 feet of the site in all directions.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-20, which permits agricultural activities, larger lot residential uses and a limited set of nonresidential uses by right. The site could be used as presently zoned.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: If approved, the site could impact surrounding properties with increased traffic, noise and dust. These impacts could be no more severe than those created by an agricultural use which is permitted by right. Proposed conditions and existing codes should mitigate impacts on the surrounding property owners.

4. 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 being within the Wichita 2030 Urban Growth Area. This category identifies Wichita's urban fringe areas that are presently undeveloped but have the potential to be developed by the year 2030, based upon population growth projections and market trends. The site is one mile south of the existing City limit along Macarthur Road.

5. Impact of the proposed development on community facilities: The conditions of approval and other regulations should minimize impacts on community facilities. Traffic on 47th Street South and Tyler Road could increase due to rock crushing operations. Demand for other County services such as inspections and fire prevention may temporarily increase, but a time limit on the rock crushing use should ensure future development on the site is compatible with community facilities.

JESS MCNEELY, Planning Staff presented the Staff Report.

FOSTER asked about condition A regarding site repair.

MCNEELY clarified that COMMISSIONER FOSTER meant removal of equipment and stockpiled materials when the conditional use ceases to exist.

FOSTER said and any required repairs to the surrounding area such as erosion, etc. He asked if that was covered by Supplemental Use Regulations.

MCNEELY said that issue is not covered by Supplemental Use Regulations and he considers COMMISSIONER FOSTER'S comments a good recommendation. He said staff has recommended a

two-year sunset clause on the operation. He said staff could add an additional condition regarding site reparation if that is what the Commission recommends.

FOSTER expressed concern about chemicals in and on the crushed materials leeching into the surrounding soil.

MCNEELY said he could check with County Environmental Health Staff to see if there were regulations to address those issues including a condition to require inspection of the site by County Environmental Staff.

MCNEELY explained that the applicant/property owner was unable to attend the meeting today; however, he sent a company representative who could answer technical questions regarding the rock crusher. He said if Staff cannot answer all the Commission's questions, the applicant requested that the item be deferred.

DENNIS WOODS, 5201 SOUTH 119th STREET WEST, CLEARWATER, KANSAS asked if there has been crushing activity at the site prior to the application.

It was indicated that there has been crushing activity at the site.

WOODS said he also wanted to point out that this site is in proximity and adjacent to an environmentally compromised area. He said this came up on a previous application for a Construction and Demolition (C&D) landfill. He added that there is a public water source within a mile of the area owned by Oxi-Chemical to the east. He said he does not know if the water is potable, but he wanted to raise the issue. He said he is also concerned about the potential for runoff.

MCNEELY referred to an aerial site plan of the location and indicated the 5-acre site within the 80-acre site that had been designated as the crushing area. He said he understands the speaker's concerns but said there is native vegetation between the site and the creek.

DENNIS clarified that Sedgwick County does not consider this an environmentally sensitive area.

MCNEELY said none of the Global Information System (GIS) data showed that this was an environmentally impacted area; however, he added that does not mean that it is not. He said staff needs to verify that fact with County Environmental Office.

CHAIRMAN KLAUSMEYER asked about condition C and asked how dust is controlled.

MCNEELY responded that the applicant has a water/misting system that mitigates dust.

> **MOTION:** To defer the application for two weeks (3-20-14).
>
> **MILLER STEVENS** moved, **DENNIS** seconded the motion, and it carried (7-3). **MITCHELL**, **B. JOHNSON** and **WARREN** - No.

MCNEELY said an amended recommendation will be provided based on County Environmental Staff input.

---

7. **Case No.: CON2014-00004** – Gibson Wholesale Co., Inc., c/o Scott Riffel (owner/applicant) request a City request to amend CON2012 33 (nightclub in the City) to remove restrictions on days when alcohol is served, remove restrictions on hours of operation and remove affiliation with a fraternal order on LC Limited Commercial zoned property described as:

Lots 1 and 2 EXCEPT the East 100 feet of the South 125 feet of lot 2 and EXCEPT beginning at the Northwest corner of lot 1; thence East 276 feet; thence South 212.86 feet; thence West 276 feet; thence North 212.75 feet to the beginning, Schrader Bros 5th Addition to Wichita, Sedgwick County, Kansas.

CHAIR KLAUSMEYER announced that the item has been deferred one month to the April 10, 2014, Planning Commission Hearing.

---

8. **Case No.: CON2014-00005** – Gibson Wholesale Co, c/o Scott Riffel (owner) request a City Conditional Use request for a Nightclub in the City on LC Limited Commercial zoned property on property described as:

Lots 1 and 2 EXCEPT the East 100 feet of the South 125 feet of lot 2 and EXCEPT beginning at the Northwest corner of lot 1; thence East 276 feet; thence South 212.86 feet; thence West 276 feet; thence North 212.75 feet to the beginning, Schrader Bros 5th Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant seeks a Conditional Use to permit a Nightclub in the City on property zoned LC Limited Commercial (LC), generally located south of Pawnee Avenue, south of Wassall Street and west of Hydraulic (2841 S. Hydraulic). The proposed site is within a larger strip commercial center, the space was previously used as a bingo hall. The applicant now wishes to obtain an Entertainment Establishment license to allow dance lessons, dances, and reception rentals; the applicant desires the flexibility to have alcohol catered at receptions. Under the Unified Zoning Code (UZC) the combination of an Entertainment License and serving alcohol is defined as a Nightclub, Nightclub in the City is a permitted land use in the LC zoning district. However, the application area is within 300 feet of residential zoning; the UZC requires that Nightclubs, Taverns and Drinking Establishments located within 300 feet of residential zoning, a church, school or park be subject to Conditional Use review to determine if the particular site is suitable for the operation of a Nightclub. The previous bingo hall on the site had a fire marshal's occupancy of 240, the proposed change in use and any building changes will require re-establishing the occupancy. The applicant's site plan (see attached) indicates 80 parking spaces, more parking spaces would be available within the larger commercial center. The UZC requires one parking space per two patrons for a Nightclub.

North of the site is the attached LC zoned commercial center, a convenience store and vehicle sales. South of the site, across a paved alley, is a B Multi-family Residential (B) zoned multi-family development. East of the site is a retail building on the same lot; further east, across Hydraulic are LI Limited Industrial (LI) zoned warehousing uses and LC zoned auto repair, retail and restaurant uses. West of the site, across a paved alley, are TF-3 Two-family Residential (TF-3) and SF-5 Single-family Residential (SF-5) zoned single-family residences. The single-family houses west of the site are approximately 75 feet from the proposed nightclub building, the apartments south of the site are approximately 170 feet from the proposed nightclub. Single-family residences west of the site have a

screening/privacy fence on the west side of the alley; the multi-family residences south of the site have direct vehicular access from the alley and no screening from the site. The nearest other drinking establishment is at the northeast corner of Hydraulic and Wassall, approximately 700 feet from the site.

CASE HISTORY: The property was platted as a portion of Lot 2 of the Schrader Bros 5th Addition in 1953.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Retail, convenience store, vehicle sales
SOUTH:	B	Apartment complex
EAST:	LC, LI	Warehousing, retail, vehicle repair, restaurant
WEST:	TF-3, SF-5	Single-family residences

PUBLIC SERVICES: The site has direct access points to Hydraulic, a four-lane arterial street at this location with a 100-foot right of way. The site also has direct access to 20-foot paved alleys west and south of the site. All normal public services are available to the site.

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

RECOMMENDATION: Historically this site has been a bingo hall with evening activity which did not appear to negatively impact the neighborhood. The proposed dance lesson and dance hall business is not out of character with the surrounding neighborhood, a bar exists in the neighborhood nearby. The proposed reception rental facility could impact residences west and south of the site if hours are late and crowd sizes are large. Code noise compatibility standards state that noise from this site shall not trespass onto residentially zoned properties above ambient noise in the area. The site appears to meet all other zoning code requirements, such as parking and a screening requirement from single-family residences. All property owners within 200 feet of the site have been notified of this request, no property owners have contacted staff. Staff feels that code requirements and the recommended conditions will mitigate impacts on the surrounding neighborhood, and that the Conditional Use for a Nightclub will not necessarily change the business' impact on the neighborhood. Based upon information available prior to the public hearings, planning staff recommends that the Conditional Use request be APPROVED, subject to the following conditions:

1. The site shall be developed in general conformance with the approved site plan. A modified site plan, to be approved by staff, shall identify all parking spaces required by code (based on approved occupancy) and shall identify public entrances to the facility. An updated site plan shall be submitted to staff within 60 days of Conditional Use final approval or the request shall be considered null and void.
2. The site shall be operated in compliance with all city ordinances, including but not limited to: zoning, sign, building, fire and health codes and licensing requirements. Failure to conform to any city code and/or failure to maintain proper licensing will be a violation of the Conditional Use.
3. The site shall not obtain a Drinking Establishment (DE) or Drinking Establishment Restaurant (DER) license. Alcohol may only be served on the site through a licensed caterer.
4. The Conditional Use shall be limited to the building space identified on the approved site plan.

5. The parking lot shall be kept free of all trash and debris. No loitering, congregating or excessive noise shall be permitted in the parking lot. No outside loudspeakers, entertainment, food or drink service shall be permitted.
6. Business hours shall be no later than 10 pm Sunday through Thursday, and midnight on Friday and Saturday.
7. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: North of the site is the attached LC zoned commercial center, a convenience store and vehicle sales. South of the site, across a paved alley, is a B zoned multi-family development. East of the site is a retail building on the same lot; further east, across Hydraulic are LI zoned warehousing uses and LC zoned auto repair, retail and restaurant uses. West of the site, across a paved alley, are TF-3 and SF-5 zoned single-family residences. The nearest other drinking establishment is at the northeast corner of Hydraulic and Wassall, approximately 700 feet from the site.

2. The suitability of the subject property for the uses to which it has been restricted: The building could be used for a wide variety of LC uses allowed by the current zoning without a Conditional Use.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: A dance hall and reception facility could bring more late night activity and traffic to this location than the previous bingo hall. The proposed conditions along with existing codes should keep parking limited to the applicant's site, will limit late hours of operation, and should mitigate noise and trash issues associated with the facility.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide, as amended in May 2005, of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* designates this site as "Local Commercial." The Local Commercial category includes commercial, office and personal services that do not have a significant regional market draw.

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

JESS MCNEELY, Planning Staff presented the Staff Report.

MCNEELY reported that the item was approved by the District Advisory Board. He also noted an e-mail in opposition to the proposal given to the Commission as a handout. He said he did not believe they fully understood the nature of the application which was to provide a venue for party rentals and dance lessons. He said one of the conditions was that the applicant could not have their own liquor

license, and would only be able to serve alcohol if a licensed caterer was involved. He referred to condition #6 on page 6, and said they would like to amend the hours to a 1:00 a.m. closing time for New Year's events only.

STEVE TRENT, 900 NORTH DERBY, DERBY, KANSAS said he was the building tenant. He said the Moose Lodge which was behind Club Rodeo closed in 2012 and they are trying to fill a void. He said their target group is dancers who are between the ages of 40 – 80 years old. He said they do not like loud music, are not rowdy and do not leave trash either inside or outside the building. He said they have an e-mail network and that is how they advertise their venue. He said attendance at dance lessons Monday –Thursday will be 40 people or less and attendance at dances on Friday and Saturday's will be 100 people or less. He closed by stating that the venue will also be rented out for weddings and showers also.

> **MOTION:** To approve subject to the amended staff recommendation that includes a 1:00 a.m. closing time for New Year's events.
>
> **B. JOHNSON** moved, **MITCHELL** seconded the motion, and it carried (10-0).

---

9. **Case No.: CON2014-00006** - A request for a City Conditional Use to permit a 100-foot wireless communication facility on LC Limited Commercial zoned property described as:

Lot 1, EXCEPT the South 110 feet of the East 160 feet, Agile Addition, Wichita, Sedgwick County, Kansas.

CHAIR KLAUSMEYER announced that the item has been deferred indefinitely.

---

10. **Case No.: CON2014-00007** - Wehrman Ranch LP, c/o John Wehrman (owner) AT&T Mobility/SSC, c/o Justin Anderson (applicant/angent) request a County Conditional Use to permit a 155-foot wireless communication facility on RR Rural Residential zoned property described as:

The Southeast Quarter of Section 21, Township 28 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas

BACKGROUND: The applicant, AT&T Mobility, is seeking a Conditional Use to permit the construction of a 155-foot tall, wireless, galvanized steel, monopole tower within a 100-foot (x) 100-foot leased site on RR Rural Residential zoned property. The lease site is located approximately 820 feet west of Greenwich Road and 180 feet north of 55th Street South. Per the amended Wireless Communication Facility Ordinance (adopted by the WCC 4-08-08 & the BoCC 4-9-08), new undisguised ground-mounted wireless communication facilities over 120 feet in height in the RR zoning district may be considered as a Conditional Use on a site by site analysis.

The Sedgwick County site and the surrounding area are zoned RR and are developed with a mix of farmland and high density (for the County) single-family residences. There are approximately 100 single-family homes built (1960-2009) on large tracts, located east - southeast, across Greenwich Road, and south - southwest, across 55th Street South, from the site. The owner's farmland and Greenwich Road provides approximately 960 feet of physical buffer from the nearest home located east of the site.

The owner's farmland and 55th Street South provides approximately 250 feet of physical buffer from the nearest home located south of the site. The owner's farmland also provides approximately 1,860 feet of physical buffer from the nearest homes located west of the site and 2,350 feet of physical buffer from the nearest homes located north (the Quail Creek Estates Addition) of the site. There is significant drainage located west of the site that is called out in the Derby Comprehensive Plan as a future trail that may buffer western, future residential development from the tower.

The applicant's RF Engineer has stated that the proposed facility is needed to provide the future 4th Generation Long Term Evolution (4G LTE) capacity needs of AT&T's customers. The 4G LTE technology is the fourth generation of mobile communication technology and is touted as an upgrade to the currently and still widely used 3G technology. Most tower sites will continue to support the 3G networks for many years. In the meantime the 4G LTE technology allows the users of the tower sites to migrate from simple voice communication to high-speed data for sending pictures and video from their more sophisticated smartphones. However as the network evolves from 3G to 4G LTE technology and beyond, more tower sites are required because 4G coverage areas tend to be geographically smaller and many of Wichita's and Sedgwick County's existing towers' capacity is maxed out as they continue to supply the current 3G technology. The move towards 4G LTE technology could lead to more contentious public forums in regards to Conditional Use applications for wireless communication facility with cell towers, as cell towers move into areas where residential development is dominate.

The applicant has provided current coverage and projected coverage maps showing the impact of the site in providing 4G LTE service to the area. The applicant has not provided the current coverage/capacity provided by any facilities in the area that use the current 3G technology. The RF Engineer states that there are no facilities in the area of the proposed site that would allow co-location opportunities and provide the desired coverage/capacity. The agent has stated that the nearest co-location opportunity is located 1.69-miles from the site and does not meet the coverage/capacity that the subject site does.

The site's proximity to the McConnell Air Force Base places the site in Area D of the Airport Hazard Zone. Area D has a 300-foot maximum height restriction, which the proposed 155-foot tall tower does not exceed.

The proposed tower and associated communication frequencies and wattages must meet standards determined by the Federal Aviation Administration (FAA) to insure it poses no hazard to air navigation or interfers with other radio/communication frequencies. The applicant has not provided an analysis of airspace in the area, which must be provided to staff prior to building permits being issued. Tower lighting must meet the FAA requirements for aircraft warning. The proposed galvanized surface of the tower will blend into the sky more readily than a red or white paint, which meets the intent of the "Design Guidelines" of the "Wireless Communication Master Plan." The proposed 155-foot tower must allow co-location for at least three (3) other providers. The proposed tower is shown with an antenna array ("top hat") that protrudes from the top of the monopole.

CASE HISTORY: The RR zoning district was essentially established with county-wide zoning in 1985; R Rural Residential (R) became RR Rural Residential in 1996, with the adoption of the Wichita-Sedgwick County Unified Zoning Code (UZC). At the February 20, 2014, Derby Planning Commission meeting, CON2014-00007 was approved (6-3) per the MAPD's conditions. Several people at the Derby meeting commented that: the facility would devalue the homes of the area, and; the facility was not in character with the area, and; no homes would be built along the northwest corner of the Greenwich Road

– 55th Street South intersection because of the facility, and; the facility would encourage commercial development along the northwest corner of the Greenwich Road – 55th Street South intersection, and they did not want to look at a 155-foot tall tower.

ADJACENT ZONING AND LAND USE:

NORTH:	RR	Farmland, large lot single-family residences
SOUTH:	RR	Large tract single-family residences, farmland
EAST:	RR	Large tract single-family residences, farmland
WEST:	RR	Farmland, large tract single-family residences

PUBLIC SERVICES: No municipally supplied public services are required. The applicant will extend electrical service to the site. The site has a proposed access easement to 55th Street South, a sand and gravel Gypsum Township Road. 55th is also a section line road with 50-foot of right-of-way. The proposed wireless communication facility and its 155-foot tall tower will generate less traffic onto 55th than the area's single-family residences. Greenwich Road is the closest (820 feet east of the site) arterial road to the site. Greenwich is a paved, two-lane County Highway/Section Line Road at this location. Greenwich is paved its entire length in Sedgwick County, from Harvey to Sumner Counties.

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 development to occur in the near future on land so designated. The proposed wireless communication facility with its 155-foot tall tower is supposed to provide the future 4G LTE capacity needs of AT&T's customers 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. Generally speaking, the urban development mix category is an area waiting for development trends. However as noted the area has high density (for the County) of single-family residences The UZC considers a wireless communication facility a commercial type of use.

The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. It states that all towers comply with the compatibility setback standards. The applicant's site plan shows the tower meeting the compatibility setback standards, as it is located entirely within the owner's 157.41-acre property. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area as much as possible. The proposed 155-foot monopole tower is the first tower in the area and as such is not in character with this area's predominate mix of farmland and large tract/lot single-family residential development**.** However, as more of the general population continues to use the services provided by these facilities, the location of wireless facilities in closer proximity to residential areas is anticipated; 2) Minimize the height, mass, or proportion. Making the tower shorter may lead to more shorter towers to provide the desired coverage; 3) Minimize the silhouette. Monopoles and certain lattice type structures (think City microwave towers) are recommended for up to 150-feet, with antennas mounted flush to the support structure over triangular "top hat" antenna arrays. Top hat antenna arrays tend to provide better coverage; 4) Use colors,

textures, and materials that blend in with the existing environment. The monopole will have a galvanized surface, which will blend into the sky more readily than red or white paint; 5) Be concealed or disguised as a flagpole, clock tower, or church steeple. The area presents no opportunities for disguising the proposed tower as a clock tower or church steeple. It is hard to see any softening of the monopole's presences in attempting to disguise it as a 155-foot tall flag pole; 6) Be placed in areas where trees and/or buildings obscure some or all of the facility. The applicant proposes planting 21 junipers around the facility. There are no buildings in the immediate or general area that would help obscure the tower. There are not a lot of trees on the owner's farmland that would help screen the site, except those following a creek located approximately 2,100 feet west of the site; 7) Be placed on walls or roofs of buildings. The opportunity is not present; 8) Be screened through landscaping, walls, and/or fencing. As stated, the applicant is proposing to plant 21 junipers around the facility. The proposed junipers will be spaced 15 feet apart, center to center of each juniper. This spacing will provide solid screening when the junipers mature and with proper care provide a more attractive and efficient screening than a 6-8-foot tall wooden privacy fence; and 9) Painting towers red and white instead of using strobe lighting. The applicant has stated that there will be no strobes and that it will be a galvanized steel finish. NOTE: Since the time the Wireless Communication Master Plan was first adopted, the FAA changed their regulations to require daytime strobe lighting; whereas, when the plan was adopted, the FAA allowed painted towers red and white instead of using strobe lighting.

Because the site is located in Sedgwick County it is not designated on the "Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map."

The site is located within the City of Derby's Area of Zoning Influence and as such the Derby Planning Commission will consider CON2014-00007 at their February 20, 2014, meeting; UZC, Article V., Section V-B.4.d. If the Derby Planning Commission recommends denial before the March 6, 2014, MAPC meeting and the MAPC recommends approval, CON2014-00007 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 agricultural." The "Derby Comprehensive Plan's Growth Area Map" shows the site projected as being in a "long-term growth area." The proposed wireless communication facility with its 155-foot tall tower would not seem to be in conflict with the City of Derby's long range plans for the area the site is located in. The density of the single-family residential development in the area would seem to reflect the residential development patterns along Greenwich Road, which may be the only north-south arterial that is paved for its entire length in Sedgwick County, from Harvey to Sumner Counties.

RECOMMENDATION: The primary consideration in this request is the relatively high number of single-family residences in this portion of the County. The area's residence will weigh the touted benefits of the proposed wireless communication facility and its 155-foot tall monopole tower with its 4G LTE technology against the site's visual impact. Based upon this factor and the information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to the following conditions:

A. This request must have the approval by the FAA in determining the proposed wireless communication facility with its 155-foot tall monopole tower carrying AT&T's 4G LTE pose no

hazard to air navigation or interferes with other radio/communication frequencies. The applicant shall submit a current copy of FAA approval to the MAPD and the Code Enforcement Office prior to the issuance of a building permit.

B. All requirements of Art. III Sec. III.D.6.g. of the Unified Zoning Code shall be met.
C. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
D. The support structure shall be a monopole design, as shown on the elevation and that generally conforms to the approved site elevation and that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
E. The support structure shall not exceed 155 feet in height and shall be designed and constructed to accommodate communication equipment for at least three (3) wireless service providers.
F. The tower site shall be developed in general conformance with the approved revised site and a landscape plan. These plans must show the type and size of fencing around the site, parking, all light poles, lights, power poles, cabinets, equipment or buildings within the fenced in site or in the immediate area if it is to be used by the site. The plan must identify existing and/or proposed trees and shrubs, give their total numbers and their general size to determine if it meets screening requirements of the Unified Zoning Code (UZC) Art. IV, Sec. IV-B.3.b.1. If evergreens are planted they must be a minimum size of 5-foot at the time of their planting (but be taller than 5-foot when mature) and planted on 15-foot centers. The site plan must identify the all utility and or access easements. If it is proposed it must be recorded. If a surface is needed for the drive/access easement, it must be approved by the Zoning Administrator. All improvements and construction of the facility/tower shall be completed within a year and before the facility becomes operational.
G. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations. Provide the Stormwater Engineer with any required plans for review and approval of the site.
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. <u>The zoning, uses and character of the neighborhood:</u> The Sedgwick County site and the surrounding area are zoned RR and are developed with a mix of farmland and high density (for the County) single-family residences. There are approximately 100 single-family homes built (1960-2009) on large tracts, located east - southeast, across Greenwich Road, and south - southwest, across 55th Street South, from the site. The owner's farmland and Greenwich Road provides approximately 960 feet of physical buffer from the nearest home located east of the site. The owner's farmland and 55th Street South provides approximately 250 feet of physical buffer from the nearest home located south of the site. The owner's farmland also provides approximately 1,860 feet of physical buffer from the nearest homes located west of the site and 2,350 feet of physical buffer from the nearest homes located north (the Quail Creek Estates Addition) of the site. There is significant drainage located west of the site that is called out in the Derby Comprehensive Plan as a future trail that may buffer western, future residential development from the tower.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned RR and is currently used as farmland. The site could continue to be used as farmland by right or developed as single-family residential with a minimum lot size of two-aces if served by a septic system or 4.5-acres if served by a lagoon, depending on perc test on the soil.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed 155-foot tall, wireless, galvanized steel, monopole would be the first in the area. Its visual impact is undeniable, however the conditions of approval will add landscaping around the site, to help minimize the eye level visual impact. The area's residence will weigh the touted benefits of the proposed wireless communication facility and its 155-foot tall monopole tower with its 4G LTE technology against the site's visual impact.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: 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 wireless communication facility with its 155-foot tall tower is supposed to provide the future 4G LTE capacity needs of AT&T's customers 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. Generally speaking, the urban development mix category is an area waiting for development trends. However as noted the area has high density (for the County) of single-family residences The UZC considers a wireless communication facility a commercial type of use.

   The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. It states that all towers comply with the compatibility setback standards. The applicant's site plan shows the tower meeting the compatibility setback standards, as it is located entirely within the owner's 157.41-acre property. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area as much as possible. The proposed 155-foot monopole tower is the first tower in the area and as such is not in character with this area's predominate mix of farmland and large tract/lot single-family residential development**.** However, as more of the general population continues to use the services provided by these facilities, the location of wireless facilities in closer proximity to residential areas is anticipated; 2) Minimize the height, mass, or proportion. Making the tower shorter may lead to more shorter towers to provide the desired coverage; 3) Minimize the silhouette. Monopoles and certain lattice type structures (think City microwave towers) are recommended for up to 150-feet, with antennas mounted flush to the support structure over triangular "top hat" antenna arrays. Top hat antenna arrays tend to provide better coverage; 4) Use colors, textures, and materials that blend in with the existing environment. The monopole will have a galvanized surface, which will blend into the sky more readily than red or white paint; 5) Be concealed or disguised as a flagpole, clock tower, or church steeple. The area presents no opportunities for disguising the proposed tower as a clock tower or church steeple. It is hard to see any softening of the

monopole's presences in attempting to disguise it as a 155-foot tall flag pole; 6) Be placed in areas where trees and/or buildings obscure some or all of the facility. The applicant proposes planting 21 junipers around the facility. There are no buildings in the immediate or general area that would help obscure the tower. There are not a lot of trees on the owner's farmland that would help screen the site, except those following a creek located approximately 2,100 feet west of the site; 7) Be placed on walls or roofs of buildings. The opportunity is not present; 8) Be screened through landscaping, walls, and/or fencing. As stated, the applicant is proposing to plant 21 junipers around the facility. The proposed junipers will be spaced 15 feet apart, center to center of each juniper. This spacing will provide solid screening when the junipers mature and with proper care provide a more attractive and efficient screening than a 6-8-foot tall wooden privacy fence; and 9) Painting towers red and white instead of using strobe lighting. The applicant has stated that there will be no strobes and that it will be a galvanized steel finish. NOTE: Since the time the Wireless Communication Master Plan was first adopted, the FAA changed their regulations to require daytime strobe lighting; whereas, when the plan was adopted, the FAA allowed painted towers red and white instead of using strobe lighting.

The site is located within the City of Derby's Area of Zoning Influence and as such the Derby Planning Commission will consider CON2014-00007 at their February 20, 2014, meeting; UZC, Article V., Section V-B.4.d. If the Derby Planning Commission recommends denial before the March 6, 2014, MAPC meeting and the MAPC recommends approval, CON2014-00007 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 agricultural." The "Derby Comprehensive Plan's Growth Area Map" shows the site projected as being in a "long-term growth area." The proposed wireless communication facility with its 155-foot tall tower would not seem to be in conflict with the City of Derby's long range plans for the area the site is located in. The density of the single-family residential development in the area would seem to reflect the residential development patterns along Greenwich Road, which may be the only north-south arterial that is paved for its entire length in Sedgwick County, from Harvey to Sumner Counties.

5. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed tower is not a hazard to air navigation (including the need or not for lighting) and that the tower does not interfere with other radio/communication frequencies.

BILL LONGNECKER, Planning Staff presented the Staff Report.

LONGNECKER reported that the Derby Planning Commission recommended approval of the proposed application at the February 20, 2014 meeting. He said he has received phone calls in opposition of the request. In addition, he reported that there were people at the Derby Planning Commission to protest the proposal.

JUSTIN ANDERSON, SELECTIVE SITE CONSULTANTS (SSC), AGENT FOR AT&T MOBILITY, 9990 WEST 109th STREET, SUITE 300, OVERLAND PARK, KANSAS briefly reviewed the proposal stating that that was a capacity site and that the closest AT&T towers about one

mile and 1/3 away. He said several discussed location of the tower with nearby property owners, one of which he believes is at this meeting. He said they believe this location will cause the least amount of impact as far as the access road. He referred to an aerial map of the area that showed the capacity coverage.

FOSTER referred to the letter of opposition to the proposal provided with the staff report. He asked the agent to explain how the applicant determines what height of the tower is needed.

ANDERSON said they employee a licenses electrical engineer who specializes in radio frequency technology and modeling. He referred to RF propagation maps which showed existing and proposed coverage areas. He said given the distance to existing towers and the ability of this site to provide more coverage that is why the height recommended is 155 feet.

CLARK SHOLTS, 5776 SOUTH 107TH STREET EAST, DERBY, KANSAS referred to his letter provided with the Staff Report. He said he is still concerned about the height of the tower. He referenced several other towers in and around the area ranging in height from 100 to 150 feet. He said there is a high power south of his property which the neighborhood tried to get stopped. He asked the Commission to have the height issue looked into.

EMILY JONES, CITY ARCHEOLOGIST, 1044 SOUTH BLECKLEY, WICHITA, KANSAS recommended having a survey done to insure that there is no archeological impact.

ANDERSON said they go through the National Historic Preservation Office (NHPO) and State Historic Preservation Office (SHPO) prior to any site development or groundbreaking. He said he would like to be able to say that they can make all their towers 100 feet tall or less, which would be more economical for them and safer for their tower climbers but that is not the situation. He mentioned the height of several other towers in the area.

GOOLSBY mentioned that when he is at 63rd Street South and Greenwich Road his calls are continually dropped. He asked if this tower will improve the coverage.

ANDERSON briefly reviewed the complaint system which is how they generate new tower locations.

FOSTER asked about co-locations.

ANDERSON briefly reviewed the AT&T system and said this location would provide more density and wireless services.

MOTION: To approve subject to staff recommendation.

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

NON-PUBLIC HEARING ITEMS

WARREN recused himself from the issue due to his service on the Derby City Council.

WARREN (Out @2:55 p.m.)

11. **Case No.: DER2014-00002** - The City of Derby seeks Unilateral Annexation of various tracts located adjacent to the City of Derby - Resolution No. 1-2014.

Background: On January 28, 2014, the City of Derby passed Resolution No. 1-2014 authorizing a public hearing on April 8, 2014, for the purposes of considering the unilateral annexation of several properties eligible under KSA 12-520(a) and located immediately adjacent to the City of Derby.

Prior to unilaterally annexing property, Kansas statutes require that a plan be prepared indicating the means by which city services will be extended to the area proposed for annexation. The City of Derby has submitted to the MAPD, a copy of the service plan describing the extension of services to the annexation area.

Analysis: Kansas statutes governing unilateral annexations provide for official notification to certain local officials, including planning commissions having jurisdiction in the area. Additionally, Kansas statutes require that the planning commission review the proposal and make a finding of compatibility or incompatibility with any adopted land use or comprehensive plans related to the area and the annexing city.

After review by staff, it has been determined that the four tracts proposed for unilateral annexation fall within the City of Derby 2030 Urban Growth Area as designated within the Wichita-Sedgwick County Comprehensive Plan *Preparing for Change*, adopted and updated by the Metropolitan Area Planning Commission and the Board of County Commission in May 2005. Furthermore, the four tracts fall within Derby's future urban growth area as identified in the latest version (December 2006) of the City of Derby Comprehensive Plan Growth Areas Map. Staff has concluded that the proposed unilateral annexation by the City of Derby is consistent with the Wichita-Sedgwick County Comprehensive Plan.

Recommended Action: That the Metropolitan Area Planning Commission pass a motion finding the unilateral annexation proposed by Resolution No. 1-2014 of the City of Derby to be consistent with the adopted Wichita-Sedgwick County Comprehensive Plan.

DAVE BARBER, Planning Staff presented the Staff Report.

MITCHELL verified that all the sites were east of K-15.

BARBER responded yes.

MOTION: To approve subject to staff recommendation.

MCKAY approved, **DENNIS** seconded the motion, and it carried (8-0-1).

The Metropolitan Area Planning Commission adjourned at 3:00 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 _____, 2014.

_____
John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
(SEAL) Area Planning Commission