WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

MINUTES

May 22, 2014

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, May 22, 2014 at 1:37 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; Joe Johnson; Carol Neugent; Bill Ramsey; and Don Sherman. John McKay Jr.; M.S. Mitchell; Debra Miller Stevens; George Sherman and Chuck Warren were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; Neil Strahl, Senior Planner; Jeff Vanzandt, Assistant City Attorney, Robert Parnacott, Assistant County Counselor and Maryann Crockett, Recording Secretary.

1. Approval of the April 24, 2014 MAPC meeting minutes.

MOTION: To approve the April 24, 2014 meeting minutes, as amended.

DENNIS moved, **GOOLSBY** seconded the motion, and it carried (6-0-3). **KLAUSMEYER, NEUGENT** and **RAMSEY -** Abstained.

Approval of the May 8, 2014 MAPC meeting minutes.

MOTION: To approve the May 8, 2014 meeting minutes, as amended.

DENNIS moved, **GOOLSBY** seconded the motion, and it carried (7-0-2). **FOSTER** and **NEUGENT -** Abstained.

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2. CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS

2-1. SUB2014-00019: One-Step Final Plat – HORSCH TRAILER ADDITION, located north of 71st Street South, on the west side of 183rd Street West.

Note: This is unplatted property located in the County in an area designated as "rural" by the Wichita-Sedgwick County Comprehensive Plan. A conditional use (CON2013-00031) was approved for expansion of agricultural sales and service.

CHAIRMAN KLAUSMEYER announced that the item had been deferred for two weeks to the June 5, 2014 meeting.

2-2. SUB2014-00021: One-Step Final Plat – PERFEKTA ADDITION, located on the north side of 21st Street North, East of Broadway.

Note: This is a replat of Best Supply Addition in addition to unplatted property to the north.

STAFF COMMENTS:

A. City of Wichita Public Works and Utilities Department advises that the property is currently being served by water and sewer.

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.

D. Traffic Engineering has approved the access controls subject to the opening being defined at the west property line. The plat proposes one access opening along 21st Street North.

E. Traffic Engineering has approved the 50-foot right-of-way along 21st Street North as it adjoins a 10-foot sidewalk and utility easement.

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 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.

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

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

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

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

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

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

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

O. A compact 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, **J. JOHNSON** seconded the motion, and it carried (9-0).

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3. PUBLIC HEARING – VACATION ITEMS

3-1. VAC2014-00012: City vacation of 15 feet of a platted 30-foot building setback, generally located at 8001 East Killarney Ct. (S.E. Cor. of Killarney Ct. and Rock Road).

OWNER/APPLICANT: Rodney Horton (owner/applicant)

LEGAL DESCRIPTION: Generally described as vacating the east 15 feet of the platted 30-foot street side yard setback running parallel to the west property line of Lot 9, Block 1, First Addition to Vickridge & the Rock Road right-of-way, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located on the southeast corner of Rock Road & Killarney Court (8001 E Killarney Court - WCC #II)

REASON FOR REQUEST: Future development

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

The applicant is requesting consideration for the vacation of the east 15 feet of the platted 30-foot street side yard setback running parallel to the west property line of Lot 9, Block 1, First Addition to Vickridge and the Rock Road right-of-way. The subject corner lot is zoned SF-5 Single- Family Residential. The Unified Zoning Code's (UZC) minimum street yard setback for the SF-5 zoning

district is 15 feet. The applicant's request is not less than the UZC's 15-foot minimum street yard setback for the SF-5 zoning district. There are no platted easements located within the setback. There are no utilities located within the proposed vacated portion of the platted street side yard setback. The First Addition to Vickridge was recorded with the Register of Deeds September 21, 1957.

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/Storm Water, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the platted street side yard setback.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

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 May 1, 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 platted street side yard setback and, and that the public will suffer no loss or inconvenience thereby.

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

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

(1) Vacate the east 15 feet of the platted 30-foot street side yard setback running parallel to the west property line of Lot 9, Block 1, First Addition to Vickridge and the Rock Road right-of-way.

(2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer and franchised utilities/Westar with any needed plans for review for location of utilities. Provide a guarantee or approved plans for the relocation of any utilities. This must be provided to Planning prior going to City Council for final action

(3) All improvements shall be according to City Standards.

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

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

(1) Vacate the east 15 feet of the platted 30-foot street side yard setback running parallel to the west property line of Lot 9, Block 1, First Addition to Vickridge and the Rock Road right-of-way.

(2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer and franchised utilities/Westar with any needed plans for review for location of utilities. Provide a guarantee or approved plans for the relocation of any utilities. This must be provided to Planning prior going to City Council for final action

(3) All improvements shall be according to City Standards.

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

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

J. JOHNSON moved**, B. JOHNSON** seconded the motion, and it carried (9-0).

3-2. **VAC2014-00013: City request to vacate a platted rear yard setback on TF-3 Two-Family Residential zoned property,** generally located east of West Street, south of Maple Avenue, north of University Avenue on the west side of University Court.

OWNER/AGENT: Marci Moore (owner), Baughman Co. PA (agent)

LEGAL DESCRIPTION: Generally described as vacating the platted 15-foot rear yard setback running parallel to most of the west property line of the north 68 feet of Lot 2, Block B, University Court Third Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located east of West Street, north of University Avenue, on the west side of University Court (3506 W University Court – WCC IV)

REASON FOR REQUEST: Room addition

CURRENT ZONING: Subject property, abutting south and north properties and east adjacent properties are zoned TF-3 Two-Family Residential (TF-3). Abutting west property is zoned SF-5 Single-Family Residential

The applicant is requesting consideration for the vacation of the platted 15-foot rear yard setback running parallel to most of the west property line of the north 68 feet of Lot 2, Block B, University Court Third Addition. The subject lot has a rectangular shape broken by its angling to a point on its northwest end. The subject lot is zoned TF-3 Two- Family Residential. The Unified Zoning Code's (UZC) minimum rear yard setback for the TF-3 zoning district is 20 feet. The platted 15-foot rear yard setback is 5 feet less than the UZC's minimum 20-foot rear yard setback for the TF-3 zoning district. The platted 15-foot rear yard setback exceeds the 20% reduction allowed by an Administrative Adjustment to reduce the minimum 20-foot rear yard setback for the of the UZC's TF-3 zoning district. The applicant has filed for a variance, BZA2014-00031, to reduce the rear yard setback to 11 feet, 4-inches. The Wichita-Sedgwick County Board of Zoning Appeals (BZA) will consider BZA2014-00031 at their May 22, 2014 meeting. There is the south 10 feet of a platted 20-foot utility easement running through, east-west, the platted, north-south, rear setback. There is sewer and a manhole located in the platted easement; vacation of the platted rear yard setback will not impact this platted easement. Water is located in the right-of-way. Stormwater does not appear to be impacted. Westar has equipment in the area that serves the applicant and the applicant will need to retain that portion as easement or relocate or remove at their expense. Lee Sailsbury is the contact and can be reached at 261-6859. The University Court Third Addition was recorded with the Register of Deeds January 7, 1988.

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/Storm Water, 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 platted rear yard setback.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

   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 May 1, 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 platted rear yard setback and, 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) Approval of VAC2014-00013, a request to vacate the platted 15-foot rear yard setback located on the north 68 feet of the TF-3 zoned Lot 2, Block B, University Court Third Addition is contingent upon approval of BZA2014-0031, a variance request to reduce the rear yard setback on said lot to 11 feet, 4-inches, at the BZA's May 22, 2014 meeting.

(2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer and franchised utilities/Westar with any needed plans for review for location of utilities. Contact Lee Sailsbury for Westar at 261-6859. Provide a guarantee or approved plans for the relocation of any utilities. This must be provided to Planning prior going to City Council for final action

(3) All improvements shall be according to City Standards.

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

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

(1) Approval of VAC2014-00013, a request to vacate the platted 15-foot rear yard setback located on the north 68 feet of the TF-3 zoned Lot 2, Block B, University Court Third Addition is contingent upon approval of BZA2014-0031, a variance request to reduce the rear yard setback on said lot to 11 feet, 4-inches, at the BZA's May 22, 2014 meeting.

(2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer and franchised utilities/Westar with any needed plans for review for location of utilities. Contact Lee Sailsbury for Westar at 261-6859. Provide a guarantee or approved plans for the relocation of any utilities. This must be provided to Planning prior going to City Council for final action

(3) All improvements shall be according to City Standards.

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

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

J. JOHNSON moved**, B. JOHNSON** seconded the motion, and it carried (9-0).

3-3. **VAC2014-00014: City request to vacate a platted utility easement on property,** generally located west of West Street on the north side of 9th Street North (4102 W 9th St N).

OWNER/AGENT: John C. Clark (owner) Baughman Co., PA, c/o Russ Ewy (agent)

LEGAL DESCRIPTION: Generally described as vacating the platted 16-foot easement running parallel to the east lot line of Lot 19 and the west lot line of Lot 18, all in Block D, E.B. Cark Addition Wichita, Sedgwick County, Kansas.

LOCATION: Generally located west of West Street on the north side of 9th Street North (4102 West 9th Street North - WCC #VI)

REASON FOR REQUEST: Expansion of existing single-family residence

CURRENT ZONING: The site and all abutting and adjacent properties are zoned SF-5 Single-Family Residential.

The applicant proposes to vacate the platted 16-foot wide easement running parallel to the east lot line of Lot 19, and the west lot line of Lot 18, all in Block D, E.B. Cark Addition. A sale of the west 30 feet of Lot 18 to the owner (applicant) of Lot 19 shifted the applicant's property line east and placed all of the easement onto the applicant's property, creating an encumbrance that prevents the expansion of the existing single-family residence. There are no utilities located in the subject easement. Contact Marsha Jesse with Westar with any questions at 261-6734. The E.B. Cark Addition was recorded with the Register of Deeds April 15, 1955.

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 platted easement.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

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 May 1, 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 platted easement and, and that the public will suffer no loss or inconvenience thereby.

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

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

(1) Abandonment or relocation/reconstruction of any/all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant.

(2) Provide any needed easements for relocated utilities, prior to this case going to City Council for final action.

(3) 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.

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

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

(1) 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.

(2) Provide any needed easements for relocated utilities, prior to this case going to City Council for final action.

(3) 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.

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

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

J. JOHNSON moved**, B. JOHNSON** seconded the motion, and it carried (9-0).

3-4. **VAC2014-00015: County request to vacate a floating easement dedicated by separate instrument on property,** generally located north of 47th Street South, on the east side of Oliver Avenue.

OWNER/AGENT: Boeing IRB Asset Trust, c/o Marc A. Poulin (owner) PEC, c/o Scott A. Dunakey (agent)

LEGAL DESCRIPTION: Generally described as vacating the perpetual easement and right-of-way dedicated by separate instrument (FLM 158 – PG 588-589) on an undeveloped, unplatted tract, Sedgwick County, Kansas.

LOCATION: Generally located north of 47th Street South on the west side of Oliver Avenue (BoCC #5)

REASON FOR REQUEST: Future development

CURRENT ZONING: The site, abutting north, east and southern properties and adjacent west properties are zoned LI Limited Industrial. Abutting east and southern properties are zoned GI General Industrial. The site is located within A Critical Area of Interest for McConnell Air Force Base and Air Force Protective Overlay A. The site has CU-163 overlay; a borrow pit for fill.

The applicant proposes to vacate the perpetual easement and right-of-way dedicated by separate instrument (FLM 158 – PG 588-589, recorded September 18, 1975) located on an undeveloped, unplatted tract, within the south end of the Boeing – Spirit Companies' aircraft manufacturing complex. The dedication gave the City of Wichita a perpetual easement and right-of-way for the '…installation, construction, operation, maintenance, repair, replacement and reconstruction of pipe lines and/or mains, manholes, lateral pipe lines and all structures incidental thereto, together with the perpetual right to remove buildings, structures, trees, bushes, undergrowth, flowers, and any other obstructions interfering with the use of said easement and right-of-way…' The perpetual easement and right-of-way covers the whole unplatted tract and resembles a large blanket easement that may be found in a platted reserve. There are no utilities located in the subject easement/right-of-way. Contact LaDonna Vanderford with Westar with any questions at 261-6490.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from County Public Works, 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 perpetual easement and right-of-way dedicated by separate instrument.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

   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 May 1, 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 perpetual easement and right-of-way dedicated by separate instrument, and that the public will suffer no loss or inconvenience thereby.

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

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

(1) Provide Planning with a legal description of the vacated perpetual easement and right-of-way dedicated by separate instrument on a Word document, via e-mail. This must be provided to Planning prior to the case going to the Board of County Commissioners for final action.

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

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

(1) Provide Planning with a legal description of the vacated perpetual easement and right-of-way dedicated by separate instrument on a Word document, via e-mail. This must be provided to Planning prior to the case going to the Board of County Commissioners for final action.

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

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

J. JOHNSON moved**, B. JOHNSON** seconded the motion, and it carried (9-0).

PUBLIC HEARINGS

4. **Case No.: ZON2014-00005** - Tara Developers, LLC (Brett Orth) / Ruggles & Bohm, P.A. (Will Clevenger) request a City zone change request from SF-5 Single-family Residential to TF-3 Two-family Residential on 4.96 acres on property described as:

BACKGROUND: The application area is 4.96 acres that contains 22 platted lots zoned SF-5 Single-family Residential (SF-5). The lots are situated on both sides of Casa Bella Street and are located approximately one-quarter mile north of East Pawnee Road, west of South 127th Street East. The lots are part of the Casa Bella Third Addition and are undeveloped. The applicant is requesting to rezone the application area to the TF-3 Two-family Residential (TF-3) district, which would permit both single-family and two-family residential uses. From South 127th Street East, Casa Bella Street heads west through and beyond the application area, ultimately curving south to connect with East Willowgreen

Street, which heads further west where it connects with South Tara Falls Street that connects with East Pawnee Road.

Located immediately north of the application area is the SF-5 zoned Reserve C; a 40-foot wide drainage and utility reserve associated with the Casa Bella Addition. North of Reserve C is a nearly 20-acre tract that is developed with a residence and used for farming or ranching. East of South 127th Street East are large unplatted tracts that are zoned SF-5 and LC Limited Commercial (LC). An identical zone change request (ZON2010-00024) was approved in 2010 for 18 platted lots (Lots 1-18, Block 1, Casa Bella Third Addition) located on both sides of Willowgreen Circle, situated immediately south of the application area. The land located west of the application area is part of three Casa Bella residential subdivisions, and is zoned SF-5.

CASE HISTORY: The Casa Bella Third Addition was recorded in 2010. In 2004, the subject property was annexed and zoned SF-5.

ADJACENT ZONING AND LAND USE:

North: SF-5, SF-20; drainage/utility reserve, large-lot residence
South: TF-3; two-family residences
East: SF-5, LC; vacant
West: SF-5; single-family residences

PUBLIC SERVICES: The site is platted and required public improvements would have been guaranteed by the plat.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for "urban residential" uses. The "urban residential" category includes the full diversity of residential development densities and types typically found in a large urban municipality, including: single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhomes and apartments as well as a wide range of special residential accommodations for the elderly.

RECOMMENDATION: Based upon the information available at the time the report was prepared, it is recommended that the zone change be approved.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property surrounding the application area contains a mix of zoning districts: SF-5, SF-20, TF-3 and LC. The predominate land uses are urban density and large lot residential. East of the site are large undeveloped tracts. The application area is located east of a large SF-5 zoned urban density single-family development. The property located immediately to the south was initially zoned SF-5 but was rezoned to TF-3, and developed with two-family residences.

2. The suitability of the subject property for the uses to which it has been restricted: The site has been zoned SF-5 since 2004, and has remained undeveloped. The SF-5 district is the most restrictive zoning district found in the City and limits use primarily to single-family residential

uses and a few other civic or institutional uses such as churches or schools. Presumably the property would have been developed as currently zoned if the market was strong enough to support more single-family development.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: As noted above, 18 platted lots located just south of the application area were rezoned to TF-3 in 2010. Approval of the request should not detrimentally impact nearby property owners.

4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request will add the potential for additional two-family dwelling units to the Wichita housing market and increase housing choices. Denial would presumably represent a loss in economic opportunity to the applicant.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for "urban residential" uses. The "urban residential" category includes the full diversity of residential development densities and types typically found in a large urban municipality, including: single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhomes and apartments as well as a wide range of special residential accommodations for the elderly.

6. Impact of the proposed development on community facilities: Required community facilities are either in place or have been guaranteed by the existing plat.

DALE MILLER, Planning Staff presented the Staff Report.

WILL CLEVENGER, RUGGLES AND BOHM, 924 N. MAIN, AGENT FOR THE APPLICANT said they believe the application is in conformance with Wichita-Sedgwick County Comprehensive Plan for residential use and fills A void in the market. He mentioned that SF-5 Single-family Residential zoning has not been supported in the area but that the TF-3 Two-family Residential zoning to the south was filled quickly so they believe this proposal is a good fit for the property.

ROBERT TOLLEY, 8220 E. OXFORD CIRCLE, WICHITA said he was present to speak on behalf of his parents who owned the small farm north of the proposed development. He read a brief statement prepared by his parents. It said the property in question is already zoned for single-family homes and they don't feel there is a need for multi-family homes. The duplexes in question will bring even more traffic, noise and people to the area. It is a well known fact that homeowners tend to take pride in their land and neighborhood and by bringing in renters, they really don't feel that pride of ownership is going to continue. He said the community has had a downfall since development of the rental units. He noted that his family was not aware of the last proposed zoning change and that is why they were not present to voice an opinion on the request. He said they would like to see the site remain single-family homes. He said the family farm has been there 20 years and his parents make their livelihood from it. He said since development in the area, there has been a strain on the water table which is crucial to farming and livestock in the area. He said they have concerns on how the ground water is treated and polluted since they all share the aquifer. He said there is a noticeable difference in the taste of the water over the last couple of years, which they associate with development in the area. He said his family was the only ones notified of the requested zoning change. He said other home owners that they spoke with said if

they had more time, they would be here today. He asked why they weren't notified. He mentioned the berm between this area and his parent's farm which consisted of noxious weeds and thistle, which is spreading onto their farm which causes issues with harvesting. He said they know progress happens but they requested extra thought be given to keeping the site single family.

J. JOHNSON asked for staff comment about notification on the request.

MILLER commented that the site was just less than five acres and that everyone within 350 feet who was legally required to get notice of the proposal got notice.

FOSTER asked about the berm.

TOLLEY said it is a large mound covered with noxious weeds.

GOOLSBY commented that SF-5 Single-family Residential or TF-3 Two-family zoning wouldn't change the noxious weed issue.

TOLLEY responded that they believe the noxious weeds are a result of development in the area.

J. JOHNSON asked what kind of fencing was required between the farm and development.

MILLER said no fencing is required because both areas are zoned SF-5.

CLEVENGER commented that they believe the berm is between 5-6 feet tall. He said there are no private wells on the site, it will be developed with public water the same as the other single family residences in the area so there will be no change in well water with the requested zone change.

FOSTER asked for the status of the turf or vegetative cover on the berm.

CLEVENGER said he didn't know the answer to that question.

FOSTER asked about the conditions on the plat. He said typically some sort of cover or earth work is required on an acre or more.

CLEVENGER asked if that was cover for the existing site.

FOSTER said he understands the concern about thistle and weeds coming off of the berm. He asked staff if the developer should have addressed that and provided decent vegetative cover on the berm.

MILLER said he can't answer that question other then vegetation is required to keep sand and dirt from blowing and eroding. He said he didn't know if there was a code violation, Code Enforcement would have to check it out.

KLAUSMEYER asked about height requirements for the berm.

MILLER said the berm has to be the appropriate slope and width to keep it from eroding.

MOTION: To approve subject to staff recommendation.

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

FOSTER offered a substitute motion to provide for follow-up to verify that the status of the berm doesn't meet the original requirements of when the plat became effective.

MILLER said that was a Code Enforcement issue, but if the Commission made it part of the motion, staff would insure that Code Enforcement investigated.

KLAUSMEYER asked about a time frame and suggested before construction started.

MILLER explained that if the zoning case is approved by the Planning Commission it will take 35 days to go to City Council. He said he believes Code Enforcement can determine if there is a code violation within 35 days.

SUBSTITUTE MOTION: To approve subject to staff recommendation with the additional requirement that Code Enforcement inspect the berm.

FOSTER moved, **RAMSEY** seconded the motion, and it passed (9-0).

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5. **Case No.: ZON2014-00006** - Jacob Management Company, LLC, c/o Craig Harms (applicant/owner) request a City zone change request from SF-5 Single-family Residential to TF-3 Two-family Residential on property described as:

BACKGROUND: The applicant is requesting TF-3 Two-Family Residential (TF-3) zoning on the platted 0.51-acre SF-5 Single-Family Residential (SF-5) zoned site. There is a vacant single-family residence (built 1952) on the north half of the subject site. The applicant proposes to either tear down the single-family residence and build a duplex or convert the single-family residence into a duplex. The site is large enough for three duplexes, with two lot splits.

The site is located two blocks east of Interstate Highway 235 (I-235), north of Central Avenue on the west side of Elder Street. The area is zoned predominately LC Limited Commercial (LC) along both sides of the east-west arterial street, Central Avenue, with SF-5 zoned single-family residential neighborhoods developed behind the LC zoned small businesses. The subject site is located in one of these SF-5 zoned single-family residential neighborhoods. Some SF-5 zoning interrupts the LC zoning along Central Avenue as does two GC General Commercial (GC) zoned automobile paint and body shops. TF-3 zoned single-family residences and duplexes are scattered though the single-family neighborhoods. Development in the immediate area around the site include SF-5 zoned single-family residences abutting the north and west sides of the site and adjacent (across Elder Street) to the site's east side. An LC zoned furniture store abuts the site's south side and TF-3 zoned single-family residences also abut its west side. Most of the single-family residences in this area appear to have been built in the late 1940s through the 1950s. The immediate area's oldest single-family residence appears to be the abutting north single-family residence, built in 1925. There is also a vacant SF-5 zoned lot located north of the subject site.

CASE HISTORY: The site is Lot 6, Harvey Patterson Addition, which was recorded with the Sedgwick County Register of Deeds August 1, 1951. Staff has received a letter protesting the proposed TF-3 zoning, which we have forwarded to the applicant; see attached letter.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5	Single-family residences, a vacant lot
SOUTH: LC, SF-5	Furniture store, single-family residence, retail
WEST: SF-5, TF-3	Single-family residences
EAST: SF-5, PUD	Single-family residences, fitness center, day care

PUBLIC SERVICES: Elder Street is a dirt and gravel residential street at this location. Approximately 280 feet south of the subject site, Elder Street intersects with Central Avenue, a four-lane arterial with a center turn lane at this location. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The "2013 Land Use Guide of the Comprehensive Plan" (Plan) identifies the SF-5 zoned site as "urban residential." The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in large urban municipality. The Plan identifies SF-5 zoning as being compatible with the urban residential category. The SF-5 zoning district allows single-family residential uses and parks, but not duplexes, by right. The site's requested TF-3 zoning is compatible with the Plan's urban residential category.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**. If more than one duplex is going to be built on the subject site a Lot Split reviewed and approved by the City will be required.

This recommendation is based on the following findings:

(1) **The zoning, uses and character of the neighborhood**: The area is zoned predominately LC along both sides of the east-west arterial street, Central Avenue, with SF-5 zoned single-family residential neighborhoods developed behind the LC zoned small businesses. The subject site is located in one of these SF-5 zoned single-family residential neighborhoods. Some SF-5 zoning interrupts the LC zoning along Central Avenue as does two GC zoned automobile paint and body shops. Some TF-3 zoned single-family residences and duplexes are scattered though the single-family neighborhoods. Development in the immediate area around the site include SF-5 zoned single-family residences abutting the north and west sides of the site and adjacent (across Elder Street) to the site's east side. An LC zoned furniture store abuts the site's south side and a TF-3 zoned single-family residence also abuts the site's west side. Most of the single-family residences in this area appear to have been built in the late 1940s through the 1950s. The immediate area's oldest single-family residence appears to be the abutting north single-family residence, built in 1925. There is also a vacant SF-5 zoned lot located north of the subject site.

(2) **The suitability of the subject property for the uses to which it has been restricted**: The site is currently zoned SF-5 and has a vacant single-family residence located on it. The SF-5 zoning permits the site's current use as a single-family residence.

(3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The requested TF-3 zoning allows duplexes as well as single-family residences by right. The request

would not introduce TF-3 zoning into the area, as a TF-3 zoned single-family residence abuts the west side of the site. There are also another three (3) TF-3 zoned single-family residences located one and two blocks west of the site.

(4) **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant**: Approval of the request would limit development by right to single-family residential, duplex, and some (but not limited to) institutional uses such as a parks, schools and churches. Denial of the request could impose a financial hardship on the owner.

(5) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The "2013 Land Use Guide of the Comprehensive Plan" (Plan) identifies the SF-5 zoned site as "urban residential." The urban residential category encompasses areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality. The Plan identifies SF-5 zoning as being compatible with the urban residential category. The SF-5 zoning district allows single-family residential uses and parks, but not duplexes, by right. The site's requested TF-3 zoning is compatible with the Plan's urban residential category.

(6) **Impact of the proposed development on community facilities**: All services are in place, and any increased demand on community facilities can be handled by current infrastructure.

BILL LONGNECKER, Planning Staff presented the Staff Report.
He reported that the DAB approved the application unanimously. He referred to the letter from the adjoining neighbor provided with the application packet. He said the applicant has seen the letter and has told staff and the DAB that he has not objection to installing a 6-foot privacy fence between the rezoning site and the single family residence to the north, although it is not a zoning requirement.

FOSTER said he had a question for the applicant or agent.

CRAIG HARMS, JACOB MANAGEMENT COMPANY, LLC, 906 N. MAIN STREET, commented that they acquired the dilapidated property and feel that two-family residential may be an appropriate use.

FOSTER asked the applicant if he was in agreement with staff comments regarding the fencing.

HARMS said yes, he received a copy of the letter from the neighbor to the north and they have no problem providing a 6-foot privacy fence between the two sites. He said they are willing to work with the homeowner on the length of the fence.

> **MOTION:** To approve subject to staff recommendation with the addition of a 6-foot privacy fence.
>
> **DENNIS** moved, **B. JOHNSON** seconded the motion, and it carried (9-0).

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

State of Kansas)
Sedgwick County) SS

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

Given under my hand and official seal this _____day of _____, 2014.

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

(SEAL)