

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

**Minutes**

**July 10, 2014**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, July 10, 2014 at 1:30 p.m., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Don Klausmeyer, Chair; Matt Goolsby; Vice Chair; David Dennis; David Foster; Bill Johnson; Joe Johnson; Debra Miller Stevens; M.S. Mitchell; Bill Ramsey; Don Sherman and George Sherman. John McKay Jr.; Carol Neugent; and Chuck Warren were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Jeff Vanzandt, Assistant City Attorney, and Maryann Crockett, Recording Secretary.

1. There were no minutes to approve.

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

2-1. **SUB2014-00020: Final Plat – THE STEPPES AT ARK VALLEY ADDITION,**  
located on the northeast corner of 127<sup>th</sup> Street East and Harry.

NOTE: This site has recently been annexed. The applicant proposes a zone change from SF-5 Single-family Residential to TF-3 Two-family Residential for Lots 1-9, Block 1 and for Lots 1-11, Block 2. The LC-zoned property will be used for residential purposes.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department requests the applicant extend water (distribution) and extend sewer (laterals) to serve all lots. In-lieu-of fees are due for water (transmission).
- B. Due to the platting of a 32-foot residential street in a commercial zoning district, a restrictive covenant is needed limiting the site to residential uses.
- C. City Stormwater Management has approved the drainage plan.
- D. Traffic Engineering has approved the access controls. The plat proposes two street openings along 127<sup>th</sup> Street East.
- E. The applicant shall guarantee the paving of the private street (Reserve C) to a public street paving standard. As private improvements, such guarantee shall not be provided through the use of a petition.
- F. A restrictive covenant shall be submitted regarding the private street (Reserve C), which sets forth ownership and maintenance responsibilities.
- G. 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.

- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a restrictive covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. Since this plat proposes the platting of narrow street right-of-way with adjacent 15-foot street, drainage and utility easements, a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- K. County Surveying would like to be contacted prior to submittal of the mylar.
- L. Lots 11 and 12, Block 1 do not conform to the 50-foot lot width standard for SF-5 lots which is measured at the building setback line. 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.
- M. The vicinity map shall be labeled.
- N. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.
- 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 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 relocation or removal of existing equipment of utility companies will be at the applicant's expense.
- V. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: [kwilson@wichita.gov](mailto:kwilson@wichita.gov)).

**NEIL STRAHL**, Planning Staff presented the Staff Report. He said there will be a lake to the east which he believes a neighbor is present to discuss. In addition, he said the applicant has adjusted the drainage plan to address the neighbor's concerns.

**WILL CLEVINGER, RUGGLES & BOHM, AGENT FOR THE APPLICANT** said they are in agreement with staff recommendations. He indicated that Ken Lee from Ruggles & Bohm was also present to answer any drainage questions.

**KEN LEE, RUGGLES & BOHM** said the property owners on the east side of the pond in the Belle Chase Addition were concerned about the applicant's proposal to lower the water surface of the pond approximately one foot because the pond is currently shallow. He said the applicant has raised the surface up so it is only 6 inches lower to address the neighbor's concerns and minimize the impact on the pond. He said this plan also meets the City's drainage requirements. He said the proposed changes have been approved by the City Storm Water Engineer.

**MICHELLE RICE, 1427 SOUTH SIERRA HILLS** said she lives on the east side of the pond and she and about five other home owners are concerned about the applicant's proposal to lower the pond. She said it is only about a foot deep and that it was mostly dry last year. She said if the pond is lowered any more there will be a mosquito /cesspool at one end and an ugly pond at the other end. She said lowering the pond a foot was a lot.

**LEE** said the applicant does appreciate the neighbor's concerns about the shallowness of the pond; however, he said he failed to mention that this was originally a farm pond and has never been upgraded to the standard 7 feet deep. He said they don't want to increase the maximum water surface because that might put the housing in danger. He said they could change another inch or but they would rather err on the side of caution and that way they are less likely to have a hazard.

**FOSTER** asked if the pond was split between the reserves and if it serves as drainage for both subdivisions.

**LEE** responded that a portion of the pond is located in Reserve A. He said the property developer said he will maintain the pond abutting his property and the outflow that is being modified in the future.

**MITCHELL** asked if that commitment from the developer had been put into a written contract or agreement.

**LEE** said not at this time but they told staff they would get the maintenance agreement in place prior to construction. He said there is standard language in the covenants and agreements about maintenance.

**STRAHL** said the agreement could be incorporated into the standard covenants.

**MOTION:** To approve subject to the recommendation of the Subdivision Committee and staff recommendation and the revision to 6 inches.

**G. SHERMAN** moved, **MITCHELL** seconded the motion, and it carried (11-0).

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**2-2. SUB2014-00022: Final Plat – SIENA LAKES ADDITION**, located on the south side of 37th Street North, West of Hoover Road.

NOTE: This unplatted site was recently annexed.

**STAFF COMMENTS:**

- A. City of Wichita Public Works and Utilities Department requests the extension of sanitary sewer (laterals) to serve all lots. In-lieu-of-assessment fees for mains are needed. The applicant shall extend water (distribution) to serve all lots. In-lieu-of-assessment-fees for transmission are needed.
- 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 requests revisions to the drainage plan prior to City Council review.
- D. Traffic Engineering has approved the access controls. The plat proposes one street opening and one access opening along 37<sup>th</sup> Street North.

- E. City of Wichita Public Works has required a petition for the paving of 37<sup>th</sup> Street North from the plat's entrance at North Shore to the nearest paved segment along 37<sup>th</sup> Street North west of this property. This segment of 37<sup>th</sup> Street will be constructed with the City project and the applicant will be assessed his share.
- F. The Applicant shall guarantee the paving of the proposed internal streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- G. A temporary turnaround for Conrey Street has been denoted at the east line of the plat. The paving guarantee shall also provide for the installation of the temporary turnaround for Conrey.
- 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. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a restrictive covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- J. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- K. This property is within a zone identified by the City Engineer's office as likely to have groundwater at some or all times within ten feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineer's office.
- L. Approval of this plat will require a waiver of the lot depth-to-width ratio of the Subdivision Regulations for Lot 6, Block 1 and Lots 7 and 8, Block 4. 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.
- M. GIS has approved the street names.
- N. The applicant shall correct Benchmark #1 description (Ridge Port and 37<sup>th</sup> Street North).

- O. The signature line for the mortgage certificate needs corrected.
- P. In the title block “An Addition to Wichita, Sedgwick County” needs to be referenced.
- Q. 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.
- R. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.
- S. 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.)
- T. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- U. 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.
- V. 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.
- W. 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.
- X. Perimeter closure computations shall be submitted with the final plat tracing.
- Y. Westar Energy advises that any relocation or removal of existing equipment will be at the applicant’s expense. The applicant needs to contact Heide Bryan, (261-6554) the representative for residential subdivisions about the existing equipment issues as soon as possible about this plat.

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

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

**J. JOHNSON** moved, **B. JOHNSON** seconded the motion, and it carried (11-0).

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**2-3. SUB2014-00026: One-Step Final Plat – JOST ADDITION**, located east of 111th Street East (Greenwich Road), South of 77th Street North.

NOTE: This site is located in the County in an area designated as “rural” by the Wichita-Sedgwick County Comprehensive Plan.

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. Lots 1 and 2 will need to be approved for advanced wastewater systems. A guarantee is needed for the abandonment of the existing lagoon north of the property.
- 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 Surveying advises that in accordance with K.S.A. 58-2003 and in the manner provided by K.S.A. 58-2011, section corner reference ties shall be filed with the Secretary of the State Historical Society and with the County Surveyor.
- E. County Public Works has approved the applicant’s drainage plan. If more than one acre is disturbed, applicant must apply for a Notice of Intent from the State and a stormwater permit.
- F. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.
- G. 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.

- H. The plat denotes a structure encroaching Lots 1 and 2 into the required 3-foot side yard setback for accessory structures located in the rear half of lots. The applicant is advised that no enlargement of the building will be allowed and if removed, all subsequent rebuilding shall observe building setbacks.
- I. The signature block needs to specify whether the owner is single or married, since a married person needs to have the spouse's signature.
- J. The 17.7-foot dimension of the structure on the property line shall be labelled clearly.
- K. "Well/water spigot" shall be spelled correctly.
- L. County Surveying will need a copy of the Title Commitment prior to signing the mylar to verify ownership and all parties with interest in the property.
- M. The Owner's Certificate and Notary Certificate shall be corrected to reference the name of all owners of the property.
- N. 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.
- 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 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 made necessary by this plat will be at the applicant's expense. Becky Thompson at Westar Energy is the Construction Services Representative for the northeast area and can be contacted at (316) 261-6320. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.

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

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

**J. JOHNSON** moved, **B. JOHNSON** seconded the motion, and it carried (11-0).

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**3. PUBLIC HEARING – VACATION ITEMS**

**3-1. VAC2014-00019: City request to vacate a platted easement on property,** generally located north of Wassall Street, east of Washington Avenue, on the north side of Larkin Drive (2626 S Larkin).

**OWNER/APPLICANT:** Tomas Limon & Leticia Ortiz (owners/applicants)

**LEGAL DESCRIPTION:** Generally described as vacating the platted 10-foot (x) 25-foot easement coming off of the rear (north) lot line (located approximately ¼ of the lot's width from the east, interior, lot line of the following described lot) of the southeast 66 feet of Lot 9, except the southeast 12 feet thereof, Block D, Lowery Addition, Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located north of Wassall Street, east of Washington Avenue, on the north side of Larkin Drive (2626 Larkin Drive - WCC #III)

**REASON FOR REQUEST:** Future building

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

The applicants propose to vacate a platted 10-foot wide (x) 25-foot long easement coming off of the rear (north) lot line of the subject lot. The easement is not located along any of the subject lot's lot lines, but is located approximately a quarter of the lot's width from the east, interior, lot line. The subject easement appears to be an extension of an abutting (north) 10-foot wide easement that runs between (and the length) of the common lot lines of Lots 6 and 7, Block D, Lowery Addition. There are no

utilities located within the subject easement. The subject easement intersects the south 8 feet of a 16-foot wide platted utility easement that runs parallel to the subject lots rear, south, lot line. There is a sewer line located in the 16-foot wide platted utility easement. Current Subdivision standards for a sanitary sewer easement require a width of 20 feet. The Lowery Addition was recorded with the Register of Deeds January 10, 1952.

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 June 19, 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 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) Dedicate 2 feet of easement to run parallel to the south 8 feet of the 16-foot wide platted utility easement that runs parallel to the subject lots rear, south, lot line. The original dedication must be provided to Planning prior to the request goes to City Council for final action.
- (2) 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.
- (3) If needed, as determined by franchised utilities, retain any needed portion of the subject easement. Provide any needed easements for relocated utilities, prior to this case going to City Council for final action.
- (4) Provide Planning with a legal description of the vacated platted easement on a Word document, via e-mail. This legal description will be used on the Vacation Order. The legal descriptions must be provided to Planning prior to this case going to City Council for final action.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE’S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Dedicate 2 feet of easement to run parallel to the south 8 feet of the 16-foot wide platted utility easement that runs parallel to the subject lots rear, south, lot line. The original dedication must be provided to Planning prior to the request goes to City Council for final action.
- (2) 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.
- (3) If needed, as determined by franchised utilities, retain any needed portion of the subject easement. Provide any needed easements for relocated utilities, prior to this case going to City Council for final action.
- (4) Provide Planning with a legal description of the vacated platted easement on a Word document, via e-mail. This legal descriptions will be used on the Vacation Order. The legal descriptions must be provided to Planning prior to this 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, **MITCHELL** seconded the motion, and it carried (11-0).

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**PUBLIC HEARINGS**

4. **Case No.: ZON2014-00011** - Jeff Pritchard (applicant/owner) and Ruggles & Bohm, c/o Will Clevenger (agent) request a City zone change from SF-5 Single-family Residential to TF-3 Two-family Residential on property described as:

Lot One (1) & Two (2), F. D. Sutton Addition to Sedgwick County, Kansas.

**BACKGROUND:** The applicant is requesting TF-3 Two-Family Residential (TF-3) zoning on the platted approximately 0.50-acre SF-5 Single-Family Residential (SF-5) zoned site. The site consists of Lots 1 and 2, FD Sutton Addition, located on the southeast corner of McComas Street and St Louis Avenue. Lot 1 is developed with a single-family residence (built 1920), with Lot 2 (the east, larger lot) having an accessory structure located on it. The site is large enough (with a lot split) for three duplexes. The applicant proposes to keep the existing single-family residence on Lot 1 and build two duplexes on Lot 2 with a future lot split.

The site is located in a predominately SF-5 zoned single-family residential neighborhood that runs from Central Avenue, (two-blocks north), to 2<sup>nd</sup> Street (two-blocks south) and between West Street (a block west) and Sheridan Avenue (five-blocks east). SF-5 zoned single-family residences (built mostly in the 1920s - 1998) are located north of the site across St Louis Avenue. SF-5 zoned single-family residences (built 1950s - 2002) and LC Limited Commercial (LC) zoned businesses are located west of the site across McComas Avenue to West Street. SF-5 zoned single-family residences (built mostly 1950s – 1980s) abut and are adjacent to the south of the site. SF-5 zoned single-family residences (built 1920 and late 1940s – 1950s) abut and are adjacent to the east side of the site. Two exceptions to the area’s predominate SF-5 zoning are the result of the most recent zoning activity in the area. ZON2013-00013 rezoned 0.95-acres of SF-5 zoned property to TF-3 zoning that is located one block east from the subject site on the north side of St Louis Avenue and east of Knight Street. ZON2011-00045 rezoned 0.92-acres of SF-5 zoned property to TF-3 zoning that is located three-blocks east of the site, on the southwest corner of St Louis Avenue and Joann Street.

**CASE HISTORY:** The site consists of Lots 1 and 2, FD Sutton Addition, which was recorded with the Sedgwick County Register of Deeds March 8, 1976. Staff has received calls expressing concerns about the proposed duplexes.

**ADJACENT ZONING AND LAND USE:**

NORTH: SF-5	Single-family residences
SOUTH: SF-5	Single-family residences
WEST: SF-5, LC	Single-family residences, commercial
EAST: SF-5, TF-3	Single-family residences

**PUBLIC SERVICES:** The site has access to St Louis Avenue and McComas Street. Both are paved two-lane local roads. St Louis Avenue has 50 feet of right-of-way at this location. McComas Street has 60 feet of right-of-way at this location, except a portion of the west side of the subject site where there is a 27 feet long (x) five feet wide contingent dedication of McComas Street. This contingent dedication (as shown on FD Sutton Addition) appears to allow a portion of the site’s current single-family residence (built 1920) to remain out of the McComas Street right-of-way. All utilities are available to the site.

**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 encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly. Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category. The TF-3 zoning district allows single-family residence, duplexes and some (but not limited to) institutional uses such as a parks, schools and churches by right. As such, the TF-3 zoning district conforms to the urban residential category.

**RECOMMENDATION:** The request is the area’s third rezoning, in the last four years, of SF-5 zoned properties to TF-3 zoning located within a three block area; ZON2011-00045 and ZON2013-00013. This request, as well the two previous request, provide fairly small (less than an acre) infill duplex/residential development opportunities that is not uncommon for the older neighborhoods in

Wichita. The requested TF-3 zoning is the fifth out of 15 zoning requests for this year. These requests for TF-3 zoning have been for either multiple (more than an acre) undeveloped lots of partially SF-5 zoned subdivisions located on the edges of the city or for smaller infill sites (such as this case) located in the older sections of the city. The infill lots have either been vacant, partially developed or developed with single-family residences that were proposed be remodeled as a duplex or torn down and replaced with a duplex or duplexes. Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The site is located in a predominately SF-5 zoned single-family residential neighborhood that runs from Central Avenue, (two-blocks north), to 2<sup>nd</sup> Street (two-blocks south) and between West Street (a block west) and Sheridan Avenue (five-blocks east). SF-5 zoned single-family residences (built mostly in the 1920s - 1998) are located north of the site across St Louis Avenue. SF-5 zoned single-family residences (built 1950s - 2002) and LC Limited Commercial (LC) zoned businesses are located west of the site across McComas Avenue to West Street. SF-5 zoned single-family residences (built mostly 1950s – 1980s) abut and are adjacent to the south of the site. SF-5 zoned single-family residences (built 1920 and late 1940s – 1950s) abut and are adjacent to the east side of the site. Two exceptions to the area’s predominate SF-5 zoning are the result of the most recent zoning activity in the area. ZON2013-00013 rezoned 0.95-acres of SF-5 zoned property to TF-3 zoning, that is located one block east from the subject site on the north side of St Louis Avenue and east of Knight Street. ZON2011-00045 rezoned 0.92-acres of SF-5 zoned property to TF-3 zoning that is located three-blocks east of the site, on the southwest corner of St Louis Avenue and Joann Street.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The 0.50-acre SF-5 zoned site has a single-family residence with a large accessory structure located on it. The SF-5 zoning permits single-family residences, which, with a few exceptions, is the predominate zoning and development in the area.
- (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 there are two other recently zoned TF-3 sites located within three blocks of the site; ZON2011-00045 and ZON2013-00013. Common concerns raised in the rezoning of land from SF-5 to TF-3, include a lack of maintenance on what will probably be rental properties and a perception of subsequent negative impact on neighboring property values. However, the ability and inclination of a property owner to maintain their property is not solely dependent on if the property in question is a rental property or property that the owner lives on.
- (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. This type of rezoning in the older portions of Wichita is not unusual in that it allows for infill residential redevelopment opportunities. The infill lots have either been vacant, partially

developed or developed with single-family residences that were proposed be remodeled as a duplex or torn down and replaced with a duplex or duplexes.

**(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 encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly. Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category. The TF-3 zoning district allows single-family residence, duplexes and some (but not limited to) institutional uses such as a parks, schools and churches by right. As such, the TF-3 zoning district conforms to the 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.

**FOSTER** asked staff to explain off street parking requirements per the Unified Zoning Code.

**LONGNECKER** said the parking requirement for multi-family zoning is one space per unit. He said the applicant has enough room at the site to meet the parking requirement. In addition, he noted that the DAB recommended approval of the application and that there was no one present at the DAB meeting to protest the application.

**FOSTER** asked with the lot split, was it possible to have two duplexes with 4 units or a single duplex.

**LONGNECKER** said there could be a total of 3 duplexes on the site.

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

**B. JOHNSON** moved, **MILLER STEVENS** seconded the motion, and it carried (11-0).

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**FOSTER** recused himself from the item.

5. **Case No.: CUP2014-00016** - Casey Voegeli (owner) / Icon Structures (Brandon Wilson) (applicant) request a City CUP Amendment to DP-89 Parcel 1 to add Accessory Apartment to the list of permitted uses on property described as:

Lot 26, Block 1, Country Place Estates Addition to Wichita, Sedgwick County, Kansas.

**BACKGROUND:** The applicant is seeking an amendment to Lot 26, Block 1, Country Place Estates Addition located in Parcel 1 of the Country Place Estates Community Unit Plan (CUP) DP-89 to permit an “accessory apartment.” The application area contains 1.51 acres, is zoned SF-5 Single-family

Residential (SF-5) subject to the development standards of Parcel 1 of DP-89, and is developed with a 5,357 square-foot single family residence. The applicant seeks approval of the proposed amendment in order to incorporate a second dwelling unit as the second story of a five-bay garage only on Lot 26, Block 1, Country Place Estates Addition. (See the attached Country Place Estates CUP, elevation drawing and site plan). The accessory apartment would only be for guests of the residents living in the principal structure. The application area is located in the extreme northwest corner of the CUP. The proposed garage/accessory apartment is to be located in the northeast corner of the application area. The garage portion of the proposed building may be built without benefit of an amendment. The CUP amendment is needed for the inclusion of fully functioning independent living space that also includes bathroom and kitchen facilities in the proposed garage.

Parcel 1 of DP-89 is zoned SF-5, contains 61 acres, permits only one-family dwellings at a maximum density of 1.54 dwelling units per net acre or a maximum of 75 dwelling units. Parcel 1 is platted (various Country Place Estates additions) and is developed with 61 single-family residential lots. The CUP permits a maximum building height of 35 feet.

Land located immediately north of the application is old railroad right-of-way that has been converted to a rails-to-trails path, and is not zoned. Property north of the rails-to-trails path is zoned SF-5, and is developed with single-family residences. Properties to the east, south and west are also zoned SF-5, and are developed with single-family residences.

Per the Wichita-Sedgwick County Unified Zoning Code (UZO), accessory apartments are permitted in the SF-5 district with “conditional use” approval. Since the application area is located within Parcel 1 of CUP DP-89 that only permits one-family dwellings, an amendment instead of a “conditional use” is required. Supplementary Use Regulations of the Unified Zoning Code permit accessory apartments subject to the following standards: a maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling; the appearance of the accessory apartment shall be compatible with the main dwelling and with the character of the neighborhood; the accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling unit, and the ownership shall not be divided or sold as a condominium and the water and sewer service provided to the accessory apartment shall not be provided as a separate service from the main dwelling.

**CASE HISTORY:** Country Place Estates plat was recorded in March of 1979.

**ADJACENT ZONING AND LAND USE:**

North: Unzoned and SF-5; rails-to-trails right-of-way and single-family residences

South: SF-5; single-family residential

East: SF-5; single-family residential

West: SF-5; single-family residential

**PUBLIC SERVICES:** The application area is located inside a fully developed residential subdivision that is served by all normal public and private utilities and services.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide indicates the site is appropriate for “urban residential” uses. The urban residential category reflects the full diversity of residential development densities and types typically found in a large urban municipality,

including single detached homes, semi-detached homes, patio homes, duplexes, townhomes and apartments.

**RECOMMENDATION:** Based upon the information available at the time the report was prepared it is recommended to approve the request subject to the following conditions:

- A. The amendment permits an accessory apartment that shall be constructed, maintained and operated in general conformance with the approved site plan and elevation drawings and shall comply with all the requirements of UZC Article III, Section III-D.6.a.
- B. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VII hereof, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Land located immediately north of the application is old railroad right-of-way that has been converted to a rails-to-trails path, and is not zoned. Property north of the rails-to-trails path is zoned SF-5, and is developed with single-family residences. Properties to the east, south and west are also zoned SF-5, and are developed with single-family residences.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-5, which is the most restrictive zoning district in the city, and is primarily intended for single-family dwellings and a few civic and institutional uses that may typically be used by the dwellings residents. The site could continue to be used and have economic value as currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The lot is heavily wooded and there are hedgerows and additional landscaping located offsite. The garage is an accessory structure that is allowed by-right. Installation of separate living quarters within the garage and on the 1.51-acre lot should not detrimentally impact nearby properties. The recommended conditions of approval should mitigate anticipated impacts.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The applicant indicates the accessory structure is to be used for guests. Approval would enhance the applicant's use and enjoyment of the property.
5. Length of time the property has been vacant as currently zoned. The property is developed with a single-family dwelling.
6. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide indicates the site is appropriate for "urban residential" uses. The urban residential category reflects the full diversity of residential development densities and types typically found in a large urban municipality, including single detached homes, semi-detached homes, patio homes, duplexes, townhomes and apartments. The UZC permits "accessory apartments" subject to the conditions described above, and subject to

“conditional use” approval. The proposed accessory apartment complies with UZC Supplementary Use Regulation requirements.

- 7. Impact of the proposed development on community facilities: Existing community facilities sufficient to meet the demands of the proposed use are in place.

**DALE MILLER**, Planning Staff presented the Staff Report.

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

**J. JOHNSON** moved, **D. DENNIS** seconded the motion, and it carried (10-0-1).

**FOSTER** – Abstained.

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The Metropolitan Area Planning Commission adjourned at 1:47 p.m.

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

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

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

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

(SEAL)