

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

**July 24, 2014**

**Minutes**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, July 24, 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; Debra Miller Stevens; John McKay Jr.; M.S. Mitchell; Carol Neugent; Bill Ramsey and Chuck Warren (In @1:32 p.m.). Joe Johnson; Don Sherman and George Sherman were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Robert Parnacott, Assistant County Counselor; Jeff Vanzandt, Assistant City Attorney, and Maryann Crockett, Recording Secretary.

1. Approval of the June 19, 2014 and July 10, 2014 MAPC meeting minutes.

June 19, 2014 MAPC meeting minutes.

**MOTION:** To approve the June 19, 2014 meeting minutes, as amended.

**GOOLSBY** moved, **B. JOHNSON** seconded the motion, and it carried (6-0-4).  
**DENNIS, MILLER STEVENS, NEUGENT** and **WARREN** - Abstained.

July 10, 2014 MAPC meeting minutes.

**MOTION:** To approve the July 10, 2014 meeting minutes, as amended.

**DENNIS** moved, **GOOLSBY** seconded the motion, and it carried (8-0-2). **MCKAY** and **NEUGENT** – Abstained.

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2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB2013-00034: Final Plat – THE WATERFRONT SEVENTH ADDITION.**

**Note:** This is a replat of a portion of Waterfront 6<sup>th</sup> Addition in addition to unplatted property. The site has been approved for a zone change (ZON2012-00015) from LI Limited Industrial to GO General Office. The 44 lots are intended for residential units.

This revised plat supercedes the previous 2-lot commercial plat.

**STAFF COMMENTS:**

A. City of Wichita Public Works and Utilities Department requests the extension of sanitary sewer (laterals) and the extension of water (distribution) to serve all lots being platted. A utility easement for sewer is needed between lots 29 and 30, Block A.

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

- C. City Stormwater Management has approved the drainage plan subject to submittal of a draft master grading plan prior to City Council consideration.
- D. Due to the platting of residential streets in a commercial zoning district, a restrictive covenant is needed limiting the site to residential uses.
- E. The Applicant shall guarantee the paving of the proposed streets.
- F. 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.
- 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. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- K. GIS has approved the street names.
- L. 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.
- M. 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.)

- N. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- O. 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.
- P. 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.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- T. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disc. If a disc is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: [kwilson@wichita.gov](mailto:kwilson@wichita.gov)).

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

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

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**2-2. SUB2014-00024: One-Step Final Plat – STOVER ESTATES ADDITION.**

NOTE: This is unplatted property located in the County within three miles of the City of Wichita. It is in an area designated as "Wichita 2030 Urban Growth Area" by the Wichita-Sedgwick County Comprehensive Plan. It is located in the Goddard Area of Influence.

STAFF COMMENTS:

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact Metropolitan Area Building and Construction Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval.
- B. City of Wichita Public Works and Utilities Department has requested a No Protest Agreement for future extension of sanitary sewer (mains and laterals).
- C. The site is currently located within the Sedgwick County Rural Water District No. 4. If service is available, feasible and the property is eligible for service, Metropolitan Area Building and Construction Department recommends connection.
- D. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- E. County Public Works has approved the drainage plan. If more than one acre is disturbed, applicant must apply for a Notice of Intent from the State and a stormwater permit. A utility easement is needed to service Lot 2.
- F. County Public Works has approved the access controls. The plat denotes one opening along 151<sup>st</sup> Street West.
- G. The joint access opening shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- H. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.
- I. Approval of this plat will require a waiver of the lot depth-to-width ratio of the Subdivision Regulations for Lot 2. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. The Subdivision Committee recommends a modification of the design criteria in Article 7 of the Subdivision Regulations as it finds that the strict application of the design criteria will create an unwarranted hardship, the proposed modification is in harmony with the intended purpose of the Subdivision Regulations and the public safety and welfare will be protected.
- J. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineer (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- K. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants

required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

- L. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- M. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Any removal or relocation of existing equipment made necessary by this plat will be at the applicant's expense.
- R. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: [kwilson@wichita.gov](mailto:kwilson@wichita.gov)).

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

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

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2-3. **SUB2014-00025: (Deferred from 6.26.14) One-Step Final Plat – WICHITA DESTINATION DEVELOPMENT ADDITION.**

**NOTE:** This is a replat of the K96 and Greenwich North Addition. The site is also subject to the K96 and Greenwich North Community Unit Plan DP-333.

**STAFF COMMENTS:**

- A. City of Wichita Public Works and Utilities Department requests the extension of water (distribution) and sanitary sewer (laterals). In-lieu-of-assessment fees for mains and transmission are needed for Reserves B and C, and Lots 3, 4, 5, 6 and 7, Block 2, K96 and Greenwich North Addition. The applicant advises no petitions will be provided as streets and utilities will be constructed with a private project.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the drainage plan subject to a 30-foot drainage easement shown on the plat.
- D. County Surveying requests to view the revised plat prior to submitting the mylar.
- E. The plat proposes one access opening and one street opening along Greenwich Road in accordance with the CUP and has been approved by Traffic Engineering.
- F. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.
- G. The Applicant shall guarantee the paving of the proposed street to the business/industrial street standard.
- H. As the plat consists of commercial lots abutting a non-arterial street, the Subdivision Regulations require a sidewalk along the Greenwich Place frontage, which shall be included within the paving petition.
- I. County Surveying advises that the recording data for the pipeline easement shall be shown on the final plat or stated to be recorded by separate instrument. If the easement has not been re-confined and relocated, the existing easement shall also be shown on the final plat stating it will be relocated.
- J. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineer (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- K. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a 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.

- L. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- M. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- N. The Applicant needs to request a CUP adjustment in order that the CUP parcel boundaries correspond with the area being platted.
- O. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- P. GIS has approved the street name.
- Q. 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.)
- R. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- S. 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.
- T. 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.
- U. 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.
- V. Perimeter closure computations shall be submitted with the final plat tracing.

- W. Any removal or relocation of existing equipment of utility companies 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.
- X. 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.

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

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**PUBLIC HEARING – VACATION ITEMS**

**3-1. VAC2014-00020: City request to vacate a platted easement on property.**

**CASE NUMBER:** VAC2014-00020 - City request to vacate a platted easement

**OWNER/APPLICANT:** Central Plains Development, c/o Brian Flores Victor Torres (owners/applicants)

**LEGAL DESCRIPTION:** Generally described as vacating the platted 8-foot utility easement running parallel to the common lot line of Lots 2 & 5, Block D, Planeview Subdivision No.1, Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located southwest of the Pawnee Avenue – George Washington Boulevard intersection and northeast of the Cessna – Roseberry Streets intersection (WCC #III)

**REASON FOR REQUEST:** Future development

**CURRENT ZONING:** The site, all abutting and adjacent properties are zoned MF-29 Single-Family Residential (MF-29).

The applicants propose to vacate a platted 8-foot wide utility easement centered on and running parallel (north-south) to the common lot line of Lots 2 & 5, Block D, Planeview Subdivision No.1. There are no utilities located within the subject easement. The north end of the subject easement intersects with an east-west platted easement that runs parallel to a portion of the common lot lines of Lots 2 & 5 (south lots) and Lot 1, all in Block D, Planeview Subdivision No.1; this east-west platted easement will be retained. The Planeview Subdivision No.1 was recorded with the Register of Deeds August 29, 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 utility 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 July 3, 2014, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by vacating the described portion of the platted utility easement and that the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Provide Planning with a legal description of the vacated platted easement on a Word document, via e-mail. The legal description will be used on the Vacation Order. The legal description must be provided to Planning prior to this case going to City Council 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 platted easement on a Word document, via e-mail. The legal description will be used on the Vacation Order. The legal description must be provided to Planning prior to this case going to City Council 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.

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

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**3-2. VAC2014-00021: City request to vacate a platted utility easement and an easement dedicated by separate on property.**

**CASE NUMBER:** VAC2014-00021 - City request to vacate a platted utility easement and a temporary utility easement dedicated by separate instrument

**OWNER/AGENT:** Dillon Real Estate Company, Inc. (owner) PEC, c/o Charles Brown (agent)

**LEGAL DESCRIPTION:** Generally described as vacating the platted 20-foot utility easement running parallel to the common lot line of Lots 1 & 2 and a 20-foot temporary utility easement dedicated by separate instrument (FILM 2907 – PAGE 6518) located on Lot 2, all in Block 2, Ann Walenta Commercial Addition Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located on the southeast corner of the Kellogg Drive – Oliver Avenue intersection (WCC #III)

**REASON FOR REQUEST:** Future Kwik Shop

**CURRENT ZONING:** The site is zoned LC Limited Commercial (LC), with overlay CUP 261. Abutting south properties are zoned LC and B Multi-Family Residential (B). Adjacent east properties are zoned LC, GO General Office (GO) and MF-29 Single-Family Residential (MF-29). Adjacent west properties are zoned LC. Adjacent north properties are zoned LC and B.

The applicant proposes to vacate a (east-west) platted 20-foot utility easement centered on and running parallel to the common lot line of Lots 1 & 2 and a (east-west, with a finger going north at its west end) 20-foot temporary utility easement dedicated by separate instrument (FILM 2907 – PAGE 6518, recorded July 15, 2009) located on Lot 2, all in Block 2, Ann Walenta Commercial Addition. There is a sewer line and manhole located in the temporary utility easement. The Ann Walenta Commercial Addition was recorded with the Register of Deeds July 15, 2009.

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 utility easement and the temporary utility easement 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 July 3, 2014, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by vacating the described portion of the platted utility easement and the temporary utility easement 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) 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. Vacate the 20-foot wide temporary utility easement dedicated by separate instrument (FILM 2907 – PAGE 6518) and the platted 20-foot utility easement contingent on the approval (by Public Works/Water & Sewer) of a PPS for the abandonment and relocation of the existing sewer line and manhole. All improvements will be per City standards and at the applicant's expense. The approved PPS# must be provided to Planning prior to the case going to City Council for final approval.
- (2) If needed, as determined by public and franchised utilities, retain any needed portion of the subject easements. Provide Planning with any needed original easements dedicated by separate instruments for relocated utilities, prior to this case going to City Council for final action. The original easements will go from the City Council to the register of Deeds for recording with the original Vacation Order.
- (3) Provide Planning with a legal description of the vacated platted utility easement and the temporary utility easement dedicated by separate instrument on a Word document, via e-mail. The 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.
- (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. Vacate the 20-foot wide temporary utility easement dedicated by separate instrument (FILM 2907 – PAGE 6518) and the platted 20-foot utility easement contingent on the approval (by Public Works/Water & Sewer) of a PPS for the abandonment and relocation of the existing sewer line and manhole. All improvements will be per City standards and at the applicant's expense. The approved PPS# must be provided to Planning prior to the case going to City Council for final approval.
- (2) If needed, as determined by public and franchised utilities, retain any needed portion of the subject easements. Provide Planning with any needed original easements dedicated by separate instruments for relocated utilities, prior to this case going to City Council for final action. The original easements will go from the City Council to the register of Deeds for recording with the original Vacation Order.
- (3) Provide Planning with a legal description of the vacated platted utility easement and the temporary utility easement dedicated by separate instrument on a Word document, via e-mail. The 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.
- (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.

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

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**PUBLIC HEARINGS**

**CHAIR KLAUSMEYER** recused himself from the item and left the bench.

**VICE CHAIR GOOLSBY** in the Chair.

4. **Case No.: ZON2014-00012** - Ruggles and Bohm, (agent); The Steppes At Ark Valley, LLC, Attn: Cory Shackelford (applicant/owner) request a City zone change from SF-5 Single-family Residential to TF-3 Two-family Residential on property described as:

That part of the SW1/4 of Sec. 26, T27S, R2E of the 6<sup>th</sup> P.M., Sedgwick County, Kansas, described as commencing at the southwest corner of said SW1/4; thence N01°02'26"W along the west line of said SW1/4, 600.00 feet; thence N88°39'08"E, 60.00 feet to the place of beginning; thence N01°02'26"W, 445.87 feet; thence N48°10'45"E, 290.14 feet; thence S74°22'41"E, 229.78 feet; thence S57°25'58"E, 123.36 feet; thence S49°45'15"E, 84.07 feet; thence S43°54'50"E, 195.48 feet; thence S01°40'51"W, 107.18 feet; thence S89°05'36"W, 174.92 feet

to a point on a non-tangent curve to the right having a radius of 141.00 feet; thence along said curve an arc length of 149.00 feet, chord bearing S55°30'16"W, 142.16 feet to a point of tangency; thence S85°46'40"W, 191.47 feet to a point of curvature of a curve to the left having a radius of 109.00 feet; thence along said curve an arc length of 162.38 feet, chord bearing S43°06'01"W, 147.78 feet; thence S88°39'08"W, 146.04 feet to the place of beginning.

**BACKGROUND:** The applicant is requesting 6.98 acres of a Single-Family Residential (SF-5) zoned site be re-zoned to Two-Family Residential (TF-3). There is an agricultural building on the subject site that will be removed. Approximately 24 buildings are planned for this site.

The site is located approximately 600 feet north of Harry Street on the east side of South 127<sup>th</sup> Street East. The area is zoned predominately Single-Family Residential (SF-5) along both sides of the north-south arterial street, South 127<sup>th</sup> Street E., and Limited Commercial (LC) zoned property at the intersection of South 127<sup>th</sup> Street East and Harry Street. The subject site is located in one of these SF-5 zoned single-family residential neighborhoods. Development in the immediate area around the site include SF-5 zoned single-family residences abutting the north and east sides of the site and adjacent (across South 127<sup>th</sup> Street East) to the site's west side. LC zoning abuts the site's south side. Most of the single-family residences in this area appear to have been built within the last decade. The immediate area's oldest single-family residence appears to be the adjacent west single-family residence, built in 1959.

**CASE HISTORY:** The site is part of a 22.12-acre tract annexed into the City on June 18, 2014. In 2011 the intersection of South 127<sup>th</sup> Street East and East Harry Street was improved as part of a drainage improvement project on the north side of Harry Street.

**ADJACENT ZONING AND LAND USE:**

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

**PUBLIC SERVICES:** South 127<sup>th</sup> Street East is an arterial street at this location. Approximately 600 feet south of the subject site, South 127<sup>th</sup> Street East intersects with Harry Street, an arterial at this location. Southbound South 127<sup>th</sup> Street East is one through lane and one left turn lane; northbound South 127<sup>th</sup> Street East is one through lane and one left turn lane at this intersection. Eastbound Harry Street is one through lane and one left turn lane; westbound Harry Street is one through lane, one left turn lane and one right turn lane. All utilities are available at this site.

**CONFORMANCE TO PLANS/POLICIES:** The "2013 Land Use Guide of the Comprehensive Plan" (Plan) identifies the SF-5 zoned site as "urban development mix." Urban Development Mix: This category encompasses areas of land that will likely be developed or redeveloped within the next 30 years with uses predominately found in the Urban Residential Use category. 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**, subject to platting within one year.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The area is zoned predominately Single-Family Residential (SF-5) along both sides of the north-south arterial street, South 127<sup>th</sup> Street East, and Limited Commercial (LC) zoned property at the intersection of South 127<sup>th</sup> Street East and Harry Street. The subject site is located in one of these SF-5 zoned single-family residential neighborhoods. Development in the immediate area around the site include SF-5 zoned single-family residences abutting the north and east sides of the site and adjacent (across South 127<sup>th</sup> Street East) to the site's west side. The SF-5 residential includes Bellechase Addition to the north, Bellechase 2<sup>nd</sup> Addition to the east and Timberlands Addition to the west. All three of these additions are in the building out process. LC zoning abuts the site's south side. Most of the single-family residences in this area appear to have been built within the last decade. The immediate area's oldest single-family residence appears to be the adjacent west single-family residence, built in 1959.
- (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 an agricultural building 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 introduce TF-3 zoning into the area.
- (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 development mix." The urban development mix 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.

**DALE MILLER**, Planning Staff presented the Staff Report. He noted a correction on the Staff Report to indicate that the applicant was The Steppes at Ark Valley, LLC, Chris Shackelford.

**CHRIS BOHM, RUGGLES & BOHM, AGENT FOR THE APPLICANT** referred to an aerial photograph and reviewed the physical characteristics of the site at Harry and 127<sup>th</sup> Street, adjacent to the Bellechase Addition on the north. He referred to the trees, channel and pond to the east. He said those

features will remain as they are during the platting process with the exception of the installation of one storm sewer pipe. He added that the area will be buffered to the north. He also mentioned the drainage channel to the south of the property east of 127<sup>th</sup> that feeds into the Four Mile Creek drainage system. He said the site is located at the intersection of two arterial streets (127<sup>th</sup> and Harry) and the intersection is designed for signalization in the future as soon as traffic counts warrant it. He said LC Limited Commercial zoning is located one third of the way through the subject property and a case could be made to develop LC at the site because that would be the natural progression; however, that is not how the applicant wants to development the property. He said this location is in a protected cove and the applicant wants to develop the property with upscale TF-3 Two-family Residential housing. He referred to the plat which depicted private streets. He said they feel this is a good fit for the area and he agreed with staff that the market has been leaning towards development of multi-family residential.

**CORY SHACKELFORD, 6505 EAST CENTRAL, #192, WICHITA, APPLICANT** commented that there had been some disinformation as to who is involved with the project which may have been why he received the photographs the Commissioners received. He wanted it noted for the record that he had no involvement with the project depicted in the pictures and had no idea where those residences were located. He said those were not his product. He said he provides twin patio homes and referred to examples of a previous project located at Teradyne Country Club which they believe are more stylistic, dynamic and interesting than what people may think of when they hear the word “duplex”. He reviewed exterior elevations of past products which he said sell for an average of between \$250,000-\$260,000 per side. He reviewed interior photographs which depicted quality products, materials and workmanship such as high ceilings, granite counter tops, hardwood floors and covered decks. He mentioned a previous project located in Valley Center called The Steppes at Valley Creek adjacent to Valley Creek Estates, which consists of single units of twin and tri-plex homes. He said stylistically he wants to give this neighborhood its own unique look with a prairie-style approach. He said they feel this location is a nice setting and would be a nice place to live. He concluded by saying that since they are going to put the streets in privately, they will have the option of gating the community. He referred to the plat of the area which includes a mixture of single units and twin homes totaling about fifty units in all.

**MICHELLE RICE, 1427 SOUTH SIERRA HILLS** said she lives on the backside of the farm pond. She said the pond is extremely shallow ranging from one to six feet in depth. She said they are concerned about the impact of the stormwater drainage into the pond. She mentioned traffic issues with development of a school at Pawnee and 127<sup>th</sup> in addition to the proposed fifty new dwellings. She said there was only one way out of the area from 127<sup>th</sup> to Harry Street unless you go down to Kellogg. She said you cannot get onto Kellogg from 127<sup>th</sup> Street if you are going west. She concluded by mentioning the pond becoming a mosquito trap and the traffic concerns.

**BOHM** said the drainage issues were worked out during the subdivision process with the preliminary and final plats being approved. He said they worked closely with both Stormwater staff and the adjacent developer who has control of the Reserve and the pond to the east of the site. He said they believe those issues have been adequately addressed. He said as far as traffic is concerned, there is not a lot of trip generation from the area. He said there are two entrances onto 127<sup>th</sup> Street and signalization at Harry and 127<sup>th</sup> Streets will occur when traffic counts warrant it.

**FOSTER** mentioned lowering the water level of the pond to only one foot to meet the needs of the development and asked the agent to address that issue.

**BOHM** said the plat requirement is not for stormwater detention because of the location's proximity to Four Mile Creek. He said the plat requires downstream channel protection volume which protects channel flow downstream during a storm event. He said they have revised their calculations on the pond to do a six inch drawdown which protects the channel volume. He said they will deal with the shallowness of the pond as they deal with any pond improvements.

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

**B. JOHNSON** moved, **WARREN** seconded the motion, and it carried (10-0-1).  
**KLAUSMEYER** – Abstained.

5. **Case No.: ZON2014-00013** - Wichita Airport Authority, c/o John Oswald, P.E. (owner) and Baughman Company, P.A. c/o Russ Ewy (agent) request a City zone change from SF-5 Single-family Residential and LC Limited Commercial to LI Limited Industrial on property described as:

That part of Lot 1, Block 1, Mid-Continent Airport 6th Addition, to Wichita, Sedgwick County, Kansas lying in Sections 5 and 8, Township 28 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas; TOGETHER WITH a tract in Northwest Quarter of Section 8, Township 28 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, described as: Beginning at the intersection of the East line of the Northwest Quarter of said Section 8 and the North line of State Highway K-42 as it exists on July 24, 1996; thence in a southwesterly direction along the said North line of State Highway K-42, a distance of 150.0 feet for a point of beginning; thence in a southwesterly direction along said North line of State Highway K-42, a distance of 100 feet; thence north parallel with the East line of the Northwest Quarter of said Section 8, a distance of 310 feet; thence in a northeasterly direction parallel with the said North line of State Highway K-42, a distance of 100 feet; thence south parallel with the East line of the Northwest Quarter of said Section 8, a distance of 310 feet to the point of beginning, except the south 30 feet for road; TOGETHER WITH the West Half of a tract in Northwest Quarter of Section 8, Township 28 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, described as: Beginning at the intersection of the East line of the Northwest Quarter of said Section 8 and the North line of State Highway K-42 as it exists on July 24, 1996; thence in a southwesterly direction along the said North line of State Highway K-42, a distance of 150.0 feet for a point of beginning; thence in a southwesterly direction along said North line of State Highway K-42, a distance of 200 feet; thence north parallel with the East line of the Northwest Quarter of said Section 8, a distance of 310 feet; thence in a northeasterly direction parallel with the said North line of State Highway K-42, a distance of 200 feet; thence south parallel with the East line of the Northwest Quarter of said Section 8, a distance of 310 feet to the point of beginning, except the south 30 feet for road; TOGETHER WITH A tract in the Northwest Quarter of Section 8, Township 28 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, described as: Beginning at the intersection of the east line of the Northwest Quarter of said Section 8 and the north line of State Highway K-42 as it exists on July 24, 1996; thence in a southwesterly direction along the said north line of State Highway K-42, a distance of 355.4 feet for a Point of Beginning; thence in a southwesterly direction along said north line of State Highway K-42, a distance of 110 feet; thence north parallel with the east line of the Northwest Quarter of said Section 8, a distance of 310 feet; thence in a northeasterly direction parallel with the said north line of State Highway K-42, a distance of 110 feet; thence

south parallel with the east line of the Northwest Quarter of said Section 8, a distance of 310 feet to the Point of Beginning, except the south 30 feet for road.

**BACKGROUND:** The 160-acre application area is currently zoned SF-5 Single-Family Residential (SF-5) with a small portion of LC Limited Commercial (LC) zoning, it is owned by the Wichita Airport Authority and is contiguous with the remainder of the LI Limited Industrial (LI) zoned airport property. The application area includes the far south end of the paved runway system, and is otherwise open space under the Airport Hazard Zone Area A with a 25-foot height restriction. The Airport Authority also owns all surrounding property, to include property south of K42, with the exception of one SF-5 zoned residence on the north side of K42 and surrounded by the application area. Under LI zoning, the Unified Zoning Code (UZC) would permit numerous uses not permitted under the current SF-5 zoning. However, the Airport Authority intends to continue the current use – open space surrounding the paved runway system. The majority of the site is platted; the three small parcels in the southwest corner of the application area are un-platted.

Property north of the site, across Tyler Road, is zoned SF-5 and is used for an open space park and Airport Authority owned open space. Property south of the site, across K42, is zoned SF-5 and is used as Airport Authority zoned open space. Property east and west of the site is zoned LI and is used as Airport Authority owned open space, with the exception of one SF-5 zoned .95-acre site developed with a single-family residence.

**CASE HISTORY:** The majority of the site was platted as Lot 1, Block 1 of the Mid Continent Airport 6<sup>th</sup> Addition in 2001; three parcels in the southwest corner of the site are un-platted.

**ADJACENT ZONING AND LAND USE:**

NORTH:	SF-5	Park, open space
SOUTH:	SF-5	K42, open space
EAST:	LI	Open space
WEST:	LI, SF-5	Open space, single-family residence

**PUBLIC SERVICES:** Tyler Road is a paved, two-lane arterial street at this location with a 180-foot right-of-way (ROW). K42 is a paved two lane highway at this location with additional turn lanes at the Tyler intersection, and a 150-foot ROW. All other public utilities are available.

**CONFORMANCE TO PLANS/POLICIES:** The *2030 Wichita Functional Land Use Guide* of the Comprehensive Plan identifies the site as “major utility/transportation.” The major utility/transportation category encompasses utility and transportation facilities and includes a range of such uses as airports, landing strips, landfills, waste transfer stations, water treatment and sanitary sewer plant facilities.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED** subject to platting the un-platted portion within one year.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** Property north of the site, across Tyler Road, is zoned SF-5 and is used for an open space park and Airport Authority owned open space. Property south of the site, across K42, is zoned SF-5 and is used as Airport

Authority zoned open space. Property east and west of the site is zoned LI and is used as Airport Authority owned open space, with the exception of one SF-5 zoned .95-acre site developed with a single-family residence.

- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned SF-5, is within the Airport Hazard Zone Area A, and is used as Airport Authority open space surrounding the paved runway system. The application area could not be developed with typical SF-5 uses.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Because use of the property will not change as a result of the requested zone change, the one residence bordering the application area will not be impacted by the requested zone change.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The *2030 Wichita Functional Land Use Guide* of the Comprehensive Plan identifies the site as “major utility/transportation.” The major utility/transportation category encompasses utility and transportation facilities and includes a range of such uses as airports, landing strips, landfills, waste transfer stations, water treatment and sanitary sewer plant facilities.
- (5) **Impact of the proposed development on community facilities:** The proposed zone change will not change the impact of this site on community facilities, and the use of this property will not change.

DALE MILLER, Planning Staff presented the Staff Report.

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

NEUGENT moved, MITCHELL seconded the motion, and it carried (11-0).

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6. **Case No.: ZON2014-00014 and CUP2014-00017** - Beech Lake Investment, LLC (Johnny Stevens) / MKEC (Brian Lindebak) City zone change from SF-5 Single family Residential and GO General Office to LC Limited Commercial and City CUP amendment to DP-282 to increase size of CUP, modify landscaping, screening, setback and signage on property described as:

All of Lot 1, Block 1, Foliage Center Addition, an addition to Wichita, Sedgwick County, Kansas, TOGETHER WITH, the south 43.00 feet of Lot 1, Block 1, Foliage Center Second Addition, an addition to Wichita, Sedgwick County, Kansas.

**BACKGROUND:** The applicant is requesting a number of amendments to the existing 7.13-acre LC Limited Commercial (LC) zoned Foliage Center Community Unit Plan (CUP) DP-282 located at the northwest corner of East 13<sup>th</sup> Street North and North Webb Road. The Foliage Center CUP permits all uses allowed by-right in the LC district except uses specified by General Provision 3 of DP-282, such as: adult entertainment, car wash, nightclub, tavern or drinking establishments. Building construction on the site began in the last few months is currently ongoing. The proposed amendments include:

- 1) Revised General Provision 1. Increase the overall area of DP-282 by adding 11,972.06 square feet to

Parcel 1, resulting in a total CUP area of 7.43 acres.

- 2) Rezone the previously noted 11,972.06 square feet proposed to be added to Parcel 1 from its current GO General Office (GO) zoning to the LC district.
- 3) Move north and reduce in area the existing 1.15-acre Parcel 2 to .345 acre or 15,060 square feet and add the residual square footage to Parcel 1 which will increase the size of Parcel 1 an additional 35,096 square feet for an adjusted total area of 7.086 acres when the square-footage from item 1 is also added to Parcel 1's total area.
- 4) Maximum coverage and gross floor area for Parcel 2 is 50 percent.
- 5) Revised General Provision 3.A. For Parcels 1 and 2 all uses permitted within the LC zoning district. Additionally restaurants serving liquor are allowed, provided that food is the primary service of the establishment, and also restaurants having outdoor seating are allowed within 200 feet of residential zoning by right (CUP Amendment #1) Article III, Sec. III-D.6.w.
- 6) Revised General Provision 6.A. Landscape street yards, buffers and parking lot landscaping and screening shall be in accordance with the City of Wichita Landscape Ordinance-, unless otherwise stated below.
- 7) Revised General Provision 6.B. A landscape plan shall be prepared b a Kansas licensed Landscape Architect for the above referenced landscaping, indicating the type, location, and specifications of all plant material. The plan shall be submitted to the Metropolitan Area Planning Department (MAPD) for its review and approval prior to issuance of any building permit(s). No landscaping shall be required adjacent to existing screen wall along the west boundary of Parcel 1. Berming and landscaping on top of the berm was installed by the CUP developer for the benefit and maintenance of the adjoining Homeowners Association as a condition of development. Staff recommends the additional language for General Provision 6.B to read: No landscaping shall be required adjacent to existing screen wall along the west boundary of Parcel 1 so long as there is code compliant screening and landscaping on the abutting property.
- 8) Revised General Provision 7.B. Trash receptacles, loading docks, outdoor storage and loading areas shall be appropriately screened to reasonably hide them from ground view, except, if not visible from public right-of-way. The screening material shall be consistent with materials and colors of the supported buildings. Trash enclosures shall be allowed within 20 feet of property line if not visible from public right-or-way and will not be closer than five feet from the westerly property line.
- 9) Revised General Provision 7.E. If the adjoining property north of Parcel 1 is zoned NO or greater no wall easement or masonry wall is required. Screening adjacent to existing SF-5 zoned property is to be provided by the existing concrete wall. No screening shall be required on or adjacent to Parcel 2 or along the north line of Parcel 1. No landscaping shall be required adjacent to existing screening wall per General Provision 6.B. Staff recommends: No landscaping shall be required adjacent to existing screening wall per General Provision 6.B so long as there is code compliant screening and landscaping on the abutting property.
- 10) Revised General Provision 8. Setbacks are as indicated on the C.U.P. drawing or as specified in Wichita-Sedgwick County Unified Zoning Code. If contiguous parcels are to be developed under the same ownership, setbacks between those parcels are not required. Parcel 2 has zero building setbacks, provided appropriate fire walls and /or separation are provided.
- 11) Revised General Provision 9.A. ~~Parcels 1 and 2 are subject to the requirements of the Sign Code for the City of Wichita for the LC zoning district except as noted herewith.~~ All parcels shall adhere to the requirements of the Sign Code for the City of Wichita for the LC zoning district, except as provided herewith:
- 12) Revised General Provision 9.B. No flashing, moving, portable, billboard, banner or pennant signs shall be permitted (except for signs showing time and temperature.)-, except one electronic message sign

shall be permitted along Webb Road.

13) ~~The existing CUP omitted 9.C. New General Provision 9.C is now the old 9.D. All signs along and adjacent to 13<sup>th</sup> and Webb streets shall be monument type signs with a maximum height of 20 feet. Seven monument signs are permitted: four along Webb Road and three along 13<sup>th</sup> Street. The sign areas shall be limited to a maximum of 150 square feet each along Webb Road and 145 square feet each along 13<sup>th</sup> Street.~~

14) ~~Revised General Provision 9.D. All signs along and adjacent to 13<sup>th</sup> and Webb streets shall be monument type signs with a maximum height of 20 feet. Seven monument signs are permitted: four along Webb Road and three along 13<sup>th</sup> Street. The sign areas shall be limited to a maximum of 150 square feet each along Webb Road and 145 square feet along 13<sup>th</sup> Street. Standalone development identification signs shall count against the above total allowed seven monument signs. Development identification signs may also have tenant signage.~~

15) ~~Revised General Provision 9.E. Three development signs will be permitted: two along Webb Road and one along 13<sup>th</sup> Street. Development signs may contain the development name only. They shall be limited to a maximum sign area of 100 square feet. The minimum distance between signs shall be 120 feet, except tenant use may be located a minimum of 50 feet when adjacent to a development identification only sign.~~

16) ~~Revised General Provision 9.F. Two business use or name identification signs shall be allowed on Parcel 1 and two on Parcel 2. Business use or name identification signs shall be limited to a maximum sign area of 150 square feet. These signs may be used for tenants within the CUP. Building signage shall be permitted with the CUP. Building signage shall be limited to 20 percent of the wall area with no single tenant sign exceeding 400 square feet in area, and there shall be no more than three signs for each tenant (business) on each building elevation. There shall be no building signage along the westerly facades of any buildings on Parcel 1 abutting the western boundary of the CUP.~~

17) ~~Revised General Provision 9.G. The minimum distance between signs shall be 150 feet, except business use or name identification may be located a minimum of 75 feet from an adjacent development sign. Accent lighting of monument signs shall be permitted.~~

18) ~~Revised General Provision 9.H. Building signage shall be permitted within the cup. Building signage shall be limited to 20 percent of the wall area with a maximum size of 150 square feet per elevation for 1 sign or may be divided into a maximum of 3 signs, 70 sq. feet per sign elevation. Window signage shall be limited to 25 percent of window area.~~

19) ~~Revised General Provision 9.I. Accent lighting of monument signs shall be permitted. Directional signs are permitted and shall not exceed 6 square feet in area each.~~

20) ~~Revised General Provision 9.J. Window signage shall be limited to 25 percent of window area. One temporary sign of 70 square feet that will have its message replaced three times during a 90 day time period is allowed. The 90 day time period shall begin running from the time the sign permit is issued.~~

21) ~~Revised General Provision 9.K. Directional signs not exceeding 6 square feet in area shall be permitted per Sign Code of the City of Wichita.~~

22) ~~Revised General Provision 10.D. Light poles including ground base shall be limited to 25 feet tall. Light poles shall be reduced to 14 feet when within 100 feet of residential zoning. Light poles including above ground base shall be limited to 28 feet and no light poles shall be within 100 feet of residential zoning.~~

23) ~~Revised General Provision 13.C. Access controls shall be as shown on the final plat and revised on the CUP. Access controls shall be per VAC2013-00008, or as amended.~~

The application area is located at the intersection of two arterial streets that carries between 14,700 and 20,700 average daily vehicle trips. Located immediately north of the application area is a GO zoned

bank that is not part of the application area or the DP-282. North of the bank is the easternmost edge of SF-5 Single-family Residential (SF-5) zoned The Foliage neighborhood. East of the site, across North Webb Road is a lake associated with the LI zoned Waterfront commercial center. Southeast of the site is LI zoned land that was once a corporate private park and recreation area but is now privately owned. South of the site property is zoned GO and LC and is either developed with an office building or is undeveloped. Land to the west is developed with The Foliage single-family residential neighborhood. A significant berm and landscaping buffer is located along The Foliage's east property line.

**CASE HISTORY:** The City Council approved CUP 2005-00009 and ZON2005-00006 on May 3, 2005, which created the Foliage Center Addition CUP DP-282. The Foliage Center Addition was recorded in January 2009. On June 9, 2008, administrative adjustment CUP2008-00020 was approved which permits building height to 40 feet and the height of unoccupied architectural elements up to 55 feet. On April 28, 2014, administrative adjustment CUP2014-00010 was approved; this administrative adjustment permitted a 28-foot maximum pole height for lighting and prohibited the placement of light poles within 100 feet of residential zoning. On November 4, 2013, administrative adjustment CUP2013-00039 was approved, which permitted: a main entry sign of up to 149.5 square feet plus the "Whole Foods Market" sign; temporary sign of 64 square feet that will have its message replaced three times during an 86 day time period and five blade signs, 16.84 square feet each or a total of 84.2 square feet.

**ADJACENT ZONING AND LAND USE:**

North: GO; bank  
South: GO and LC; office and undeveloped  
East: LI; retail, banking and office center  
West: SF-5; single-family residences

**PUBLIC SERVICES:** The site is served by all normally supplied public and private services and utilities. At the subject site Webb Road and 13<sup>th</sup> Street have 75 feet of right-of-way at the intersection tapering to 60 feet and are four-lane arterials with left turn lanes. The Webb Road-13<sup>th</sup> Street intersection carries between 14,700 and 20,700 average daily trips.

**CONFORMANCE TO PLANS/POLICIES:** The May 2005 "Wichita Land Use Guide" map identifies a majority of the site as appropriate for low density residential; a smaller portion is recommended for commercial development. However, with City Council approval of CUP2005-00009 and ZON2005-00006 that expanded LC zoning, subject to CUP DP-282, the entire application area is appropriate for commercial development.

**RECOMMENDATION:** Based upon the information available at the time the staff report was prepared, staff recommends approval of the request subject to the following conditions (only those provisions listed below are amended, all other provisions remain unchanged):

- 1) Revised General Provision 1. Area: The total development area contains 7.43 acres of land more or less.
- 2) Revised General Provision 2. Parcel 1 Gross Area = 7.086 acres or 308,677 square feet. Setbacks – 35 feet except on the north end of Parcel 1 and where adjacent to Parcel 2 which shall be zero. Parcel 2 Gross Area = 0.345 acre or 15,060 square feet. Maximum Gross Floor Area = 50%. Maximum Gross Floor Area = 50%.

- 2) Revised General Provision 3.A. ALLOWABLE USES: For Parcels 1 and 2 all uses permitted within the LC Zoning District. Additionally, restaurants serving liquor are allowed, provided that food is the primary service of the establishment, and restaurants having outdoor seating are allowed within 200 feet of residential zoning per Article III, Section III-D.6.w.
- 3) Revised General Provision 6.B. No landscaping shall be required adjacent to existing screen wall along the westerly boundary of Parcel 1 so long as there is code compliant screening and landscaping on the abutting property.
- 4) Revised General Provision 7.B. Trash receptacles, loading docks, outdoor storage and loading areas shall be appropriately screened to reasonably hide them from ground view, except, if not visible from public right-of-way. The screening material shall be consistent with materials and colors of the supported buildings. Trash enclosures shall be allowed within 20 feet of property line if not visible from public right-of-way and will not be closer than five feet from the westerly property line.
- 5) Revised General Provision 7.E. Screening adjacent to existing SF-5 zoned property to be provided by existing concrete wall. No screening shall be required on or adjacent to existing screen wall so long as there is code compliant screening and landscaping on the abutting property (see G.P. 6.B).
- 6) Revised General Provision 8. Setbacks are as indicated on the CUP drawing or as specified in the Wichita-Sedgwick County Unified Zoning Code. If contiguous Parcels are to be developed under the same ownership, setbacks between those Parcels are not required. Along the northern boundary of Parcel 1 and Parcel 2 have zero building setbacks, provided appropriate fire walls and/or building separation is provided (see G.P. 2).
- 7) Revised General Provision 9. Signs. As permitted under the Sign Code of the City of Wichita, except as provided herewith.
- 8) Revised General Provision 9.A. All parcels shall adhere to the requirements of the Sign Code for the City of Wichita for the LC zoning district, except as provided herewith:
- 9) Revised General Provision 9.B. No flashing, moving, portable, billboard, banner or pennant signs shall be permitted (except for signs showing time and temperature), except one electronic message sign shall be permitted along Webb Road.
- 10) New General Provision 9.C. All signs along and adjacent to 13<sup>th</sup> and Webb streets shall be monument type signs with a maximum height of 20 feet.
- 11) New General Provision 9.D. Seven monument signs are permitted: four along Webb Road and three along 13<sup>th</sup> Street. The sign areas shall be limited to a maximum of 150 square feet each along Webb Road and 145 square feet each along 13<sup>th</sup> Street. Standalone development identification signs shall count against the above total allowed seven monument signs. Development identification signs may also have tenant signage.
- 12) Revised General Provision 9.E. The minimum distance between signs shall be 120 feet, except tenant use may be located a minimum of 50 feet when adjacent to a development identification only sign.
- 13) Revised General Provision 9.F. Building signage shall be permitted with the CUP. Building signage shall be limited to 20 percent of the wall area with no single tenant sign exceeding 400 square feet in area, and there shall be no more than three signs for each tenant (business) on each building elevation. There shall be no building signage along the westerly facades of any buildings on Parcel 1 abutting the western boundary of the CUP.
- 14) Revised General Provision 9.G. Accent lighting of monument signs shall be permitted.
- 15) Revised General Provision 9.H. Window signage shall be limited to 25 percent of window area.
- 16) Revised General Provision 9.I. Directional signs are permitted and shall not exceed 6 square feet in area each.
- 17) Revised General Provision 9.J. One temporary sign of 70 square feet that will have its message

replaced three times during a 90 day time period is allowed. The 90 day time period shall begin running from the time the sign permit is issued.

18) Revised General Provision 10.D. Light poles including above ground base shall be limited to 28 feet and no light poles shall be within 100 feet of residential zoning.

20) Revised General Provision 10.D. Light poles including above ground base shall be limited to 28 feet and no light poles shall be within 100 feet of residential zoning.

21) Revised General Provision 13.C. Access controls shall be per VAC2013-00008, or as amended.

22) Rezone the previously noted 11,972.06 square feet proposed to be added to Parcel 1 from its current GO General Office (GO) zoning to the LC district.

23) Move north and reduce in area the existing 1.15-acre Parcel 2 to .345 acre or 15,060 square feet and add the residual square footage to Parcel 1 which will increase the size of Parcel 1 an additional 35,096 square feet for an adjusted total area of 7.086 acres.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The application area is located at the intersection of two arterial streets that carries between 14,700 and 20,700 average daily vehicle trips. Located immediately north of the application area is a GO zoned bank that is not part of the application area or the DP-282. North of the bank is the easternmost edge of SF-5 Single-family Residential (SF-5) zoned The Foliage neighborhood. East of the site, across North Webb Road is a lake associated with the LI zoned Waterfront commercial center. Southeast of the site is LI zoned land that was once a corporate private park and recreation area but is now privately owned. South of the site property is zoned GO and LC and is either developed with an office building or is undeveloped. Land to the west is developed with The Foliage single-family residential neighborhood. A significant berm and landscaping buffer is located along The Foliage's east property line.
2. The suitability of the subject property for the uses to which it has been restricted: The land located within the original CUP is currently zoned LC subject to the development standards contained in CUP DP-282. The site could be developed and used as currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed zone change from GO to LC on .3 of an acre; increasing the size of the CUP by .3 of an acre and the other requested changes do not significantly increase the intensity of development already permitted on the site and are consistent with the development standards initially approved. The recommended conditions of approval minimize detrimental impacts to nearby properties.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Presumably denial would represent a loss of economic opportunity to the property owner. If approved, the CUP becomes flexible and potentially provides more choice to potential customers located in the neighborhoods in the general area.
5. Length of time the property has been vacant as currently zoned. Construction has begun on the site.

6. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The May 2005 “Wichita Land Use Guide” map identifies a majority of the site as appropriate for low density residential; a smaller portion is recommended for commercial development. However, with City Council approval of CUP2005-00009 and ZON2005-00006 that expanded LC zoning, subject to CUP DP-282, the entire application area is appropriate for commercial development.
7. Impact of the proposed development on community facilities: Existing or planned facilities are adequate to serve programmed or anticipated demand.

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

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

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

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**CHAIR KLAUSMEYER** back in the Chair.

7. **Case No.: CON2014-00022** – M&M Land Co., LLC, c/o Marsha Meyersick – MWM Oil Co., c/o Benjamin M. Giles request a County Conditional Use to permit oil drilling on RR Rural Residential zoned property on property described as:

The East half of the Southwest Quarter EXCEPT beginning at the Southwest corner of the Southeast Quarter of the Southwest Quarter; thence North to the North line of the Southwest Quarter; thence East 600 feet; thence South 935 feet; thence West 560 feet; thence South 1,770 feet; thence West to the point of beginning and EXCEPT that part deeded to the state for highway, all in Section 11, Township 26, Range 2 East, Sedgwick County, Kansas.

**BACKGROUND:** The applicant, MWM Oil Company, has requested a Conditional Use for “oil and gas drilling,” specifically drilling for a new oil well on a leased 6-acre RR Rural Residential (“RR”) zoned unplatted tract; Wichita-Sedgwick County Unified Zoning Code (“UZC”) Article III, Section III-D.3. The new oil well on the subject site has been completed. However when the applicant applied for an electrical permit for the well through the Wichita-Sedgwick County Metropolitan Area Building and Construction Department (MABCD) the permit was denied. The applicant was directed by the MABCD and Sedgwick County Law to apply for a Conditional Use to come into compliance with the UZC. Besides the new well on the lease site (subject site), the applicant is proposing a wash down of three old, existing well to increase or restore production of this existing well. County Law has determined that the proposed wash down of the old, existing well has nonconforming use rights in that it does not increase the number of wells that have operated in the past at the subject site.

The rural Sedgwick County subject site is located on the north side of Kansas Highway 254-61<sup>st</sup> Street North (K-254) and a quarter-mile east of 127<sup>th</sup> Street East. The applicant also has another Conditional Use, CON2014-00023, for oil drilling on today’s agenda. The 2.5-acre RR zoned CON2014-00023 is located approximately 220-250 feet west of the subject site. Both sites are accessed by a sand and gravel frontage road off of 127<sup>th</sup> Street East.

The applicant has provided a copy of a Kansas Geological Survey map of the area around the

intersection of K-254 and 127th Street East, which references (but is not limited to) active oil wells and plugged and abandoned wells. This map can be found at; <http://maps.kgs.ku.edu/oilgas/index.cfm>.

The RR zoned subject site is surrounded by RR zoned lands being used for agriculture, active oil wells or plugged and abandoned oil wells. Staff found no Conditional Uses for oil or gas drilling in this area. Both types of wells may have associated accessory structures and equipment, including but not limited to; oil storage tanks, water and oil separators, pumping unit, a water tank at the disposal well, and electric generators, until the electricity is run. There are very few single-family residences located in this area, with the nearest one located over a half-mile northeast of the subject site. Besides the new oil well the subject site appears to have two plugged and abandoned oil wells located on it. The subject site's property owner, M & M Land Co., LLC, owns the abutting west and north agricultural land. These abutting lands also have plugged and abandoned oil wells located on them. As noted the applicant's other oil well site (CON2014-00023) is located approximately 220-250 west of the subject site, as is more agricultural land. South of the site, across K-254, there is agricultural land, active oil wells, plugged and abandoned wells, (both with accessory structures and equipment) and a water well. West of the site, across 127<sup>th</sup> Street East, is agricultural land and plugged and abandoned oil wells with accessory structures and equipment.

The Kansas Geological Survey map shows the site to be located over the oil holding formation, the Greenwich Pool. The Greenwich Pool was first discovered around 1929-1930 and oil drilling and production began at that time. The applicant's new well was produced using normal rotary drilling, using drilling mud to remove cuttings. There has not been any fracing done to the applicant's existing wells or to any of the old wells on either of the applicant's sites. The applicant does not propose, at this time, to do any fracing to either of the existing wells or any future wells. Operation of the site includes a "pumper" who will check the wells each day. The pumper will be the only person on the applicant's sites on a daily basis. If a well breaks down a pulling unit with a crew of three, with the applicant's foreman there to supervise, would be there to repair it. The oil will be hauled off site by Maclaskey Oilfield Services with a semi-truck holding approximately 160 barrels of oil per load. The frequency will depend on how much the oil the site produces, but probably not more than 2 or 3 times per month. The pits used for drilling have been inspected and filled in accordance with Kansas Corporation Commission regulations. There was an emergency pit dug at the disposal well site in 1946; this pit still remains. There are no new pits proposed.

Existing equipment on the subject site includes: oil storage tanks, water and oil separators, pumping unit, a water tank at the disposal well, electric generators (until the electricity is run). These are all common oil production equipment. If additional wells are drilled or washed down, normal drilling equipment would be moved in temporarily to drill/wash down the well. This would include: drilling rig and platform, fuel and water storage tanks, engine houses, electric generators, pipe stands and racks, and other drilling and well servicing equipment. Any well washed down or drilled would probably take less than 30 days to complete. There is a disposal well already located on the property that will be used. It was originally drilled in the 1930's and converted to a disposal well in 1946 in accordance with Kansas Corporation Commission regulations at that time. It was recently updated and repaired it in accordance with Kansas Corporation Commission regulations and the applicant had the permit transferred to him. The applicant is disposing into the Granite Wash formation which is below the Arbuckle formation. The bottom producing zone in this area is the Arbuckle. The applicant is not and does not propose producing this zone. The subject site will either produce from the Mississippi formation or the Hunton/Viola formation. Both zones are located above the Arbuckle formation.

The east third of the subject site is located in a FEMA Flood Zone. Oil drilling and production on the subject site will be required to meet FEMA standards.

**CASE HISTORY:** The property was zoned RR when the County adopted county-wide zoning in 1985. Oil drilling on the subject site may have begun in 1930-1932. A Conditional Use, CON2005-00043, for a wireless communication facility with a 195-foot tall tower was approved on the subject site, but was never built.

**ADJACENT ZONING AND LAND USE:**

NORTH: RR Agriculture land, plugged and abandoned oil wells, oil wells  
SOUTH: RR Agriculture land, plugged and abandoned oil wells, oil wells  
EAST: RR Agriculture land, plugged and abandoned oil wells, oil wells, single-family residence  
WEST: RR Agriculture land, plugged and abandoned oil wells, oil well

**PUBLIC SERVICES:** K-254 (61<sup>st</sup> Street North) is a four-lane Kansas State Highway, with a wide grassy median separating the east-west lanes. 127<sup>th</sup> Street East is a two-lane unpaved Lincoln Township section-line road on the north side of K-254. The sand and gravel frontage road that connects the site to 127<sup>th</sup> is located approximately 270 feet north of K-254. The subject site is located within the service area of Sedgwick County Rural Water District No. 1. There is no public sewer service available to the subject site. Other utilities, such as electricity are or may be available to the subject site.

**CONFORMANCE TO PLANS/POLICIES:** The “Wichita-Sedgwick County Unified Zoning Code” requires Conditional Use approval for “oil and gas drilling”; UZC Article III, Section III-D.3. The “2013 Wichita and Small Cities Urban Growth Areas Map” categorizes the site and the area around it as “rural.” The rural functional land use category includes land outside the 2030 urban growth areas for Wichita and the small cities, and is intended to accommodate agricultural uses and rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County, and predominately larger lot residential exurban subdivisions. Oil and gas drilling are activities that have occurred in rural Sedgwick County prior to County zoning in 1985 and prior to the 1996 UZC. Staff found no Conditional Uses for oil or gas drilling in this area.

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

- A. The Conditional Use permits “oil and gas drilling” that is developed and operated in substantial compliance with the approved site plan and any associated documents, licenses or permits detailing drilling and completion activities used to obtain Conditional Use approval. Approval does not limit new oil drilling/well sites on the subject property to the one currently under consideration.
- B. Provide a revised site plan showing the new oil well/drilling site, the oil production equipment and the plugged and abandoned oil drilling sites. This site plan may be revised with adjustments that show new drilling activity.
- C. Any new oil wells, disposal wells, oil storage tanks, water and oil separators, pumping units, a water tank at the disposal well, electric generators or other oil production equipment located on

the site after the final approval by the MAPC or the governing body must conform to the setbacks per the Unified Zoning Code.

- D. The applicant shall obtain all applicable permits, licenses and/or inspections from Sedgwick County, the State of Kansas or the federal government, including but not limited to, the Wichita-Sedgwick County Metropolitan Area Building and Construction Department, Sedgwick County Environmental Resources, Sedgwick County Fire Department, Sedgwick County Public Works (including, but not limited to any required drainage plans), the Kansas Department of Health and Environment and the Kansas Corporation Commission. Prior to moving equipment into Sedgwick County, the applicant shall obtain any applicable permits required to move or transport oversized equipment on Sedgwick County public right-of-way.
- E. If the Zoning Administrator finds that there is a violation of any of the provisions or conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The RR zoned subject site is surrounded by RR zoned lands being used for agriculture, active oil wells or plugged and abandoned oil drilling sites and their associated accessory structures and equipment. There are very few single-family residence located in this area, with the nearest one located a half-mile northeast of the subject site.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned RR, which permits agricultural activities, larger lot residential uses and a limited set of nonresidential uses by right. A Kansas Geological Survey map shows the subject site to be located over the Greenwich Pool, an oil holding formation that was discovered 1929-1930. Oil production from the Greenwich Pool has continued to the present. The subject site/area has been used for oil well drilling and production prior to County zoning in 1985 and prior to the 1996 UZC. The current UZC permits consideration for approval of gas and oil drilling through the Conditional Use process in the RR zoning district.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The subject site and the area around it are located over the Greenwich Pool, an established oil producing formation. The Greenwich Pool was discovered 1929-1930 and has been an active oil producing site since then. The area is also actively used for agricultural. The proposed oil well is not out of character with the area.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval would bring the site into compliance with the UZC and provide the public with additional oil reserves. Denial would presumably be an economic loss to the mineral rights owners.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “Wichita-Sedgwick County Unified Zoning Code” requires Conditional Use approval for “oil and gas drilling”; UZC Article III, Section III-D.3. The “2013 Wichita and Small Cities Urban Growth Areas Map” categorizes the site and the area around it as “rural.”

The rural functional land use category includes land outside the 2030 urban growth areas for Wichita and the small cities, and is intended to accommodate rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County, and predominately larger lot residential exurban subdivisions. Oil and gas drilling are activities that have occurred in rural Sedgwick County prior to County zoning in 1985 and prior to the 1996 UZC.

6. Impact of the proposed development on community facilities: The conditions of approval of this Conditional Use and other regulations should minimize impacts on community facilities.

**BILL LONGNECKER**, Planning Staff presented the Staff Report.

**LONGNECKER** clarified the conditions of approval on Item #7 CON2014-00022 and Item #8 CON2014-00023 referring to page two of the Staff Report under Background where it was noted that there are existing wells at the site. He said they would like to amend Condition A of both Staff Repots to add that any wash down of existing wells on the site that have been plugged and/or abandoned, does not constitute a new well.

**DENNIS** referenced previous discussions concerning oil drilling in Wichita and asked about the ten acre requirement.

**LONGNECKER** stated that an Oil and Drilling Map had to be amended for approval of the City drilling application; however, he did not believe that was a requirement in the County.

**DIRECTOR SCHLEGEL** clarified that the ten acres referred to the area below the drill site and that the applicant will need to secure mineral rights from surrounding property owners.

**FOSTER** asked staff to confirm that the wells were drilled and finished and whether they were currently producing oil.

**LONGNECKER** said he would let the applicant or agent answer that question.

**JOESEPH A. SCHREMMER, ATTORNEY AND AGENT FOR THE APPLICANT, 546 NORTH MISSION ROAD, WICHITA** said both wells have been drilled and completed but are not producing pending approval of the conditional use requests and electrical permits. He said spacing and distance requirements are regulated by the Kansas Corporation Commission (KCC) at the State level. He said the applicant has satisfied any KCC requirements.

**FOSTER** asked staff if there were any requirements that the City of Kechi comment on the case.

**LONGNECKER** replied that the location was outside the small city Zoning Area of Influence.

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

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

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8. **Case No.: CON2014-00023** - Kyle L. Erdwein – Kermit L. & Nancy N. Erdwein – MWM Oil Co., c/o Benjamin M. Giles request a County Conditional Use to permit oil drilling on RR Rural Residential zoned property on property described as:

The West half of the Southwest Quarter EXCEPT the road on the West and EXCEPT 3.95 acres more or less deeded to the state for highway, all in Section 11, Township 26, Range 2 East, Sedgwick County, Kansas.

**BACKGROUND:** The applicant, MWM Oil Company, has requested a Conditional Use for “oil and gas drilling,” specifically drilling for a new oil well on a leased 2.5-acre RR Rural Residential (“RR”) zoned unplatted tract; Wichita-Sedgwick County Unified Zoning Code (“UZC”) Article III, Section III-D.3. The new oil well on the subject site has been completed. However, when the applicant applied for an electrical permit for the well through the Wichita-Sedgwick County Metropolitan Area Building and Construction Department (MABCD) the permit was denied. The applicant was directed by the MABCD and Sedgwick County Law to apply for a Conditional Use to come into compliance with the UZC. Besides the new well on the lease site (subject site), the applicant is proposing a wash down of an old, existing well to increase or restore production of this existing well. County Law has determined that the proposed wash down of the old, existing well has nonconforming use rights in that it does not increase the number of wells that have operated in the past at the subject site.

The rural Sedgwick County subject site is located on the north side of Kansas Highway 254-61<sup>st</sup> Street North (K-254) and less than a quarter-mile east of 127<sup>th</sup> Street East. The applicant also has another Conditional Use, CON2014-00022, for oil drilling on today’s agenda. The 6-acre RR zoned CON2014-00022 is located approximately 220-250 feet east of the subject site. Both sites are accessed by a sand and gravel frontage road off of 127<sup>th</sup> Street East.

The applicant has provided a copy of a Kansas Geological Survey map of the area around the intersection of K-254 and 127th Street East, which references (but is not limited to) active oil wells and plugged and abandoned wells. This map can be found at; <http://maps.kgs.ku.edu/oilgas/index.cfm>.

The RR zoned subject site is surrounded by RR zoned lands being used for agriculture, active oil wells or plugged and abandoned oil wells. Staff found no Conditional Uses for oil or gas drilling in this area. Both types of wells may have associated accessory structures and equipment, including but not limited to; oil storage tanks, water and oil separators, pumping unit, a water tank at the disposal well, and electric generators, until the electricity is run. There are very few single-family residences located in this area, with the nearest one located approximately a half-mile west of the subject site. Besides the new oil well the subject site appears to have two plugged and abandoned oil wells located on it. The subject site’s property owner, Kyle L. Erdwein, owns the abutting east, west and north agricultural land. These abutting lands also have plugged and abandoned oil wells and a possibly an active oil well located on them. As noted the applicant’s other oil well site (CON2014-00022) is located approximately 220-250 east of the subject site, as is more agricultural land. South of the site, across K-254, there is agricultural land, active oil wells, plugged and abandoned wells, (both with accessory structures and equipment) and a water well. West of the site, across 127<sup>th</sup> Street East, is agricultural land and plugged and abandoned oil wells with accessory structures and equipment.

The Kansas Geological Survey map shows the site to be located over the oil holding formation, the Greenwich Pool. The Greenwich Pool was first discovered around 1929-1930 and oil drilling and

production began at that time. The applicant's new well was produced using normal rotary drilling, using drilling mud to remove cuttings. There has not been any fracing done to the applicant's existing wells or to any of the old wells on either of the applicant's sites. The applicant does not propose, at this time, to do any fracing to either of the existing wells or any future wells. Operation of the site includes a "pumper" who will check the wells each day. The pumper will be the only person on the applicant's sites on a daily basis. If a well breaks down a pulling unit with a crew of three, with the applicant's foreman there to supervise, would be there to repair it. The oil will be hauled off site by Maclaskey Oilfield Services with a semi-truck holding approximately 160 barrels of oil per load. The frequency will depend on how much the oil the site produces, but probably not more than 2 or 3 times per month. The pits used for drilling have been inspected and filled in accordance with Kansas Corporation Commission regulations. There was an emergency pit dug at the disposal well site in 1946; this pit still remains. There are no new pits proposed.

Existing equipment on the subject site includes: oil storage tanks, water and oil separators, pumping unit, a water tank at the disposal well, electric generators (until the electricity is run). These are all common oil production equipment. If additional wells are drilled or washed down, normal drilling equipment would be moved in temporarily to drill/wash down the well. This would include: drilling rig and platform, fuel and water storage tanks, engine houses, electric generators, pipe stands and racks, and other drilling and well servicing equipment. Any well washed down or drilled would probably take less than 30 days to complete. There is a disposal well already located on the property that will be used. It was originally drilled in the 1930's and converted to a disposal well in 1946 in accordance with Kansas Corporation Commission regulations at that time. It was recently updated and repaired it in accordance with Kansas Corporation Commission regulations and the applicant had the permit transferred to him. The applicant is disposing into the Granite Wash formation which is below the Arbuckle formation. The bottom producing zone in this area is the Arbuckle. The applicant is not and does not propose producing this zone. The subject site will either produce from the Mississippi formation or the Hunton/Viola formation. Both zones are located above the Arbuckle formation.

**CASE HISTORY:** The property was zoned RR when the County adopted county-wide zoning in 1985. Oil drilling on the subject site may have begun in 1930-1932.

**ADJACENT ZONING AND LAND USE:**

NORTH: RR Agriculture land, plugged and abandoned wells, oil well  
SOUTH: RR Agriculture land, plugged and abandoned oil wells, oil wells  
EAST: RR Agriculture land, plugged and abandoned wells, oil wells  
WEST: RR Agriculture land, plugged and abandoned wells, oil wells, single-family residence

**PUBLIC SERVICES:** K-254 (61<sup>st</sup> Street North) is a four-lane Kansas State Highway, with a wide grassy median separating the east-west lanes. 127<sup>th</sup> Street East is a two-lane unpaved Lincoln Township section-line road on the north side of K-254. The sand and gravel frontage road that connects the subject site to 127<sup>th</sup> is located approximately 270 feet north of K-254. The subject site is located within the service area of Sedgwick County Rural Water District No. 1. There is no public sewer service available to the subject site. Other utilities, such as electricity are or may be available to the subject site.

**CONFORMANCE TO PLANS/POLICIES:** The "Wichita-Sedgwick County Unified Zoning Code"

requires Conditional Use approval for “oil and gas drilling”; UZC Article III, Section III-D.3. The “2013 Wichita and Small Cities Urban Growth Areas Map” categorizes the site and the area around it as “rural.” The rural functional land use category includes land outside the 2030 urban growth areas for Wichita and the small cities, and is intended to accommodate agricultural uses and rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County, and predominately larger lot residential exurban subdivisions. Oil and gas drilling are activities that have occurred in rural Sedgwick County prior to County zoning in 1985 and prior to the 1996 UZC. Staff found no Conditional Uses for oil or gas drilling in this area.

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

- A. The Conditional Use permits “oil and gas drilling” that is developed and operated in substantial compliance with the approved site plan and any associated documents, licenses or permits detailing drilling and completion activities used to obtain Conditional Use approval. Approval does not limit new oil drilling/well sites on the subject property to the one currently under consideration.
- B. Provide a revised site plan showing the new oil well/drilling site, the oil production equipment and the plugged and abandoned oil drilling sites. This site plan may be revised with adjustments that show new drilling activity.
- C. Any new oil wells, disposal wells, oil storage tanks, water and oil separators, pumping units, a water tank at the disposal well, electric generators or other oil production equipment located on the site after the final approval by the MAPC or the governing body must conform to the setbacks per the Unified Zoning Code.
- D. The applicant shall obtain all applicable permits, licenses and/or inspections from Sedgwick County, the State of Kansas or the federal government, including but not limited to, the Wichita-Sedgwick County Metropolitan Area Building and Construction Department, Sedgwick County Environmental Resources, Sedgwick County Fire Department, Sedgwick County Public Works (including, but not limited to any required drainage plans), the Kansas Department of Health and Environment and the Kansas Corporation Commission. Prior to moving equipment into Sedgwick County, the applicant shall obtain any applicable permits required to move or transport oversized equipment on Sedgwick County public right-of-way.
- E. If the Zoning Administrator finds that there is a violation of any of the provisions or conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The RR zoned subject site is surrounded by RR zoned lands being used for agriculture, active oil wells or plugged and abandoned oil wells and their associated accessory structures and equipment. There are very few single-family residence located in this area, with the nearest one located less than a half-mile west of the subject site.
2. The suitability of the subject property for the uses to which it has been restricted: The subject site is zoned RR, which permits agricultural activities, larger lot residential uses and a limited set

of nonresidential uses by right. A Kansas Geological Survey map shows the subject site to be located over the Greenwich Pool, an oil holding formation that was discovered 1929-1930. Oil production from the Greenwich Pool has continued to the present. The subject site/area has been used for oil well drilling and production prior to County zoning in 1985 and prior to the 1996 UZC. The current UZC permits consideration for approval of gas and oil drilling through the Conditional Use process in the RR zoning district.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The subject site and the area around it are located over the Greenwich Pool, an established oil producing formation. The Greenwich Pool was discovered 1929-1930 and has been an active oil producing site since then. The area is also actively used for agricultural. The proposed oil well is not out of character with the area.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval would bring the site into compliance with the UZC and provide the public with additional oil reserves. Denial would presumably be an economic loss to the mineral rights owners.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “Wichita-Sedgwick County Unified Zoning Code” requires Conditional Use approval for “oil and gas drilling”; UZC Article III, Section III-D.3. The “2013 Wichita and Small Cities Urban Growth Areas Map” categorizes the site and the area around it as “rural.” The rural functional land use category includes land outside the 2030 urban growth areas for Wichita and the small cities, and is intended to accommodate rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County, and predominately larger lot residential exurban subdivisions. Oil and gas drilling are activities that have occurred in rural Sedgwick County prior to County zoning in 1985 and prior to the 1996 UZC.
6. Impact of the proposed development on community facilities: The conditions of approval of this Conditional Use and other regulations should minimize impacts on community facilities.

**BILL LONGNECKER**, Planning Staff presented the Staff Report.

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

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

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**CHAIR KLAUSMEYER** announced that a volunteer is needed for the Comprehensive Plan Committee. He said the Committee has two meetings per month from 4:00 – 6:00 p.m. He said the next meeting is August 6.

**COMMISSIONER RAMSEY** volunteered to be a member of the Comprehensive Plan Committee.  
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The Metropolitan Area Planning Commission adjourned at 2:08 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)