

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

Minutes

August 7, 2014

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, August 7, 2014 at 1:30 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Don Klausmeyer, Chair; Matt Goolsby; Vice Chair; David Dennis; David Foster; Joe Johnson; George Sherman; Debra Miller Stevens; John McKay Jr.; M.S. Mitchell; Carol Neugent; Bill Ramsey and Chuck Warren. Bill Johnson and Don 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 July 24, 2014 MAPC meeting minutes.

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

DENNIS moved, **MCKAY** seconded the motion, and it carried (10-0-2).
J. JOHNSON and **G. SHERMAN** - Abstained.

-
2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**
2-1. **Item 2-1 - SUB2014-00027: One-Step Final Plat – COSTCO WHOLESALE**
ADDITION, located on the northeast corner of Kellogg and Webb Road.

NOTE: This site is located in the County adjoining Wichita's boundary and annexation is required.

STAFF COMMENTS:

- A. As this site is adjacent to Wichita's municipal boundaries, the applicant shall submit a request for annexation. The final plat shall not be scheduled for City Council review until annexation has occurred.
- B. City of Wichita Public Works and Utilities Department advises that water and sewer services are available to serve the site.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. City Stormwater Management has approved the drainage plan subject to the detention pond being constructed within a drainage reserve.
- E. Provisions shall be made for ownership and maintenance of the proposed drainage reserves. A restrictive covenant shall be submitted regarding ownership and maintenance responsibilities. 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.

- F. The plat proposes two access openings along Webb Road and two openings along Kellogg, including one contingent opening. Traffic Engineering has approved the access controls.
- G. County Surveying requests the final plat prior to submittal of the mylar. Send pdf to probello@sedgwick.gov.
- H. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- I. 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.)
- J. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- K. 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.
- L. 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.
- M. 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.
- N. Perimeter closure computations shall be submitted with the final plat tracing.
- O. Westar Energy had requested a 15-foot utility easement along the entire south line of the plat to accommodate lines along Kellogg which have been denoted on the plat. The applicant has also included 10-foot and 20-foot utility easements along the north and east lines of the plat for power to be installed to serve Costco. LaDonna Vanderford is the Construction Service Representative and can be reached at 261-6490. Any removal or relocation of existing equipment made necessary by this plat will be at the applicant's expense.

- P. 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).
- Q. The Sidewalk Ordinance requires a sidewalk along the street frontage for any lots used for commercial purposes abutting a non-arterial street. Staff classifies Kellogg Drive as an arterial for purposes of the Sidewalk Ordinance.

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

J. JOHNSON moved, **NEUGENT** seconded the motion, and it carried (12-0).

- 2-2. **Item 2-2 - SUB2014-00028: One-Step Final Plat – LIFE CHURCH ADDITION,**
located on the southeast corner of Central and 127th Street East.

NOTE: The site has been approved for a zone change (ZON2008-00021) from SF-5 Single-family Residential to LC Limited Commercial. This site is also contained within Parcels 8 and 9 of the Parker Addition Community Unit Plan (CUP2008-00015, DP-313).

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that water service is available to serve the site. Sanitary sewer (lateral) needs to be extended to serve all lots. Transmission and distribution in-lieu-of-assessment fees are due.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Management requests the final tracing submitted prior to City Council include a minimum pad elevation, drainage reserve, and drainage easement (Lot 2).
- D. The plat's text references utility easements and drainage and utility easements which are not denoted on the face of the plat.
- E. In accordance with the CUP, guarantees are required for left-turn lanes and right turn/decel lanes to all full movement approaches.
- F. The plat proposes four openings along 127th Street East and complete access control along Central. Traffic Engineering has permitted the two northernmost openings which shall be defined in alignment with openings to the west in 127th Retail Addition. The two southernmost openings need to be located a minimum of 200 feet apart from adjoining openings. Dimensions are needed along all segments of access control. An approval letter from KDOT is needed for the opening along K-96 Highway.

- G. Traffic Engineering requests an additional 25-foot x 25-foot corner clip at the intersection in accordance with Access Management Regulations. The plat's text shall note the dedication of the streets to and for the use of the public.
- H. The Applicant needs to request a CUP adjustment as access controls and the CUP building setbacks need to coincide with the plat.
- I. 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.
- J. GIS has requested abbreviations for the street types and directionals.
- K. The spelling should be corrected of the pipeline note regarding the Cooperative Refinery Corporation pipeline, and the word "herein".
- L. The recording data for the 25-foot pipeline easement shall be shown on the final plat or stated to be recorded by separate instrument. Said easement shall also state it is a pipeline easement in favor of current pipeline company, the company on the easement document.
- M. The plat's text should reference "lots and a block".
- N. 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.)
- O. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- P. 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.
- Q. 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.
- R. 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.

- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- U. 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).

STRAHL mentioned the opening along K-96. He said the Subcommittee approved the plat subject to approval of that access opening by the Kansas Department of Transportation (KDOT). He said KDOT approval would be required prior to sending the plat to City Council. He said the agent informed staff that KDOT approval will take several months and requested that the provision for approval by KDOT occur at the time of development of the site so approval of the plat will not be held up. He said staff was okay with that provision as long as it was stated on the plat that KDOT approval was required. He said he subsequently contacted members of the Subcommittee who also agreed to the change. He said Item F of the Staff Report was modified to read that KDOT approval of the opening along K-96 would be required prior to development.

TIM AUSTIN, KAW VALLEY ENGINEERING, AGENT FOR THE APPLICANT said they are in agreement with the modifications as recommended by staff. He explained that approval from KDOT required a traffic study which will take some time.

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

J. JOHNSON moved, **WARREN** seconded the motion, and it carried (12-0).

-
- 2-3. **Item 2-3 - SUB2014-00029: One-Step Final Plat – HIEPSON ESTATES ADDITION**, located north of 29th Street North, West of Hoover Road.

NOTE: This is an unplatted site located within the City of Wichita.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that sewer services are available to serve the site. A No Protest Agreement for future water extension is needed.
- B. The applicant shall contact City of Wichita Environmental Health to find out what tests may be necessary and what standards are to be met for approval of on-site water. A memorandum shall be obtained specifying approval.
- C. The plat's text shall include language that the drainage and utility easement is hereby granted as indicated for drainage purposes and for the construction and maintenance of all public utilities.

- 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. City Stormwater Management has approved the applicant's drainage plan.
- F. The east right-of-way line should not be denoted as a bold line.
- G. Traffic Engineering has requested an additional 20-foot contingent dedication of street right-of-way along Eisenhower to be effective upon the development of properties to the east adjoining Eisenhower. The contingent dedication of right-of-way needs to be referenced in the plattor's text.
- H. The Applicant shall provide a No Protest Agreement for the future paving of Eisenhower.
- I. 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.
- J. This property is within a zone identified by the City Engineer's office as likely to have groundwater at some or all times within ten feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineer's office.
- K. The signature block needs to specify whether the owners are single or married, since a married person needs to have the spouse's signature.
- L. The word "addition" needs to be added in the title block and plattor's text (i.e. "an addition to Wichita, Sedgwick County, Kansas")
- M. Approval of this plat will require a waiver of the lot depth-to-width ratio of the Subdivision Regulations. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. The Subdivision Committee recommends a modification of the design criteria in Article 7 of the Subdivision Regulations as it finds that the strict application of the design criteria will create an unwarranted hardship, the proposed modification is in harmony with the intended purpose of the Subdivision Regulations and the public safety and welfare will be protected.
- N. Since existing tree rows along the west property line may be impacted by the installation of utilities, the Subdivision Committee requires a 30-foot utility easement be platted in order to allow for the installation of the utilities without damage to such tree rows.
- O. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

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

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

J. JOHNSON moved, **NEUGENT** seconded the motion, and it carried (12-0).

-
- 2-4. **Item 2-4 - SUB2014-00030: One-Step Final Plat – QUIK TRIP 16TH ADDITION,** located on the southwest corner of 47th Street South and Hydraulic.

NOTE: This is a replat of the Funston Addition. This site is also contained within the Funston CUP (DP-315).

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that water and sanitary sewer services are available to serve the site. A guarantee is needed for the removal and relocation of sanitary sewer (laterals). A temporary utility easement is needed for sanitary sewer in Lot 1.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the drainage plan.
- D. The applicant proposes three openings along Hydraulic and one opening along 47th Street South. Traffic Engineering has approved the access controls subject to the north opening along Hydraulic restricted to rights-in/out movements. The applicant shall submit a guarantee for traffic improvements.
- E. In lieu of additional street right-of-way, Traffic Engineering has approved a 10-foot sidewalk and utility easement along the street frontages. The easement shall be referenced in the plat's text.
- F. In accordance with the CUP approval, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- G. 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.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. A restrictive covenant shall be submitted regarding ownership and maintenance 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. This property is within a zone identified by the City Engineer's office as likely to have groundwater at some or all times within ten feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineer's office.
- K. 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.

- L. 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.)
- M. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- N. 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.
- O. 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.
- P. 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.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Westar Energy has requested that the sidewalk and utility easement be used only for franchised utilities. Any relocation or removal of any existing equipment made necessary by this plat will be at the applicant's expense.
- S. 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).

FOSTER asked about the landscaping requirements under the CUP and asked if they were unique to the case or was that staff policy.

STRAHL said he did not have the answer to that question.

FOSTER asked if the agent could answer his question.

BRIAN LINDEBAK, MKEC ENGINEERING, AGENT FOR THE OWNER AND CONTRACT PURCHASER said the issue would be discussed under Item 7 – CUP2014-00019 on the regular agenda.

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

G. SHERMAN moved, **RAMSEY** seconded the motion, and it carried (12-0).

3. PUBLIC HEARING – VACATION ITEMS

3-1. Item 3-1 - VAC2014-00022: County request to vacate portions of multiple platted reserves on property, generally located on the north side of Central Avenue and east of 127th Street East and K-96.

CASE NUMBER: VAC2014-00022 - Request to vacate portions of multiple platted reserves and change the platting text to amend the uses permitted in the platted reserves

APPLICANT/AGENT: Crestview Southern Village Homeowners Association Inc., c/o Marvis J. Lary, Sec., Robert V. McGrath, Treas., Dick Eckrich, President (owner) MKEC, c/o Brian Lindebak (agent)

LEGAL DESCRIPTION: The portions of and the platting text of Reserves A, a portion of C & D, the Crestview Country Club Estates Southern Village Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located on the north side of Central Avenue and east of 127th Street East and K-96 (BoCC #1)

REASON FOR REQUEST: A masonry wall

CURRENT ZONING: Subject property and abutting and adjacent west, east and south properties are zoned SF-5 Single-Family Residential (SF-5). Abutting north property is zoned SF-20 Single-Family Residential (SF-20).

The applicant is requesting consideration for the vacation of a portion and the platting text to amend the uses allowed within Reserve D, Crestview Country Club Estates Southern Village Addition. The agent had previously provided an attached May 6, 2014, letter that shows the owner of Reserve D, the Crestview Southern Village Homeowners Association (HOA), approving of the dedication of ...”a 25-foot easement in Reserve D,” for a wall.

Per the platting text, the 15-foot wide east –west running Reserve D is platted for open space, a buffer zone and utility and drainage construction and maintenance. Reserve D is 10 feet smaller than the above referenced 25-foot easement; it appeared that vacation activity would also be occurring on Reserve A, which the HOA letter did not authorize.

Staff required another HOA letter authorizing vacation activity on Reserve A, B, C and D. The reason for including Reserves A, B and C, was the agent had including them in the application, without providing staff with written authorization from the HOA. The applicant provided a second attached July 30, 2014, letter, minutes before the July 30, SD meeting, which authorizes the vacation activity of in Reserves A, B, C and D.

Because of the additional reserves the ownership list provided by the applicant did not list the needed property owners. Rather than defer a hearing and recommendation from the Subdivision Committee, until a revised ownership was provided, the applicant (from the podium at the SD meeting) dropped the vacation activity on Reserve B and limited the vacation application to the concept of only that portion of Reserve A, C, and D. Staff agreed to allow the request to continue, with the stipulation that the agent provide a revised legal description of the vacation activity, which would allow Staff to make a determination on the need for or not of an expanded ownership list and possibly deferring a recommendation by the MAPC.

- Per the platlor's text all Reserves (A, B, C and D) are platted for utility and drainage construction and maintenance.
- Per Geoworks Reserve D has: six water lines running north from Central Avenue through portions of Reserve D & A into the south-north running Reserve C, and; stormwater has equipment running north-south through a portion of Reserve D, and; there appear to be hydrants located in portions of Reserve D or Reserve A. As noted, Reserve D is 15-foot wide and runs, east-west, parallel to Central Avenue (south) and Reserve A (north); to get the HOA's referenced 25-foot easement, an additional 10 feet of width would come out of Reserve A.
- Per the platlor's text Reserve A is platted for: private drives, fire lanes located in the private drives, parking areas and open space.
- Per the platlor's text all Reserves (A, B, C and D) are platted for utility and drainage construction and maintenance.
- Per Geoworks Reserve A has: six water lines run north from Central Avenue through portions of Reserve D & A into the south-north running Reserve C, and; stormwater has equipment running north-south through a portion of Reserve A, continuing through Reserve D, and; there appears to be hydrants located in portions of Reserves A or D. The east-west Reserve A runs parallel to Reserve D (south) with a varying width 30 feet, 64 feet and 84 feet. The difference in widths occurs on its north side, where it abuts Lots 3-17, odd, Lots 20 and 24, and Reserves C and B, all in the Crestview Country Club Estates Southern Village Addition.
- Per the platlor's text the north-south Reserve C is platted for private drives, fire lanes located in the private drives and recreational open space.
- Per the platlor's text all Reserves (A, B, C and D) are platted for utility and drainage construction and maintenance.
- Per Geoworks six water lines run north from Central Avenue through portions of Reserve D & A into the south-north running Reserve C. Reserve C is 40 feet wide on its south end where it abuts Reserve A. Its width varies from 77.71-110 feet on its north end where it abuts a golf course.

Becky Thompson is the Construction Services Representative for the Westar northeast area and can be contacted at (316) 261-6320. The Crestview Country Club Estates Southern Village Addition was recorded with the Register of Deeds August 28, 1972.

NOTE: Because the site is located in Sedgwick County, but within the City of Wichita's three-mile ring subdivision jurisdiction, consideration and recommendation by the Wichita City Council, and consideration and final action by the Sedgwick County Board of County Commissioners is required.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from both County/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 plattor's text to amend the uses allowed within the described platted reserves.

- 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 17, 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 portions of the platted reserves, 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) Vacation of any portion of Reserves A, C and D, Crestview Country Club Estates Southern Village Addition to allow a wall(s), must be approved by all utilities, fire, traffic and stormwater. Provide any needed plans for review.
- (2) Provide a revised legal description of the vacation activity on Reserves A, C and D, Crestview Country Club Estates Southern Village Addition, to determine if a revised ownership is needed. If a revised ownership is needed, this vacation request will be deferred for 2-4 weeks to allow for notification. This must be provided to Planning prior to the vacation case getting a recommendation by the MAPC, recommendation by the WCC, final action by the BoCC and subsequent recording with the Vacation Order at the Register of Deeds.
- (3) As needed dedicate a wall easement(s) by separate instrument(s). Provide an exhibit showing the location and size of the approve wall easements and the location of all utilities. The approved original dedication(s) and exhibit must be provided to Planning prior to the vacation case going to City Council and County Commission for recommendation and final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
- (5) All improvements shall be according to City Standards.

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

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacation of any portion of Reserves A, C and D, Crestview Country Club Estates Southern Village Addition to allow a wall(s), must be approved by all utilities, fire, traffic and stormwater. Provide any needed plans for review.
- (2) Provide a revised legal description of the vacation activity on Reserves A, C and D, Crestview Country Club Estates Southern Village Addition, to determine if a revised ownership is needed. If a revised ownership is needed, this vacation request will be deferred for 2-4 weeks to allow for notification. This must be provided to Planning prior to the vacation case getting a recommendation by the MAPC, recommendation by the WCC, final action by the BoCC and subsequent recording with the Vacation Order at the Register of Deeds.
- (3) As needed dedicate a wall easement(s) by separate instrument(s). Provide an exhibit showing the location and size of the approve wall easements and the location of all utilities. The approved original dedication(s) and exhibit must be provided to Planning prior to the vacation case going to City Council and County Commission for recommendation and final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
- (5) All improvements shall be according to City Standards.
- (6) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

LONGNECKER indicated the request needed to be modified because the applicant was only asking to vacate Reserve D which runs parallel and abuts Central Avenue. He said Reserve D is 15-foot wide and runs east/west and is set aside for open space, utility and drainage construction and maintenance. He said the purpose of the vacation is to allow a wall to be built between the residences of the subdivision and Central Avenue.

FOSTER asked if the notification issue had been cleared up.

LONGNECKER said there was sufficient notification and the necessary signatures to vacate Reserve D for the wall.

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

DENNIS moved, **FOSTER** seconded the motion, and it carried (12-0).

PUBLIC HEARINGS

4. **Case No.: ZON2014-00015** – Blake Byfield (owner) requests a City zone change from SF-5 Single-family Residential to MF-18 Multi-family Residential on property described as:

Lot 9, Groves Addition, Sedgwick County, Kansas.

BACKGROUND: The applicant requests MF-18 Multi-family Residential (MF-18) zoning on a vacant, platted lot. The .46-acre site is currently zoned SF-5 Single-Family Residential (SF-5) and is located on the west side of North Anna Street one lot north of West Central Avenue (708 N. Anna). In MF-18 zoning, the Unified Zoning Code (UZC) requires a minimum lot size of 3,000 square feet per dwelling unit for duplex development or 2,500 square feet per multi-family dwelling unit; the UZC requires a 50-foot lot width per duplex. The compatibility standards of the UZC would limit building height on this site to 35 feet and require 25-foot compatibility setbacks from SF-5 zoned lots abutting the site on three sides. Multi-family development on the site would trigger screening from abutting single-family uses and landscape requirements. The site is approximate 20,000 square feet with a 114-foot frontage along Anna Street; the lot was platted with a 30-foot front building setback. With these constraints, the site could accommodate up to two duplexes with a total of four dwelling units, or potentially up to eight multi-family dwelling units. The applicant indicates a desire to develop one or two duplex buildings.

The surrounding residential neighborhood is primarily zoned SF-5 and developed with single-family residences, numerous TF-3 and multi-family zoned lots exist within several blocks of the site. North of the site are primarily SF-5 zoned single-family residences with TF-3 zoned duplexes several blocks away. Immediately south of the site is an SF-5 zoned single-family residence fronting Central Avenue, with a mixture of LC Limited Commercial (LC) and GO General Office (GO) zoned non-residential uses along the Central corridor. East and west of the site are SF-5 zoned single-family residences with TF-3 zoned duplexes within several blocks.

CASE HISTORY: The site was platted as Lot 9 of the Groves Addition in 1951. Aerial photographs show a single-family residence on the site through 2008.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5, TF-3	Single-family residences, duplexes
SOUTH:	SF-5, LC, GO	Single-family residence, commercial uses, offices
EAST:	SF-5, TF-3	Single-family residences, duplexes
WEST:	SF-5, TF-3	Single-family residences, duplexes

PUBLIC SERVICES: Anna Street is a paved, two-lane local street at this location with an 80-foot right-of-way. All public services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The *2030 Wichita Functional Land Use Guide* of the Comprehensive Plan identifies the site as “urban residential.” The urban residential category encompasses areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality. The UZC identifies MF-18 zoning as being generally compatible with the urban residential category. The Residential Locational Guidelines of the Comprehensive Plan state that medium-density residential use may serve as a transitional land use between low-density residential and commercial uses.

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

This recommendation is based on the following findings:

- (1) The zoning, uses and character of the neighborhood:** The surrounding residential neighborhood is primarily zoned SF-5 and developed with single-family residences, numerous TF-3 and multi-family zoned lots exist within several blocks of the site. North of the site are primarily SF-5 zoned single-family residences with TF-3 zoned duplexes several blocks away. Immediately south of the site is an SF-5 zoned single-family residence fronting Central Avenue, with a mixture of LC and GO zoned non-residential uses along the Central corridor. East and west of the site are SF-5 zoned single-family residences with TF-3 zoned duplexes within several blocks.
- (2) The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned SF-5 and could be developed with a single-family residence, similar to most surrounding properties. The site has remained vacant as zoned for a significant amount of time. The proximity of this lot to Central Avenue may reduce desirability for a single-family residence.
- (3) Extent to which removal of the restrictions will detrimentally affect nearby property:** Impact on surrounding property due to the requested zone change should be minimal; duplexes are common within the surrounding blocks. Duplexes on the site could be better for the neighborhood than a vacant lot. The UZC screening and compatibility standards should mitigate any impact on surrounding properties.
- (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 “urban residential.” The urban residential category encompasses areas that

reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality. The UZC identifies MF-18 zoning as being generally compatible with the urban residential category. The Residential Locational Guidelines of the Comprehensive Plan state that medium-density residential use may serve as a transitional land use between low-density residential and commercial uses.

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

JESS MCNEELY, Planning Staff presented the Staff Report. He stated that staff has amended their recommendation to include a Protective Overlay that would limit site development to two duplexes and no multi-family dwellings which they felt would alleviate the District Advisory Board's concerns that there may be development of some type of multi-family structure on the site.

KLAUSMEYER asked for clarification that the DAB approved that amendment.

MCNEELY stated that the DAB recommended denial because the applicant was not present at the meeting and staff was not able to confirm that the applicant would be willing to add the PO.

FOSTER asked about Protest Petitions.

MCNEELY stated that no Protest Petitions had been filed on the case.

MOTION: To approve subject to staff recommendations as amended.

J. JOHNSON moved, **G. SHERMAN** seconded the motion, and it carried (12-0).

5. **Case No.: ZON2014-00017** – USD 259 (Shane Schumacher) / Baughman Company, P.A. (Phil Meyer) request a City zone change from MF-29 Multi-family Residential to GO General Office on property described as:

All of that part of Yike Avenue as dedicated in said Franklin Yike Addition, (said Yike Avenue now known as Irving Avenue), and now vacated in the Order of Vacation recorded in Deed Book 833, Page 187, TOGETHER with all that part of the unplatted portion of the Southwest Quarter of Section 29, Township 27 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas, bounded on the north by Lincoln Street, on the west by Osage Avenue, and on the south and southeast by the following described line: Commencing at the southwest corner of said vacated Irving Ave., said southwest corner also being on the east line of Franklin Avenue, (said Franklin Avenue now known as Osage Avenue); thence southerly along the east line of said Franklin Avenue, now Osage Avenue, 230.00 feet; thence easterly perpendicular to the east line of said Franklin Avenue, now Osage Avenue, 246.00 feet; thence northeasterly with a deflection angle to the left of 44°53'13", 256.01 feet to a point on the southwesterly line of said Lincoln Street, and for a point of termination, TOGETHER with Lots 3, 4, 5, and 6, Block 1, Franklin Yike Addition to Wichita, Kansas, and that part of the alley as dedicated in said Franklin Yike Addition lying north of and abutting the north line of said Lots 3, 4, 5, and 6, and lying westerly of and abutting the southwest right-of-way line of said Lincoln Street, (said alley now vacated in the Order of Vacation recorded in Deed Book 833, Page 187), except that part of said Lot 3 and

that part of said alley described and conveyed to the City of Wichita, Kansas, a municipal corporation, in the Quit Claim Deed recorded in DOC.#/FLM-PG: 29390075 and more particularly described as follows: Commencing at the intersection of east line of Franklin Avenue as dedicated in said Franklin Yike Addition, (said Franklin Avenue now known as Osage Avenue), with the south line of Yike Avenue as dedicated in said Franklin Yike Addition, (said Yike Avenue now known as Irving Avenue), said intersection also being the southwest corner of that part of said Irving Avenue vacated in said Order of Vacation recorded in Deed Book 833, Page 187; thence N00°06'47"W, (assumed basis of bearings), along the west line of said vacated Irving Avenue, 60.00 feet to the northwest corner of said vacated Irving Avenue, said northwest corner also being on the north line of said Yike Avenue, now Irving Avenue, and for a point of beginning; thence N89°49'30"W along the north line of said Yike Avenue, now Irving Avenue, 16.00 feet to the intersection with the east line of relocated Franklin Avenue, now Osage Avenue, as established in the General Warranty Deed recorded in Deed Book 601, Page 487; thence N00°06'47"W (calculated per described information), N00°04'47"W (measured), along the east line of said relocated Franklin Avenue, now Osage Avenue, and along the west line of said vacated alley, (Deed Book 833, Page 187), 152.85 feet to the northwest corner of said vacated alley, said northwest corner also being on the south line of an alley as dedicated in Glendale, an Addition to Wichita, Kansas, said alley lying south of and abutting the south line of Lots 78, 80, 82, and 84, on McCormick Avenue, in said Glendale, (said Lots 78, 80, 82, and 84 deeded to the City of Wichita in the Deed recorded in Deed Book 388, Page 228); thence N89°58'20"E along the north line of said vacated alley, (Deed Book 833, Page 187), and along the south line of the alley as dedicated in said Glendale, 16.00 feet (calculated per platted information), 15.91 feet (calculated per measured information), to the intersection with the northerly extension of the west line of said vacated Irving Avenue, (Deed Book 833, Page 187); thence S00°06'47"E (measured) along said extended west line, 152.91 feet to the point of beginning, TOGETHER with that part of Lots 78, 80, and 82, on McCormick Avenue, in Glendale, an Addition to Wichita, Kansas, and that part of an alley as dedicated in said Glendale, said alley lying south of and abutting the south line of said Lots 78, 80, and 82, and Lot 84, on said McCormick Avenue, in said Glendale, (said Lots 78, 80, 82, and 84 deeded to the City of Wichita in the Deed recorded in Deed Book 388, Page 228), and now described and conveyed to Unified School District No. 259, Sedgwick County, Kansas in the Quit Claim Deed recorded in DOC.#/FLM-PG: 29387054 and more particularly described as follows: Commencing at the intersection of east line of Franklin Avenue as dedicated in Franklin Yike Addition to Wichita, Kansas, (said Franklin Avenue now known as Osage Avenue), with the south line of Yike Avenue as dedicated in said Franklin Yike Addition, (said Yike Avenue now known as Irving Avenue), said intersection also being the southwest corner of that part of said Irving Avenue vacated in said Order of Vacation recorded in Deed Book 833, Page 187; thence N00°06'47"W, (assumed basis of bearings), along the west line of said vacated Irving Avenue, 60.00 feet to the northwest corner of said vacated Irving Avenue, said northwest corner also being on the north line of said Yike Avenue, now Irving Avenue; thence N89°49'30"W along the north line of said Yike Avenue, now Irving Avenue, 16.00 feet to the intersection with the east line of relocated Franklin Avenue, now Osage Avenue, as established in the General Warranty Deed recorded in Deed Book 601, Page 487; thence N00°06'47"W (calculated per described information), N00°04'47"W (measured), along the east line of said relocated Franklin Avenue, now Osage Avenue, and along the west line of said vacated alley, (Deed Book 833, Page 187), 152.85 feet to the northwest corner of said vacated alley, said northwest corner also being on the south line of an alley as dedicated in Glendale, an Addition to Wichita, Kansas, said alley lying south of and

abutting the south line of Lots 78, 80, 82, and 84, on McCormick Avenue, in said Glendale, said Lots 78, 80, 82, and 84 deeded to the City of Wichita in the Deed recorded in Deed Book 388, Page 228; thence N89°58'20"E along the north line of said vacated alley, (Deed Book 833, Page 187), and along the south line of the alley as dedicated in said Glendale, 16.00 feet (calculated per platted information), 15.91 feet (calculated per measured information), to the intersection with the northerly extension of the west line of said vacated Irving Avenue, (Deed Book 833, Page 187), and for a point of beginning; thence N00°06'47"W (measured), along said extended west line, 22.84 feet; thence N62°45'04"E, 19.87 feet to a point on the southwest line of Lincoln Street as described in Condemnation Case No. 59855 and Ordinance No. 9178; thence S59°47'40"E (calculated per description in said Condemnation Case No. 59855 and Ordinance No. 9178), S59°44'09"E (measured), along the southwest line of said Lincoln Street (per description in said Condemnation Case No. 59855 and Ordinance No. 9178), 63.30 feet to the intersection with the south line of the alley dedicated in said Glendale, the south line of said alley also being the north line of the alley in said Franklin Yike Addition vacated in Deed Book 833, Page 187; thence S89°58'20"W along the south line of the alley dedicated in said Glendale, (and the north line of the vacated alley, (Deed Book 833, Page 187)), 72.30 feet to the point of beginning.

BACKGROUND: The applicant is seeking GO General Office (GO) to permit a “medical service” on 2.57 acres located at the southeast corner of West Lincoln Street and South Osage Street currently zoned MF-29 Multi-family Residential (MF-29). The subject site is currently an undeveloped portion of the athletic fields associated with West High School. A portion of the property is platted as the Franklin Yikes Addition while the rest of the site is unplatted. If approved, the GO zoning would permit the development of a “medical service” that would be open year-round, and would serve West High School students, faculty and surrounding neighborhood residents. The medical service will be required to meet all Unified Zoning Code requirements, such as: screening, building height, dumpster location, landscaping and parking. The school district will retain ownership of the site. West High School has approximately 1,500 students.

The land located immediately next to, or across the street from the application area in all four directions is zoned MF-29. Land north of the subject site, across East Lincoln Street, is developed with West High School. Land to the east and south are part of West High’s athletic fields. Property located to the west, across South Osage Street, is developed with single-family and two-family residences.

CASE HISTORY: The Franklin Yikes Addition was recorded in 1887.

ADJACENT ZONING AND LAND USE:

North: MF-29; West High School
South: MF-29; West High School athletic fields
East: MF-29; West High School athletic fields
West: MF-29; single-family and two-family residences

PUBLIC SERVICES: The site is located in a part of town that has been developed for many years and is served by all usual municipal and private utilities and services.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide depicts the site as appropriate for “major institutional” use. The “major institutional” use category includes institutional facilities of a significant size and scale of operation and could include a range of such uses as: government facilities, military bases, libraries, schools, cemeteries, churches, hospital and medical treatment facilities. A “medical service” is also permitted in the B Multi-family Residential (B) and NO Neighborhood Office (NO) districts. Medical services in the NO district are limited to a maximum of 8,000 square feet of gross floor area.

RECOMMENDATION: Based upon the information available at the time the staff report was completed, staff recommends approval of the request.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The land located immediately next to, or across the street from the application area in all four directions is zoned MF-29. Land north of the subject site, across East Lincoln Street, is developed with West High School. Land to the east and south are part of West High’s athletic fields. Property located to the west, across South Osage Street, is developed with single-family and two-family residences.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned MF-29 which permits single-family, two-family and multifamily residential up to 29 dwelling units per acre plus certain other civic and institutional uses, such as public schools. The site is part of a much larger tract that contains athletic fields used by West High School. The site could be developed with other West High School facilities or other uses permitted by the site’s current zoning.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Approval of the GO zoning should not create an increased negative impact on nearby property given the traffic and parking associated with West High School.
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 presumably provide more convenient medical services for West High students and the surrounding neighborhoods. Unified School District 259 has a long standing partnership with the medical service provider, and has sought several zone changes at other USD 259 school sites in order to establish medical services on school property.
5. **Length of time the property has been vacant as currently zoned:** The site is an undeveloped part of a larger tract that contains athletic facilities for West High. The application has been vacant for decades.
6. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The 2030 Wichita Functional Land Use Guide depicts the site as appropriate for “major institutional” use. The “major institutional” use category includes institutional facilities of a significant size and scale of operation and could include a range of such uses as: government facilities, military bases, libraries, schools, cemeteries, churches, hospital and medical treatment facilities. A “medical service” is also permitted in the B Multi-family Residential (B) and NO

Neighborhood Office (NO) districts. Medical services in the NO district are limited to a maximum of 8,000 square feet of gross floor area.

7. Impact of the proposed development on community facilities: None identified.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

MCKAY moved, **NEUGENT** seconded the motion, and it carried (11-0-1).

J. JOHNSON – Abstained.

6. **Case No.: ZON2014-00018** - Alice R. Graham (owner) / Baughman Company, PA, c/o Russ Ewy (agent) request a City zone change from SF-5 Single-family Residential to TF-3 Two-family Residential on property described as:

Lot 20 EXCEPT the West 10 feet thereof dedicated for street purposes, R.A. Morris Tracts, Sedgwick County, Kansas.

BACKGROUND: The applicant is requesting TF-3 Two-Family Residential (TF-3) zoning on the unplatted approximately 4.7-acre SF-5 Single-Family Residential (SF-5) zoned subject site. The southwest corner of the subject site has an approximately 890-square foot single-family residence (built 1934) located on it. The applicant has provided a two concept plans, each showing, access onto the site off of the sand and gravel Curtis Street, with no access onto Doris. Based on the limited information provided to staff, the subject site could be developed with perhaps 25 duplexes (50 living units) or 30 single-family residences or some mix of the two residential developments. The subject site has to be platted for any development beyond the current single-family residence and any current accessory structures.

The site is located in a predominately SF-5 zoned single-family residential neighborhood, with scattered TF-3 zoned single-family residences and duplexes (Z-2843, Z-2607, Z-2600, Z-2584, Z-2312, and Z-2321) located as close as a block east of the subject site. These adjacent eastern TF-3 zoned developments are located on urban scale (approximately +/- 8,100-square foot) lots with the referenced single-family residences and duplexes appearing to have been built in the late 1970s-1980s. SF-5 zoned properties abutting the north side of the site include a large garden, an undeveloped tract, and urban scale single-family residences (built 2006-2008). An SF-5 zoned single-family residence (built 1936, 2.06-acres), an undeveloped 0.56-acre tract and urban scale single-family residences (built 1990s-2001) abut and are adjacent to the south side of the site. Urban scale SF-5 zoned single-family residences (built 1926, 1970s, 1980s, 2001) are located west of the site across the sand and gravel Curtis Street. The north portion Interstate Highway-235 (IH-235) is located approximately 240 feet west of the site. A 4.2-acre church site and the paved Hoover Road separate the proposed and current development along Curtis Street from IH-235. The undeveloped 30-foot/half-street Doris Street right-of-way abuts the east side of the site. The applicant's two concept plans show no access onto Doris Street. Both plans show a 40-foot wide reserve running parallel to Doris Street, rather than dedication of 30 feet of half-street right-of-way to make Doris a thru north-south street. The required platting of the site will determine its final shape, configuration, access, drainage, the placement of utilities and the number of duplexes on the site.

CASE HISTORY: Staff has received 38 protest petitions against the proposed TF-3 zoning.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5	Large garden, undeveloped land, single-family residences
SOUTH: SF-5	Single-family residences, undeveloped land
WEST: SF-5, LC	Single-family residences, church, IH-235
EAST: SF-5, TF-3	Single-family residences, duplexes

PUBLIC SERVICES: The site has access on its west side to the sand and gravel (not crushed limestone) Curtis Street. Curtis Street has 40 feet – 62 feet of right-of-way along this unpaved portion, from paved 13th Street North to the paved portion of Curtis Street at its intersection with 11th Street North. The east side of the site abuts the undeveloped portion of Doris Street. This portion of Doris has 30 feet of half-street right-of-way and has road blocks separating it from the paved north and south portions of Doris Street. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for “urban residential” uses. The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly. Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category. The TF-3 zoning district allows single-family residence, duplexes and some (but not limited to) institutional uses such as a parks, schools and churches by right. As such, the TF-3 zoning district conforms to the urban residential category.

RECOMMENDATION: The request does not introduce TF-3 zoning into the area. Zoning cases Z-2843, Z-2607, Z-2600, Z-2584, Z-2312, and Z-2321 established TF-3 zoning in the area on either single lots or multiple lots. This request (as well the previous requests) provides infill duplex/residential development opportunities that are not uncommon for the older neighborhoods in Wichita. What is unusual about the request is the size of the land involved, 4.7-acres, which is larger than the areas previous TF-3 zoning requests and appears to be larger than other TF-3 infill for this district. As proposed, vehicular access to and from the site would be onto the sand and gravel Curtis Street, which provides short (250 feet) and quick access onto the recently paved Hoover Road-13th Street North interchange. 13th Street North is the shortest and quickest access onto the site and serves as the collector street for the area (connecting Hoover Road to Zoo Boulevard), thus helping divert the site’s traffic from the area’s local residential streets, including 11th Street, which runs from Curtis Street to Zoo Boulevard. Based on the limited information provided to staff, the subject site could be developed with perhaps 25 duplexes (50 living units) or 30 single-family residences or some mix of the two residential developments. The required platting of the site will determine its final shape, configuration, access, drainage, the placement of utilities and the number of duplexes on the site. The requested TF-3 zoning is the sixth out of 20 zoning requests for this year. Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED.**

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The site is located in a predominately SF-5 zoned single-family residential neighborhood, with scattered TF-3 zoned single-family residences and duplexes (Z-2843, Z-2607, Z-2600, Z-2584, Z-2312, and Z-2321) are located as close as a block east of the subject site. These adjacent eastern developments are located on urban scale (approximately 8,100-square foot) lots with the referenced single-family residences and duplexes appearing to have been built in the late 1970s-1980s. SF-5 zoned properties abutting the north side of the site include a large garden, an undeveloped tract, and urban scale single-family residences (built 2006-2008). An SF-5 zoned single-family residence (built 1936, 2.06-acres), an undeveloped 0.50-acre tract and urban scale single-family residences (built 1990s-2001) abut and are adjacent to the south side of the site. Urban scale SF-5 zoned single-family residences (built 1926, 1970s, 1980s, 2001) are located west of the site across the sand and gravel Curtis Street. Interstate Highway-235 (IH-235) is located approximately 240 feet west of the site and the Curtis Street single-family residences. A 4.2-acre church site and the paved Hoover Road separate the proposed and current development along Curtis Street.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The 4.7-acre SF-5 zoned site has a single-family residence with accessory structures located on it. The SF-5 zoning permits single-family residences, which, with a few exceptions, is the predominate zoning and development in the area. The site could be developed with perhaps approximately 30 single-family residences.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The requested TF-3 zoning allows duplexes as well as single-family residences by right. The request would not introduce TF-3 zoning into the area, as there are at least 19 other TF-3 zoned lots located within one-three blocks of the site; Z-2843, Z-2607, Z-2600, Z-2584, Z-2312, and Z-2321. Common concerns raised in the rezoning of land from SF-5 to TF-3, include a lack of maintenance on what will probably be rental properties and a perception of subsequent negative impact on neighboring property values. However, the ability and inclination of a property owner to maintain their property is not solely dependent on if the property in question is a rental property or property that the owner lives on.
- (4) **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Approval of the request would limit development by right to single-family residential, duplex, and some (but not limited to) institutional uses such as a parks, schools and churches. Denial of the request could impose a financial hardship on the owner. This type of rezoning in the older portions of Wichita is not unusual in that it allows for infill residential redevelopment opportunities. What is unusual about the request is the size of the land involved, 4.7-acres, which is larger than the areas previous TF-3 zoning requests and appears to be larger than other TF-3 infill for this district.
- (5) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for “urban residential” uses. The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached

homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly. Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category. The TF-3 zoning district allows single-family residence, duplexes and some (but not limited to) institutional uses such as a parks, schools and churches by right. As such, the TF-3 zoning district conforms to the urban residential category.

- (6) **Impact of the proposed development on community facilities:** All services are in place and any increased demand on community facilities can be handled by current infrastructure. The required platting of the property could provide improvements in regards to drainage and at the least require the applicant to provide a no protest petition for any future paving of this portion of Curtis Street.

BILL LONGNECKER, Planning Staff presented the Staff Report. He said the DAB approved the application with a PO offered by the applicant to limit the density of the duplexes to 15 and provide a 10-foot interior side yard setback to separate the buildings. He said DAB approved that compromise 4-1; however, he mentioned that a substantial number of citizens expressed concerns about the duplex development and how it would impact the nearby single-family residences and neighborhood. He said some of those citizens were present today to express their concerns to the Planning Commission. He said staff is in agreement with the PO, and added that as of today, there was a 59% protest of the application.

PHIL MEYER, BAUGHMAN COMPANY, PA, 315 ELLIS, AGENT FOR THE APPLICANT JAY RUSSELL, Contract Purchaser of the property. He said this is an “in-fill” project which is a challenge to developers even though the City is eager for developers to tackle in-fill projects. He said any in-fill project is usually fraught with opposition because developers are changing something that has been a certain way for a long time. He said they are requesting duplex zoning on the property. He said the Staff Report said there was enough room for 25 duplex units on the site; however, they don’t think they can achieve that. He mentioned the DAB hearing and the PO that the applicant offered which consisted of two items 1) limiting the density to a maximum of 15 lots and 2) 10-foot side yard setback rather than the standard 5-6 foot setbacks allowed by Subdivision Regulations. He said the applicant has met with the neighborhood organization and neighbors individually. He said a lot of the neighbors do not want Doris finished or paved. He said they are amenable to that if they can get it done through the platting process. However, he added that in the platting process they have to deal with Traffic Engineering, Fire, Police, Planning and other departments and even though they are willing to do that, they cannot promise it will happen. He said the issue will be dealt with at a later date, but he knew some of the neighbors were not as concerned about the proposal if Doris would not be changed/paved.

JAY RUSSELL, 3438 BEACH CLUB, CONTRACT PURCHASER of the property said he has been in land development in the City for 20 years and has received tremendous encouragement from the City to do “in-fill” projects. He mentioned two locations he developed including 35 single-family residences on South Custer and 38 single-family residences on South Hydraulic. He said there were as many protestors at those meetings, when he developed single-family residences, as there are here today. He said his experience has been that neighbors do not want their neighborhood changed and they do not want to pay to pave the roads and extend utilities.

RUSSELL said he met with approximately 20 neighbors after they had signed Protest Petitions. He said the number one problem in the neighborhood, in his opinion, is the roosting egrets in the trees on the property to the north of the site. He said he has signed agreements with several surrounding property owners to tear down the trees to help get rid of the birds. He said the question was asked what proof they have that the birds will go away if they tear down the trees. He said a DAB member indicated that he had a similar experience in Texas and when the trees were torn down, the birds left. He said there has been discussion regarding the duplexes hurting property values but in his opinion the duplexes will never be the unsightly, unhealthy problem the birds have created.

RUSSELL reviewed the concessions he has offered that were taking care of the bird problem and paving Curtis (at no cost to the residences) from 13th Street and ending in a cul-de-sac. He commented that the original design of the property included a road through the property and paving of Doris. He said they have also agreed to a maximum of 15 buildings. He said the Staff Report indicated that if single-family homes were built, there could be a total of 30 homes at the location. He said they could develop single-family homes at the location with no public hearing. He said they have also agreed to landscape and irrigate the front yards of all of the units and in addition, he has hired a property manager (the resident who lives south of the complex) who will supervise and mow and maintain the complex on a daily basis. He said he believes this will eliminate some of the neighborhood concerns. He also mentioned the playground they will install at the east end of the cul-de-sac, which will be available for all neighborhood children to play on, not just children from the complex.

MOTION: To give the speaker one additional minute.

J. JOHNSON moved, **GOOLSBY** seconded the motion, and it carried (12-0).

RUSSELL indicated that they will be good neighbors. He said rental property is all about management and the people who take care of it. He said he will be the property owner and that he and his staff will do a good job.

DENNIS asked if cutting down the trees and paving the street were part of the PO.

RUSSELL said they were advised that adding the tree removal to the PO was not possible and; therefore, he has private agreements with surrounding property owners. He said he didn't believe paving Curtis could be added either, but they would agree to add that.

MEYER clarified that of the 5 items listed, the only 2 that can be done in the PO are the density and side yard setbacks. He said the rest are private agreements with the neighbors.

DENNIS asked what guarantees does the neighborhood have on those items.

MEYER said they do not believe those are zoning issues but the Planning Commission can certainly discuss that.

CASEY WATSON, 1226 NORTH DORIS STREET said he thought it was misleading to say that the birds are the main concern of the neighborhood. He said their biggest concern is the duplexes that will cover a large area like a spread out apartment complex. He said this is an established neighborhood and most of the houses have been there for a long time. He added that this is a quiet neighborhood. He said the Staff Report says this will not be introducing Two-family Residential because there are 19 other duplexes in the area; however, he said those duplexes are scattered throughout the neighborhood not in one area. He said this proposal is completely different from anything they have in the neighborhood. He said the Staff Report also says what is unusual about the request is the size of the land involved which is larger than any other TF-3 areas in the entire district. He said this is going to be something unprecedented put right in the middle of an established neighborhood. He said the birds are a nuisance but personally he likes them. He said the birds are not that big of a deal. He mentioned the relative gain as opposed to the loss of value and hardship. He said he remembered the owner of the property walking door-to-door in the neighborhood when Eck wanted to purchase the land to see if the neighbors wanted to purchase it. He said everyone he talked to is opposed to this proposal and don't want duplexes in the area. He said they are not opposed to the site being developed but they would like single-family homes. He requested that the Commission consider what should be done and not what could be done. He said it seems to him that people with money and pull are the ones that get things done even if people in the neighborhood are opposed to it.

WARREN commented that he disagreed with the assumption that if duplexes go in it will no longer be a quiet neighborhood. He said he has lived in duplexes all his life and lives in one now. He said there is no difference between his neighborhood and a neighborhood with single-family homes so he doesn't see that as a problem or concern. He mentioned that there may be a misunderstanding regarding the numbers and the types of units allowed at the site. He said 15 buildings, which would be 30 units is a significant reduction compared to the 25 buildings that could be built at the location.

BETSY TAUB, 1304 NORTH DORIS STREET said she lives catty corner to the proposed building site. She said she wanted to emphasize that the issue isn't not liking change because the neighborhood has said as a unified group that they would be open to single-family homes. She said duplexes will increase density. She also mentioned that this will hit the neighbors in the pocketbook and they can't afford that. She said they can't afford to sell either because she and her partner have an investment in their home. She said they too like the egrets. She mentioned density and noise if the trees are removed. She commented on the number of duplexes versus development of single-family homes and said the numbers don't seem right. She concluded by stating that although she feels the applicant has been fair and has offered concessions, she did not like the attitude that the neighborhood knows what they are going to get with this applicant and they don't know what the next person is going to offer. She said that may be true, but she is willing to take her chances and vote against this proposal.

NEUGENT asked the speaker to explain the statement "hit us in the pocketbook."

TAUB said it is the neighbors' belief that this complex will lower the value of their homes when they want to sell them. She said she can't afford that. She said she doesn't have any hard proof but she said this type of complex changes the noise and traffic even if Doris is not opened up. She said the City needs to check with their real estate people but she believes this will lower the value of her house.

CANDY CRAGEN, 1225 NORTH DORIS STREET said she lives just to the south of the site. She said they built their home 15 years ago knowing that the area would continue to develop. She said they spent \$230,000 on their home and overbuilt for the area because the other homes north on Doris range in value from \$140,000 – \$170,000 each. She said it means a lot to the neighbors not to have duplexes because this is a residential area with single-family homes and they would like to continue that type of development. She said she doesn't object to duplexes or that style of living, just not in this area. She said the applicant mentioned that he could walk away and another developer could develop single-family homes. She said the neighbors want Mr. Russell to do just that. She said they want single-family homes that are suitable for the area. She said they have gathered almost 75% Protest Petitions opposed to the proposed zoning. She said this not about being against development but keeping the area with single-family homes. She asked that the Planning Commission deny the request and let someone else come in and continue with the same type of growth.

CRAGEN said this proposal will have a detrimental impact on the value of their homes and a financial and emotional hardship on the neighborhood. She said this proposal has already caused an emotional hardship with the time and research they have spent and meetings they have had to attend to try to save the value and investment in their properties. She said the neighborhood is becoming revitalized and upgraded by younger generations moving in and making improvements to the homes in the area and she would like to see the neighborhood continue to grow in that positive direction.

CRAGEN concluded by saying that flooding is a major issue, not the birds. She said the site is extremely low lying. She said once this area is raised to grade all the flooding will come down south Doris which may flood basements. She said Curtis and Hoover has become an extremely dangerous intersection since the City has paved Hoover from 13th Street to Central and there is not one stop sign along the route. She said people are already speeding through the area. She mentioned the Golden Rules and how the Planning Commission makes their decision based on those principles. She asked the Commission to uphold the laws already put in place and protect their homes, families and area. She said current zoning for this land is still single-family and the neighborhood would like it to remain that way.

MOTION: To give the speaker one additional minute.

WARREN moved, **RAMSEY** seconded the motion, and it carried (12-0).

CRAGEN concluded by asking the Commission to take due diligence and careful consideration of the long-term impact to the community and deny the request for multi-family zoning in this area.

KEVIN CRAGEN, 1225 NORTH DORIS STREET said he had a couple of points. He mentioned that the majority of the trees are located north of the site, not on the property itself. He said the current property owner has the same individual that Mr. Russell has hired performing maintenance and taking care of the property now. He said he understands the City has been out multiple times for violations so Mr. Collins is not doing what he is supposed to be doing now. He asked how can he maintain developed property if he can't maintain the current vacant property.

CRAGEN said since Hoover got paved traffic has increased and the road has become a raceway because there is no traffic control. He said this will increase that by 30 families exiting the area. He said 8 duplexes were recently developed along Hoover that has already increased traffic and congestion.

CRAGEN said drainage is an issue in the area and if it rains for over 15 minutes, 11th Street floods over the curb. He said the drainage structure in the area cannot handle the current drainage. He briefly explained the current drainage pattern which does not work and indicated that everything south of 13th Street is supposed to drain south. He said adding higher ground will only increase the drainage problems in the area. He said the neighborhood is for change, just not this type of change. He mentioned private agreements builders make and that it sounds good to the Commission that the developer is trying to work with the neighbors but once this is rezoned there is no guarantee that any private agreement is going to happen. He said the private agreements are not binding in any way, shape or form.

MOTION: To give the speaker one additional minute.

J. JOHNSON moved, **MCKAY** seconded the motion, and it carried (12-0).

CRAGEN said the applicant wants to put the duplexes between the two most valuable homes in the development. He asked the Commissioners how they would like to have that type of development between their properties.

PHIL MEYER, BAUGHMAN COMPANY, PA mentioned that a lot of Protest Petitions have been filed on the proposal and that there was also a crowd at the DAB meeting; however, only four people, representing three families have spoken at today's meeting in opposition to the proposal. He said many of the Protest Petitions were signed prior to the applicant meeting with the neighbors so some of the problems may have been worked out. He said there is no evidence or research that zoning has a detrimental impact on property values or that duplexes will ruin the value of the homes in the area. He said his personal opinion is it depends on how the property is taken care of, maintained and the overall development, not the zoning or the type of home. He said this proposal is an "urban density" development and an "in-fill" project and fits within this area. He said drainage problems will be addressed during the zoning process and Doris will be taken care of during the platting process. He concluded by stating that maintenance is the key.

MITCHELL asked about the plan for Doris.

MEYER said their plan, goal and promise to the neighborhood is to try not to extend Doris. He mentioned that all drainage goes to the east, hits Doris and goes south. He said drainage for the project will be located on the east side whether Doris goes in or not.

MITCHELL asked if the Subdivision Committee requested a No Protest Petition for Doris would the applicant be willing to do that.

MEYER said the most economical idea was to complete Doris. He said instead, the applicant has agreed to pave off site of the location along Curtis. He said he can't answer the question about the No Protest Petition.

MITCHELL said the applicant is overlooking drainage improvements and access in the area.

MEYER said the applicant is going to deal with the drainage without paving Doris.

MCKAY asked for clarification on the No Protest Petition.

MITCHELL said the No Protest Petition would be for the applicant's portion of the cost to pave Doris in the future.

MEYER responded to a question from the audience and said **COMMISSIONER MITCHELL** was asking if the applicant would agree that they will not fight the paving of Doris in the future and will pay to pave the west half if the neighborhood pays for the east half. He said for the east half of Doris to be paved the neighborhood would have to go to the City Council and ask that it happen. He said by signing the No Protest Petition, the applicant is giving up his legal right to protest the paving.

G. SHERMAN explained to the audience that this hearing is the first step in this process. He said once the property is rezoned, the applicant has to come back to the Subdivision Committee and Planning Commission and plat the property. He said at that time staff will work with the applicant on drainage, location of the cul-de-sac and other issues. He said sometimes at the platting process a developer doesn't want to pave a street or extend a sewer line. He said the City asks the developer to sign an agreement that if the surrounding area wants it done at a future date, they won't protest that action.

DENNIS commented that a lot of promises are being made that issues will be addressed at platting; however, the neighborhood does not receive notification of the platting process. He suggested that the Commission approve the application with the stipulation that the people protesting the proposal are notified when platting occurs.

MEYER commented that a sign is posted on the property during the platting process. He said the applicant is not opposed to notifying the neighborhood during the platting process.

WARREN asked the applicant if he was marketing the complex for sale what the cost would be.

RUSSELL said he plans on keeping the complex for the long term. He said the current project cost is \$2,000,000 and the units will rent for approximately \$900-1,000 per month, and will be 3 bedrooms/2 bath.

DENNIS asked the applicant if it was economically feasible to develop single-family homes at the site.

RUSSELL said if he developed single-family housing there would be new specials with 15-20 year assessments, so he would not do that. He said he already has 300 single-family units with the specials paid. He said he will adhere to the promises he has made on the private agreements.

GOOLSBY mentioned that he pulled up a Google Map where you could see white (egrets) in the trees north of the property.

RUSSELL said the property owners surrounding the site would like the trees torn down.

MOTION: To approve subject to staff recommendation as amended to include density, setbacks and notification of the residents during the platting process.

DENNIS moved, **MITCHELL** seconded the motion.

FOSTER explained to the audience that the Planning Commission makes a recommendation to the City Council and the Council has the final decision on the rezoning request. He said he believes this issue should be discussed by the Comprehensive Plan Steering Committee because the Commission has heard many of these types of zoning requests lately and he believes it is a sign of the housing market. He asked at what point does this type of zoning impact the neighborhood so greatly that the application should be turned down. He said the Comprehensive Plan does support “in-fill” housing.

DENNIS said he agreed with **COMMISSIONER FOSTER**. He said the Commission used to have training sessions and noted that there were a number of new members on the Commission. He asked about another training session.

G. SHERMAN mentioned that he thought the Golden Rules were developed as a result of a court case where a City turned down a case based totally on neighborhood opposition. He said the court decided that Planning Commissions had a certain number of things they had to consider on requests for zoning. He said if he felt the project being proposed was detrimental to the neighborhood he would oppose it but he did not feel it was.

The **MOTION** carried (12-0)

J. JOHNSON commented on only four people speaking and said the Commission always asks people not to be repetitive. He thanked the group for only presenting four speakers as opposed to having ten or twelve people speak about the same thing.

7. **Case No.: CUP2014-00019** - Southfork Investments, LLC (Jay S. Maxwell) / QuikTrip West, Inc. (Truitt Priddy) / MKEC Engineering, Inc. (Brian Lindebak) request City CUP amendment to DP-315 to modify the size and number of parcels, signage, landscaping, lighting, screening, etc on property described as:

Lots 1, 2, 3, 4 and 5, Funston Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant is seeking to amend the 8.23-acre GC General Commercial (GC) zoned Funston Addition Community Unit Plan (CUP) DP-315 located at southwest corner of East 47th Street South and South Hydraulic Avenue. The request has been filed to facilitate the relocation of a convenience store from the southeast corner of South Hydraulic Avenue and East 47th Street South to the southwest corner of the same intersection. The site is currently vacant except for an unused off-site sign.

The proposed amendments would reduce the number of CUP parcels from five to four, establish a Reserve A, redistribute development standards within the remaining four parcels and the reserve and define permitted uses as being those permitted by right in the GC district except for: correctional placement residences, nightclub in the city and cemetery. Reserve A is proposed to accommodate drainage from Parcel 1. The following uses shall be prohibited within 200 feet of residentially zoned property: service stations, restaurants with drive-in or drive-through facilities and vehicle repair. Parcel sizes range in size from 1.050 acres to 3.946 acres. Maximum building height is 35 feet. Maximum building coverage is 30 percent. Maximum gross floor area ration is 35 percent. The applicant proposes one electronic message sign along South Hydraulic Avenue and one along South 47th Street. All signs

are to be monument or pylon style, spaced 150 feet apart. Based upon the frontage of the application area along Hydraulic, 414.4 square feet of signage is permitted. The applicant is requesting 467 square feet. Along East 47th Street, 458.6 square feet of signage is permitted; the applicant is requesting 467 square feet. Access controls shall be as indicated on the plat.

Land located north East 47th Street South is zoned LC Limited Commercial (LC) and SF-5 Single-family Residential (SF-5), and is developed with residential or retail uses. Land located east of South Hydraulic is also zoned LC and SF-5, and is developed with retail uses or residences. Land located to the south is zoned LI Limited Industrial (LI) and SF-5, and is developed with a residence, a church or a trucking company. Land located to the west is also zoned LI and SF-5 and developed with a trucking company or a church.

CASE HISTORY: On December 9, 2008, the Wichita City Council approved ZON2008-00052 and CUP2008-00040 that established GC zoning subject to the development standards contained in the Funston Addition CUP DP-315, subject to platting. The Funston Addition was recorded in 2011.

ADJACENT ZONING AND LAND USE:

North: LC and SF-5; body shop, retail store and single-family residences
South: LI and SF-5; truck terminal, church and single-family residence
East: LC and SF-5; fraternal institution and convenience store
West: LI and SF-5; truck terminal and church

PUBLIC SERVICES: East 47th Street South and South Hydraulic Avenue have 50 feet of half-street right-of-way with a corner clip at the intersection of the two streets. Victoria Avenue has 65 feet of full right-of-way. All normal municipal and private utilities are available to serve the application area.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for “employment/industry center.” The employment/industry center category includes uses that constitute concentrations of employment of an industrial, manufacturing, service or non-institutional nature. The range of uses include manufacturing and fabrication facilities, warehousing and shipping centers, call centers and corporate offices. The subject site is bordered on the south and west by a truck terminal. The subject site is also located in the South Wichita/Haysville Area Plan. According to the plan, the application conforms to the goal of improving the opportunities for additional commercial growth. Finally, the City Council previously approved the site’s existing GC zoning subject to CUP DP-315. The current application only slightly modifies the existing CUP approved in 2008, and allows for the development of a new generation convenience store at this location.

RECOMMENDATION: Based upon the information available at the time the report was prepared, staff recommends approval of the amendment to CUP DP-315 subject to the development standards described in the General Provisions and graphics depicted on the face of the proposed CUP and the following conditions:

- A. The applicant shall record a document with the Register of Deeds indicating that this tract (referenced as DP-315) includes special conditions for development on this property.

- B. The applicant shall submit four final copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Land located north East 47th Street South is zoned LC and SF-5, and is developed with residential or retail uses. Land located east of South Hydraulic is also zoned LC and SF-5, and is developed with retail uses or residences. Land to the south is zoned LI and SF-5, and is developed with a residence, a church or a trucking company. Land located to the west is also zoned LI and SF-5, and developed with a trucking company or a church.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned GC subject to the development standards contained in CUP DP-315. The site could be developed as currently zoned; however, the proposed amendment only slightly modifies the existing development standards.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The existing zoning on the subject site will remain the same. The proposed amendment eliminates one parcel and redistributes the development rights to the remaining four parcels and the single reserve. The proposed amendments should not detrimentally impact 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: The proposed amendment will facilitate the development of a larger convenience store which presumably will benefit the general public by expanding the stores services and products. Denial would presumably represent a loss in economic opportunity to the property owner and the convenience store operator.
5. Length of time the property has been vacant as currently zoned. The property is currently vacant except for an off-site sign. The property has been zoned GC subject to the development standards contained in CUP DP-315 since 2008.
6. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for “employment/industry center.” The employment/industry center category includes uses that constitute concentrations of employment of an industrial, manufacturing, service or non-institutional nature. The range of uses include manufacturing and fabrication facilities, warehousing and shipping centers, call centers and corporate offices. The subject site is bordered on the south and west by a truck terminal. The subject site is also located in the South Wichita/Haysville Area Plan. According to the plan, the application conforms to the goal of improving the opportunities for additional commercial growth. Finally, the City Council previously approved the site’s existing GC zoning subject to CUP DP-315. The current application only slightly modifies the existing CUP approved in 2008, and allows for the development of a new generation convenience store at this location.

- 7. Impact of the proposed development on community facilities: Existing facilities are in place or can be extended to the site to accommodate the proposed uses.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

MCKAY moved, NEUGENT seconded the motion, and it carried (12-0).

-
- 8. **Case No.: CUP2014-00020** – Two Brother’s BBQ c/o Thomas Ryan (owner) / Ron’s Sign Company, John Saindon (agent) request a City CUP amendment to DP-128 to permit an LED sign on property described as:

Lot 3, except the North 49 feet thereof, Brush Creek 3rd Addition, Wichita, Sedgwick County, Kansas.

BACKGROUND: The LC Limited Commercial zoned site, Lot 3 Brush Creek 3rd Addition, is located within DP-128, the Brush Creek Community Unit Plan (CUP). DP-128 is located at the southeast corner of North Woodlawn and East 37th Street North. The applicant requests amendment #2 to DP-128 to allow a LED sign component on an existing pylon sign. Provision 6-B of DP-128 specifies “Flashing signs (except for signs showing only time, temperature and other public service messages), rotating or moving signs, signs with moving lights or signs which create illusion of movement are not permitted.”

The remainder of DP-128 is developed with strip retail commercial. Outside of the CUP, surrounding zoning and uses include LC zoned strip retail stores and a MF-18 Residential zoned apartment complex located to the north, a LC zoned strip retail store to the south, a SF-5 Single-family Residential zoned development to the east, and LC zoned grocery store/super market west of the CUP.

CASE HISTORY: DP-128 was approved in 1983. DP-128 was platted as Brush Creek 3rd Addition in July 1997. The subject site is Lot 3, except N 49 feet, of Brush Creek 3rd Addition.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Strip retail commercial
SOUTH:	LC	Strip retail commercial
EAST:	LC	Strip retail commercial
WEST:	LC	Grocery Store/Super Market

PUBLIC SERVICES: The site has direct access to Woodlawn, a six-lane arterial with a center turn lane at the 37th Street North intersection. Woodlawn has a 120-foot right-of-way at the application area. DP-128 also has internal cross-lot access. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the Wichita-Sedgwick County Comprehensive Plan depicts this location as being appropriate for “Local Commercial,” which contains commercial, office and personal service uses that do not have a significant regional market draw. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request for amendment #2 to DP-128 to a 4-foot by 8-foot LED sign on an existing pylon sign on Lot 3, Brush Creek 3rd Addition be **APPROVED**, with the following conditions:

- (1) The amendment to 6-B applies only to the LED sign located on Lot 3. Only one LED sign will be allowed at this location and must comply with the approved elevation and site plan.
- (2) Any other requests for LED signs within DP-128 will require a CUP Amendment for the specific lot.
- (3) The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days of approval or the request shall be considered denied and closed.
- (4) If the Zoning Administrator finds that there is a violation of any of the conditions of the CUP amendment, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the CUP amendment null and void.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** DP-128 is developed retail commercial center. Outside of the CUP, surrounding zoning and uses include LC zoned strip retail stores and MF-18 Residential zoned apartment complex located to the north, a LC zoned strip retail store to the south, a SF-5 Single-family Residential zoned development to the east, a LC zoned grocery store/super market west of the CUP.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** DP-128 currently prohibits the use of LED signs within the LC zoned CUP; however, City Sign Code allows programmable LED signs by right in LC zoned districts.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** LED signs in the area are located at the northwest corner of 37th Street North and North Woodlawn for Chisholm Trail State Bank and the Sonic Drive-In at the northeast corner of the intersection. Immediately north of the project site, the Wal-Greens store has a monument sign with a message board component. Multi-family housing located north of the site is buffered by a commercial building and a street; the condominium development to the east is buffered by Woodlawn Boulevard and a platted reserve.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2030 Wichita Functional Land Use Guide” of the Wichita-Sedgwick County Comprehensive Plan depicts this location as being appropriate for “Local Commercial,” which contains commercial, office and personal service uses that do not have a significant regional market draw. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas.
- (5) **Impact of the proposed development on community facilities:** The requested CUP amendment should have no impact on community facilities.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

MCKAY moved, **NEUGENT** seconded the motion, and it carried (12-0).

There was brief discussion regarding holding another Planner Commissioner orientation sometime in the fall.

DIRECTOR SCHLEGEL asked Commissioners to e-mail Planning staff with subjects they would like discussed.

DIRECTOR SCHLEGEL reminded Commission members that election of a new Chair and Vice Chair would take place on the first meeting in September.

NON-PUBLIC HEARING ITEMS

The Metropolitan Area Planning Commission adjourned at 2:50 p.m.

State of Kansas)
Sedgwick County) ^{ss}

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

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

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

(SEAL)