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WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION AGENDA

Thursday, December 18, 2014

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission will be held on **Thursday, December 18, 2014**, beginning at **1:30 PM** in the Planning Department Conference Room City Hall - 10th Floor, 455 N. Main Street, Wichita, Kansas. **If you have any questions regarding the meeting or items on this agenda, please call the Wichita-Sedgwick County Metropolitan Area Planning Department at 316.268.4421.**

1. Approval of the prior MAPC meeting minutes:

Meeting Date: November 20, 2014

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

Items may be taken in one motion unless there are questions or comments.

- 2-1. **SUB2014-00040: One-Step Final Plat – SOLIS ADDITION**, located North of 29th Street North, East of Hood.

Committee Action: APPROVED 2-0
Surveyor: Abbott Land Survey, P.A.
Acreage: 1.69
Total Lots: 3

- 2-2. **LSP2014-00024: Lot Split – F.D. SUTTON ADDITION**, Modification of lot width-to-depth ratio for property located south of Central, east of West Street.

Committee Action: APPROVED 2-0

3. **PUBLIC HEARING – VACATION ITEMS**

ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 PM

Items may be taken in one motion unless there are questions or comments.

Complete legal descriptions are available for public inspection at the Metropolitan Area Planning Department – 10th Floor, City Hall, 455 N. Main Street, Wichita, Kansas

- 3-1. **VAC2014-00041: City request to vacate a platted reserve and amend the plattor's text on property**, generally located south of 13th Street North on the east side of Greenwich Road.

Committee Action: APPROVED 2-0

- 3-2. **VAC2014-00042: City request to vacate a platted reserve and the amend the plattor's text on property**, generally located south of Maple Street, on the west side of 135th Street West, north of Verona Street and Verona Court

*Committee Action: C.WARREN MOTIONED TO REDUCE OPEN SPACE
SECOND BY D.FOSTER ~ APPROVED 2-0*

- 3-3. **VAC2014-00043: City request to vacate a platted reserve and the amend the plattor's text on property**, generally located south of Maple Street, on the west side of 135th Street West, north of Montecito Lane, on the west side of Siena Lane.

*Committee Action: C.WARREN MOTIONED TO REDUCE OPEN SPACE
SECOND BY D.FOSTER ~ APPROVED 2-0*

- 3-4. **VAC2014-00044: City request to vacate a platted reserve and the amend the plattor's text on property**, generally located south of Maple Street, on the west side of 135th Street West, on the southwest side of Verona Street and Siena Lane.

*Committee Action: C.WARREN MOTIONED TO REDUCE OPEN SPACE
SECOND BY D.FOSTER ~ APPROVED 2-0*

- 3-5. **VAC2014-00045: City request to vacate a platted easement on property**, generally located on the northwest corner of 29th Street North and Ohio Street.

Committee Action: APPROVED 2-0

- 3-6. **VAC2014-00046: City request to vacate multiple easements dedicated by separate instruments on property**, generally located east of Ridge Road on the north side of 29th Street North.

Committee Action: APPROVED 2-0

- 3-7. **VAC2014-00047: City request to vacate a portion of platted access control on property**, generally located on the southeast corner of 13th Street North and Tyler Road.

Committee Action: APPROVED 2-0

PUBLIC HEARINGS

ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 PM

4. Case No.: CUP2014-00038
Request: City CUP amendment to DP-329 to permit a 56-foot tall building and modify parcel boundaries, access control and square footage.
General Location: Southeast of 13th Street North and N. Tyler Road (Lots 1 3, Block A, Tyler Point).
Presenting Planner: Dale Miller

NON-PUBLIC HEARING ITEMS

5. Other Matters/Adjournment

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

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

November 20, 2014

Minutes

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, November 20, 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: Matt Goolsby, Chair; David Dennis; David Foster; Bill Johnson; Joe Johnson; John McKay Jr.; Debra Miller Stevens and Chuck Warren. Don Klausmeyer; M.S. Mitchell; Carol Neugent; Bill Ramsey; George Sherman 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 prior MAPC meeting minutes. There were no minutes to approve.

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

2-1. **SUB2014-00037: One-Step Final Plat – MOSCELYN MEADOWS ADDITION,**
located north of Kellogg, on the west side of 151st Street West.

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 water is available to serve Lots 1, 2 and 3. The applicant needs to extend sanitary sewer (laterals) across the street to serve Lots 1, 2 and 3. Water transmission in-lieu-of-assessments are due. A 10-foot x 10-foot utility easement is needed in the southwest corner of Lot 1. A 10-foot x 10-foot utility easement is needed in the southeast corner of Lot 2. East-west arrows are requested to clarify the location of the 20-foot drainage and utility easement on the west side of Lot 3.
- B. City Stormwater Management has approved the drainage plan subject to receiving a draft lot grading plan prior to the City Council and a cross lot drainage agreement is recorded with the plat that permits storm runoff through Lots 1, 2, and 3.
- 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 Engineering has requested a No Protest Agreement for future paving of Moscelyn Lane.
- E. The plat proposes complete access control along 151st Street West and three openings along Moscelyn. City Traffic Engineering has approved the access controls along 151st Street West. County Public Works has requested 75 feet of complete access control along the east end of Moscelyn and advises that access control is not needed along the remainder of the Moscelyn frontage.

- F. The vicinity map needs corrected as the proposed subdivision is in the southeast quarter and arterial street names need added.
- G. County Surveying advises the sanitary sewer easement needs located east-west.
- H. County Surveying advises Moscelyn Lane road right-of-way cannot be dedicated with the plat as described in the plat's text. The right-of-way for Moscelyn Lane needs to be verified with recording data or the current owner of the right-of-way will also need to sign the plat and dedicate the right-of-way to the public. Said right-of-way legal description will also need to be included in the Certificate of Survey.
- I. County Surveying advises the water line and the pipeline are not shown along the east line of the plat. The pipeline company may require a minimum 50-foot setback from the pipeline when the partial release is obtained.
- J. County Surveying advises the telephone line along Moscelyn Lane is not shown on the plat.
- K. In the plat's text the 80' street right-of-way along 151st Street West needs changed to 60'.
- L. On the final plat, the north line of Lots 1 and 3 should be a bold line.
- M. It is recommended the tree line and trees be shown on the preliminary plat.
- N. For lots with existing tree rows that may be impacted by the installation of utilities, it is recommended that 30-foot utility easements be platted in order to allow for the installation of the utilities without damage to such tree rows.
- O. County Surveying and MAPD requests review of a platting binder and pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- P. 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.)
- Q. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- R. 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.
- S. 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.

T. 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.

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

V. Westar Energy advises of possible existing Westar equipment in this location. Lee Sailsbury is the Construction Services Representative for the NE Area and can be contacted at (316) 261-6859. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.

W. 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, **MCKAY** seconded the motion, and it carried (8-0).

3. **PUBLIC HEARING - VACATION ITEMS**

3-1. **VAC2014-00036: City request to vacate platted front setbacks on multiple lots,** generally located north of 29th Street North, east of 119th Street West, on the north side of Fontana Street, on the east and west sides of Parkridge Street and the north portion of Chambers Street.

APPLICANT/AGENT: Socora Homes Inc., (owner/applicant), Professional Engineering Consultants, P.A. c/o Charles Brown (agent).

LEGAL DESCRIPTION: Generally described as the inside 5 feet of the platted 25-foot front yard setback of Lots 34-46 (inclusive), Block 1, Lots 1-6 (inclusive), Block 2, and Lots 8-10 (inclusive), Block 2, all in the Fontana 4th Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located north of 29th Street North, east of 119th Street West, on the north side of Fontana Street, on the east and west sides of Parkridge Street and the north portion of Chambers Street (WCC #V).

REASON FOR REQUEST: More room to build

CURRENT ZONING:

Subject property and all abutting and adjacent east, south and west properties are zoned SF-5 Single-Family Residential. The abutting north property is undeveloped/farmland located in the City of Maize.

The applicant proposes to vacate the inside 5 feet of the platted 25-foot front yard setback on Lots 34-46 (inclusive), Block 1, Lots 1-6 (inclusive), Block 2, and Lots 8-10 (inclusive), Block 2, all in the Fontana 4th Addition. All of the subject lots are zoned SF-5 Single-Family Residential. One of the subject lots is a corner lot; Lot 1, Block 2, Fontana 4th Addition. One of the subject lots is a key corner lot; Lot 34, Block 1, Fontana 4th Addition. Both the corner lot's and the key corner lot's short street frontage (and thus establishing both of their front yard setbacks) matches the other subject lots' street frontage; Parkridge Street. The Unified Zoning Code's (UZO) minimum front yard setback standard for the SF-5 zoning district is 25 feet. If the setbacks were not platted the applicant could have applied for an Administrative Adjustment that would have reduced the SF-5 zoning district's 25-foot front yard setback by 20% resulting in a 20-foot setback. The applicant's request does not exceed what is permitted by an Administrative Adjustment. There are no platted easements in the described portion of the platted front yard setback. There appears to be no public utilities within the described portion of the platted front yard setback. Comments from franchised utilities have not been received and are needed to determine if they have utilities located within the described setback. The Fontana 4th Addition was recorded with the Register of Deeds August 7, 2009.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from Public Works, Storm Water, Water and Sewer, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of platted front setbacks on multiple lots.

- 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 October 30, 2014, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described portion of platted front setbacks on multiple lots, and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Vacate the inside 5 feet of the platted 25-foot front yard setback on Lots 34-46 (inclusive), Block 1, Lots 1-6 (inclusive), Block 2, and Lots 8-10 (inclusive), Block 2, all in the Fontana 4th Addition. Provide Planning Staff with a legal description of the approved vacated portion of the setback on a Word document, via e-mail, to be used on the Vacation Order and

Vacation Petition. This must be provided to Planning prior to the case going to Council for final action.

- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide any needed easements prior to the case going to Council for final action.
- (3) All improvements shall be according to City Standards and at the applicant's expense.
- (4) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the inside 5 feet of the platted 25-foot front yard setback on Lots 34-46 (inclusive), Block 1, Lots 1-6 (inclusive), Block 2, and Lots 8-10 (inclusive), Block 2, all in the Fontana 4th Addition. Provide Planning Staff with a legal description of the approved vacated portion of the setback on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. This must be provided to Planning prior to the case going to Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide any needed easements prior to the case going to Council for final action.
- (3) All improvements shall be according to City Standards and at the applicant's expense.
- (4) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

MCKAY moved, **J. JOHNSON** seconded the motion, and it carried (8-0).

- 3-2. **VAC2014-00037: City request to vacate portions of platted setbacks, street right-of-way and a platted easement on property**, generally located on the southwest corner of Lincoln Street and Hydraulic Avenue.

APPLICANT/AGENT: QuikTrip West Incorporated, c/o Truitt Priddy (owners/applicant)
MKEC Engineering Inc., c/o Brian Lindebak (agent)

LEGAL DESCRIPTION: Generally described as vacating the described portions (see attached legal) of the platted Lincoln Street right-of-way abutting the north side of Lot 1, the platted Hydraulic Avenue right-of-way abutting the east side of Lot 1, the platted 35-foot front yard setback running parallel to the north property line of Lot 1, the platted 35-foot street side setback running parallel to the east property line of Lot 1 & the platted Gas Service Co., easement, all in the Dillon 5th Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located on the southwest corner of Lincoln Street and Hydraulic Avenue.
(WCC #I)

REASON FOR REQUEST: Redevelop the site into the newest QuikTrip building and layout

CURRENT ZONING: The site is zoned LC Limited Commercial. Adjacent, across Lincoln Street, north properties are zoned LC and B Multi-Family Residential. Abutting south and adjacent south, across an alley, east, across Hydraulic Avenue, and west, across Greenwood Avenue, properties are zoned TF-3 Two-Family Residential.

The applicant proposes to vacate the described portions of the platted Lincoln Street right-of-way abutting the north side of Lot 1 and the platted Hydraulic Avenue right-of-way abutting the east side of the corner subject lot; as established by Lot 1, Dillon 5th Addition. Approval of the request is contingent on review and approval by the Traffic Engineer. There does not appear to be any public utilities located within the described street right-of-ways.

The LC Limited Commercial zoned subject site is a corner lot. Per the Unified Zoning Code (UZC) a corner lot's shortest street frontage is its front yard. The subject site's Lincoln Street frontage is shorter than its Hydraulic Avenue frontage. The applicant proposes to vacate the platted 35-foot front yard setback running parallel to the north property line of Lot 1, along Lincoln Street, and the platted 35-foot street side yard setback running parallel to the east property line of Lot 1, along Hydraulic Avenue, all in the Dillon 5th Addition. The applicant's attached exhibit shows a 20-foot setback along both its Lincoln Street frontage and its Hydraulic Avenue frontage.

The LC zoning district has a minimum front yard setback (Lincoln Street frontage) of 20 feet, provided that the minimum required front yard setback may be reduced pursuant to UZC, Sec. III-E.2.e(5). Sec. III-E.2.e(5) references setback averaging, which is not applicable to this property. If the setback was not

platted the applicant could have requested an Administrative Adjustment to reduce the front setback by 20% resulting in a 16-foot setback. Any further reduction of the setback would require a variance, which is a separate Public Hearing process.

The LC zoning district has a minimum street yard setback (Hydraulic Avenue frontage) of 10 feet. However Compatibility standards for Setbacks apply to all uses in MF-18 and less restrictive base zoning Districts when such uses are located on Zoning Lots within 500 feet of property zoned TF-3 or more restrictive, except, however, that when the separating Street is a freeway or expressway, compliance with the compatibility standards shall not be required. There is TF-3 zoned property located east of the site across Hydraulic Avenue. Hydraulic Avenue is not a freeway or expressway. Compatibility setback standards (15-25 feet) may be reduced or waived. Waving the Compatibility setback still leaves the LC zoning district's minimum street yard setback (Hydraulic Avenue frontage) of 10 feet. An Administrative Adjustment to reduce the street side yard setback by 20% resulting in an 8-foot setback. Any further reduction of the setback would require a variance, which is a separate Public Hearing process. There does not appear to be any public utilities located within the platted setbacks.

Although the 20-foot Gas Service Company easement is shown on the plat, the plat's text makes no mention of it allowing any public utilities or any other utilities in this easement. The plat's text states that the easement is granted to the Gas Service Company. Because of this specific reference to the easement being used by only a franchise utility, it is a private easement, which the City has no jurisdiction over. The applicant has been in contact with the Kansas Gas Service Company in relocating their gas main in the 20-foot Gas Service Co., easement. The release of the easement will be in effect once the relocation of the gas main and its facilities is complete. This release will be completed via a Quit Claim Affidavit. Kendall Regier, Senior Technical Analyst, is the contact person for the Kansas Gas Service Company; 316-832-3178.

There is a private sewer line in the vicinity of the 20-foot Gas Service Company easement. Westar has street lights along the Lincoln Street right-of-way. The Dillon 5th Addition was recorded with the Register of Deeds October 31, 1974.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water & Sewer/Stormwater, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portions of platted setbacks, street right of-way and a platted easement.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
- 1) That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time October 30, 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 platted setbacks, street right of-way and a platted easement and that the public will suffer no loss or inconvenience thereby.

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

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

- 1) Provide a covenant(s) binding and tying the vacated portions of Lincoln Street and Hydraulic Avenue to the abutting Lot 1, Dillon 5th Addition. This covenant(s), with the applicants' original signatures shall be provided to the Planning Department prior to this case going to City Council for final action. This covenant(s) will go with the Vacation Order to the Register of Deeds for recording.
- 2) Abandonment or relocation/reconstruction of any/all utilities, including (but not limited to) gas lines, made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. Provide a copy of the approved Quit Claim Affidavit from the Kansas Gas Service Company. All to be provided to the Planning Department prior to this case going to City Council for final action. Contact LaDonna Vanderford, area Construction Representative (316/261-6490) for Westar equipment/street lights in Lincoln Street.
- 3) Provide any needed easements, with original signatures, for relocated utilities, prior to this case going to City Council for final action.
- 4) Vacate the platted 35-foot setbacks running parallel to north (along Lincoln Street) property line and east (along Hydraulic Avenue) property line of Lot 1, Dillon 5th Addition's. The subject site's Hydraulic Avenue street side yard setback shall be a minimum of 8 feet and the subject site's Lincoln Street front yard setback shall be a minimum of 16 feet.
- 5) Provide Planning with a legal description of the vacated portion of platted street right-of-way and the platted setbacks on a Word document, via e-mail. These legal descriptions will be used on the Vacation Order. The legal descriptions must be provided to Planning prior to this case going to City Council for final action.
- 6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- 1) Provide a covenant(s) binding and tying the vacated portions of Lincoln Street and Hydraulic Avenue to the abutting Lot 1, Dillon 5th Addition. This covenant(s), with the applicants' original signatures shall be provided to the Planning Department prior to this case going to City Council for final action. This covenant(s) will go with the Vacation Order to the Register of Deeds for recording.

- 2) Abandonment or relocation/reconstruction of any/all utilities, including (but not limited to) gas lines, made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. Provide a copy of the approved Quit Claim Affidavit from the Kansas Gas Service Company. All to be provided to the Planning Department prior to this case going to City Council for final action. Contact LaDonna Vanderford, area Construction Representative (316/261-6490) for Westar equipment/street lights in Lincoln Street.
- 3) Provide any needed easements, with original signatures, for relocated utilities, prior to this case going to City Council for final action.
- 4) Vacate the platted 35-foot setbacks running parallel to north (along Lincoln Street) property line and east (along Hydraulic Avenue) property line of Lot 1, Dillon 5th Addition's. The subject site's Hydraulic Avenue street side yard setback shall be a minimum of 8 feet and the subject site's Lincoln Street front yard setback shall be a minimum of 16 feet.
- 5) Provide Planning with a legal description of the vacated portion of platted street right-of-way and the platted setbacks on a Word document, via e-mail. These legal descriptions will be used on the Vacation Order. The legal descriptions must be provided to Planning prior to this case going to City Council for final action.
- 6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

MCKAY moved, J. JOHNSON seconded the motion, and it carried (8-0).

3-3. VAC2014-00038: City request to vacate platted easements on property, generally located on the northeast corner of 21st Street North and Ridge Road.

APPLICANT/AGENT:

QuikTrip West Incorporated, c/o Truitt Priddy (owners/applicant),
MKEC Engineering Inc., c/o Brian Lindebak (agent).

LEGAL DESCRIPTION:

Generally described as vacating the platted 10-foot utility easement running parallel to the common lot line of Lots 3 & 4 and the west 10 feet of the platted 20-foot utility easement running parallel to the of common lot line of Lots 4 & 5, all in the Lake Ridge Commercial 2nd Addition, Wichita, Sedgwick County, Kansas.

LOCATION:

Generally located on the northeast corner of 21st Street North and Ridge Road (WCC #V).

REASON FOR REQUEST: Redevelop the site into the newest QuikTrip building and layout.

CURRENT ZONING: The site and the abutting north and east properties are zoned LI Limited Industrial. Adjacent west, across Ridge Road, properties are zoned LC Limited Commercial. Adjacent south, across 21st Street North, properties are zoned LC and SF-20 Single-Family Residential.

The applicant proposes to vacate the platted 10-foot utility easement running parallel to the common lot line of Lots 3 & 4 and the west 10 feet of the platted 20-foot utility easement running parallel to the of common lot line of Lots 4 & 5, all in the Lake Ridge Commercial 2nd Addition. There are sewer lines located in both of the subject easements. Westar has utilities located within the area of the vacation. The Lake Ridge Commercial 2nd Addition was recorded with the Register of Deeds April 6, 1994.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water & Sewer/Stormwater, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described platted easements.

- 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 October 30, 2014, which was at least 20 days prior to this public hearing.
 - 2) That no private rights will be injured or endangered by vacating the described portion of the platted easements, and that the public will suffer no loss or inconvenience thereby.
 - 3) In justice to the petitioner, the prayer of the petition ought to be granted.

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

- 1) Abandonment or relocation/reconstruction of any/all utilities, including (but not limited to) sewer, made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. As needed provide an approved PPS for abandonment /relocation of public sewer line. Contact Marsha Jesse, area Construction Representative (316/261-6734) to remove existing Westar Equipment, at the applicant's expense. All to be provided to the Planning Department prior to this case going to City Council for final action.
- 2) Provide any needed easements, with original signatures, for relocated utilities, including sewer, prior to this case going to City Council for final action.
- 3) Provide Planning with a legal description of the vacated utility easements on a Word document, via e-mail. This must be provided to Planning prior to the case going to City Council for final action.

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

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Abandonment or relocation/reconstruction of any/all utilities, including (but not limited to) sewer, made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. As needed provide an approved PPS for abandonment/relocation of public sewer line. Contact Marsha Jesse, area Construction Representative (316/261-6734) to remove existing Westar Equipment, at the applicant's expense. All to be provided to the Planning Department prior to this case going to City Council for final action.

Provide any needed easements, with original signatures, for relocated utilities, including sewer, prior to this case going to City Council for final action.

- (2) Provide Planning with a legal description of the vacated utility easements on a Word document, via e-mail. This must be provided to Planning prior to the case going to City Council for final action.
- (3) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

MCKAY moved, **J. JOHNSON** seconded the motion, and it carried (8-0).

PUBLIC HEARINGS

4. **Case No.: CUP2014-00024 and ZON2014-00019(deferred from 8-21-14)** – Socora West, LLC (Attn: Lori Ward) / Baughman Company, P.A. (Phil Meyer) request a County zone change from SF-20 Single-family Residential to LC Limited Commercial and County request to create commercial Community Unit Plan CUP DP-335 on property described as:

Lot 1, Block A, Countryside Pentecostal Holiness Church Addition to Wichita, Sedgwick County, Kansas.

AND

Lot 1, Block 1, Roberts and Morriss Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant requests creation of the Socora West Commercial Community Unit Plan (CUP) DP-335 on 7.5 platted acres located at the northeast corner of West 21st Street North and North Forest View Street. In addition to the creation of CUP DP-335 the applicant seeks to rezone the 7.5 acres from SF-20 Single-family Residential (SF-20) to LC Limited Commercial (LC). The proposed CUP is to contain two parcels, a 5.02-acre parcel and a 2.51-acre parcel. Proposed uses are those uses permitted by right in the LC district except for those uses typically excluded within a CUP, such as a: sexually oriented business, nightclub, tavern or drinking establishment, see General Provision 15 for the uses permitted and the complete list of prohibited uses. The property is currently vacant except for a vacant church and associated parking. The property is located in Sedgwick County.

A summary of the additional development standards proposed by the applicant is as follows. Maximum building coverage is to be 30 percent; maximum floor area ratio is 35 percent (Parcel 1.B and C and Parcel 2.B and C). The CUP proposes to allow building height up to 45 feet (Parcel 1.G and Parcel 2.G). Absent the proposed CUP standard, the LC zoning district allows building heights up to 80 feet. Building setbacks vary from 35 feet to 15 feet to zero along the proposed floodway reserve (General Provision 4 and the CUP drawing). Signage is to be per city code or as described on the CUP. L.E.D./digital signs, offsite billboard and portable signs are prohibited (General Provision 6.A-G). Exterior lighting is to be shielded and directed downward. All parcels are to share parking lot lighting fixtures, poles, lamps and bases. Light poles associated with a commercial use are limited to 15 feet in height when the light pole is located within 200 feet of residential zoning; otherwise light poles may be 25 feet tall (General Provisions 7 and 8). The applicant is proposing to provide landscaping (General Provision 10). Screening walls are to be constructed along the west, north and east property lines (General Provision 11). Outdoor work areas and trash receptacles and rooftop equipment are to be reasonably screened from ground view (General Provision 12). All buildings within the CUP will share uniform architectural character (General Provision 13). The applicant is proposing two points of access from Forest View Street and two points of access from West 21st Street North.

Land located to the north, south and west of the application area is zoned SF-20, is either used for farm land or is platted and developed with single-family residences. Land to the east of the subject site is zoned NO Neighborhood Office (NO) subject to Protective Overlay 178, and is used for farm land. In the larger area surrounding subject site there is urban scale development, such as the medical offices located to the southeast of the application area; a YMCA to the west and farther west a Via Christi Hospital. West 21st Street North is a significant arterial that is scheduled to be widened to four lanes when traffic volume warrants the improvements.

CASE HISTORY: The application area is Lot 1, Block A, Countryside Pentecostal Holiness Church Addition and Lot 1, Block 1, Roberts & Morriss Addition, 1987 and 2005 respectively. The site's existing zoning was granted most likely in 1985 when the county adopted county-wide zoning.

ADJACENT ZONING AND LAND USE:

North: SF-20; farm land
South: SF-20 and GO; farm land and medical office
East: NO subject to PO-178; farm land

West: SF-20; single-family residences

PUBLIC SERVICES: North Forest View Street has 60 feet of full street right-of-way and is a two-lane sand and gravel local street. Along the frontage of the application area West 21st Street North has 80 feet of half-street right-of-way and is a two-lane road. At 135th Street, West 21st Street North carries on average approximately 11,600 daily vehicle trips. The existing church located on part of the application area appears to be served by private water well and lagoon. City sewer and water services are located on the south side of West 21st Street.

CONFORMANCE TO PLANS/POLICIES: The application area is located within the Wichita 2030 Urban Growth Area. The 2030 Wichita Functional Land Use Guide depicts the site as appropriate for “urban development mix” use. The “urban development mix” category encompasses areas of land that will likely be developed or redeveloped within the next 30 years with uses predominately found in the “urban residential use” category. However, there is a strong likelihood that the area will also contain major institutional uses, local commercial uses and park and open space uses. Selected Comprehensive Plan commercial locational guidelines state: 1) Commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion. 2) Commercial development should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses. 3) Locate commercial uses in compact clusters or nodes versus extended strip development. 4) Commercially generated traffic should not feed directly onto local residential street.

RECOMMENDATION: Based upon the information available at the time the staff report was prepared, staff recommends the proposed zone change and CUP DP-335 be approved per the development standards contained on the face of the proposed CUP and the following conditions:

- A. Approval of the zone change and CUP DP-335 shall not be final until the applicant has recorded a document with the Register of Deeds indicating that this tract (referenced as DP-335) includes special conditions of development on this property.
- B. If required, the applicant shall submit four revised final copies of the CUP to the Metropolitan Area Planning Department within 60 days after final 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:** The application area is part of a transition area that is slowly converting from rural and suburban uses to more intense urban uses. Land located to the north, south and west is zoned SF-20 and is farm land or platted land developed with single-family residences. Land to the east is zoned NO Neighborhood Office (NO) subject to Protective Overlay 178 and is farm land. In the larger area there has been urban scale development such as the medical offices located to the southeast of the application area; a YMCA to the west and farther west a Via Christi Hospital. West 21st Street North is a significant east-west arterial street scheduled to become a four-lane arterial that carries approximately 11,600 average daily vehicle trips.
2. **The suitability of the subject property for the uses to which it has been restricted:** The property is currently zoned SF-20 Single-family Residential which primarily permits large-lot residential

uses and a few civic and institutional uses by right, such as a church. The site is developed with a church and could continue as currently developed. The site has some economic opportunity as currently zoned; however, given its proximity to the intersection of West 21st Street North and 135th Street, the requested zone change will increase the site's economic potential and be consistent with typical development patterns along most developing arterials.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of LC zoning will increase the intensity of permitted uses and increase traffic volumes; however, the development standards contained in the accompanying CUP should mitigate known detrimental impacts.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial would presumably represent a loss of economic opportunity for the applicant and/or future purchasers. Approval would increase the amount of LC permitted uses available to area residents.
5. Length of time the property has been vacant as currently zoned: The property has been developed with a church since approximately 2005.
6. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The application area is located within the Wichita 2030 Urban Growth Area. The 2030 Wichita Functional Land Use Guide depicts the site as appropriate for "urban development mix" use. The "urban development mix" category encompasses areas of land that will likely be developed or redeveloped within the next 30 years with uses predominately found in the "urban residential use" category. However, there is a strong likelihood that the area will also contain major institutional uses, local commercial uses and park and open space uses. Selected Comprehensive Plan commercial locational guidelines state: 1) Commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion. 2) Commercial development should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses. 3) Locate commercial uses in compact clusters or nodes versus extended strip development. 4) Commercially generated traffic should not feed directly onto local residential street. The application as recommended for approval is in substantial conformance to adopted policies.
7. Impact of the proposed development on community facilities: Existing or planned improvements are available to serve the site.

DALE MILLER, Planning Staff presented the Staff Report.

RUSS EWY, BAUGHMAN COMPANY, PA, AGENT FOR APPLICANT mentioned that the case was originally scheduled to be heard in late August; however, there were some notification issues that delayed the hearing. He said staff has received comments from area residents and he was able to speak with several surrounding property owners at the August 21, 2014 Planning Commission Meeting. He said the applicant has tried to address issues concerning the neighborhood as best they can. He said there was a desire to limit or prohibit commercial access on to Forest View. He said the applicant has agreed to that with the caveat that there is a church access point on to Forest View. He said other issues

included more intensive 24/7 types of uses such as convenience stores and fast food restaurants, which they have prohibited on the west 200 feet of parcel 1, that is adjacent to residential zoning. He said other than those concessions; the CUP is comparable to other developing CUP's adjacent to existing residential areas.

CHARLES PEASTER, 9453 NORTH 135TH STREET WEST said he was present to represent Ray Bose, 13414 W. 23rd Street North. He indicated that Mr. Bose owns property to the north of the site. He said Mr. Bose would like to see car washes, nightclubs in the county, restaurants, service stations, taverns and drinking establishments excluded in the CUP. He added that Mr. Bose would also like to see the trees on the backside of the property maintained as cover for protection of the land he farms.

EWY said taverns, car washes, nightclubs and service stations are already precluded in the CUP so they have no problem accepting those restrictions. He said as far as restaurants are concerned, they restricted drive through facilities to 200 feet away from residential uses. He said they would like to keep the provision for "sit down" types of restaurants and would be willing to discuss keeping them 200 feet from residential zoning as well. He said the applicant plans to maintain the existing vegetation to provide screening. He concluded by stating that in general terms, they are in agreement with Mr. Bose's requests.

FOSTER asked for clarification of the restaurant provision.

EWY clarified that there would be a 200 foot buffer along the north and west property lines so that would exclude restaurants (both fast food and sit down) within 200 feet of residential zoning. He indicated where fast food and sit down restaurants would be allowed in the CUP. He said if someone wanted the northeast corner for either a fast food restaurant or a car wash, the applicant would need to come back before the Planning Commission to amend the CUP.

MOTION: To approve subject to the staff recommendation with the inclusion of the restrictions on restaurants.

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

5. **Case No.: ZON2014-00026** - 2350 SE Partners, LLC / Paul Gray request a City zone change request from TF-3 Two-family Residential and LC Limited Commercial to LI Limited Industrial on property described as:

Lot 10 and the half vacated alley adjacent on the South and East, Fred P. Mosteller Addition to Wichita, Sedgwick County, Kansas.

AND

Lot 1, Rainbow Baking Co. Addition to Wichita, Sedgwick County, Kansas.

AND

Lots 1 and 2 and the half vacated alley adjacent on the West and North, Block 1, TOGETHER WITH lot 3, Block 1, Murphy Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicants are seeking Limited Industrial (LI) zoning on a site that is currently zoned Limited Commercial (LC), Two-Family Residential (TF-3) and subject to development standards established by a Board of Zoning Appeals (BZA) “variance” discussed in the “case history” section below. The applicant is of the opinion that rezoning the site to the LI district would make the property more attractive to a larger set of potential users than if the site remains zoned LC and subject to the site’s current development standards, described in the “case history” section below.

The application area contains 5.03 (219,106.8 square feet) acres that are located on the east side of Southeast Drive, approximately 600 feet south of East Pawnee Avenue. At this location Southeast Drive serves as a frontage road for Southeast Boulevard/Kansas Highway K-15. The application area has direct frontage on Southeast Drive, South Minneapolis Street and East Glenn Oaks Street, and has three addresses. 2530 and 2536 Southeast Drive are zoned Limited Commercial (LC) and occupy all of the application area except the small lot located in the extreme southeast corner. The property addressed as 2539 South Minneapolis Avenue (the small lot located in the extreme southeast corner of the application area) is zoned TF-3. The LC zoned property is developed with a large commercial building that was formerly a bakery (approximately 52,733 square feet) and other associated bakery uses such as a retail outlet (3,306 square feet), parking and tractor-trailer storage. The TF-3 zoned property is developed with a single-family residence built in 1959. A screening wooden fence is located along the LC zoned portion of the application area, but not along the TF-3 zoned property. The application area occupies all of the southern part of the block located south of East Pawnee Avenue, east of Southeast Drive, west of South Minneapolis Street and north of East Glenn Oaks Drive, except for a single lot located at the northwest corner of East Glenn Oaks Drive and South Minneapolis Street. The site has been vacant for approximately six months to a year.

Land located to the north of the subject site is zoned LC, and is a mostly vacant retail sales strip center that used to contain a grocery store as an anchor tenant. Land to the east is zoned MF-29 Multi-Family Residential (MF-29) or SF-5 Single-Family Residential (SF-5), and is developed with single family residences. To the south is a single lot located at the northwest corner of East Glenn Oaks Drive and South Minneapolis Street that is zoned TF-3, and is developed with a single-family residence. Farther south, across East Glenn Oaks Drive, are two lots zoned TF-3 as well as several other lots zoned SF-5 that are developed with single-family residences.

The LI district permits a wide range of non-residential uses; residential uses are not permitted in the LI district. Some of the uses permitted by right in the LI district that are not permitted in the LC district are: “wholesale or business service,” “welding or machine shop,” “warehouse,” “vehicle storage yard,” “research services” or “manufacturing, general.”

In contrast to the LI district, the current zoning code requires “conditional use” approval in the LC district to permit “manufacturing, limited” and such uses are subject to the following development standards contained in Unified Zoning Code (UZC) Article III, Section III-D.6.m: 1) the gross floor area of the building housing the limited manufacturing use shall not exceed one square foot of floor area to three square feet of lot area; 2) the minimum setback of any building from any property line shall be 30 feet; 3) no outdoor storage is permitted; 4) all parking and loading spaces shall be paved with concrete or asphalt and must not cover more than one-half of required open space and 5) the maximum number of employees on any one shift shall not exceed 15 per acre of lot area. Currently, “bakeries engaged in large scale production and wholesale distribution” are defined as “manufacturing, limited”

and require LI zoning and are not permitted in the LC district (UZC, Article II, Section II-B.8.e). If the site does not remain vacant for more than two years, the bakery use or a use of equal or lesser intensity could occupy the site as a nonconforming use.

CASE HISTORY: The portion of the application area that contains the large manufacturing building, thought to have been built in 1955 or 1956, and addressed as 2530 Southeast Drive, is Lot 10 of the Mosteller Addition. On August 16, 1955, the Metropolitan Area Planning Commission (MAPC) approved 2530 Southeast Drive as the location for a bakery. However, the superintendent of building inspection refused to issue a building permit for the bakery on the basis the bakery would employ more than five employees (Ordinance No. 21-245). Lot 10 had been previously zoned LC, and at that time bakeries employing more than five employees were not permitted in the LC district. On August 26, 1955, the Board of Zoning Appeals (BZA) approved case number BZA 10-55 that granted a variance for the bakery to have up to 15 employees, subject to certain other conditions. Zone change case Z-0986 (May 13, 1968) rezoned Lot 10, Fred P. Mostellar Addition and Lots 1 and 2, Block 1, Murphy Addition (the land located immediately north of 2539 South Minneapolis Street) to the LC district. Case number BZA13-68 (June 25, 1968) required: a maximum building coverage of one-third the site's total land area; a minimum building setbacks from the south and east property line at 100 feet; a minimum building setback along the west property line at 30 feet; no outside storage; parking and loading areas are to be paved and cannot cover more than one-half of required open space; the maximum number of employees at 15 per net acre of land in any one shift; no noxious odors or undue noise shall be detected at the property line; access to Minneapolis to be limited to the two existing alleys located at the north and south property lines; submission of site plan; screening fencing located along the east and south property line to be maintained; the area to be policed for trash; no signs to be located along the east or south property lines; lights to be shielded to direct light away from residential areas and no sound projecting devices are to be used outside of any structure. In 1985, the property located at the northeast corner of East Glenn Oaks Street (2536 Southeast Drive) was rezoned to LC by case number Z-2725. An alley that separated most of the northern portion of the subject site from property located further south was vacated (VAC1340).

Most of the northern portion of the application area is platted as part of the Fred P. Mosteller Addition that was recorded in 1955. The Rainbow Baking Company Addition was recorded in 1986 and is located at the northeast corner of East Glenn Oaks Street and Southeast Drive. A portion of the Murphy Addition, the southeastern portion of the application area abutting Minneapolis Street, was recorded in 1955.

ADJACENT ZONING AND LAND USE:

North: LC; retail strip center
South: TF-3; single-family residences
East: MF-29, SF-5, single-family residences
West: SF-5; single-family residences

PUBLIC SERVICES: The site has direct access to Southeast Drive, which is a frontage road for Southeast Boulevard. Southeast Boulevard/K-15, at the application area, carries approximately 8,000 average daily vehicle trips. East Glenn Oaks Drive and South Minneapolis Street are local streets; traffic counts are not available those two streets. Municipal services are available to the site or the services can be extended to serve the site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for “local commercial” uses. The “local commercial” category encompasses areas that contain concentrations of predominately commercial, office, personal service uses that do not have a significant regional market draw. The “local commercial” category includes uses such as mini-storage warehousing and small scale, light manufacturing. The “employment/industry center” category is probably a more appropriate designation for the site. The “employment/industry center” encompasses centers or 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.

RECOMMENDATION: The issue with this application is the need to balance the need to protect the residential uses located east and south of the application area with the objective of facilitating the re-occupation of an existing vacant manufacturing building and the lot’s hybrid zoning with more liberal zoning that will not substantially change the site’s impact on adjoining properties. Based upon the information available at the time the staff report was prepared it is recommended that the request for LI zoning be approved subject to the provisions of Protective Overlay #292

1. Maximum building coverage is limited to one-third the site’s total land area (72,962.56 square feet).
2. Minimum building setbacks are: 100 feet from the south and east property line, 30 feet from the west property line and zero or five feet on the north.
3. No outside storage is permitted except for vehicles used to conduct business activities located on-site.
4. Vehicle parking, loading, display or storage areas are to be paved per Unified Zoning Code standards and cannot cover more than one-half of the site’s total area.
5. No noxious odors or undue noise shall be detected at the property line.
6. Access to Minneapolis shall be limited to the two existing alleys located at the north and south property lines.
7. Screening fencing shall be located along the east and south property line.
8. Outdoor trash and debris is to be regularly removed from the site. Dumpster or trash enclosures shall be screened from ground level view, and shall be located at least 20 feet from property used for residential purposes.
9. No ground signs are to be located along the east or south property lines. No wall or building signs shall be permitted on the east or southern building facades. No off-site signs or billboards are permitted. When located within 100 feet of East Glenn Oaks Drive, signage located along Southeast Drive shall not be lighted between the hours of 7:00 p.m. and 6:00 a.m.
10. Outdoor lighting is to be shielded directed away from residential areas.
11. No sound projecting devices are to be used outside of any structure.
12. The site shall be developed, maintained and operated in compliance with the provisions of this Protective Overlay, and all other applicable federal, state or local ordinances, codes or regulations, including but not limited to: zoning, fire, building, sanitation, landscape or drainage.
13. The site permits all uses permitted by right in the Limited Industrial zoning district except the following uses shall be prohibited: “outdoor storage as a principal use”; “gas and/or fuel storage and sales”; manufacture, storage or sale of fireworks; “construction burn site, limited”; “asphalt or concrete plant, limited”; “teen club in the city”; “tavern and drinking establishment”; “sexually oriented business in the city”; “recreation and entertainment, outdoor” and “nightclub in the city”; “correctional placement residence, limited and general” and “correctional facility.”

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Land located to the north of the subject site is zoned LC, and is a mostly vacant retail sales strip center. Land to the east, across Minneapolis Street, is zoned MF-29 Multi-Family Residential (MF-29) or SF-5 Single-Family Residential (SF-5), and is developed with single family residences. To the south is a single lot located at the northwest corner of East Glenn Oaks Drive and South Minneapolis Street that is zoned TF-3, and developed with a single-family residence. Farther south, across East Glenn Oaks Drive, are two lots zoned TF-3 as well as several other lots zoned SF-5 that are developed with single-family residences. The application area acts somewhat as a transition property between Southeast Boulevard/K-15 and the residential areas located east of Minneapolis Street. The presence of Southeast Boulevard/K-15 Highway adds to the location's non-neighborhood feel.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned LC subject to the development standards contained in the variance discussed in the "case history" section located above. As zoned a wide range of residential, office, retail and commercial uses are permitted. However, the site is developed with an approximately 53,000 square-foot building formerly used as a bakery that is probably a difficult building to find a new user as currently zoned. It is likely that it will be easier to find a manufacturing use rather than a retail or general commercial use for the existing building. Businesses needing large buildings generally prefer to have buildings that meet the corporation's architectural standards rather than retrofit an existing manufacturing building. The mostly vacant retail sales building located north of the site is likely proof that the market does not favor retail sales at this location.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request will permit more intense uses than the site's current zoning permits, such as wider range of manufacturing type uses and with more than 15 employees per net acre of land. The proposed conditions of approval should address known impacts from a wider range of uses.
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 provide additional LI zoned property to the community's market place. Denial would presumably make it more difficult for the owners to sell the property and put the property back in use.
5. Length of time the property has remained vacant as currently zoned: Staff has been advised that the site has been vacant for six to 12 months.
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 "local commercial" uses. The "local commercial" category encompasses areas that contain concentrations of predominately commercial, office, personal service uses that do not have a significant regional market draw. The "local commercial" category includes uses such as mini-storage warehousing and small scale, light manufacturing. The "employment/industry center" category is probably a more appropriate designation for the site given the site's proximity to Southeast Boulevard/K-15 Highway and building that exist on the site. The "employment/industry center" encompasses centers or 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.

7. Impact of the proposed development on community facilities: Existing facilities are in place to address anticipated demand on community facilities.

DALE MILLER, Planning Staff presented the Staff Report.

FOSTER referred to condition 2 of the Staff Report regarding the "either or" situation with the setbacks to the north. He said that was confusing. He said he thought the plat required a 5 foot minimum setback.

MILLER said the UZC requires 0 to 5 foot setback in some zoning districts. He said there may be a Building Code requirement that increases that amount.

PAUL GRAY, APPLICANT, 2350 SE PARTNERS, LLC, 4416 SOUTH DORIS COURT said the investment group has a long history of buying older properties that are distressed and vacant, turning them around and finding viable tenants that bring life back to the properties. He said they see the value of this building as a warehouse or manufacturing facility, maybe aviation related since the facility is located in south Wichita. He said the current zoning does not allow any of those types of activities. He said the previous bread factory had to get a variance because of the number of employees. He said if that bakery was being built today, it would not be able to be built in this zoning district. He said they are attempting to change the zoning so that the facility can be utilized like it has been. He said they are in the process of cleaning up the property and making repairs to the fence and building. He said they were getting ready to paint the building before the weather turned. He said the improvements they are making to the facility will make it more attractive to any prospective tenants and it will look better and fit into the neighborhood. He said they want to be good neighbors. He said their intention is to operate the facility as it has already been operated with a different product. He said previously the facility was used to manufacture bread and to warehouse and sell bread. He said at this time, they cannot speak specifically about what the product might be. He said they see the small retail center on the south of the property coinciding with whatever is manufactured or warehoused at the site. He added or another retailer could use the center not connected with the larger manufacturer on the property.

MCKAY clarified that the applicant agreed with the condition in the Staff Report.

GRAY replied yes.

ELEANOR GOODWYN, 1902 EAST GLEN OAKS DRIVE said they also own 1903 E. Glen Oaks Drive and have lived at 1902 for 56 years. She said the bakery was always a nice neighbor (the facility smelled so good). She said they are concerned about what might go into the location. She said the neighbors were not aware there were zoning issues with the bakeries. She said when the sign for the rezoning originally went up on the property it was to change the zoning from Limited Commercial to General Commercial, but the public hearing notice they received said to change zoning from Limited Commercial to Limited Industrial. She said that is quite a jump in zoning intensity. She said this is a residential area. She asked the Commission to take that into consideration and protect the neighborhood. She said they are interested in what people want to do or build or change at the location.

FOSTER mentioned the condition for screening fencing along the east and south property lines and asked if Ms. Goodwyn was aware of that provision.

GOODWYN commented that there has been a privacy fence along South Minneapolis for years and the neighbors are fine with that.

FOSTER said the zone change under consideration would require that fence to remain in place or be improved by the applicant.

RON HOWARD, PRESIDENT, K-15 NEIGHBORHOOD ASSOCIATION, 2719 EAST TIMBERLINE said there are two houses directly behind the outlet store where the fence is down. He said the two properties recently sold and the new property owners are concerned about whether the security fence will be re-installed once the property is rezoned. He said the neighbors are also asking for some type of noise abatement and assurances that Occupational Safety & Health Administration (OSHA) standards will be followed. He reported that at Monday's neighborhood meeting at Colvin Community Center the majority of neighbors thought the rezoning would be a good thing for the neighborhood and that it could bring back property values and infrastructure.

GOOLSBY stated that the applicant indicated that they were in the process of repairing the fence during their presentation and the conditions of the rezoning require them to maintain the screening.

GRAY said they appreciate the neighborhood participation and mentioned fielding a couple of phone calls during the rezoning process. He said most people felt pretty comfortable and they were able to alleviate a lot of concerns once the neighbors understood what was actually happening. He commented that the applicant owns the house on the north where the fence is down; however, they have only owned the property for a month and inclement weather has precluded them from fixing the fence, which is one of the requirements of the zoning change. He said noise will be less of a concern with modern equipment and technology. In addition, he added that any business will be required to meet the City noise ordinance and OSHA regulations. He said they want to be a good neighbor and will meet all zoning conditions.

FOSTER asked staff to address the noise issue and landscape buffer for industrial use.

MILLER referred to item 5 of the Staff Report conditions and also mentioned the provision of ambient noise not exceeding property lines in the UZC. He said adherence to the Landscape Ordinance is a standard requirement so he did not put those requirements into the Staff Report. He said landscape requirement would be met when the applicant applied for an occupancy permit.

FOSTER mentioned a recent case on east Kellogg regarding fencing where if there was no boundary adjustment within a 7 year period, a masonry wall would need to be installed. He asked the Commission if wording needed to be added that the screening fence be well maintained.

DENNIS asked if the applicant would be expanding the facility in the future.

GRAY said he believes the current wood privacy fence is appropriate and acknowledged that it does need some maintenance at the current time. He said he knows of no plans to expand the property.

GOOLSBY said requiring a masonry wall would constitute a major financial investment.

MCKAY said the screening issue needs to be addressed on a case-by-case basis; the Commission can't make concrete/masonry walls a standard.

B. JOHNSON commented the one of the speakers said there had been a wood privacy fence in place for years and they liked it.

MOTION: To approve subject to the staff recommendation.

J. JOHNSON moved, **WARREN** seconded the motion, and it carried (8-0).

6. **Case No.: ZON2014-00027** – City of Wichita (John Philbrick) and Nuot Nguyen / Baughman Company, P.A. (Russ Ewy) request a City zone change request from B Multi-family Residential to LC Limited Commercial on property described as:

Lots 1 thru 4, Schreck's Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The application area is .56 platted acre located at the southeast corner of North Grove Avenue and East Audrey Street (north of East 21st Street and east of North Grove Avenue) that is zoned B Multi-Family Residential (B). The applicants are seeking to rezone the property to the Limited Commercial (LC) district.

The subject property is platted into four lots of nearly equal area, and is currently developed with outdoor basketball courts that were likely associated with the property located to the south that was once used as a Boys and Girls Club. Access to the site is via a driveway from Audrey Street. Another driveway is located off of North Grove Avenue mid-block between Audrey Street and 21st Street. An alley was located in the same location as the driveway off of North Grove Avenue; however, it has been vacated. With the vacation of the alley, it would be easier to combine the subject property with the LC zoned land located to the south. It is staff's understanding that a single entity is expected to own both the subject tract and the site containing the old Boys and Girls Club. The site has mature landscape screening along the north, east and west property lines.

Property located to the north, across East Audrey Street, are zoned B, Two-Family Residential (TF-3) or SF-5 Single-Family Residential (SF-5), and are developed with duplex or single-family residences. Lots to the east are zoned SF-5, and are developed with single-family residences. Land to the south is zoned LC, and is developed with an office or retail sales commercial building that fronts East 21st Street. The properties located to the west, across Grove Avenue, are zoned LC and MF-29 Multi-Family Residential (MF-29), and are developed with retail sales, office/warehouse combination or triplex residential uses.

The purpose of the LC zoning district is to accommodate retail, commercial, office and other complementary land uses. The LC district permits a wide range of uses, such as: residential – single-family thru multifamily; public and civic – community assembly, hospital or government service; commercial – hotel, office, general retail or restaurant; agriculture – agricultural research. Base building setbacks in the LC district are: front – 20 feet; interior side – zero or five feet; street side – 10 feet; and rear -10 feet. However, minimum side and rear compatibility setbacks of 15 feet would be required if the property is rezoned to LC. Building height in the LC district are permitted to be up to 80 feet.

In contrast to the LC district, the purpose of the B zoning district is to accommodate very high density multi-family residential development and complementary land uses. The B district permits: the full range of residential uses – single-family residential thru multi-family and assisted living; public and civic uses – community assembly, hospital or college and commercial uses – medical service. Building setbacks in the B district are: front – 20 feet; interior side – five feet; street side – five feet; and rear – 15 feet. Maximum building height in the B district is 55 feet.

Redevelopment of the site under LC zoning will trigger a number of code required development standards, such as: a six-foot wooden screening fence, solid landscaping, a berm, or some combination of the three to be located along the east property line; a minimum 15-foot compatibility building setback would be required along the east property line and that portion of the application area located across the Audrey Street from TF-3 zoning, but not for that portion of the site across Audrey Street from B zoning; screening of outdoor work or storage areas from ground level view; a 20-foot setback from the east property line for dumpsters; a building height limit of 35 feet if a building is located within 50 feet of property zoned TF-3 or SF-5, and the height of outdoor lighting sources is limited to 15 feet if located within 200 feet of a residential zoning district. Redevelopment of the site will trigger landscape code requirements for parking lot, buffer and street yard landscaping.

The sign code would allow an on-site ground or pole sign with an area of 51 square feet along North Grove Avenue and a 50 square-foot sign along Audrey Street. The sign code would not allow building signage facing Audrey Street; however, building signage would be permitted along Grove Avenue.

CASE HISTORY: The property is platted as Lots 1-4, Schreck's Addition, which was recorded in 1951.

ADJACENT ZONING AND LAND USE:

North: B and TF-3; two-family residential and single-family residential
South: LC; office or retail sales building
East: SF-5; single-family residential
West: LC; warehouse, retail sales, multi-family residential

PUBLIC SERVICES: North Grove Avenue is a paved two-lane collector that has approximately 80 feet of full right-of-way. East Audrey Street is a local two-lane street with approximately 60 feet of full right-of-way. All municipal services are available to serve 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 includes areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. A full range of residential uses – single-family through multi-family, patio homes and townhouses – are anticipated. Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-servicing uses may also be found in this category. The preferred 20 year land use map of the 2004 "21st Street Revitalization Plan" depicts the site as appropriate for "neighborhood retail" uses. The "neighborhood retail" category "envisions smaller, niche shops that serve the adjacent communities."

RECOMMENDATION: Based upon the information available at the time the staff report was prepared, staff recommends the request be approved subject to development conditions listed below and contained in Protective Overlay #293:

1. The site permits LC uses permitted by right except for the following: “nightclub in the city”; “tavern and drinking establishment”; “entertainment establishment in the city”; “construction and sales and service”; “sexually oriented business” or an office or business that provides loans in exchange for vehicle titles.
2. Building setbacks of a minimum of 20 feet shall be provided along the eastern and northern property line.
3. Complete access control shall be dedicated to East Audrey Street unless the property is developed with single-family, two-family or three-family residences. The existing driveway to Audrey Street shall be closed prior to the issuance of any building permits for any use other than single-family, two-family or three family residences.
4. There shall not be any signage (ground or building) located on East Audrey Street nor along the east property line unless it is associated with a home occupation and complies with home occupation signage standards.
5. Maximum building height shall not exceed 35.
6. Lighting associated with the site shall be shielded and directed so as to prevent spillover of lighting onto abutting or adjacent residential uses.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property located to the north, across East Audrey Street, are zoned B, TF-3 or SF-5, and are developed with duplex or single-family residences. Lots to the east are zoned SF-5, and are developed with single-family residences. Land to the south is zoned LC, and is developed with an office or retail sales commercial building that fronts East 21st Street. The properties located to the west, across Grove Avenue, are zoned LC and MF-29, and are developed with retail sales, office/warehouse combination or triplex residential uses. Surrounding property is a mix of residential and non-residential uses; however, the properties located on East Audrey Street, east of North Grove Avenue, are residential.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned B which permits a broad range of residential uses – single-family through high-density multifamily – as well as a few non-residential uses such a church, hospital or day care. The site has remained essentially undeveloped or underdeveloped, except for its current accessory use as a basketball court for the vacant Boys and Girls Club building located to the south. If the property is attached to the property to the south, which is zoned LC, it makes sense for the entire site to be similarly zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed development standards should mitigate anticipated impacts of rezoning the property to the LC district.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Rezoning the site should make the site more attractive to

re-development, which could create new job opportunities or services to area residents. Denial would presumably represent a loss of economic opportunity for the perspective purchaser.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for “urban residential” uses. The “urban residential” category includes areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. A full range of residential uses – single-family through multi-family, patio homes and townhouses – are anticipated. Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-servicing uses may also be found in this category. The preferred 20 year land use map of the 2004 “21st Street Revitalization Plan” depicts the site as appropriate for “neighborhood retail” uses. The “neighborhood retail” category “envisions smaller, niche shops that serve the adjacent communities.”
6. Impact of the proposed development on community facilities: Services are in place or can be extended to serve the site.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to the staff recommendation.

B. JOHNSON moved, **MILLER STEVENS** seconded the motion, and it carried (8-0).

7. Case No.: ZON2014-00028 – Schulte County Storage, LLC, c/o James Peterson (owner) Spire Wireless, c/o Kathryn Roderique Collective Services (applicant-agent) request a City request to amend Protective Overlay PO-78 to allow a wireless communication facility with a 100-foot monopole on the GC General Commercial zoned property on property described as:

Lot 1, Block A, Schulte Country Storage Addition, Sedgwick County, Kansas.

BACKGROUND: The applicant, Spire Wireless, is seeking to amend Protective Overlay PO #78 to permit the construction of a wireless communication facility with a 100-foot tall, galvanized steel, monopole tower within a 35-foot (x) 50-foot lease site on GC General Commercial zoned property; Lot 1, Block A, Schulte Country Storage Addition. Spire Wireless is a new provider to the area and it proposes to provide 4G service to the area. PO #78 confines the uses on the subject site to what is permitted in the LC Limited Commercial zoning district, some prohibited uses and a self-storage warehouse with supplemental use regulations. PO #78 also has a building height restriction of 20 feet, which the proposed 100-foot tall tower exceeds. A wireless communication facility with a tower is not listed as a prohibited use, however a wireless communication facility in all zoning districts is subject to the standards of the “Wireless Communication Master Plan,” thus the following considerations.

The GC zoned lease site is located north of MacArthur Road and northwest of Kansas State Highway K-42. Because of the site’s close proximity (approximately 1-1/2 miles southwest of the end of a runway) to the Wichita Mid-Continent Airport, it is located within Airport Hazard Zone B, which has a maximum structural height of 75 feet or less. Although the Wireless Communication Master Plan permits maximum structural height of 120 feet in the GC zoning district, the Airport Hazard Zone maximum height is the standard that must be addressed. The Wichita Mid-Continent Airport Authority

has provided a copy of the FAA review of this airspace application and determined that there is no hazard to air navigation associated with this proposed structure up to a maximum height of 115 feet above ground level at the coordinates provided. The Airport Authority would not oppose this structure as long as it meets the criteria identified in the attached airspace study. The subject site is located within the Wichita city limits, but is not shown as a property eligible for consideration of an Administrative Permit, thus an amendment to PO #78 is required to allow the proposed wireless communication facility. The amendment will also include the 20-foot building height restriction.

Tower lighting must meet the FAA requirements for aircraft warning. The proposed galvanized surface of the tower will blend into the sky more readily than a red or white paint, which meets the intent of the "Design Guidelines" of the Wireless Communication Master Plan. The site plan shows proposed 100-foot tower being designed for co-location for at least three (3) providers, which also meets the intent of the Design Guidelines of the Wireless Communication Master Plan. The proposed tower is shown with triangular antenna arrays.

The applicant's RF Engineer has stated that the proposed facility is needed to provide coverage to an area that has low to no coverage. The applicant has provided current coverage and projected coverage maps showing the impact of the site in providing service to the area. The RF Engineer has provided a site selection map, which shows the nearest tower located 0.71-miles northeast of the subject site. This site was rejected because it was located on the edge of the site's search ring and it was too short (49.9 feet) to provide the desired service area. The one-mile site search ring showed no other co-location opportunities. Planning staff has driven this area to confirm the lack of communication towers within this one-mile area around the subject site.

The site abuts SF-20 Single-Family Residential zoned residences (located in the County, District #2) on its west side and the SF-5 Single-Family Residential zoned St. Peter's Catholic Church and school development on its north and east sides. There are more SF-20 and SF-5 zoned single-family residences located adjacent to the site's west, north and east sides. A LC Limited Commercial zoned convenience store, commercial strip building, a day care and single-family residence abut and are adjacent to the site's south and southwest side of the site, with all of them located along K-42. SF-20 farmland and LI Limited Industrial zoned warehouses, a building supply store and a cluster of warehouse-offices, trucking and manufacturing developments are located south (across K-42) and east (abutting the already mentioned SF-20 and SF-5 zoned single-family residences) of the site. Some of these LI and SF-20 zoned sites would seem to be less problematic than the proposed site because of their distance from the area's single-family residences. However, most of the LI zoned properties are located within Airport Hazard Zone A, which has a maximum structural height of 25 feet or less, thus presenting an obstacle in height that the proposed site does not have. The closest LI zoned site, the warehouse located directly south across K-42, is located within Airport Hazard Zone B, the same as the subject site. The SF-20 zoned farmlands located south of the site, across K-42, are located within Airport Hazard Zone C, which has a maximum structural height of 150 feet or less. Prior to the application being made Planning had pointed out the advantages of the LI zoned warehouses and the SF-20 farmlands to Spire Wireless (the applicant). Staff has been provided no information in regards any contact or a willingness of the LI zoned warehouses and SF-20 zoned farmland to partner in the proposed wireless facility, thus the current application.

The applicant's site plan shows the wireless facility located within the interior of the self-storage warehouse site. The self-storage warehouse walls and the site's masonry wall provide ground level

screening along the west, north and the east sides where it abuts SF-20 and SF-5 zoned properties. The south portion of the subject site provide no screening as it abuts the LC zoned convenience store. The site plan shows that the wireless facility conforms to the UZC's compatibility height standards. The site plan shows landscaping. The site plan shows access to K-42 via a proposed 15-foot access and utility easement through the abutting convenience store; prior to the issuance of a building permit a copy of the recorded proposed 15-foot access and utility easement must be provided to the Metropolitan Area Building and Construction Department and Planning.

CASE HISTORY: ZON2000-00039 and PO #78 was approved by the Sedgwick County Board of County Commissioners October 18, 2000. Lots 1 & 2, Block A, Schulte Country Storage Addition was recorded with the Register of Deeds October 9, 2001.

ADJACENT ZONING AND LAND USE:

| | |
|----------------------|--|
| NORTH: SF-5 | St. Peter's Catholic Church and school development |
| SOUTH: LC, LI, SF-20 | Convenience store, commercial strip building, warehouses, farm land |
| EAST: SF-5, SF-20 | St. Peter's Catholic Church and school development, single-family residences |
| WEST: SF-20, LC | Single-family residences, day care |

PUBLIC SERVICES: No municipally supplied public services are required. The applicant will extend electrical service to the site. The site has a proposed access-utility easement to K-42, a paved two-lane Kansas state highway. The proposed wireless communication facility and its 100-foot tall tower will generate less traffic onto K-42 than any of the abutting and adjacent properties.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" depicts this location as being appropriate for "local commercial," which contains concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes: medical or insurance offices, auto repair or service stations, grocery stores, florist shops, restaurants and personal service facilities. The UZC considers a wireless communication facility a commercial type of use. The site's GC zoning is appropriate for the local commercial category.

The GC zoned site located within Airport Hazard Zone B, which has a maximum structural height of 75 feet or less. The proposed tower is 100 feet tall. Although the Wireless Communication Master Plan permits maximum structural height of 120 feet in the GC zoning district, the Airport Hazard Zone maximum height is the standard that must be addressed. The GC zoned site is subject to PO #78, which confines the uses on the subject site to what is permitted in the LC Limited Commercial zoning district, some prohibited uses and a self-storage warehouse with supplemental use regulations. PO #78 also has a 20-foot building height restriction. A wireless communication facility with a tower is not listed as a prohibited use, however a wireless communication facility in all zoning districts is subject to the standards of the Wireless Communication Master Plan. The subject site is located within the Wichita city limits, but is not shown as a property eligible for consideration of an Administrative Permit, thus an amendment to PO #78 is required to allow the proposed wireless communication facility. The amendment will also include the 20-foot building height restriction.

The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. It states that all towers comply with the

compatibility setback standards. The applicant's site plan shows the tower meeting the compatibility setback standards. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area as much as possible. The proposed 100-foot monopole tower is the first tower in the area. The proposed tower's close proximity to the area's residential development is supposed to provide 4G service to the area's residential and nonresidential customers in this part of the city and county. The residence of the area will need to consider the advantages of the proposed service with intrusion of the 100-foot tower into their line of sight; 2) Minimize the height, mass, or proportion. Making the tower shorter may lead to more towers that would be needed to provide the desired coverage; 3) Minimize the silhouette. Monopoles and certain lattice type structures (think City microwave towers) are recommended for up to 150-feet, with antennas mounted flush to the support structure over triangular antenna arrays. However, triangular antenna arrays tend to provide better coverage; 4) Use colors, textures, and materials that blend in with the existing environment. The monopole will have a galvanized surface, which will blend into the sky more readily than red or white paint; 5) Be concealed or disguised as a flagpole, clock tower, or church steeple. These design disguises were not mentioned in the application, although St Peter's church could have provided such an opportunity; 6) Be placed in areas where trees and/or buildings obscure some or all of the facility. The site's self-storage warehouse buildings and its masonry wall provide screening from the ground level up to maybe 9-10 feet to obscure the presences of a 100-foot tall monopole. Planting large evergreens and/or solid screening could provide cover from the ground up to 20-40 feet; 7) Be placed on walls or roofs of buildings. The one-mile site search ring showed no co-location opportunities; 8) Be screened through landscaping, walls, and/or fencing. Planting junipers/evergreens (a minimum of 5 feet tall at the planting, spaced 15 feet apart, center to center of each juniper/evergreen. This spacing will provide solid screening when the junipers/evergreens mature and with proper care provide a more attractive and efficient screening than the 9-10 foot tall buildings; and 9) Painting towers red and white instead of using strobe lighting. The applicant has stated that there will be no strobes and that it will be a galvanized steel finish. NOTE: Since the time the Wireless Communication Master Plan was first adopted, the FAA changed their regulations to require daytime strobe lighting; whereas, when the plan was adopted, the FAA allowed painted towers red and white instead of using strobe lighting.

RECOMMENDATION: The challenge of planning for personal wireless service facilities is the same as that for many other land uses: balancing marketplace demands with public expectations for an orderly and attractive environment. The Wireless master Plan anticipates entry into residential areas is the final part of the business plan of most personal wireless service providers to replace wired phones in customers' homes. The GC zoned self-storage warehouse site for the proposed wireless communication facility and 100-foot tall monopole is less appropriate than the south adjacent, across K-42 highway, LI zoned warehouses and SF-20 zoned farmland, because it is abutting SF-20 zoned single-single-family residences. However, staff has been provided no information in regards any contact or a willingness of the LI zoned warehouses and SF-20 zoned farmland to partner in the proposed wireless facility, thus the current application. The area's residence will weigh the touted benefits of the proposed wireless communication facility and its 100-foot tall monopole tower with its 4G technology against the site's visual impact. Based on the information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to the following conditions:

- A. All requirements of Art. III Sec. III.D.6.g. of the Unified Zoning Code shall be met. This 35-foot (x) 50-foot lease area for the wireless communication facility and its 100-foot tall galvanized steel monopole shall also meet all the criteria identified in the attached FAA airspace study.

- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable. This will include providing a copy of the recorded proposed 15-foot access and utility easement to the Metropolitan Area Building and Construction Department and Planning.
- C. The support structure shall be a monopole design, as shown on the elevation and that generally conforms to the approved site elevation and that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The support structure shall not exceed 100 feet in height and shall be designed and constructed to accommodate communication equipment for at least three (3) wireless service providers.
- E. The tower site shall be developed in general conformance with the approved revised site and a landscape plan. These plans must show the type and size of fencing around the site, parking, all light poles, lights, power poles, cabinets, equipment or buildings within the fenced in site or in the immediate area if it is to be used by the site. The plan must identify existing and/or proposed trees and shrubs, give their total numbers and their general size to determine if it meets screening requirements of the Unified Zoning Code (UZC) Art. IV, Sec. IV-B.3.b.1. Evergreens will be planted a minimum size of 5-foot at the time of their planting, but be taller than 15 feet when mature and planted on 15-foot centers. The site plan must identify the all utility and or access easements. If it is proposed it must be recorded. If a surface is needed for the drive/access easement, it must be approved by the Zoning Administrator. All improvements and construction of the facility/tower shall be completed within a year and before the facility becomes operational.
- F. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations. Provide the City of Wichita Engineer with any required plans, including drainage, for review and approval of the site.
- G. If the Zoning Administrator finds that there is a violation of any of the amended provisions of Protective Overlay #78, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the amended portions of Protective Overlay is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site is located in a part of the city that is on the edge of the county. The site abuts SF-20 Single-Family Residential zoned residences (located in the County, District #2) on its west side and the SF-5 Single-Family Residential zoned St. Peter's Catholic Church and school development on its north and east sides. There are more SF-20 and SF-5 zoned single-family residences located adjacent to the site's west, north and east sides. A LC Limited Commercial zoned convenience store, commercial strip building, a day care and single-family residence abut and are adjacent to the site's south and southwest side of the site, with all of them located along K-42. SF-20 farmland and LI Limited Industrial zoned warehouses, a building supply store and a cluster of warehouse-offices, trucking and manufacturing developments are located south (across K-42) and east (abutting the already mentioned SF-20 and SF-5 zoned single-family residences) of the site. Some of these LI and SF-20 zoned sites would seem to be less problematic than the proposed site because of their distance from the area's single-family residences. However, most of the LI zoned properties are located within Airport Hazard Zone A, which has a maximum structural height of 25 feet or less, thus presenting an obstacle in height that the proposed site does not have. The closest LI zoned site, the warehouse located directly south across K-42, is located within Airport Hazard Zone B, the

same as the subject site. The SF-20 zoned farmlands located south of the site, across K-42, are located within Airport Hazard Zone C, which has a maximum structural height of 150 feet or less.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned GC and is currently developed with a self-storage warehouse, with a Protective Overlay, PO #78. The 0.94-acre site could be re-developed for many commercial, office-warehouse types of uses, within the restrictions of PO #78 and its size. The site's GC zoning and self-storage warehouse is not entirely out of character with the area because of adjacent LI zoned warehouses, a building supply store and a cluster of warehouse-offices, trucking and manufacturing developments. The tower would be the first in the area if approved.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed 100-foot tall, wireless, galvanized steel, monopole would be the first in the area. Its visual impact is undeniable, however the conditions of approval will add landscaping around the site, to help minimize the eye level visual impact. The area's residence will weigh the touted benefits of the proposed wireless communication facility and its 100-foot tall monopole tower against the site's visual impact.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility with its 100-foot tall tower is supposed to provide 4G service to the residences and businesses in this part of Wichita and Sedgwick County. The UZC considers a wireless communication facility a commercial type of use.

The GC zoned site located within Airport Hazard Zone B, which has a maximum structural height of 75 feet or less. The proposed tower is 100 feet tall. Although the Wireless Communication Master Plan permits maximum structural height of 120 feet in the GC zoning district, the Airport Hazard Zone maximum height is the standard that must be addressed. The GC zoned site is subject to PO #78, which confines the uses on the subject site to what is permitted in the LC Limited Commercial zoning district, some prohibited uses and a self-storage warehouse with supplemental use regulations. PO #78 also has a 20-foot building height restriction. A wireless communication facility with a tower is not listed as a prohibited use, however a wireless communication facility in all zoning districts is subject to the standards of the Wireless Communication Master Plan. The subject site is located within the Wichita city limits, but is not shown as a property eligible for consideration of an Administrative Permit, thus an amendment to PO #78 is required to allow the proposed wireless communication facility. The amendment will also include the 20-foot building height restriction.

The proposed site mostly conforms to the guidelines of the Wireless Communication Master Plan for locating wireless communication facilities. Although this will be the first tower in the area is not out of character with this area's LI zoned properties and the current development or the development that the LI zoning allows. The proposed tower's proximity to the area's residential development is more intrusive than what is or can developed one of the area's LI Zoned properties (the warehouses located south of the site, across K-42) or the SF-20 zoned farmland. Staff has been provided no information in regards any contact or a willingness of the LI zoned warehouses and SF-20 zoned farmland to partner in the proposed wireless facility, thus the current application. But the Wireless Plan anticipates that as more of the general population

continues to use the services provided by these facilities, the location of wireless facilities in closer proximity to residential areas is probable. The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities.

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

BILL LONGNECKER, Planning Staff presented the Staff Report.

HANS MUGLER, 1736 WESTPARK CENTER DRIVE, SUITE 201, AGENT FOR SPIRE WIRELESS explained that there was a gap of coverage in the area. He said Verizon Wireless will also be on the tower. He said this was the best possible place to locate the tower within the search ring with a willing land owner. He said they have received all required FAA clearances and will meet all recommendations and conditions listed in the Staff Report.

MOTION: To approve subject to the staff recommendation.

MCKAY moved. **B. JOHNSON** seconded the motion, and it carried (8-0).

8. **Case No.: CON2014-00030** - Noah's Event Center, Rockwell Debt Free Properties, Inc. (Cathy L. Ramondelli) / Kaw Valley Engineering, Inc. (Tim Austin) request a City conditional use to permit a nightclub in the city within 300 feet of residential zoning on property described as:

Beginning at the Northeast corner of lot 3; thence South 405.5 feet; thence West 265 feet; thence South 126.68 feet; thence Northwesterly 55.62 feet; thence North 316.45 feet; thence Northeasterly 152.16 feet; thence North 96.76 feet; thence Northeasterly 164.86 feet to begin, Block 1, Waterfront 6th Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The application area is 2.36 undeveloped acres that are zoned Limited Industrial (LI) which are located at the end of North Lindberg Court (approximately ¼ mile north of East 13th Street North, ½ mile east of North Webb Road). The subject site is platted as a portion of Lot 3, Block 1, Waterfront 6th Addition, and is one of three lots situated on the Lindberg Court cul-de-sac that is the terminus of North Lindberg Court. The applicant, Noah's Event Center, is seeking "conditional use" approval for a "night club in the city" that will part of an event center offered for rent for private events such as weddings, reunions, anniversaries, birthdays, corporate or charitable events, art shows or similar activities. Per the "Wichita-Sedgwick County Unified Zoning Code" (UZC), an establishment that serves alcohol and also provides live entertainment or dancing is defined as a "nightclub in the city."

The applicant proposes to operate his venue differently than a typical nightclub, and has provided a detailed explanation of his intended operation, which is attached. The applicant has also offered the following operational details as proposed conditions of approval:

- A. The facility will be operated similar to an event center where the building or facility is rented out for private activities, where the patrons are present by invitation only to attend a scheduled event, where events or activities are no repeated on a weekly basis and where the facility in not open on

a daily basis at times other than when an event is scheduled. To the extent that the presence of entertainment and/or alcohol, which may technically classify the facility as an "entertainment establishment" or "nightclub in the city", approval of this "conditional use" shall not be deemed to create or allow a facility which is open to the general public whereby alcoholic drinks and/or cereal malt beverages are sold by individual drink and consumed on the property. No business that is classified as a "drinking establishment," "tavern," "class A club," or "class B club" as defined in Chapter 4.04, et seq., of the city Code of Ordinances shall be allowed. "Sexually oriented businesses," alcohol sales to the general public or the individual sale of liquor by the drink is prohibited.

- B. Hours of operations are limited to 6:00 a.m. to midnight, Sunday through Thursday and 1:00 a.m. on Friday and Saturday.
- C. No outside activities shall be allowed in the parking lot. Only non-electric, non-amplified string musical instruments shall be allowed in the outside patio area. No noise generated with the outdoor patio use shall exceed a sound level of five decibels over ambient background noise level, and in accordance with Article III, Section III-D.6.w(2) of the Unified Zoning Code.
- D. Maximum building height shall be limited to 35 feet.
- E. Parking lot light poles shall be limited to a maximum of 15 feet in height, including the base, and shall be shielded to project the light downward and away from residential areas in accordance with Article III, Section III-D.6.w(4) of the Unified Zoning Code. Parking lot lighting shall be extinguished by 12:30 a.m. Sunday through Thursday and 1:30 a.m. Friday and Saturday.
- F. Trash receptacles shall be appropriately screened to reasonably hide them from ground view. Screening shall be constructed of materials and/or landscaping compatible with the building's exterior.
- G. Lighted building signs are not permitted on the building elevations that face east or north.
- H. Rooftop equipment shall be screened from ground level view from adjacent properties and no rooftop fencing shall be allowed.
- I. Landscaping shall be per the landscape ordinance, except that a landscape buffer consisting of a three to four-foot berm to shield auto headlights and evergreens at 1.5 times the rate required by the ordinance shall be provided along the east property line between the facility and the residential area to the east.
- J. All utilities shall be installed underground.
- K. At closing time, all patrons are directed to vacate the premises in a timely and orderly manner as required by Section 3.30.075 of the city Code of Ordinances.
- L. The site shall be developed in substantial compliance with the approved site plan. Deviations which in the opinion of the Zoning Administrator, substantially and/or materially differ from the approved site plan shall require the plan to be amended through the public hearing process.

The site plan submitted by the applicant depicts a 1,300 plus square foot structure located in the northeastern quadrant of the subject site that has its front facing south upon a 117 stall parking lot. A 25-foot building setback is shown along the east property line. The proposed event center is to be located approximately 50 feet farther west of the east property line. A three to four-foot berm with additional plantings is proposed between the event center/night club in the city. On the north side of the event center a large patio is shown, located some 65 feet west of the east property line. The trash enclosure is to be located in the southeast corner of the site, some 35 feet west of the east property line and five feet from the south property line. Access to the site is via the platted but undeveloped North Lindberg Street, which connects to North 13th Street East.

Located immediately north of the application area is the 140-foot wide Reserve F of the Waterfront 6th Addition that contain ponds and stormwater detention facilities. Located immediately east of the application area is the 87-foot wide Reserve G of the Waterfront 6th Addition that contain a significant hedgerow of mature trees. Both Reserves F and G were established to permit: easements, drainage, sidewalks, berms, monuments, landscaping, irrigation and open space. Reserve G was also established to preserve the existing hedgerow that separates the application area from the residential subdivision located to the east. South and west of the application area are two other vacant parcels. All of the previously mentioned properties are zoned LI. East of Reserve G is a SF-5 zoned residential subdivision.

The LI district permits a very wide range of office, retail, commercial, industrial and agricultural uses by-right, such as: “auditorium,” “community assembly,” “hospital,” “construction sales and service,” “hotel,” “restaurant,” “general retail,” “vehicle and equipment sales,” “freight terminal,” “manufacturing,” “warehouse or grain storage.”

A “nightclub in the city” is an establishment that provides entertainment, which may include the provision of dancing by employees or patrons, and where cereal malt beverage or alcoholic liquor are offered, consumed or served to the public or its members, and which may or may not serve food (UZC Article II, Section II-B.9.b). “Nightclub in the city” is permitted by right in the LI zoning district unless the establishment is located within 300 feet of a church, public park, school or residential zoning district, as measured property line to property line. The application area is located within 100 feet of a Single-Family Residential (SF-5) zoned subdivision, the Waterfront Residential Addition that is located east of the application area. When a “nightclub in the city” is proposed to be located within 300 feet of the land uses previously noted “conditional use” approval is required (UZC Article III, Section III-D.6.w).

Compatibility noise standards (UZC, Article IV, Section IV-C.6) prohibit sound amplification systems for projecting music or human voices on any property zoned Neighborhood Office (NO) or more intensive if the music and/or voices can be heard within any residential zoning district that is located within a 500-foot radius of the subject site as compared with the applicant’s proposed development standard “C.”

The property is located in Area A of the Wichita Airport Hazard Zoning Overlay district that requires buildings over 25 feet in height to receive Federal Aviation Administration approval; see proposed development standard “D.” The property is located approximately ¾ of a mile northwest of the north end of the Beechcraft runway.

CASE HISTORY: The Waterfront 6th Addition was recorded in November of 2007.

ADJACENT ZONING AND LAND USE:

North: LI, platted reserve for drainage, landscaping, open space, etc.

South: LI, undeveloped parcel

East: LI and SF-5, platted reserve for drainage, landscaping, open space, etc. and a single-family residential subdivision

West: LI, undeveloped parcel

PUBLIC SERVICES: The property is platted; therefore, municipal services either serve the application area or can be extended to serve the site. North Lindberg Street is a platted but currently uninstalled 950-foot long cul-de-sac street with a right-of-way that is initially 56 feet wide but narrows to approximately 32 feet. However, there are two platted future streets that are to connect to the North Lindberg that will significantly shorten the length of the cul-de-sac.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for “local commercial” uses. The “local commercial” category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. 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 residential areas.

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

1. As defined by the “Wichita-Sedgwick County Unified Zoning Code” (UZC) the “conditional use” permits an “event center” and a “night club in the city”; all other uses permitted by-right in the LI zoning district are permitted unless specifically prohibited. The “event center” and “night club in the city” shall be limited to a venue for hire with the purpose of hosting a variety of gatherings where food, beverages (including alcohol), music or dancing may be offered for purposes such as life cycle events (i.e. birthdays, anniversaries, weddings, reunions); corporate or professional functions (i.e. seminars, meetings, lectures, retreats); other special events including charitable events, fundraisers, and art shows; holiday festivities; or photographic shoots; and other similar events. “Sexually oriented businesses,” as defined by the UZC, shall be prohibited. Alcohol sales to the general public are prohibited. No individual liquor by the drink shall be sold and consumed on the property. No business that is classified as a “drinking establishment,” “tavern,” “class A club,” “class B club” or “restaurant” shall be allowed.
2. No outdoor speakers, entertainment, food or drink service is permitted, unless otherwise addressed below. All live performances, disc jockeys, shows, events, and exhibitions shall be held indoors. Live performances include live productions of music or sound by individuals, bands, musicians, dancing, karaoke, and theatric performances. Outdoor entertainment may be provided, and shall be limited to acoustic performances without sound amplification. The “event center” or “night club in the city” shall be required to stop all noise generating activities, such as music, at 9:00 p.m., or move such activities into the building.
3. The “event center” or “night club in the city” shall have a maximum event size of 350 guests. Parking shall be provided at the rate of 1 stall per 3 occupants.
4. The “event center” or “night club in the city” shall be allowed to operate from 8:00 a.m. to 1:00 a.m. on Friday and Saturday, and from 8:00 a.m. to 12:00 p.m. Sunday through Thursday. Facility set-up and clean-up shall be allowed between the hours of 8:00 a.m. to 1:30 a.m. on Friday and Saturday, and from 8:00 a.m. to 12:30 p.m. Sunday through Thursday. All guests of an event shall be directed to vacate the property in a timely and orderly within one hour of the closing as required by Section 3.30.075 of the city ordinance.
5. The “event center” or “night club in the city” may provide a kitchen facility, provided it shall only be used in conjunction with onsite events. Restaurants shall not be an allowed use.

6. The property owner/operator shall be responsible for the cost of mitigating all noise impacts prior to operation, and shall be responsible for the ongoing cost of monitoring noise associated with the approved use. No outside activities shall be allowed in the parking lot. Only non-electric, non-amplified string musical instruments shall be allowed in the outside patio area. No noise generated with the outdoor patio use shall exceed a sound level of five decibels as measured at the property line in accordance with Section III-D, 6.w.(2) of the Unified Zoning Code.
7. Proof of Insurance: The operator shall be responsible for obtaining and maintaining liability insurance covering for events held at the Event Center. Liability insurance shall include covering damage to property on adjacent tracts as a result of public events held at the Event Center.
8. The Event Center shall obtain and maintain a liquor license as required from the appropriate local and/or State authority. Outside vendors shall obtain and maintain a liquor license as required from the appropriate local and/or State authority.
9. Tents may be erected in approved locations subject to compliance with all applicable building and fire code requirements. All tents shall be disassembled and stored within 24 hours of an event.
10. No temporary/portable restrooms facilities are permitted on site.
11. Minimum Screening: A 3-4 foot high landscaped berm shall be constructed along the east property line. Two staggered rows shall be located 5 feet apart and consist of minimum 5 gallon plants 4 to 6 feet tall planted 10 feet on center. Alternative spacing between rows may be authorized to accommodate the needs of specific plant species. Fast growing plants with a short-life span shall be discouraged.
 - a. Trees and shrubs should be vigorous, drought tolerant 4 to 6 feet in height at the time of installation.
 - b. A mature height of 15 feet or more shall be required for each tree.
12. Internet postings: The Event Center shall provide a website accessible to the general public providing the following information:
 - a. A complete listing of all scheduled events including dates and times;
 - b. Contact information for the operator, e-mail and phone number, to be used to notify the operator of issues with the operation. A phone line shall be manned by a live person during the event; and
 - c. Contact information for the Metropolitan Area Building and Construction Department to be used if members of the public have complaints about the operation.
13. The maximum building height shall be limited to thirty-five (35) feet, subject to Federal Aviation Administration approval, if required.
14. Parking light poles shall be limited to fifteen (15) feet in height, including the base, and shall be shielded to project the light downward and away from residential area in accordance with Section III-D, 6.w.(4) of the Unified Zoning Code. Parking lot lighting shall be extinguished by 12:30 a.m. Sunday thru Thursday and 1:30 a. m. Friday and Saturday.
15. Trash receptacles shall be appropriately screened to reasonably hide them from ground view. Screening shall be constructed of materials and/or landscaping compatible with the building exterior.
16. Lighted building signs are not permitted on building elevations that face east and north.
17. Roof top equipment shall be screened from ground level view from adjacent properties and no roof top fencing shall be allowed.
18. The site shall be developer per the approved site plan. Deviations which in the opinion of the Zoning Administrator, substantially and/or materially differ from the approved site plan shall require the plan to be amended through the public hearing process.
19. The site shall maintain all necessary licenses for the operation of a "nightclub in the city." The site shall conform to all applicable licenses, codes and regulations, including but not limited to zoning, building, fire, liquor and health.

20. If the Zoning Administrator finds that there is a violation of any of the conditions of approval, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the “conditional use” null and void. This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The lots and reserves abutting the application area are zoned LI, are undeveloped or are dedicated for open space or drainage/utilities, and are part of a much larger office and commercial complex known as The Waterfront developing east and north from the intersection of Webb Road and 13th Street. Land located some 87 feet east of the application area is developing as a SF-5 single-family residential addition. The application area is one of several undeveloped lots or parcels that form the transition line between the developing commercial and office center located further west of the application area and the single-family subdivision located east.
2. The suitability of the subject property for the uses to which it has been restricted: The application area is zoned LI which permits a very wide range of office, retail, commercial, industrial and agricultural uses by-right, such as: “auditorium,” “community assembly,” “hospital,” “construction sales and service,” “hotel,” “restaurant,” “general retail,” “vehicle and equipment sales,” “freight terminal,” “manufacturing,” “warehouse or grain storage.” Therefore, it is reasonable to expect that the site could be put to economic use as currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The application area is zoned LI which permits a very wide range of office, retail, commercial, industrial and agricultural uses by-right. However many of the more intense uses permitted in the LI district are probably more intense or have operational characteristics that are not consistent with the uses that have developed farther west, such as restaurants, banks, offices, and retail commercial, and the residential subdivision located east of the application area. A “nightclub in the city” subject to the operational and development standards and conditions recommended above would be a more compatible use when compared to the more intense uses permitted by- right in the LI zoning district.
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 provide the public with an additional choice of venue of the type proposed. Denial would presumably represent a loss of economic opportunity to the applicant or property owner.
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 “local commercial” uses. The “local commercial” category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. 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 residential areas. The proposed use conforms to plan’s recommended uses for the property, and the applicant has offered development standards designed to limit identified impacts on nearby properties.

6. Impact of the proposed development on community facilities: Existing or proposed facilities are capable of serving the proposed use.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to the staff recommendation.

B. JOHNSON moved, **MILLER STEVENS** seconded the motion, and it carried (8-0).

9. **Case No.: CUP2014-00035** - MRP-Metro LLC, Et Al (owner) Darl Heffelbower (applicant) and KE Miller Engineers, P.A. c/o Kirk Miller (agent) request a City request to amend Community Unit Plan CUP DP-194 to allow a nightclub in the city on GC General Commercial zoned Parcel 1 on property described as:

Lot 2, Block 1, Home Design Center Second Addition.

BACKGROUND: The GC General Commercial zoned site, Parcel 1, is located within the GC and LC Limited Commercial zoned DP-194, the Home Design Center Community Unit Plan (CUP). DP-194 is located one block east of Rock Road, between 32nd Street North and 29th Street North, on the east side of Penstemon Street. The applicant is requesting amendment #4 to DP-194 to allow unlimited alcoholic liquor sales and entertainment on Parcel 1; "a night club in the city." The Unified Zoning Code (UZC) defines a night club in the city as ... "an establishment located in the City that provides entertainment, which may include the provision of dancing by employees or patrons, and where cereal malt beverage or alcoholic liquor are offered, consumed or served to the public or its members, and which may or may not serve food."; UZC, Sec.II-B.9.b. The site currently has a full service restaurant (Drinking Eating Restaurant/DER), Mulligan's Pub.

The UZC permits a night club in the city in the GC zoning district, but requires a Conditional Use when located within 300 feet of a church or a place of worship, public park, school, or residential zoning; UZC, Sec.III-D.w. The site is located approximately 175 feet west of MF-29 Multi-Family Residential zoned apartments. Because Parcel 1 does not list a night club in the city as a permitted use and the site is closer than 300 feet from residential zoning, an amendment to the CUP is required; the amendment also substitutes for the required Conditional Use.

The proposed night club is part of a one story commercial strip building located within the GC and LC zoned DP-194. The current DER shares parking with several offices located within the commercial strip. A night club requires more parking than a restaurant; one space per two occupants, as opposed to one space per three occupants. The applicant needs to provide the seating capacity of the building to address the new parking standards if the amendment to the CUP is approved. Other developments within DP-194 include:

- Located west of the site, across Penstemon Street, are a GC zoned vacant theater and undeveloped land.
- Abutting the north and west sides of the site there is undeveloped land.
- Abutting the east side of the site there is a GC zoned home health care/medical office building.
- Abutting the south side of the site there is a GC zoned office building and undeveloped land

Further south, within DP-194, there is a GC zoned office-warehouse, a GC zoned vacant building and a LC zoned medical office. In 2013, the GC zoned vacant building, the Chalet, was approved for a drinking establishment; CUP2013-00008

Other developments in the area, but outside DP-194, include the already noted MF-29 zoned apartments located east and southeast of the site. LI zoned multi-story offices, medical and a collision repair are located north of the site, across 32nd Street north. LC zoned commercial/retail/office is located further east of the site up to and along Rock Road. As noted, the site is located a block east of Rock Road, possibly east Wichita's busiest road, with traffic being generated by Rock's abutting commercial zoning and development.

CASE HISTORY: DP-194, the Home Design Center CUP and the associated zone changes, Z-2978, from R-5 General Residence, BB Office, and LC Light Commercial to C Commercial was approved by the Wichita City Council on January 9, 1990, subject to platting. The site is located on Lot 2, Block 1, Home Design Center Second Addition, which was recorded with the Register of Deeds October 30, 1992. A 1996 amendment was approved to remove Parcel 4 from DP-194; amendment #1. A 1997 amendment to expand the theater on Parcel 4 was denied. A 2003 amendment was approved to change changed the zoning on Parcel 3 from GO General Office ("GO") to LC; CUP2003-00045 and ZON2003-00043, amendment #2. A 2013 amendment to allow a boarding and breeding kennel on Parcel 4 was denied; CUP2013-00003. CUP2013-00008 was approved amending DP-194, Parcel 2B to allow a drinking establishment, the Chalet; amendment #3.

ADJACENT ZONING AND LAND USE:

| | | |
|--------|-----------|---|
| NORTH: | GC, LI | Undeveloped land, multi-story office, medical, collision repair |
| SOUTH: | GC, MF-29 | Office, apartments, |
| EAST: | GC, MF-29 | Medical, offices |
| WEST: | GC, LC | Vacant theater, undeveloped land, office, retail |

PUBLIC SERVICES: The site has a drive onto Penstemon Street. Penstemon is a paved, two-lane, short, local street that directs its abutting commercial developments to its intersections with the arterial 29th Street North on its south side and the urban collector 32nd Street North on its north side. 29th Street North has four lanes with a center turn lane and a raised median located directly across from the east portion of DP-194. 32nd Street North is a paved two lane street. 32nd Street North is also part of the City's bike path network. Both 29th and 32nd Streets North intersect Rock Road, located a block west of the site. There are stop lights at the 32nd Street North and Rock Road intersection. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" depicts this location as being appropriate for "employment – industry center," which contains concentrations of employment of an industrial, manufacturing, service or non-institutional nature. The range of uses includes: manufacturing and fabrication facilities, warehousing and shipping centers, call centers and corporate offices. The site's current use as a DER and proposed use as a night club are not typical uses listed for the employment – industry center category; a DER and a night club are more of a local commercial type of use. However, locating a night club within DP-194 with its office-warehouse, retail and office – medical strips is not inappropriate, as its impact on those uses will be minimal. The most negative impact will be on the east abutting apartment complex. However, the proposed night club in

the city would not introduce an entirely new use into the area, as the previously approved CUP2013-00008 amended DP-194, Parcel 2B to allow a drinking establishment.

The UZC requires a Conditional Use for a night club when it is located within 300 feet of a Church or Place of Worship, public Park, public or parochial School or residential zoning District; the site is located approximately 175 feet west of MF-29 zoned apartments. DP-194, Parcel 1 does not currently permitted a night club, thus the need for an amendment. An amendment to the CUP substitutes for the required Conditional Use.

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. The proposed night club is located within an existing commercial, office, medical, retail and warehouse-office development, with no direct access through residential neighborhoods. Existing office-warehouses, retail, office, and medical buildings are adjacent to and abutting the site's west, east, south, and north sides. There are no proposed physical changes to the site.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request for an amendment to DP-194 to allow a night club on Parcel 1 be **APPROVED**, with the following conditions:

- (1) No outside loudspeakers or entertainment are permitted.
- (2) Provide the seating capacity of the building to address the new parking standards for a tavern/drinking establishment within 60 days after approval of this case by the Governing Body.
- (3) The applicant shall submit four revised 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.
- (4) If the Zoning Administrator finds that there is a violation of any of the conditions of the amendment to the CUP, 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 that the amendment to the CUP is null and void.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The GC General Commercial zoned site, Parcel 1, is located within the GC and LC zoned DP-194, the Home Design Center Community Unit Plan. DP-194 contains a vacant theater, undeveloped land, medical offices, office-warehouse, office and a vacant drinking establishment. The rest of the area is zoned LI, GC and LC and developed with multi-story and single story retail, commercial, office and medical. The site is located a block east of Rock Road, possibly east Wichita's busiest road.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned GC, which accommodates a wide range of commercial uses (both local and regional in their draw), such as the current DER and if the amendment to the DP-194 is approved a night club in the city.

- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Typical concerns about night clubs include bad behavior resulting from unlimited alcoholic liquor sales and the hours of the night club having a detrimental impact on the abutting MF-29 zoned apartments.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2030 Wichita Functional Land Use Guide” depicts this location as being appropriate for “employment – industry center,” which contains concentrations of employment of an industrial, manufacturing, service or non-institutional nature. The range of uses includes: manufacturing and fabrication facilities, warehousing and shipping centers, call centers and corporate offices. The site’s current use as a DER and proposed use as a night club are not typical uses listed for the employment – industry center category; a DER and a night club are more of a local commercial type of use. Locating a night club within DP-194 with its office-warehouses, retail and office – medical strips is not inappropriate, as its impact on those uses will be minimal. The most negative impact will be on the east abutting apartment complex. However, the proposed night club would not introduce an entirely new use into the area, as the previously approved CUP2013-00008 amended DP-194, Parcel 2B to allow a drinking establishment.

The UZC requires a Conditional Use for a night club when it is located within 300 feet of a Church or Place of Worship, public Park, public or parochial School or residential zoning District; the site is within approximately 175 feet of MF-29 zoned apartments on its east side. DP-194, Parcel 1 does not currently permitted a night club, thus the need for an amendment. An amendment to the CUP substitutes for the required Conditional Use.

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. The proposed night club is located within an existing commercial, office, medical, retail and warehouse-office development, with no direct access through residential neighborhoods. Existing office-warehouses, retail, office, and medical buildings are adjacent to and abutting the site’s west, east, south, and north sides. There are no proposed physical changes to the site.

- (5) **Impact of the proposed development on community facilities:** It is possible that approval of this request could result in an increased demand for police services.

BILL LONGNECKER, Planning Staff presented the Staff Report.

MOTION: To approve subject to the staff recommendation.

B. JOHNSON moved, **MILLER STEVENS** seconded the motion, and it carried (8-0).

10. **Case No.: PUD2014-00002** - JBL, Inc (Jeff Lange) / Baughman Company, P.A. (Russ Ewy) request a zone change from LI Limited Industrial to PUD Planned Unit Development on property described as:

All of Lot 1, Block A, and Reserve A, Lange 2nd Addition, Wichita, Sedgwick County, Kansas; together with Lot 1, Block A, Meek First Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant is seeking approval of Planned Unit Development #43 (PUD #43) to permit: offices; the manufacture, outdoor display, outdoor storage and outdoor sales of blast resistant buildings and storage containers; parking, storage and repair of vehicles, including tractor/trailers and all other uses permitted by-right in the Limited Industrial (LI) zoning district, except those prohibited by the PUD. The application area contains 55.84 acres located on the east side of South West Street, approximately 1/3 mile south of West MacArthur Road, and addressed as 4340 South West Street.

The subject site has approximately 54.8 LI zoned acres that are located within the corporate boundary of the City of Wichita, and are platted as Lot 1, Block A and Reserve A, Lange 2nd Addition. The site's remaining 1.2 acres are zoned SF-20 Single-Family Residential (SF-20), and have not been annexed but have been platted as Block A, Meek Addition. The part of the site that is in Sedgwick County is generally the northernmost area labeled on the PUD drawing as "future parking area" and "new container sales area." The property is approximately 1/2 mile deep but has only approximately 495 feet of frontage along West Street because there is approximately 830 feet of intervening land between the PUD's northern and southern sides that is not included in the application area. The proposed PUD is divided into a single parcel and a reserve. The platted reserve is set aside for open space, lakes, landscaping, outdoor equipment, miscellaneous equipment and drainage. The PUD proposes that a portion of the platted and PUD reserve be used for "potential outdoor container storage." A row of parking spaces are proposed along the eastern property line.

Currently, all of the application area that is located within the City of Wichita is zoned LI, subject to the development standards described in two Protective Overlays (PO) PO #271 and PO #198 that are associated with two zoning cases approved in 2012 and 2007, respectively. (The portion of the application area that has not been annexed is not subject to either of the two PO's.) The requirements of the two PO's are nearly identical. The requirements of PO #271 are listed below in standard print; requirements contained in PO #198 that differ from PO #271 are listed in italics.

1. All uses permitted by right in the "LI" Limited Industrial zoning district except the following uses: correctional facility; correctional placement residence, limited and general; day reporting center; kennel, boarding/breeding/training; night club in the city; pawn shop; secondhand store; sexually oriented business in the city or the county; tattooing and body piercing facility (city); tavern and drinking establishment; asphalt or concrete plant, limited and general; and grain storage. The City Traffic Engineer may require that additional traffic improvements, acceleration/deceleration lanes, be guaranteed to support the increased traffic volume.
2. Screening shall be per Unified Zoning Code; however, any fences or walls shall be constructed of a consistent pattern and color.
3. Landscaping will be per the Landscape Ordinance.
4. Storage of merchandise shall be allowed outside an enclosed building only in compliance with the general screening standards of the Unified Zoning Code and the following additional standards: 1) no outdoor storage or work areas shall be permitted in any building setback; 2) no required off-street parking space or loading area shall be utilized for storage; and 3) items stored outdoors shall be screened from view from West Street or any residentially zoned property.
5. Roof-mounted equipment and loading docks, trash receptacles, ground level heating, air conditioning and mechanical equipment, free-standing coolers or refrigeration units, outdoor

- storage including portable storage containers, outdoor work areas or similar uses shall be screened from ground level view along West Street and any residentially zoned property.
6. A minimum 35-foot setback for all non-residential buildings along the north and east property lines where adjacent to residential zoning, and a 50-foot setback for all outdoor storage areas along the north and east property lines where adjacent to residential zoning. Setbacks along the west and south property lines shall be per the Unified Zoning Code (UZC). Minimum setback requirements shall be 35 feet along West Street and a 50-foot setback with two times the required landscaping from the south property line, where adjacent to MH zoning.
 7. No overhead doors or loading docks within 200 feet of residential zoning.
 8. All signs shall be limited to signs that would be allowed in the "LC" Limited Commercial zoning district; no off-site, billboard or portable signs shall be permitted except for off-site signs advertising uses located within this tract that shall be allowed to have signage placed on signs fronting West Street.

The proposed PUD submitted by the applicant contains the following summarized development standards:

- 1) Building coverage is limited to 35 percent of the site (General Provision 1).
- 2) Off-street parking is to be calculated at the rate of 1 space per 1,000 square feet of building area. Parking areas may be surfaced with crushed rock (General Provision 2). The Unified Zoning Code (UZC) Article IF, Section IV-A.4 "manufacturing" requires one parking space per 500 square feet of building area; "outdoor storage" is figured at one space per 10,000 square feet; "office" is calculated at one space per 999 square feet.
- 3) A 35-foot setback is shown along the southernmost portion of the site that has frontage along West Street. Both the Meek Addition and the Lange 2nd Addition have platted 35-foot setbacks along West Street at the location shown on the proposed PUD.) A 50-foot setback is proposed along the northern property line but only for the eastern one-half of the application area. A 50-foot setback is proposed along the eastern property line. (PO #271 requires a 35-foot building setback along the north and east but a 50-foot setback for outdoor storage.) Setbacks per the LI district are proposed along the south property line (General Provisions 3 and 11). (PO #198 requires a 50-foot setback.) Building setbacks per the LI zoning district are: front-20 feet; rear-no minimum; interior side-zero feet but if a setback is provided it must be at least five feet.
- 4) The previously recorded plats for the application had requirements for drainage plans and any required guarantees (General Provision 4).
- 5) Proposed uses are consistent with those permitted or excluded by the existing protective overlays (General Provision 5).
- 6) Three points of access to West Street are proposed, which is consistent with the approved plats. One driveway is proposed to be 36 feet wide. (General Provision 6). The proposed driveways should line up with driveways located on the west side of West Street where possible.
- 7) Screening shall be per Unified Zoning Code; fences or walls shall be constructed of a consistent pattern and color (General Provision 7). The proposed requirement is consistent PO2#271 requirement 2.
- 8) Landscaping per the landscape ordinance (consistent with PO #271 requirement 3; however, PO #187 requirement number 6 required two-times the landscape ordinance minimums along the southern property line (General Provision 8).
- 9) General Provision 9 dealing with outdoor storage is consistent with PO #271 requirement 4.

- 10) General Provision 10 dealing with screening of equipment and loading area, etc. is consistent with PO #271 requirement 5.
- 11) General Provision 11, see 3 above.
- 12) No overhead doors or loading docks within 50 feet of residential zoning (General Provision 12). Consistent with PO #271 requirement 7.
- 13) Signage requirements (General Provision 13) are consistent with PO #271 requirement 8.

Property located north and east of the application area is zoned SF-20, and is developed with single-family residential, is vacant or is farmland. Property to the south is zoned General Commercial (GC) or Manufactured Home (MH), and is developed with a self-service warehouse or manufactured home park. Land located to the west, across West Street, is zoned LI, and is either an office/warehouse, is vacant or is farmland.

A solid metal fence exists approximately 21 feet inside the subject site's southern property line and runs approximately 1,670 feet east from the front property line.

CASE HISTORY: Case number ZON2012-34 and its associated PO #271 rezoned the northern half of the current application area and additional acreage not included in the current application (30.3 acres) from SF-20 to LI, subject to the development standards contained in PO #271.

Case number ZON2007-00052 and its associated PO #198 rezoned the southern half of the current application (34 acres), except that portion of the current application that is zoned SF-20, from SF-5 Single-Family Residential (SF-5) to LI.

The northern portion of the site was annexed in 2002, while a portion of the southern-half was annexed in 2013. Lange 2nd Addition was recorded in 2013. Block A, Meek Addition was recorded in 1982.

ADJACENT ZONING AND LAND USE:

North: SF-20; single-family residences, vacant or farmland
South: GC and MH; self-service warehouse, manufactured home park/subdivision
East: SF-20; vacant or farmland
West: LI; office/warehouse, vacant or farmland

PUBLIC SERVICES: South West Street is a two-lane paved arterial with 120 feet of full right-of-way. Sanitary sewer is located along the west, north and east property lines and along a portion of the southern property line. A water main is located in West Street.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide map, adopted in 2005, depicts the front approximately 500 feet of the application area as appropriate for "employment/industry center"; while the remainder of the application area is designated as appropriate for "urban development mix" uses. The "employment/industry center" category includes centers or concentrations of employment of an industrial, manufacturing, service or non-institutional nature. The range of uses includes: manufacturing and fabrication facilities, warehousing and shipping centers. The urban development mix includes land that will likely be developed or redeveloped within the next 30 years with uses predominately found in the "urban residential use" category.

RECOMMENDATION: Based upon the information available at the time the report was prepared, staff recommends the request be approved subject to annexation of the property not currently annexed, and the following conditions:

- 1) Building coverage is limited to 35 percent of the site. Total gross floor area is 851,317 square feet. (General Provision 1)
- 2) Off-street parking is to be calculated at the rate of 1 space per 1,000 square feet of building area. Parking areas may be surfaced with crushed rock. (General Provision 2)
- 3) Setbacks are: west (front)-35 feet; north (interior)-50 feet; east (rear)-50 feet and south (interior)-30 feet. (General Provision 3)
- 4) A drainage plan shall be submitted to the Public Works Department for review and approval prior to construction of any additional buildings. (General Provision 4)
- 5) Use permitted in Parcel 1 shall be limited to those permitted by-right in the LI Limited Industrial district except the following uses: correctional facility; correctional placement residence, limited and general; day reporting center; kennel, hobby, boarding, breeding or training; night club in the city; pawn shop; secondhand store; sexually oriented business in the city or the county; tattooing and body piercing facility in the city; tavern and drinking establishment; asphalt or concrete plant, limited and general and grain storage. (General Provision 5).
- 6) Access shall be limited to three openings to West Street as indicated on the PUD, and as approved by the City Engineer. One driveway is proposed to be 36 feet wide. (General Provision 6).
- 7) Screening shall be per Unified Zoning Code; fences or walls shall be constructed of a consistent pattern and color. The use of ribbed flat-panel, non-corrugated, metal as a screening material is permitted. (General Provision 7)
- 8) Landscaping per the landscape ordinance. (General Provision 8)
- 9) Storage of merchandise shall be allowed outside an enclosed building only in compliance with the general screening standards of the Unified Zoning Code and the following additional standards: 1) no outdoor storage or work areas shall be permitted in any building setback; 2) no required off-street parking space or loading area shall be utilized for storage; and 3) items stored outdoors shall be screened from view from West Street or any residentially zoned property. Outdoor storage areas may be surfaced with crushed rock or similar material. (General Provision 9)
- 10) Roof-mounted equipment and loading docks, trash receptacles, ground level heating, air conditioning and mechanical equipment, free-standing coolers or refrigeration units, outdoor storage including portable storage containers, outdoor work areas or similar uses shall be screened from ground level view along West Street and any residentially zoned property. (General Provision 10)
- 11) No overhead doors or loading docks within 50 feet of residential zoning. (General Provision 12).
- 12) All signs shall be limited to signs that would be allowed in the LC Limited Commercial zoning district; no off-site, billboard or portable signs shall be permitted except for off-site signs advertising uses located within this tract that shall be allowed to have signage placed on signs fronting West Street. (General Provision 13)
- 13) The design layout shown on the plan illustrates only one development concept. Slight modifications to the location of improvements may be permitted, provided they meet all requirements of this plan. (General Provision 14)
- 14) Amendments, adjustments or interpretations to this PUD shall be done in accordance with the Unified Zoning Code. (General Provision 15)

- 15) Development may be phased on the ability to provide adequate water and sanitary sewer infrastructure. (General Provision 16)
- 16) The transfer of title of all or any portion of land included within the PUD (or any amendments thereto) does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land and be binding upon present owners, their successors and assigns. (General Provision 17)
- 17) The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator or the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development. (General Provision 18)
- 18) Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for its consideration. (General Provision 19)
- 19) The applicant shall record a notice with the Sedgwick County Register of Deeds that states that the property is subject to development standards contained in the PUD.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: West Street south of West Highway 54/400 is a significant heavy commercial and light industrial arterial street and has been for the last 40 or 50 years. The properties located south of I-235, on the west side of West Street are predominantly zoned LI and there are significant areas zoned LI on the east side of South West Street as well. Property located north and east of the application area is zoned SF-20, and is developed with single-family residential, is vacant or is farmland. Property to the south is zoned General Commercial (GC) or Manufactured Home (MH), and is developed with a self-service warehouse or a manufactured home park. Land located to the west, across West Street, is zoned LI, and is either an office/warehouse, is vacant or is farmland. The character of the area surrounding the subject site is a mix of zoning extremes, LI or SF-20 zoning.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned LI subject to two nearly identical protective overlays, described in the "background" section. As currently zoned, the site could be put to economically viable uses as the protective overlays prohibit a short list of problematic uses, such as taverns, sexually oriented businesses and correctional placement residences and permit a wide range of industrial, commercial and office uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed PUD maintains most of the restrictions established by the existing protective overlays. The PUD primarily: allows the site's parking, loading and driveways to be gravel instead of concrete, asphaltic concrete, asphalt or other comparable surfacing; modifies building setback along the southern property line; establishes a uniform parking standard for the entire site instead of by use and permits metal fencing.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request will allow a local company to expand, and be more efficient and competitive, and provide additional industrially zoned land to

the community's inventory. Denial would presumably represent an economic hardship to the applicant.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide map, adopted in 2005, depicts the front approximately 500 feet of the application area as appropriate for "employment/industry center"; while the remainder of the application area is designated as appropriate for "urban development mix" uses. The "employment/industry center" category includes centers or concentrations of employment of an industrial, manufacturing, service or non-institutional nature. The range of uses includes: manufacturing and fabrication facilities, warehousing and shipping centers. The urban development mix includes land that will likely be developed or redeveloped within the next 30 years with uses predominately found in the "urban residential use" category. The request is not consistent with the 2005 land use guide map; however, the more recent zone changes granting LI subject to the protective overlays are a more accurate reflection of the land uses thought to be appropriate for this area.
6. Impact of the proposed development on community facilities: Community facilities are in place to serve the site; however, due to the depth of the lot and the location of sewer and water services, the site will likely need long private service lines to serve buildings located to the rear of the property.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to the staff recommendation.

B. JOHNSON moved, **MILLER STEVENS** seconded the motion, and it carried (8-0).

NON-PUBLIC HEARING ITEMS

11. Conformity of the Union Station Project Plan for the Union Station Redevelopment District with the Wichita-Sedgwick County Comprehensive Plan.

Background: A tax increment finance district is a tool available under Kansas Statutes to stimulate economic redevelopment. It allows a city to finance in blighted or deteriorating areas, all or a portion of public infrastructure and redevelopment costs using captured incremental real estate tax revenues or sales tax revenues generated by the redevelopment activity.

The City of Wichita via Ordinance No. 49-839 (dated October 14, 2014) established the Union Station Redevelopment District in order to encourage (using tax increment financing) the redevelopment of a 10 parcel area centered around the historic Union Station Depot in downtown Wichita. The TIF redevelopment district and the project area are identical and overlapping - bounded on the west by the elevated rail corridor, on the east by an irregular line roughly following S. Rock Island Avenue and S. Mead Street, on the north by E. Douglas Avenue and on the south by E. Waterman Street.

Project Details - The Union Station Project Plan consists of a mixed-use development of approximately 275,000 square feet of retail, restaurants, office space and structured parking. Union Station LLC owns the property and is also the Developer. They will redevelop the four existing buildings on the complex including the Union Station main terminal through historic renovation. The project will consist of retail,

restaurants, and office space (includes 80,000 square feet of new office/retail space) and the construction of a public parking structure (471 spaces) at the south end of the campus. The Developer will finance the project including various public infrastructure improvements. The City will provide pay-as-you-go financing to reimburse the Developer for TIF-eligible expenditures.

The public infrastructure improvements planned within Project Area will consist of the following:

- Resurfacing existing parking areas and constructing a parking structure;
- Providing public access improvements including a public plaza with brick paving and aesthetic details similar to nearby Old Town;
- Purchasing a city public access easement to provide pedestrian gathering areas and mobility access through the Union Station campus.

It is estimated that construction of public infrastructure improvements will begin in 2015 and be completed before the end of 2019 at a total estimated cost of \$17,321,000. Tax increment financing will be used to finance these improvements.

The original total assessed valuation of the Project Area as of January 2014 for taxes payable in 2014-2015 is \$375,000. The projected total assessed valuation as of January 1, 2020 is estimated to be \$11,516,150. Therefore, the captured assessed valuation for the Project Area as of January 1, 2020 is estimated at \$11,141,150. The resulting property tax increment in 2020 has been calculated to be \$933,631. It is the City's intention to use the property tax increment revenues generated by this TIF District to reimburse the Developer on a pay-as-you-go basis. No TIF bonds will be used to finance eligible expenses. The projected tax increment revenue from the District will be sufficient to reimburse the Developer for all eligible project costs.

Analysis: The Union Station Project Plan for the Union Station Redevelopment District falls within the *Project Downtown Master Plan* which has been adopted as an element of the *Wichita-Sedgwick County Comprehensive Plan*. More specifically, the Project Plan area falls within the Downtown Master Plan's designated 'Old Town South District', one of 15 unique districts that constitute Downtown Wichita.

The Project Plan will specifically accomplish the following two key vision themes identified for the 'Old Town South District':

- "Revive Union Station, adjacent sites, and Douglas Avenue with office, hotel and/or other uses"
- "Add shared parking to support development on area blocks and the Douglas edge"

A third key vision theme is to "Create an intermodal transportation hub at Union Station." No information is provided in the Project Plan regarding the possible accommodation of future passenger rail station facilities and/or future intermodal transportation hub facilities at the Union Station Depot. Staff has been advised that the Developer did not include this option in the Project Plan given the lack of a funding commitment for future passenger rail facilities or an intermodal transit hub. The Developer has verbally indicated that a rail station and side track could be located on-site should that service ever be funded.

It is the opinion of staff that the Union Station Project Plan dated November 20, 2014 is substantially consistent with the Wichita-Sedgwick County Comprehensive Plan.

Legal Considerations: Pursuant to K.S.A. 12-1772, each redevelopment project plan undertaken as part of a tax increment finance district must be prepared in consultation with the planning commission. Accordingly, the MAPC has a responsibility to review the proposed Union Station Project Plan and make a determination of its consistency with the Wichita-Sedgwick County Comprehensive Plan.

Recommended Action: That the Metropolitan Area Planning Commission pass a resolution finding the proposed Union Station Project Plan for the Union Station Redevelopment District, November 20, 2014 to be substantially consistent with the adopted Wichita-Sedgwick County Comprehensive Plan.

Attachments: 1. Exhibit A - Union Station Redevelopment District and Project Plan Area Map
2. Union Station Project Plan for the Union Station Redevelopment District, November 20, 2014

DAVE BARBER, Planning Staff presented the Staff Report.

MARK ELDER, CITY MANAGER'S OFFICE, OFFICE OF URBAN DEVELOPMENT briefly reviewed project details including an aerial map and site plan of the proposed project site. He said Phase I will include rehabilitation of the existing structures in the area including a hotel, the Rock Island Freight Depot and the Union Station Terminal. He said the next Phase of the project includes development of two additional structures consisting of approximately 80,000 square feet of office, commercial and retail space as well as a parking garage. He said Phase II will consist of creating a plaza and repaving and brick work in the area. He said when the development is finished it should be approximately 10 acres in size with 275,000 square feet of office, retail and restaurant space.

ELDER said the Tax Increment Financing on the project is unique in that it is a "pay as you go" arrangement and the City will not issue bonds as with previous TIF projects. He said as TIF revenue is generated, it will be used to reimburse the developer for TIF eligible expenses incurred. He said approximately \$6.2 in public funds will be spent on the plaza including boardwalks, public access easements and other public improvements including streets and curbing. He said \$9.6 in public funds will be spent on the parking structure. He concluded by saying that staff recommends that the project complies with both the Downtown Master Plan and the Wichita-Sedgwick County Comprehensive Plan.

SCOTT KNEBEL, Planning Staff briefly reviewed slides that explained the approach to the Downtown Master Plan and why staff feels this project is consistent with that. He said the vision plan for Project Downtown identifies 9 catalyst sites for public ownership, which staff feels are key to the success of downtown redevelopment. He said Union Station is identified as one of those catalyst sites. He said another overall focus of the Downtown Plan is "walkable" development and expanding walkability and connections of those areas to other areas downtown. He referred to a slide of the condition of the old town south district today consisting of vacant buildings and another slide with a "vision" of development including buildings, sidewalks, landscaping, in-fill office, commercial and retail development and an active public plaza. He said staff has had lengthy conversations with the developer on how to realize that vision. He said staff feels the project is consistent with both the Downtown Master Plan and the Wichita-Sedgwick County Comprehensive Plan.

FOSTER mentioned "hick ups" involved with the Theatre District TIF and how staff may have benefited from that experience with the approach to this project.

ELDER commented that the “pay as you go” approach is a great advantage to the City and incentive to the developer.

FOSTER asked who will maintain the area once it is developed

KNEBEL replied the developer of the project.

JEFF FLUHR, DIRECTOR, DOWNTOWN DEVELOPMENT CORPORATION said City and Downtown Development staff have worked with the developer for the last year and a half on the project design. He mentioned the downtown investment policy which consisted of design including an actual “walk through” of the project site and financial analysis where a committee looks at the financial feasibility of each project. He said they feel this is a great project that will fulfill the intent and mission of the Downtown Master Plan.

FOSTER mentioned that the Staff Report said no consideration had been given to future potential rail service. He asked the applicant if that might be an impediment to the development if that happens in the future.

GARY OBORNEY, OCCIDENTAL MANAGEMENT, 13824 PINNACLE said currently there is no funding for Amtrak to bring a rail location to this area. However, he said they have worked with Amtrak to design a location if that should happen in the future. He referred to the south end of property and referenced a “pan handle” location consisting of a 3,500 square foot Amtrak building which would be independent to this project.

FOSTER said he wanted to applaud the developer on his efforts for the community.

MOTION: To pass a resolution finding the proposed Union Station Project Plan for the Union Station Redevelopment District, November 20, 2014 to be substantially consistent with the adopted Wichita-Sedgwick County Comprehensive Plan.

J. JOHNSON moved, **B. JOHNSON** seconded the motion, and it carried (8-0).

Other Matters/Adjournment

The Metropolitan Area Planning Commission adjourned at 3:40 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)

DRAFT

STAFF REPORT

CASE NUMBER: SUB2014-00040 -- SOLIS ADDITION

OWNER/APPLICANT: Jose A. Solis, 2918 North Wellington Place, Wichita, KS 67204

SURVEYOR/AGENT: Abbott Land Survey, 520 South Holland, Suite 103, Wichita, KS 67209

LOCATION: North of 29th Street North, East of Hood (District VI)

SITE SIZE: 1.69 acres

NUMBER OF LOTS

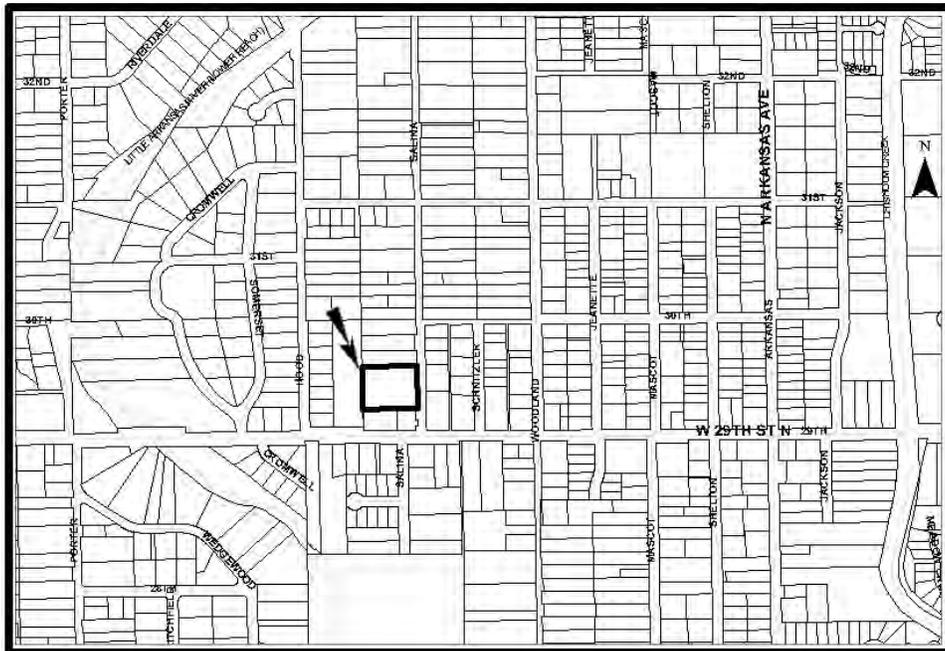
| | |
|--------------|---|
| Residential: | 3 |
| Office: | |
| Commercial: | |
| Industrial: | |
| Total: | 3 |

MINIMUM LOT AREA: 24,596 square feet

CURRENT ZONING: SF-5 Single-family Residential

PROPOSED ZONING: Same

VICINITY MAP



SUB2014-00040 -- Plat of SOLIS ADDITION
December 18, 2014 - Page 2

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 water and sewer services are available to serve Lots 1, 2 and 3. A 20-foot utility easement is needed for the existing sanitary sewer.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the applicant's drainage plan. A drainage easement/reserve was required in the rear of the lots.
- D. 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 Engineers (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.
- E. The Applicant is reminded that an updated 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.
- F. Approval of this plat will require a waiver of the lot depth-to-width ratio of the Subdivision Regulation for each lot. 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.
- G. The applicant shall send a report to County Surveying regarding the boundary and distances shown. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- H. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- I. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- J. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- K. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley

SUB2014-00040 -- Plat of SOLIS ADDITION
December 18, 2014 - Page 3

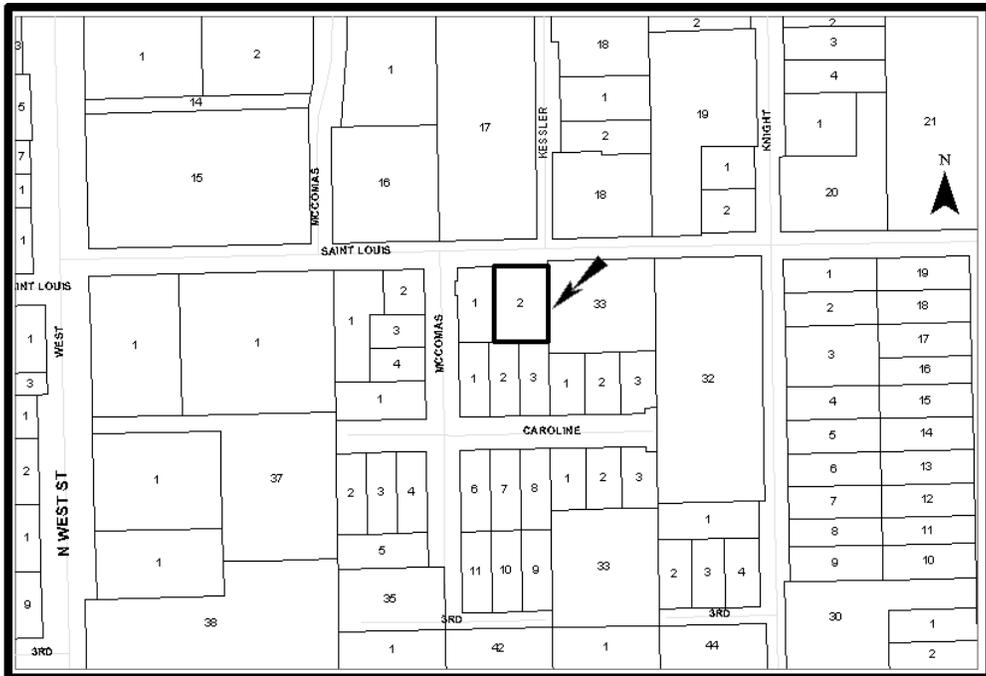
Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

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

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

AGENDA ITEM NO. 2-2

DATE: December 18, 2014
TO: Metropolitan Area Planning Commission
FROM: Neil Strahl
SUBJECT: LSP2014-00024 F.D. Sutton Addition Lot Split
Modification of Lot Width-to-Depth Ratio



This proposed lot split is for property zoned Two-Family Residential (TF-3). It encompasses the split of one lot into two lots. The maximum lot width-to-depth ratio of 2.5 to 1 for residential lots is exceeded by each of the lots and a modification needs to be approved by MAPC.

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.

St. Louis Ave.

Lot Split
Lot 2, F.D. Sutton Add
Wichita, Kansas



State of Kansas } ss
County of Sedgwick }

Legal Description:

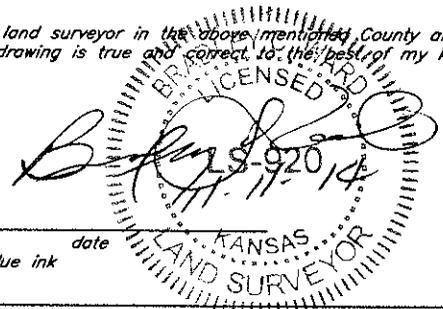
Parcel 1

Beginning at the Northeast corner of Lot 2, F.D. Sutton Addition, Wichita, Kansas; thence South 135.1 feet, to the Southeast corner of said Lot 2; thence West, on the South line of Lot 2, a distance of 50.62 feet; thence North, parallel with the East line of said Lot 2, a distance of 33.08 feet; thence Northeasterly, a distance of 4.28 feet, to a point being 98.19 feet South of the North line of Lot 2; thence North parallel with the East line of Lot 2, a distance of 98.19 feet, to the North line of said Lot; thence East, on the North line of Lot 2, a distance of 49.00 feet, to the Point of Beginning.

Parcel 2

Lot 2, EXCEPT, Beginning of the Northeast corner of Lot 2, F.D. Sutton Addition, Wichita, Kansas; thence South 135.1 feet, to the Southeast corner of said Lot 2; thence West, on the South line of Lot 2, a distance of 50.62 feet; thence North, parallel with the East line of said Lot 2, a distance of 33.08 feet; thence Northeasterly, a distance of 4.28 feet, to a point being 98.19 feet South of the North line of Lot 2; thence North parallel with the East line of Lot 2, a distance of 98.19 feet, to the North line of said Lot; thence East, on the North line of Lot 2, a distance of 49.00 feet, to the Point of Beginning.

I Bradley C. Ward a registered land surveyor in the above mentioned County and State do hereby certify that the accompanying drawing is true and correct to the best of my knowledge.



Bradley C. Ward LS #920 date 11-17-14
Not original unless signed in blue ink

City of Wichita)
Sedgwick County) ss
State of Kansas)

Lot Split No. LSP 2014-00024
Copy 1 of 2

I, John L. Schlegel, Director of Planning, Wichita-Sedgwick County Metropolitan Area Planning Department, do hereby certify under the authority granted in the Subdivision Rules and Regulations that the lot split to which this stamp affixed has been approved.

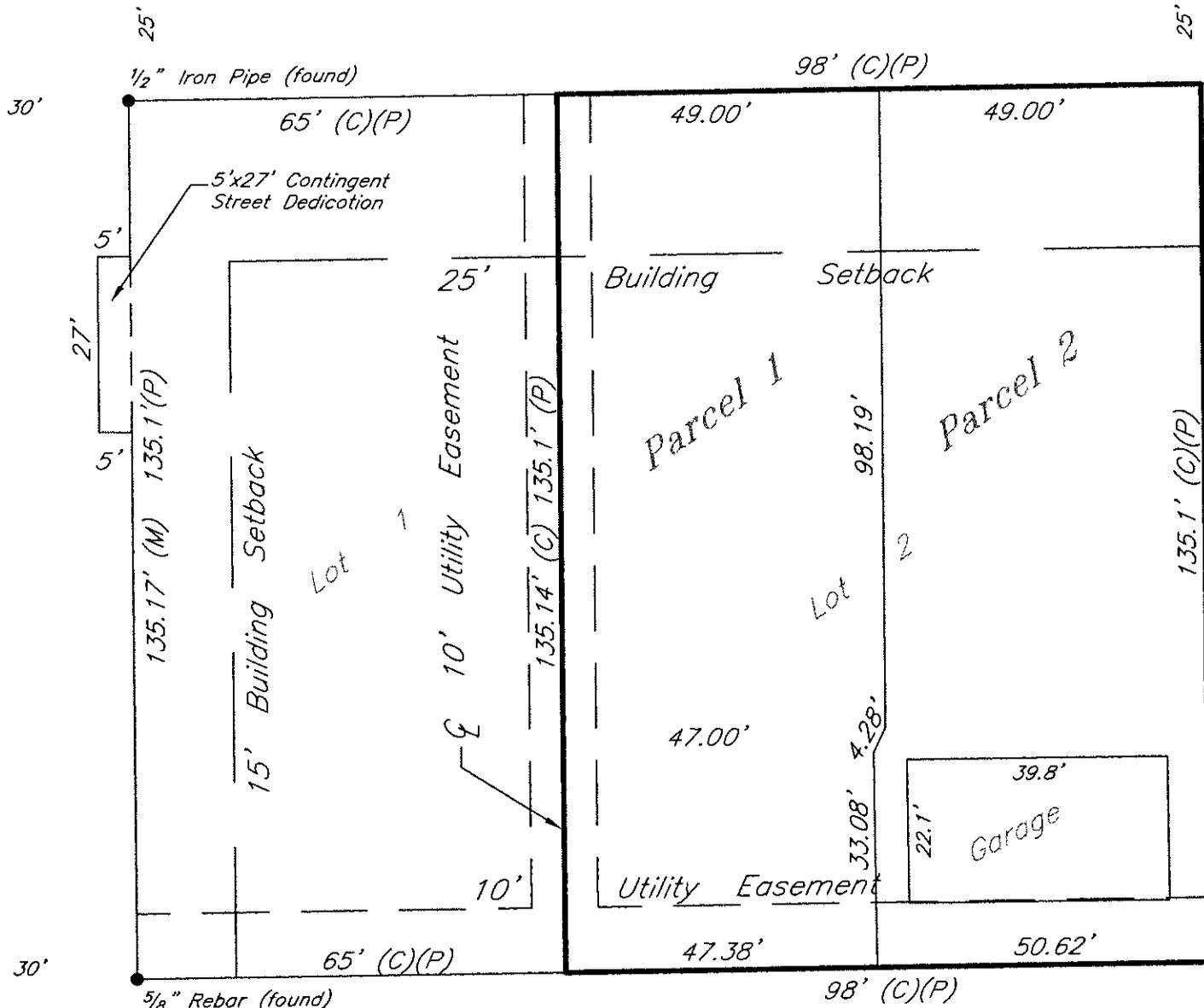
Given under my hand and seal this 18th day of NOVEMBER 20 14.

WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING DEPARTMENT

John L. Schlegel, Director of Planning

NTS

McComas St.



STAFF REPORT

CASE NUMBER: VAC2014-00041 - Request to vacate a portion of a platted reserve and amend the plattor's text

OWNER/AGENT: Venture Seven Development LLC, George E Laham II & Gateway Center Addition Master Owners Association, George E Laham II (owner/applicant) MKEC, c/o Brian Lindebak (agent)

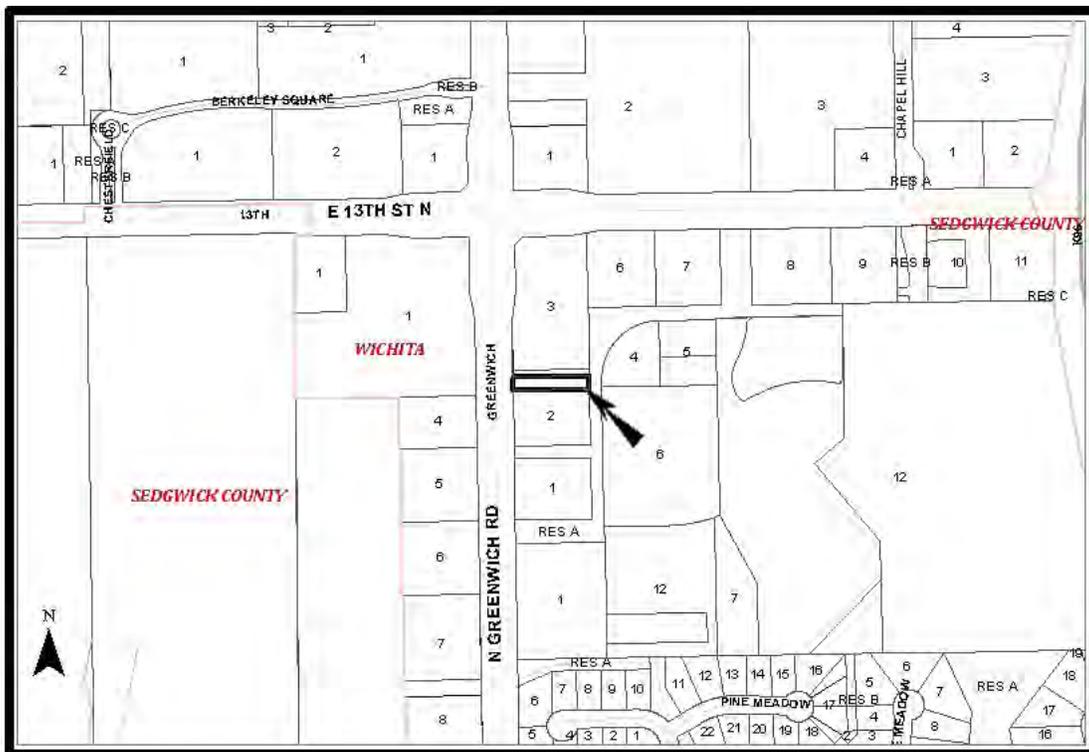
LEGAL DESCRIPTION: Generally described as vacating that portion of platted Reserve A that is located between Lot 2 (south side) & Lot 3 (north side), Block 1, Gateway Center 3rd Addition & vacating the plattor's text to amend the uses allowed in the reserve, Wichita, Sedgwick County, Kansas

LOCATION: Generally located south of 13th Street North on the east side of Greenwich Road (WCC #II)

REASON FOR REQUEST: Allow the construction of a building in a portion of the subject reserve

CURRENT ZONING: The site and abutting and adjacent southern and eastern properties are zoned LC Limited Commercial & are located within Community Unit Plan CUP DP-239. Adjacent western (across Greenwich Rd) and northern (across 13th St N) properties are zoned LC, GC General Commercial & LI Limited Industrial.

VICINITY MAP:



The applicant is requesting that the portion of platted Reserve A located between Lot 2 (south side) & Lot 3 (north side), Block 1, Gateway Center 3rd Addition be vacated. This portion of Reserve A is 40-foot wide and 250-foot deep. As platted this portion of Reserve A is also full movement ingress/egress drive onto Greenwich Road. The applicant is also requesting that the plattor’s text pertaining to the described portion of the subject reserve be amended to allow the uses permitted in the LC Limited Commercial zoning district as restricted by the overlay Community Unit Plan CUP DP-239. The plattor’s text of the Gateway Center 3rd Addition states that the described portion of Reserve A is restricted to the following uses; private drives (as noted it is also platted as a 40-foot wide full movement ingress/egress drive onto Greenwich Road), landscaping, signage, entry monuments, drainage, sidewalks, and utilities confined to easements. The plattor’s text also states that Reserve A is to be maintained and owned by an owners association to be formed within the Gateway Center 3rd Addition. The applicant proposes that a portion of a building will be encroach into the subject reserve. The encroachment of a building into Reserve A means the platted 40-foot wide full movement ingress/egress drive onto Greenwich Road will be compromised. There was no request to vacate platted access control and the current ownership notification list does not give the required notification, therefore a separate application for vacation of platted access control is required. The purpose of the building will allow the uses permitted in the LC zoning district as restricted by CUP DP-239 on Parcels 5 (Lot 3) and 4 (Lot 2) of DP-239; the applicant has not stated which parcel the proposed building will be encroaching from.

There are platted easements located in the platted reserve. A sewer line is located in a platted north-south easement that is located and runs parallel to the subject site and the abutting properties and Greenwich Road. The vacation request will not impact this easement. Water is located in Greenwich Road. GIS does not show stormwater equipment located in the reserve. Condition #5 covers Westar. Becky Thompson is the area’s Westar Area Construction Representative and can be contacted at 316/261-6320.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the platted reserve and to vacate the plattor’s text to amend the uses allowed in the described platted reserve.

- 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 November 26, 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 reserve, to vacate the plattor’s text to amend the uses allowed in the described platted reserve, vacate a portion of a platted parking easement, and vacate a portion of a platted utility easement and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Vacate the plattors text, amending it by allowing the uses permitted in the LC zoning district as restricted by CUP DP-239 on Parcel 5 (Lot 3, Block 1, Gateway Center 3rd Addition) and Parcel 4 (Lot 2, Block 1, Gateway Center 3rd Addition).

- (2) Provide a copy of a recorded Warranty Deed (in lieu of a covenant with original signatures) binding and tying the described vacated portion of Reserve A to either Parcel 5 (Lot 3, Block 1, Gateway Center 3rd Addition) or Parcel 4 (Lot 2, Block 1, Gateway Center 3rd Addition), all in CUP DP-239.
- (3) Provide an adjustment to CUP DP-239 showing the new parcel boundaries of Parcel 5 (Lot 3, Block 1, Gateway Center 3rd Addition) or Parcel 4 (Lot 2, Block 1, Gateway Center 3rd Addition). The adjustment will also redefine the gross area of the impacted parcel.
- (4) This approval does not vacate the platted access control (which is in line with the subject easement) which requires a separate vacation request.
- (5) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to City Council for final action. Becky Thompson is the area’s Westar Area Construction Representative and can be contacted at 316/261-6320.
- (6) All improvements shall be according to City Standards and at the applicants’ expense.
- (7) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE’S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the plattors text, amending it by allowing the uses permitted in the LC zoning district as restricted by CUP DP-239 on Parcel 5 (Lot 3, Block 1, Gateway Center 3rd Addition) and Parcel 4 (Lot 2, Block 1, Gateway Center 3rd Addition).
- (2) Provide a copy of a recorded Warranty Deed (in lieu of a covenant with original signatures), binding and tying the described vacated portion of Reserve A to either Parcel 5 (Lot 3, Block 1, Gateway Center 3rd Addition) or Parcel 4 (Lot 2, Block 1, Gateway Center 3rd Addition), all in CUP DP-239.
- (3) Provide an adjustment to CUP DP-239 showing the new parcel boundaries of Parcel 5 (Lot 3, Block 1, Gateway Center 3rd Addition) or Parcel 4 (Lot 2, Block 1, Gateway Center 3rd Addition). The adjustment will also redefine the gross area of the impacted parcel.
- (4) This approval does not vacate the platted access control (which is in line with the subject easement) which requires a separate vacation request.
- (5) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to City Council for final action. Becky Thompson is the area’s Westar Area Construction Rep and can be contacted at 316/261-6320.
- (6) All improvements shall be according to City Standards and at the applicants’ expense.

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

STAFF REPORT

CASE NUMBER: VAC2014-00042 - Request to vacate a portion of a platted reserve and amend the plat's text and vacate a parking easement

OWNER/AGENT: Perfection Signature Properties LLC, Jason Ronk & Kent W & Lori Owen Living Trust (owners/applicants) MKEC, c/o Brian Lindebak (agent)

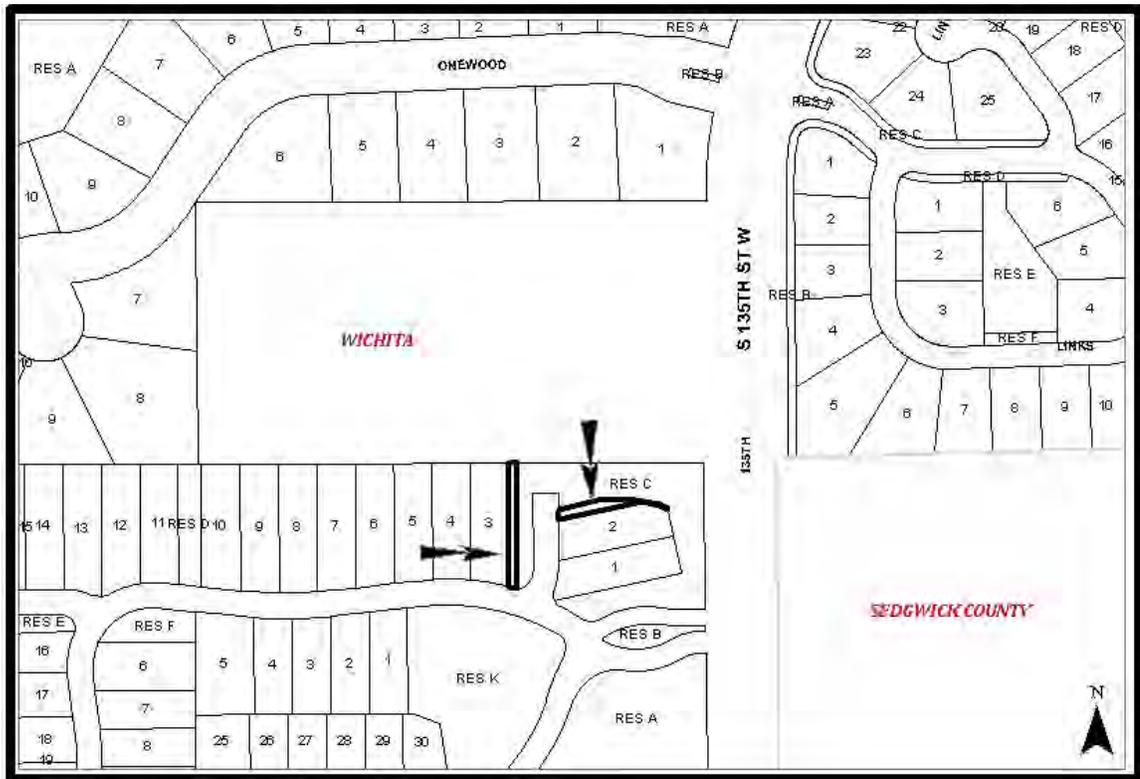
LEGAL DESCRIPTION: Generally described as vacating the portion of the platted Reserve C that abuts the north side of Lot 2 & vacating the plat's text to amend the uses allowed the reserve & vacating the 20-ft (x) 80-ft parking easement located along the east side of Lot 3, all in Block 1, all in the Courtyards at Auburn Hills Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located south of Maple Street, on the west side of 135th Street West, north of Verona Street, on the east and west sides Verona Court (WCC #V)

REASON FOR REQUEST: Construction of single-family residences

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

VICINITY MAP:



The applicant is requesting that a portion of the platted Reserve C located along the north side of Lot 2, Block 1, Courtyards at Auburn Hills Addition be vacated and attached to the noted lot. The plattor’s text states that Reserve C is to be used for emergency access, residential parking, and privacy walls. Sewer and a 20-foot sanitary sewer easement runs north-south through this portion of Reserve C; the vacation request would not impact this easement. There do not appear to be any other public utilities located in this portion of Reserve C. A 20-foot wide emergency access easement runs parallel to the north side of this portion of Reserve C. The applicant is also requesting that the 20-foot {x} 80-foot platted parking easement located on the east side of Lot 3, Block 1, Courtyards at Auburn Hills Addition be vacated. The plattor’s text states the parking easements are non-exclusive and are for short term overflow pedestrian parking only. There does not appear to be any public utilities located in this portion of the subject parking easement. Condition #5 covers Westar. Heide Bryan is the area’s Westar Construction Representative and can be contacted at 316/261-6554. The Courtyards at Auburn Hills Addition was recorded December 6, 2013.

NOTE: The Subdivision Committee requested that Staff review any requirements for a percentage of open space on the Courtyards at Auburn Hills Addition. Staff reviewed the file of SUB2013-00027 and found no mention of a required amount of open space for this plat. Staff found no minimum open space requirement in the Subdivision Regulations. There were numerous modifications including:

- A modification of the SF-5 zoning district’s 50-foot minimum lot width.
- A modification of the Zero Lot Line’s required 10-foot side yard setback to 6 feet.
- A modification of the SF-5 zoning district’s required 20-foot rear yard setback to 10 feet.
- A modification of the lot’s width to depth ratio
- The MABCD requiring a 1-hour fire wall for the side yard walls.

Per the Unified Zoning Code, Art.III, Sec.III-B.5.e.(1)(a): Reduction of Lot Area and Setback standards. Under the cluster development option, the minimum Lot Area standard of the SF-5 District may be reduced from 5,000 square feet to 4,000 square feet, provided that any reduction in Lot Area must be offset by the provision of permanent Open Space. The amount of Open Space area provided shall at least equal the cumulative total reduction in Lot Area. Interior Side Yard Setbacks may be reduced to five feet. Staff found no evidence that the cluster development standards were incorporated into SUB2013-00027.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the platted reserve, to vacate the plattor’s text to amend the uses allowed in the described platted reserve and to vacate the platted parking easement.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time November 26, 2014, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described portion of the platted reserve, to vacate the plattor’s text to amend the uses allowed in the described platted reserve and to vacate the platted parking easement and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Vacate the described portion of Reserve C as approved by City Public Works, Water & Sewer, Stormwater, Traffic, Fire, and franchised utilities. Provide Planning Staff with a legal description of the approved vacated portion of the platted reserve on a Word document, via e-mail, to be used on the Vacation Order. This must be provided to Planning prior to the case going to Council for final action.
- (2) Vacate the plattors text for the vacated portions of Reserve C, amending it by allowing the construction of single-family residences, with the restrictions of the Courtyards at Auburn Hills Addition.
- (3) Provide a copy of a recorded Warranty Deed (in lieu of a covenant with original signatures) binding and tying the described vacated portion of Reserve C to Lot 2, Block 1, Courtyards at Auburn Hills Addition.
- (4) As approved by the Traffic Engineer and Fire vacate the platted 20-foot {x} 80-foot parking easement located along the east side of Lot 3, Block 1, Courtyards at Auburn Hills Addition .
- (5) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to City Council for final action. Heide Bryan is the Westar Construction Representative and can be contacted at 316/261-6554.
- (6) All improvements shall be according to City Standards and at the applicants’ expense.
- (7) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE’S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the described portion of Reserve C as approved by City Public Works, Water & Sewer, Stormwater, Traffic, Fire, and franchised utilities. Provide Planning Staff with a legal description of the approved vacated portion of the platted reserve on a Word document, via e-mail, to be used on the Vacation Order. This must be provided to Planning prior to the case going to Council for final action.
- (2) Vacate the plattors text for the vacated portions of Reserve C, amending it by allowing the construction of single-family residences, with the restrictions of the Courtyards at Auburn Hills Addition.
- (3) Provide a copy of a recorded Warranty Deed (in lieu of a covenant with original signatures), binding and tying the described vacated portion of Reserve C to Lot 2, Block 1, Courtyards at Auburn Hills Addition.
- (4) As approved by the Traffic Engineer and Fire vacate the platted 20-foot {x} 80-foot parking easement located along the east side of Lot 3, Block 1, Courtyards at Auburn Hills Addition.

- (5) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to City Council for final action. Heide Bryan is the Westar Construction Representative and can be contacted at 316/261-6554.
- (6) All improvements shall be according to City Standards and at the applicants’ expense.
- (7) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

STAFF REPORT

CASE NUMBER: VAC2014-00043 - Request to vacate a portion of a platted reserve and amend the plattor's text and vacate a utility easement

OWNER/AGENT: Perfection Signature Properties LLC (owner/applicant) MKEC, c/o Brian Lindebak (agent)

LEGAL DESCRIPTION: Generally described as vacating the portion of the platted Reserve G that abuts the east sides of Lots 19 & 20 & vacating the plattor's text to amend the uses allowed in the reserve & vacating the 10-ft wide utility easement located along a portion of the east side of that portion of Reserve G that runs parallel to the east side of Lot 19, all in Block 2, all in the Courtyards at Auburn Hills Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located south of Maple Street, on the west side of 135th Street West, west of Siena Street and north of Montecito Lane (WCC #V)

REASON FOR REQUEST: Construction of single-family residences

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

VICINITY MAP:



The applicant is requesting portions of the platted Reserve G located along the east sides of Lots 19 & 20, Block 2, Courtyards at Auburn Hills Addition be vacated and attached to the noted lots. The plattor’s text states that Reserve G is to be used for residential parking, private parks and recreation, swimming pool, neighborhood clubhouse, neighborhood amenities, private playground, pond and fountain. Sewer and a platted easement runs west-east through the portion of Reserve G that abuts the east side of Lot 20; the vacation request would not impact this easement. There do not appear to be any other public utilities located in the described portions of Reserve G. The applicant is also requesting that the 10-foot platted utility easement located in that portion of Reserve G that runs parallel to the east side of Lot 19 be vacated. There does not appear to be any public utilities located in this portion of the subject utility easement. Condition #5 covers Westar. Heide Bryan is the area’s Westar construction representative and can be contacted at 316/261-6554. The Courtyards at Auburn Hills Addition was recorded December 6, 2013.

NOTE: The Subdivision Committee requested that Staff review any requirements for a percentage of open space on the Courtyards at Auburn Hills Addition. Staff reviewed the file of SUB2013-00027 and found no mention of a required amount of open space for this plat. Staff found no minimum open space requirement in the Subdivision Regulations. There were numerous modifications including:

- A modification of the SF-5 zoning district’s 50-foot minimum lot width.
- A modification of the Zero Lot Line’s required 10-foot side yard setback to 6 feet.
- A modification of the SF-5 zoning district’s required 20-foot rear yard setback to 10 feet.
- A modification of the lot’s width to depth ratio
- The MABCD requiring a 1-hour fire wall for the side yard walls.

Per the Unified Zoning Code, Art.III, Sec.III-B.5.e.(1)(a): Reduction of Lot Area and Setback standards. Under the cluster development option, the minimum Lot Area standard of the SF-5 District may be reduced from 5,000 square feet to 4,000 square feet, provided that any reduction in Lot Area must be offset by the provision of permanent Open Space. The amount of Open Space area provided shall at least equal the cumulative total reduction in Lot Area. Interior Side Yard Setbacks may be reduced to five feet. Staff found no evidence that the cluster development standards were incorporated into SUB2013-00027.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portions of the platted reserve, to vacate the plattor’s text to amend the uses allowed in the described platted reserve and to vacate the platted utility easement.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time November 26, 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 reserve, to vacate the plattor’s text to amend the uses allowed in the described platted reserve and to vacate the platted utility easement and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Vacate the described portions of Reserve G as approved by City Public Works, Water & Sewer, Stormwater, Traffic, Fire, and franchised utilities. Provide Planning Staff with a legal description of the approved vacated portion of the platted reserve on a Word document, via e-mail, to be used on the Vacation Order. This must be provided to Planning prior to the case going to Council for final action.
- (2) Vacate the plattors text for the vacated portions of Reserve G, amending it by allowing the construction of single-family residences, with the restrictions of the Courtyards at Auburn Hills Addition.
- (3) Provide a copy of a recorded Warranty Deed (in lieu of a covenant with original signatures), binding and tying the described vacated portions of Reserve G to Lots 19 & 20, Block 2, Courtyards at Auburn Hills Addition.
- (4) As approved by Public Works, Water & Sewer, Stormwater vacate the platted 10-foot platted utility easement located in that portion of Reserve G that runs parallel to the east side of Lot 19, Block 2, Courtyards at Auburn Hills Addition. Provide Planning Staff with a legal description of the approved vacated portion of the platted utility easement on a Word document, via e-mail, to be used on the Vacation Order. This must be provided to Planning prior to the case going to Council for final action.
- (5) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to City Council for final action. Heide Bryan is the Westar Construction Representative and can be contacted at 316/261-6554.
- (6) All improvements shall be according to City Standards and at the applicants’ expense.
- (7) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE’S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the described portions of Reserve G, as approved by City Public Works, Water & Sewer, Stormwater, Traffic, Fire, and franchised utilities. Provide Planning Staff with a legal description of the approved vacated portion of the platted reserve on a Word document, via e-mail, to be used on the Vacation Order. This must be provided to Planning prior to the case going to Council for final action.
- (2) Vacate the plattors text for the vacated portions of Reserve G, amending it by allowing the construction of single-family residences, with the restrictions of the Courtyards at Auburn Hills Addition.
- (3) Provide a copy of a recorded Warranty Deed (in lieu of a covenant with original signatures), binding and tying the described vacated portions of Reserve G to Lots 19 & 20, Block 2, Courtyards at Auburn Hills Addition.

- (4) As approved by Public Works, Water & Sewer, Stormwater vacate the platted 10-foot platted utility easement located in that portion of Reserve G that runs parallel to the east side of Lot 19, Block 2, Courtyards at Auburn Hills Addition. Provide Planning Staff with a legal description of the approved vacated portion of the platted utility easement on a Word document, via e-mail, to be used on the Vacation Order. This must be provided to Planning prior to the case going to Council for final action.
- (5) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to City Council for final action. Heide Bryan is the Westar Construction Representative and can be contacted at 316/261-6554.
- (6) All improvements shall be according to City Standards and at the applicants’ expense.
- (7) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

STAFF REPORT

CASE NUMBER: VAC2014-00044 - Request to vacate a portion of a platted reserve, amend the plattor's text, vacate a portion of a parking easement and vacate a utility easement

OWNER/AGENT: Perfection Signature Properties LLC (owner/applicant), MKEC, c/o Brian Lindebak (agent)

LEGAL DESCRIPTION: Generally described as vacating the portion of the platted Reserve K that abuts the east side of Lots 30 & vacating the plattor's text to amend the uses allowed in the reserve & vacating the 10-ft wide utility easement located along a portion of the east side of that portion of Reserve K that runs parallel to the east side of Lot 30, and a portion of a platted parking easement located within the described portion of Reserve K, all in Block 2, all in the Courtyards at Auburn Hills Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located south of Maple Street, on the west side of 135th Street West, on the southwest side of Verona Street and Siena Lane (WCC #V)

REASON FOR REQUEST: Construction of single-family residences

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

VICINITY MAP:



The applicant is requesting portions of the platted Reserve K located along the east side of Lot 30, Block 2, Courtyards at Auburn Hills Addition be vacated and attached to the noted lot. The plattor’s text states that Reserve K is to be used for residential parking, private parks and recreation, swimming pool, neighborhood clubhouse, neighborhood amenities, private playground, pond and fountain. Sewer and a platted easement runs west-east through the portion of Reserve K that abuts the north side of Lot 30; the vacation request would not impact this easement. The applicant is also requesting that the 10-foot platted utility easement located in the proposed vacated portion of Reserve K be vacated. The applicant is also requesting that the a portion of a 20-foot wide platted parking easement located in that portion of Reserve K that runs parallel to the east side of Lot 30 be vacated. Water runs through a south and east portion of the subject reserve and easements. There does not appear to be any public utilities located in this portion of the subject utility easement. Condition #6 covers Westar. Heide Bryan is the area’s Westar representative and can be contacted at 316/261-6554. The Courtyards at Auburn Hills Addition was recorded December 6, 2013.

NOTE: The Subdivision Committee requested that Staff review any requirements for a percentage of open space on the Courtyards at Auburn Hills Addition. Staff reviewed the file of SUB2013-00027 and found no mention of a required amount of open space for this plat. Staff found no minimum open space requirement in the Subdivision Regulations. There were numerous modifications including:

- A modification of the SF-5 zoning district’s 50-foot minimum lot width.
- A modification of the Zero Lot Line’s required 10-foot side yard setback to 6 feet.
- A modification of the SF-5 zoning district’s required 20-foot rear yard setback to 10 feet.
- A modification of the lot’s width to depth ratio
- The MABCD requiring a 1-hour fire wall for the side yard walls.

Per the Unified Zoning Code, Art.III, Sec.III-B.5.e.(1)(a): Reduction of Lot Area and Setback standards. Under the cluster development option, the minimum Lot Area standard of the SF-5 District may be reduced from 5,000 square feet to 4,000 square feet, provided that any reduction in Lot Area must be offset by the provision of permanent Open Space. The amount of Open Space area provided shall at least equal the cumulative total reduction in Lot Area. Interior Side Yard Setbacks may be reduced to five feet. Staff found no evidence that the cluster development standards were incorporated into SUB2013-00027.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the platted reserve, to vacate the plattor’s text to amend the uses allowed in the described platted reserve, vacate a portion of a platted parking easement, and vacate a portion of a platted utility easement.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time November 26, 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 reserve, to vacate the plattor’s text to amend the uses allowed in the described platted reserve, vacate a portion of a platted parking easement, and vacate a portion of a platted utility easement and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Vacate the described portion of Reserve K as approved by City Public Works, Water & Sewer, Stormwater, Traffic, Fire, and franchised utilities. Provide Planning Staff with a legal description of the approved vacated portion of the platted reserve on a Word document, via e-mail, to be used on the Vacation Order. This must be provided to Planning prior to the case going to Council for final action.
- (2) Vacate the plattors text for the vacated portions of Reserve K, amending it by allowing the construction of single-family residences, with the restrictions of the Courtyards at Auburn Hills Addition.
- (3) Provide a copy of a recorded Warranty Deed (in lieu of a covenant with original signatures), binding and tying the described vacated portions of Reserve K to Lot 30, Block 2, Courtyards at Auburn Hills Addition.
- (4) As approved by City Public Works, Water & Sewer, Stormwater and franchised utilities vacate the platted 10-foot platted utility easement located in that portion of Reserve K that runs parallel to the east side of Lot 30, Block 2, Courtyards at Auburn Hills Addition. Provide Planning Staff with a legal description of the approved vacated portion of the platted reserve on a Word document, via e-mail, to be used on the Vacation Order. This must be provided to Planning prior to the case going to Council for final action.
- (5) As approved by the Traffic Engineer and Fire vacate the described portion of the platted parking easement located along the east side of Lot 30, Block 2, Courtyards at Auburn Hills Addition. Provide Planning Staff with a legal description of the approved vacated portion of the platted reserve on a Word document, via e-mail, to be used on the Vacation Order. This must be provided to Planning prior to the case going to Council for final action.
- (6) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to City Council for final action. Heide Bryan is the area’s Westar construction representative and can be contacted at 316/261-6554.
- (7) All improvements shall be according to City Standards and at the applicants’ expense.
- (8) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE’S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the described portion of Reserve K as approved by City Public Works, Water & Sewer, Stormwater, Traffic, Fire, and franchised utilities. Provide Planning Staff with a legal description of the approved vacated portion of the platted reserve on a Word document, via e-mail, to be used on the Vacation Order. This must be provided to Planning prior to the case going to Council for final action.
- (2) Vacate the plattors text for the vacated portions of Reserve K, amending it by allowing the construction of single-family residences, with the restrictions of the Courtyards at Auburn Hills Addition.

- (3) Provide a copy of a recorded Warranty Deed (in lieu of a covenant with original signatures), binding and tying the described vacated portions of Reserve K to Lot 30, Block 2, Courtyards at Auburn Hills Addition.
- (4) As approved by City Public Works, Water & Sewer, Stormwater and franchised utilities vacate the platted 10-foot platted utility easement located in that portion of Reserve K that runs parallel to the east side of Lot 30, Block 2, Courtyards at Auburn Hills Addition. Provide Planning Staff with a legal description of the approved vacated portion of the platted reserve on a Word document, via e-mail, to be used on the Vacation Order. This must be provided to Planning prior to the case going to Council for final action.
- (5) As approved by the Traffic Engineer and Fire vacate the described portion of the platted parking easement located along the east side of Lot 30, Block 2, Courtyards at Auburn Hills Addition. Provide Planning Staff with a legal description of the approved vacated portion of the platted reserve on a Word document, via e-mail, to be used on the Vacation Order. This must be provided to Planning prior to the case going to Council for final action.
- (9) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to City Council for final action. Heide Bryan is the area’s Westar construction representative and can be contacted at 316/261-6554.
- (6) All improvements shall be according to City Standards and at the applicants’ expense.
- (7) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

The applicant proposes to vacate all of the platted 20-foot wide utility easement (except the portion of the platted utility easement that will remain around the sewer manhole) that runs parallel to the east lot lines of Lot 1, Burlington Northern Industrial Center Addition and Ohio Avenue. With the exception of the sewer manhole, there appears to be no public utilities located within the described portion of the platted utility easement; the sewer line to the manhole is located in the Ohio Avenue right-of-way. Condition #5 covers Westar. Becky Thompson is the area's Westar construction representative and can be contacted at 316/261-6320. The Burlington Northern Industrial Center Addition was recorded with the Register of Deeds October 17, 1984.

NOTE: The abutting north property, Lots 2 & 3, Block A, Burlington Northern Industrial Center Addition, had a similar vacation request, VAC2014-00026. VAC2014-00026 vacated all of the platted 20-foot wide utility easement (except the portions of the utility easement that was retained around four sewer manholes) that ran parallel to the east lot lines of Lots 2 & 3, Block A, Burlington Northern Industrial Center Addition and Ohio Avenue.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from Public Works, Storm Water, Water and Sewer, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portions of the platted utility easement.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time November 26, 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 utility easement and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) As approved by Public Works/Water and Sewer, retain 10-foot of utility easement on the north, west, south and east sides around of the sewer manhole as measured from the center of that manhole, located long the east lot lines of Lot 1, Burlington Northern Industrial Center Addition and Ohio Avenue. Provide an exhibit of the above noted retained easement that will be filed with the Vacation Order at the Register of Deeds of Sedgwick County. This must be provided to Planning prior to the case going to Council for final action.
- (2) Provide Planning Staff with a legal description of the approved vacated portion of the platted utility easement on a Word document, via e-mail, to be used on the Vacation Order. This must be provided to Planning prior to the case going to Council for final action.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer with any required plans for review and approval for the relocation of public utilities. Provide franchise utilities with any required plans for review and approval for the relocation of franchise utilities. Approved plans for public utilities and approval by franchised utilities must be provided to Planning prior to the case going to Council for final action.
- (4) Provide Planning Staff with any needed public (with original signatures easements) easements prior to the case going to Council for final action. Provide Planning Staff with a signed affirmation that franchise utilities have

acquired any needed easements prior to the case going to Council for final action. . Becky Thompson is the area's Westar construction representative and can be contacted at 316/261-6320.

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

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) As approved by Public Works/Water and Sewer, retain 10-foot of utility easement on the north, west, south and east sides around of the sewer manhole as measured from the center of that manhole, located long the east lot lines of Lot 1, Burlington Northern Industrial Center Addition and Ohio Avenue. Provide an exhibit of the above noted retained easement that will be filed with the Vacation Order at the Register of Deeds of Sedgwick County. This must be provided to Planning prior to the case going to Council for final action.
- (2) Provide Planning Staff with a legal description of the approved vacated portion of the platted utility easement on a Word document, via e-mail, to be used on the Vacation Order. This must be provided to Planning prior to the case going to Council for final action.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer with any required plans for review and approval for the relocation of public utilities. Provide franchise utilities with any required plans for review and approval for the relocation of franchise utilities. Approved plans for public utilities and approval by franchised utilities must be provided to Planning prior to the case going to Council for final action.
- (4) Provide Planning Staff with any needed public (with original signatures easements) easements prior to the case going to Council for final action. Provide Planning Staff with a signed affirmation that franchise utilities have acquired any needed easements prior to the case going to Council for final action. . Becky Thompson is the area's Westar construction representative and can be contacted at 316/261-6320.
- (5) All improvements shall be according to City Standards and at the applicant's expense.
- (6) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

STAFF REPORT

- CASE NUMBER:** VAC2014-00046 - Request to vacate multiple easements dedicated by separate instruments

- OWNER/AGENT:** GV Village LLC c/o Santo M Catanese (owner) Baughman Co. c/o Phil Meyer (agent)

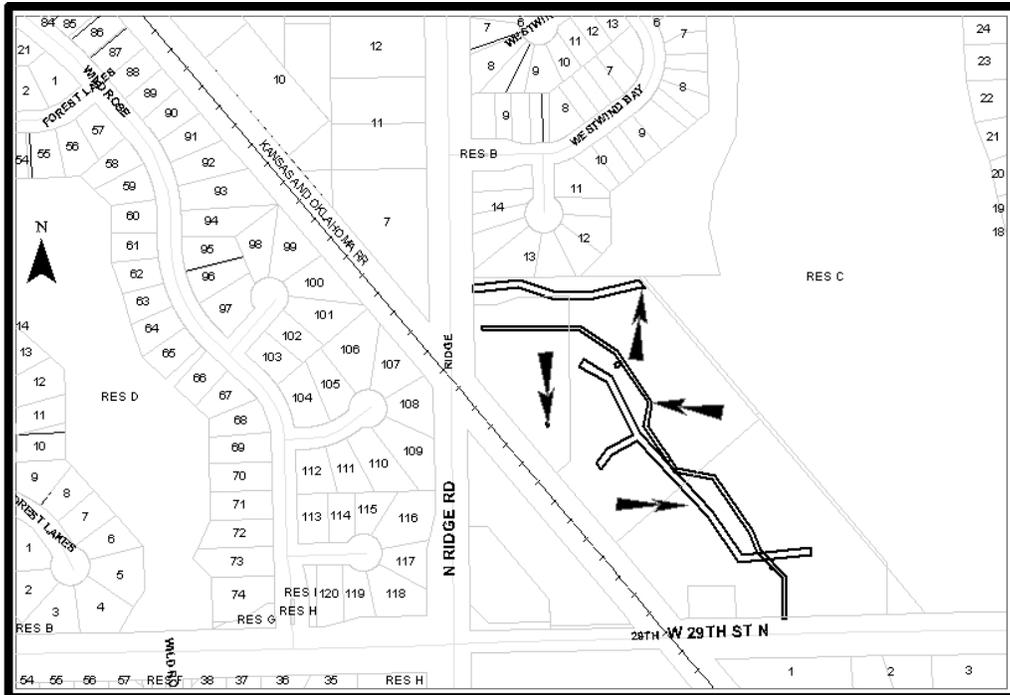
- LEGAL DESCRIPTION:** Generally described as vacating all or portions of: the water line easements dedicated by separate instrument recorded on DOC#/FLM-PG 29416578 & DOC#/FLM-PG 29424773; the utility easement dedicated by separate instrument recorded on DOC#/FLM-PG 29416580, and; the drainage easement dedicated by separate instrument recorded on DOC#/FLM-PG 29416578, all in Lot 1, Block 1, Ridge Port Addition, Wichita, Sedgwick County, Kansas (see attached legal descriptions and exhibit)

- LOCATION:** Generally located east of Ridge Road on the north side of 29th Street North (WCC #V)

- REASON FOR REQUEST:** Development

- CURRENT ZONING:** The subject property is zoned LC Limited Commercial. Abutting east and south properties are zoned SF-5 Single-Family Residential. Abutting north properties are zoned SF-5 and TF-3 Two-Family Residential. Abutting west property is zoned LI Industrial.

VICINITY MAP:



The applicant proposes to vacate the water line easements dedicated by separate instrument recorded on DOC#/FLM-PG 29416578 & DOC#/FLM-PG 29424773; the utility easement dedicated by separate instrument recorded on DOC#/FLM-PG 29416580, and; the drainage easement dedicated by separate instrument recorded on DOC#/FLM-PG 29416578, all in Lot 1, Block 1, Ridge Port Addition. The applicant has provide the recorded subject easements plus the attached exhibit and legal descriptions of the proposed vacated easement. There appears to be no public utilities located within the described easements dedicated by separate instruments. Sewer is located within other easements located on the subject site or the 29th Street North right-of-way. Water is located in the Ridge Road and 29th Street North right-of-ways. Condition #3 covers Westar. Marsha Jesse is the area's Westar construction representative and can be contacted at 316/261-6734. The Ridge Port Addition was recorded with the Register of Deeds June 8, 1998.

NOTE: VAC2013-00007 vacated a 20-foot wide sanitary sewer easement dedicated by separate easement (DOC#/FLM-PG: 29007660) located on the subject site; Lot 1, Block 1, Ridge Port Addition,

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from Public Works, Storm Water, Water and Sewer, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portions of the utility easements dedicated by separate instruments.

- 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 November 26, 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 utility easements dedicated by separate instruments 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) As approved by Public Works/Water and Sewer/Stormwater vacate the water line easements dedicated by separate instrument recorded on DOC#/FLM-PG 29416578 & DOC#/FLM-PG 29424773; the utility easement dedicated by separate instrument recorded on DOC#/FLM-PG 29416580, and; the drainage easement dedicated by separate instrument recorded on DOC#/FLM-PG 29416578, all in Lot 1, Block 1, Ridge Port Addition. Provide an exhibit of the vacated easements, which will be filed with the Vacation Order at the Register of Deeds of Sedgwick County. This must be provided to Planning prior to the case going to Council for final action.
- (2) Provide Planning Staff with a legal description of the approved vacated (portions) of the above noted two water line easements, the utility easement and the drainage easement on a Word document, via e-mail, to be used on the Vacation Order. This must be provided to Planning prior to the case going to Council for final action.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer with any required plans for review and approval for the relocation of public utilities. Provide franchise utilities with any required plans for review and approval for the relocation of franchise utilities. Approved plans for public utilities and approval by franchised utilities must be provided to Planning prior to the case going to Council for final action. Marsha Jesse is the area's Westar construction representative and can be contacted at 316/261-6734.

- (4) Provide Planning Staff with any needed public (with original signatures easements) easements prior to the case going to Council for final action. Provide Planning Staff with a signed affirmation that franchise utilities have acquired any needed easements prior to the case going to Council for final action.
- (5) All improvements shall be according to City Standards and at the applicant's expense.
- (6) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

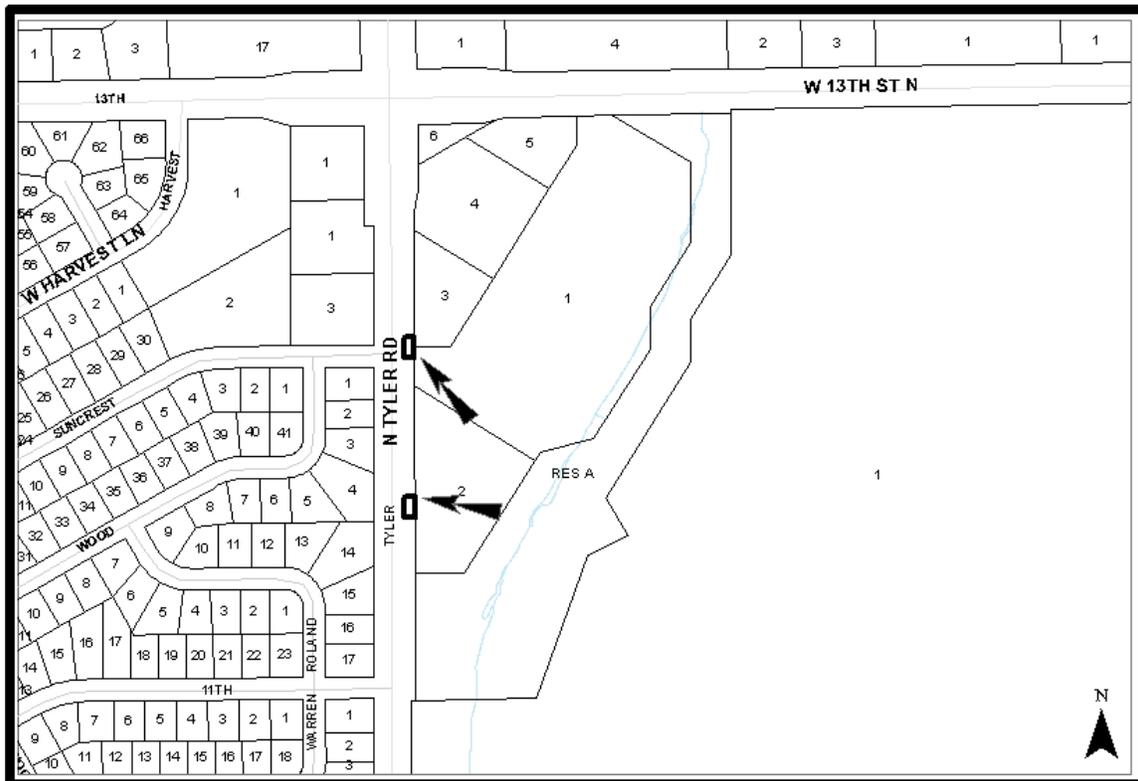
The Subdivision Committee recommends approval subject to the following conditions:

- (1) As approved by Public Works/Water and Sewer/Stormwater vacate the water line easements dedicated by separate instrument recorded on DOC#/FLM-PG 29416578 & DOC#/FLM-PG 29424773; the utility easement dedicated by separate instrument recorded on DOC#/FLM-PG 29416580, and; the drainage easement dedicated by separate instrument recorded on DOC#/FLM-PG 29416578, all in Lot 1, Block 1, Ridge Port Addition. Provide an exhibit of the vacated easements, which will be filed with the Vacation Order at the Register of Deeds of Sedgwick County. This must be provided to Planning prior to the case going to Council for final action.
- (2) Provide Planning Staff with a legal description of the approved vacated (portions) of the above noted two water line easements, the utility easement and the drainage easement on a Word document, via e-mail, to be used on the Vacation Order. This must be provided to Planning prior to the case going to Council for final action.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer with any required plans for review and approval for the relocation of public utilities. Provide franchise utilities with any required plans for review and approval for the relocation of franchise utilities. Approved plans for public utilities and approval by franchised utilities must be provided to Planning prior to the case going to Council for final action. Marsha Jesse is the area's Westar construction representative and can be contacted at 316/261-6734.
- (4) Provide Planning Staff with any needed public (with original signatures easements) easements prior to the case going to Council for final action. Provide Planning Staff with a signed affirmation that franchise utilities have acquired any needed easements prior to the case going to Council for final action.
- (5) All improvements shall be according to City Standards and at the applicant's expense.
- (6) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

STAFF REPORT

- CASE NUMBER:** VAC2014-00047 - City request to vacate a portion of platted access control
- APPLICANT/AGENT:** Tyler Pointe LLC (applicant/owner) K.E. Miller Engineering, P.A., c/o Kirk Miller (agent)
- LEGAL DESCRIPTION:** Generally described as vacating that portion of platted access control to shift the location of two permitted drives onto Tyler Road off of Lots 1 & 2, Block A, Tyler Point Addition, Wichita, Sedgwick County, Kansas.
- LOCATION:** Generally located on the southeast corner of 13th Street North and Tyler Road (WCC V)
- REASON FOR REQUEST:** Development
- CURRENT ZONING:** The site is zoned LC Limited Commercial and SF-5 Single-Family Residential. The site is also subject to CUP DP-329. Adjacent northern properties (across 13th Street North) are zoned LC. Abutting eastern and southern properties are zoned SF-5. Adjacent western properties (across Tyler Road) are zoned SF-5 and LC.

VICINITY MAP:



The applicant proposes to vacate a portion of the platted access control to shift two of the permitted/platted drives off of Lots 1 (Parcel 1) & 2 (Parcel 2), Block A, Tyler Point Addition (see exhibit) onto Tyler Road. Tyler Road is a four-lane arterial at this location. There is no raised median or rollover median along the portion of Tyler where the vacation activity is proposed. The north most of the subject drives is located on Parcel 1 and is proposed to be shifted 32 feet south. It is also proposed to go from a 50-foot wide full movement drive to a 60-foot wide full movement drive. The south drive is located on Parcel 2 and it is proposed to be shifted approximately 60 feet north. It is proposed to remain a 60-foot wide full movement drive. The proposed shifts reduces the space between the proposed drives from the platted 382 feet of complete access control to 205 feet of complete access control. The current Subdivision standard for a right-in – right-out drive is 200 feet between drives or arterial intersections and 400 feet between full movement drives or arterial intersections. Per the Subdivision Regulations, 10-104, Modification of Design Criteria, the MAPC may modify design criteria. In the past staff has recommended modified design criteria, which has been approved by the MAPC. The proposed north drive lines up approximately with the residential Suncrest Street on the west side of Tyler Road. The proposed south drive lines up with no streets or drives onto Tyler Road. The proposed south drive is located approximately 360 feet south of Suncrest Street and approximately 430 feet north of 11th Street. Public water is located in the Tyler Road right-of-way. Condition #3 covers Westar. Marsha Jesse is the Westar area's construction representative and can be contacted at 316/261-6734. The Tyler Point Addition was recorded with the Register of Deeds January 22, 2013.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water & Sewer/Stormwater, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of platted access control.

- 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 November 26, 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 access control 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) Per the approval of the Traffic Engineer, vacate the platted access control to allow the shift of the two platted drives off of Lots 1 (Parcel 1) & 2 (Parcel 2), Block A, Tyler Point Addition onto Tyler Road. Provide a dedication of access control to establish the realign drives, with original signatures, to Planning Staff prior to the case going to Council for final action.
- (2) Provide Planning Staff with a legal description of the approved vacated portion of the complete access control on a Word document, via e-mail, to be used on the Vacation Order. This must be provided prior to VAC2014-00047 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide all needed plans for review and approval by utilities. Provide Planning with any plans as approved by the utilities. This must be provided to Planning prior to the case going to Council for final action. Marsha Jesse is the Westar area's construction representative and can be contacted at 316/261-6734.

(4) All improvements shall be according to City Standards and at the applicant's expense.

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

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

(1) Per the approval of the Traffic Engineer, vacate the platted access control to allow the shift of the two platted drives off of Lots 1 (Parcel 1) & 2 (Parcel 2), Block A, Tyler Point Addition onto Tyler Road. Provide a dedication of access control to establish the realign drives, with original signatures, to Planning Staff prior to the case going to Council for final action.

(2) Provide Planning Staff with a legal description of the approved vacated portion of the complete access control on a Word document, via e-mail, to be used on the Vacation Order. This must be provided prior to VAC2014-00047 proceeds to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.

(3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide all needed plans for review and approval by utilities. Provide Planning with any plans as approved by the utilities. This must be provided to Planning prior to the case going to Council for final action. Marsha Jesse is the Westar area's construction representative and can be contacted at 316/261-6734.

(4) All improvements shall be according to City Standards and at the applicant's expense.

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

BACKGROUND: The applicant is proposing various amendments to the Tyler Pointe Community Unit Plan (CUP) DP-329 to permit the construction of an approximately four-story assisted living facility. The application area is 12.13 acres located at the southeast corner of West 13th Street North and North Tyler Road that is zoned Limited Commercial (LC) but is subject to the development standards contained in the Tyler Pointe CUP. The applicant is seeking to amend the net parcel area, building height, maximum floor area, maximum floor area ratio and the location of access controls of various parcels located within DP-329, as indicated below. The numbers in italics and bold indicate proposed changes.

| Parcel # | Existing Area (sq. ft.) | Proposed Area (sq. ft.) | Existing Max. Building Coverage (percent) | Proposed Max. Building Coverage (percent) | Existing Max. Building Height (feet) | Proposed Max. Building Height (feet) | Existing Max. Floor Area / Ratio (sq. ft./percent) | Proposed Max. Floor Area / Ratio (sq. ft./percent) |
|----------|-------------------------|-------------------------|---|---|--------------------------------------|--------------------------------------|--|--|
| 1 | 386,869 | <i>319,979</i> | 35 | 35 | 35 | 35 | 135,404 / 35 | <i>110,379 / 35</i> |
| 2 | 108,623 | <i>180,123</i> | 30 | 30 | 35 | <i>56</i> | 32,587 / 30 | <i>128,400 / 72</i> |
| 3 | 45,841 | <i>41,231</i> | 30 | 30 | 35 | 35 | 13,752 / 30 | 13,752 / 30 |
| 4 | 85,625 | 85,625 | 30 | 30 | 35 | 35 | 25,688 / 30 | 25,688 / 30 |
| 5 | 37,452 | 37,452 | 30 | 30 | 35 | 35 | 11,236 / 30 | 11,236 / 30 |
| 6 | 10,616 | 10,616 | N/A | N/A | N/A | N/A | N/A | N/A |

All parcels within the CUP are permitted a wide range of uses, such as: assisted living, church, convalescent care facility, library, hospital, bank, medical service, general retail, convenience store and personal care services. The applicant is not proposing to change the permitted uses. The applicant is also proposing to move driveway locations along Tyler Road. The southernmost driveway is currently permitted approximately 320 feet north of the southern boundary of Parcel 2. The applicant requests the driveway be moved south to a point approximately 180 feet from the southern boundary of Parcel 2. Another driveway, currently permitted at approximately 570 feet north of the southern boundary of Parcel 2, is proposed to be relocated 50 feet north.

The application is bordered on the north and west by four-lane arterial streets – 13th Street and Tyler Road. North of 13th Street is an LC zoned retail, bank, office and medical center. West of Tyler Road is a SF-5 zoned single-family subdivision and LC zoned multi-family residential and retail uses. The single-family subdivision has a significant evergreen landscape border. Land to the east and south is part of the SF-5 zoned Northwest High School campus. The new Northwest High School gym is projected to be 42 feet tall.

CASE HISTORY: On November 4, the City Council approved the creation of the Tyler Pointe CUP DP-329 (CUP2012-00031) and a zone change from SF-5 Single-family Residential (SF-5) to LC (ZON2012-00028). The application area is Lots 1-3, Block A, Tyler Pointe Addition. The Tyler Pointe Addition was recorded on January 22, 2013. The site was previously platted as Lot 1 of the Northwest High School Addition, platted in 1977.

ADJACENT ZONING AND LAND USE:

North: LC; medical office, retail
South: SF-5; Public high school
East: SF-5; Public high school
West: SF-5 and LC; single-family residences, multi-family residential and retail

PUBLIC SERVICES: The property has been replatted as recently as 2013. Usual municipal services are available or have been guaranteed. Road right-of-way meets current standard.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” map of the Comprehensive Plan designates the site as appropriate for “major institutional,” reflecting the earlier ownership of the site by Unified School District 259. The school district relinquished ownership of the application area to one of the applicants, who subsequently gained approval of the site’s current LC zoning subject to DP-329.

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

1. The 56-foot tall building height and associated floor area ratios are permitted only for an assisted living or nursing home facility.
2. 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.
3. 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.

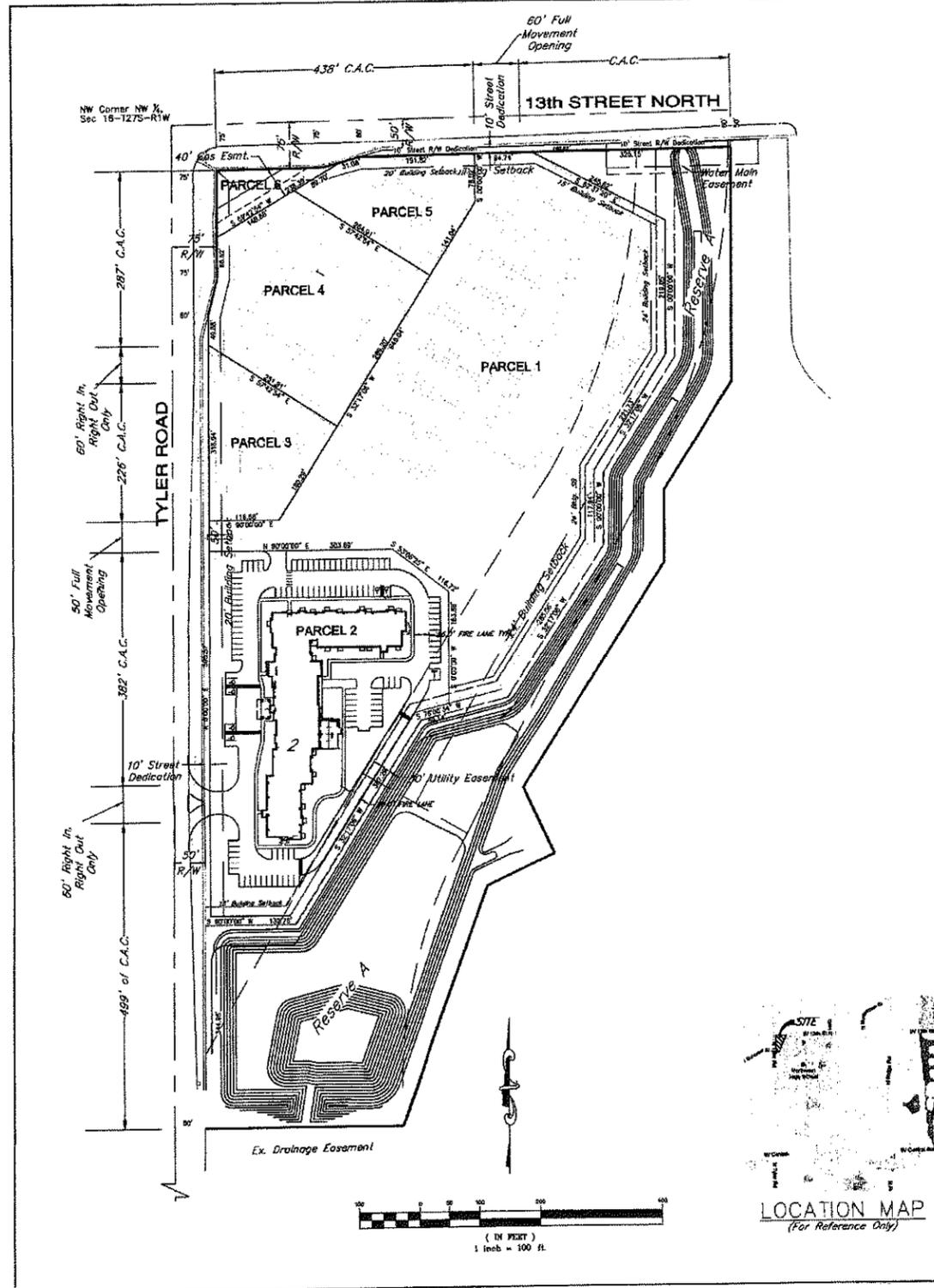
This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The application is bordered on the north and west by four-lane arterial streets – 13th Street and Tyler Road. North of 13th Street is an LC zoned retail, bank, office and medical center. West of Tyler Road is a SF-5 zoned single-family subdivision and LC zoned multi-family residential and retail uses. The single-family subdivision has a significant evergreen landscape border. Land to the east and south is part of the SF-5 zoned Northwest High School.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC subject to the development standards and uses permitted by DP-329, including but not limited to - assisted living, church, convalescent care facility, library, hospital, bank, medical service, general retail, convenience store and personal care services. With the wide range of uses currently permitted it is likely the site has significant economic opportunity as currently restricted.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Potential impacts created by the proposed changes should be minimized by the fact that other than the increase in height, the requested changes are internal modifications to the CUP that would not be noticeable. The increased building height is mitigated by the site’s distance from residential uses and the existing natural screening that exists along the west side of Tyler Road.
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 permit the potential development of a four-story assisted living or nursing home facility on Parcel 2, which would add to the community's inventory of elderly living units. Denial would presumably represent a loss of economic opportunity to the applicant and/or perspective developer.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" map of the Comprehensive Plan designates the site as appropriate for "major institutional," reflecting the earlier ownership of the site by Unified School District 259. The school district relinquished ownership of the application area to one of the applicants, who subsequently gained MAPC and City Council approval of the site's current LC zoning subject to DP-329.
6. Impact of the proposed development on community facilities: Existing or planned improvements are in place or can be extended to serve the site.

TYLER POINTE COMMUNITY UNIT PLAN DP-329



GENERAL PROVISIONS:

- All utilities shall be installed underground.
- Minimum Building Setbacks shall be as indicated on the Plat.
- Parking ratio shall be in accordance with the Unified Zoning Code of the City of Wichita.
- A Drainage Plan will be submitted to City Engineering for approval at the time of platting. If required, guarantees for drainage shall be provided at the time of platting improvements. A covenant shall be provided to define maintenance responsibilities of the drainage easement.
- Signage shall be in accordance with the Sign Code of the City of Wichita for LC Zoning. LED signage will be permitted. No portable off-site signs, as defined by the sign code, shall be permitted.
- A fire lane, hard surfaced and twenty-four (24) feet (20 feet one-way traffic) minimum in width, shall be provided around all main structures to be constructed within Parcels 1 through 5. Said fire lane shall be a 3-1/2 inch asphalt base with 1-1/2 inch asphalt surface or the equivalent thereof. No parking shall be allowed in said fire lane, although it may be used for passenger loading and unloading. Prior to final approval of the parking plan, the Fire Chief, or his designated representative, shall approve the plan as to location of the fire lane.
- A landscape plan prepared by Registered Landscape Architect in the state of Kansas in compliance with the Landscape Ordinance indicating the type, location, and specification of plant material, shall be submitted to the Planning Department for their review and approval prior to its issuance of building permit(s). Landscaping and screening for the east side of Parcels 1 and 2 shall be installed on the property east of and adjacent to Parcels 1 and 2 and installed and maintained by the owners of Parcels 1 and 2. A covenant shall be provided to define maintenance responsibilities of the landscaping.
- Screening of all trash dumpsters, outside storage, and mechanical equipment on Parcels 3-5 will be constructed of material to match the buildings they support. Screening on the South and East may utilize a combination of wrought iron fencing, landscaping, berms, trees and other types of plants to screen the Property from the Adjacent Property as long as the screening results in concealing the view of the Property from Adjacent Property. Screening shall prevent pedestrian access between the Property and Adjacent Property.
- Lighting - Outside lighting shall be consistent throughout the CUP (fixtures, poles, lamps, etc.). Light poles shall be no taller than 15 feet (including base and fixture) when within 200 feet of Residential Zoning.
- Fire Hydrant installation and paved access to all building sites shall be provided for each phase of construction prior to the issuance of any building permits.
- Final determination of street right-of-way and pavement widths shall be resolved at the time of platting.
- The transfer of title on all or any portion of the land included in the CUP does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land and binding upon the present owners, their successors, assigns, and lessees unless otherwise amended.
- If multiple ownership is anticipated, an agreement providing for the maintenance of reserves, open spaces, internal drives, parking areas, drainage improvements, etc., shall be filed with the plat of the area.
- At the time of platting, a cross-lot circulation agreement between Parcels 1, 2, 3, 4, and 5 assigning maintenance responsibilities will be required.
- The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
- All parking, storage, and display areas shall be paved with concrete, asphalt, or asphaltic concrete. Parking barriers shall be installed along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public right-of-ways.
- Buildings within the CUP shall be architecturally consistent in colors and materials.
- A pedestrian walk system shall link the proposed buildings with the entrances and sidewalks along Tyler and 13th Streets and shall be assured by required submission and approval of circulation plans by the Director of Planning prior to issuing building permits.
- Access Control shall be as shown on the sketch with final determination at platting.
- Buildings, Parking Lots, and Drainage as shown are Conceptual and subject to change.

PARCEL DESCRIPTION:

- Parcel 1:**
- Net Area: 319,979 sq.ft.
 - Maximum Building Coverage: 35%
 - Maximum Building Height: 35'
 - Maximum Floor Area: 110,379 sq.ft.
 - Floor Area Ratio: 35%
 - Permissible Uses: Assisted Living; Church or Place of Worship; Convalescent Care Facility; (Nursing Facility); Day Care; Library; Governmental Services; Hospital; Printing and Copying, Limited; College or University; Parks and Recreation; Animal Care, Limited; Automated Teller Machine (ATM); Bank or Financial Institution; Bed and Breakfast Inn; Broadcast or Recording Studio; Convenience Store; Funeral Home; Medical Service; Nurseries and Garden Centers; Office; Personal Care Service; Post Office; Recreation and Entertainment, Indoor; Restaurant (drive through allowed); Retail, General; Monument Sales.
- Parcel 2:**
- Net Area: 180,123 sq.ft.
 - Maximum Building Coverage: 30%
 - Maximum Building Height: 56'
 - Maximum Floor Area: 128,400 sq.ft.
 - Floor Area Ratio: 22%
 - Permissible Uses: Same as Parcel 1.
- Parcel 3:**
- Net Area: 41,231 sq.ft.
 - Maximum Building Coverage: 30%
 - Maximum Building Height: 35'
 - Maximum Floor Area: 13,752 sq.ft.
 - Floor Area Ratio: 30%
 - Permissible Uses: Same as Parcel 1.
- Parcel 4:**
- Net Area: 85,625 sq.ft.
 - Maximum Building Coverage: 30%
 - Maximum Building Height: 35'
 - Maximum Floor Area: 25,688 sq.ft.
 - Floor Area Ratio: 30%
 - Permissible Uses: Same as Parcel 1.
- Parcel 5:**
- Net Area: 37,452 sq.ft.
 - Maximum Building Coverage: 30%
 - Maximum Building Height: 35'
 - Maximum Floor Area: 11,236 sq.ft.
 - Floor Area Ratio: 30%
 - Permissible Uses: Same as Parcel 1.
- Parcel 6:**
- Net Area: 10,616 sq.ft.
 - Permissible Uses: Utilities, Signage, Landscaping.

GENERAL:

Land Zoning: LC (Limited Commercial)
Total Land Area: 15.5 acres

14157 REVISED 11-7-2014

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