

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

Minutes

December 18, 2014

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, December 18, 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; Don Klausmeyer; John McKay, Jr; Debra Miller Stevens and Chuck Warren. 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 November 20, 2014 MAPC meeting minutes.

MOTION: To approve the November 20, 2014 Planning Commission minutes.

J. JOHNSON moved, **WARREN** seconded the motion, and it carried (8-0-1).
KLAUSMEYER - Abstained.

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2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

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

CHAIR GOOLSBY announced that the case has been deferred three weeks until the January 8, 2015 Planning Commission meeting.

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- 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.

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.

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

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

3. PUBLIC HEARING – VACATION ITEMS

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.

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.

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

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

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

3-2. **VAC2014-00042: City request to vacate a platted reserve and 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.

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

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 plat'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 plat'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.

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

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

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- 3-3. **VAC2014-00043: City request to vacate a platted reserve and 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.

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

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 plat'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 plat'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.

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

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

- 3-4. **VAC2014-00044: City request to vacate a platted reserve and amend the plat'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.

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 plat'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

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 plat'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.
- (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.

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

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

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.

OWNER/AGENT: CRE Holding, LLC c/o Craig Nelson (owner) Baughman Co., c/o Phil Meyer (agent)

LEGAL DESCRIPTION: 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 line of Lot 1, Burlington Northern Industrial Center Addition and Ohio Avenue, Wichita, Sedgwick County, Kansas

LOCATION: Generally located on the northwest corner of 29th Street North and Ohio Avenue (WCC #VI)

REASON FOR REQUEST: Future development

CURRENT ZONING: The subject property and all abutting and adjacent properties are zoned GI General Industrial.

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.

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

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

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- 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.

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.

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.

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

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

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.

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.

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 realigned 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.

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

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

PUBLIC HEARINGS

4. Case No.: CUP2014-00038 – Tyler Pointe, LLC and One Eighty Development (Hoyt Scott)/ K.E. Miller Engineering (Kirk Miller) request a City CUP amendment to DP-329 to permit a 56-foot tall building and modify parcel boundaries, access control and square footage on property described as:

Lots 1, 2 and 3, Block A, Tyler Pointe Addition to Wichita, Sedgwick County, Kansas.

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</i> / 35 |
| 2 | 108,623 | <i>180,123</i> | 30 | 30 | 35 | <i>56</i> | 32,587 / 30 | <i>128,400</i> / <i>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 prospective 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.

DALE MILLER, Planning Staff presented the Staff Report. He reported that he had four phone calls regarding the application; two from people he believed were associated with the Veteran's Administration and a couple of other calls from people who were concerned about a 56 foot tall building being so close to Tyler Road.

FOSTER asked about information from the DAB meeting.

D. MILLER reported that another staff member attended the DAB meeting for him and related that two people spoke in opposition of the application. He said he understood they were concerned about the height of the building.

KIRK MILLER, K.E. MILLER ENGINEERING, 117 E. LEWIS agent for the applicant said they are in agreement with staff comments. He said he received several calls, one from the Veterans Administration, who was on the ownership list, and another from the bank near the site wanting to know what was going on. He also indicated he had a call from a medical supply company who also wanted to know what was going on.

FOSTER asked about the DAB meeting.

K.E. MILLER commented that the DAB approved the application without a lot of discussion.

CAROL MUNSON, 8515 NANTUCKET said Nantucket was the first street north of the site running parallel to 13th Street. She said she has lived there for 26 years. She said she was a little resistant to change; however, she is concerned about the size of the building. She said she spoke with Mr. Miller who was very courteous and helpful and; he indicated the site was going to be a care facility which she was glad to hear for many reasons. She said the facility will not be open 24 hours a day and will probably not generate a lot of traffic coming and going. She said she believes a care facility is a good choice, if they have to have something there. She said she is opposed to a building of that size because she believes it will change the character of the community and set a precedent. She said a five-story building will stick out like a sore thumb. She said this is not consistent with the community.

K.E. MILLER indicated that the facility will be a four-story building and that the 56 feet goes to the peak at the top of the building. He said the facility has peaks as opposed to a flat top building. He said the Comprehensive Plan calls for higher development density in this area.

J. JOHNSON asked what was the height of the building at the soffit.

K.E. MILLER indicated 10-12 feet less, so it would be around 40 feet.

FOSTER commented that this was a nice location particularly with the Dillons at the northwest corner and other commercial uses to the northeast of the facility. He asked about pedestrian connections to those facilities.

K.E. MILLER indicated that there was an existing sidewalk along Tyler Road. He said one of the reasons the developer chose this site was the facilities within walking distance for residents. He also mentioned that the building will be located off the road behind the parking lot, pear trees and other landscaping. He said they will install higher density landscaping at the site than is required by City Code.

MOTION: To approve subject to the staff recommendation.

WARREN moved, **KLAUSMEYER** seconded the motion, and it carried (9-0).

NON-PUBLIC HEARING ITEMS

Other Matters/Adjournment

The Metropolitan Area Planning Commission adjourned at 1:50 p.m.

State of Kansas)
Sedgwick County) ^{SS}

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

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

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

(SEAL)