

**METROPOLITAN AREA PLANNING COMMISSION**  
**MINUTES**  
**SEPTEMBER 20, 2001**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held Thursday, September 20, 2001 at 12:30 p.m. in the Planning Department Conference Room, 10<sup>th</sup> Floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Jerry Michaelis, Chair; Kerry Coulter; Ron Marnell; Ray Warren; John W. McKay, Jr.; George Platt; Harold Warner; Dorman Blake; Frank Garofalo; James Barfield and Elizabeth Bishop. Bill Johnson; Bud Hentzen; Don Anderson were not present. Staff members present were Marvin S. Krout, Secretary; Dale Miller, Assistant Secretary; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Neil Strahl, Senior Planner; Jamsheed Mehta, Transportation Supervisor; Kathy Morgan, Historic Preservation Planner and Valerie Robinson, Recording Secretary.

**1. Election of MAPC Chairperson and Vice-Chairperson.**

**MOTION:** To nominate Mr. Jerry Michaelis as Chair.

**WARREN** moved, **MARNELL** seconded the motion, and it carried unanimously (11-0)  
(Approved)

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**MOTION:** To nominate Mr. Bud Hentzen as Vice-Chair.

**WARREN** moved, **COULTER** seconded the motion, and it carried unanimously (11-0) (Approved)

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**2. Discussion on review of Wireless Communication Master Plan.**

**SCOTT KNEBEL**, Planning staff, reminded the Commission that they asked to review the "environmentally sensitive map" at the same time they reviewed the "Wireless Communication Master Plan." He stated there had been little feedback received as a result of the notice sent out to interested parties. Commissioners were asked to review the comments that had been provided in their packet and to provide staff with guidance on where staff should go. Some of the key issues were: speculative tower requests; new tower requests in close proximity to existing towers; requirements regarding the replacement of towers; waiver of standards contained in the plan; and rural versus when sites.

**BARFIELD** asked about feedback from the school district regarding the use of towers located on school property.

**KNEBEL** indicated there had not been any progress.

**GAROFALO** stated that he would like to consider requiring a signed statement from the carrier to determine if the request for a tower is speculative or not. He also felt the co-location requirement ought to be strengthened. He further stated the Commission needed to look at the commercial areas more, and that the areas north and south along the river need to be included on the "environmental sensitive map." He objected to singling out specific neighborhoods on the map.

**BARFIELD** felt that it was not financially feasible for carriers to rebuild towers.

**BISHOP** noted that one of the developing patterns was failed attempts by carriers to co-locate and wondered if there could be outreach to those property owners who have tall structures or buildings.

**KNEBEL** noted that he had contacted some of the water districts and most were receptive to the idea of co-location.

**WARREN** felt that the Wireless Plan was not paid much attention by the Commission. He did not agree with the idea that towers are ugly since most towers that are built are not guyed or lattice towers. He felt the College Hill case generated an over reaction to the tower issue. He further noted that, in effect, the Commission granted a monopoly to the tower builder when they granted approval for the tower since the Commission has no control over pricing.

**BISHOP** responded that it was difficult to argue over taste. She noted that there were already too many towers resulting in a pincushion appearance, but realized that the technology is needed.

**MCKAY** suggested that the Advance Plans Committee should review the issue and make recommendations.

**MICHAELIS** asked if we needed a public hearing first?

**MCKAY** stated he thought there might not need to be any changes.

**WARREN** felt public input was important.

**MCKAY** stated that Advance Plans could remove the need for additional discussion.

**MICHAELIS** asked if they could set a meeting date for Advance Plans?

**MARVIN KROUT**, Planning Director, stated he did not want a long review time.

**MICHAELIS** recommended that the Advance Plans Committee should review the plan and determine what items needed to be changed.

**KROUT** suggested next Thursday at 1:30-3:00.

**BISHOP** wanted a clarification regarding the "environmentally sensitive" map. Did the map need to be officially adopted?

**KROUT** indicated that it did.

**2-A. SUB2001-00093** - Ridge Port 2<sup>nd</sup> Addition. The Subdivision Committee on 9-13-01 approved this preliminary plats subject to the following conditions:

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- B. City Engineering needs to comment on the need for additional guarantees or easements. A petition for a sewer main is also required. The applicant shall meet with City Engineering to discuss the location of the sewer main. If located along the railroad, additional utility easement will be required.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. City Engineering needs to comment on the status of the applicant's drainage concept. The drainage concept is approved. An off-site drainage easement is required. A hydraulic analysis is needed as a part of the final drainage plan.
- E. Traffic Engineering needs to comment on the access controls. The plat proposes three access openings along Ridge for a private drive. The final plat shall reference the access controls in the plat's text. MAPD and Traffic Engineering recommend the relocation of the private drive to the south, in alignment with the streets across Ridge Road, and elimination of the southernmost opening. The Subdivision Committee has approved the proposed three openings as depicted on the plat.
- F. The access easement shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- G. The final plat shall state in the plat's text the purposes of the proposed reserves as well as the ownership and maintenance responsibilities.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. For those reserves being platted for private street purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the private street in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. County Fire Department and GIS request the naming of the private street. GIS recommends the northern segment be named "W. Northwind St." or "W. 33<sup>rd</sup> St. N ". GIS recommends the southern segment be named W. Westlakes St., W. Shadow Lakes St., or W. 32<sup>nd</sup> St. N."
- K. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- L. The Applicant is advised that if platted, the building setbacks may be reduced to 20 feet to conform with the Zoning setback standard for the LI, Limited Industrial District.
- M. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- N. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- O. The applicant shall install or guarantee the installation of all utilities and facilities, which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- V. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. KGE and Southwestern Bell have requested additional easements.
- W. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

**NEIL STRAHL**, staff, introduced the case noting that this was a staff appeal of a recommendation of the Subdivision Committee regarding access control on Ridge Port 2<sup>nd</sup> Addition. Staff's recommendation was that the northern access point was to be moved south and another access point should to be eliminated, reducing the total number of access points on the plat from 3 to 2.

**JAMSHEED MEHTA**, staff, pointed out all the access points that had been approved along both sides of the segment of Ridge Road in question. He further pointed out minimum distance standards for offset streets and the impact improperly spaced access points had on speeds along Ridge Road. He noted he had met with the applicant and pointed out possible changes.

**GAROFALO** asked for clarification on what staff had recommended?

**MEHTA** indicated this area would, when fully developed at levels previously approved, have a significant level of traffic, potentially similar to Rock Road.

**PHIL MEYER**, agent, passed out a site plan that showed how the front seven lots were to be developed. They purposely offset their access points from the drives located across the street. Lot 13 was under contract today and had its own access. They had looked at different layouts and the layout approved by the Subdivision Committee worked best for them.

**WARREN** stated that without signalization, the Committee felt the approved layout was the safest and best.

**BISHOP** asked about access to the residential subdivision east of Ridge.

**GAROFALO** asked if Mehta agreed with Warren's safety concerns regarding lack of signalization?

**MEHTA** stated in this situation it would be an unsafe distance between offsetting drives.

**COULTER** asked if signalization would be required if the drives were placed opposite each other?

**MEHTA** indicated they did not meet signalization warrants.

**BISHOP** stated she lived in a similar situation.

**GAROFALO** asked the applicant if the south entrance to Lot 13 was needed?

**MEYER** said yes.

**GAROFALO** asked what would happen if they lost that access point?

**JAY RUSSELL**, applicant, noted that the railroad tracks and an easement along the south line of the property make it difficult to access that lot internally, and they would lose lots. He felt that a fifth lane in Ridge Road would address staff concerns.

**BARFIELD** asked Mehta if he meant that traffic on Ridge could equal that on Rock Road within the next five years?

**MEHTA** stated that the roadway infrastructure is similar to Rock and the amount of development already approved is approaching a Rock Road situation.

**BARFIELD** asked if there are plans for a fifth lane?

**MEHTA** indicated no.

**WARREN** asked if only access was at issue, not other plat recommendations?

**MARVIN KROUT**, Planning Director, indicated it was access at issue.

**WARREN** indicated that he had not changed his mind and made a motion to uphold the Subdivision Committee's recommendation.

**MCKAY** seconded the motion.

**BISHOP** asked if there were 32 residential lots, how many dwelling units? Are there sidewalks?

**MEHTA** indicated they expected 45 to 55 units.

**KROUT** indicated there is not a sidewalk.

**BARFIELD** expressed concern with creation of another Rock Road.

**SUBSTITUTE MOTION:** Motion to follow recommendation of staff, which would allow for removing the reserve A to the south. (Tape 60.2)

**BARFIELD** moved, **BISHOP** seconded the motion and it carried (Approved) Marnell, Blake, Coulter, Garofalo, Barfield, Bishop in favor. McKay, Warren, Warner, Wells, Michaelis opposed. (6-5).

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**3. DR2001-12--Appeal of County Code Enforcement's Denial of Platting Exemption Request (Ray Hodge).**  
(a full transcription of this item is available in the Planning office).

**BOB PARNACOTT**, Sedgwick County Counselor, indicated the item was an appeal of a decision by the Zoning Administrator to not honor a platting exemption.

**RAY HODGE**, applicant, stated the sole issue is Section 3-106 and referenced a letter he had written dated September 12, 2001 outlining his appeal. His appeal was based on the failure of the County to revoke the exemption they had given him, in a timely manner. He further stated the Zoning Administrator had a time limit of 30 days to revoke the exemption, and the Administrator had not acted in that time frame. He asked the Commission to override the County Zoning Administrator's decision revoking his platting exemption.

**PARNACOTT** indicated the applicant was not entitled to a platting exemption because his survey had never been recorded as required by the County's Subdivision Regulations.

**COMMISSIONERS** discussed the appropriateness of the Commission to hear the appeal, and how the requirement to record a survey applied to this situation.

**MARVIN KROUT**, Planning Director, explained the regulations require surveys to be recorded prior to a certain date in order for the property to be eligible for the platting exemption and the applicant had not shown that the property was recorded in a timely manner.

**WARREN** moved **BLAKE** second the motion that they take no action.

**MARNELL** stated he would not support the motion as stated, as it was a non-decision action.

**BISHOP** indicated agreement with Marnell.

**MARNELL** and **BISHOP** opposed.

**SUBSTITUTE MOTION:** To uphold zoning administrator's decision to revoke applicant's platting exemption.

**MARNELL** moved, **GAROFALO** seconded the motion and it carried unanimously (11-0) (Approved)

**4. Approval of MAPC meeting minutes August 23, 2001.**

**GAROFALO** indicated he was not present at the meeting covered by the minutes.

**MOTION:** That the minutes for August 23, 2001 be approved.

**MCKAY** moved, **COULTER** seconded the motion, and it carried unanimously (10-0-1)

**GAROFALO** abstained.

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**5. NEIL STRAHL**, Planning staff, indicated items 5-1 to 5-4 may be taken in one motion, unless there are questions or comments

**5-1. SUB2001-64** – Final Plat of KTP ADDITION, generally located on the northwest corner of 127<sup>th</sup> Street East and Central

Avenue.

- A. The applicant shall guarantee the extension of sanitary sewer to serve the lots being platted. This guarantee shall be with the City for service through the Four Mile Creek sanitary sewer system.
- B. The applicant shall guarantee the extension of City Water to serve the lots being platted.
- C. City Engineering needs to comment on the need for other guarantees or easements. A sanitary sewer and City water layout is requested.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- E. City Engineering needs to comment on the status of the applicant's drainage plan. An off-site drainage easement, drainage guarantee and a cross-lot drainage agreement is required. Minimum pads need to be platted for the lots adjacent to the detention pond.
- F. The standard floodway language needs to be added to the plat.
- G. In accordance with the C.U.P, a center left-turn lane is required along Central for those segments, which are not already constructed, in addition to a right-turn decel lane to serve all openings.
- H. In accordance with the C.U.P. approval, the plat proposes five access openings along the plat's frontage to Central. Distances should be shown for all segments of access control. A guarantee shall be provided for the future construction of a raised medial at the intersection of 127<sup>th</sup> St. East and Central Avenue.
- I. The Applicant shall guarantee the paving of the proposed street to the 29-ft back-to-back standard. County Fire Department has prohibited on-street parking within this street.
- J. The access easement between Lots 3 and 4, Block 2, shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- K. In accordance with the C.U.P., the Applicant shall provide a cross-lot circulation agreement to assure internal access between the lots.
- L. Since this plat proposes the platting of narrow street right-of-way with adjacent "15-foot street drainage and utility easements", a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. In accordance with the CUP, those portions of the easements not required for drainage purposes may be used for site-related landscaping and parking purposes so long as no interference occurs with the other utility easement requirements.
- M. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- N. For those reserves being platted for drainage purposes, the required covenant, which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- O. A Community Unit Plan Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved C.U.P. and its special conditions for development on this property.
- P. The applicant shall submit a copy of the instrument, which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements.
- Q. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.
- R. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- S. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- T. The applicant shall install or guarantee the installation of all utilities and facilities, which 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.)
- U. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges

the signatures on this plat, to be printed beneath the notary's signature.

- V. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- W. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 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.
- X. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- Y. Perimeter closure computations shall be submitted with the final plat tracing.
- Z. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- AA. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- BB. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

**5-2. SUB2001-82** – Final Plat of HAAG INDUSTRIAL PARK ADDITION, generally located south of K-42, on the west side of Ridge Road.

- A. As this site is adjacent to Wichita's City limits, the Applicant shall submit a request for annexation.
- B. City Water and Sewer Department requests a petition for extension of City water and sewer services. A petition is also needed for a future sewer main. The applicant shall contact the property owner to the east regarding participation in the water main petition. The applicant shall meet with City Water and Sewer Department regarding a revised sewer layout. An easement is needed to provide sanitary sewer to Lot 1. In addition, the utility easement located along the east line of Reserve A needs to be revised to a drainage and utility easement. A 20-ft drainage and utility easement is also needed along the west side of Lot 17, Block A.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- D. County/City Engineering needs to comment on the status of the applicant's drainage plan. The established bank lines for Cowskin Creek need to be depicted on the plat.
- E. County Engineering has required the dedication of complete access control along Ridge Road for Lot 2, Block A and Lot 1, Block B.  
  
The requested access controls have been platted.
- F. The Applicant shall guarantee the paving of the proposed streets to the urban commercial street standard.
- G. The paving guarantee shall include the installation of the proposed temporary turnarounds along the west and south property lines. The temporary turnarounds shall also be referenced in the plat's text as being automatically vacated upon extension of the streets.
- H. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- I. A Protective Overlay Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved Protective Overlay (referenced as P-O #95) and its special conditions for development on this property.
- J. County Fire Department has approved the street lengths (2,250 and 2,500) due to the plan for connection with future subdivisions. The Subdivision Committee needs to approve a modification.
- K. Traffic/County Engineering should comment on the need for any guarantees for left turn or accel/decel lanes. County Engineering has required a guarantee for left and right turn lanes on Ridge Road at 34<sup>th</sup> St. South.
- L. The City Fire Department and/or GIS needs to comment on the plat's street names. GIS has requested that the street be relabeled as "34<sup>th</sup> St. S".
- M. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage

easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

- N. The applicant shall install or guarantee the installation of all utilities and facilities, which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- U. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- V. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

**5-3. DED2001-26** – Dedication of a Utility Easement from Otis W. and Charlotta M. Bearden, for property located between Douglas and Maple, on the west side of Ridge Road.

**CASE NUMBER:** DED 2001-26 -- Dedication of a Two-Foot Utility Easement from Otis W. and Charlotta M. Bearden, for property located between Douglas and Maple, on the west side of Ridge Road.

**OWNER/APPLICANT:** Otis W. and Charlotta M. Bearden, 109 S. Ridge Road, Wichita, KS 67209

**LEGAL DESCRIPTION:** Lot 16, Block C, Westview Addition to Wichita, Sedgwick County, Kansas, beginning at the northwest corner of Lot 16, Block C, and extending south 110 feet, parallel with the west property line, to the south property line of Lot 16, Block C.

**PURPOSE OF DEDICATION:** This Dedication is a requirement of Zoning Case No. ZON 2001-41, and is being dedicated to conform with the 10-foot standard.

**5-4. Modification requirement for the COURTS II Addition Lot Split.** Generally located south of 29<sup>th</sup> St. North and west of Woodlawn and encompasses four lots being re-divided into five lots.

This site is located south of 29<sup>th</sup> St. North, west of Woodlawn and encompasses four lots being re-divided into five lots.

The Subdivision Regulations require a minimum lot width of 50 feet at the building setback line. Parcel 2 (37-ft lot width) and Parcel 3 (43-ft lot width) both do not conform to this standard and a modification needs to be approved.

In addition, the required lot width to depth ratio of 2.5 to 1 is exceeded by Parcel 3 and a modification also is requested.

**MOTION:** To take items 5-1 through 5-4 in one motion.

**MCKAY** moved, **WARREN** seconded the motion, and it carried unanimously (11-0)

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**6. BILL LONGNECKER**, staff, introduced the items, stating no changes had occurred since the Subdivision Committee had considered those items and items 6-1 thru 6-2 could be considered together.

**6-1. VAC2001-28** –Request to Vacate Utility Easement and Setback.

**CASE NUMBER:** VAC2001-00028: Request to vacate a portion of a 20-ft utility easement.

**APPLICANT/OWNER:** Philip Knighton

**LEGAL DESCRIPTION:** The west 10-ft of Lot 15, for a distance of 139.32-ft south from the northwest corner of Lot 15, Sherwood Estates Addition to Wichita, Sedgwick County, Kansas and the east 10-ft of Lot 16 for a distance of 139.2-ft south from the northwest corner of Lot 15, Sherwood Estates Addition to Wichita, Sedgwick County, Kansas, excepting that portion of said easement in Lot 16 contained within the tract deeded to Merlin C Hussy and Susan G Hussy by Diana Lee.

**LOCATION:** Generally located northeast of 37<sup>th</sup> St N - N Amidon Av intersection, 3711 N Amidon.

**REASON FOR REQUEST:** The applicant proposes to build a 24-ft x 36-ft garage.

**CURRENT ZONING:** Subject property is zoned SF-5 Single Family Residential. Properties to the north, south, east and west are zoned SF-5 Single Family Residential.

The applicant is requesting consideration to vacate a portion of the platted (Sherwood Estates Addition, recorded 07-31-1980) 20-ft utility easement along the rear of the property line for a garage. The proposed 24-ft x 36-ft garage will encroach 6 -ft into the 20-ft utility easement for a distance of 24-ft. The applicant proposes to house antique cars in the garage.

Recommended action:

- 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, by publication in the Wichita Eagle of notice of this vacation proceeding one time June 28, 2001, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described utility easement and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the utility easement described in the petition should be approved subject to the following conditions as recommended by the Subdivision Committee.
1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
  2. All improvements shall be according to City Standards.
  3. Vacate only that portion of the easement where the encroachment occurs.

**6-2. VAC2001-41 –Request to Vacate Access Controls.**

**CASE NUMBER:** VAC2001-00041: Request to vacate access control.

**OWNER/APPLICANT:** Empire Bank

**AGENT:** MKEC Engineering Consultants

**LEGAL DESCRIPTION:** The west 25-ft of the 295.05-ft of access control fro Lot 2, Block 5, Maple Dunes Addition, adjacent to Maple Street and the south 25-ft of the 180.02-ft of access control of Lot 2, Block 5, Maple Dunes Addition, adjacent to 135<sup>th</sup> Street West.

**LOCATION:** Generally located northeast of the 135<sup>th</sup> St W – Maple St intersection

**REASON FOR REQUEST:** The applicant has purchased abutting additional property and proposes to move the access control to line up with the new boundaries of the property.

**CURRENT ZONING:** Subject property is zoned LC Limited Commercial with a Protective Overlay; PO-17. Properties to the north and east and west are zoned SF-6 Single Family Residential. Property to the south is zoned LC Limited Commercial. Property to the west is zoned GO General Office.

The applicant proposes to vacate 25.67-ft portions of access control on existing access controls on both Maple Street and 135<sup>th</sup> St N. The applicant has purchased a 25.67-ft strip off of Lot 2, Block 5, Maple Dunes Addition, that has expanded Lot 1, Block 5, Maple Dunes Addition on both the north and east sides by 25.67-ft. The applicant proposal would move the existing access control on Maple 25.67-ft east and move the existing access control on 135<sup>th</sup> St W 25.67-ft north. The proposed access control would then line up with Lot 1's new northern and eastern boundaries. The new accesses from Maple and 135<sup>th</sup> St W would be 25.67-ft further away from their intersection.

Recommended action:

- 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, by publication in the Wichita Eagle of notice of this vacation proceeding one time August 30, 2001, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described access control and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the access control described in the petition should be approved subject to the following conditions:
1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
  2. All improvements shall be according to City Standards.
  3. The applicant needs to dedicate new access control to reflect the new configuration of the Maple St and the 135<sup>th</sup> StW accesses.

**MICHAELIS** asked if anyone in the meeting room wished to speak. No one did.

**MOTION:** To take items 6-1 and 6-2 in one motion to follow the recommended actions.

**GAROFALO** moved, **WELLS** seconded the motion, and it carried unanimously (11-0)

7. **Case No.: ZON2001-51** – Arc Spei I, LLC (Owner) request zone change from “RR” Rural Residential to “MH” Manufactured Housing on property described as:

The South Half of the East Half of the Southeast Quarter of Section 21, Township 27 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, EXCEPT therefrom the following described tract: Beginning at the Southeast corner of said Southeast Quarter; thence Northerly along the East line of said Southeast Quarter, 660.00 feet; thence Westerly parallel with the South line of said Southeast Quarter, 275.00 feet; thence Southerly parallel with the East line of said Southeast Quarter, 660.00 feet to a point on the South line of said Southeast Quarter; thence Easterly along the South line of said Southeast Quarter 275.00 feet to the point of beginning. Generally located Northwest of the Maple Ave – W 167<sup>th</sup> St intersection.

**BACKGROUND:** The applicant is requesting consideration for a zoning change from “RR” Rural Residential to “MH” Manufactured Housing, on 34 acres located northwest of the Maple – 167<sup>th</sup> Street West intersection, for expansion of an existing manufactured home park. Currently there is an existing manufactured home park, La Del Manor Mobile Home Park, located on the southern, approximately 18 acres of the 34 acres. The proposed expansion will add an approximate 16 (vacant) acres to the north side of La Del Manor. Neither the vacant 16 acres nor the developed 18 acres of La Del Manor are platted. The applicant has submitted a site plan, which shows the proposed layout. The site plan shows 3 points of access, two on Maple, the closest being 400-ft from the Maple – 167<sup>th</sup> West intersection with the furthest Maple access being approximately 775-ft from the one closer to the intersection. There is one proposed access on 167<sup>th</sup> West, approximately 950-ft from the intersection. On the east side of the property (abutting 167<sup>th</sup> West) and the south side (abutting Maple) there are 15-ft wide landscaped buffers between the property line and the beginning of the 25-ft building setback line. The applicant proposes to plant in the landscaped buffers 69 Schumard Oak and 33 Eastern Red Cedar, all having 2 inch diameters. No screening or landscaped buffers are shown on the property’s north or west sides, although there is an existing hedgerow on most of the west side. The existing pad (the individual sites for the manufactured homes) count is 100, with an additional 82 pads to be added by the expansion. Density of the proposed park is 5.24 units per acre. Minimum pad size is 5,000 square-ft, with two 20-ft x 20-ft off street parking pads, and setbacks of 5-ft for the front and 10-ft for both the rear and sides of the pads. The parking pads must be paved. The proposed private drive inside the manufactured housing park is 29-ft wide. The applicant proposes to pave the private drive; the current private drive is not paved. Running along both sides of the private drive are 4-ft wide sidewalks; currently there are no sidewalks. There are 4 open spaces shown on the site plan, the three largest start in the middle, at the north end of the development and run in line south, broken twice by the private drive. The plan shows drainage/retention ponds in the middle of each one of these 3 open spaces. The middle and southern of the 3 each have a 920 square-ft above ground storm shelter in them. The fourth open space is the smallest, is located on the northeastern side and contains the office for the manufactured home park. All open space must be designated as recreation space, must be a minimum of 10,000 uninterrupted sq-ft. and equal a minimum of 8% of the total land area. The applicant’s open space must be re-calculated because of the location of storm shelters and drainage/retention ponds shown on the site plan.

The site has “RR” rural residential zoning abutting it on west and north sides and adjacent to it on the south (across Maple) and east (across 167<sup>th</sup> West) sides. The property to the south is being used for agriculture. A business is located southeast of the property and a single family residential development is going up in Goddard, less than a half mile to the southwest. Property to the north and west is being used for agriculture. There is vacant property abutting the site on the east half. Property to the east beyond 167<sup>th</sup> West is being used for agriculture. The general character of the surrounding land is agricultural with scattered residential development.

**CASE HISTORY:** The property is currently being used as a mobile home park. There are numerous vacant pad sites.

**ADJACENT ZONING AND LAND USE:**

NORTH: "RR" Rural Residential	Agriculture
EAST: "RR" Rural Residential	Agriculture
"SF-20" Single Family Residential	Vacant
SOUTH: "RR" Rural Residential	Agriculture
"SF-20" Single Family Residential	Small Business
WEST: "RR" Rural Residential	Agriculture

**PUBLIC SERVICES:** Both Maple and 167<sup>th</sup> Street are classified as 2-lane arterials. There are no Average Daily Trips (ADT) counts at this intersection. These roads are both paved and County maintained. The proposed Northwest Bypass is identified as being constructed in the location of the site, with 167<sup>th</sup> Street West as the center of the Bypass. There is RWD 4 water and city water approximately 1 mile to the east. Rural water would not provide the pressure required to install fire hydrants. The City has recently acquired the sewer from the County that services the site. The capacity to serve the proposed development has not been calculated.

**CONFORMANCE TO PLANS/POLICIES:** The Wichita Land Use Map (WLUM) identifies this property as Low Density Residential. Low Density Residential (1 – 6 dwelling units per acre) provides for the lowest density of urban residential land use and consists of single family detached homes, zero lot line units, cluster subdivisions and planned developments with a mix of housing types that may include townhouse and multi-family units. The proposed density of the manufactured home park is 5.35 units per acre. Manufactured home parks are more typically recommended for medium density residential areas, but only at some locations in that area. Manufactured housing parks should be located on large tracts buffered from single family residential by physical barriers; freeways, drain ways, railways. A study to update the WLUM is currently being made, which identifies this property as appropriate for a Manufactured Housing zoning district.

**RECOMMENDATION:** Staff finds the upgraded appearance resulting from this development's expansion to justify the request, especially since expansion to a lesser extent without the improvements could happen. Based on the information available prior to the public hearing, staff recommends the application be APPROVED, contingent on the availability of City water and sewer facilities that would be able to service the proposed development, subject to platting within one year and subject to a revised site plan containing the following changes;

- (a) Install a 6-ft - 8-ft masonry wall behind the 15 foot landscaped buffer on the street frontages and around the parameter of the rest of the proposed development, with trees every 30 feet along the outside of the wall.
- (b) Existing trees, including the hedgerow on the west side of the property, shall be identified for preservation as part of the development plan.
- (c) Recalculate recreation space and show as a minimum of uninterrupted 10,000 sq-ft, minus storm shelters, for a total of 8% of the total acreage. Drainage identified in the open/recreation space must have gradual slope to ensure that there are no public safety issues in case of standing water after rain.
- (d) Show location of all common trash receptacles, which must have solid screening and be accessible to trash trucks.
- (e) Show all proposed and existing lighting. Lighting must be with 7,000 lumens lamps, spaced at a maximum interval of 200-ft, 20-ft from the ground or friendship lights of forty lights, lighting automatically from dusk to dawn, located at each manufactured home pad adjacent to the private drive or located at a maximum interval of 75-ft adjacent to the private road.
- (f) Provide solid screening with a self-closing gate made of similar or approved materials for the RV storage area and any other storage areas. Provide description and/or drawing of the screened area.
- (g) Identify all manufactured home roadways and manufactured homes with letters and numerals, of light reflecting materials and a minimum of 2 inches in height.
- (h) Any expansion of the existing park must be serviced by the City of Wichita water and sewer facilities.
- (i) All utilities must be underground.
- (j) All manufactured homes must meet the standards of Section III-D.6.I (1) of the Zoning Code.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. Approximately half of the applicant's site is already developed as a manufactured housing park. The surrounding area is primarily agriculture with scattered residential. There is a single-family subdivision being developed less than a ½ mile southwest of the location in Goddard.
2. The suitability of the subject property for the uses to which it has been restricted: Residential development on the proposed site would be inhibited if the existing park remains at this site with no improvements.
3. Extent to which removal of the restrictions will detrimentally affect nearby property. Any detrimental affects should be mitigated by the recommended conditions of approval and code required development standards.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The site does not meet the plan's buffer guidelines completely, but is somewhat buffered by the hedgerow to the west and would be screened from other views by the recommended walls and trees. The site is shown on the proposed update to the Land Use Map as appropriate for this use, but is not on the existing Land Use Map.
5. Impact of the proposed development on community facilities: The availability and adequacy of the City water and sewer is not clear at this time, but Staff recommends that the expansion be contingent on these services. The traffic generated by the proposed development will be significant, but within the capacities of these two roadways for many years.

**LONGNECKER,** Planning staff, presented the staff report and presented slides. He indicated that Goddard had reviewed the request and recommended approval subject to conditions concerning the construction of a screening wall, extension of water and completion

of a traffic study.

**TERRY SMYTHE**, agent, indicated a traffic study had been done. Regarding the water issue, they could bring city water from approximately one mile away or go with rural water or drill a well. He wanted these issue to be addressed at platting. He stated ARC, the applicant, had agreed to a masonry wall but would like to finalize the location of the wall at the time of platting to avoid damage to existing trees. They had committed to building the wall and have been willing to upgrade the appearance of the park, but he wondered if the wall could be discussed between now and platting.

**MARVIN KROUT**, Planning Director, indicated those issues could be discussed between now and platting, as long as Goddard was kept informed.

**MOTION:** The motion be approved with the stipulation that final disposition of the wall and water issues be addressed at platting.

**MCKAY** moved, **COULTER** seconded the motion, and it carried unanimously (11-0)

8. **Case No.: CON2001-44** - Marc Wasserman (Owner) request a Conditional use to allow Kennel for boarding on property described as:

Parcel 1: Beginning 660 feet North of the Southwest corner of the Southwest Quarter of Section 11, Township 26 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas; thence North 220 feet; thence East parallel with the South line of said Southwest Quarter 660 feet; thence South 220 feet to a point 660 feet North of the South line of said Southwest Quarter; thence West 660 feet to the place of beginning. Key # KE-91-1C.

Parcel 2: Beginning 462 feet North of the Southwest corner of Section 11, Township 26 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas; thence East parallel with the South line of the said Section 11 a distance of 660 feet; thence North parallel with the West line of said Section 11, a distance of 198 feet; thence West 660 feet; thence South 198 feet to the place of beginning. Key# KE-91-1C.

Parcel 3: Beginning 660 feet East and 660 feet North of the Southwest corner of Section 11, Township 26 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas; thence South 330 feet; thence East 132 feet; thence South 165 feet; thence East to the East line of the Southwest Quarter of the Southwest Quarter; thence North 495 feet; thence West to beginning, except a tract beginning 1056 feet East and 165 feet North of the Southwest corner Section 11, Township 26 South, Range 1 East; thence East to the East line of the Southwest Quarter of the Southwest Quarter; thence North 20 feet; thence West to a point 1056 feet East of the West line of the Southwest Quarter of the Southwest Quarter; thence South 20 feet to the place of beginning, except East 60 feet for road. Key #KE-91-1K

Parcel 4: Beginning 792 feet East of the Southwest corner of Section 11, Township 26 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas; thence North 165 feet; thence East 264 feet; thence South 165 feet; thence W to point of beginning. Key #KE-91-1. Generally located Northeast of the Hillside – 61st Street North intersection.

**BACKGROUND:** The applicant is requesting consideration for a Conditional Use to allow expansion of a kennel for breeding, training and boarding of dogs on property zoned "RR" Rural Residential and is located northeast of the 61st Street North – Hillside intersection. The kennel was registered as a legal nonconforming use in 1999, when the applicant was permitted to expand to its current size. The new proposed expansion, more than doubling the current number of kennel/runs, requires the applicant to request a Conditional Use and make the property conform to the zoning code. The site (6.3 acres, see site plan) is not platted and is part of a total of 20 acres owned by the applicant. The site (and the rest of the applicant's property) is within the City of Kechi's 'area of zoning influence', with Hillside being its western boundary. On the other side of Hillside (west), the Park City 'area of zoning influence' begins. The applicant proposes to expand his current kennel's capacity for housing dogs from its current capacity of 85 kennels/runs to another 96 kennel/runs, for a total of 181 kennel/runs. Each kennel/run (unit) can house 1 to 2 dogs per unit, making the current possible dog population 85-170 dogs. With the proposed units, the future possible dog population increases to 181-362 dogs; more than doubling the current possible dog population. The number of puppies that could be included in these current and proposed facilities is unknown. A dog is defined in the UZC as an adult when over 12 months of age; a puppy is less than 12 months old.

The applicant has submitted a site plan showing the existing and proposed use of the subject property. Listed below are the existing facilities, as scaled by staff;

- (a) The closest kennel/run is 37.5-ft from the north property/site line (2 runs for 1 kennel). This existing kennel/runs is not in compliance with the Conditional Use standard for this activity, which has a minimum distance of the building to the property line of 50-ft and 200-ft from the nearest neighbor.
- (b) Two kennel/runs 125-ft from the north property/site line (2 runs for 1 kennel),
- (c) A kennel/run at approximately 185-ft from the north property/site line and 175-ft from the east side of the site and
- (d) A training building approximately 297.5-ft from the north property/site line and approximately 197.5-ft from the south side of the site.

All the existing kennel/runs are more than 200-ft from all other parts of the site/property, with the two exceptions noted. All are shown on the site plan as A – D.

The applicant proposes to put 3 more kennel/runs in (as scaled by the applicant's surveyor). Listed below are the proposed kennel/runs

- (e) A proposed kennel, attached to an existing run 181.5-ft from the north property/site line (195-ft – 13.5-ft), the facility is 13.5-ft x 82-ft.
- (f) A proposed kennel, attached to an existing run, will be 218-ft (232-ft – 13.5-ft) from the north property/site line, the facility is 13-ft x 85-ft.
- (g) A proposed kennel with proposed 2 runs attached 255-ft from the north property/site line, but 25-ft from the south side of the site, the facility is 120-ft x 14-ft. Platting of this site would cause this unit to not be in compliance with the minimum distance of the building to the property line of 50-ft and 200-ft from the nearest neighbor. This unit would need to be moved if the Conditional Use is approved. All the proposed facilities are more than 200-ft from all other parts of the property/site, with the one exception noted. Shown on the site plan as letters E, F and G.

Currently this site is developed, as noted. The applicant owns the property abutting on the east. Beyond the applicant's (on the east side) property, the property to the east is being used for agriculture. Approximately ½ mile away from the applicant's properties eastern edge is the City of Kechi. The property in Kechi is being developed as single family residential. The properties to the north of the site/property line have two houses on them and then a manufacturing facility. South of the applicant's site is a lot owned by the applicant and south of that a vacant lot. West of Hillside there is agricultural land and approximately ½ mile west from Hillside there are single family residential being built in Park City. The applicant does not live on site, but has members of his staff living on site or on the applicant's property.

The Unified Zoning Code's (UZC) definition of a Kennel for breeding, boarding and training as "...premises housing 5 or more adult dogs, three or more which are owned by someone other than the property resident, and premises housing over 10 adult dogs. The Unified Zoning Code requires a Conditional Use for Kennel for breeding, training and boarding in RR Rural Residential zoning districts, with specific conditions to be met.

There has been 3 other Conditional Use request for kennels for breeding, boarding and training in this area:

- (a) CU383 (1995), located at 109<sup>th</sup> Street North & Hillside, denied by the MAPC, the BCC and the Kechi Planning Commission. (b) CU389 (1996) just west of the above location and again denied.
- (b) CU426 (1997), located at 53<sup>rd</sup> Street North – K-254 west, denied by the Kechi Planning Commission and the MAPC.

**CASE HISTORY:** The property is being used for a kennel for breeding, boarding and training. There is no record of the applicant receiving a Conditional Use for this activity at this site. Mr. Wasserman applied for a building permit 12-02-99 for an accessory building to housedogs. The building was 10-ft x 110-ft; approximately the size of 2 of the 3 proposed structures. The application was approved by County Code Enforcement, as was a legal non-conforming registration. In the registration of the use, the applicant noted, without documentation being supplied to the Planning Staff, that the 'kennel business' had been there for 40 years, and this was basis for applying for legal non-conformity status. There has been a written complaint in regards to barking in 2000 and when this application was posted for public hearing. Since the notice of public hearing, there has been a call complaining of barking, especially during feeding times, and odor.

**ADJACENT ZONING AND LAND USE:**

NORTH: "RR" Rural Residential	Residential, manufacturing
EAST: "RR" Rural Residential	Agriculture
SOUTH: "RR" Rural Residential	Agriculture
WEST: "RR" Rural Residential	Agricultural

**PUBLIC SERVICES:** 61<sup>st</sup> Street North is classified as minor arterial and is a paved two-lane road on either side of this intersection. Hillside is classified as a minor arterial on the south side of this intersection and is a paved two-lane road on both sides of the intersection. There are no traffic counts at this intersection. There is no sewer at this site, but a lagoon. The applicant applied for a variance (and was approved) of the sewer facility standards to allow hook up to the lagoon for a past expansion of his kennels on 12-99. The variance was approved. Staff has contacted the Environmental Health Department for comments in required to the impact of the proposed expansion on the lagoon. Environmental Health is not recommending expansion of the kennels at this time, sighting environmental health concerns over the lagoon and the surrounding sewage system. Environmental Health has advised Staff that the facility is currently under review. There is electric and well water.

**CONFORMANCE TO PLANS/POLICIES:** The Comprehensive Plan identifies this property as being in Kechi's growth area, with the Park City growth area abutting it on the west. The small city growth areas indicate the direction and magnitude of growth these communities can expect to experience over the next 30 years. The Unified Zoning Code requires a Conditional Use for kennels for breeding, boarding and training in RR Rural Residential zoning. The Kechi Comprehensive Plan identifies this land as agricultural and discourages non-farming activity to protect this productive land.

**RECOMMENDATION:** Based on the information available prior to the public hearing, staff recommends the application be DENIED. Dog kennels of a 'reasonable size' are appropriate for rural areas of the County and, with certain restrictions, can be compatible with nearby residences and agricultural operations. However, the applicant is already operating a relatively large kennel (up to a possible 170 dogs) plus an uncertain number of puppies, in an area that is projected to urbanize in the future. Granting permission to double the number of dogs would be out of character and inappropriate for this area and will inhibit urbanization of nearby property. However if the Planning Commission approves the Conditional Use request then Staff recommends the following conditions be applied:

- A. The applicant shall comply with all applicable state and local rules and requirements dealing with kennels (e.g. Chapter 5 of the Sedgwick County Code).
- B. The property shall be developed in accordance with a revised site plan approved by the Planning Director, showing screening, lighting, landscaping, parking, setbacks, easements and all buildings in conformance with the UZC.
- C. The kennel operator shall have on file proof of rabies vaccinations by a licensed veterinarian and proof of identification and ownership for all dogs five months and older.
- D. Artificial lighting shall be provided in any indoor run for a minimum of 25 feet of candle illumination. Lighting shall be a minimum of 30 inches above the floor and uniformly distributed.
- E. Cleaning of the boarding kennel facility shall be performed as often as necessary to maintain sanitary conditions, and a

"suitable method" of eliminating excess water from animal housing facilities shall be provided as determined by the Department of Community Health. Interior surface materials shall be constructed of non-porous materials that are impervious to moisture. The indoor kennel facilities shall have fresh air ventilation providing a complete air change at a minimum of five-to-six-minute intervals. Exhaust and vents or air conditioning shall be provided when the ambient temperature is 85 degrees or higher.

- F. Sufficient quantities of food and water shall be provided to keep the dogs in good physical condition. The animals shall be fed at least once daily and provided clean water at all times. Food and water containers shall be located to minimize contamination and shall be cleaned as often as necessary to maintain sanitary conditions.
- G. All waste materials shall be disposed of in such a manner as to minimize odors and disease hazards. The boarding kennel shall be maintained in a sanitary manner as required by applicable codes (e.g. Chapter 14 of the Sedgwick County Code).
- H. The animals confined in the boarding kennel shall be maintained in good physical condition, free of infectious diseases and parasites.
- I. The number of adult dogs and puppies authorized to be boarded by virtue of this resolution shall not exceed (to be determined by the Commission) at any one time. Dogs shall be contained in an enclosed structure with no wall openings between the hours of 10:00 P.M. and 6:00 A.M.
- J. The boarding facility shall be open to the unannounced inspection by Sedgwick County of Code Enforcement personnel during reasonable daylight hours to insure continued compliance with the above requirements.
- K. Any violation of the foregoing conditions shall render this Conditional Use permit null and void.

The recommendation for DENIAL is based on the following findings:

- 1. The zoning, uses and character of the neighborhood. The applicant's site and the surrounding area is zoned "RR" Rural Residential. Use of the surrounding area is predominately for agriculture, with two single-family residential subdivisions/developments within ½ mile on the west (Park City) and east (Kechi) sides and two residences on large lots on the north side. Scattered agricultural and residential use to the south.
- 2. The suitability of the subject property for the uses to which it has been restricted: No evidence has been submitted that show this kennel is at full capacity, or why the property cannot continue to be used for up to the permitted possible 170 dogs today. Therefore the need for the proposed expansion, which would allow up to 362 dogs, is unnecessary and the current zoning restrictions are appropriate
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property. The applicant's proposed expansion would bring the total possible dogs on the site from a current 85-170 to 181-362. In Staff's research (1994 to the present) of this type of kennel, this request represents the largest number of dogs in a kennel ever requested by an applicant. The possible noise of the barking dogs, the amount of waste generated and the odors by them would adversely affect an extensive area of land, including the development of residential property in both Kechi and Park City. With the applicant having another 14 acres abutting the current kennel site, approval of the Conditional Use would establish a precedent for the development of additional acreage for even more dogs.
- 4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Comprehensive Plan does not specifically address location for this type of kennel. This type of kennel does have characteristics of a commercial operation, particularly in respect to noise and the potential for 24-hour impact. Commercial operations should be located on arterials or thoroughfares; Hillside is neither north of the Hillside – 61<sup>st</sup> intersection. Commercial operations should be design so as to minimize the impact of adverse activities and have site design features that limit noise. The applicant's proposal does not address the impact of possibly doubling the dog population and the ensuing noise and waste generated by that population. The Kechi Comprehensive Plan identifies this land as suited for agricultural. A kennel of this current and proposed size is not a typical agricultural use, as defined in the Unified Zoning Code.
- 5. Impact of the proposed development on community facilities: With the increased number of dogs one could expect the amount traffic to and from the site to increase. Comments from the environmental Health Department in regards to the impact of the waste generated have not been received at this point.

**LONGNECKER**, Planning staff, presented the staff report and reviewed the slides.

**LONGNECKER** noted that Environmental Health officers were present to discuss concerns they had. He noted the Kechi Planning Commission recommended approval so long as there were not any outside runs. Barfield asked if the site was a legal nonconforming use?

**LONGNECKER** indicated it was.

**BARFIELD** inquired if the applicant was party to any of the denied cases referenced in the staff report?

**LONGNECKER** indicated the applicant had not been.

**GAROFALO** asked where Park City's "area of influence" was in relation to the site?

**MCKAY** noted the kennel had been there 35 to 40 years and the cemetery acted as a buffer.

**KEN DANNINBERG**, agent, stated the property was ideally situated for a kennel. It was located in a rural residential area, the kennel provided boarding and training and there was a great demand for these services.

**KEN THOMPSON**, veterinarian, stated he operates a veterinarian clinic and stated boarding services are in great demand. He felt that Wasserman ran a quality place and if there were problems, he would have heard about them from his clients.

**BARFIELD** asked about complaints regarding barking.

**MARC WASSERMAN**, applicant stated that he was not sure, but one person who moved in much later after the kennel had been built may have been the source of the complaints. He indicated she lived approximately 1,000 feet away.

**GAROFALO** asked how many new animals would be allowed?

**WASSERMAN** stated the number would increase by 56 dogs.

**GAROFALO** also asked about the disposal of waste.

**WASSERMAN** stated in 1999 he received a variance from the health department and they were now reversing their position. He currently hauls the waste off-site. He also indicated he used a lagoon.

**BISHOP** asked where Chisolm Creek was in relation to his property?

**WASSERMAN** stated the creek was nearby and was dry.

**MCKAY** said he has never been to a cleaner kennel.

**BARFIELD** asked Michael Meyers how often she inspected these facilities?

**MEYERS**, Health Department staff indicated there was no set schedule.

**BARFIELD** asked how long it would take to address the conditions they wanted addressed?

**MEYERS** said they could handle it in 2-3 months.

**WELLS** asked if the applicant was in agreement with Items A-K?

**WASSERMAN** stated the only item he was concerned with was Item I. That would be o.k. if it were new construction.

**WELLS** asked if he would work with the Health Department?

**WASSERMAN** said he would.

**WELLS** also said it was a clean operation.

**MOTION:** To approve subject to Items A-K except Item I be changed to apply to Phase II new construction only, and that the applicant work with KDHE and the local health department to address their concerns.

**WELLS** moved, **MCKAY** seconded the motion, and it carried (9-2)

**(BISHOP AND BLAKE OPPOSED)**

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9. **Case No.: ZON2001-01** - Mike Shell (Owner/Applicant) request zone change from "LI" Limited Industrial to "SF-5" Single-Family Residential and "NO" Neighborhood Office on property described as:

That part of the Northwest Quarter of Section 3, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas described as follows: Beginning at the intersection of the North line of said Northwest Quarter with the Easterly right-of-way line of the Kansas and Southwestern Railroad (formerly the Missouri Pacific Railroad); thence South 89 degrees 58'49" East along the North line of said Northwest Quarter, 773.70 feet, more or less, to a point 375.00 feet West of the Northwest corner of Lot 1, Block 1, Barefoot Bay 2nd Addition to Wichita, Sedgwick County, Kansas, as measured along the North line of said Northwest Quarter; thence South 00 degrees 01'29" West, 185.80 feet; thence South 77 degrees 42'40" West, 76.22 feet; thence North 72 degrees 49'20" West, 83.00 feet; thence South 48 degrees 50'40" West, 133.00 feet; thence South 26 degrees 20'40" West, 187.00 feet; thence South 37 degrees 20'20" East, 615.00 feet; thence S 48 degrees 01'41" East 208.30 feet; thence South 50 degrees 32'11" West, 77.61 feet, more or less, to a point on said Easterly railroad right-of-way line; thence North 39 degrees 10'02" West along said Easterly railroad right-of-way line, 1432.06 feet to the point of beginning. Subject to road rights-of-way of record.

AND

That part of the Northwest Quarter of Section 3, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas described as follows: Commencing at the intersection of the North line of said Northwest Quarter with the Easterly right-of-way line of the Kansas and Southwestern Railroad (formerly the Missouri Pacific Railroad); thence South 89 degrees 58'49" East along the North line of said Northwest Quarter, 773.70 feet, more or less, to a point 375.00 feet West of the Northwest corner of Lot 1, Block 1, Barefoot Bay 2nd Addition to Wichita, Sedgwick County, Kansas, as measured along the North line of said Northwest Quarter, and for a point of beginning; thence South 00 degrees 01'29" West, 185.80 feet; thence North 77 degrees 42'40" East, 408.00 feet, more or less, to a point on the West line of said Lot 1; thence North 25 degrees 38'36" West along the West line of said Lot 1, 54.18 feet to the Northwest corner of said Lot 1; thence North 00 degrees 01'29" East, 50.00 feet to a point on the North line of said Northwest Quarter; thence North 89 degrees 58'31" West along the North line of said Northwest Quarter, 375.00 feet to the point of beginning. Subject to road rights-of-way of record. Generally located south of 29<sup>th</sup> Street North and east of Ridge Road (6501 W. 29<sup>th</sup> Street North).

**BACKGROUND:** The applicant requests a zone change from "LI" Limited Industrial to "SF-5" Single-Family Residential and "NO" Neighborhood Office on a 5.53-acre unplatted tract located south of 29<sup>th</sup> Street North and east of Ridge Road. The applicant indicates that the "SF-5" Single-Family Residential zoning is requested to permit the development of seven single-family residences and the "NO" Neighborhood Office zoning is requested to provide a location for a home-based office.

The applicant is proposing to plat the subject property as the Barefoot Bay Estates Addition (see attached). The Barefoot Bay Estates Addition (SUB2000-00107) was approved by the Subdivision Committee on January 11, 2001 and deferred by the MAPC at the applicant's request on February 22, 2001. The applicant is requesting "NO" Neighborhood Office for Lot 8 and Reserve D (both located in the northeast corner of the subject property) of the Barefoot Bay Estates Addition. The remainder of the Barefoot Bay Estates Addition is requested for "SF-5" Single-Family Residential zoning.

The surrounding area is characterized by a mixture of uses with industrial uses to the west and south and residential uses to the east and north. The properties located south and west of the site are zoned "LI" Limited Industrial. Most of the properties located north and east of the site are zoned "SF-5" Single Family Residential. A portion of the lake located east of the site is zoned "LI" Limited Industrial.

**CASE HISTORY:** The property is unplatted. In 1995, the property located immediately east of the site was rezoned from "E" Light Industrial to "AA" One-Family Dwelling to permit residential development in the Barefoot Bay 2<sup>nd</sup> Addition.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"SF-6"	Single-family residences
SOUTH:	"LI"	Concrete and asphalt plant
EAST:	"SF-6" & "LI"	Single-family residences, lake
WEST:	"LI"	Various small industrial businesses; manufactured homes; single-family residences

**PUBLIC SERVICES:** The site has access to 29<sup>th</sup> Street North, a two-lane arterial street recently paved to the county standard along the site's frontage. Current traffic volumes on 29<sup>th</sup> Street North are unavailable; however, the 2030 Transportation Plan estimates that the traffic volumes will be approximately 5,600 vehicles per day in 2030. The city's Capital Improvement Program contains a project to widen 29<sup>th</sup> Street North to four lanes between Hoover and Ridge in 2010; however, the Transportation Plan indicates that project traffic volumes do not warrant a four-lane improvement. The Subdivision Committee approved two access drives to Lot 8, a 250-foot wide lot proposed for "NO" Neighborhood Office zoning. Planning staff finds that two access openings along an arterial for a 250-foot wide lot is excessive and will be recommending that the MAPC reduce the access openings by one when the final plat is considered. Public water and sewer service are available to be extended to the site.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Low-Density Residential" development. The "Low-Density Residential" category provides for the lowest density (1 to 6 dwelling units per acre) of urban residential land use. The portion of the subject property proposed for "SF-5" Single-Family Residential zoning conforms to the Land Use Guide. The Office Locational Guidelines of the 1999 Update to the Comprehensive Plan state that offices should generally be located adjacent to arterial streets and that low-density office uses can serve as a transitional land use between residential uses and higher intensity uses. The location of the requested "NO" Neighborhood Office zoning is adjacent to an arterial street, and while the location of the requested "NO" Neighborhood Office zoning does not serve a transitional purpose, the requested "down zoning" from "LI" Limited Industrial to "NO" Neighborhood Office is more in line with the Land Use Guide than leaving the property zoned "LI" Limited Industrial.

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

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The surrounding area is characterized by a mixture of uses with industrial uses to the west and south and residential uses to the east and north. The properties located south and west of the site are zoned "LI" Limited Industrial. Most of the properties located north and east of the site are zoned "SF-5" Single Family Residential. A portion of the lake located east of the site is zoned "LI" Limited Industrial.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned "LI" Limited Industrial and could be developed with industrial uses. In this instance, the applicant is requesting zoning which will increase the restrictions on the use of the property.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Potential detrimental affects on nearby properties should be decreased by the requested "down zoning", which will restrict the use of the site for numerous commercial and industrial uses that are incompatible with nearby residential uses and are currently permitted uses on the site.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Low-Density Residential" development. The "Low-Density Residential" category provides for the lowest density (1 to 6 dwelling units per acre) of urban residential land use. The portion of the subject property proposed for "SF-5" Single-Family Residential zoning conforms to the Land Use Guide. The Office Locational Guidelines of the 1999 Update to the Comprehensive Plan state that offices should generally be located adjacent to arterial streets and that low-density office uses can serve as a transitional land use between residential uses and higher intensity uses. The location of the requested "NO" Neighborhood Office zoning is adjacent to an arterial street, and while the location of the requested "NO" Neighborhood Office zoning does not serve a transitional purpose, the requested "down zoning" from "LI" Limited Industrial to "NO" Neighborhood Office is more in line with the Land Use Guide than leaving the property zoned "LI" Limited Industrial.

5. Impact of the proposed development on community facilities: Community facilities should not be adversely impacted.

**SCOTT KNEBEL**, Planning staff, presented the staff report and showed slides.

**BARFIELD** asked for examples of other uses allowed as currently zoned.

**KNEBEL** responded those uses included: fast foot restaurants, body shop, commercial and retail uses.

**PHIL MEYER**, agent, indicated they were asking for a down zoning on Lot 8. They want "NO" Neighborhood Office zoning since the contract purchaser currently has an office in the county and has two employees. Since the application area is located in the city, the contract purchaser would not be able to move his office to this location and retain the two employees. There were three main issues to address: access to the lake, the size of the lots being created by the applicant and the neighborhood opposition to the NO zoning. He further noted access to the lake had been addressed by the courts in that currently the court had ruled that any new lots created would have access to the lake. The proposed lots were to be 13,000 to 20,000 square feet in size. They are smaller than the other lots.

**MCKAY** asked for a clarification on what was being asked for down zoning.

**BISHOP** asked for a clarification on access points.

**MEYER** indicated the plat had gone through MAPC with approval for two access points.

**WARREN** wanted to verify that Lots 1-8 are zoned "LI" Limited Industrial and Meyer wanted to change Lot 8 to "NO."

**SHELLY MOORE**, homeowner, wanted to clarify that the applicant had filed the lawsuit against the residents. She asked MAPC to deny the request as it compromised safety on the lake and was not what the developer had promised. She stated the developer had promised 51 lots and only 51 lots.

**WARNER** asked what burden they carried?

**MOORE** indicated they carried the insurance.

**MARNELL** asked if the key point was access to the lake?

**MOORE** indicated partly, but that only 51 lots were to be permitted.

**MARNELL** asked about the application area's zoning.

**MOORE** stated that it should be classified as one lot.

**MARK RAYWINKEL**, neighbor, showed pictures of property along the lake. He stated he attended the DAB and felt that the applicant had misrepresented the type of homes on the lake. He did not object to the down zoning, but objected to splitting the one big lot into multiple lots. He felt that the applicant understood the rules that applied to the property. Without the lake no one would buy lots in this area. Does the board consider the safety of residents as part of rezoning?

**MICHAELIS** said it would be if the land use affected safety.

**RAYWINKEL** stated that there are a possible 147 craft that could be allowed on the lake by their homeowner rules. They cannot support more watercraft.

**WARREN** asked if he was opposed to all 8 lots being down zoned?

**RAYWINKEL** is opposed to the office and he is opposed to the re-plat.

**BARFIELD** asked if the agreement to restrict the development to 51 lots was in writing?

**RAYWINKEL** indicated it was.

**BOB BULMAN**, resident, wanted to review the criteria that this request was to be considered. He noted the assessed value of development was \$18 million; the applicant had passed up other sales opportunities; an increase in the use of the lake would be detrimental; approval would violate private restrictions; the addition of 7 more lots will increase liability and maintenance costs; this tract is grandfathered from paying dues; and there was neighborhood opposition. He further indicated the applicant opposed any change in the number of lots at the time he bought the property. Neighborhood Office would be located in the middle of residential lots and not against the railroad. He stated that the plat was set up to provide access to the lake.

**BISHOP** asked if they should consider the request for a deferral?

**MICHAELIS** stated the cases had already been advertised and people had to be given an opportunity to speak.

**MARVIN KROUT**, Director of Planning, stated that part of the confusion to their opposition dealt with the issue of the site's current zoning; that if this case is denied, did they realize that objectionable uses could go in?

**BULMAN** said he and the neighborhood did understand that.

**SHARON BUCK**, neighbor, noted she does understand the difference between LI and NO, and cited a document indicating that the property was supposed to be a single lot.

**RICHARD SENG**, neighbor, stated that the applicant did file the lawsuit and obtained the rights to the lake, but that a follow up suit has been filed and they expect that judgment to be overturned. He further noted the extreme difference in lot size of one-quarter / three-quarter acre to three acres. He felt that this project would drive property values down. The lake has had one serious accident and many near misses.

**DAVE GORDON**, neighbor, stated on paper this looks like a reasonable request but the lake is the key factor that is paid for and maintained by the homeowners. Approval will decrease property values and ability to effectively use the lake.

**GREG BOWMAN**, neighbor, noted the difference in lot size was an important consideration. There have been problems with trespassing and they have had to call the police. It would be difficult to prevent the new lots from using the lake.

**JANET GORDON**, neighbor, stated rezoning to residential with the possibility for only one lot is what they want.

**KEVIN SHORBEN**, neighbor, asked for the case to be deferred.

**BARFIELD** asked if at the time Mr. Shorben bought his property, if he knew that the applicant's property was to be residential, would he have bought his property?

**MEYER** noted that Mr. Shell lived directly across the lake from the application area and purchased the property to control development on that site and that he always intended to develop more than one lot. He also stated that it is their intent that each lot should pay their share of lake user fees. This is an industrial tract in a fast growing area that needs to be down zoned.

**GAROFALO** asked if they would consider the creation of larger lots?

**MEYER** stated they would not as they need to recoup their lot costs.

**KROUT** asked if the applicant would consider limitations on access to lake?

**MEYER** stated he might.

**KROUT** asked on the "NO" lot, would they limit the office to be a genuine home occupation in a residential looking building with residential materials?

**MEYER** said they would consider that.

**BARFIELD** asked if the "NO" could be withdrawn?

**MICHAELIS** asked if the Board wanted to defer the cases as requested?

**MCKAY** asked why the request for the deferral was made?

**BULMAN** said it was because of ongoing legal actions and there were only three DAB members able to vote.

**WARREN** indicated that this was a confusing case and there may be legal issues, but the applicant has the right to use his land and he does not think they can deny the plat.

**MICHAELIS** asked again if the Commission wanted to defer the case?

**WARREN** wondered if they could really defer the case.

**KROUT** stated that there were valid reasons for a deferral.

**MOTION:** Defer until the next MAPC meeting October 11, 2001 at 1:00 to hear from attorney who could not be present at today's meeting.

**BISHOP** moved, **BARFIELD** seconded the motion, and it carried unanimously (11-0)

MCKAY OUT AT 4:25

9. **Case No.: HPC2001-117** - Darrell L. and Charlotte A. Stipp request Historic Landmark Designation

**BACKGROUND:** The applicant is requesting the structure located at 1711 N. Market be designated as a Wichita Historic Landmark. This building was built in 1910 and has had few modifications since its construction. It is an example of Greek Revival four-square with three

fluted Ionic columns topped with ornate carvings and supporting a pediment shaped portico with a second story speakers porch. The structure also has a maid/servant bedroom at the back. The interior seems to have had few modifications.

The house was built by Elmer S. Brodie, a real estate speculator in 1910, and bought by Edward Michael Kelly in 1914. Mr. Kelly was educated at Notre Dame and Wichita University and was president and manager of Commerce Milling and Elevator Company, as well as manager of Edward Kelly Grain Company. Mr. Kelly also served as Treasurer for the Wichita Board of Trade for 10 years and its President for one term. He was listed in "Who's Who of Wichita 1929."

The land use surrounding the application area consists of single-family homes, and is adjacent to the Park Place/ Fairview Historic District on the west. The applicants, Darrell L. and Charlotte A. Stipp, are also seeking state-level designation.

This site is located on the west side of Market with the block bordered by 17<sup>th</sup> Street to the north and 16<sup>th</sup> Street to the south. Market is a two-lane one-way local street, and 17<sup>th</sup> Street and 16<sup>th</sup> Street are two-way local streets.

Findings of significance of the Historic Preservation Board are based on evaluation criteria established in Chapter 2.12, Code of the City of Wichita. The house is a good example of Greek Revival used on an upper middle-class home in 1910. Socioeconomic status is indicated by presence of servant's room. In addition, Mr. Edward Michael Kelly was a significant businessman and leader as indicated by being listed in "Who's Who in Wichita" from 1929 to 1936. It is also requested that the structure be known as the 'Edward Michael Kelly Residence' in honor of Mr. Kelly.

**CASE HISTORY:** The application area was platted as Hershey's 2nd Addition in 1886.

**ADJACENT ZONING AND LAND USE:**

NORTH: "B" Multi-Family  
SOUTH: "B" Multi-Family  
EAST: "B" Multi-Family  
WEST: Multi-Family: 29

**PUBLIC SERVICES:** Municipal water and sewer services are available. Access is via 16<sup>th</sup> Street and 17<sup>th</sup> Street. The traffic count on North Market at the 17<sup>th</sup> Street intersection was less than 2500 ADT in 2001. The Wichita CIP has no proposed improvements for this segment of North Market.

**CONFORMANCE TO PLANS/POLICIES:** The adopted "Land Use Guide" of the 2030 Comprehensive Plan and 2001 Historic Preservation Plan indicates that the Wichita City Council has adopted a preservation ordinance that states, "the protection, enhancement, preservation and use of historic landmarks is a public necessity." And furthermore, the Historic Preservation Board is to research and nominate historic properties for possible designation as landmarks.

**RECOMMENDATION:** Based upon approval by the Historic Preservation Board at their August 13, 2001 regularly scheduled meeting, planning staff recommends that the request be APPROVED and is submitting this application for MAPC approval.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area surrounding the application area is zoned "B" Multiple Family Residential. Nearby property is developed with residential units. The character of the area is 1900s – 1920s building stock.
2. The suitability of the subject property for the uses to which it has been restricted: The historic designation will not affect the current usage of the property as the underlying "B" zoning will remain as is. Wichita Landmark designation will require design review for only the said property, not adjacent properties.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: There should be no detrimental affect as the land use on the application site does not change, and additional reviews of adjoining properties are not triggered with landmark approval.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: This request is in conformance with the Comprehensive Plan for Historic Preservation which specifies that the Historic Preservation Board is to nominate deserving properties for possible designation as landmarks. This property meets the criteria established for landmark designation.
5. Impact of the proposed development on community facilities: The development of this property will not negatively affect water or sewer service. Traffic improvements currently in place should provide adequate capacity to handle the traffic generated at this site.

**KATHY MORGAN**, Planning staff, presented the case and showed slides.

**DARRELL STIFF**, applicant, indicated the home has not had any significant changes and provided a brief biography of the home's original owner.

**BARFIELD** moved, **BISHOP** seconded the motion, and it carried unanimously (10-0)

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**11. Case No.: HPC2001-116** - Paul Fortier and The Friends of North Linwood Park request Historic Landmark Designation

**BACKGROUND:** The applicant is requesting the parkland located at 1802 E. Harry be designated as a Wichita Historic Landmark. The zoning code treats designated properties as an overlay on the existing zoning district, establishing a design review process through the City's Historic Preservation Board for proposed alterations. Requests for local designation must come to the MAPC for a public hearing and recommendations to the City Council, which makes the final determination.

This land was originally part of the farm and residence of Henry Schweiter. Mr. Schweiter was an early pioneer in this region and a founder of the city of Wichita. The land itself was partially developed as a park by Mr. Schweiter himself and presented to the city and dedicated in 1887. This land has been in continual usage as a park since that time. It contains the only known remaining original section of Chisholm Creek within the city. This project also has the support of the surrounding residences, and is well documented by signed petitions. The applicants are also seeking state-level designation.

The land use surrounding the application area consists of single-family homes.

This site is located north of Harry, between Hydraulic and Kansas Streets. Harry is a four-lane, two-way arterial and Hydraulic is a two-way local street at that point.

Findings of significance of the Historic Preservation Board are based on evaluation criteria established in Chapter 2.12, Code of the City of Wichita. The park meets the criteria because it was property owned and donated to the city of Wichita in 1887 as a public park. The longevity of this park creates an anchor for the surrounding residential neighborhood and played a part in the development of that neighborhood. The state forester is currently documenting the non-native flora that was introduced by Schweiter and his sons to make the park a unique setting. The two existing park structures are part of another proposed citywide survey to identify and document WPA structures.

There are four basic criteria to place any property, whether it is a structure, ruins or site, on the National Register of Historic Places. The basic rule of thumb is that it must be 50 years old or older to be initially considered. However, in certain instances properties less than 50 years old have been listed in the National Register.

The four criteria are:

- A. Association with an event that has national, regional or local importance. For example, the location in Selma, AL where the Civil Rights march began. WPA buildings would also fall into this category as well as category C.
- B. Association with an important person. In this case, Schweiter was a founding father of the City of Wichita, and because of Wichita's importance to the development of the state and the nation in regard to the cattle drives, etc., which gives support to local, state and national significance.
- C. Distinctive design/construction. In this instance, the WPA buildings in the parks.
- D. The potential to collect data, such as the archaeological site in Grove Park. As this applies to N. Linwood Park, there is an original section of Chisholm Creek that remains in the park.

In addition to these items, there are 12 criteria for listing in the local register as enumerated in the Historic Preservation Ordinance. The application for N. Linwood Park meets five of the criteria. They are:

- a) Character, interest or value as part of the development, heritage, or cultural characteristics of the City of Wichita, State or United States;
- c) Identification with a person or persons who significantly contributed to the culture and development of the City;
- d) Exemplification of the cultural, economic, social or historical heritage of the City;
- e) Embodiment of distinguishing characteristics of an architectural type or specimen; and
- l) Value as an aspect of community sentiment or public pride.

Listing in the local register means that alteration to the park would require prior review by the Historic Preservation Board; however, it does not trigger design review of adjacent properties.

**CASE HISTORY:** The application area was dedicated as a park by Henry Schweiter in January 1887, and officially platted in April 1887.

**ADJACENT ZONING AND LAND USE:**

NORTH: TF-3  
SOUTH: TF-3; SF-5  
EAST: SF-5; I-135 Right of Way  
WEST: TF-3; MF-29

**PUBLIC SERVICES:** Municipal water and sewer services are available. Access is via Hydraulic and Harry Street. The traffic count on Harry between I-135 and Hydraulic is 18,732 ADT using 2030 numbers. The Wichita CIP has no proposed improvements for this segment of Harry.

**CONFORMANCE TO PLANS/POLICIES:** The adopted "Land Use Guide" of the 2030 Comprehensive Plan and 2001 Historic Preservation Plan indicates that the Wichita City Council has adopted a preservation ordinance that states, "the protection, enhancement, preservation and use of historic landmarks is a public necessity." And furthermore, the Historic Preservation Board is to research and nominate historic properties for possible designation as landmarks.

**RECOMMENDATION:** Planning staff recommends that the request be APPROVED and is submitting this application for MAPC approval.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area surrounding the application area is a park with surrounding residential uses and predominately residential zoning.
2. The suitability of the subject property for the uses to which it has been restricted: The historic designation will not affect the current usage of the property nor will it change the base zoning that currently exists. Wichita Landmark designation will require design review for only the said property, not adjacent properties.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: There should be no detrimental affect as the land use on the application site does not change, and additional reviews of adjoining properties are not triggered with landmark approval.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: This request is in conformance with the Comprehensive Plan for Historic Preservation which specifies that the Historic Preservation Board is to nominate deserving properties for possible designation as landmarks. This property meets the criteria established for landmark designation.
5. Impact of the proposed development on community facilities: The development of this property will not negatively affect water or sewer service. Traffic improvements currently in place should provide adequate capacity to handle the traffic generated at this site.

**KATHY MORGAN**, Planning staff, presented the case and showed slides.

**GAROFALO** asked if the designation would affect how the park can be reviewed?

**MORGAN** indicated a memorandum of understanding could be developed to work out which buildings would have to be reviewed prior to modification.

**PAUL FORTIER**, applicant, spoke on behalf of the relatives of the original owner and in support of the designation.

**DALE CHURCHMAN**, Historic Preservation Alliance, indicated support for the request and reviewed the significance of some of the buildings.

**NANCY BELLMAN**, neighbor, related personal memories of childhood activities in the park.

**GARY WRIGHT**, park user, indicated that this park should be protected from farther encroachment.

**JANE SHALLEN**, neighbor, related personal memories concerning the park.

**MOTION:** To approve the designation

**GAROFALO** moved, **COULTER** seconded the motion, and it carried unanimously (10-0)

Warren and Barfield out at 4:45 p.m.

**12. Draft FY-2002 Unified Planning Work Program, presentation by Jamsheed Mehta.**

**MEHTA**, Planning staff indicated, the U.S. Department of Transportation requires that an annual work program be prepared and submitted as part of the annual application for federal funds that help support the transportation planning activities of the Metropolitan Planning Organization.

The activities identified in the work program include those projects designed to meet the local transportation planning needs and those activities that are required in order for the Wichita and Sedgwick County to remain eligible for Federal and State funding. The draft FY 2002 Unified Planning Work Program presented today will also be reviewed by the Federal Highway Administration, Federal Transit Administration, KDOT, City of Wichita and Sedgwick County Public Works Departments, Wichita Transit, and the Technical Advisory Committee in September and October of 2001. The proposed UPWP will be presented to the MAPC for approval on October 25, 2001, the City Council on November 5, and the County Commission on November 6.

**GAROFALO** asked about the status of specific projects.

**MARNELL** asked how MPO boundaries are established and who makes the decision regarding the makeup of the MPO?

**KROUT** answered that the Census Bureau would set the urbanized area boundaries, and that all elected bodies within that boundary would need to approve the makeup.

**MICHAELIS** asked if we needed to set a separate date since there were only 8 members present?

**KROUT** indicated that no action was required on this date.

The Metropolitan Area Planning Department informally adjourned at 5:00 p.m.

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

I, Marvin S. Krout, 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 \_\_\_\_\_, 2001.

\_\_\_\_\_  
Marvin S. Krout, Secretary  
Wichita-Sedgwick County Metropolitan  
Area Planning Commission

(SEAL)