

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

May 7, 2009

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, May 7, 2009, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Darrell Downing, Chair; G. Nelson Van Fleet, Vice Chair; David Dennis; Shawn Farney; David Foster; Bud Hentzen; Hoyt Hillman; Bill Johnson; Ronald Marnell; John W. McKay Jr.; Debra Miller Stevens; M.S. Mitchell and Don Sherman. Don Anderson was absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Derrick Slocum, Associate Planner; Bob Parnacott, County Counselor and Maryann Crockett, Recording Secretary.

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1. Approval of the April 23, 2009 MAPC meeting minutes:

MOTION: To approve the April 23, 2009 Minutes as corrected.

MILLER STEVENS moved, **VAN FLEET** seconded the motion, and it carried (13-0).

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**
Items may be taken in one motion unless there are questions or comments.

- 2-1. **SUB 2009-29: One-Step Final Plat -- EBERLY FARM OFFICE PARK 2ND ADDITION,**
located east of 135th Street West and on the south side of 21st Street North.

NOTE: This is a replat of the Eberly Farm Office Park Addition which increases the depth of Lots 1, 2 and 3 and reduces the size of the reserve. The street layout has not changed. The site is located in the County within three miles of the City of Wichita. It is in an area designated as "2030 Urban Growth Area" by the Wichita-Sedgwick County Comprehensive Plan.

STAFF COMMENTS:

- A. City of Wichita Water Utilities Department advises that municipal services are available to serve the site.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Engineering and County Engineering have approved the drainage plan.
- D. As dedicated with the original plat, the plat denotes one street opening along 21st Street North and complete access control along the remaining frontage. The access controls are approved.
- E. Sedgwick County Fire Department advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.

- F. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE and USF&WS this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- G. Provisions shall be made for ownership and maintenance of the proposed reserves. A covenant shall be submitted regarding ownership and maintenance responsibilities.
- H. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- I. 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.
- J. The platting 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.
- K. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States 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.
- N. 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.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Westar Energy requests the plat include an easement previously established by separate instrument.
- R. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final

plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

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

HILLMAN moved, **MITCHELL** seconded the motion, and it carried (13-0).

2-2. DER 2009-02: Request for a Street Name Change from Wild Rose Cir. to Beach Club Cir.,
generally located on the south side of 37th Street North and on the west side of Ridge Road.

NOTE: The Street Name Address Committee has approved this change.

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

HILLMAN moved, **MITCHELL** seconded the motion, and it carried (13-0).

3. PUBLIC HEARING – VACATION ITEMS

3-1. VAC2009-11: City request to vacate a portion of platted street right-of-way

APPLICANTS/OWNERS: City of Wichita

LEGAL DESCRIPTION: Generally described as that portion of the Ida Avenue public street right-of-way (ROW), that is located between Washington Avenue (north) 47th Street South (south). This portion of Ida was originally platted on the Cedar Vale Acres Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located between Washington Avenue, 47th Street South and Laura Avenue (WCC #III).

REASON FOR REQUEST: Associated with improvements to the 47th Street South – I-135 interchange

CURRENT ZONING: The site is a platted, developed, residential public street ROW. All abutting and adjacent properties are zoned SF-5 Single-family Residential (“SF-5,” north, south and west)) or B Multi-family Residential (“B,” east).

The applicant is requesting the vacation of the described portion of Ida Avenue. Ida intersects with 47th Street South (south), which is the closest intersection to the 47th – I-135 interchange. The west side of the 47th – Ida intersection is the beginning of the 47th – I-135 interchange, which is approximately 150 feet long between the radiuses of the above noted interchange and intersection. This short transition space is a public safety issue, with traffic from Ida having to navigate traffic from 47th, which is either merging onto the I-135 exit or continuing west along 47th. Vacating this portion of Ida will not create a dead end road. All properties abutting the proposed vacated right-of-way (ROW) will continue to have access to other

public residential ROWs. The Public Works department is proposing to continue Washington west to Laura Avenue, which will subsequently get traffic to and from 47th, while impacting the smallest number of residential properties in the area. There is no sewer line within the proposed vacated ROW; however there is a water line running the length of the proposed vacated ROW. There are franchised utilities located within the described ROW. This portion of Ida Avenue was dedicated on the Cedarvale Acres Addition, which was recorded with the Register of Deeds October 22, 1952. The later development of I-135 subsequently changed the configuration of the Cedarvale Acres subdivision, into its present configuration: see ¼ section map and plat.

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

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time April 16, 2009, 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 described portion of platted street right-of-way 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.

Considerations (but not limited to) associated with the request to vacate the described portion of platted street right-of-way have been identified, therefore, the vacation of the portion of platted street right-of-way described in the petition should be approved with conditions:

- (1) Retain those portions of the vacated street ROW as utility and drainage easements as determined by City Public Works/Storm Water and franchised utilities. Provide Planning staff with a legal description of the approved vacated ROW on a word document via e-mail. Provide any additional easement as needed by dedication by separate instrument, prior to this vacation case going to City Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. Retain all public ROW until all utilities have been relocated, as needed. Provide Planning staff with conformation of this requirement being completed or that suitable guarantees have been provided.
- (3) All improvements shall be according to City Standards and at the applicant's expense, including any extension of curb along 47th Street South and Washington Avenue and drainage lines/gutters/outlets. Provide Public Works with all needed guarantee or project references to ensure that those improvements will be made, prior to this vacation case going to City Council for final action.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Retain those portions of the vacated street ROW as utility and drainage easements as determined by City Public Works/Storm Water and franchised utilities. Provide Planning staff with a legal description of the approved vacated ROW on a word document via e-mail. Provide any additional easement as needed by dedication by separate instrument, prior to this vacation case going to City Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. Retain all public ROW until all utilities have been relocated, as needed. Provide Planning staff with conformation of this requirement being completed or that suitable guarantees have been provided.
- (3) All improvements shall be according to City Standards and at the applicant's expense, including any extension of curb along 47th Street South and Washington Avenue and drainage lines/gutters/outlets. Provide Public Works with all needed guarantee or project references to ensure that those improvements will be made, prior to this vacation case going to City Council for final action.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

SHERMAN moved, **MCKAY** seconded the motion, and it carried (13-0).

3-2. VAC2009-12: City request to vacate a portion of a platted setback

OWNER/APPLICANT: Drew & Sharyl Loyd

LEGAL DESCRIPTION: The platted 30-foot setback that runs parallel to the front lot line of Lot 8, Block 26, Country Acres Second Addition, and Hale Avenue, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located north of Central Avenue, west of Ridge Road, on the north side of Hale Avenue, between Country Acres and Denmark Avenues (WCC #V)

REASON FOR REQUEST: Rebuild on the site

CURRENT ZONING: Subject property and all abutting and adjacent properties are zoned SF-5 Single-family Residential ("SF-5").

The applicants propose to vacate the north (back/interior) 5 feet of the platted 30-foot front yard setback, resulting in a 25-foot front yard setback on the SF-5 zoned lot. The UZC's minimum front yard setback for the SF-5 zoning district is 25 feet, which is what the applicants propose. There are no platted easements within the platted setback. There are no franchised utilities, manholes, sewer or water lines within the described portion of the platted setback.

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

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time April 16, 2009, 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 described portion of platted setback 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.

Considerations (but not limited to) associated with the request to vacate the described portion of platted street right-of-way have been identified, therefore, the vacation of the portion of platted setback described in the petition should be approved with conditions:

- (1) Vacate the back (back/interior) 5 feet of the platted 30-foot front yard setback that runs parallel to the front lot line of Lot 8 Block 26, Country Acres Second Addition, and Hale Avenue, Wichita, Sedgwick County, Kansas.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
- (3) All improvements shall be according to City Standards and at the applicant's expense.
- (4) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the back (back/interior) 5 feet of the platted 30-foot front yard setback that runs parallel to the front lot line of Lot 8 Block 26, Country Acres Second Addition, and Hale Avenue, Wichita, Sedgwick County, Kansas.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.

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

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

SHERMAN moved, **MCKAY** seconded the motion, and it carried (13-0).

3-3. VAC2009-13: County request to vacate a platted floodway

APPLICANT/OWNER: Keith Shuman

LEGAL DESCRIPTION: Generally described as a portion of the platted floodway as recorded on Lot 3, Block A, Gerhardt Addition, Sedgwick County Kansas.

LOCATION: Generally located south of 71st Street South, on the west side of 55th Street West, on the north side of 73rd Street South. (BoCC #2)

REASON FOR REQUEST: Build a house and a garage

CURRENT ZONING: Subject property and all abutting and adjacent properties are zoned RR Rural Residential ("RR").

The applicant is requesting consideration to vacate a portion of the platted floodway. Most of the roughly triangular shaped platted floodway is located on the subject site; Lot 3, Block A, Gerhardt Addition. GeoZone shows the floodway as part of a FEMA Flood zone that begins just south of 71st Street South, extending south past Sedgwick County. The plat's text states: the floodway is the responsibility of the owners of the properties in the subdivision, until such time that the governing body exercises jurisdiction to elect to assume responsibility for maintenance and improvements to the floodway. It also states: no habitation shall be constructed in the floodway, nor shall any fill, change of grade, creation of channel or other work be done in the floodway without the consent of the County Engineer or his successors. The applicant needs to contact the County Engineer in reference to how much of the platted Floodway can be vacated. The subject site appears to have been split by sell, rather than a recorded Lot Split. There is a platted utility easement located on the south end of the subject site, within the floodway. The site is outside of all Rural Water Districts and there is no public sewer. All other utilities located within a platted utility easement and or outside the floodway. The site is located within the City of Haysville's area of zoning influence and the vacation request, as instructed by County Law, will be sent to their Planning Commission for review. The Gerhardt Addition was recorded January 11, 1971.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from County Engineering, Code Enforcement, Permits and Inspection and franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the a portion of the platted floodway.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time April 16, 2009, 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 described portion of the platted floodway 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.

Considerations (but not limited to) associated with the request to vacate the described portion of platted floodway have been identified, therefore, the vacation of the portion of the platted floodway described in the petition should be approved with conditions;

- (1) Retain the platted utility easement. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant and at the applicant's expense.
- (2) All improvements shall be according to County Standards and at the expense of the applicant, including any drainage improvements/infrastructure. If necessary provide all plans needed by County Public Works/Engineer and any guarantees to County Public Works to ensure improvements will be completed.
- (3) If necessary, as determined by County Code Enforcement, have a Lot Split done by a licensed surveyor and recorded with the Register of Deeds. Provide the recorded Lot Split to Planning prior to the vacation request going to the County Commission for final action.
- (4) Provide a legal description of the vacated portion of the platted floodway as approved by County Public Works. Provide to Planning on a Word document, via e-mail to be used on the Vacation Petition and Vacation Order.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Retain the platted utility easement. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant and at the applicant's expense.
- (2) All improvements shall be according to County Standards and at the expense of the applicant, including any drainage improvements/infrastructure. If necessary provide all plans needed by County Public Works/Engineer and any guarantees to County Public Works to ensure improvements will be completed.

- (3) If necessary, as determined by County Code Enforcement, have a Lot Split done by a licensed surveyor and recorded with the Register of Deeds. Provide the recorded Lot Split to Planning prior to the vacation request going to the County Commission for final action.
- (4) Provide a legal description of the vacated portion of the platted floodway as approved by County Public Works. Provide to Planning on a Word document, via e-mail to be used on the Vacation Petition and Vacation Order.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

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

SHERMAN moved, **MCKAY** seconded the motion, and it carried (13-0).

3-4. VAC2009-14: City request to vacate complete access control

APPLICANT/AGENT: Bonanza Inc., c/o Vickie L Hunt & MPH Reality, c/o Michael L Higgins (agent)

LEGAL DESCRIPTION: Generally described as vacating the platted complete access control to allow one (1) right-in – right-out drive onto 21st Street North off of Lot 1, Block A, Sweet Briar Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located west of Amidon Avenue, on the north side of 21st Street North (WCC #VI)

REASON FOR REQUEST: Allow one (1) right-in – right-out drive

CURRENT ZONING: The site all abutting and adjacent properties are zoned LC Limited Commercial (“LC”), with multiple CUP overlays.

The applicant proposes one (1), right –in – right-out drive along the site’s 21st Street North frontage. 21st has a full curbed median strip at this location, which allows only west bound traffic at this location. The proposed drive is located approximately 285 feet west of the 21st – Amidon Avenue intersection. There are 3 other drives located east of the proposed drive: approximately 115 feet east, 160 feet east and 230 feet east of the proposed drive. The applicant proposes to close the drive located approximately 230 feet east, which is located right on the northwest corner of the 21st – Amidon intersection. The spacing of the existing drives in relation to the proposed drive does not meet current standards of 200 feet of separation, but the elimination of the existing drive located approximately 30 feet east of the intersection is an improvement for this section of 21st. Per the Subdivision Regulations, 10-104, Modification of Design Criteria, the MAPC may modify design criteria. In the past staff has recommended modified design criteria, which has been approved by the MAPC. There are no utilities, public sewer or water located in this portion of 21st. The Sweet Briar Addition was recorded with the Register of Deeds June 16, 1965.

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

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time April 16, 2009, 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 described portion of the platted complete 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.

Considerations (but not limited to) associated with the request to vacate the described portion of platted complete access control have been identified, therefore, the vacation of the portion of the platted complete access control described in the petition should be approved with conditions:

- (1) Vacate the platted complete access control along the site's 21st Street frontage to allow one (1), 30-foot wide right-in – right-out drive, as approved by the Traffic Engineer. Provide Planning Staff with a legal description of the approved vacated portion of the complete access control on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. Provide Planning with an original dedication complete access control along the site's 21st Street North frontage to close the drive located closest to the northwest side of the 21st – Amidon Avenue. Provide all to Planning prior to the case going to Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (3) All improvements shall be according to City Standards and at the applicant's expense, including the new drive from the site onto public ROW and the continuation of the curb on the closed drive located closest to the 21st – Amidon intersection. Provide Public Works with a guarantee to ensure that these improvements will be made. If the drive is not being immediately constructed, provide a drive approach certificate, which will be recorded with the Register of Deeds. Either the guarantee(s) and/or the drive approach certificate must be provided to Public Works (guarantee) or Planning (drive approach certificate) prior to the case going to Council for final action.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the platted complete access control along the site's 21st Street frontage to allow one (1), 30-foot wide right-in – right-out drive, as approved by the Traffic Engineer. Provide Planning Staff with a legal description of the approved vacated portion of the complete access control on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. Provide Planning with an original dedication complete access control along the site's 21st Street North frontage to close the drive located closest to the northwest side of the 21st – Amidon Avenue. All Provide to Planning prior to the case going to Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (3) All improvements shall be according to City Standards and at the applicant's expense, including the new drive from the site onto public ROW and the continuation of the curb on the closed drive located closest to the 21st – Amidon intersection. Provide Public Works with a guarantee to ensure that these improvements will be made. If the drive is not being immediately constructed, provide a drive approach certificate, which will be recorded with the Register of Deeds. Either the guarantee(s) and/or the drive approach certificate must be provided to Public Works (guarantee) or Planning (drive approach certificate) prior to the case going to Council for final action.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

SHERMAN moved, **MCKAY** seconded the motion, and it carried (13-0).

PUBLIC HEARINGS

4. **Case No.: CON2009-11** – City of Wichita Water Utility (Deb Ary) / Professional Engineering Consultants (Rob Hartman) Request County Conditional Use to permit a "utility, major" (City water treatment plant) and a 100-foot "wireless communications facility" on property described as:

The South Half of the Northeast Quarter, in Section 12, Township 25 south, Range 2 West of the 6th P.M., Sedgwick County, Kansas, generally located at the southwest corner of 119th Street West and 117th Street North.

BACKGROUND: The City of Wichita Water Utility is seeking Conditional Use approval to permit a "utility, major," (potable water treatment plant and electric substation) and a 100-foot tall wireless communications facility on 80 acres, zoned RR Rural Residential ("RR"), located one-quarter-mile south of 117th Street North and west of 119th Street West. The requested facilities are associated with Phase II of the City of Wichita's Aquifer Storage and Recovery (ASR) project. The ASR project pulls excess water from the Little Arkansas River during periods of high flow and treats the raw water. The filtered water will be piped to injection sites and put into the aquifer where it is stored for later use. The water pulled from the Little Arkansas River for the ASR project is water that would normally be lost for local beneficial use because the water used in this program is not part of the river's normal water profile that naturally assists with the aquifer's recharge or is used for irrigation or residential wells. Without this

program the river water used in the ASR project would just flow south, and be lost for beneficial use in this area.

Water allocations for the Equus Beds exceed sustainable yield. Projects of this type enhance the quality and quantity of beneficial yield of the aquifer, creating a more sustainable water supply.

Specifically, the applicant seeks to develop the site with an electric substation to serve the treatment plants electrical needs, a potable water treatment plant and its ancillary facilities (clear wells, membrane facilities, pre-sedimentation basins, advanced oxidation process (AOP) buildings, maintenance buildings, residence for an on-site maintenance employee, pump houses, lateral fields, wash water recovery basin and outside storage) and a 100-foot tall wireless communications facility. The water treatment plant will have the capacity to process up to 30 million gallons of water per day. The 100-foot tall wireless communications tower will enable the plant's operations to be remotely monitored. The location of the proposed wireless communications tower meets specified height and setback standards. All of the sites proposed facilities will be enclosed within an eight-foot high chain link fence. The sites proposed two points of access to 119th Street West are to be gated. A buried gas pipeline that is located in the southern one-third of the site influenced the facility's layout, forcing the plant to be located in the northern two-thirds of the application area. The applicant's site plan depicts a 100-foot wide building setback along the north and south property lines, and a 50-foot wide setback along the east and west property line. A 30-foot landscape buffer is proposed along a portion of the site's northwest property line where the application area shares a one-quarter mile border with smaller ownerships (4.86 acres to 10.22 acres) that have been developed with residences, and a saddle club's facilities.

The site is currently used as farmland as is all the surrounding property except for the previously mentioned residences and saddle club, and a City of Wichita aquifer recharge facility located east of 119th Street West. The City of Wichita also owns the 40 acres located east of the previously mentioned residences and north of the application area. Except for the small tracts developed with residences, nearby properties are all 40 acres or larger in size.

CASE HISTORY: The property was zoned RR in 1985 when the county adopted county-wide zoning.

ADJACENT ZONING AND LAND USE:

NORTH: RR, Rural Residential; large-lot residential and farmland
SOUTH: RR, Rural Residential; farmland
EAST: RR, Rural Residential; farmland; aquifer recharge facility
WEST: RR, Rural Residential; farmland

PUBLIC SERVICES: 119th Street West has 60 feet of total road right-of-way, and is constructed with sand and gravel that is maintained by the township.

CONFORMANCE TO PLANS/POLICIES: The application area is located just inside Bentley's Zoning Area of Influence ("ZAOI"). According to provisions contained in the *Wichita-Sedgwick County Unified Zoning Code*, the Bentley Planning Commission is to be given the opportunity to review and make a recommendation prior to the case being forwarded to the Metropolitan Area Planning Commission (MAPC). After hearing the case, and if the Bentley Planning Commission recommends denial, the code specifies that the Board of County Commissioners may overturn a denial by Bentley's planning commission with a unanimous vote.

As designated on the County's 2030 functional land use guide, the application area is also located inside Bentley's 2030 Urban Growth Area. Property designated as being an urban growth area is typically located adjacent to a city's municipal boundaries, and could be expected, depending upon direction and magnitude of population growth, to be developed by 2030. Growth areas are also determined by individual municipal political considerations, infrastructure limitations and the ability of a city to cost

effectively deliver a full range of urban services. The MAPC has a history of supporting industrial uses in rural area when the proposed use is resource based. The utilities location guidelines of the Comprehensive Plan indicate utility facilities that produce significant noise, odor and other nuisance elements should be located away from residential areas.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within 1-year, and the following conditions:

- A. The Conditional Use permits the installation of a potable water treatment plant and the ancillary uses depicted on the approve site plan, an electric substation, a 100-foot tall wireless communication facility, a residence, outside storage and maintenance buildings.
- B. The site shall be developed and maintained in substantial conformance with the approved site plan, and in compliance with all applicable local, state and federal regulations and codes, unless specifically modified by this conditional use.
- C. Prior to the issuance of a building permit, the applicant shall submit for approval a landscape plan for the landscape buffer depicted on the site plan. The landscape buffer shall contain, at a minimum, the equivalent of one tree and five shrubs every 30 feet. The required landscaping shall be installed prior to commencing operations or during the first growing season following the commencement of operations.
- D. Construction shall begin on the project within five years or the conditional use may be made null and void. At the end of the five year period previously mentioned, the Director of Planning and the Zoning Administrator may administratively extend the time period to commence the project up to three years.
- E. Signage is limited to a maximum of 32 square feet, not taller than 10 feet. If the sign is lighted, lighting shall be designed to minimize light pollution and night time glare.
- F. If the Zoning Administrator finds there is a violation of any of the conditions of approval, the Zoning Administrator, in addition to enforcing other remedies set forth in Article VIII of the Unified Zoning Code may, with the concurrence of the Planning Director, declare the conditional use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All properties surrounding the site are zoned RR Rural Residential. The overwhelming majority of surrounding land is used as farmland. There are approximately seven tracts that have been developed with single-family residences or a saddle club. The character of the area is farmland with scattered farmsteads, large-lot residences, a church and a cemetery.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned RR Rural Residential, which allows agriculture and residences with a minimum lot size of between two and four and one-half acres, depending upon the on-site sewer solution. The site could be developed as currently zoned, but probably not by the City of Wichita for any RR use allowed by right. The proposed use is dependent upon being located in the Equus Beds, and within a reasonable proximity of the Little Arkansas River.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of will introduce a use that is not currently present in the immediate area. The applicant's proposed site plan includes increased setbacks and landscape buffers, and staff's proposed conditions of approval should mitigate anticipated impacts.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request will increase the quantity and enhance the quality of water available for aquifer recharge, which will in turn, increase the

amount of water available for both public and private beneficial use. Denial would presumably decrease the potential amount of water stored in the aquifer, negatively impacting the public's health, safety and welfare; and would increase the cost of providing enhanced water supplies.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: As designated on the County's 2030 functional land use guide, the application area is also located inside Bentley's 2030 Urban Growth Area. Property designated as being an urban growth area is typically located adjacent to a city's municipal boundaries, and could be expected, depending upon direction and magnitude of population growth, to be developed by 2030. Growth areas are also determined by individual municipal political considerations, infrastructure limitations and the ability of a city to cost effectively deliver a full range of urban services. The MAPC has a history of supporting industrial uses in rural area when the proposed use is resource based. The utilities location guidelines of the Comprehensive Plan indicate utility facilities that produce significant noise, odor and other nuisance elements should be located away from residential areas.
6. Impact of the proposed development on community facilities: Approval will provide the means to increase stored water volume and quality that can be made available for beneficial use. Water allocations for the Equus Beds exceed sustainable yield. Projects of this type enhance the quality and quantity of beneficial yield of the aquifer, creating a more sustainable water supply.

DALE MILLER, Planning Staff presented the Staff Report. He reported that the City of Bentley unanimously approved the request with the conditions listed in the Staff Report.

FOSTER asked about the gas line through the site and if that was located in an easement. He asked should that show up on the drawing or will that be covered at the time of platting.

MILLER said the agent was present and could answer that question, but added that issue will be covered at the time of platting.

FOSTER referred to condition C on the Report, particularly the 30-foot landscape buffer. He said he wanted to make sure that the conditions in the Staff Report and site plan were working together. He said it appears that planting of 220 shrubs will be required and said that it has been his experience that most of these types of shrub plantings tend to die. He asked if some of the shrubs could be switched for trees, which would require 22 more trees.

MILLER said he applied the City's Landscape Ordinance to the case, since the County doesn't have an ordinance. He said the applicant would be free to substitute the equivalent amount of trees for shrubbery. He said they don't intend to have a fence other than chain link around the site.

FOSTER clarified that the conditions supersede the notes on the site plan.

MILLER said yes, that and whatever the MAPC approves.

MTICHELL asked if paving the section line road was in Bentley's growth plan.

MILLER said the City of Wichita has indicated it will pave 119th St.

ROBERT HARTMAN, PEC, PA, ON BEHALF OF THE APPLICANT said in reference to the landscape buffer, he will need to discuss whether the water utility has a preference to substitute trees for shrubs. He said they are in agreement with Staff recommendations in the Staff Report and will meet those requirements. He said there will be an on-site operator living at the site, and perhaps they can maintain the shrubbery. He also indicated that the City said they will be paving 119th Street.

MOTION: To approve subject to staff recommendation.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (12-0-1).
SHERMAN abstained.

5. **Case No.: CON2009-13** - M.R. and Shirley Jones (Owner/Applicant) Request Conditional Use for an Accessory Apartment located in a SF-5 Single-family Residential zone district on property described as:

Lot 1, M.&S. Jones Addition, Wichita, Sedgwick County, Kansas, generally located southwest of the intersection of Hydraulic Street and MacArthur Road (1524 E. Selma).

BACKGROUND: The applicant requests a Conditional Use to allow an accessory apartment on a 0.5-acre platted lot zoned SF-5 Single-family Residential (“SF-5”), and located southwest of the intersection of MacArthur Avenue and Hydraulic Avenue. (1524 E. Selma Ave.) The applicant proposes to remodel an existing detached garage into an accessory apartment on the lot. The character of the surrounding area is residential. All properties surrounding the subject property are zoned SF-5, and are developed with single-family residences.

An accessory apartment is defined as a dwelling unit that may be wholly within or detached from a principal single-family dwelling unit. A dwelling unit includes provisions for sleeping, cooking, eating and sanitation. A Conditional Use is required to permit an accessory apartment in the SF-5 zoning district. Article III, Section D.6 (a) of the Unified Zoning Code (UZC) has the following requirements for an accessory apartment:

- (1) A maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling unit and may be within the main building, within an accessory building or constructed as an accessory building;
- (2) The appearance of an accessory apartment shall be compatible with the main dwelling and with the character of the neighborhood;
- (3) The accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling unit, and the ownership shall not be divided or sold as a condominium; and
- (4) The water and sewer service provided to the accessory structure shall not be provided as separate service from the main dwelling. Electric, gas, telephone and cable television utility service may be provided as separate utility services.

The applicant submitted the attached site plan illustrating the location of the proposed accessory apartment (detached garage). The applicant indicates on the site plan that the accessory apartment would be located northeast of the house in the existing, detached garage. The residence and proposed apartment will continue to utilize the existing driveway for access.

CASE HISTORY: The property was platted as Lot 1, M and S Jones Addition in September 1991.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family residences
SOUTH:	SF-5	Single-family residences
EAST:	SF-5	Single-family residences
WEST:	SF-5	Single-family residences

PUBLIC SERVICES: The subject property, currently, has access to East Selma Avenue. Selma Avenue is a paved residential street with a 60-foot right-of-way. The subject property is connected to

public water and sewer. No negative impacts on public services are anticipated.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide of the Comprehensive Plan designates this area as appropriate “urban residential” development. The one dwelling unit on the application area and the residential development surrounding the subject site would be considered “urban residential.” The policies of the Unified Zoning Code (UZC) allow one accessory apartment to be associated with a principle dwelling as a “Conditional Use” if the proposed use is compatible with the principle dwelling, is in character with the surrounding residential development, is accessory to the main structure, remains in a single ownership, and obtains water and sewer service from the main dwelling hook-up. As recommended for approval, the subject property conforms to adopted policies.

RECOMMENDATION: The application area is zoned SF-5, as is the surrounding residential neighborhood. The supplementary conditions of the UZC, along with building code requirements should ensure that the proposed accessory apartment is compatible with the surrounding residential neighborhood. Based upon information available prior to the public hearing, staff recommends that the request be **APPROVED**, subject to the following conditions:

The accessory apartment shall be subject to all requirements of Section III-D.6.a of the Unified Zoning Code:

1. The applicant shall obtain all applicable permits, including but not limited to: building, health, and zoning.
2. The site shall be developed in general conformance with the approved site plan.
3. Construction of improvements shall be completed within one year of approval of the Conditional Use.
4. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

The staff’s recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is residential. All properties surrounding the subject property are zoned SF-5 and are developed as single-family residences. Given the size of the subject property, the proposed accessory apartment is compatible with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The site could continue to be used for a single-family residence. Accessory apartments are allowed as a “Conditional Use” in SF-5 provided the applicant and the site meet the specified criteria. The applicant and the site meet the criteria so long as the accessory apartment remains subordinate in size and remains as a single hook-up for water and sewer services.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Provided that the existing accessory apartment meets all applicable codes, the accessory use should have little to no affect on the surrounding properties.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Wichita Land Use Guide of the Comprehensive Plan designates this area as appropriate “urban residential” development. The two dwelling units on the application area are considered “low density residential.” The Unified Zoning Code makes specific provision for accessory apartments in SF-5.

This application as recommended for approval complies with all the provisions outlined in the UZC for accessory apartments.

- 5. Impact of the proposed development on community facilities: The request should have a minimal impact on community facilities.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

FOSTER referred to the site plan and asked about setback information. He also questioned the reference on the drawing to a “detached” garage, which appeared to be attached to the house.

SLOCUM said setback requirements are 20 feet in the front and 10 feet on the sides. He said the site plans provides for 30 feet in the front and 12 feet on the sides. He clarified the site plan and said the apartment will be located in the “detached” garage in the back yard, not attached to the residence.

HENTZEN said he visited the site and that the apartment will be located in the detached garage located in the backyard. He asked the following questions about the application: Why is it being requested? Is the site located in the city? Where is the DAB Board recommendation?

SLOCUM said since the conditional use runs with land no reason for the application needs to be provided; however, he said the applicant has indicated that their daughter is having financial problems. He said the application did not go to the DAB because staff felt it was not controversial, but it would have been referred to the DAB if there had been any opposition from anyone within the notification area. He concluded by saying the site is located southwest of Hydraulic and MacArthur, within the City limits.

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **MITCHELL** seconded the motion, and it carried (13-0).

NON-PUBLIC HEARING ITEMS

6. Other Matters/Adjournment

HENTZEN said during a recent discussion on an auto salvage yard case, the Commission voted to assign the Advance Plans Committee to review the issue and make a recommendation. He asked if that has happened.

MARNELL said the issue has been assigned to the Advance Plans Committee; they have met and made recommendations; however, staff doesn’t have the language drawn up yet.

MILLER reported that the Advance Plans Committee met; had fairly extensive discussion of the issue; and directed staff to make changes, which have been drafted for consideration at the next Advance Plans Committee meeting.

CHAIRMAN DOWNING commented that **DIRECTOR SCHLEGEL** will not be available on July 17 for the Workshop Session. He said if no one objects, the Workshop will proceed with other Planning management staff. It was the general consensus that the workshop should proceed.

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

State of Kansas)
Sedgwick County) ^{ss}

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

Given under my hand and official seal this _____ day of _____, 2009.

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

(SEAL)