

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

February 5, 2009

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, February 5, 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; Don Anderson; David Dennis; David Foster (In @1:31 P.M.); Bud Hentzen; Hoyt Hillman; Bill Johnson (In @1:32 P.M.); John W. McKay, Jr.; M.S. Mitchell and Debra Miller Stevens. Michael Gisick; Ronald Marnell and Don Sherman were absent. Staff members present were: Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Derrick Slocum, Associate Planner and Maryann Crockett, Recording Secretary.

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1. Approval of the January 22, 2009 MAPC meeting minutes:

MOTION: To approve the January 22, 2009 Minutes, as amended.

HILLMAN moved, **DENNIS** seconded the motion, and it carried (7-0-2). **MCKAY** and **MITCHELL** – Abstained.

FOSTER in @1:31 P.M.
JOHNSON in @1:32 P.M.

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB 2009-03: One-Step Final Plat -- NORTH GREENWICH ADDITION**, located north of 29th Street North and on the east side of Greenwich Road.

NOTE: This site is located in the County adjoining Wichita's city limits and annexation is required. The site has been approved for a zone change (ZON 2008-59) from RR Rural Residential to LC Limited Commercial (Lot 1) and MF-18 Multi-family Residential (Lot 2). The North Greenwich Development Community Unit Plan (CUP 2008-43, DP-316) was also approved for this site.

STAFF COMMENTS:

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed.
- B. City of Wichita Water Utilities Department requires a guarantee for the extension of City water (transmission and distribution) mains and sanitary sewer (mains and laterals) to serve all the lots being platted.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. City Stormwater Engineering has approved the drainage plan. A cross-lot drainage easement is needed.

- E. In accordance with the CUP approval, a guarantee for left-turn center lanes and right-turn decel lanes at all full movement approaches is needed.
- F. Access controls have been platted in accordance with the CUP approval. The plat denotes two openings along Greenwich. The applicant will provide 370 feet of complete access control along the north portion of the plat. A cross-lot access agreement should be provided.
- G. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineer (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- H. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- I. The signature line for the County Clerk needs to be revised to reference "Kelly B. Arnold."
- J. 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.
- K. The plattor'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.
- L. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- N. 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.
- O. 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.
- P. 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.

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

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.

STRAHL reported that City Storm Water Engineering had requested changes to the drainage plan. That had been done and it has been approved.

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

MITCHELL moved, **JOHNSON** seconded the motion, and it carried (11-0).

2-2. **SUB 2009-04: One-Step Final Plat -- BLANEY ADDITION**, located south of 31st Street South and on the west side of Greenwich Road.

NOTE: This site is located in the County within three miles of Wichita's boundary. It is located in an area designated as "2030 Urban Growth Area" by the Wichita-Sedgwick County Comprehensive Plan.

STAFF COMMENTS:

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval. Due to the location of the lagoon, a restrictive covenant is needed to tie together lot 2 with the property to the south.
- B. The site is currently located within the Sedgwick County Rural Water District No. 3. If service is available, feasible and the property is eligible for service, County Code Enforcement recommends connection.
- C. City of Wichita Water Utilities Department requests a petition for future extension of sanitary sewer (mains and laterals).
- D. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- E. For the west line of the plat, the discrepancy shall be corrected between the bearings in the plat's text and the bearings on the face of the plat.
- F. County Surveying advises that bearings along the drainage reserve need to be corrected.
- G. County Surveying requests an on-site benchmark.
- H. County Surveying advises that bearings along 31st St. S. need to be corrected.
- I. County Engineering has approved the drainage plan.
- J. The plat denotes two openings along Greenwich. County Engineering requests a joint entrance for Lots 1 and 2.

- K. The joint access opening 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.
- L. Sedgwick County Fire Department advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- M. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineer (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- N. The applicant is reminded that this site is located within three miles of the City Limits of Wichita and will be heard by City Council. Therefore, the City Council signature block needs to be included on the final plat tracing.
- O. The year "2009" needs to replace "2008" within the signature blocks.
- P. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for both lots. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width.
- Q. 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.
- R. 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.)
- S. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- T. 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.
- U. 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.
- V. 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.

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

X. 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.

STRAHL reported that Sedgwick County Engineering requested revisions to the drainage plan. That has been done and approved.

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

MITCHELL moved, **JOHNSON** seconded the motion, and it carried (11-0).

3. **PUBLIC HEARING – VACATION ITEMS**

PUBLIC HEARINGS

4. **Case No.: CUP2008-54** - Plaza West Shopping Center, LLC (owner); Baughman Company, P.A., Russ Ewy (agent) Request DP-4 Amendment #5 to the Plaza West Shopping Center Community Unit Plan to reduce the minimum setback, on a portion of parcel 1, Plaza West Shopping Center.

Parcel 1:

Lots 3 and 4, Block 8, Parkwilde Addition to Wichita, Sedgwick County, Kansas, EXCEPT the east 30 feet of said Lot 3 dedicated for street purposes.

Parcel 2:

Lot 1, Wescen Addition, Wichita, Sedgwick County, Kansas, EXCEPT the east 10 feet and the north 10 feet thereof dedicated for street purposes, AND EXCEPT that part dedicated for street purposes lying within the following described tract: Beginning at a point 50 feet west and 50 feet south of the Northeast corner of Section 23, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, being the Southwest corner of West Street and Central Avenue; thence southerly, parallel with the East line of said Section 23, 125 feet; thence westerly, parallel with the North line of said Section 23, 10 feet; thence southerly, parallel with the East line of said Section 23, 175 feet; thence northwesterly 101.18 feet to a point 75 feet west and 250 feet south of the Northeast corner of said Section 23; thence northerly, parallel with the East line of said Section 23, 175 feet; thence westerly, parallel with the North line of said Section 23, 175 feet; thence northwesterly 101.18 feet to a point 60 feet south and 350 feet west of the Northeast corner of said Section 23; thence easterly, parallel with the North line of said Section 23, 175 feet; thence northerly, parallel with the East line of said Section 23, 10 feet; thence easterly, parallel with the North line of said Section 23, 125 feet to the point of beginning.

Parcel 3:

That part of Lots 1 and 3, Block 1, Parkwilde Addition to Wichita, Sedgwick County, Kansas, described as follows: Beginning at the Northeast corner of Lot 1; thence west 145 feet; thence south 145 feet; thence east 145 feet; thence north 145 feet to the point of beginning, EXCEPT that part dedicated for street purposes lying within the following described tract: Beginning at a point 50 feet west and 50 feet south of the Northeast corner of Section 23, Township 27 South, Range 1

West of the Sixth Principal Meridian, Sedgwick County, Kansas, being the Southwest corner of West Street and Central Avenue; thence southerly, parallel with the East line of said Section 23, 125 feet; thence westerly, parallel with the North line of said Section 23, 10 feet; thence southerly, parallel with the East line of said Section 23, 175 feet; thence northwesterly 101.18 feet to a point 75 feet west and 250 feet south of the Northeast corner of said Section 23; thence northerly, parallel with the East line of said Section 23, 175 feet; thence westerly, parallel with the North line of said Section 23, 175 feet; thence northwesterly 101.18 feet to a point 60 feet south and 350 feet west of the Northeast corner of said Section 23; thence easterly, parallel with the North line of said Section 23, 175 feet; thence northerly, parallel with the East line of said Section 23, 10 feet; thence easterly, parallel with the North line of said Section 23, 125 feet to the point of beginning. Generally located at the Southwest corner of Central and West Street.

BACKGROUND: The applicant requests a minor amendment to DP-4, The Plaza West Shopping Center Community Unit Plan. The applicant proposes to reduce the CUP 35-foot building setback along part of the north and east property lines, along West Street and Central Avenue, for Parcel 1. The proposed setback reduction would be from 35 feet to 25 feet, a ten-foot or 29% reduction. According to the applicant, this reduction is sought to rectify several long standing building encroachments (see the attached site plan).

Initially an administrative adjustment was applied for to correct these building encroachments. However, since the request reduces the setback below the standard CUP setback of 35 feet and that one of the buildings cannot be proven to be a legally non-conforming structure, the applicant applied for this amendment to reduce the setback in order to fix both building encroachments.

Property abutting the south property line is zoned LC Limited Commercial (“LC”) and MF-18 Multi-family Residential (“MF-18”) and is developed with a nightclub and an apartment complex. Property to the north, across Central Avenue, is zoned LC and is developed with a retail store, offices and a nightclub. Property to the east, across West Street, is zoned LC and is developed with a shopping center, retail stores and restaurants. Property to the west, across Florence Street, is zoned LC, GO General Office (“GO”), and SF-5 Single-family Residential (“SF-5”) and is developed with a restaurant, offices and single-family residences.

CASE HISTORY: The application area is platted as Lot 1 of the Wescen Addition (recorded August 31, 1965) and Lots 3 and 4, Block 8 and parts of Lot 1 and 3 of Block 1, Parkwilde Addition (recorded March 4, 1987). The Plaza West Shopping Center CUP DP-4, with a rezone to LC, was approved on March 13, 1979.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Retail Store / Office / Bar
SOUTH:	LC / MF-18	Bar / Apartments
EAST:	LC	Shopping Center / Retail / Restaurant
WEST:	LC / GO / SF-5	Restaurant / Offices / Residences

PUBLIC SERVICES: This site has access to Central Avenue, a four-lane principal arterial, and West Street, also a four-lane principal arterial. Traffic volumes on Central Avenue at this location are approximately 36,000 vehicles per day. The traffic volumes on West Street at this location are approximately 37,000 vehicles per day. Municipal water and sewer services are currently provided to this site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies this site as appropriate for local commercial types of use. This category of use encompasses areas that contain concentrations of predominantly commercial, office, and personal service uses that do not have a predominantly regional market draw. The range of uses includes: medical

or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities.

The *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* commercial locational guidelines recommend that commercial uses should be located adjacent to arterial streets; in compact clusters; and to have site design features that limit noise, lighting, and other aspects of commercial activity that may adversely impact surrounding residential areas.

The Unified Zoning Code (UZC) Section III-C.2.a states that the purpose of the Community Unit Plan (CUP) is to "...protect the public safety, convenience, health and general welfare through standards and provisions that establish requirements as to lot coverage, height, setback and screening" The CUP section of the UZC establishes development standards that include a 35-foot building setback from all street rights-of-way. This portion of the UZC goes on to state that the Planning Commission or Governing Body may modify or waive the setback requirement as a part of approval or amendment of a CUP, where the objectives of the Comprehensive Plan and good planning practice are furthered. The Planning Commission or Governing Body must set forth the specific reasons for such modification and an explanation of how such modification or waiver meets the criteria and purpose of this section of the UZC.

RECOMMENDATION: The proposed CUP amendment, reducing the building setback along West Street by 29%, should have no negative effect on community facilities or surrounding property owners. The UZC setback standard for CUPs (35 feet) can be reduced when planning objectives are met, and there is no negative impact on surrounding property, the neighborhood, or public facilities.

Based on this, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to the submitted site plan.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property abutting the south property line is zoned LC Limited Commercial ("LC") and MF-18 Multi-family Residential ("MF-18") and is developed with a nightclub and an apartment complex. Property to the north, across Central Avenue, is zoned LC and is developed with a retail store, offices and a nightclub. Property to the east, across West Street, is zoned LC and is developed with a shopping center, retail stores and restaurants. Property to the west, across Florence Street, is zoned LC, GO General Office ("GO"), and SF-5 Single-family Residential ("SF-5") and is developed with a restaurant, offices and single-family residences.
2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed under the 35-foot setback requirement of the existing CUP. However, the request to reduce the setback will allow for existing building encroachments into the setback to be corrected.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The setback reduction should have no negative impact on surrounding commercial or institutional uses; no residences are in the immediate area. Landscape requirements will not be reduced, and visual aesthetics along Central Avenue will not be negatively impacted.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies this site as appropriate for local commercial types of use. This category of use encompasses areas that contain concentrations of predominantly commercial, office, and personal service uses that do not have a predominantly regional market draw. The range of uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. The *1999 Update to the Wichita-Sedgwick County Comprehensive*

Plan commercial locational guidelines recommend that commercial uses should be located adjacent to arterial streets; in compact clusters; and to have site design features that limit noise, lighting, and other aspects of commercial activity that may adversely impact surrounding residential areas.

- 5. Impact of the proposed development on community facilities: The proposed building setback reduction will have no negative impact on community facilities, and will encourage better use of the land and surrounding pedestrian facilities.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

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

NON-PUBLIC HEARING ITEMS

Other Matters/Adjournment

The Metropolitan Area Planning Department informally adjourned at 1:34 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)