

**METROPOLITAN AREA PLANNING COMMISSION**

**MINUTES**

**January 24, 2008**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, January 24, 2008, at 1:30 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: M.S. Mitchell, Chair; David Dennis; Darrell Downing; David Foster; Michael Gisick (In @ 1:34 P.M.); Bud Hentzen; Hoyt Hillman; Bill Johnson; Ronald Marnell; John W. McKay Jr.; Debra Miller Stevens and G. Nelson Van Fleet. Don Anderson and Don Sherman were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; Neil Strahl, Senior Planner; Derrick Slocum, Associate Planner and Maryann Crockett, Recording Secretary.

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1. Approval of the January 10, 2008, MAPC minutes.

**MILLER STEVENS** asked about the motion on Page 17 concerning case ZON2007-64.

**DALE MILLER**, Planning Staff, indicated that the motion should indicate “without platting.”

**MOTION:** To approve the January 10, 2008, minutes as amended.

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

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**GISICK** in @1:34 P.M.

❖ **Items #2-1 and 2-3 may be taken in one motion, unless there are questions or comments.**

2. Consideration of Subdivision Committee recommendations from the meeting of January 17, 2008.

**2-1. SUB 2007-105: One-Step Final Plat – HEAVENSLICE ADDITION**, located on the northwestern corner of 93<sup>rd</sup> Street North and 159<sup>th</sup> Street East.

**NOTE: This site is located in the County in an area designated as “rural” 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.
- B. In conformance with the Urban Fringe Development Standards, for individual domestic wells that are proposed, a Safe Yield Analysis must be provided to Sedgwick County Code Enforcement to assure the availability of an adequate, safe supply of water that does not impair existing water rights. Easements shall be dedicated for potential future extension of public water. In the alternative, the applicant shall provide a letter from the Rural Water District.

- C. The site is currently located within the Harvey County Rural Water District No. 1. If service is available, feasible and the property is eligible for service, County Code Enforcement recommends connection.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. County Engineering has requested a revised drainage plan reflecting the platted easements. The drainage easements shall be revised to drainage reserves and appropriate language specified in the plat's text. The drainage plan shall be submitted prior to the MAPC meeting.
- F. The applicant has proposed two joint openings along 93<sup>rd</sup> St. North, between Lots 1 and 2, and between Lots 2 and 3. The applicant has also proposed a joint opening on 159<sup>th</sup> St between Lot 4 and property to the north. County Engineering has requested that the joint opening between Lots 1 and 2 should be shifted to west line of Lot 1 as a joint opening between Lot 1 and the unplatted property to the west. County Engineering also has requested that the opening on the north end of Lot 4 is denoted as a joint opening with the unplatted property to the north.
- G. Joint access easements should be provided for all three joint openings. The joint access openings 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.
- H. Sedgwick County Fire Department advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- I. On the final plat tracing, the MAPC signature block needs to reference "M.S. Mitchell, Chair"
- J. The signature line for the County Commissioners Chairman needs to reference "Thomas G. Winters".
- K. The year "2008" needs to replace "2007" within the signature blocks.
- L. 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.
- 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 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.)
- O. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- 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 note that any construction that results in earthwork activities that will disturb (1) acre or more of ground cover requires a Federal/State NPDES 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.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. 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.
- U. 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](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

**MOTION:** To approve, subject to staff recommendation.

**HILLMAN** moved, **JOHNSON** seconded the motion, and it carried (12-0).

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- 2-2. **SUB 2005-58: Final Plat -- FOLIAGE CENTER ADDITION**, located on the northwest corner of 13<sup>th</sup> Street North and Webb Road.

**NOTE:** This is an unplatted site located within the City of Wichita. A portion of the site has been approved for a zone change (ZON 2005-06) from SF-5, Single-Family Residential to LC, Limited Commercial. The Foliage Center Commercial CUP (CUP 2005-09, DP-282) was also approved for this site.

This final plat has reduced the number of lots from two to one.

**STAFF COMMENTS:**

- A. City Water Utilities Department advises that City water is available on 13<sup>th</sup> Street North. Sanitary sewer is available for individual services on Webb Rd.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering has requested a cross-lot drainage agreement. A drainage guarantee is also required.
- D. Traffic Engineering has requested a left-turn lane on 13<sup>th</sup> St. North and a continuous left-turn lane on Webb from 13<sup>th</sup> St. North to the widening for Waterfront Development.
- E. Traffic Engineering has approved the access controls. One opening along 13th St. North is proposed, in alignment with the opening on the south side of 13<sup>th</sup> Street. Two access openings on Webb Road

are proposed.

- F. In accordance with the CUP approval, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- G. 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.
- H. The applicant is advised a CUP adjustment may be needed so that the perimeter of the proposed commercial lot matches the perimeters of the CUP parcel boundaries.
- I. 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.
- 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 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.
- N. 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.
- 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 NPDES 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. Recording of the plat within 30 days after approval by the City Council and/or County Commission.

- S. 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.
- T. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD ([cholloway@wichita.gov](mailto:cholloway@wichita.gov)). This will be used by the City and County GIS Department.

**MOTION**: To approve, subject to staff recommendation.

**HILLMAN** moved, **JOHNSON** seconded the motion, and it carried (12-0).

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- 2-3. SUB 2007-104: Final Plat -- LAMPTON BROTHERS ADDITION**, located on the north side of Central and east of Broadway.

NOTE: This is a replat of a portion of the Throckmorton's Addition and a portion of the Hilton's Addition to Hilton's Addition. The plat includes the vacation of Mosley.

STAFF COMMENTS:

- A. Sanitary sewer is available. Water Utilities Department has required a petition for the extension of water to serve this lot.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the applicant's drainage plan.
- D. A cross-lot access agreement with the property abutting Washington is requested.
- E. Provisions shall be made for ownership and maintenance of the proposed reserves. A covenant shall be submitted regarding ownership and maintenance responsibilities.
- F. For those reserves being platted for drainage purposes, the required covenant that 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.
- G. Documentation shall be provided regarding the ownership interest of the property to the west associated with the vacation of Mosley.
- H. 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.
- I. 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.
- J. 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.)

- K. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- L. 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.
- M. 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.
- N. 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 NPDES 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.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. 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.
- Q. 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](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

**FOSTER** asked about any easements on the plat?

**NEIL STRAHL**, Planning Staff, said the applicant did provide easements along the west property line along vacated Mosley.

**MOTION:** To approve, subject to staff recommendation.

**HILLMAN** moved, **JOHNSON** seconded the motion, and it carried (12-0).

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❖ **PUBLIC HEARINGS – VACATION ITEMS**

**3-1. VAC 2007-44: Request to Vacate an alley that was acquired by quit claim and platted school reserve.**

**APPLICANTS/AGENT:** Geo Von Inc, PEC, c/o Rob Hartman

**LEGAL DESCRIPTION:** The alley, as established by “Quit Claim” (filed for record November 13, 1922) located along the length, of the north 20-feet of Lots 154 & 153, Hunters 3<sup>rd</sup> Addition, the portion of the platted north-south alley abutting the south 5-feet of Lots 149 & 150 all of Lots 153, 154, 155,

156, 157 & 158, all in the Hunters 3<sup>rd</sup> Addition. The restriction of uses in the School Reserve, the Hunters 3<sup>rd</sup> Addition, Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located north of Kellogg Street, east of Washington Avenue, between Pattie & Laura Avenues (WCC #I).

**REASON FOR REQUEST:** Remove existing encroachments and as recommended in ZON2007-44

**CURRENT ZONING:** All abutting properties and the reserve are zoned "GC" General Commercial

The applicant is requesting vacation of the described alleys. The applicant proposes to dedicate right-of-way to Pattie or Laura Avenues to prevent the north-south alley from dead-ending. There is sewer line and manholes in the east portion of the alley acquired by Quit Claim and in a portion of the platted alley; those portions of the described alleys will be retained as utility easements. There are Westar utilities in the alleys. The portion of the site platted as a "School Reserve" is currently occupied by a vacant elementary school. The applicant proposes to allow all uses as permitted by UZC for the "GC" zoning district in the "School Reserve." The Hunters 3<sup>rd</sup> Addition was recorded with the Register of Deeds April 19, 1889.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the platted alley ROW, the alley established by quit claim, and the restriction of uses in the school reserve as described with conditions.

- 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 and the Derby Reporter, of notice of this vacation proceeding one time January 3, 2008, 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 portions of the platted alley, the alley established by quit claim and the restriction of uses in the school reserve 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 portion of the platted alley, the alley established by quit claim, the restriction of uses in the school reserve described in the petition should be approved with conditions;
- (1) Retain those portions of the alleys that have utilities in them as utility easements, to provide access for maintenance, repair and replacement of all utilities located in the described alleys, as provided to staff on a Word document, via e-mail. This must be provided to Staff prior to the case going to WCC for final action.

- (2) Dedicate by separate instrument east-west ROW to either Pattie or Laura Avenues. Provide a guarantee/petition for paving the ROW. This must be provided to Staff prior to the case going to WCC for final action.
- (3) Allow all uses as permitted by UZC for the "GC" zoning district in the "School Reserve."
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
- (5) All improvements shall be according to City Standards and at the owner's expense. These must be provided to Staff prior to the case going to WCC for final action.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Retain those portions of the alleys that have utilities in them as utility easements, to provide access for maintenance, repair and replacement of all utilities located in the described alleys, as provided to staff on a Word document, via e-mail. This must be provided to Staff prior to the case going to WCC for final action.
- (2) Dedicate by separate instrument east-west ROW to either Pattie or Laura Avenues. Provide a guarantee/petition for paving the ROW. This must be provided to Staff prior to the case going to WCC for final action.
- (3) Allow all uses as permitted by UZC for the "GC" zoning district in the "School Reserve."
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
- (5) All improvements shall be according to City Standards and at the owner's expense. These must be provided to Staff prior to the case going to WCC for final action.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**MOTION:** To approve, subject to staff recommendation.

**JOHNSON** moved, **DOWNING** seconded the motion, and it carried (12-0).

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**3-2. VAC 2007-45: Request to Vacate a portion of a platted setback.**

**APPLICANT/AGENT:** Orthodontics Clinic Building, LC, PEC, c/o Rob Hartman

**LEGAL DESCRIPTION:** Generally described as the platted 75-foot setback that runs parallel to Rock Road on Lot 13, Brad Boone Addition, Wichita, Sedgwick County, Kansas

**LOCATION:** Generally located midway between 13<sup>th</sup> & 21<sup>st</sup> Streets North, on the southwest corner of Rock Road & Rock Road Court (WCC #II)

**REASON FOR REQUEST:** Further development of site

**CURRENT ZONING:** Site, abutting western and adjacent northern (across Rock Road Court) properties are zoned "GO" General Office/CUP DP-62. Adjacent southern and eastern properties, (across RR tracks & Rock Road), are zoned "LC" Limited Commercial with CUP overlays

The applicant proposes to vacate 40-feet of the platted 70-foot street side setback, making a 35-foot setback. The zoning of the subject site is "GO," with a CUP overlay. The UZC requires a minimum of a 20-foot street side yard setback for the "GO" zoning district and a minimum of a 35-foot setback for a CUP. The CUP setback standards override the UZC's minimum standards. There is a platted 20-foot utility easement that crosses the south side of the platted setback, it contains a sewer line and will be retained. There are no other utilities within the described portion of the platted setback that are not protected by easements. There is 50-foot of half street right-of-way along the site's Rock Road frontage, the standard is 60-feet. The Brad Boone Addition was recorded with the Register of Deeds April 1, 1981.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval of the vacation of the described portion of the platted setback with conditions.

- 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 and the Derby Reporter, of notice of this vacation proceeding one time January 3, 2008, 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 portion of the 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.

- B. Therefore, the vacation of the portion of the platted setback described in the petition should be approved with conditions;
- (1) The platted 70-foot setback, located on Lot 13, Brad Boone Addition, along its Rock Road frontage will be replaced with a 35-foot setback.
  - (2) Dedicate a 10-foot sidewalk - utility easement along the Rock Road frontage.
  - (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant and at the applicant's expense.
  - (4) All improvements shall be according to City standards and at the applicant's expense.
  - (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) The platted 70-foot setback, located on Lot 13, Brad Boone Addition, along its Rock Road frontage will be replaced with a 35-foot setback.
- (2) Dedicate a 10-foot sidewalk – utility easement along the Rock Road frontage.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
- (4) All improvements shall be according to City standards and at the applicant's expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**MOTION:** To approve, subject to staff recommendation.

**JOHNSON** moved, **DOWNING** seconded the motion, and it carried (12-0).

**OWNER/AGENT:** Dunne Medical Office c/o Allan Dunne  
Baughman Company PA c/o Phil Meyer

**LEGAL DESCRIPTION:** See the attached exhibit and legal: Generally described as the 10-foot, 8-foot & 2-foot utility easements dedicated by separate instruments, Film 244, Pages 411 & 412 and Film 340, Page 364, located along common lot line of Lots 3 & 4, Block 4, the Levitt Industrial Park addition, Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located south of Harry Street, & southwest of Osie Street and Rock Road

**REASON FOR REQUEST:** To provide a structure to connect buildings

**CURRENT ZONING:** Subject properties and abutting western properties are zoned "LI" Limited Industrial. Adjacent northern, southern and eastern properties are zoned "LC" Limited Commercial, "GC" General Commercial & "SF-5" Single-family Residential.

The applicant is requesting consideration for the vacation of the described utility easements dedicated by separate instrument. There is a manhole in the western end of the easements, but no other utilities. The Levitt Industrial Park addition was recorded with the Register of Deeds March 28, 1966.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, Storm Water, franchised utility representatives, and other interested parties, Planning Staff recommends approval to vacate the portion of the easements dedicated by separate instruments as described with conditions.

- 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 and the Derby Reporter, of notice of this vacation proceeding one time January 3, 2008, 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 easements dedicated by separate instrument 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 portion of the easements dedicated by separate instrument described in the petition should be approved with conditions;
- (1) Retain the west portion of the easements to cover the sewer/manhole.
  - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
  - (3) All improvements shall be according to City Standards and at the applicant's expense.

- (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 the west portion of the easements to cover sewer/manhole.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant’s expense.
3. All improvements shall be according to City Standards and at the applicant’s expense.
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 staff recommendation.

**JOHNSON** moved, **DOWNING** seconded the motion, and it carried (12-0).

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**3- 4. VAC 2007-47: Request to Vacate portions of platted complete access control.**

**APPLICANTS/OWNERS:** Venture Seven Development, LLC, c/o George Laham II

**AGENT:** MKEC Engineering Consultants c/o Greg Allison

**LEGAL DESCRIPTION:** Generally described as allowing one (1) full movement and one (1) right in – right out drives along the site’s 127<sup>th</sup> Street East frontage of Lots 2 & 3, and one (1) full movement drive along 21<sup>st</sup> Street North frontage of Lot 3, all in Block 1, all in the Reed Commercial Addition, Wichita, Sedgwick County, Kansas (see exhibit)

**LOCATION:** Generally located at the southeast corner of 21st Street North and 127th Street East (WCC #II)

**REASON FOR REQUEST:** Quick Trip

**CURRENT ZONING:** The site is zoned “LC” Limited Commercial and is in CUP DP-222. Abutting eastern and southern properties are zoned “SF-5” Single-family Residential and “MF-18” Multi-family Residential. Adjacent northern and western properties are zoned “LC” & CUP DP-238 and “SF-5.”

The applicant has applied for the vacation of the complete access control along the site's 21<sup>st</sup> Street North and 127<sup>th</sup> Street East frontages.

- (1) (a) The platted access control allows one right in – right out drive onto the site's 127<sup>th</sup> frontage, located 160-feet south of the 127<sup>th</sup> – 21<sup>st</sup> intersection (intersection), while a full movement drive is allowed 150-feet south of the right in – right out drive. (b) The applicant proposes one (1) right in – right out drive movement drives along the site's 127<sup>th</sup> frontage, located 83.76-feet south of the intersection and one (1) full movement drive located 349.24-feet south of the intersection.
- (2) (a) The platted access control allows one (1) right in – right out drive onto the site's 21<sup>st</sup> frontage, located 160-feet east of the intersection. (b) The applicant proposes one (1) full movement drive onto 21<sup>st</sup>, located 217.58-feet east of the intersection.

There will be a median strip in the 127th ROW that will insure that the proposed right in – right out drive along 127th functions as just that, a right in – right out drive. Per the Subdivision Regulations, 10-104, Modification of Design Criteria, the MAPC may modify design criteria. In the past, staff has recommended modified design criteria, which has been approved by the MAPC. The Reed Commercial Addition was recorded with the Register of Deeds January 14, 2003.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from Public Works, the Traffic Engineer, franchised utility representatives and other interested parties, Planning Staff recommends to approve the vacation request with conditions.

- 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 and the Derby Reporter, of notice of this vacation proceeding one time January 3, 2008, 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 platted 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 portion of the platted access control described in the petition should be approved with conditions;
  1. Vacate the complete access control as proposed by the applicant, to allow one (1) right in – right out drive and one (1) full movement drive all onto 127<sup>th</sup> Street East and one full movement drive onto 21<sup>st</sup> Street North, as approved by the Traffic Engineer. These drives will replace the platted drives and the platted complete access control. Provide Planning with a legal description of the vacated access control on a Word document, via e-mail. The legal will also describe the re-established complete access control.
  2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
  3. All improvements shall be according to City Standards and at the applicant's expense, including any new driveways from private property onto public ROW and closing of any

existing drives. Provide Public Works with a guarantee to ensure that those improvements will be made.

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 complete access control as proposed by the applicant, to allow one (1) right in – right out drive and one (1) full movement drive all onto 127<sup>th</sup> Street East and one full movement drive onto 21<sup>st</sup> Street North, as approved by the Traffic Engineer. These drives will replace the platted drives and the platted complete access control. Provide Planning with a legal description of the vacated access control on a Word document, via e-mail. The legal will also describe the re-established complete access control.
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 any new driveways from private property onto public ROW and closing of any existing drives. Provide Public Works with a guarantee to ensure that those improvements will be made.
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 staff recommendation.

**JOHNSON** moved, **DOWNING** seconded the motion, and it carried (12-0).

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**PUBLIC HEARINGS**

4. **Case No.: ZON2007-65-** McGivern Realty c/o Charles Young Request City zone change from "MF-29" Multi-family Residential to "NO" Neighborhood Office on property described as:

**Lots 31 and 32 North and 6 and 3/4 feet of Lot 33, Clifton Avenue Douglas Heights Addition Generally located Southwest of the Clifton Avenue – Victor Place intersection.**

**BACKGROUND:** The applicant is requesting Neighborhood Office (“NO”) zoning on Lots 31 & 32 and the north 6.75 feet of Lot 33, Douglas Heights Addition (on Clifton Avenue). The site is located one block north of Douglas Avenue on the southwest corner of Clifton Avenue and Victor Place and is currently zoned Multi-family Residential (“MF-29”). The 56.75-foot (x) 102.66-foot site has a two-story single-family residence (1900) on it, with a driveway onto Clifton Avenue, which is a residential street.

The site is part of the College Hill neighborhood, with the neighborhood’s Douglas frontage having a strong mix of local retail/commercial, office, theater, churches, a school, single-family residential and a few multi-family residential (including the Hillcrest apartment tower) development located along it. Along Douglas the zoning ranges from General Commercial (“GC”), Limited Commercial (“LC”), General Office (“GO”), Multi-family (“B”), Duplex Residential (“TF-3”), Single-family Residential (“SF-5”) and two Planned Unit Developments (“PUD”). Behind the Douglas development is one of the older, more vital residential neighborhoods in the City, a mix of mostly single-family residences, some duplexes and fewer small apartments. The residential development located behind Douglas is zoned mostly SF-5, with the rest zoned TF-3, and rare B zoning. With the exception of two lots on Hillside, the subject site is part of a short block on the south side of Victor, between Clifton and Rutan Avenues, which has the only MF-29 zoning in the College Hill neighborhood. A portion of Victor appears to be marked as a one-way street, but traffic was observed going both ways on it.

Wood framed, single-family residences abut and are adjacent to the subject site on its south, west and north sides. Most of these residences were built between 1900 and 1920, with most of them zoned TF-3, a few B, and the already mentioned short block (south side of Victor between Clifton and Rutan) of isolated MF-29 zoning. East of the site, across Clifton, is the LC zoned Clifton Square, developed with mostly what used to be residences that have been converted into free standing retail. Clifton Square has Douglas frontage/access. Although there are no drives from Clifton Square onto Clifton, Victor or Yale Avenue. Clifton Square has a minor street permit for parking in the Clifton and Victor ROWs. The parking is 60-degree diagonal parking along the east side of Clifton and the south side of Victor. The subject site has an occupied single-family residence (MF-29) between it and two offices zoned GO on Douglas Avenue, which were residences that were converted to offices. These offices share parking in their back yards, two drives onto Douglas and a common drive onto Clifton. The subject site is also on the opposite end of the block (400 feet east) from the recently approved PUD #26, the Parkstone mixed use urban village development which includes commercial, office and a range of housing types including brownstones (three-story row housing), a high rise apartment tower and apartment flats on second stories above commercial uses at the street level on parts of the PUD. The portion of the Parkstone located on the southwest corner of Victor and Rutan will be developed as a parking lot, which was its most recent use. The 10-story Hillcrest is a premiere apartment tower owned by its residents as a coop and it is located north, across Douglas from Parkstone PUD. The subject site may be the only observed vacant single-family residences in the area.

Approval of the requested zone change would require the site to come into compliance with screening, landscaping, parking, access, signage, and all permits and inspections to ensure that the site would be developed per City standards.

**CASE HISTORY:** The site is part of the Douglas Heights Addition, which was recorded with the Register of Deeds March 24, 1911. Staff has received two protests (see attached letters) to the proposed zone change, both expressing concerns in regards to a lack of parking and school children in the area. Blessed Sacrament Catholic Church and its school are located two blocks east of the subject site. College Hill Elementary is located one block north of the site, on Clifton. Both schools generate vehicular and pedestrian traffic through the site’s area, especially College Hill Elementary via Clifton.

**ADJACENT ZONING AND LAND USE:**

NORTH:	TF-3, PUD	single-family residences, urban village/mixed residential
SOUTH:	MF-29, GO	single-family residences, offices, apartments, duplex
EAST:	LC, TF-3	free standing commercial, single-family residences

WEST: MF-29, PUD single-family residences, urban village/mixed residential

**PUBLIC SERVICES:** All municipal services and utilities are available. Clifton Avenue, Rutan Avenue and Victor Place are paved residential streets. Victor is two, short blocks long and exists only at the subject site's area in College Hill. It's 840-foot length dead ends before it intersects with Rutan on its west side and goes no further than its Yale Avenue intersection on east side, where the Saint James Episcopal Church development blocks it. Due to the upcoming development of the Parkstone PUD, Victor will remain a dead end street on its west side. Victor has 40-feet of right-of-way on its east end, which is substandard for a residential street. Victor and Clifton both have 60-degree diagonal street parking (minor street permits), which allows parked vehicles to back into both streets. Douglas Avenue (one-block north) is a paved four-lane minor arterial. There are no traffic counts for the Clifton – Douglas intersection. Traffic counts in 2006 were 15,000 vehicles per day on Douglas and 18,000 on Hillside, the nearest arterial intersection. In 2007 improvements were completed widening Hillside to a five-lane street and improving Douglas with a left-turn lane at the intersection of Hillside. All the roads are shown to remain the same on the 2030 "Transportation Plan."

**CONFORMANCE TO PLANS/POLICIES:** The "2030 Wichita Functional Land Use Guide", of the Comprehensive Plan identifies the site as appropriate for "local commercial." The local commercial category includes commercial, office and personal service uses that do not have a regional draw. The proposed NO zoning permits local commercial types of development, without permitting retail. Locational criteria for office includes (a) being adjacent to arterial streets, (b) that small office development be incorporated within or adjacent to neighborhood and community scale development and (c) that low density (small) office development can serve as a transitional land use between residential use and higher density uses. The site is located a block north of Douglas, a minor arterial, to which it has no direct access. All of the LC and GO zoned retail and offices in the immediate area have direct access onto Douglas. None of the MF-29 zoned single-family residences have direct access onto Douglas. The requested zoning is adjacent to LC zoned local retail and GO zoned office, but abuts MF-29 zoned single-family residences and is adjacent to TF-3 zoned single-family residences. The requested zoning isolates the only other single-family residence, along Clifton between Douglas and Victor.

**RECOMMENDATION:** The "2030 Wichita Functional Land Use Guide" recommends the site for local commercial, which the requested NO zoning falls into. Major issues with the site include its size and location. GIS shows the floor area of the single-family residence on the subject site to be approximately 2,828-square feet, which means that if the NO zoning were approved, 11 parking spaces (UZC parking for office) would have to be provided on the 5,825.95-square foot subject site, which it cannot provide. The subject site can provide the required parking for a single-family residence or a duplex, if the single-family residence was converted. The parking issue is shared with every MF-29 zoned, single-family residence on Clifton and Victor. The site's size (and all the other MF-29 sites) is appropriate, but on the small side, for single-family residential. The site is located on two residential streets, Clifton and dead end Victor. Both have 60-degree diagonal parking in their ROWs as permitted by a minor street permits. This on street parking results in more traffic for these residential streets in tighter, slower traffic lanes, which is compounded on the eastern portion of Victor because of its 40-foot ROW. The requested NO zoning would add to parking issues and traffic in the area. The site does not have direct access onto Douglas, while having direct access to Douglas is a common feature for maybe all of the nonresidential development in the area. As they are currently owned and developed as single-family residences, neither the subject site or the MF-29 zoned properties that abut its south and west sides are individually large enough for office or apartment development. Even if two or three of the properties were combined in zoning, their improvements were shared and their residences were retained and converted to office, access, parking and internal circulation would remain issues. The subject site and its abutting southern neighbor are two of the smallest developed properties in the area. There are examples of office and retail in converted single-family residences, with common/shared parking and access in the area and the site does not match those profiles; larger lots and direct access onto Douglas. The subject site is a problematic piece of property in regards to retaining its current single-family use because of its proximity to Clifton Square, but as noted its small size, its lack of direct access onto Douglas and its closer proximity to

single-family residential development makes any proposed nonresidential development more problematic for the site and the area. Therefore, based upon information available prior to the public hearings, planning staff recommends that the request for the NO zoning be DENIED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area is in the vital College Hill neighborhood. Properties located along Victor and Clifton are zoned MF-29, TF-3, B, GO and LC. Development consists of older single-family residences, with office and freestanding local retail on the GO and LC properties, which have Douglas frontage/access. Clifton Square is the freestanding local retail. It and a lot of the area's office development were single-family residences that have been converted to businesses. An unusual feature of the area is the 60-degree diagonal on street parking (via a minor street permit) along the Victor and Clifton frontage of Clifton Square. This parking puts more non-residential traffic onto Clifton and Victor. Short two-block long Victor either dead ends in the residential part of the area or directs traffic onto Douglas or through residential areas to 1<sup>st</sup> Street (a one way collector) via Clifton or Yale. One block west of the site, the mixed use, urban village Parkston PUD will produce a unique integrated local retail and mixed residential development to this older, vital neighborhood. Clifton is a designated path for school children attending College Hill Elementary and the proposed zoning compounds traffic and traffic patterns that negatively impacts pedestrian traffic in the area.
2. The suitability of the subject property for the uses to which it has been restricted: The 5,825.95-square foot site is too small to reach the density allowed by its MF-29 zoning for apartment development. The site, combined with its 2,828-square foot residential structure, is too small for office development that the NO zone change would permit. Its size is appropriate for its current use as single-family residential or perhaps a duplex. The site's orientation towards the LC zoned residences converted into the freestanding local retail in Clifton Square may have made it less attractive as a single-family residence, but maybe not as a duplex.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Code requirements for screening, landscaping, access and development present a mixed impact on the neighborhood. The required landscaping and screening would be improvements to the property and be positive for the neighborhood. Any type of nonresidential parking would involve extensive paving over the property, which would increase the runoff from the site and require a drainage plan, with consideration for its abutting single-family neighbors and both Victor and Clifton streets. Any parking design would include access onto Victor, as well as its current access onto Clifton, thus dumping nonresidential traffic onto the dead end Victor and the residential neighborhood. However, all dialogue on parking must begin with the fact that the site is not big enough for any parking except single-family or duplex residential. The requested zoning jumps over and isolates the remaining, similar and occupied single-family residence on Clifton, which is also zoned MF-29.
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 notes the site as appropriate for local commercial. This category includes commercial, office and personal service uses that do not have a regional draw. The requested NO zoning and the small size of the site ensure that the site will not be a regional draw. As located the requested zoning jumps over and isolates the remaining, similar and occupied single-family residence on Clifton, which makes it less of a transitional piece, but not quite a spot zone.
5. Impact of the proposed development on community facilities: Traffic onto the residential streets Clifton and Victor would increase from off the site. Both Clifton and Victor have minor street permits for off-site parking (with vehicles backing into both streets from their parking spots) on

both of them, which makes navigating them carefully critical. In Victor’s case this is compounded by Victor having only 40-feet of ROW, making it a tight fit for traffic. Drainage off of the site will increase because of the additional paving needed for an office’s on-site parking requirement, which the site is too small to be able to adequately address. The site’s lack of space for on-site parking will in turn lead to more cars attempting to use the already crowded streets for parking or to use the on street parking around Clifton Square (on Victor and Clifton) that has been permitted by minor street permits.

**CHAIRMAN MITCHELL** announced that this item had been withdrawn by the applicant.

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**5. Case No.: ZON2007-66** – Walter Graham (owner) Request City zone change from "MF-29" Multi-family Residential to "LC" Limited Commercial on property described as:

Odd lots 9 thru 17 inc. exc. west 10-feet for street, Block H, South University Place Addition, Wichita, Sedgwick County, Kansas  
and;  
Lots 19-21-23-25-27 exc. 10-feet for street and exc. south 11-feet of Lot 27, Block H, South University Place Addition, Wichita, Sedgwick County, Kansas. Generally located Southeast of the intersection of South Meridian and West Merton (1716 and 1722 S. Meridian).

**BACKGROUND:** The application area consists of two platted parcels with 240 feet of frontage on South Meridian. The site is zoned “MF-29” Multi-family Residential; the two parcels are each developed with a single-family residence and detached accessory structures. The residences were built in 1950 and 1930. The applicant seeks a zone change to “LC” Limited Commercial; the applicant does not specify a future desired LC land use.

Immediately north of the application area is an MF-29 zoned legal non-conforming mobile home, further north is a single-family residence which recently received a zone change to LC. North of Merton on both sides of Meridian are LC zoned strip malls. South of the application area is an MF-29 zoned fourplex, and MF-29 zoned single-family residences. East of the site is a “TF-3” Two-family Residential zoned church, and TF-3 zoned residences. West of the site, across Meridian, are “SF-5” Single-family Residential zoned residences and vacant lots. Southwest of the site, at the Meridian and Esthner intersection, is an LC zoned vehicle repair business.

**CASE HISTORY:** The site was platted as odd Lots 9 through 17 except the west 10 feet for street, and odd Lots 19 through 27 except the west 10 feet for street and except the south 11 feet of lot 27, Block H, of the South University Place Addition in 1887.

**ADJACENT ZONING AND LAND USE:**

NORTH:	“MF-29” “LC”	Mobile home, single-family residence, strip commercial
SOUTH:	“MF-29”	Fourplex, single-family residences
EAST:	“TF-3”	Church, duplex, single-family residences
WEST:	“SF-5”	Single-family residences, vacant lots

**PUBLIC SERVICES:** South Meridian is a paved, 4-lane, section-line arterial street with a 40-foot half-width right-of-way (ROW) at this location. The traffic count for this portion of Meridian is 16,359 vehicles per day. The Wichita CIP identifies a five-lane project for this portion of Meridian in 2012. The application area has three access points from Meridian. All normal utilities are available at the site.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this site as appropriate for “Urban Residential.” The Urban Residential

category includes all densities of residential development found within the urban municipality. The Comprehensive Plan Commercial Locational Guidelines state the following: commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion; commercial development should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses; commercial uses should locate in compact clusters or nodes versus extended strip developments; and commercially-generated traffic should not feed directly onto local residential streets. The application area is within the Stanley/Alley Neighborhood Association. No neighborhood plans exist at this location.

The City of Wichita Access Management Policy would require a 60-foot ROW at this location along Meridian, and would require a 400-foot separation between full movement access points. The proposed zone change from “MF-29” to “LC” would require conformance to all property development standards to include setbacks, compatibility standards, parking, screening, and landscape requirements.

**RECOMMENDATION:** Precedent was recently set with approval of a similar zone change two parcels north of this site. The City Traffic engineer has concerns regarding ROW width for Meridian improvements, and the number of access points. The Access Management policy would normally require 60 feet of ROW on an arterial, and would limit this site to one access point. The City Traffic engineer recommends a 50-foot ROW at this location (therefore a 10-foot dedication), two access points spaced a minimum of 150 feet, and a cross-lot agreement with the abutting north and south property owners, should those properties rezone to commercial zoning. A similar 10-foot ROW dedication was required for the LC zoning southwest of this site. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to the dedication of 10 feet of ROW on Meridian, dedication of access control except for two openings spaced a minimum of 150 feet along Meridian, and filing a cross-lot access agreement with the abutting north and south properties.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: North of the application area is an MF-29 zoned legal non-conforming mobile home, further north is a single-family residence which recently received a zone change to LC. North of Merton on both sides of Meridian are LC zoned strip malls. South of the application area is an MF-29 zoned fourplex, and MF-29 zoned single-family residences. East of the site is a “TF-3” Two-family Residential zoned church, and TF-3 zoned residences. West of the site, across Meridian, are “SF-5” Single-family Residential zoned residences and vacant lots. Southwest of the site, at the Meridian and Esthner intersection, is an LC zoned vehicle repair business.
2. The suitability of the subject property for the uses to which it has been restricted: Under the current zoning, the site could continue to be used for single-family residences, or could be re-developed with two-family or multi-family residential.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request would allow all land uses permitted in LC zoning on the site. The affect on nearby residents could be increased traffic, noise, trash, and light from a non-residential use.
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 “Urban Residential”. The Urban Residential category includes all densities of residential development found within the urban municipality. This request does not conform to the Commercial Locational Guidelines of the Comprehensive Plan which discourage commercial “stripping” of arterials. The site does not conform to the Access Management Policy; staff recommended dedications would mitigate traffic problems at this location.

5. Impact of the proposed development on community facilities: Traffic volume on Meridian could increase as a result of the proposed zone change, turning movements at this site would certainly increase with the proposed zone change. The staff recommended ROW dedication, access control dedication, and cross lot access agreements should mitigate the increased traffic and turning movements.

**JESS MCNEELY**, Planning Staff presented the staff report.

**JOHNSON** clarified that it was 40 feet of half-street width right-of-way.

Responding to a question from **MCKAY**, **MCNEELY** said there was 240 feet of frontage along Meridian.

**WALTER GRAHAM, APPLICANT, 1716 and 1722 SOUTH MERIDIAN**, said he was requesting Light Commercial zoning without restrictions. He referenced Michael Mark's zoning request, his neighbor to the north, and how the MAPC granted his application without any restrictions. He mentioned that Planning staff had requested that he dedicate 10 feet for right-of-way. He said all of his neighbors will be compensated by the City purchasing their land for right-of-way at fair market value, and that if he dedicates the property now he loses the opportunity to sell it to the City in the future. He also said he sees no reason for placement of restrictions at this time until future plans are solidified. He said from what he knows about cross-lot agreements, all parties share the cost to construct access drives and provide maintenance. He said such an agreement with his neighbors at this time would only serve them. He said both properties have adequate entrances in place, and that with staff's proposal, two parking spaces would be lost to the south at apartment complex. He said since the MAPC approved a similar case in December, 2007, without special restrictions, he would like the same consideration. He concluded by thanking the Commission for approving commercial zoning because he believed it opened the door to progress in the area.

**DIRECTOR SCHLEGEL** asked staff if the applicant was correct about the previous zoning case from December, 2007.

**MCNEELY** replied that no conditions were placed on the Mark's rezoning; however, he explained that staff had recommended denial of the case, but with the provision that the MAPC could approve Neighborhood Retail zoning along with dedication of access control because the lot had 50 feet of frontage which was not enough space to develop under current setback and parking restrictions. He said the MAPC and City Council approved Limited Commercial zoning with no dedication requirements.

**MCKAY** asked about the possibility of a "contingent" right-of-way dedication.

**DIRECTOR SCHLEGEL** asked what that would accomplish?

**MCKAY** said he didn't know if it would accomplish anything or not, but as the gentlemen pointed out, property owners around him will have the opportunity to sell right-of-way and be compensated by the City.

**MOTION:** To approve without the 10-foot right-of-way dedication, access management, or cross-lot access agreement.

**MARNELL** moved and **DOWNING** seconded the motion.

**SUBSTITUTE MOTION:** To approve, subject to staff recommendation.

**GISICK** moved, **DENNIS** seconded the substitute motion.

**MARNELL** commented that he was going to oppose the substitute motion because of the continued practice Planning Department staff has of extorting property from people when they apply for a zoning change. He said if the City can afford to buy the 10-foot strip of property from other property owners in the area, they can afford to pay this applicant also.

Responding to a question from **FOSTER** concerning the property to the north already having a dedication, **MCNEELY** referred to the map and briefly reviewed two properties on the north side of Meridian that have right-of-way already dedicated. He said there is some precedent for the request of dedication because commercial zoning intensifies uses in an area.

Responding to **FOSTER** concerning Meridian as an arterial, **MCNEELY** briefly explained the road system access management policy on arterials.

**SUBSTITUTE MOTION:** To approve, subject to staff recommendation, failed (5-7).  
**DOWNING, FOSTER, HENTZEN, JOHNSON, MARNELL, MCKAY, MILLER STEVENS** – No.

**FOSTER** requested that he be allowed to change his vote.

There was brief discussion concerning parliamentary procedure and “Robert’s Rules of Order” concerning **FOSTER**’s request.

**BOB PARNACOT, COUNTY LAW DEPARTMENT**, suggested that the Commission reconsider the item if members were unclear on the substitute motion.

**DIRECTOR SCHLEGEL** suggested that a motion be made to reconsider the vote on the substitute motion.

**MOTION:** To reconsider the vote on the substitute motion.

**FOSTER** moved, **HILLMAN** seconded the motion, and it carried (7-5).

**RE-VOTE ON SUBSTITUTE MOTION:** To approve, subject to staff recommendation failed (5-7).

**MARNELL** said he will continue to raise his objection to this because he did not think it was necessary to take land from landowners because they come to the Planning Commission for a zoning change. He said it may be lawful, but it is not right.

**HENTZEN** asked if it would be appropriate to ask why this person wants to change his vote and his reason for requesting a re-vote.

**FOSTER** said during the course of the discussion he heard three different motions and he realized after he voted that he was in error.

**ORIGINAL MOTION:** To approve without the 10 foot right-of-way dedication, access management, or cross-lot access agreement, passes (8-4).

**JOHNSON** explained that he was voting in favor of the original motion, even though he also voted in favor of the substitute motion, because he said he thinks light commercial works in this area.

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6. **Case No.: ZON2007-67** – Ranch 21, LLC (owners/applicants); PEC, c/o Rob Hartman (agent) Request County zone change from "SF-20" Single-family Residential to "LC" Limited Commercial on property described as:

A parcel of ground located in the North 300 feet of the East 800 feet of the Northeast Quarter of Section 12, Township 27 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas, more particularly described as follows;

COMMENCING at the Northeast corner of Section 12, Township 27 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas; thence along the east line or said Section 12 a distance of 300 feet; thence west, parallel with the north line of said Northeast Quarter, a distance of 52.50 feet to a point on the westerly right of way line of 159th Street East as described in Film 1668, Page 2, Sedgwick County Register of Deeds office; said point being the POINT OF BEGINNING; thence west, parallel with the north line of said Northeast Quarter, a distance of 747.50 feet; thence north, parallel with and 800 feet distant from the east line of said Northeast Quarter, a distance of 250 feet to the southerly right of way line of 21st Street South as described in said Film 1668, Page 2; thence continuing along the south and westerly lines of side right of way through the following five courses; thence east, a distance of 450 feet; thence southeast to a point 250 feet west and 75 feet south, parallel with the north and east lines of said Northeast Quarter; thence east, parallel with the north line of said Northeast Quarter, a distance of 175 feet; thence south, parallel with the east line of said Northeast Quarter, a distance of 175 feet; thence southeast to the POINT OF BEGINNING. Generally located Southwest corner of 21st Street North and 159th St. East.

**BACKGROUND:** The applicant owns this approximately 4.6-acre site located along the south side of E. 21<sup>st</sup> St. North, and along the west side of N. 159<sup>th</sup> St. East. The property is located in the County, but is within the Wichita 2030 growth area. The property is currently zoned Single-family Residential ("SF-20") and the applicant is requesting Limited Commercial ("LC") zoning on this property for the possible development of retail uses. The subject property is currently undeveloped.

Undeveloped single-family residential tracts, residential subdivisions and undeveloped commercial land characterize the surrounding area. The subject site is within the County (District I) and directly across E. 21<sup>st</sup> St. N. from property recently annexed by the City (2/07). This annexation contains a large residential subdivision and a commercial Community Unit Plan (DP-303,) that is located directly north of the subject site, at the northwest corner of E. 21<sup>st</sup> St. N. and N. 159<sup>th</sup> St. E. The subdivision, Community Unit Plan and annexation were all approved at the end of 2006 and beginning of 2007. Property directly west of the subject site is developed with Single-family Residences. The property to the northeast on 21<sup>st</sup> Street North, in Butler County is in agricultural use, but a school is under construction ¼ mile east and a school is under construction 1/8 mile north on 159<sup>th</sup> Street East. The property at the northeast and southeast corners of E.21<sup>st</sup> St. N. and N. 159<sup>th</sup> St. E. (Butler County,) is undeveloped. This pattern suggests that this particular intersection could potentially be used as a commercial node in the future. The property to the south is zoned "SF-20" Single-family Residential; current development to the south consists of farmsteads, agricultural tracts and large suburban tracts.

**CASE HISTORY:** This property is unplatted.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"SF-5"	Vacant Residential Land
SOUTH:	"SF-20"	Vacant Residential Land
EAST:	Butler County	
WEST:	"SF-20"	Single-Family Residence

**PUBLIC SERVICES:** The site has direct access to E. 21<sup>st</sup> St. North, a two-lane principal arterial street with no traffic volume counts near this location. The site also has access to N. 159<sup>th</sup> St. E., a two-lane minor arterial with no traffic volume counts near this location. The subject property has access to water, with water mains running along the north and east property lines. Public sewer service will have to be extended to the subject site.

Improvements to 21<sup>st</sup> St., between K-96 and 159<sup>th</sup> St. East are scheduled to begin around the spring of 2008. 21<sup>st</sup> St. is currently a two-lane asphalt road with drainage ditches. The proposed improvement would consist of a five-lane roadway with two through lanes in each direction and a center left turn lane with a landscaped median in the west mile of the project. Left turn lanes will be provided at all three intersections with the 21<sup>st</sup> Street at 127<sup>th</sup> St. East, 143<sup>rd</sup> St. East and 159<sup>th</sup> St. East. Drainage improvements are included in the project as well as 5-foot sidewalks on both sides of the street the length of the project. It is estimated that the project would take 12 to 15 months to complete.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for “Local Commercial” development within the 2030 Wichita Urban Growth Area. This category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. The commercial location guidelines state that commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion and the location of major commercial uses should be coordinated with mass transit routes, high-density residential, employment and other intensive uses. Commercial development should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses. Commercial uses should be located in compact clusters or nodes versus extended strip developments and commercially generated traffic should not feed directly onto local residential streets. The current zoning request of LC for the 1.6-acre subject site is compatible with the Comprehensive Plan’s recommended development. The property north of the subject site, across 21<sup>st</sup> St., is a part of CUP DP-303, Monarch Landing Community Unit Plan. This is a commercial community unit plan that will be zoned LC once platting has been completed. The northeast and southeast corners of the intersection of 21<sup>st</sup> and 159<sup>th</sup> (located in Butler County) are both vacant.

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

- A. Uses allowed by right in LC except: group residence, correctional placement residence, group home, outdoor recreation, recycling collection station, utility, kennel, night club, pawn shop, sexually oriented business, tavern and drinking establishment and wireless communication facility, cemetery, all industrial, manufacturing and extractive uses;
- B. Buildings would have uniform architectural compatibility and parking lots should have similar or consistent lighting elements, limited to 25 feet in height, lowered to 15 feet within 100 feet of residential use. Window display signs are limited to 25 percent of the window area.
- C. Flashing signs (except time, temperature, public service messages) moving, portable, billboards (off-site signs), banners and pennants would be prohibited. Building wall signs shall be prohibited on the south and west elevations.
- D. Setbacks 35-feet on the south and west property lines and 15-feet on the north and east property lines.

- E. No overhead doors, drive-through or in car service (for restaurants, banks, etc), service station, fuel outlets or gas pumps shall be permitted within 200 feet of residential zoning and shall not be facing any residential zoning district, and queuing for drive-through lanes (restaurants, ATMs, etc.) shall not direct vehicle headlights into any abutting residential zoning district.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Undeveloped single-family residential tracts, residential subdivisions and undeveloped commercial land characterize the surrounding area. The subject site is within the County (District I) and directly across E. 21<sup>st</sup> St. N. from property recently annexed by the City (2/07). This annexation contains a large residential subdivision and a commercial Community Unit Plan (DP-303,) that is located directly north of the subject site, at the northwest corner of E. 21<sup>st</sup>. St. N. and N. 159<sup>th</sup> St. E. The subdivision, Community Unit Plan and annexation were all approved at the end of 2006 and beginning of 2007. Property directly west of the subject site is developed with Single-family Residences. The property to the northeast on 21<sup>st</sup> Street North, in Butler County is in agricultural use, but a school is under construction ¼ mile east and a school is under construction 1/8 mile north on 159<sup>th</sup> Street East. The property at the northeast and southeast corners of E.21<sup>st</sup> St. N. and N. 159<sup>th</sup> St. E. (Butler County,) is undeveloped. This pattern suggests that this particular intersection could potentially be used as a commercial node in the future. The property to the south is zoned “SF-20” Single-family Residential; current development to the south consists of farmsteads, agricultural tracts and large suburban tracts.
2. The suitability of the subject property for the uses to which it has been restricted: The area is suitable for the use as currently zoned (urban residential) but according to the Comprehensive Plan, this particular portion is appropriate for less intensive commercial use/local commercial uses such as allowed in the NR zoning district or selected LC zoning uses that are not large in scale or accompanied by activities such as drive-through windows, overhead doors associated with vehicle repair, limited.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The scale and impact of any development within LC zoning should be mitigated by the site development requirements related to access management, landscaping, screening, lighting and signage.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for “Local Commercial” development within the 2030 Wichita Urban Growth Area. This category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. The commercial location guidelines state that commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion and the location of major commercial uses should be coordinated with mass transit routes, high-density residential, employment and other intensive uses. Commercial development should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses. Commercial uses should be located in compact clusters or nodes versus extended strip developments and commercially generated traffic should not feed directly onto local residential streets. The current zoning request of LC for the 1.6-acre subject site is compatible with the Comprehensive Plan’s recommended development. The property north of the subject site, across 21<sup>st</sup> St., is a part of CUP DP-303, Monarch Landing Community Unit Plan. This is a commercial community unit plan that will be zoned LC once platting has

been completed. The northeast and southeast corners of the intersection of 21<sup>st</sup> and 159<sup>th</sup> (located in Butler County) are both vacant.

5. Impact of the proposed development on community facilities: As proposed, traffic could be expected to increase on 21<sup>st</sup> Street North, making it critical to limit the number of access points. The 21<sup>st</sup> St. improvement project will also help in mitigating any negative traffic impacts that can occur with new commercial uses.

**DERRICK SLOCUM**, Planning Staff presented the staff report.

**HILLMAN** reported that the minimum setback requirement was 20 feet, not 15 feet as requested in the staff report. He said he would like that changed or an explanation from staff.

**SLOCUM** referred Commissioners to an E-Mail, which was a “handout,” from the applicant where staff and the applicant agreed on the 15 feet as part of the Protective Overlay agreement.

**HILLMAN** suggested that since there was plenty of room for the minimum rear setback, that the property owner could shift the site plan without any problems.

**SLOCUM** explained that there was a large berm in front of the property. He said the applicant suggested moving the berm to the south, which would eliminate the need for the 35-foot setback to the south.

**ROB HARTMAN, PEC, AGENT FOR THE APPLICANT**, said they are in agreement with staff comments.

**MARNELL** clarified that PEC was also in agreement with the E-Mail and that those items would be incorporated into the Protective Overlay agreement.

**HARTMAN** said that was correct.

**RON GARCIA, 15615 E. 21<sup>ST</sup> NORTH**, said he was wondering about the status of the berm and how it would be maintained.

**HARTMAN** explained that the berm would be moved to the south edge of the property.

**FOSTER** clarified that the berm was to be physically moved off of this property onto the adjoining property? He asked who will assume maintenance of the berm?

**HARTMAN** that he didn't know, he assumed the property owner to the south.

**FOSTER** asked about the reserve dedication to the south.

**HARTMAN** explained that plans for the property to the south were development of residential zoned lots with the berm as a buffer. He said details of that configuration would be determined when they bring the site plan in for platting review and approval.

**GARCIA** asked if the berm was going to be on the west side of the property.

**HARTMAN** stated that the west berm will no longer be there and that the waterway would stay because it provided drainage through the area. He said the new berm will serve as a buffer between residential and commercial zoning.

**GARCIA** clarified that the berm will provide a buffer for the development to the south, but that there will be no buffer between his property to the west.

**HARTMAN** explained that there would be a 200-foot setback and other restrictions such as queuing on lights and insuring that they do not shine into residential areas to the west.

**MOTION:** To approve, subject to staff recommendation and incorporation of the referenced E-Mail from the applicant.

**MARNELL** moved, **HILLMAN** seconded the motion, and it carried (12-0).

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**TAPE 1, SIDE 2**

7. **Case No.: CUP2007-67/ZON2007-68** – C D Land Company, LLC (Attn: Chris Dugan) (owner); Baughman Company, PA c/o Russ Ewy (agent) Request Creation of DP-309 Ashton Creek Park Commercial and Residential Community Unit Plan; county zone change from "SF-20" Single-family Residential to "LC" Limited Commercial, "GO" General Office, "NR" Neighborhood Retail and "MF-18" Multi-family Residential on property described as:

That part of Government Lots 1 and 2 and the South 1/2 of the Northeast 1/4 of Section 1, Township 27 South, Range 2 West of the 6th Prime Meridian, Sedgwick County, Kansas described as follows:

BEGINNING at the Northeast corner of said Northeast 1/4; thence southerly along the east line of said Northeast 1/4, 1476.80 feet; thence westerly perpendicular to the east line of said Northeast 1/4, 260 feet; thence northerly parallel to the east line of said Northeast 1/4, 267 feet; thence westerly perpendicular to the east line of said Northeast 1/4, 734.40 feet; thence northerly perpendicular to the north line of said Northeast 1/4, 920.74 feet to a point 260 feet normally distant south of the north line of said Northeast 1/4; thence westerly parallel with the north line of said Northeast 1/4, 340 feet; thence northerly perpendicular to the north line of said Northeast 1/4, 260 feet to a point on the north line of said Northeast 1/4; thence easterly along the north line of said Northeast 1/4, 1368.74 feet to the point of beginning, all being subject to road rights-of-way of record. Generally located Southwest of the intersection of 29th Street North and 119<sup>th</sup> Street West.

**DONNA GOLTRY**, Planning Staff presented the staff report.

**GOLTRY** referred Commissioners to the "handouts" in front of them which were E-Mails received by staff regarding the case. She briefly reviewed comments made by the following individuals: Jason Moyer, Aaron and Melanie Lehman, Ryan Morrell, Lonnie Larson, Ruth Bell, Kim Bell, Stephanie Larson and Jerry and Annette Profitt.

**HENTZEN** requested clarification concerning several adjacent property owners.

Responding to a question from **DENNIS** concerning District Advisory Board (DAB) review, **GOLTRY** explained that the site was located in Sedgwick County. She further clarified that the Wichita-Sedgwick County Comprehensive Plan identified commercial development at this intersection. She said the plan anticipated multi-family, as well as neighborhood, local and regional retail and general office zoning in the area.

**MILLER STEVENS** commented that even though the site is county property, since it abuts the City of Maize, did Maize have any standards that needed to be taken into consideration. She also asked about possible annexation by the City of Wichita.

**GOLTRY** commented that the City of Maize has basically adopted the same zoning regulations as the City of Wichita. She said she couldn't comment on annexation plans.

**FOSTER** asked about the property to the north of the site which was parkland for the City of Maize and whether that would remain parkland. He also asked about the possibility of a north/south path in the area, relative to school access.

**GOLTRY** stated that she couldn't respond to those questions.

**FOSTER** asked if the decel lanes allowed enough room for landscape buffering on the east and north sides of the property.

**GOLTRY** said yes that there would be a full 60-foot right-of-way, which was ample for landscape buffering.

**FOSTER** asked if staff knew the percent of ownership that the "Protest Petition" represented and if those protests would go to the County Commission.

**GOLTRY** responded that staff didn't know the percent of ownership that the one protest petition represented; however, she mentioned that the case would have a relatively complicated protest area since it included both City and County properties. She added that individuals had 14 days after this hearing to file protests, which would be provided to the County Commission with the agenda item.

Responding to a question from **FOSTER** concerning distance from the future bypass, **DIRECTOR SCHLEGEL** clarified that the bypass was located 1 ½ miles north of the site.

**GISICK** asked about the validity of a protest on something that the Commission has not acted on yet.

**GOLTRY** commented that they are protesting the requested zoning change.

**MCKAY** questioned the number of openings (nine) onto major streets and briefly reviewed them with staff. He said that seemed excessive to him, especially with the two decel lanes. He also asked if there was any interior circulation.

**GOLTRY** responded that internal site circulation is required for each individual parcel under the Access Management Policy and Urban Standard Guidelines.

**RUSS EWY, BAUGHMAN COMPANY, AGENT FOR APPLICANT** said they are in agreement with staff comments. He said the applicant also owns property to the south of the site, which will be subdivided into a standard urban density development with a pond in the center of the property. He said the proposed community unit plan is in conformance with the Wichita-Sedgwick County Comprehensive Plan. He said they have avoided Limited Commercial zoning and moved forward with the idea of a "mixed use" development tempered with General Office, Neighborhood Retail, and Multi-Family Residential zoning.

**STEVEN AND MARY BROWN, 2833 N. WILMOHR DRIVE** said although they are not opposed to development, they believe the impact on the total community needs to be taken into account. He mentioned that the area has been used for farmland for so long. He said his family purchased and built their property in 1978 and that they have witnessed dramatic changes in the traffic pattern in the area. He mentioned that 29<sup>th</sup> Street North is the main access to K-96. He said the Cowskin Creek is located directly behind properties on Wilmoehr Drive and said they are concerned about the drainage pattern, especially with this much property being paved, roofed, and covered in addition to the close proximity to the sewage treatment plant on 135<sup>th</sup> Street. He said 119<sup>th</sup> Street is a major arterial into Maize. He said this two lane road can't be maintained very much longer especially with the number of school buses using

the road, even with excel and decel lanes. He said they would like to find out more about the actual future proposal. He said the information provided with the Staff Report was just the “tip of the iceberg” and that they would like some explanation or even verbal commitment as to where the overall project was going.

**MARY BROWN** said their big concern was that the light commercial zoning will produce significantly larger traffic flow. She questioned the Staff Report on traffic counts and said since they have lived there three years, they have seen changes in the traffic and have had to adjust their driving patterns to travel east around the utility improvements. She said it is hard to tell what Maize wants to do at this point. She also mentioned environmental concerns about the Cowskin Creek. She concluded by asking exactly what “group homes limited” meant?

**STEVEN BROWN** said the City’s 2010 proposal has the area scheduled to receive City utilities in 2030, which will be extended to 135<sup>th</sup> Street. He said there are some pros to being annexed, but he feels it will put a strain on this system. He briefly mentioned the fire district. He said there are too many questions about the proposal that have not been answered.

**GREG FARRELL, 11909 WEST RYAN COURT** said he was concerned about the large scale of the development, the increase in crime, traffic, noise and light pollution. He said it seems out of scale for the area which is residential. He said he would like to go on record as being opposed to this proposal.

**CHERYL HOBSON, 11961 RYAN COURT** said her backyard abuts 119<sup>th</sup> Street, and with the proposal of multi-family residential, they are concerned about property values in West Ridge Estates. She said this is an enormous amount of commercial development. She said they were told when they bought the property three years ago that this area was zoned for single family homes, and that at no time was multi-family, group homes, or commercial development mentioned. She said she wanted to state her opposition to the proposal.

**MERYL KEISER, 11926 WEST CENTRAL PARK COURT** said he echoed the comments already stated. He said he was particularly concerned about the traffic that this “Tsunami like” development is going to generate in the area. He mentioned multi-family units and the amount of housing that is being distributed in this small amount of space. He mentioned the amount of traffic along west 29<sup>th</sup> Street. He also mentioned traffic along 119<sup>th</sup> Street and Highway 50, and added that there have been deaths at that location. He mentioned the volume of traffic from the high school on 119<sup>th</sup> Street and how the entrances and exists from this development are going to affect that. He said they bought into this development to retire and be as far west from the City as they could. He said this was upsetting because the volume of traffic has already increased dramatically since they have lived there. He questioned the traffic figures in the Staff Report and said they look very minimal. He questioned when they were taken, during the summer, or when school was in session when traffic was the heaviest.

**TOM HORNER, 2823 WILMOHR** said he has lived there for 20 years. He asked the Commission if they had any consideration for the people who have been there for 20 years? He said he has spent time landscaping his property and that everything is paid for. He said he didn’t know how his property might get incorporated into this mess. He also asked about the multi-family dwellings. He said for all they knew, they could be low-income housing. He asked the Commission what did he need to do, buy a for sale sign?

**RUSS EWY, BAUGHMAN COMPANY, AGENT FOR APPLICANT** said he has reviewed the citizen comments in the written material provided to him by staff. He said for staff and developers that have been doing this type of work for a number of years, these are standard questions and concerns about development patterns on the edges of Wichita. He said this is simply urban scale development into a rural area. He said Wilmoehr Drive is platted outside of any redevelopment patterns so there are no plans to tie into that road system when the other subdivision comes on line. He said their access plan (both internal and along 119<sup>th</sup> and 29<sup>th</sup> Streets) has been pre-approved by the County Traffic Engineer.

**MOTION:** To give the agent another minute for rebuttal.

**DOWNING** moved, **HENTZEN** seconded the motion, and it carried (12-0).

He said arterial intersections such as 119<sup>th</sup> and 29<sup>th</sup> Streets can expect urban style roadways in order to proceed with development of this property. He said these two streets will not remain county standard roadways. He said they will eventually be four to five lane arterial roadways. He said current drainage patterns to the south and into the creek will be maintained. He said the drainage plan is taken into consideration when the plat for commercial and residential development is reviewed and approved.

**DENNIS** questioned whether road improvements were included in the City CIP. He also mentioned the “zoning area of influence” and whether a District Advisory Board should hear the proposal.

**GOLTRY** explained that this Commission was hearing the case on behalf of the City. She said whether the case should be heard by a DAB was beyond staff authority.

**FOSTER** asked about access management and how far into the future the study projected traffic volume.

**GOLTRY** said policy provides general guidelines on “full” and “right in” and “right out” movement for urban standard roads. She said if further arterial configuration is required, then the applicant needs to do a traffic study.

**FOSTER** asked if 119<sup>th</sup> Street was slated to become a four-lane roadway? He also asked staff to review surrounding zoning in the area.

**GOLTRY** responded that as far as she knew, 119<sup>th</sup> Street was scheduled to become four-lane. She also reviewed surrounding zoning which included General Office, Limited Commercial and Neighborhood Retail.

**MCKAY** asked if staff felt comfortable with the traffic numbers.

**GOLTRY** responded that the County Traffic Engineering was comfortable with the numbers they provided.

**MOTION:** To approve, subject to staff recommendation.

**MCKAY** moved, **MARNELL** seconded the motion, and it carried (11-1).

**DENNIS** - No

**DENNIS** said he was torn. He said there probably needs to be some type of development at this intersection; however, 119<sup>th</sup> Street is very congested right now with school traffic. He commented that he didn't know if there was anything in the CIP for road improvements in the area. He said he believed something needed to be developed at the location, but he wasn't sure if this was appropriate.

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8. **Case No.: CON2007-47** – Alltel Communications, Inc., c/o Joel Taylor (applicant); Kenneth Hermes (owner) Request County Conditional Use for a wireless communication facility on property described as:

Beginning 564.98 feet East of the Southwest corner of the Southwest Quarter; thence North 441.7 feet; thence East 221 feet; thence South 441.7 feet; thence West 221 feet to beginning EXCEPT South 40 feet for road Section 10, Township 26, Range 3 West, of the 6th P.M., Sedgwick County, Kansas.

AND

Beginning 785.98 feet East of the Southwest corner of the Southwest Quarter; thence North 441.70 feet; thence East 185.52 feet; thence South 441.70 feet; thence West to beginning; EXCEPT South 40 feet for road, Section 10, Township 26, Range 3 West, of the 6th P.M., Sedgwick County, Kansas. Generally located On the north side of 61st Street North and east of 263rd Street West.

**BACKGROUND:** The applicant, Alltel Communications, is seeking a Conditional Use to permit the construction of a 198-foot high, galvanized steel, lattice, self-supporting, cell phone tower. The 75-foot (x) 75-foot tower site is zoned "RR" Rural Residential and is located on the north side of 61st Street North, less than a ¼-mile east of 263rd Street West and approximately ¼-mile west of Andale. The tower site is located within 3.7-acres of the owner/applicant's property. New wireless communication facilities over 65-feet in height in the "RR" zoning district may be permitted with a Conditional Use. The subject property is located within the City of Andale's area of zoning influence, thus the Andale Planning Commission will consider this request at their January 10, 2008 meeting.

The applicant has indicated (see attached letter #1) that the proposed facility is needed to both provide, extend and improve phone service in this section of Sedgwick County, which includes Andale. The applicant indicates that there are no towers or structures in the immediate 3-mile area that would allow co-location opportunities to meet their communication needs. The wireless case map shows two land mobile private facilities within the City of Andale (approximately ¼-mile from the site) and another three facilities less than 3-miles from the site. The applicant had contacted the City of Andale in regards to location on the 150-foot city water tower, but consideration for the water tower as a site was inconclusive. The Coop located in Andale currently has a Pixius communications' dish located on its 120-foot elevator, but there seems to have been no dialogue between the Coop and the applicant. The applicant has indicated that they have equipment on at least one of the three mentioned facilities located outside of Andale, it being located between Mount Hope and Andale. The other closest facilities/towers appear to be located approximately 7-miles north (around Mount Hope) and east (Colwich) of the site; the applicant has co-located on one of the Colwich area's towers, some which are approximately 1,000-feet tall. There is also a tower/facility used by the FAA for air traffic control located approximately 1 ¾-mile southwest of the site. This tower is owned by the US government and appears to be restricted, with probably no co-location opportunities.

The areas around the site are mostly active agricultural fields, broken up by drainage and groups or hedges of trees. Besides the owner's residence, which is located on the property the applicant proposes to lease for the tower site, the nearest residences are located less than ½-mile west of the site (built 1958 1972), and the residences located in Andale, approximately ¼-mile east of the site. Besides these residences and those in Andale, there appears to be approximately 30 single-family residences located within a mile of the site, with most of them located in a cluster, northwest of the site along the northeast side of the 61st Street North – 279th Street intersection. There is an active railroad line approximately ¼-mile east of the site. All the surrounding properties are zoned "RR" Rural Residential.

The site plan shows the 75-ft (x) 75-ft (0.13-acres) tower site located within a 3.7-acre property, which has the property owner's residence and accessory out buildings. The owner's residence and all of the accessory outbuildings are within the 198-foot fall area (see "Fall Zone Site Plan") of the tower, which does not show the tower falling beyond the applicant's property. Liability in regards to damages caused by the tower or portions of it falling onto the property owner's/applicant's residence, accessory outbuildings and other private properties is a private contract, with neither the County or Andale liable.

The site plan shows a 6-foot chain link fence with 3-strands of barbed wire around the tower, a 40-foot wide, circular, gravel ingress/egress easement (to 61st), a telephone pedestal, a power pole and, located within the fenced-in area, an 11-foot, 5-inch (x) 16-foot equipment building, a PPC cabinet and a telephone equipment board. The site plan also gives a general grouping of the existing trees, which appear to be mostly cedar.

The existing landscape of the around 0.13-acre tower site may provide sufficient screening between the facility and the abutting "RR" zoned properties around it; the applicant must provide a detailed landscape plan which identifies existing trees and shrubs, locates them, gives their total numbers and their size to determine if it meets screening requirements of the Unified Zoning Code (UZC) Art. IV, Sec. IV-B.3.b.1. Art. IV Sec. IV-C.5.b. of the UZC requires a setback equal to the height of the communication tower from the abutting properties; it appears that the 0.13-acre site as it is located with the owner's 3.7-acres meets that standard. The applicant has provided a letter (letter #2) from the owner of the property abutting the applicant's east, west and north sides, which indicates that she has no objection to the facility's proximity to her property.

The proposed tower and associated communication frequencies and wattages must meet standards determined by the Federal Aviation Administration (FAA) to pose no hazard to air navigation or interferes with other radio/communication frequencies. The applicant has not provided an analysis of airspace in the area, which must be provided to staff prior to building permits being issued. The applicant has not provided any proposed lighting of the tower, which must meet the FAA requirements or aircraft warning. Section Art. III Sec. III-D.6.g.(5) of the UZC prohibits strobe lighting. Art V Sec. V-D.6. of the UZC allows the Board of County Commissioners to modify Supplementary Use Regulations (such as the strobe lighting prohibition) upon receiving a favorable recommendation from the MAPC. The proposed galvanized surface of the tower will blend into the sky more readily than a red or white paint, which meets the intent of the "Design Guidelines" of the "Wireless Communication Master Plan." The proposed tower will allow co-location for four (4) other providers, which exceeds the UZC's minimum number for co-location. This tower will have a triangular "top hat" antenna array, the UZC recommends antennas mounted flush to the support structure over triangular "top hat" antenna arrays.

**CASE HISTORY:** The "RR" zoned subject property is unplatted and is located within the City of Andale's area of zoning influence. The Andale Planning Commission considered this case at their Thursday, January 10, 2008 meeting. During the meeting an agent for a tower builder/tower management company made a counter proposal to Andale; allow them to do an analysis of the city water tower (located within Andale) as a co-location site, rather than take action on the Conditional Use. The agent stated that he had asked this proposal be put on the Andale City Council agenda for the last week of January, which was after the MAPC's January 24, 2008 public hearing. The Andale Planning Commission asked why the agent was now approaching them and the agent stated that he was at the meeting because of his knowing about the Conditional Use request. The MAPD advised Andale that they could recommend approval or denial of the Conditional Use and that no recommendation from Andale would be the same as recommending approval. Andale asked if they could recommend that the MAPC defer the request until Andale could consider both the Conditional Use and the counter water tower proposal. The MAPD advised Andale that the MAPC did not have to agree to a deferral recommendation. The MAPD advised Andale that: (a) If there were valid protest to the Conditional Use after the MAPC meeting, the request would proceed to the BoCC for final action and that a  $\frac{3}{4}$  vote of the members present were needed to overturn the protest. (b) If Andale recommended denial and the MAPC recommended approval, the request would proceed to the BoCC for final action and that a unanimous vote of all the members was needed to overturn the Andale denial. (c) If Andale recommended a deferral and the MAPC recommended approval of the Conditional Use, the request would proceed to the BoCC for final action and a  $\frac{2}{3}$  vote of the members present was needed to overturn the MAPC recommendation and that the BoCC could recommend to send the request back to Andale and re-advertise a new MAPC public hearing date. The Andale Planning Commission voted to have a special joint meeting, January 22, 2008 (see attached letter) of the Andale City Council and the Planning Commission to consider the

Conditional Use and the water tower proposal. There were no protests to the request at the Andale Planning Commission meeting.

**ADJACENT ZONING AND LAND USE:**

NORTH:	“RR”	Agriculture
SOUTH:	“RR”	Agriculture
EAST:	“RR”	Agriculture, owner’s residence
WEST:	“RR”	Agriculture

**PUBLIC SERVICES:** No municipally supplied public services are required. The applicant will extend electrical and phone service to the site. The site has access to 61st Street North, a paved two-lane county highway. 247th Street West (Andale Road) is located approximately ¾-mile east of the site and is also a paved two-lane county highway. 263rd Street West, located approximately 1/4-mile west of the site is an unpaved Sherman Township Road. The 2030 Transportation Plan shows no change to the current status of these roads.

**CONFORMANCE TO PLANS/POLICIES:** The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan requires a Conditional Use for new undisguised ground mounted facilities over 65-feet in height in the “RR” Rural Residential zoning district, that comply with the compatibility setback standards. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area as much as possible; 2) minimize the height, mass, or proportion; 3) minimize the silhouette; monopoles are favored over lattice type structures for up to 150-feet and antennas mounted flush to the support structure over triangular “top hat” antenna arrays; 4) use colors, textures, and materials that blend in with the existing environment; 5) be concealed or disguised as a flagpole, clock tower, or church steeple; 6) be placed in areas where trees and/or buildings obscure some or all of the facility; 7) be placed on walls or roofs of buildings; 8) be screened through landscaping, walls, and/or fencing; and 9) painting towers red and white instead of using strobe lighting. Since the time the Wireless Communication Master Plan was adopted, the FAA changed their regulations to require daytime strobe lighting; whereas, when the plan was adopted, the FAA allowed painted towers red and white instead of using strobe lighting. The application appears to meet most of these considerations.

The site is outside the City of Andale’s and Wichita’s 2030 growth areas and is classified as a “rural area.” The 2030 Functional Land Use Guide, defines “rural functional land use” as land being outside of all Sedgwick County’s cities’ 2030 growth areas and meant to accommodate agricultural uses, rural uses no more offensive than those agricultural uses found in Sedgwick County and predominately larger lot residential subdivisions (2-acres or more in size) with provisions for individual or community water and sewer services. Communication facilities are a common use in rural areas of the county and present an opportunity to improve communication services to all of Sedgwick County, while affected the fewest number of people with their presences.

**RECOMMENDATION:** Based upon these factors and the information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to the following conditions:

- A. All requirements of Art. III Sec. III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The support structure shall be a “lattice” design that generally conforms to the approved site elevation and that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare. Antennas mounted flush to the support structure are preferred over triangular “top hat” antenna arrays and the applicant needs to demonstrate why the “flush” arrangement does not work.

- D. The support structure shall not exceed 198-feet in height and shall be designed and constructed to accommodate communication equipment for at least 4 wireless service providers.
- E. The tower shall conform to FAA regulations in regards to analysis of airspace in the area, which includes conformation that the height of the tower is not hazard to air navigation (including the need or not for lighting) and that the tower does not interfere with other radio/communication frequencies. The applicant shall submit a current copy of FAA approval to the MAPD and the Code Enforcement Office prior to the issuance of a building permit.
- F. The 0.13-acre tower site located within the owner's 3.7-acres shall be developed in general conformance with the approved site plan. The applicant must provide a detailed landscape plan which identifies existing trees and shrubs, locates them, gives their total numbers and their general size to determine if it meets screening requirements of the Unified Zoning Code (UZC) Art. IV, Sec. IV-B.3.b.1. All improvements shall be completed before the facility becomes operational.
- G. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- H. 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 Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is rural. The properties surrounding the subject property in all directions are zoned "RR" Rural Residential and are used for agriculture, farmsteads, or large tract single-family residences. The City of Andale is located approximately 1/4-mile from the site. Wireless communication facilities of this size are typically located in rural areas, where they will affect the fewest number of people and can be consistent with the zoning, uses, and character of the rural areas of Sedgwick County.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR" Rural Residential and is currently used for a residence. The site is apparently suitable for continued residential use. A Conditional Use may be granted to permit a wireless communication facility in the "RR" Rural Residential zoning district; however, the facility should conform to the guidelines of the Wireless Communication Plan as much as possible. The proposed facility conforms to most of the plan's guidelines.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects on the "RR" zoned properties and agricultural activities in the area should be minimized to a degree by the Conditional Use standards of the Unified Zoning Code, which should limit noise, lighting, and other activity from adversely impacting these properties. The Renwick School District, which Andale schools are located in, is a customer of Alltel and has indicated that the proposed tower would be a needed improvement in service.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility appears to conform to the Location Guidelines of the Wireless Communication Master Plan since there appears to be no other towers or tall structures in the vicinity of the site which can accommodate the communication needs of the applicant. It is always possible that other facilities may be presented as alternative/co-location sites during the public hearing, in which case the applicant will need to address those claims/opportunities for possible co-location. The proposed wireless communication facility mostly conforms to the Design Guidelines of the Wireless Communication Master Plan by minimizing the height, mass, proportion, and silhouette of the facility through its lattice design; by utilizing an unobtrusive color with a matte finish to minimize glare; and by being placed in an area where existing vegetation obscures some of the facility from view. Antennas mounted flush to the support structure are preferred over triangular "top hat" antenna arrays and the applicant needs to

demonstrate why the “flush” arrangement does not work. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned “TF-3” or more restrictive. The site appears to meet that standard, as presented by the applicant’s “Fall Zone Site Plan.”

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

**BILL LONGNECKER**, Planning Staff presented the staff report, giving the details of the January 22, joint meeting of the Andale City Council and Planning Commission. He reported that the result of the joint meeting was the Andale City Council voted not to allow another tower builder/tower manager put communication equipment on the city water tower. After the Council vote the Planning Commission voted to approve CON2007-47.

**JOEL TAYLOR, ALLTEL COMMUNICATIONS, INC., APPLICANT**, said they accepted staff’s recommendation.

**FOSTER** asked if any other locations were considered further away from the City.

**TAYLOR** explained that this was ALLTEL’s “fill in” tower between Mt. Hope and Goddard. He said once the City of Andale steered them away from using the water tower, that this was the next best property. He also mentioned that it was screened with mature trees.

**MOTION:** To approve, subject to staff recommendation.

**HILLMAN** moved, **JOHNSON** seconded the motion, and it carried (12-0).

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9. **Case No.: CON2007-49** – John Mash, Owner Request City Conditional Use request to allow access through "SF-5" Single-family Residential zoning to a commercial use (Catering Business) located in "LC" Limited Commercial zoning on property described as;

Lots 2 and 3, Block A, McEvoy Addition to the City of Wichita, Sedgwick County, Kansas.  
General Location At the southwest corner of East Harry and South 127th Street East (1616 S. 125th Street East).

**BACKGROUND:** The applicant is requesting a “Conditional Use” to allow an accessory driveway through Single-family Residential (“SF-5”) zoning, located on the south 350 feet of Lot 3, McEvoy Addition. The lot is located south and west of the corner of E. Harry and S. 127<sup>th</sup> St. E., approximately 630 feet west of S. 127<sup>th</sup> St. E. All of Lot 2 and the eastern 60 feet of Lot 3, McEvoy Addition is zoned Limited Commercial (“LC”) and are currently developed with a single-family residence and a catering business (southeast corner of Lot 2.)

The site plan shows Lots 2 and 3 being developed with a single-family residence. The existing accessory driveway runs east to west, parallel to the southern property line of Lot 2 and 3. The accessory drive connects an existing business, located in the southeast portion of Lot 2, to S. 125<sup>th</sup> St. E. The accessory driveway runs through the SF-5 zoned portion and then terminates into the parking lot/loading area, which is located in the adjacent LC zone.

The LC portion of the property is the result of zoning that occurred in 1958. There were two separate zoning codes until 1996. It was a practice during that time that land within 600-feet of the intersections of

section line roads and located within 3 miles of the 1958 City of Wichita city limits, in the unincorporated county, be zoned LC. For this particular case, the current LC zoning is the result of that rezoning back in 1958 when this particular area was still in the unincorporated part of the county. Thus, the majority of the property is zone LC and a small sliver along the west side of the property is zoned SF-5.

The surrounding land along E. Harry St. is primarily developed with residential uses between S. 127<sup>th</sup> St. E. and S. Greenwich Rd. On the south side, is LC and SF-5 zoned property, which is developed with a single-family residence. West of the subject site is SF-5 zoned property developed with single-family residences. Property east of the subject site, directly on the southwest corner of E. Harry St. and S. 127<sup>th</sup> St. E., is zoned LC and is developed with a single family residence. All property north of the subject site, on the north side of Harry St. is zoned LC and SF-5 and developed with single-family residences.

**CASE HISTORY:** The property was platted as Lots 2 and 3, McEvoy Addition on August 16, 1952. In 1958, the subject tract was zoned LC (600-foot west of section line road intersection) and “R-1,” Suburban Residential (“SF-20,” Single-Family Residential.) The development in the surrounding area has remained large lot residences within SF-5 and SF-20 zoning.

**ADJACENT ZONING AND LAND USE:**

NORTH:	“SF-5,” Single-Family Residential	Single-Family Residence
SOUTH:	“SF-5,” Single-Family Residential	Single-Family Residence
EAST:	“LC,” Limited Commercial	Single-Family Residence
WEST:	“SF-5,” Single-Family Residential	Single-Family Residence

**PUBLIC SERVICES:** Normal municipal water and sewer services are available. E. Harry St. and S. 127<sup>th</sup> St. E. are both two-lane minor arterial streets. Traffic volumes for 2007 at E. Harry St. and S. 127<sup>th</sup> St. E. were 12,642 ADTs (average daily traffic). The site plan shows one entrance onto S. 125th St. E. The drive entrance is already installed.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies the subject property as “Urban Residential.” Urban Residential encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes: single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly (assisted living, congregate care and nursing homes). Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category.

**RECOMMENDATION:** Based on the information available prior to the public hearing, Staff recommends that the request be APPROVED subject to the following conditions:

1. The Conditional Use shall be developed in general conformance with the site plan attached hereto. Any substantial change in the site plan shall require an amendment to this Conditional Use.
2. The accessory driveway shall be developed in conformance with the requirements of Sec. III-D.6.p of the Unified Zoning Code (“UZC.”) As stipulated in Sec. III-D.6.p of the UZC, all entrance/exit drives on private property shall be surfaced with concrete, asphaltic concrete, asphalt or any other comparable surfacing material that meets the approval of the Planning Commission, and shall be maintained in good condition and free of all weeds, trash and other debris.
3. Development of the Conditional Use shall be commenced within one year from approval or the Conditional Use shall be null and void.

4. Any violation of these conditions shall render this Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding land along E. Harry St. is primarily developed with residential uses between S. 127<sup>th</sup> St. E. and S. Greenwich Rd. On the south side, is LC and SF-5 zoned property, which is developed with a single-family residence. West of the subject site is SF-5 zoned property developed with single-family residences. Property east of the subject site, directly on the southwest corner of E. Harry St. and S. 127<sup>th</sup> St. E., is zoned LC and is developed with a single family residence. All property north of the subject site, on the north side of Harry St. is zoned LC and SF-5 and developed with single-family residences. The character of the development in the surrounding area has remained large lot residences within SF-5 and SF-20 zoning. The ancillary drive would abut one of these large lots.
2. The suitability of the subject property for the uses to which it has been restricted: 75% of the subject property is zoned LC and the remaining 25% is zoned SF-5. This particular application focuses on 1,200 sq. ft. of the extreme southwest corner of the property zoned SF-5. This particular piece of property, due to its small size would not be suitable for any other uses other than for a driveway or for parking.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the "Conditional Use" would allow an ancillary drive within along the south lot line, adjoining a residential lot to the south.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "2030 Wichita Functional Land Use Guide" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies the subject property as "Urban Residential." Urban Residential encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes: single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly (assisted living, congregate care and nursing homes). Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category.
5. Impact of the proposed development on community facilities: The proposed development generates a small amount of traffic. Access is limited to one point of access on an existing drive entrance. Other normal utility services are available and the proposed use should not exert any significant increase on these facilities.

**DERRICK SLOCUM**, Planning Staff presented the staff report.

**MOTION**: To approve, subject to staff recommendation.

**JOHNSON** moved, **DENNIS** seconded the motion, and it carried (12-0).

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**DIRECTOR SCHLEGEL** briefly reminded Commissioners of the upcoming workshop and asked them to contact him or other Planning staff with topics for discussion.  
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The Metropolitan Area Planning Department informally adjourned at 3:08 p.m.

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

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 \_\_\_\_\_, 2008.

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

(SEAL)