

**METROPOLITAN AREA PLANNING COMMISSION**

**MINUTES**

**July 9, 2009**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, July 9, 2009, 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: Darrell Downing, Chair; G. Nelson Van Fleet, Vice Chair; David Dennis; Shawn Farney; David Foster; Bud Hentzen; Hoyt Hillman; Bill Johnson; Joe Johnson; Ronald Marnell; John W. McKay Jr.; Debra Miller Stevens; M.S. Mitchell and Don Sherman. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Principal Planner; Derrick Slocum, Associate Planner; Sharon Dickgrafe, Assistant City Attorney; Bob Parnacott, County Counselor and Maryann Crockett, Recording Secretary.

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1. Approval of the June 18, 2009 MAPC meeting minutes:

**MOTION:** To approve the June 18, 2009 Minutes as corrected.

**VAN FLEET** moved, **MILLER STEVENS** seconded the motion, and it carried (13-1).  
**McKAY** - Abstained.

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

- 2-1. **SUB 2009-40: One-Step Final Plat -- GLEN MEADOWS ADDITION**, located south of 21st Street North and west of Greenwich Road. (Deferred from 6/11/09)

**NOTE:** This is a replat of a portion of the Oak Creek 2<sup>nd</sup> Addition. The Oak Creek Community Unit Plan (CUP DP-274) was also approved for this site.

**STAFF COMMENTS:**

- A. City of Wichita Water Utilities Department requests a petition for extension of water (transmission and distribution mains) and sewer (mains and laterals) to all lots being platted.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Engineering has approved the drainage plan subject to revisions. Additional drainage easements are needed. Minimum pads need to be established.
- D. Complete access control is needed along the east line of Lots 15 and 16, Block 1. The final plat shall reference the dedication of access controls in the platlor's text.
- E. Since this is a replat of a previous Addition involved with the ownership and maintenance of

reserves for that Addition, but not being replatted by this Addition, the above covenants and/or other legal documents shall be provided which provides for this Addition to continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.

- F. The parking easements shall be referenced in the plat's text specifying that the easements are granted for residential parking only and that no obstructions shall be constructed or placed within the easements.
- G. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- H. 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.
- I. A note shall be placed on the final plat, indicating that this Addition is subject to the conditions of the Oak Creek Community Unit Plan (DP-274).
- J. The street length of Glengate/Veranda Circle is 900 feet. The Subdivision Regulations limit urban cul-de-sacs to 800 feet in length unless an emergency access easement is proposed. The City Fire Department has requested an emergency access easement extending to Chateau Parkway. The emergency access easement shall be established by separate instrument. Standard gating and signing are required per City Fire Department standards. Reserve P will need to be redesigned to allow for fire vehicle access.
- K. The Applicant shall guarantee the paving of the proposed streets. The 21-foot segment of Glengate will need to be one-way.
- L. Since this plat proposes the platting of narrow street right-of-way with adjacent 15-foot street drainage and utility easements, a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- M. The applicant shall submit a covenant that provides four (4) off-street parking spaces per lot that abuts a 32-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- N. 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.
- O. 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.
- P. "Lots, Blocks, Reserves and Streets" shall be referenced in the plat's text.
- Q. GIS has requested the street name Glengate be deleted. Veranda Circle shall be labeled as

“Veranda Cir.” Chateau Parkway shall be labeled as “Chateau Pky.”

- R. The title block shall be corrected to read, “An Addition to Wichita.”
- S. 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.
- T. 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.)
- U. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- V. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- W. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant’s responsibility to contact all appropriate agencies to determine any such requirements.
- X. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Y. Perimeter closure computations shall be submitted with the final plat tracing.
- Z. Westar Energy has requested additional utility easements to be platted on this property.
- AA. A compact disc (CD) should be provided 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 the information 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 the recommendation of the Subdivision Committee and staff recommendation.

**HILLMAN** moved, **MITCHELL** seconded the motion, and it carried (14-0).

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**2-2. SUB 2009-45: One-Step Final Plat -- LOUISE POWELL WSU BIOLOGY FIELD STATION ADDITION**, located on the north side of 87th Street South and east of 295th West.

**NOTE:** This is an unplatted site located within the County. The site has been approved for a zone change (ZON2008-58) from RR Rural Residential to U University. It is in an area designated as “Rural” by the Wichita- Sedgwick County Comprehensive Plan.

**STAFF COMMENTS:**

- A. Since neither sanitary sewer nor municipal water is available 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 and water wells. A memorandum shall be obtained specifying approval.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. County Engineering has approved the drainage plan. A floodway reserve needs to be denoted on the plat.
- D. Sedgwick County Fire Department advises that the plat should meet the requirements of the Sedgwick County Service Drive Code.
- E. The plat denotes two openings along 87<sup>th</sup> St. South. County Engineering requests two access points at least 600 feet apart in accordance with access management standards. The final plat tracing shall reference the dedication of access controls in the plat's text.
- F. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineer (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- G. 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.
- H. 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.)
- I. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- J. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

- K. 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.
- L. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- M. Perimeter closure computations shall be submitted with the final plat tracing.
- N. A compact disc (CD) should be provided 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 the information 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 the recommendation of the Subdivision Committee and staff recommendation.

**HILLMAN** moved, **MITCHELL** seconded the motion, and it carried (14-0).

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**2-3. DER 2009-05: Street Name Change from Foliage Ct. to Lakefront Cir.,**

**NOTE:** This street serves seven lots. A letter has been received from the Foliage 4<sup>th</sup> Homeowners' Association in favor of the request. The Street Name Address Committee has approved this change.

**GENE RATH, MKEC ENGINEERING** said although he is not the applicant or the applicant's representative, he did have knowledge of the situation. He said MKEC platted the Foliage area and the street was named at that time. He said since then, the street naming policy has changed. He mentioned that the Foliage 4<sup>th</sup> Homeowners Association wanted a different street name other than Foliage Court. He said the City and County Street Naming Committee was contacted and they offered several options and Lakefront Circle was chosen.

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

**MITCHELL** moved, **HILLMAN** seconded the motion, and it carried (14-0).

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**3. PUBLIC HEARING – VACATION ITEMS**

**3-1. VAC2009-21: City request to vacate a platted setback.**

**OWNER/AGENT:** Good Shepherd Episcopal Church, c/o A. Keith Anderson (applicant)  
Poe & Associates (agent)

**LEGAL DESCRIPTION:** A portion of the platted setback that runs parallel to the north lot line of Lot 1, Westwind 2<sup>nd</sup> Addition, Wichita, Sedgwick County, Kansas, and 21<sup>st</sup> Street North

**LOCATION:** Generally located midway between Tyler & Maize Roads, on the southwest corner of Woodchuck Street and 21<sup>st</sup> Street North (WCC #V)

**REASON FOR REQUEST:** Additional space for development

**CURRENT ZONING:** Subject property, abutting southern and adjacent eastern properties are zoned SF-5 Single-family Residential (“SF-5”). Adjacent northern properties are zoned SF-5 and GO General Office (“GO”). Abutting western properties are zoned GO and GC General Commercial (“GC”).

The applicant proposes to vacate a portion of the platted 25-foot street side yard setback, located parallel to corner lot’s north lot line and 21<sup>st</sup> Street North. Per the Unified Zoning Code (UZC), Art.III, Sec.III-E, e, 7; a corner lot shall have a front yard setback along the shorter of the street frontages. The shorter street frontage of the subject site is Woodchuck Street, thus the 21<sup>st</sup> Street frontage is the street side yard. The UZC’s minimum street side yard setback for the SF-5 zoning district is 15 feet. If the setback was not platted the applicant could request an Administrative Adjustment that would reduce the SF-5 zoning district’s minimum 15-foot street side yard setback by 20%, resulting in a 12-foot street side yard setback. Reduction beyond the 12-foot street side yard setback would require a variance, which is a separate public hearing process. There are no platted easements within the platted setback. There are no utilities, manholes, sewer or water lines within the described portion of the platted setback. The Westwind 2<sup>nd</sup> Addition was recorded with the Register of Deeds February 22, 1988.

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

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time June 18, 2009, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the described platted setback and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Vacate the south 13 feet of the platted 25-foot setback that runs parallel to the north lot line of Lot 1, Westwind 2<sup>nd</sup> Addition, Wichita, Sedgwick County, Kansas, and 21<sup>st</sup> Street North. The approved legal description of the vacated portion of the platted setback will only be where the proposed expansion of the existing building will be located. Send the approved legal description to Planning on a Word document, via e-mail.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
- (3) All improvements shall be according to City Standards and at the applicant's expense.
- (4) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the south 13 feet of the platted 25-foot setback that runs parallel to the north lot line of Lot 1, Westwind 2<sup>nd</sup> Addition, Wichita, Sedgwick County, Kansas, and 21<sup>st</sup> Street North. The approved legal description of the vacated portion of the platted setback will only be where the proposed expansion of the existing building will be located. Send the approved legal description to Planning on a Word document, via e-mail.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
- (3) All improvements shall be according to City Standards and at the applicant's expense.
- (4) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

**MCKAY** moved, **HENTZEN** seconded the motion, and it carried (13-0-1).  
**B. JOHNSON** – Abstained.

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**3-2. VAC2009-22: City request to vacate a portion of platted complete access control and a platted setback**

**OWNER/APPLICANT:** Evans Building Company

**LEGAL DESCRIPTION:** The platted 35-foot setback and a portion of the platted complete access control, all located along/parallel the south lot line of Lot 1, Block A, Mid-Continent Industrial Addition, Wichita, Sedgwick County, Kansas, and MacArthur Road

**LOCATION:** Generally located generally located east of Maize Road, on the north side of MacArthur Road, on the southwest side of York & Norman Streets (WCC #IV)

**REASON FOR REQUEST:** For expansion of building and direct access onto MacArthur Road

**CURRENT ZONING:** The subject property and abutting northern, eastern and western properties are zoned LI Limited Industrial (“LI”). Adjacent southern property is zoned SF-20 Single-family Residential (“SF-20”).

The applicant proposes to vacate a portion of the site’s south, platted complete access control and the platted 35-foot building setback. The applicant proposes to put a 21-foot 8-inch drive onto MacArthur Road. The site is one of six lots located in the Mid-Continent Industrial Addition, which has platted complete access control along these lots' MacArthur frontage. There are no other drives from this plat onto MacArthur. There are no drives located south, across MacArthur, from the site. Subdivision standards, page 7-20 G; double frontage lots shall not have drives connection local streets to arterials. 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. Allowing a drive along the site’s MacArthur frontage could trigger more requests on this subdivision’s MacArthur frontage. There are no utilities, manholes, sewer or water lines along the site’s MacArthur side. There is a drainage culvert along the site’s MacArthur frontage which goes under MacArthur. The Mid-Continent Industrial Addition was recorded with the Register of Deeds March 2, 1976.

Per the Unified Zoning Code (UZC), Art.III, Sec.III-E, e, 7; a corner lot shall have a front yard setback along the shorter of its street frontages. In this case the shorter street frontage of the subject site is York Street, which is also the site’s mailing address. MacArthur is opposite York and is considered the rear yard. The UZC’s minimum rear yard setback for the LI zoning district is zero. However, compatibility setback standards apply to the site’s rear yard because it is adjacent, south across MacArthur, to SF-20 zoning; UZC Art.IV, Sec.IV-C. If this was not a platted 35-foot setback, but the UZC’s LI zoning district’s minimum rear setback, the applicant could have applied for an Administrative Adjustment to waive or reduce the compatibility setback. Considerations for waving the compatibility setback typically includes screening and or landscaping to protect uses in TF-3 Duplex (“TF-3”) or more restrictive zoning. Most of the SF-20 zoned property located south of the site is not developed; there are 5 houses strung along MacArthur in this area. The 2030 Wichita Functional Land Use Guide categorizes the land south of MacArthur as “Employment/Industry Center,” which is a consideration in regards to waiving or reducing the compatibility setback.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City/County Public Works/Water & Sewer/Storm

Water, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate a portion of platted complete access control and the platted setback.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time June 18, 2009, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the described portions of platted complete access control and 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.

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

- (1) Vacate the portion of the platted complete access control along the site's MacArthur Road frontage to allow one 40-foot wide, right in – right out drive, as approved by the County Traffic Engineer. The drive must be located a minimum of 200 feet from the Norman Street – MacArthur intersection, per the Access Management Regulations.
- (2) Vacate the platted 35-foot setback that runs parallel the south lot line of Lot 1, Block A, Mid-Continent Industrial Addition and MacArthur Road, where the proposed building expansion will be located. Waive or reduce the compatibility setback, where there is a proposed building expansion will be located within it. Provide Planning Staff with a legal description of the approved vacated portion of the setback on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. All provided to Planning prior to the case going to Council for final action.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense, including any relocation, rebuilding, or improvements to the drainage culvert located along the site's MacArthur Road side.
- (4) All improvements shall be according to County/City Standards and at the applicant's expense, including the new drive from the site onto public ROW. Provide City/County Public Works with a guarantee to ensure that these improvements will be made. If the drive is not being immediately constructed, provide a drive approach certificate, which will be recorded with the Register of Deeds. Either the guarantee(s) and/or the drive approach certificate must be provided to Public Works (guarantee) or Planning (drive approach certificate) prior to the case going to Council for final action.
- (5) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the portion of the platted complete access control along the site's MacArthur Road frontage to allow one 40-foot wide, right in – right out drive, as approved by the County Traffic Engineer. The drive must be located a minimum of 200 feet from the Norman Street – MacArthur intersection, per the Access Management Regulations.
- (2) Vacate the platted 35-foot setback that runs parallel the south lot line of Lot 1, Block A, Mid-Continent Industrial Addition and MacArthur Road, where the proposed building expansion will be located. Waive or reduce the compatibility setback, where there is a proposed building expansion will be located within it. Provide Planning Staff with a legal description of the approved vacated portion of the setback on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. All provided to Planning prior to the case going to Council for final action.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense, including any relocation, rebuilding, or improvements to the drainage culvert located along the site's MacArthur Road side.
- (4) All improvements shall be according to City/County Standards and at the applicant's expense, including the new drive from the site onto public ROW. Provide City/County Public Works with a guarantee to ensure that these improvements will be made. If the drive is not being immediately constructed, provide a drive approach certificate, which will be recorded with the Register of Deeds. Either the guarantee(s) and/or the drive approach certificate must be provided to Public Works (guarantee) or Planning (drive approach certificate) prior to the case going to Council for final action.
- (5) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

**HILLMAN** moved, **FARNEY** seconded the motion, and it carried (13-0-1).  
**B. JOHNSON** – Abstained.

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**3-3. VAC2009-23: County request to vacate the platter's text to amend the uses allowed in platted reserves,** generally located northeast of the 21st Street North and 151st Street West intersection.

**OWNERS/AGENT:** Via Christi Regional Medical Center, c/o Art Huber (owner)  
Baughman Company, PA, c/o Phil Meyer (agent)

**LEGAL DESCRIPTION:** Reserves C and D, Via Christi West Campus Addition, Wichita, Sedgwick County, Kansas

**LOCATION:** Generally located northeast of the 21<sup>st</sup> Street North and 151<sup>st</sup> Street West intersection (BoCC #III – City of Wichita 3-mile ring)

**REASON FOR REQUEST:** Allow signage

**CURRENT ZONING:** Subject property is zoned PUD Planned Unit Development (“PUD”). Abutting northern, eastern and southern properties are zoned SF-20 Single-family Residential (“SF-20”). Adjacent western properties are zoned RR Rural Residential (“RR”)

The applicant is requesting that the uses allowed in the described platted reserve be vacated and amended. Currently the plattor’s text identifies that Reserves C and D, Via Christi West Campus Addition are to be used for “...open space, landscaping, drainage purposes, utilities and streets.” Both reserves appear to be located in platted street right-of-way (ROW). The applicant requests the vacation to allow signage as an added permitted use in the described reserves. Public water and sewer are located on the site. The platted Reserve C is located within a FEMA flood zone. No franchised utilities have utilities located within the described reserves. The Via Christi West Campus Addition was recorded with the Register of Deeds October 9, 2008.

Because the site is located in Sedgwick County, but within the City of Wichita’s 3-mile ring subdivision jurisdiction, consideration and recommendation by the Wichita City Council and consideration and final action by the Sedgwick County Board of County Commissioners is required.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from the Traffic Engineer County/City Public Works, Water and Sewer, Storm Water, franchised utility representatives, and other interested parties, Planning Staff recommends approval to vacate the plattor’s text to amend the uses allowed in the described platted reserves 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, of notice of this vacation proceeding one time June 18, 2009, which was at least 20 days prior to this public hearing.
  - 2. That no private rights will be injured or endangered by the vacation of the plattor’s text to amend the uses allowed in the described platted reserves and 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.

Considerations (but not limited to) associated with the request to vacate the plattor’s text to amend the uses allowed in the described platted reserves have been identified, therefore, the vacation of the plattor’s text to amend the uses allowed in the described platted reserves described in the petition should be approved with conditions:

- (1) Vacate the plattor’s text, amending it by allowing signage in platted Reserves C & D, Via Christi West Campus Addition, per approval by the Traffic Engineer, County/City Public Works, Water and

Sewer, Storm Water, and franchised utility representatives. Retain the uses as listed in the platters text of the Via Christi West Campus Addition, recorded October 9, 2008. Provide all needed plans, inspection and permits for placement of signage; Signs cannot be located in FEMA Floodways.

- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide staff with any needed easements, prior to the case going to WCC for final action.
- (3) All improvements shall be according to County & City Standards and at the applicants' expense.
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the plattor's text, amending it by allowing signage in platted Reserves C & D, Via Christi West Campus Addition, per approval by the Traffic Engineer, County/City Public Works, Water and Sewer, Storm Water, and franchised utility representatives. Retain the uses as listed in the platters text of the Via Christi West Campus Addition, recorded October 9, 2008. Provide all needed plans, inspection and permits for placement of signage; Signs cannot be located in FEMA Floodways.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide staff with any needed easements, prior to the case going to WCC for final action.
- (3) All improvements shall be according to County & City Standards and at the applicants' expense.
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

**VAN FLEET** moved, **B. JOHNSON** seconded the motion, and it carried (13-0-1).  
**MILLER STEVENS** – Abstained.

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**3-4. VAC2009-24: City request to vacate a platted street right-of-way and a platted setback.**

**APPLICANTS/AGENT:** MacArthur's Lake, LLC, c/o Cynthia Branch Savoy Company, PA c/o Mark Savoy (agent)

**LEGAL DESCRIPTION:** Generally described as that portion of the platted 60-foot wide 27<sup>th</sup> Street North public street right-of-way (ROW), which is located between Amidon Avenue (east), Charles Avenue (west), abutting the south sides of Lots 64 & 71, Van Acres Addition (north) and the north side of Lot 1, Block 1, Doner-Smith First Addition, Wichita, Sedgwick County, Kansas & vacate the platted 15-foot setback that runs parallel to the above described portion of 27<sup>th</sup> and the north lot line of Lot 1, Block 1, Doner-Smith First Addition.

**LOCATION:** Generally located on 27th Street North, between Amidon and Charles Avenues (WCC #VI).

**REASON FOR REQUEST:** Street has never been developed and expansion of apartments

**CURRENT ZONING:** The site is a platted, undeveloped public street ROW. Abutting northern and adjacent western and eastern properties are zoned SF-5 Single-family Residential. Abutting southern property is zoned MF-29 Multi-family Residential.

The applicant is requesting the vacation of the described, undeveloped portion of platted 27<sup>th</sup> Street North. All of 27<sup>th</sup> in this ¼-section, including the subject site, is a 60-foot wide residential street. This portion of 27<sup>th</sup> was the result of a replatting of a portion of the Van Acres Addition. The Van Acres Addition was recorded June 16, 1936. The replat resulted in the Doner-Smith First Addition, recorded July 9, 1974. The replat moved this portion of 27<sup>th</sup> approximately 320 feet north of where it was originally platted on the Van Acres Addition, thus creating a 'jog' in 27<sup>th</sup>, rather than a straight line west - east. The proposed vacation would result in this block of Charles Avenue being approximately 2,000 feet long, as opposed to the Subdivision Standard (SD) of 1,300 feet; SD 7-203 (B). The developed portion of 27<sup>th</sup> does intersect the west side of Charles at approximately 1,300 feet. Both Charles and most of 27<sup>th</sup> are 60-foot wide, paved (no curb) residential street, with bar ditches running on both sides of them. The vacation would not disrupt current and long standing (at least 35 years) traffic patterns in the predominately single-family neighborhood. Per the SD, 10-104, Modification of Design Criteria, the MAPC may modify design criteria. In the past staff has recommended modified design criteria, which has been approved by the MAPC. There is a south – north sewer line and manhole within the proposed vacated ROW. No utilities or water is shown in the ROW.

The applicant also proposes to vacate the described platted 15-foot street side yard setback, which if the ROW is vacated will no longer be a street side yard setback. The vacation of the ROW means that the zoning of the south, abutting MF-29 properties will merge into the vacated ROW; the MF-29 property are part of the Doner-Smith First Addition, which platted the proposed vacated ROW. Setbacks will be per the UZC for compatibility setbacks; 15- 25 feet for an interior side yard; Art IV, Sec IV-C, 4. Landscaping and screening as required by the Landscape Ordinance and the UZC will be activated by the vacation and subsequent MF-29 zoning following the expanded property line of the Doner-Smith First Addition.

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

A. That after being duly and fully informed as to fully understand the true nature of this petition and the

propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time June 18, 2009, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the described portion of platted street right-of-way and the platted setback and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Retain the north 20 feet of the vacated street ROW as a utility and drainage easement as determined by Storm Water. Provide Planning staff with a legal description of the approved vacated ROW on a word document via e-mail.
- (2) Dedicate a sewer easement by separate instrument to be recorded with the Vacation Order, prior to this vacation case going to City Council for final action. Provide any additional easement as needed by dedication by separate instrument, prior to this vacation case going to City Council for final action.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. Retain all public ROW until all utilities have been relocated, as needed. Provide Planning staff with conformation of this requirement being completed or that suitable guarantees have been provided, prior to this vacation case going to City Council for final action.
- (4) On the north side of the vacated ROW, interior side yard setbacks will be per Compatibility Setback standards of the UZC, Art IV, Sec IV-C, 4.
- (5) Provide dedication of complete access control by separate instrument on the vacated 27<sup>th</sup> Street North ROW's Charles and Amidon Avenues' frontage, prior to this vacation case going to City Council for final action.
- (6) Provide a Restrictive Covenant binding and tying the vacated 27<sup>th</sup> Street North ROW to Lot 1, Block 1, Doner-Smith First Addition, prior to this vacation case going to City Council for final action. This covenant will include cross lot access from the vacated 27<sup>th</sup> Street North ROW's to Lot 1, Block 1, Doner-Smith First Addition.
- (7) Landscaping and screening will be activity by redevelopment of the vacated ROW.
- (8) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Retain the north 20 feet of the vacated street ROW as a utility and drainage easement as determined by Storm Water. Provide Planning staff with a legal description of the approved vacated ROW on a word document via e-mail. Provide any additional easement as needed by dedication by separate instrument, prior to this vacation case going to City Council for final action.
- (2) Dedicate a sewer easement by separate instrument to be recorded with the Vacation Order, prior to this vacation case going to City Council for final action.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. Retain all public ROW until all utilities have been relocated, as needed. Provide Planning staff with conformation of this requirement being completed or that suitable guarantees have been provided, prior to this vacation case going to City Council for final action.
- (4) On the north side of the vacated ROW, interior side yard setbacks will be per Compatibility Setback standards of the UZC, Art IV, Sec IV-C, 4.
- (5) Provide dedication of complete access control by separate instrument on the vacated 27<sup>th</sup> Street North ROW's Charles and Amidon Avenues' frontage, prior to this vacation case going to City Council for final action.
- (6) Provide a Restrictive Covenant binding and tying the vacated 27<sup>th</sup> Street North ROW to Lot 1, Block 1, Doner-Smith First Addition, prior to this vacation case going to City Council for final action. This covenant will include cross lot access from the vacated 27<sup>th</sup> Street North ROW's to Lot 1, Block 1, Doner-Smith First Addition.
- (7) Landscaping and screening will be activity by redevelopment of the vacated ROW.
- (8) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

**MCKAY** moved, **B. JOHNSON** seconded the motion, and it carried (14-0).

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**3-5. VAC2009-25: City request to vacate a portion of platted street right-of-way,** generally located on the west side of Webb Road, 1/4 mile south of 13th Street North.

**APPLICANTS/AGENT:** Wichita Collegiate School, c/o Tom Davis (owner) MKEC c/o Greg Allison (agent)

**LEGAL DESCRIPTION:** Generally described as a portion of the 60-foot wide half street Webb Road right-of-way (ROW), which runs parallel to the east lot line of Lot 1, Block 1, Country Walk 2<sup>nd</sup> Addition, Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located ¼-mile south of 13<sup>th</sup> Street North, on the west side of Webb Road. (WCC #II).

**REASON FOR REQUEST:** Placement of sign

**CURRENT ZONING:** The site is a public street ROW. Abutting western and adjacent southern properties are zoned SF-5 Single-family Residential (“SF-5”), with the abutting western property having DP-166 overlay. Adjacent northern properties are zoned GO General Office (“GO”) and LC Limited Commercial (“LC”), with DP-186 overlay. Adjacent eastern property is zoned LI Limited Industrial (“LI”).

The applicant is requesting the vacation of the described Webb Road ROW, to place a 12-foot tall, 48 square-foot sign that will partially encroaching into Webb, from Lot 1, Block 1, Country Walk 2<sup>nd</sup> Addition. This portion of Webb has 60 feet of half-street ROW, which increases to 75 feet of half-street ROW, approximately 90 feet north of the propose vacation area, to allow a turn lane at Webb’s intersection with 13<sup>th</sup> Street North. Webb is classified as a principal arterial and its current half-street ROW widths at this location are to current standards. Traffic counts along this portion of Webb are approximately 19,280 average trips per day. There are three easements that run parallel to this portion of Webb and the east lot line of, Lot 1, Block 1, Country Walk 2<sup>nd</sup> Addition; a 66-foot private pipeline easement (a portion of it is in Webb Road), 15-foot drainage easement, and 30-foot sanitary sewer easement. The exhibit given by the applicant does not show the location of the sign, but is possible that the location of the sign may also be in the 15-foot drainage easement and the pipeline easement. There are utilities within the easements and the ROW. The property to the north of the applicant’s site (Country Walk 2<sup>nd</sup> Addition) has basically the same easements/encumbrances running parallel to its east lot line and Webb, plus 15 feet less property, due to the 75-foot Webb half-street ROW. This case is associated with CUP 2009-11, which is a request to remove the 55-foot sign setback requirement, which would allow the sign to be placed at the property line. CUP2009-11 noted that the encroachment into the right-of-way and any easements would be a separate application, i.e., vacation request. The Country Walk 2<sup>nd</sup> Addition was recorded with the Register of Deeds June 27, 1988.

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

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time June 18, 2009, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the described portion of street right-of-way and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Provide Public Works with a scaled and dimensioned site plan showing the specific site where the proposed sign will go, for review and approval. No part of the sign and its support structure can be located over the underground drainage utility located within the platted drainage easement. The applicant will provide a hold harmless agreement, absolving the City of all liability in regards to damage to the sign if repair to utilities located within easements is needed. The site plan shall show the specific area of Webb Road right-of-way (ROW) that will be encroached into. The site plan must be reviewed and approved by Public Works before this request goes to the MAPC.
- (2) Dedicate a contingent dedication of ROW (the area of Webb Road vacated), by separate instrument, to be recorded with the Vacation Order prior to this vacation case going to City Council for final action. This dedication will also absolve the City of all financial liability /considerations in removing and replacing the sign (partially located in the ROW) when the contingent dedication becomes a full dedication of ROW. Removal and/or relocation of the sign will be at the applicant's expense.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. Retain all public ROW until all utilities have been relocated, as needed. Provide Planning staff with conformation of this requirement being completed or that suitable guarantees have been provided, prior to this vacation case going to City Council for final action.
- (4) This vacation case does not constitute approval of a digital or LED sign. This vacation case is contingent upon approval of CUP 2009-11 by the Governing Body.
- (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) Provide Public Works with a scaled and dimensioned site plan showing the specific site where the proposed sign will go, for review and approval. No part of the sign and its support structure can be located over the underground drainage utility/box located within the platted drainage easement. The applicant will provide a hold harmless agreement, absolving the City of all liability in regards to damage to the sign if repair to utilities located within easements is needed. The site plan shall show the specific area of Webb Road right-of-way (ROW) that will be encroached into. The site plan must be reviewed and approved by Public Works before this request goes to the MAPC.
- (2) Dedicate a contingent dedication of ROW (the area of Webb Road vacated), by separate instrument, to be recorded with the Vacation Order prior to this vacation case going to City Council for final action. This dedication will also absolve the City of all financial liability /considerations in removing and replacing the sign (partially located in the ROW) when the contingent dedication becomes a full

dedication of ROW. Removal and/or relocation of the sign will be at the applicant's expense.

- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. Retain all public ROW until all utilities have been relocated, as needed. Provide Planning staff with conformation of this requirement being completed or that suitable guarantees have been provided, prior to this vacation case going to City Council for final action.
- (4) This vacation case does not constitute approval of a digital or LED sign. This vacation case is contingent upon approval of CUP 2009-11 by the Governing Body.
- (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.

**BILL LONGNECKER**, Planning Staff commented that Storm Water had tentatively approved vacation of the right-of way and that the applicant was working with them on a "Hold Harmless Agreement.

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

**MITCHELL** moved, **HILLMAN** seconded the motion, and it carried (13-0-1).  
**J. JOHNSON** – Abstained.

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**3-6. VAC2009-26: City request to vacate platted drainage and utility easements.**

**OWNER/AGENT:** Waterfront Residential Company, LLC, c/o Rob Ramseyer (owner)  
MKEC, c/o Brian Lindebak (agent)

**LEGAL DESCRIPTION:** The platted 20-foot drainage & utility easements located along the rear and side yards of Lots 21, 22, 23, 24, 31 and 32, Block 1, the Waterfront Residential Addition, Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located midway between 13<sup>th</sup> Street North and the Railroad ROW, midway between Greenwich and Webb Road, east Veranda Street, on Summerfield and Crestwood Circles. (WCC #II)

**REASON FOR REQUEST:** Relocate easements

**CURRENT ZONING:** Subject properties, abutting/adjacent southern, western and northern properties are zoned SF-5 Single-family Residential ("SF-5"). Abutting property located east of the subject properties is zoned GI General Industrial ("GI"). Some abutting northern properties are zoned GO General Office ("GO").

The applicant is requesting consideration for the vacation of the described platted drainage & utility easements. The applicant proposes to relocate the 20-foot drainage & utility easements as shown on the exhibit and the dedication. The relocation will place the easements on the lots they are currently located on, but closer to their rear and side yards. The applicant has stated the relocation of the public easements is due to the relocation of the private Coffeyville Resources pipeline easement. The relocated subject easements would be in this private easement. The applicant needs to provide staff with a letter from owner of the Coffeyville Resources pipeline easement, which would confirm that the public easement can be located within their private easement, or that the private easement will be relocated and not encroached by the proposed relocated public easements. There are no utilities, manholes, sewer or water lines located in the described platted easements; they are in ROW or in the front. Storm Water request new drainage plans to review. The Waterfront Residential Addition was recorded with the Register of Deeds July 18, 2008.

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

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

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time June 18, 2009, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the described platted drainage and utility easements and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Provide Staff with all required additional easement(s) (with original signatures) dedicated by separate instrument, as needed and approved by Public Works/Storm Water. These easements will go with the Vacation Order to City Council for final action and recording with the Register of Deeds.
- (2) Retain the 13 feet of 'no easements' open space between the replacements easements and the subject lots' east property lines, as shown on the exhibit provided by the applicant for Subdivision; this will preserve the existing tree line along the common property line of the subject lots and the abutting properties.
- (3) Provide Planning staff with the legal description of the vacated easements on a Word document, via e-mail, to be used on the Vacation Petition and the Vacation Order.

- (4) Provide staff with a letter from owner of the Coffeyville Resources pipeline easement, which would confirm that the public easement can be, located within their private easement, or that the private easement will be relocated and not encroached by the proposed relocated public easements.
- (5) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Storm Water updated drainage plans for review, prior to this case going to the MAPC. Retain the easement(s) until utilities are relocated. Provided any needed guarantees for relocation of utilities. Completion of the listed project (give project number) can be used in lieu of guarantees.
- (6) All improvements shall be according to City Standards and at the applicants' expense.
- (7) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide Staff with all required additional easement(s) (with original signatures) dedicated by separate instrument, as needed and approved by Public Works/Storm Water. These easements will go with the Vacation Order to City Council for final action and recording with the Register of Deeds.
- (2) Retain the 13 feet of 'no easements' open space between the replacements easements and the subject lots' east property lines, as shown on the exhibit provided by the applicant for Subdivision; this will preserve the existing tree line along the common property line of the subject lots and the abutting properties.
- (3) Provide Planning staff with the legal description of the vacated easements on a Word document, via e-mail, to be used on the Vacation Petition and the Vacation Order.
- (4) Provide staff with a letter from owner of the Coffeyville Resources pipeline easement, which would confirm that the public easement can be, located within their private easement, or that the private easement will be relocated and not encroached by the proposed relocated public easements.
- (5) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Storm Water updated drainage plans for review, prior to this case going to the MAPC. Retain the easement(s) until utilities are relocated. Provided any needed guarantees for relocation of utilities. Completion of the listed project (give project number) can be used in lieu of guarantees.
- (6) All improvements shall be according to City Standards and at the applicants' expense.
- (7) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required

documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

**HENTZEN** moved, **MCKAY** seconded the motion, and it carried (14-0).

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**J. JOHNSON – Out**

**PUBLIC HEARINGS**

4. **Case No.: DR2008-06** - Request South Central Neighborhood-Wide Residential Rezoning Proposal to change certain residentially-zoned properties that are currently zoned B Multi-Family, MF-29 Multi-Family, and TF-3 Two-Family to the MF-29 Multi-Family, TF-3 Two-Family, and SF-5 Single-Family zoning classifications on property described as;

Generally located in the area bounded by Kellogg on the north, Washington on the east, and the Arkansas River on the south and west.

**BACKGROUND:** In May 2006, following almost a year of development and neighborhood input, the governing bodies adopted the *South Central Neighborhood Plan* to serve as a blueprint for revitalization of the neighborhood. One of the goals of the *South Central Neighborhood Plan* is to “preserve the character of residential areas.” One of the Plan’s initiatives by which this goal is proposed to be accomplished is to “rezone residential properties in the neighborhood to more closely reflect current and preferred future land use.” To that end, the Metropolitan Area Planning Commission spent six months developing the *South Central Neighborhood Land Use Plan* that was adopted by the governing bodies in April 2009.

The *South Central Neighborhood Land Use Plan* establishes desired outcomes for future land use in the neighborhood and provides a generalized guide for future rezoning decisions. The vision of the recently adopted *South Central Neighborhood Land Use Plan* is to preserve the current pattern of neighborhood development with single-family homes on smaller lots. The primary method by which this neighborhood preservation is proposed to be accomplished is to change the neighborhood zoning pattern from one that permits predominately multi-family and two-family homes to one that permits predominately single-family homes.

**Problems with Existing Zoning**

The current zoning pattern for the South Central neighborhood dates back over 50 years and is designed to facilitate the urban renewal vision that was predominate at that time of tearing down older houses to construct new, mostly larger and multi-family, homes. This zoning pattern is inconsistent with current uses and structures; creates the risk of incompatible land uses in the neighborhood; creates a risk to the character of individual homes and buildings; and creates a risk to the character of the neighborhood as a whole. Uses that are generally incompatible with single-family homes are widely permitted in the neighborhood under the current zoning pattern. Property owners may be reluctant to re-invest in their properties due to incompatible uses that could develop on surrounding properties.

**Rezoning Process**

As has been done in other neighborhoods such as Delano, McAdams, and Midtown with a similar mismatch between the current zoning and existing development pattern, a South Central Neighborhood-Wide Residential Rezoning Proposal has been developed by the Advance Plans Committee to change the

residential zoning in the neighborhood to more closely match the “Land Use Guide Map” of the *South Central Neighborhood Land Use Plan* and the existing development patterns. The proposal is shown on the attached map entitled “South Central Neighborhood Proposed Residential Rezoning.”

The Advance Plans Committee developed the South Central Neighborhood-Wide Residential Rezoning Proposal using the following parameters:

1. Only residentially-zoned properties are proposed to be rezoned, and no properties with office, commercial, or industrial zoning are proposed to be rezoned.
2. Proposed rezoning is only to a more restrictive residential zoning classification, and no new office, commercial, or industrial zoning is proposed to be established through the rezoning initiative.
3. Proposed rezoning is to the most restrictive zoning classification that permits the existing use if the existing use is consistent with the *South Central Neighborhood Land Use Plan*.
4. Properties indicated as appropriate for redevelopment in the *South Central Neighborhood Land Use Plan* (“East Bank River Center,” “Residential Redevelopment District,” and “Commercial Redevelopment Node”) are not proposed to be rezoned.
5. Properties indicated as appropriate for “Compact Residential” in the *South Central Neighborhood Land Use Plan* are not proposed to be rezoned.
6. No new non-conformities in terms of use or development standards will be created through rezoning.

While the proposed rezoning has been initiated by the City of Wichita, the notification of the proposed rezoning that was mailed to each property owner contains a “Request for Exemption from Rezoning Form.” Any property owner that submits this form prior to the July 9, 2009, public hearing will have their property remain as currently zoned. Additionally, planning staff hosted an open house on June 22, 2009, at which materials were provided with information regarding the rezoning proposal and property owners had the opportunity for a personal consultation with a planning staff member regarding the specific impact of the proposed rezoning on his or her property.

**Note:** The attached map entitled “South Central Neighborhood Proposed Residential Rezoning” will be subject to further revisions up to and including July 9, 2009, in order to accommodate those property owners that request an exemption from the rezoning so that their property remains as currently zoned.

**CASE HISTORY:** N/A

**ADJACENT ZONING AND LAND USE:**

NORTH:	CBD, PUD-19	Downtown Wichita, WaterWalk
SOUTH:	SF-5, GC	Watson Park, manufactured home/vehicle sales
EAST:	LI, GC, B, MF-29, TF-3	Various industrial, commercial, and residential uses
WEST:	LI, SF-5	Various industrial uses, single-family residences

**PUBLIC SERVICES:** N/A

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide” of the *Wichita-Sedgwick County Comprehensive Plan* identifies the portions of the South Central Neighborhood proposed for rezoning as appropriate for “Urban Residential” type uses. “Urban Residential” encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The proposed rezoning is consistent with this designation.

Strategy XI.C4 of the *Wichita-Sedgwick County Comprehensive Plan* advocates the use of rezoning as tool in older neighborhoods to “prevent the encroachment of inappropriate development of a more intensive nature.”

The “Residential Enhancement Strategy” of the *Wichita-Sedgwick County Comprehensive Plan* identifies the proposed rezoning area as containing both “Re-establishment” and “Revitalization” areas. The Plan identifies these areas as needing stabilization and protection from structural and market decline, and should be made more attractive for private investment.

The proposed rezoning is consistent with the goals and initiatives of the *South Central Neighborhood Plan*, which recommends preserving the current pattern of neighborhood development with single-family homes on smaller lots by changing the neighborhood zoning pattern from one that permits predominately multi-family and two-family homes to one that permits predominately single-family homes. The proposed rezoning also is consistent with the “Land Use Guide Map” of the *South Central Neighborhood Land Use Plan*. The proposed rezoning is intended put in place a residential zoning pattern for the South Central Neighborhood that fosters implementation of these Plans.

**RECOMMENDATION:** The proposed rezoning is a tool to implement the goals and initiatives contained in the *South Central Neighborhood Plan*. Accordingly, planning staff recommends that the proposed rezoning be APPROVED, subject to the revisions contained in the “South Central Neighborhood Proposed Residential Rezoning” map dated July 9, 2009 (to be presented at the public hearing), in order to accommodate requests from property owners to be exempted from the proposed rezoning and have their property remain as currently zoned.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. The rezoning proposal is consistent with and reflective of the present character and uses within the neighborhood. The “opt-out” provision allows property owners to remain as currently zoned, if they so choose.
2. The suitability of the subject property for the uses to which it has been restricted. Much of the South Central Neighborhood is “over zoned” for its current use. Uses that are incompatible with the predominately low-density residential uses in the neighborhood are permitted by the existing zoning. The proposed “down zoning” will restrict properties to more compatible uses with the surrounding residences and neighborhood.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: This rezoning proposal is not a removal of restrictions but rather a “down zoning” or tightening of restrictions and will have no adverse impacts on nearby properties. The proposed rezoning will potentially have a beneficial long term impact on adjoining neighborhoods and the downtown area of Wichita.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The requested change is consistent with policy direction contained in both the *Wichita-Sedgwick County Comprehensive Plan* and the *South Central Neighborhood Plan*.
5. Impact of the proposed development on community facilities: No new development is proposed in association with, or as a result of, the adoption of the rezoning proposal.

**SCOTT KNEBEL**, Planning Staff presented the Staff Report. He provided an updated map which depicted the 85 properties that had requested exemption from the proposed rezoning.

**HENTZEN** asked what would happen if people changed their mind and wanted to “opt out” 2-3 years from now.

**KNEBEL** commented that today was the deadline for that option; however, he said if individuals changed their mind in the future, they can make application for a zoning change on their own behalf and go through the zoning process.

**HENTZEN** clarified that there was no prohibition in this process.

**KNEBEL** said State Law would not allow the Planning Department to prohibit someone from requesting rezoning.

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

**HILLMAN** moved, **J. JOHNSON** seconded the motion, and it carried (14-0).

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5. **Case No.: CUP2009-11** - Wichita Collegiate School (owner); MKEC Engineering Consultants, c/o Greg Allison (agent) Request DP-166 Lakepoint Community Unit Plan Amendment # 2 to change the approved location of an LED sign for the Collegiate School Webb Road entrance on property described as:

Lot 1, Block 1, Country Walk 2nd Addition, Wichita, Sedgwick County, Kansas, generally located west of Webb Road, approximately 1,000 feet south of 13th Street North.

**BACKGROUND:** On September 9, 2008, the Wichita City Council approved Amendment #1 to DP-166 for an LED sign with conditions to include a 55-foot setback from Webb Road. The applicant now requests Amendment #2 to DP-166 to change the approved location of the LED sign, placing the sign at the property line and within an easement. The applicant will be required to obtain permission from easement controlling authorities for sign placement. The applicant intends to file a vacation request, vacating the west five feet of Webb Road right-of-way (ROW), placing their property line five feet further east. The eastern edge of this site has three easements to include a pipeline, drainage, and sanitary sewer easement. These easements contributed towards the original need for a 55-foot setback from Webb Road. This application simply requests removal of the 55-foot sign setback requirement; the applicant will have other separate processes to determine the final sign location.

The sign as previously approved is 12 feet tall, 48 square-feet in size, and is proposed to have animation and video capability (see the attached sign elevation). The applicant’s proposed amendment to DP-166 states: “One electronic message board sign with video and animation display shall be permitted on Parcel 5 adjacent to Webb Road. The sign shall have a maximum height of 12 feet and a maximum sign area of 48 square feet. The sign shall be located a minimum of 150 feet from the south property line of Parcel 5.”

The application area is the high school portion of the Collegiate School. Property north of the site is zoned GO General Office (“GO”) and LC Limited Commercial (“LC”) and developed with an office building. Property south and west of the site is within the same Lakepoint CUP, is zoned SF-5, and is developed with single-family residences. East of the site, across Webb, is the LI Limited Industrial (“LI”) zoned Raytheon property, which is primarily open space immediately east of the application area.

**CASE HISTORY:** The property is platted as a portion of Lot 1, Block 1, The Country Walk 2<sup>nd</sup> Addition, recorded in 1988. The CUP was originally approved in 1987. The CUP was amended on September 9, 2008, to allow an LED sign with conditions to include a 55-foot setback from Webb Road.

**ADJACENT ZONING AND LAND USE:**

NORTH:	LC, GO	Office building
SOUTH:	SF-5	Single-family residential
EAST:	LI	Open Space
WEST:	SF-5	Single-family residential

**PUBLIC SERVICES:** This portion of Webb is a four-lane paved arterial with a 60-foot half-width right-of-way, meeting the Access Management standards. Other normal public services are available.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “major institutional.”

**RECOMMENDATION:** Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED with the following amendment to DP-166: General Provision 6a. shall be amended to state: One electronic message board sign with video and animation display shall be permitted on Parcel 5 adjacent to Webb Road. The sign shall have a maximum height of 12 feet and a maximum sign area of 48 square feet. The sign shall be located a minimum of 150 feet from the south property line of Parcel 5, and with none of the signage located within the right-of-way unless approved by Public Works.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The application area is the high school portion of the Collegiate School. Property north of the site is zoned GO General Office (“GO”) and LC Limited Commercial (“LC”) and developed with an office building. Property south and west of the site is within the same Lakepoint CUP, is zoned SF-5, and is developed with single-family residences. East of the site, across Webb, is the LI Limited Industrial (“LI”) zoned Raytheon property, which is primarily open space immediately east of the application area.
2. **The suitability of the subject property for the uses to which it has been restricted:** The area is suitable for the uses permitted under SF-5 zoning and DP-166. The property could be used without the requested CUP amendment.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The electronic message board sign is already approved. The previous amendment condition for a 55-foot setback from Webb was in response to existing easements, not in response to affect on nearby property. The existing CUP amendment already requires a 150-foot setback from residential properties to the south. This amendment request should have no effect on nearby property.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies:** The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “major institutional.”
5. **Impact of the proposed development on community facilities:** The requested amendment to remove the sign 55-foot setback requirement should have no impact on community facilities, as the sign will

remain inside the applicant's property line and will not encroach into the Webb right-of-way.

**DALE MILLER**, Planning Staff presented the Staff Report.

**FOSTER** requested correction of the Council approval date referenced in the Staff Report to 9/19/2008. He referred to the diagram submitted by the applicant and asked if the right-of-way line shown is 55 feet or 60 feet.

**MILLER** indicated that the sign will encroach 2 ½ feet into the right-of-way. He said if the City Council approves a vacation case approved by this Commission previously, then the 2 ½ feet will not be in the right-of-way.

**GREG ALLISION, MKEC ENGINEERING, REPRESENTING THE APPLICANT** said the Subdivision Committee had recommended approval to vacate a 2 ½-foot x 10-foot strip of right-of-way. He said the sign encroaches approximately 2.2 feet onto the vacated area, but just an overhang of the sign, not the footing or foundation.

**FOSTER** noted that DAB II voted 6-3 in opposition of Planning Staff's recommendation for approval.

**MILLER** said the DAB opposed allowing the sign to be located where it was proposed. He referred Commission members to the DAB II Memo dated June 1, 2009, provided with the agenda item which explained in detail DAB's opposition to the request.

**B. JOHNSON** verified that the sign was not on top of or beside the storm sewer box.

**MILLER** said the applicant was working with Storm Water Engineering and added that was one of the conditions of approval of the vacation case.

**ALLISON** commented that the sign overhang was clear of the box culvert by one foot and that the applicant was agreeable to the "Hold Harmless Agreement."

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

**DENNIS** moved, **MITCHELL** seconded the motion, and it carried (12-1-1).

**HILLMAN** – No. **J. JOHNSON** – Absent.

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**J. JOHNSON – In**

6. **Case No.: ZON2009-20 and CUP2009-18** - John E. Dugan (owner); Baughman Company, PA. c/o Russ Ewy (agent) Request County zone change from SF-20 Single-Family Residential to LC Limited Commercial and Create DP-320 Dugan West Kellogg Community Unit Plan on property described as:

The East half of the Northwest Quarter of Section 36, Township 27 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas lying North of the AT&SF Railroad right-of-way, EXCEPT that part subject to road rights-of-way of record, generally located south of Kellogg, 1/4 mile east of 135th Street West.

**BACKGROUND:** The applicant proposes to rezone a 52 acre parcel to LC Limited Commercial ("LC") and establish DP-320 Dugan West Community Unit Plan ("CUP") for future commercial development

along Kellogg Drive/US Highway 54/400. Currently, the area is in agricultural use and zoned SF-20 Single-Family Residential (“SF-20”).

The CUP proposes one very large parcel (32 acres) for LC uses. Five outparcels, ranging in size from 1 to 2 acres are located along Kellogg Drive. The CUP would permit all uses allowed by-right in the LC district except adult entertainment, sexually oriented businesses, taverns and drinking establishments and correctional placement residences. The CUP has site design features to mitigate impacts on nearby residential development. Auto-oriented uses, drive through windows and overhead doors would be prohibited within 200 feet of residential uses. Queuing lanes and overhead doors would not face residential uses and exterior audio systems would not be allowed to project sound beyond the CUP boundaries.

Other CUP provisions include maximum building coverage of 30 percent, maximum floor area of 35 percent of lot area, maximum height of 35 feet. Setbacks are 50 feet on the south property line, and 35 feet along the north, west and east property line except for the northern 300 feet of the east line. The applicant has requested 15 feet for this segment due to the small size of the parcel and its location abutting the Calfskin Creek where no future development will be permitted.

Consistency is called for in architecture, lighting standards, landscaping and signage. It provides for pedestrian connectivity between buildings and the main roads and internal circulation and smooth vehicular flow between and within parcels.

The signage provisions for freestanding signage stipulate monument-style signs of 20 feet in height for Parcels 1-5 and 30 feet for Parcel 6. Parcel 1-5 would be allowed at least one sign, up to 150 square feet each. Parcel 6 (the large parcel) would be allowed two signs along Kellogg, up to 250 square feet each. This would yield a maximum of 1,000 square feet in signage, which is slightly below the amount allowed (0.8 times the linear frontage) for freestanding signage by the Wichita Sign Code. Spacing would be 150 feet apart. The total number of sign locations for the frontage would be nine. Considering that the two signs for Parcel 6 are allowed to be 30 feet in height, which counts as occupying two sign locations each, one sign location would be left for five remaining parcels. Other sign provisions include prohibiting portable, billboard and off-site signs, limiting window signage to 25 percent of window area, prohibiting rear facing building signs and limiting flashing signs to those for public service type messages.

The screening provisions are tailored to the specific characteristics of the surrounding land use. On the east side bordering the Calfskin Creek, the CUP calls for a six to eight-foot screening wall where adjacent to residential use. It is probable that the land to the east will be developed with nonresidential use; additionally the creek forms a wide (approximately 800 feet) natural barrier. This screening wall may never be needed. On the west side, if the property is developed with residential use in the future, a masonry wall six to eight feet in height should be provided by this CUP. On the south side, the CUP is separated from the platted residential development by a rail-banked right-of-way. The elevation of the land is highest on the residential ground (Turkey Creek 3<sup>rd</sup> Addition), lowest for the right-of-way then higher on the CUP tract although about 5-10 feet lower than Turkey Creek. This creates screening difficulties to adequately address sight lines for the residential lots. Evergreen trees planted densely along the edge of commercial development, coupled with masonry type screening around loading docks, trash receptacles, mechanical, outdoor work and storage areas and other similar uses would provide better screening than a six-foot wall at the property line that is at least 3-5 feet below grade of the residences from which the wall is intended to block the view.

Drainage Plan considerations will be significant during the platting of this property due to the presence of Calfskin Creek to the east. Minor modifications of the parcel layout may be necessary to accommodate the Drainage Plan, which is reflected in the general provisions of the CUP.

The land north of US 54/400 is zoned GC General Commercial (“GC”). It is developed, with a self-service warehouse storage complex located immediately to the north and an antique mall to the northwest. The land to the northeast has been used for commercial purposes in the past, but currently is vacant. The land west of the site is zoned SF-20 and currently is vacant. It had a Conditional Use for soil extraction and a rock crusher through 2006, to supply the US Highway 54/400/Kellogg freeway construction project. An asphalt/concrete plant is located on the west side of 135<sup>th</sup> Street West on property zoned LI Limited Industrial (“LI”). The land to the east is vacant and separated from this site by the Calfskin Creek. The Calfskin Creek has a significant breadth of floodway in this location and the floodplain spills over to approximately 3-5 acres of this tract on the northeast corner of the CUP. The land south of the site includes the rail-banked right-of-way corridor, with this mile segment held by Sedgwick County. The City of Wichita holds the right-of-way to the east and for two miles to the west; Prairie Travelers holds the next segment, which is being developed as the Prairie Sunset Trail. South of rail-banked right-of-way is Turkey Creek, a single-family residential subdivision zoned SF-5 Single-Family Residential (“SF-5”).

**CASE HISTORY:** The property is unplatted. Right-of-way for a frontage drive along US 54/400 was acquired and the frontage road was installed recently.

**ADJACENT ZONING AND LAND USE:**

NORTH:	GC	Warehouse, self-service storage, antique mall, vacant
EAST:	SF-20	Agricultural, Calfskin Creek
SOUTH:	SF-5, SF-20	Vacant (platted as single-family), agricultural, Calfskin Creek, rail-banked right-of-way
WEST:	SF-20, LI, GC	Vacant (CON2002-00035 for soil extraction and CON2002-00042 for a rock crusher were permitted for a four-year period), asphalt/concrete plant west of 135 <sup>th</sup> Street West

**PUBLIC SERVICES:** US Highway 54/400 is the major east west freeway and the major highway extending westward through Sedgwick County. A frontage road (Kellogg Drive) was recently constructed on the south side of US Highway 54/400 to provide access to this property. The CUP proposes complete access control to U.S. Highway 54/400. One major opening and three smaller openings are shown on the CUP. At this time, the frontage road will allow two-way traffic, but it would become a one-way frontage road when US Highway 54/400 is constructed to freeway standards.

135<sup>th</sup> Street West is paved as a rural road from Kellogg south for ¼ mile, then becomes an unpaved road. It is scheduled next year on the Sedgwick County CIP for paving to three-lane standard from Kellogg to Pawnee.

The rail-banked right-of-way along the southern boundary is shown as a missing link in the Prairie Sunset Trail in the WAMPO Regional Pathway System Plan.

An 18” sewer main parallels the eastern edge of the tract, but requires a smaller main to make a connection. Water needs extended to serve the tract, either from 119<sup>th</sup> Street West or 151<sup>st</sup> Street West. Other normal public services are available or could be extended to the tract.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide, Map as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “regional commercial.” The requested zone change and CUP is in conformance with the plan. The “Regional Commercial” category is a major destination area (center and corridors) containing concentrations of commercial, office and personal service uses that have predominantly regional market areas and high volumes of retail traffic. The location of this tract at a

future interchange of US Highway 54/400/Kellogg freeway offers the potential for this type of use when the area becomes more urbanized. **Commercial Objective III.B** encourages future commercial areas to “minimize detrimental impacts to other adjacent land uses,” with **Strategy III.B.1** seeking to channel new strip commercial uses to areas identified on the “Wichita Land Use Guide,” and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. The **Commercial Locational Guideline #3** of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed CUP is in general conformance with these recommendations.

**RECOMMENDATION:** Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2009-00020) to LC.
- B. APPROVE the Community Unit Plan (DP-320), subject to the following conditions:
  1. Allow the reduced setback to 15 feet along the northern 300 feet of the east property line.
  2. No development shall occur until water and sewer service is available.
  3. Access shall be in accordance to the access acquired for the frontage road and access management guidelines, as shown on the CUP.
  4. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
  5. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
  6. The ordinance/resolution establishing the zone change shall not be published until the platting has been recorded with the Register of Deeds.
  7. Prior to publishing the ordinance/resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-320) includes special conditions for development on this property.
  8. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The land north of US 54/400 is zoned GC. It is developed, with a self-service warehouse storage complex located immediately to the north and an antique mall to the northwest. The land to the northeast has been used for commercial purposes in the past, but currently is vacant. The land west of the site is zoned SF-20 and currently is vacant. It had a Conditional Use for soil extraction and a rock crusher through 2006, to supply the US Highway 54/400/Kellogg freeway construction project. An asphalt/concrete plant is located on the west side of 135<sup>th</sup> Street West on property zoned LI. The land to the east is vacant and separated from this site by the Calfskin Creek. The Calfskin Creek has a significant breadth of floodway in this location and the floodplain spills over to approximately 3-5 acres of this tract on the northeast corner of the CUP. The land south of the site includes the rail-banked right-of-way corridor, with this mile segment held by Sedgwick County. The City of Wichita holds the right-of-way to the east and for two miles to the west; Prairie Travelers holds the next

segment. South of rail-banked right-of-way is Turkey Creek, a single-family residential subdivision zoned SF-5.

2. The suitability of the subject property for the uses to which it has been restricted: The SF-20 designation is suitable for its current agricultural use, but a commercial designation is more appropriate for future development of the property when the area around it becomes more urbanized.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The CUP provisions regarding uses, site development, architectural and other design elements should mitigate most of the detrimental effects.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The “2030 Wichita Functional Land Use Guide, Map as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “regional commercial.” The requested zone change and CUP is in conformance with the plan. The provisions “Regional commercial” is a category that encompasses major destination area (center and corridors) containing concentrations of commercial, office and personal service uses that have predominantly regional market areas and high volumes of retail traffic. The location of this tract at a future interchange of US 54/400/Kellogg freeway offers the potential for this type of use when the area becomes more urbanized. **Commercial Objective III.B** encourages future commercial areas to “minimize detrimental impacts to other adjacent land uses,” with **Strategy III.B.1** seeking to channel new strip commercial uses to areas identified on the “Wichita Land Use Guide,” and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. The **Commercial Locational Guideline #3** of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed CUP is in general conformance with these recommendations.
5. Impact of the proposed development on community facilities: The frontage road along Kellogg affords access to the major cross-town freeway system, and should be adequate to accommodate traffic volumes generated by commercial development. No development should occur until water and sewer service is available.

**DONNA GOLTRY**, Planning Staff presented the Staff Report.

**FOSTER** referenced a correction to #12 C. of the General Provisions with regard to the landscape buffer.

**GOLTRY** agreed to the change and thanked **FOSTER**.

**PHIL MEYER, BAUGHMAN COMPANY, AGENT FOR THE APPLICANT** said they are in agreement with staff comments as presented.

**ED ROBERTS, REAL ESTATE RESOURCES, 11514 WEST CHARTWELL CIRCLE, WICHITA** reported that he was representing the Kerns and Curtis families, property owners to the east of the site. He said the property they own is “landlocked” because Mel Hamblen owns property on the other side of their property to the east as additional storm water drainage and a ponding area. He said there is approximately 2-3 acres that was not located in the flood plain that was landlocked. He said they are not in opposition to the proposed development; however, they wanted to make sure the Planning

Commission was aware of the situation when they considered the request and how access to these two properties would be possible through the proposed development. He said if the property is landlocked, it won't be available to become a part of the tax base.

**MCKAY** verified that the property was located within the floodway and/or floodplain.

**ROBERTS** stated that some of the acreage was in the floodplain, but approximately 2-3 acres was not.

**CAROL REIDA, 758 N. KESSLER COURT, WICHITA** stated that more than just a few acres of the landlocked property was not in the floodplain.

**PHIL MEYER, BAUGHMAN COMPANY** provided an aerial map of the area as a hand out. He briefly reviewed the map which showed the floodplain, landlocked acreage, and railroad tracks. He commented that this landlocked acreage was a new issue to him and that he just met with **MR. ROBERTS** before the meeting to discuss this. He said this situation has existed for many years and that there is nothing developable in the area. He said his first inclination was to request that the MAPC approve the request and let the landowners work something out at a future date. He said he could ask for a deferral to further discuss the situation; however, he felt that this issue could have been discussed earlier before they got to this point. He requested that the MAPC approve the plan as submitted.

Responding to **MR. FOSTER's** question regarding rail banking, **MEYER** said he believed the entire track was rail banked out to Goddard.

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

**DENNIS** moved, **VAN FLEET** seconded the motion.

**SUBSTITUTE MOTION:** To defer action until accessory to the adjacent landlocked properties is resolved.

**FOSTER** moved, **HILLMAN** seconded the motion.

**MARNELL** said he won't support the motion because as stated, it forces the applicant to do whatever the neighbors want before the proposal could be approved.

**MITCHELL** and **MCKAY** said they agree with **MARNELL's** comments.

**FOSTER** said he envisioned staff involvement in the discussion and that it included possible access from either the north or south.

The substitute motion failed (2-12). **DENNIS, DOWNING, FARNEY, HENTZEN, B. JOHNSON, J. JOHNSON, MARNELL, MCKAY, MILLER STEVENS, MITCHELL, SHERMAN, VAN FLEET** – No.

The original motion carried (12-2). **FOSTER** and **HILLMAN** – No.

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7. **Case No.: CON2009-17** - Westar Energy, c/o Steve Ingersoll (owner); PEC, PA, c/o Rob Hartman (agent) Request City Conditional Use for a 300' Wireless Communication Facility on property zoned SF-5 Single Family Residential on property described as:

Commencing at the Northeast corner of the Northeast Quarter; thence South 01 degrees 01'41" East along the East line of said Northeast Quarter, a distance of 498.87 feet; thence South 88 degrees 58'19" West, a distance of 241.13 feet to the point of beginning; thence South 36 degrees 05'39" West, a distance of 94.00 feet; thence South 53 degrees 54'21" East, a distance of 67.00 feet; thence North 36 degrees 05'39" East, a distance of 40.00 feet; thence North 03 degrees 08'41" East, a distance of 64.35 feet; thence North 53 degrees 54'21" West, a distance of 32.00 feet to the point of beginning, generally located northwest of the terminus of Seneca Street, 1/2 mile north of 40th Street North (4401 N Seneca).

**BACKGROUND:** The applicant, Westar Energy, seeks a Conditional Use to permit the construction of a 300-foot high, galvanized steel, lattice, wireless communication tower. The tower site is located in the SF-5 Single-family Residential ("SF-5") zoned 52-acre Ripley Power Plant site. The Ripley site is no longer used as a power plant, as it was for decades. The site still has power plant infrastructure, and is now used as a Westar training facility. In building this tower, Westar will dismantle their existing tower at 1900 East Central. Per the amended Wireless Communication Facility Ordinance (adopted by the City Council on April 8, 2008), new wireless communication facilities over 65-feet in height in the SF-5 zoning district may be permitted with a Conditional Use.

The 52-acre Ripley site is north of the terminus of Seneca, just south of the Little Arkansas River, and north of I-235. This site is zoned SF-5, but was home to a power plant for decades. North of the river are SF-5 zoned single-family residences. South of the site is LI Limited Industrial ("LI") zoning, developed with a residence and an office/warehouse combination. Also south of the site is an SF-5 zoned technical college, and SF-5 residences built along a retired sand pit. East of the site, across the river, is an SF-5 zoned park and school. West of the site is a platted SF-5 residential subdivision (the South Harbor Addition). The eastern most lots in this addition, those nearest the Ripley site, are not yet built. The residences north of the site, across the river, are over 600 feet from the proposed tower, with significant vegetation buffering along the river. Residences south of the site are over 800 feet from the proposed tower. The park east of the site, across the river, is over 1,800 feet from the site, with significant vegetation buffering along the river. The residential lots west of the site are over 1,400 feet from the proposed tower.

The applicant's letter (see attached) states that the proposed facility is needed for a private radio system, for microwave radio, and for a data acquisition function. The tower will also accommodate other wireless functions in the future if necessary. Westar found this tower necessary, as the existing Westar East Central tower, and other towers in the area, do not accommodate necessary coverage, and/or will not meet structural requirements.

Art. IV Sec. IV-C.5.b. of the Unified Zoning Code (UZC) requires a setback equal to the height of the communication tower from abutting properties. The attached site plan demonstrates that the 300-foot tower meets compatibility setback requirements. The proposed tower and its associated communication frequencies and wattages must meet standards determined by the Federal Aviation Administration (FAA) not to pose a hazard to air navigation or interfere 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 stated that lighting will be provided for aircraft warning (an FAA requirement), including daytime white and nighttime red lighting. 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 must allow co-location for three (3) other providers.

**CASE HISTORY:** The site is located on a portion of Government Lot 3 in the Northeast Quarter of Section 30, Township 26 South, Range 1 East of the 6<sup>th</sup> P.M.

**ADJACENT ZONING AND LAND USE:**

NORTH:	SF-5	Little Arkansas River, single-family residences
SOUTH:	LI, LC, SF-5	Warehousing and office, technical college, single-family residences
EAST:	SF-5	Little Arkansas River, park, school
WEST:	SF-5	Vacant single-family residential lots

**PUBLIC SERVICES:** The site has access to Seneca, classified as a local street at this location. Seneca is a paved two-lane street with a 70-foot right of way at this location.

**CONFORMANCE TO PLANS/POLICIES:** Per the amended Wireless Communication Facility Ordinance (adopted by the City Council on April 8, 2008), new wireless communication facilities over 65-feet in height in the SF-5 zoning district may be permitted with a Conditional Use.

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 SF-5 zoning district; and requires compliance with the compatibility setback standards. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: preserve the pre-existing character of the area as much as possible; minimize height, mass, or proportion; minimize the silhouette; use colors, textures, and materials that blend in with the existing environment; be concealed or disguised as a flagpole, clock tower, or church steeple; be placed in areas where trees and/or buildings obscure some or all of the facility; be placed on walls or roofs of buildings; be screened through landscaping, walls, and/or fencing; and, be painted red and white instead of using strobe lighting. The site was a power plant for decades, and still retains an industrial character with smoke stacks, buildings, and cooling towers. The tower will have a galvanized surface, which will blend into the sky more readily than red or white paint. There are existing mature trees around the site, screening the site from surrounding residential uses.

The 2030 Functional Land Use Guide classifies the Ripley site as “Major Utility / Transportation.” It defines “Major Utility / Transportation” as encompassing utility and transportation facilities and includes a range of such uses as airports, landing strips, landfills, waste transfer stations, water treatment and sanitary sewer plant facilities.

**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 design that generally conforms to the approved elevation and that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The support structure shall not exceed 300 feet in height and shall be designed and constructed to accommodate communication equipment for at least three (3) 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 a 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 tower site located within the Ripley site shall be developed in general conformance with the approved site plan.
- 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: This site is zoned SF-5, but was home to a power plant for decades. North of the river is SF-5 zoned single-family residences. South of the site is LI zoning, developed with a residence and an office/warehouse combination. Also south of the site is an SF-5 zoned technical college, and SF-5 residences built along a retired sand pit. East of the site, across the river, is an SF-5 zoned park and school. West of the site is a platted SF-5 residential subdivision (the South Harbor Addition).
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-5, was used as a power plant for decades, and is now used as a Westar training facility. The site is suitable for its continued use as a training facility. A Conditional Use may be granted to permit a wireless communication tower in the SF-5 zoning district; however, the facility should conform to the guidelines of the Wireless Communication Plan as much as possible. The Locational Guidelines of the Wireless Communication Master Plan recommends industrial areas as possible/preferred sites for towers. The proposed facility conforms to most of the plan's guidelines.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed tower and its lighting will be visible from some nearby residences. However, this site, with large smoke stacks and cooling towers, already had an industrial character. The site is well screened from all surrounding residences with existing vegetation. Likewise, proposed aircraft warning lighting is designed to have minimal visibility from ground level. Given the existing industrial nature of site, the proposed tower should have minimal affect on nearby property.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The 2030 Functional Land Use Guide classifies the Ripley site as "Major Utility / Transportation." It defines "Major Utility / Transportation" as encompassing utility and transportation facilities and includes a range of such uses as airports, landing strips, landfills, waste transfer stations, water treatment and sanitary sewer plant facilities. The proposed wireless communication facility mostly conforms to the Design Guidelines of the Wireless Communication Master Plan. The site meets the UZC compatibility setback requirement from private property.
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.

**DALE MILLER**, Planning Staff presented the Staff Report.

**FOSTER** asked about the District Advisory Board (DAB) report. **LONGNECKER** stated that DAB VI approved the request 6-0.

**FOSTER** mentioned the reference to gradual removal of the tower and asked if placing a time limit on that action would be appropriate.

**STEVE INGERSOLL, WESTAR ENGERY, 1900 EAST CENTRAL** said they plan to have all the radio equipment moved within one year. He said the tower will be removed as soon as the equipment can be moved.

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

**B. JOHNSON** moved, **MARNELL** seconded the motion, and it carried (13-1).  
**SHERMAN** - Abstained

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8. **Case No.: DER2008-09** - Request a public hearing regarding Amendments to The April 19, 2001 Edition of the Wichita-Sedgwick County Unified Zoning Code for codification, minor amendments to definitions, site development regulations (including screening, parking and storage of vehicles), nonconformities and addition of CBS Commercial Burn Site District as a special overlay zoning district on property described as;

Generally located City and County wide.



DER2008-00009

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**DONNA GOLTRY**, Planning Staff presented the Staff Report.

**FOSTER** said in addition to the questions he submitted by e-mail, he also noted a correction on rural home occupation item E.

**GOLTRY** agreed with the correction.

There was brief discussion concerning Sections, Articles and formatting issues.

**MILLER** clarified that the Section and Article numbers match, i.e., Section 1, Article 1; Section 2, Article 2, etc.

**CHARLES PEASTER, 9453 135<sup>TH</sup> STREET WEST, SEDGWICK** said he was appointed to the committee by the Sedgwick County Commission. He said he believes they have made some good improvements to the zoning Code for both the City and the County. He recommended that the MAPC approve the proposed Code revisions. He added that he would also recommend that the changes be approved by the County Commission. He commented that the Committee met five times with MAPC Staff, and City and County attorneys and code enforcement staff.

**JOHN DAILEY, PO BOX 381, VALLEY CENTER** said he was also a member of the Valley Center Planning Commission, and County Board of Zoning Appeals. He said many meetings were scheduled for one hour and went to two hours and beyond. He said many improvements have been made and that there are still things to be done, however, he requested that the MAPC pass the Code revisions as is.

**MAX WEDDLE, 862 SOUTH ZELTH COURT, COLWICH** said one of the products of the committee was development of a small pamphlet that explains the zoning process in laymen's terms.

**HILLMAN** said he wanted to thank the three individuals who volunteered their time for this effort.

**MOTION:** To approve the "Wichita-Sedgwick County Unified Zoning Code July 9, 2009 Edition."

**MITCHELL** moved, **MCKAY** seconded the motion, and it carried (14-0).

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The Metropolitan Area Planning Department informally adjourned at 2:35 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 \_\_\_\_\_, 2009.

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

(SEAL)