

**METROPOLITAN AREA PLANNING COMMISSION**

**MINUTES**

**April 23, 2009**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, April 23, 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; David Dennis; Shawn Farney; David Foster; Bud Hentzen; Hoyt Hillman; Bill Johnson; Ronald Marnell; John W. McKay, Jr.; Debra Miller Stevens; M.S. Mitchell and Don Sherman (In @1:36 P.M.). G. Nelson Van Fleet, Vice Chair and Don Anderson were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Derrick Slocum, Associate Planner; Bob Parnacott, County Counselor and Maryann Crockett, Recording Secretary.

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1. Approval of the April 9, 2009 MAPC meeting minutes:

**MOTION:** To approve the April 9, 2009 Minutes as amended.

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

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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 2009-21: One-Step Final Plat -- OAK CREEK OFFICE PARK ADDITION**, located on the south side of 21st Street North and west of Greenwich Road. (Deferred April 9, 2009)

NOTE: This is a replat of Lot 1, Block 1 and Reserve B of the Oak Creek Addition. This site is also contained within the proposed Parcels 3, 3A and 3B, and Reserves I and J of the Oak Creek CUP (DP-274).

**STAFF COMMENTS:**

- A. City of Wichita Water Utilities Department requests a petition for the extension of sanitary sewer (laterals) and City water services (distribution mains).
- 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. Stormwater Engineering has approved the applicant's drainage plan subject to revisions.
- D. Traffic Engineering has approved access controls. The plat proposes one access opening along 21<sup>st</sup> St. North.
- 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. 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.
- G. 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.
- H. The Applicant needs to request a CUP adjustment.
- I. A note shall be placed on the final plat, indicating that this Addition is subject to the conditions of the Oak Creek CUP (CUP 2004-09, DP-274).
- J. The vicinity map should be corrected.
- K. 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.
- L. 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.
- M. The title block should be corrected to read "An Addition to Wichita, Sedgwick County, Kansas."
- N. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- O. 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.)
- P. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- Q. 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.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should 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.

- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

**MOTION:** To defer the item for two weeks.

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

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- 2-2. **SUB 2009-19: One-Step Final Plat -- ANN WALENTA COMMERCIAL ADDITION,** located on the south side of Kellogg and on the east and west sides of Oliver. (Deferred from April 9, 2009.)

NOTE: This is a replat of a portion of the Ann Walenta Addition, Kellogg Heights Addition, and the DeWitt 2<sup>nd</sup> Addition. A portion of the site has been approved for a zone change (ZON2008-34) from B Multi-family, TF-3 Two-family, and MF-29 Multi-family to LC Limited Commercial. The Oliver Retail Center CUP (CUP2008-24, DP-261) was also approved for this site. The plat includes the vacation of Eilerts St. and Dellrose Ave.

**STAFF COMMENTS:**

- A. City of Wichita Water Utilities Department advises that water and sewer is available. A 20-foot easement is needed for the existing water main in the proposed vacated Dellrose Ave. right-of-way and for the existing sanitary sewer main in the proposed vacated Eilerts St. right-of-way. Temporary easements will be established by separate instrument for utilities that will be relocated.
- 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. Stormwater Engineering has approved the applicant's drainage plan subject to drainage easements.
- D. Access controls have been platted on the preliminary plat in accordance with the CUP approval. The final plat needs to include access controls. The plat proposes two openings along the west side of Oliver and one opening along the east side. One opening is proposed along Orme. Two openings are proposed along Glendale.
- E. A note shall be placed on the final plat, indicating that this Addition is subject to the conditions of Oliver Retail Center Community Unit Plan (CUP 2008-24, DP-261).
- F. The right-of-way widths of Pershing, Orme and Glendale need to be denoted.
- G. The wall easement shall be referenced in the plattor's text.
- H. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.

- I. In accordance with the CUP approval, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- J. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- K. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- L. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Westar Energy has advised that any reconstruction or relocation of existing facilities will be at the applicant's expense.
- S. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

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

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

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- 2-3. **SUB 2009-22: One-Step Final Plat -- MAIZE 54 ADDITION**, located on the north side of Kellogg Drive and east of Maize Road.

NOTE: This is an unplatted site located within the City. The site has been approved for a zone change (ZON 2008-68) from SF-5 Single-family Residential to LC Limited Commercial. This site is also contained within the Maize 54 Addition CUP (CUP 2008-46, DP-318).

**STAFF COMMENTS:**

- A. Wichita Water Utilities Department advises that water is available, however in lieu of assessment fees are needed for the distribution and transmission main. Sewer will need to be extended 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 requested the following:
1. A 20-foot drainage easement needs to be provided for the proposed storm water sewer system which may be addressed through a blanket easement or restrictive covenant.
  2. Prior to the issuance of a building permit, the plat will need to dedicate area D to the City of Wichita and provide a minimum of a 20-foot maintenance and access easement to maintain Cowskin Creek. The east 20 feet of lot 3 shall include a maintenance and access easement, including an easement from the 40-foot access easement on lot 1 to the east line of lot 3.
  3. The plat cannot be scheduled for City Council approval without the CLOMR approved by FEMA.
  4. Permits need to be obtained from DWR and the Corps of Engineers Office prior to the scheduling of the plat for City Council.
- D. An access easement to Kellogg Drive has been denoted in accordance with the CUP approval. Complete access control needs to be platted along the remainder of the Kellogg Drive frontage. An off-site access easement to Maize denoted on the CUP has not been reflected on the plat. A copy of this document shall be provided to MAPD to verify owner's use of this easement. The final plat shall reference the dedication of access controls in the platting text.
- E. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.
- F. The width of the Kellogg Drive right-of-way shall be denoted.
- G. A note shall be placed on the final plat, indicating that this Addition is subject to the conditions of the Maize 54 Addition CUP (CUP 2008-46, DP 318).
- H. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- I. On the final plat tracing, the MAPC signature block needs to reference "Darrell A. Downing" as Chairman.
- J. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.

- K. The 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.
- L. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- S. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

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

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

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- 2-4. **SUB 2009-06: Final Plat -- YOUTH HORIZONS ADDITION**, located north of 109th Street North and on the west side of 63rd Street East.

NOTE: This site is located in the County in an area designated as “rural” by the Wichita-Sedgwick County Comprehensive Plan. The site has been approved for a zone change (PUD 2008-09) from RR Rural Residential to PUD Planned Unit Development.

**STAFF COMMENTS:**

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval.
- B. The site is currently located within the Sedgwick County Rural Water District No. 1. If service is available, feasible and the property is eligible for service, County Code Enforcement recommends connection.
- C. County Engineering has approved the applicant’s drainage plan.
- D. The access easement needs to be spelled correctly on the face of the plat. It shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- E. In accordance with County Engineering, the plat denotes two openings along 63<sup>rd</sup> St. East including a joint opening along the south property line.
- F. A joint access agreement shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- G. Sedgwick County Fire Department advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- H. A PUD Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved PUD and its special conditions for development on this property.
- I. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- J. The signature line for the County Clerk needs to be revised to reference “Kelly B. Arnold.”
- K. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- L. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.

- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- S. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

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

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

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- 2-5. SUB 2009-09: One-Step Final Plat -- REXROAT ADDITION**, located on the southwest corner of 55th Street South and 127th Street East.

NOTE: This is unplatted property located in the County. It is in an area designated as "Rural" by the Wichita-Sedgwick County Comprehensive Plan. It is located in the Derby Area of Influence.

**STAFF COMMENTS:**

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval.
- B. The site is currently located within the Sedgwick County Rural Water District No. 3. The applicant shall contact County Code Enforcement regarding connection to rural water or have testing performed.
- C. In conformance with the Urban Fringe Development Standards, for individual domestic wells that are proposed, a Safe Yield Analysis must be provided to Sedgwick County Code Enforcement to assure

the availability of an adequate, safe supply of water that does not impair existing water rights. Easements shall be dedicated for potential future extension of public water and sewer.

- D. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- E. County Engineering advises that the plat's text needs to include the standard floodplain language. A drainage reserve is needed extending from 55<sup>th</sup> St. through Lot 4. Calculations for the base flood elevation are needed on the area of lots 3 and 4 that is in the FEMA flood plain. A flood plain development permit will be required prior to construction of the drive for lots 3 and 4.
- F. County Surveying advises that the KGE easement needs to be located.
- G. County Surveying advises that the electric easement needs to be located.
- H. The plat denotes complete access control along 55<sup>th</sup> St. South and three joint access openings along 127<sup>th</sup> St. East. County Engineering has requested removal of the shared opening between Lots 2 and 3.
- I. A joint access agreement shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveways should also be addressed by the text of the instrument.
- J. Sedgwick County Fire Department advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- K. 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.
- L. 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.
- M. 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.)
- N. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- O. 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.
- P. 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.

- Q. 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.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- T. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

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

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

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### **3. PUBLIC HEARING – VACATION ITEMS**

#### **3.1 VAC2009-10: City request to vacate a platted track easement**

**OWNER/APPLICANT:** All abutting property owners (see attached list)

**AGENT:** Savoy Company, PA, c/o Mark Savoy

**LEGAL DESCRIPTION:** The 50-foot wide platted track easement, which runs between Lots 1- 6, (west side) and Lots 7 -12 (east side), all in Block 3, Southwest Industrial Addition, Wichita, Sedgwick County, Kansas

**LOCATION:** Generally located between Lydia (vacated) – Edwards – Pawnee – Custer Avenues (WCC # IV)

**REASON FOR REQUEST:** Easement not needed

**CURRENT ZONING:** The subject property and the abutting northern, eastern and western properties are zoned LI Limited Industrial (“LI”). Adjacent property located south of the site is zoned GC General Commercial (“GC”).

The applicants propose to vacate the described platted track easement. It appears that all the abutting property owners have signed the petition and application to vacate the easement. The plattor's text states that the track easements are “provided for the construction, maintenance and operation of railroad service to said additions.” There are no railroad tracks in the easement. There appears to be sewer line and a

manhole in the south portion of the easement, abutting Lots 5, 6, 7, & 8, all in Block 3, Southwest Industrial. The Southwest Industrial Addition was recorded with the Register of Deeds August 8, 1953.

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 track easement.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time April 2, 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 track easement and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Retain a minimum 25-foot wide portion, of the platted track easement to cover the existing manhole and sewer line located between Lots 5, 6, 7, & 8, all in Block 3, Southwest Industrial Addition. Retain any needed easement for all other utilities. Provide a legal description of the retained easement on a Word document, via E-mail to Planning, prior to the vacation request going to City Council for final action. This will be used on the Vacation Petition and the Vacation Order.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide City Public Works, Water & Sewer, Storm Water and franchised utilities with any needed plans for review for relocation, reconstruction of utilities or converting the public sewer line and manholes to a private line. Provide any guarantees needed for the relocation or reconstruction of utilities or converting the public sewer line and manholes to a private line. Provide any easements needed for the relocation or reconstruction of utilities. All must be completed prior to proceeding to the Wichita City Council for final action.
- (3) All improvements shall be according to City Standards.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Retain a minimum 25-foot wide portion, of the platted track easement to cover the existing manhole and sewer line located between Lots 5, 6, 7, & 8, all in Block 3, Southwest Industrial Addition. Retain any needed easement for all other utilities. Provide a legal description of the retained easement on a Word document, via E-mail to Planning, prior to the vacation request going to City Council for final action. This will be used on the Vacation Petition and the Vacation Order.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide City Public Works, Water & Sewer, Storm Water and franchised utilities with any needed plans for review for relocation, reconstruction of utilities or converting the public sewer line and manholes to a private line. Provide any guarantees needed for the relocation or reconstruction of utilities or converting the public sewer line and manholes to a private line. Provide any easements needed for the relocation or reconstruction of utilities. All must be completed prior to proceeding to the Wichita City Council for final action.
- (3) All improvements shall be according to City Standards.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

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

**DON SHERMAN** (In @1:36 P.M.)

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**PUBLIC HEARINGS**

4. **Case No.: CUP2009-09-** Smith & Company, Inc., Attn: Ron Smith (owner), KE Miller Engineering, P.A., Attn: Kirk Miller (agent) Request DP-243 Amendment #3 to permit warehouse self-service storage.

Lot 9, Block A, and the South 210 feet of Lot 6, Block A, Smithmoor Commercial Addition to Sedgwick County, Kansas.

And further certify to:

All lots contained in the CUP #DP-2403, generally located west side of Greenwich Road 1/8 mile south of Harry Street.

**BACKGROUND:** The applicant proposes Amendment #3 to permit warehouse, self-service storage on an expanded Parcel 9 of DP-243 Smithmoor Commercial Development Community Unit Plan (“CUP”). The site is 2.29 acres, and is zoned LC Limited Commercial (“LC”). It is located on the west side of Greenwich Road 1/8 mile south of Harry Street. The site includes the existing Parcel 9 (52,500 square feet) plus the 210-foot strip of Parcel 6 (42,532 square feet), along the south property line. The remnant of Parcel 6 (86,620 square feet) would be an interior parcel with access from a 90-foot main private

ingress/egress reserve traversing the middle of the commercial development from Harry Street to Greenwich Road.

The site plan for the expanded Parcel 9 shows three storage buildings with multiple bays (overhead doors) on two sides and one onsite residential building for the resident manager. The southern edge of the CUP has a masonry wall within a five-foot wall easement, a 15-foot landscape buffer with trees spaced 40 feet apart, and a paved access aisle located within the 35-foot setback. The closest buildings are approximately 45 feet from the south property line. No buildings are located in the western 110 feet, which would be for future expansion.

The tallest building is situated nearest the single-family residences to the south. It has 14-foot high overhead doors, presumably for storing RVs, etc., on the north elevation visible from Harry and Greenwich, but the overhead doors are reduced to eight feet in height on the south elevation visible from the adjoining residences. The two other storage buildings are shorter and have lower (eight-foot tall) overhead doors. Reducing the height of the overhead doors on the elevation visible from the residences is more in the spirit of the existing CUP General Provision #21 that prohibits overhead doors for vehicle repair uses and drive-through windows within 200 feet of residential zoning. The taller building would serve as a partial screen from the interior activity at the site for the residences, and the shorter overhead doors would be only slightly taller than the height of the abutting masonry wall.

The CUP requires architectural compatibility with the other commercial buildings on the CUP. Brick exterior for the sides of the buildings without overhead doors and gabled roofs with composite shingles are shown for the buildings, which is compatible with the look of the buildings on Parcels 2 and 4. It is recommended that any overhead doors visible to the residences in Smithmoor Additions be finished in an inconspicuous manner with matching exterior color to minimize their visibility.

General Provision #9 prohibits lighting on the south facades of buildings within 50 feet of residential zoning, but allows freestanding light poles, which could generate more light trespass and glare than properly designed and mounted wall-packs. It is suggested that lighting along the south property line be restricted to wall-packs with front-shields to provide security without trespass and glare to the nearby residents.

The Wichita Sign Code prohibits building wall signage along the south facades within 150 feet of residential zoning. It is suggested that this be modified to prohibit wall signage on all building facades.

The adjoining property on the south and southwest of the CUP is zoned SF-5 Single-family Residential ("SF-5") and developed with single-family residences, Smithmoor Residential Addition. The property to the east includes a church building zoned SF-5 and residences on property zoned SF-5 and LC. The land to the north, northwest and west is part of the CUP and is zoned LC. Two commercial buildings are located along Harry, a bank is located at the corner and a new commercial building is under construction along Greenwich Road. The large interior parcel zoned LC plus two smaller parcels zoned LC and one zoned NR Neighborhood Retail ("NR") remain vacant. The northwest corner of the CUP, zoned GO General Office ("GO") is developed with a realty office and the southwest parcel is being developed with residences, although it is zoned GO.

**CASE HISTORY:** The property is platted as Smithmoor Commercial Addition, recorded January 5, 2000. DP-243 Smithmoor Commercial Development Community Unit Plan was originally approved in 1999. Amendment #1 increased the zoning on Parcel 10 to NR in 2002. Amendment #2 allowed an LED sign on Parcels 2 and 4 in 2006.

**ADJACENT ZONING AND LAND USE:**

NORTH:	LC, NR, GO	Vacant, commercial buildings, bank
SOUTH:	SF-5	Single-family residences
EAST:	SF-5, LC	Church site, single-family residences

WEST: LC, SF-5 Vacant, single-family residences

**PUBLIC SERVICES:** Harry Street is a four-lane major arterial with center turn lane. Greenwich Road currently is a two-lane arterial, but is in the design stage for widening. The project is estimated to be in construction in 2011. Average daily traffic (ADTs) was calculated at about 13,000 vehicles per day in 2007 for Harry west of Greenwich and Greenwich north of Harry. The volumes fall to 6,000 to 7,000 south and east of the intersection. The parcel has direct access via the internal ingress/egress drive onto Greenwich Road or Harry Street. All normal public services are available to the site.

**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 “local commercial.” The proposed development would be in conformance to the local commercial designation. It has aspects both in conformance and in conflict with **Commercial Goal/Objective B** of “Develop future retail/commercial areas which complement existing commercial activity, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses.” The recommended changes are designed to minimize the impact of the development on the residences to the south. The proposed use conforms to **Strategy III.B.1** of locating local commercial development (neighborhood centers) in areas shown on the Land Use Guide at the intersection of two arterial streets and **Commercial Locational Guideline #1** of the *Comprehensive Plan* recommends that commercial sites should be located adjacent to arterial streets. The proposed use derived all its direct access from the internal ingress/egress drive and does not add any additional points of access to Greenwich Road, in support of **Strategy III.B.3**, to limit the number of access points along arterial streets.

**RECOMMENDATION:** Based on these factors, plus the information available prior to the public hearing, staff recommends the request for Amendment #3 to DP-243 be APPROVED subject to the following conditions:

1. The warehouse, self-service storage shall be permitted as a Conditional Use in Parcel 9. The CUP document shall be revised to add the requirements for warehouse, self-service storage by reference to Article III-6.D.y of the Unified Zoning Code.
2. Any overhead doors facing residential (including those on the most proximate or those on the interior of the site) shall be of inconspicuous design and color to fade from view. Overhead doors shall be limited to eight feet in height, as shown on the site plan, except for the north elevations.
3. Add to General Provision #21 that no freestanding light poles shall be permitted within 50 feet of the south property line and freestanding light poles shall be limited to 15 feet in height. Wall-packs may be permitted on the south façade of the building but must have front shields. All lights shall prevent light spillage and trespass and glare onto the adjoining property.
4. Add to General Provision #15 that no building wall signage shall be permitted in Parcel 9.
5. Require that the landscape buffer on the south property line be planted at a rate of one tree per 20 feet and with at least 1/3 of the plant materials being evergreen.
6. Update General Provision #2 to conform to this amendment and the previous administrative adjustment to Parcel 11 and adjust parcel descriptions accordingly.
7. Remove the reference to Parcel 6 in General Provision #11 since it no longer has is tangent to the south property line.
8. The site plan (including review for site circulation) and architectural attachments shall be reviewed and approved by the Planning Department prior to issuance of any building permit for this use. The site shall be in conformance with the conditions of this amendment.
9. The use shall be operated in conformance with all requirements of Article III-D.6.y of the Unified Zoning Code in addition to all other requirements of the Unified Zoning Code, the Landscape Ordinance and the Sign Code, except as modified by the CUP.
10. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.

11. 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.
12. 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 adjoining property on the south and southwest of the CUP is zoned SF-5 Single-family Residential ("SF-5") and developed with single-family residences, Smithmoor Residential Addition. The property to the east includes a church building zoned SF-5 and residences on property zoned SF-5 and LC. The land to the north, northwest and west is part of the CUP and is zoned LC. Two commercial buildings are located along Harry, a bank is located at the corner and a new commercial building is under construction along Greenwich Road. The large interior parcel zoned LC plus two smaller parcels zoned LC and one zoned NR Neighborhood Retail ("NR") remain vacant. The northwest corner of the CUP, zoned GO General Office ("GO") is developed with a realty office and the southwest parcel is being developed with residences, although it is zoned GO.
2. The suitability of the subject property for the uses to which it has been restricted: The area is suitable as currently zoned and allowed by the community unit plan.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Having mini-storage types of uses close to residential generally is undesirable. The restrictions on architecture, lighting, signage and increased landscaping all are designed to reduce this impact.
4. Length of time the subject property has remained vacant as zoned: The property has been vacant since the late 1990s.
5. 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 "local commercial." The proposed development would be in conformance to the local commercial designation. It has aspects both in conformance and in conflict with **Commercial Goal/Objective B** of "Develop future retail/commercial areas which complement existing commercial activity, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses." The recommended changes are designed to minimize the impact of the development on the residences to the south. The proposed use conforms to **Strategy III.B.1** of locating local commercial development (neighborhood centers) in areas shown on the Land Use Guide at the intersection of two arterial streets and **Commercial Locational Guideline #1** of the *Comprehensive Plan* recommends that commercial sites should be located adjacent to arterial streets. The proposed use derived all its direct access from the internal ingress/egress drive and does not add any additional points of access to Greenwich Road, in support of **Strategy III.B.3**, to limit the number of access points along arterial streets.
6. Impact of the proposed development on community facilities: The requested amendment will result in less traffic or impact on community facilities than typical retail or commercial uses in the LC district.

DONNA GOLTRY, Planning Staff presented the Staff Report.

**FOSTER** commented on the 5-foot wall easement, 20-foot utility easement and the 15-foot landscape buffer, and asked staff if that was considered a conflict.

**GOLTRY** said it is considered acceptable to plant in the utility easement as long as you avoid high pressure gas lines, sewer lines, etc. and there were none of these types of utilities on this site.

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

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

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5. **Case No.: CON2009-08** – Discalced Carmelite Monastery, c/o Steve Robl (applicant) Baughman Company, P.A., c/o Russ Ewy (agent) Request County Conditional Use for a general group residence for the development of a monastery on property described as:

The South Half of the Northeast Quarter of Section 1, Township 26 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, EXCEPT that part described as BEGINNING at the Southeast corner thereof; THENCE North 0 degrees 00'00" East along the East line of said South Half, 1327.82 feet to the Northeast corner of said South half; THENCE North 89 degrees 48'23" West along the North line of said South half, 1325.57 feet; THENCE South 0 degrees 07'17" West, 1327.27 feet to the South line of said South half; THENCE south 89 degrees 47'00" East along said South line, 1328.39 feet to the POINT OF BEGINNING along with an access easement described as: The North 40 feet of the South 683.5 feet of that part of the South half of the Northeast Quarter of Section 1, Township 26 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas described as BEGINNING at the Southeast corner thereof; THENCE North 0 degrees 00'00" East along the East line of said South half, 1327.82 feet to the Northeast corner of said South half; THENCE North 89 degrees 48'23" West along the North line of said South half, 1325.57 feet; THENCE South 0 degrees 07'17" West 1327.27 feet to the South line of said South half; THENCE South 89 degrees 47'00" East along said South line, 1328.39 feet to the POINT OF BEGINNING. Said easement shall run with the land and be binding on the grantors and the grantees successors, heirs and assigns, generally located west of Woodlawn Avenue and approximately 1/2 mile south of 77th Street north.

**BACKGROUND:** The applicant is requesting a Conditional Use to permit a “group residence, general” on an unplatted 40-acre tract of land. This property is zoned RR Rural Residential (“RR”), and is currently undeveloped. The applicant is requesting this Conditional Use to allow a group residence for the Discalced Carmelite Nuns of the Monastery of Divine Mercy and Our Lady of Guadalupe.

The application area is a square shaped, 40-acre tract of land, donated by the owner that owns an 80-acre tract on North 63<sup>rd</sup> Street East (North Woodlawn Avenue), a half mile north of 69<sup>th</sup> Street North. The site is located on the western half of the 80 acres, set back approximately 1,320 feet from the right-of-way line of North 63<sup>rd</sup> Street East (North Woodlawn Avenue). Access to the site would be by a private access drive, running through the front 40 acres, from Woodlawn Avenue. An access easement will need to be established to allow the road to run through the eastern half of the 80-acre tract. The site plan submitted with the application depicts the primary group residence structure, an accessory structure (greenhouse), a lagoon, a grey water collection location and a proposed pond.

Surrounding properties are zoned RR Rural Residential, and are mainly farmsteads and large agricultural or residential tracts.

The Unified Zoning Code (“UZC”) defines “group residence, general,” as a residential facility providing cooking, sleeping, and sanitary accommodations for a group of people 15 people or more, including staff, not defined as a family, on a weekly or longer basis.

CASE HISTORY: This site is currently unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	RR	Agricultural
SOUTH:	RR	Agricultural
EAST:	RR	Agricultural
WEST:	RR	Agricultural

PUBLIC SERVICES: On-site services will be used, as publicly supplied sewer and water are not available.

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan's "2030 Urban Growth Areas Map" depicts this site as appropriate for "rural" uses. Rural areas are primarily intended for agricultural uses, resource based uses and other non-agricultural uses having no impact greater than typical agricultural uses, and do not require publicly supplied services. This site is outside of any projected urban growth boundaries.

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

1. There shall be a maximum of two group residences, each not to exceed occupancy of more than 15 persons, and a maximum combined occupancy of 20 persons on this site.
2. If or when the second residence is built, the applicant must request an administrative adjustment to revise the approved site plan.
3. The site shall be developed in substantial conformance with the approved site plan, and in conformance with all applicable codes and regulations, including the Wichita-Sedgwick County Unified Zoning Code requirements dealing with "group residence, general" uses.
4. The applicant shall obtain all applicable permits required to legally operate the requested use prior to occupying the "group residence."
5. 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 VII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Surrounding properties are all zoned RR Rural Residential and used for agriculture and farmsteads. This is a rural area.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned RR Rural Residential which permits a rather limited range of uses which are primarily residential, agricultural and institutional uses typically found in low density residential settings. The site could be used as currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request subject to the recommended conditions should limit anticipated negative effects to nearby properties.

4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval would provide the applicant additional space to properly serve the nuns of the monastery. Denial would force the applicant to find another location for the proposed monastery. Since the subject site is land that has been donated to the church, finding another site that could be donated to the church would be a hardship to the ultimate users. The type of use allowed on the subject site and the regulations of the UZC should protect the public's health, safety and welfare.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The plan does not contain policies specific to this request however, the proposed 40-acre site is consistent with the property's "rural" designation, and large lot residential uses found in rural areas.
6. Impact of the proposed development on community facilities: With approval of this project, the projected impact on community facilities is minimal.

**DERRICK SLOCUM**, Planning Staff presented the Staff Report.

**SLOCUM** referred to the Background section of the Staff Report and noted a correction in the fourth sentence of the second paragraph. He said the 645 feet referred to should actually be 1,290 feet from the right-of-way.

**HILLMAN** asked if Kechi was going to provide the water or did they have their own well.

**SLOCUM** said they will be using well water.

**RUSS EWY, BAUGHMAN COMPANY, AGENT FOR THE APPLICANT** clarified that the residence will be served by rural water. He said they have been working to add better language as to what the group residence will be in the future. He said they have agreed to add an additional restriction that reads "*The group residence, general use is limited to a monastery and/or convent affiliated with a bona fide religious organization.*" He said they are fine with that language and offered to answer any questions.

**MITCHELL** commented that there was no mention of platting in the Staff Report.

**EWY** said with 40 acres they are allowed the one home without platting.

**HILLMAN** asked then it will be platted when they build the second home.

**EWY** said they are still allowed the 20-acre exemption.

**CHRIS BOHM, 6201 BRIAR ROSE LANE, VALLEY CENTER** said the only reason he brought up the other condition is if the property changes hands and some other use was proposed because of the general group residence designation, there would be no trigger that would bring the issue back to this body for review and consideration in the future. He said he is good with the language proposed.

**MOTION:** To approve subject to staff recommendation including the addition of the sixth condition.

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

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6. **Case No.: CON2009-12** – City of Wichita/Water and Sewer Department request County Conditional Use to permit construction of new Aquifer Storage and Recovery (ASR) Intake Facility for City of Wichita water utility on property described as:

The North 700 Feet of the West 1450 Feet of the Northwest Quarter of Section 9, Township 25 South, Range 1 West, of the 6P.M., lying South and West of the Little Arkansas River; generally located southeast of the intersection of 117th Street North and 87th Street West.

**BACKGROUND:** The City of Wichita Water Utility is seeking Conditional Use approval to permit a “major utility,” for an Aquifer Storage and Recovery Intake facility (ASR), on the described RR Rural Residential (“RR”) zoned site/tract. A major utility can be considered as a Conditional Use in the RR zoning district. The ASR project pulls excess water from the Little Arkansas River during periods of high flow and treats the raw water. The filtered water will be piped to injection sites and put into the aquifer where it is stored for later use. The excess water pulled from the Little Arkansas River for the ASR project is water that would normally be lost for local beneficial use because the water used in this program is not part of the river’s normal water profile that naturally assists with the aquifer’s recharge or is used for irrigation or residential wells. Without this program the river water used in the ASR project would just flow south, and be lost for beneficial use in this area. This project also helps prevent salt water plume from contaminating the area’s ground water. Water allocations for the Equus Beds (aquifer) exceed sustainable yield. Projects of this type enhance the quality and quantity of beneficial yield of the aquifer, creating a more sustainable water supply. This site was originally approved February 13, 1997, as CU-422, “a groundwater recharging demonstration project: see “Case History.” The subject property is located within the City of Sedgwick’s zoning area of influence. The Sedgwick Planning Commission will consider this request at their April 21, 2009, meeting.

The applicant has provided a survey and a site plan/exploded view of the property. The existing facility associated with CU-422 will be replaced, as shown on the applicant’s site plan. The site plan shows the redeveloped site: a 50-foot (x) 100-foot sand separator building, the intake structure, parking, a gate across the gravel drive, a concrete drive around the sand separator building, an 8-foot chain link fence with 3 strand of barbed wire and the existing tree line, which is to remain. The site plan shows 150-foot setbacks around the west, north and south sides of the site. No setback is shown on the east side of the site, where the facility’s intake structure is located in close proximity to the Little Arkansas River, which runs though the east side of the site. There may be some outside lighting associated with security on the site, which has not yet been designed. The number of trips the Water and Sewer Department will make to the site will depend on the sophistication of the security system. The waste water lagoons currently on the site will be covered and not replaced. The site plan does not show any additional buildings, outside storage area, pole lights, or trash receptacles.

The area around the site is zoned RR, and is mostly active agricultural fields broken up by the Little Arkansas River, which flows through the east side of the site. At this site, a dense run of trees follows the river and provides screening along the site’s east and a portion of the north sides. The nearest residences are four single-family residences (built 1880, 1900 and 1978) located approximately 650 – 1,550 feet north, northwest and south of the site. There is a City of Wichita potable water treatment plant (CON2009-11, to be considered by Bentley 04-28,2009, and the MAPC 05-07-2009) located approximately 2 ¼ miles southwest of the subject site. This potable water treatment plant is part of the ASR project and was part of CU-422’s groundwater recharging demonstration project.

**CASE HISTORY:** The site is an unplatted, 22.4-acre, RR Rural Residential (“RR”) zoned tract. The site was approved as Conditional Use, CU-422, by the MAPC, 10-0, February 13, 1997, a major utility, specifically a groundwater recharging demonstration project. The Sedgwick Planning Commission approved this request 4-2. There were no recorded protests against CU-422. CU-422 was a pilot project, to run until February 24, 2000. If the project was successful, the Water Department planned to either apply for an extension or look at another site. The program was successful, but the Water Department failed to apply for an extension. The Water Department has decided to redevelop the site, as an ASR,

thus the current Conditional Use request, which does not have a time limit on it. The site is located within the Little Arkansas floodway and flood zone. The site is located within the Equus Beds Groundwater Management District #2. The property was zoned RR in 1985 when the county adopted county-wide zoning.

**ADJACENT ZONING AND LAND USE:**

NORTH:	RR	Farm land, single-family residences
SOUTH:	RR	Farm land, single-family residence
EAST:	RR	Little Arkansas River, farm land
WEST:	RR	Farm land, intersection of 117th Street North and 87th Street West

**PUBLIC SERVICES:** There is no public water or sewer available. The site is outside of all Rural Water Districts. The site has access onto 117th Street North and 87th Street West, both dirt/gravel Valley Center Township Roads. Both have 60 feet of right-of-way. The site is located in an area that is the FEMA (Little Arkansas) flood zone and floodway, which means any additional development within it, must be addressed with an approved drainage plan and must meet all standards for construction of buildings/structures on the site, per the County Engineer and Code Enforcement.

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

The "2030 Wichita Functional Land Use Guide" of the *Wichita-Sedgwick County Comprehensive Plan* identifies this area as "rural" and outside of the City of Sedgwick's growth area. The rural classification is located outside of all Sedgwick County's cities' 2030 growth areas and is intended to accommodate agricultural uses, rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County and predominately large lot residential development. The utilities location guidelines of the Comprehensive Plan indicate utility facilities that produce significant noise, odor and other nuisance elements should be located away from residential areas. The continuation of the Aquifer Storage and Recovery Intake (ASR) facility on this site could be considered as a complementary land use for this predominately agricultural area, which uses the Equus Beds for irrigation of the county's agricultural fields. Without this program the river water used in the ASR project would just flow south, and be lost for beneficial use in this area. Water allocations for the Equus Beds exceed sustainable yield. Projects of this type enhance the quality and quantity of beneficial yield of the aquifer, creating a more sustainable water supply. The applicant is not introducing a new use to the area, but is proposing to improve and extend the life of a successful program.

The UZC does not have specific standards for major utilities as a Conditional Use, but refers (UZC, Art. V, Sec V-D.8) to the nine review criteria as listed in Art V-C.8. Additionally, the MAPC may attach additional specific conditions to a proposed Conditional Use in order to ensure that it fully complies with the criteria of this Code; UZC Art. V-D.6

The site is located within the City of Sedgwick's 2008-2030 Comprehensive Plan, which shows the site to be and continued to be used for "Utility." One of the "Utility Goals" of the plan is to "Ensure adequate future water supply," which would seem to agree with the intent of the ASR facility on this site. The Sedgwick Plan places the site within the Equus Beds Groundwater Management District #2, and is sensitive to activities that would contaminate this water resource, which is a water source for the Sedgwick County metro areas as well as being used for irrigation of the county's agricultural fields. The proposed Conditional Use would pull excess water from the Little Arkansas River during periods of high

flow and treats the raw water. The excess, filtered water would then be piped to a potable water treatment plant, then to injection sites and put into the Equus Beds (aquifer) where it is stored for later use.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the proposed Conditional Use be APPROVED, subject to platting within a year and to the following conditions:

- (1) The site will be used for an Aquifer Storage and Recovery Intake Site as depicted on the approved site plan. Outside pole lighting shall be directed onto the site and away from all adjacent residential development.
- (2) The site shall be developed and maintained in substantial conformance with the approved site plan, and in compliance with the County and FEMA standards for development within the floodway and flood zone. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations, unless specifically modified by this Conditional Use.
- (3) Prior to the issuance of a building permit, the applicant shall submit for approval a landscape plan for the landscape buffer depicted on the site plan. The landscape buffer shall contain, at a minimum, the equivalent of one tree every 40 feet. The required landscaping shall be installed prior to commencing operations or during the first growing season following the commencement of operations. The applicant shall maintain enough of the existing trees along of the east side of the site to provide screening for the adjacent and abutting lands.
- (4) Construction shall begin on the project within five years or the Conditional Use may be made null and void. At the end of the five year period previously mentioned, the Director of Planning and the Zoning Administrator may administratively extend the time period to commence the project up to three years.
- (5) The storage of all chemicals and fluids associated with the mechanical repair of equipment will be on a concrete surface in containers approved by County Code Enforcement and reviewed by Equus Beds Groundwater Management District #2. No outdoor storage of parts, equipment waiting to be repaired, or chemicals.
- (6) Signage is limited to a maximum of 32 square feet, no taller than 10 feet. If the sign is lighted, lighting shall be designed to minimize light pollution and night time glare.
- (7) If the Zoning Administrator finds there is a violation of any of the conditions of approval, the Zoning Administrator, in addition to enforcing other remedies set forth in Article VIII of the Unified Zoning Code may, with the concurrence of the Planning Director, declare the conditional use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the surrounding area: The area around the site is zoned RR, and is mostly active agricultural fields broken up by the Little Arkansas River, which flows through the east side of the site. At this site, a dense run of trees follows the river, and provides screening along the site's eastern side. The Little Arkansas' floodway and flood zone restricts development of the area. The area is located in the Equus Beds, which is a water source for the Sedgwick County metro areas as well as being used for irrigation of the county's agricultural fields. The nearest residences are four single-family residences (built 1880, 1900 and 1978) located approximately 650 – 1,550 feet north, northwest and south of the site.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned RR, which primarily permits agriculture uses and large lot residential uses. The site could be used for a single-family residence or agriculture without the Conditional Use.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The applicant is not introducing a new use to the area, but is proposing to improve and extend the life of a successful program. The continuation of the Aquifer Storage and Recovery Intake facility (ASR) on this site could be considered as a complementary land use for this predominately agricultural area. Without this program the river water used in the ASR project would just flow south, and be lost for beneficial use in this area. Water allocations for the Equus Beds exceed sustainable yield. Projects of this type enhance the quality and quantity of beneficial yield of the aquifer, creating a more sustainable water supply. The Equus Beds is a water source for the Sedgwick County metro areas as well as being used for irrigation of the county's agricultural fields.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested Conditional Use is in general conformance with the *Wichita-Sedgwick County Comprehensive Plan*. Per the UZC, major utilities may be considered as a Conditional Use in the RR zoning district, on a site by site consideration. The utilities location guidelines of the Comprehensive Plan indicate utility facilities that produce significant noise, odor and other nuisance elements should be located away from residential areas. The current site is in rural Sedgwick County, and is located outside of all city growth areas. The site is located within the City of Sedgwick's 2008-2030 Comprehensive Plan, which shows the site to be and continued to be used for "Utility."
5. Impact of the proposed development on community facilities: The Aquifer Storage and Recovery Intake facility will enhance community facilities by pulling excess water from the Little Arkansas River during periods of high flow and treating the raw water. Then the excess, filtered water would then be piped to a potable water treatment plant, then to injection sites and put into the Equus Beds (aquifer) where it is stored for later use.

**BILL LONGNECKER**, Planning Staff presented the Staff Report.

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

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

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### **NON-PUBLIC HEARING ITEMS**

7. MAPC Workshop - Agenda and dates

**DIRECTOR SCHELGEL** provided a worksheet which was a tentative agenda of seven items provided by one or more Commission members. He asked if there were any other ideas, additions, deletions or other modifications to the proposed agenda.

There was brief discussion concerning possible dates and locations for the workshop.

**JOHNSON** said he has gotten most out of the workshops that were held away from City Hall because they seem to be more relaxing and open. He suggested the Evans Building Company office and said he would provide lunch. He added that his purpose in requesting the workshop was to orient new members and share experiences with them and to make clear what the Commission should and shouldn't be doing so that they look more professional.

It was the general consensus that the workshop would be held Friday, July 17, 2009, from 10:30 a.m. – 2:30 p.m. at Evans Building Company, 9801 W. York.

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**8. Other Matters/Adjournment**

**CHAIRMAN DOWNING** passed out information on the projects selected by WAMPO along with two contingency lists.

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**JOHNSON** asked **DIRECTOR SCHLEGEL** what was going to happen with the Auto Inn Deal.

**DIRECTOR SCHLEGEL** commented that the applicant will need to find another location or come back with a different type of proposal than the one they submitted.

**MITCHELL** said it sounds like the neighbors don't want anything to do with cars in the neighborhood. He said he doesn't see how this proposed project can be amended or any similar project in that south central neighborhood unless whatever it is in the Zoning Code that keeps making this storage of automobiles a salvage operation is re-written.

**DIRECTOR SCHLEGEL** said the Advance Plans Committee took that item up at this morning's meeting and recommended that be done.

**JOHNSON** said he is concerned about blanket zoning and asked if that type of neighborhood planning approach is going to work or just create more problems with deals like the Auto Inn proposal. When asked to define "blanket zoning" he referenced zoning like the Delano Overlay on west Douglas. He said with adoption of the "South Central Neighborhood Plan" people are misunderstanding what can and cannot be done in that area. He commented that with the Limited Industrial Zoning, a body shop could be located at the site.

**DIRECTOR SCHELGEL** said he thinks the objection to the proposal was for that particular use at that particular location.

**MARNELL** commented that Planning Staff expressed a different view at the Advance Plans Committee meeting. He said it was indicated that the City has made a policy of not allowing those types of businesses in that area. He said he took exception with staff because he saw it as a case that was not approved. He said they agreed to disagree.

**DIRECTOR SCHLEGEL** commented that the City Council has adopted the "South Central Neighborhood Plan" and that type of use was not something that was recommended by that plan.

**MILLER** said both the Planning Commission and the City Council adopted the "South Central Neighborhood Plan" and it appeared when the City Council denied the application, they were supporting that policy position.

**MARNELL** said it was classified as a "salvage yard" which is not allowed in the area, which may have been a mistake.

**HILLMAN** said he sees both sides of the picture. He said as **MR. MARNELL** pointed out, from a zoning standpoint it may have been the right thing to do. However, the other way is to look at it is how this particular business runs itself and maintain or does not maintains itself and how it represented itself. He commented that political action took place at the City Council. He said he believes the MAPC did exactly what it should have done and that the City Council did what it should have done. He said each case, in spite of existing regulations, needs to be evaluated on its own merit and he felt the way Auto Inn ran its business was without merit.

**HENTZEN** said he had decided to trust staff on what they bring the Commission on neighborhood plans like the "South Central Neighborhood Plan." He said the issue was studied for months and he wants to support the recommendations in the Plan. However, he said he will not vote for something that will stop a property owner from doing what they are legally entitled to do.

**HILLMAN** said in actuality, he didn't know why the Commission was discussing this issue since it was over. However, he said the property rights of every business owner around that site and the tax base of those businesses that stepped forward to object to this business being located there also drove the process and he believes their property rights need to be honored as well.

**DIRECTOR SCHLEGEL** said he believed the Council vote was based on a combination of factors not any one single thing.

**MARNELL** said he was surprised the City Council would have a unanimous vote on any zoning issue.

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The Metropolitan Area Planning Department informally adjourned at 2:05 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)