

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

April 24, 2008

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, April 24, 2008, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: M.S. Mitchell, Chair; Don Anderson, Vice Chair; David Dennis; Darrell Downing; David Foster; Michael Gisick; Bud Hentzen; Hoyt Hillman; Bill Johnson; Ronald Marnell; John W. McKay Jr ; Debra Miller Stevens; and G. Nelson Van Fleet. Don Sherman was absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; Derrick Slocum, Associate Planner; Neil Strahl, Senior Planner; and Maryann Crockett, Recording Secretary.

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1. Approval of the April 10, 2008 MAPC meeting minutes

No Minutes

CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS

Items 2 may be taken in one motion unless there are questions or comments.

- 2-1. **SUB 2008-20: One-Step Final Plat -- COUNTRY HOLLOW 2nd ADDITION**, located east of 127th Street East and south of Kellogg.

NOTE: This is a replat of a portion of Country Hollow Addition. The replat consists of the realignment of Gilbert and reconfigured lot sizes.

STAFF COMMENTS:

- A. Petitions have been provided with the Country Hollow Addition for sewer, water, drainage and paving improvements. Wichita Water Utilities Department has required new petitions for future improvements. The applicant shall contact Debt Management regarding the need for submission of a respread agreement for existing improvements and/or for those under construction.
- B. City Engineering has approved the drainage plan.
- C. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- D. 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 (ASACE); 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.
- E. Since Reserve A includes a swimming pool, a site plan shall be submitted with the final plat tracing,

for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. The design for the pool must be submitted to Environmental Services for review prior to issuing a building permit for the pool.

- 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 which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- H. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-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.
- 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 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 requested additional utility easements.
- 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). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendation.

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

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- 2-2. **SUB 2008-17: One-Step Final Plat -- ELIOT 2ND ADDITION**, located on the south side of MacArthur Road and west of Tyler Road.

NOTE: This plat is a replat of the Eliot Addition in addition to unplatted property to the west. The west portion of this site is located in the County adjoining Wichita's city limits and annexation is required. A zone change (ZON 2008-20) has been requested for the west portion of the site from SF-20 Single-family Residential to GC General Commercial. Neither water nor sewer services will be needed to serve the site.

STAFF COMMENTS:

- A. Prior to this plat being forwarded to the City Council, the applicant shall apply for annexation to Wichita.
- B. Wichita Water Utilities Department has required a petition for future City water and sanitary sewer services (mains and laterals).
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. City Engineering and County Engineering have approved the applicant's drainage plan.
- E. The plat proposes one access opening along MacArthur Road. Complete access control along the west 154.09 feet of this site was approved with the previous plat as an off-site dedication and access controls need to be revised accordingly. The one opening along MacArthur needs to be defined.
- F. 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.
- G. 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.
- H. The platator'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.

- I. 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.)
- J. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- K. 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.
- L. 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.
- M. 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.
- N. Perimeter closure computations shall be submitted with the final plat tracing.
- O. 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.
- P. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendation.

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

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- 2-3. **SUB 2008-18: One-Step Final Plat -- SHAW ADDITION**, located on the north side of Central and east of Hoover Road.

NOTE: This is an unplatted site located within the City. A zone change request (ZON 2008-17) from SF-5 Single-family Residential to LC Limited Commercial has been requested along with a Protective Overlay addressing uses, outside storage, screening, signage, and lighting.

STAFF COMMENTS:

- A. Wichita Water Utilities Department advises that city water and sewer services are available to serve

the site. Fees in lieu of assessment regarding water connections are required. An 8-foot utility easement covering the sewer line and electric is needed.

- 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 Engineering has approved the applicant's drainage plan.
- D. Access control except one opening along Central has been approved by the Subdivision Committee.
- E. Traffic Engineering has approved the street right-of-way along Central.
- F. A No Protest Agreement shall be submitted regarding the future paving of Elder.
- G. A block number or letter and lot number shall be denoted on the face of the plat.
- H. A Protective Overlay Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved Protective Overlay and its special conditions for development on this property.
- I. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- J. 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.
- K. 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.
- L. On the Harvey Patterson Addition, a break line needs to be shown in the property line since it is not drawn to scale.
- M. The 649-foot dimension line from the section corner to the west side of the plat needs a break line.
- N. 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.
- 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. 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.
- V. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

CHAIRMAN MITCHELL reported that it was requested by Traffic Engineering that the drive be moved from its present location to near the west property line; however, the Subdivision Committee requested that the driveway stay where it is located.

MOTION: To approve subject to staff recommendation.

DOWNING moved, **ANDERSON** seconded the motion, and it carried (13-0).

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- 2-4. **SUB 2008-19: One-Step Final Plat -- VILLAFLORES ADDITION**, located south of 29th Street North and west of Broadway.

NOTE: This is an unplatted site is located in the City. The site has been approved for a zone change (ZON 2006-54) from SF-5 Single-family Residential to TF-3 Two-family Residential subject to platting. A Protective Overlay #184 was also approved for this site addressing permitted uses, lot sizes and off-street parking.

STAFF COMMENTS:

- A. Wichita Water Utilities Department requires the applicant guarantee the extension of City water and sanitary sewer (mains and laterals) to serve the lots being platted. Lots 10-12 have access to existing water and fees in lieu of assessment regarding connections are required.
- 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 Engineering has approved the applicant's drainage plan.

- D. A Protective Overlay (PO) Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved Protective Overlay and its special conditions for development on this property.
- E. Since this plat proposes the platting of a 32-foot narrow street right-of-way, adjacent 15-foot street, drainage and utility easements are needed.
- F. 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.
- G. 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.
- H. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for Lots 10 and 11, Block A.
- I. GIS requests the cul-de-sac be labeled as “27th Ct”.
- J. The plat name in the MAPC signature block needs to be corrected.
- K. The lot sizes need to be increased to 6,000 square feet to meet the requirement of the PO.
- L. The drainage and utility easement along the plat’s northeasterly boundary shall be replaced by a reserve.
- M. The final plat tracing shall state in the plattor’s text the purposes of the proposed reserve as well as the ownership and maintenance responsibilities.
- N. Provisions shall be made for ownership and maintenance of the proposed reserves. A covenant shall be submitted regarding ownership and maintenance responsibilities.
- O. The plat shall include a note that the rear setback of the lots adjoining the reserve shall be zero.
- P. 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.
- Q. 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.
- R. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- S. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- T. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone:

316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

- U. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- V. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- W. Perimeter closure computations shall be submitted with the final plat tracing.
- X. Westar Energy has requested additional utility easements to be platted on this property.
- Y. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendation.

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

PUBLIC HEARING – VACATION ITEMS
ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 PM

3-1. VAC2008-09: City request to vacate a portion of a platted setback

APPLICANT/OWNER: Robert A. Norman

LEGAL DESCRIPTION: Generally described as the north 18 feet of a portion of the platted 30-foot street side yard setback that runs parallel to 71st Street South on the south side of Lot 19, Block 3, Applewood Farms Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located east of Grove Avenue, on the northeast corner of 71st Street South and Green Street (WCC #III)

REASON FOR REQUEST: Build a garage

CURRENT ZONING: Site and all abutting and adjacent northern, eastern and western properties are zoned SF-5 Single-family Residential ("SF-5"). The Wichita-Valley Center Floodway is located south of the site, across 71st.

The applicant proposes to vacate the north 18 feet of a portion of the platted 30-foot street side yard setback, making a 12-foot setback in that portion. The zoning of the subject site is SF-5. The UZC requires a minimum of a 15-foot street side yard setback for the SF-5 zoning district. If this was not a

platted setback the applicant could have applied for an Administrative Adjustment, which would reduce the SF-5 zoning district's 15-foot street side yard setback by 20%, resulting in a 12-foot setback, which is what the applicant is requesting. There is an encroaching concrete slab in a portion of the platted setback, which the applicant proposes to build a garage on. There is a platted 5-foot utility easement within the remaining setback. There are no utilities within the described portion of the platted setback. The Applewood Farms Addition was recorded with the Register of Deeds June 9, 1981.

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

A That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle and the Derby Reporter, of notice of this vacation proceeding one time April 3, 2008 which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted setback and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

B Therefore, the vacation of the portion of the platted setback described in the petition should be approved with conditions:

- (1) Vacate the north 18 feet of the platted 30-foot setback where the encroaching concrete slab is located. This setback runs parallel to 71st Street South located on the south side of Lot 9, Block 3, Applewood Farms Addition.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
- (3) All improvements shall be according to City standards and at the applicant's expense.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the north 18 feet of the platted 30-foot setback where the encroaching concrete slab is located. This setback runs parallel to 71st Street South located on the south side of Lot 9, Block 3, Applewood Farms Addition.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the

responsibility of the applicants and at the applicant's expense.

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

Responding to a question from **FOSTER** concerning the 2.7 ft encroachment of existing fence, **LONGNECKER** said one of the conditions of the conditional use would be the removal of the fence out of the 71st Street South right-of-way.

MOTION: To approve subject to staff recommendation.

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

3-2. VAC2008-10 : City request to vacate a portion of platted complete access control

APPLICANTS/OWNERS: Wichita Airport Authority

LEGAL DESCRIPTION: The 50-foot platted emergency and maintenance access on Lot 1, Block 1, Colonel James Jabara 2nd Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located midway between 35th & 47th Streets North, on the east side of Webb Road (WCC #II)

REASON FOR REQUEST: Allowing full movement drive for new development

CURRENT ZONING: The site and all abutting and adjacent properties are zoned LI Limited Industrial ("LI")

The applicant has applied for the vacation of the platted emergency and maintenance access along the site's Webb Road frontage. The plattor's text states the platted emergency and maintenance access is to be gated and locked. The applicant proposes to use the 50-foot access as full movement access onto the soon to be developed Center for Aviation. The proposed full movement access lines up with 39th Street North, on the west side of Webb Road. The plattor's text states that 39th, on the east side of Webb Road, was vacated by this plat. The plattor's text states this site shall have two points of access as approved by the City Engineer, plus the subject emergency and maintenance access. There is a Rural Water District #1 easement, dedicated by separate instrument, in the subject access, but no platted easements. There are no utilities in the subject access. There is a platted 35-foot setback within the subject access. The Colonel James Jabara 2nd Addition was recorded with the Register of Deeds March 3, 1994.

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

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle and the Derby Reporter, of notice of this vacation proceeding one time April 3, 2008 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted emergency and maintenance access and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted emergency and maintenance access described in the petition should be approved with conditions:
1. Vacate the platted emergency and maintenance access and vacate the gated and locked restriction from this point of access. Dedicate/revert the vacated access to a full movement drive all onto Webb Road. If necessary provide Planning with a legal description of the newly established full movement access on a Word document, via e-mail, which reflects the Traffic Engineer's recommended width for the full movement drive. If necessary, upon review by the Traffic Engineer, dedicate complete access control except for two points of access onto Webb. One of the two points of access allowed will be the subject; the vacated emergency and maintenance access.
 2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
 3. All improvements shall be according to City Standards and at the applicant's expense, including any new driveways from private property onto public ROW and closing of any existing drives. If necessary, provide Public Works with a guarantee to ensure that those improvements will be made.
 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 requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the platted emergency and maintenance access and vacate the gated and locked restriction from this point of access. Dedicate/revert the vacated access to a full movement drive all onto Webb Road. If necessary provide Planning with a legal description of the newly established full movement access on a Word document, via e-mail, which reflects the Traffic Engineer's recommended width for the full movement drive. If necessary, upon review by the Traffic Engineer, dedicate complete access control except for two points of access onto Webb. One of the two points of access allowed will be the subject; the vacated emergency and maintenance access.

- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (3) All improvements shall be according to City Standards and at the applicant's expense, including any new driveways from private property onto public ROW and closing of any existing drives. If necessary, provide Public Works with a guarantee to ensure that those improvements will be made.
- (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 requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to staff recommendation.

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

PUBLIC HEARINGS
ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 PM

4. **Case No.: CUP2008-08** - Deferred from the March 27, 2008 MAPC - NR6, LLC, c/o Gary Oborny (owner); MKEC c/o Greg Allison (agent)

Request Amendment #6 to DP-111 to create a new parcel from Parcel 1A, alter permitted uses, increase gross floor area and alter building height on property described as;

That part of Lot 2 beginning at the Northeast corner of Lot 1; thence Northeast 321.34 feet; thence Southeast 208.2 feet; thence East 102.12 feet; thence South 345 feet; thence West 465 feet; thence North 106.81'; thence Northwest 49.31 feet; thence North 262.76 feet to beginning, Block 1, Mediterranean Plaza Commercial Second Addition, Sedgwick County, Kansas. Generally located south of 32nd Street North and east of Rock Road.

BACKGROUND: The applicant proposes to amend DP-111 Mediterranean Plaza Community Unit Plan to split the original Parcel 1A (4.79 acres) into two parcels. The property is zoned LC Limited Commercial ("LC").

Maximum gross floor area for the two parcels would increase from 85,302 square feet to a combined total of 108,062 square feet. The ratio of floor area to land area would go from 0.4 to 0.64 for new Parcel 1A and 0.3 for Parcel 1B, with a combined ratio of 0.52. Maximum building coverage would remain 30% for both parcels. Building setbacks would remain 50 feet along 32nd Street North. An interior, side and rear setback line of 15 feet would be added to both parcels. Building heights would be increased from 45 feet to 60 feet for new Parcel 1A and reduced to 35 feet for Parcel 1B.

The new parcel (Parcel 1B, 1.74 acres) would occupy the western one-third of the existing Parcel 1A and allow 22,760 square feet of gross floor area. Proposed use of the parcel is for a possible restaurant and retail space.

The area remaining in Parcel 1A (3.04 acres) is occupied by an existing building being converted from a multi-plex movie theater (Northrock 6 Cinema) to a three-story office building. Currently, the roof is

being raised to add the third story to the building. At completion, it will have around 85,000 square feet in gross floor area.

As requested, permitted uses for Parcels 1A and 1B would be all uses allowed by right in the LC zoning district except the following uses: group residence, general and limited; correctional placement residence, general and limited; recycling collection station, private and public; utility, major and minor; heliport; kennel, boarding/ breeding/ training; night club in the City and County; pawnshop; sexually oriented business; cemetery and all industrial/ manufacturing/ extractive uses.

Currently, the CUP lists “proposed” rather than “permitted” uses, but adds the interpretive clause of “other similar uses” to the list of proposed uses. This makes it difficult to compare the commercial uses in effect today versus those that would be permitted if the amendment is approved.

However, the list of proposed uses in effect is exclusively commercial uses, which could be construed to exclude residential or public and civic uses. By this amendment, residential or public and civic uses would be allowed unless specifically excluded. The amendment affirmatively prohibits all industrial/ manufacturing/ extractive uses.

The amendment initially requested to allow an off-site sign along Rock Road for Parcels 1A and 1B. Technically, the City treats the entire CUP as a single zoning lot for issuing sign permits. Therefore, any sign along Rock Road would be treated as onsite for any parcel within DP-111, and this request has been withdrawn.

The amendment does not request any variations on parking requirements. The existing site had some surplus parking gained by the conversion from theater to office use since the Unified Zoning Code (“UZC”) parking requirements are less for office. However, the additional restaurant and retail space will occupy about 80 of the existing parking spaces plus it will increase the total parking requirements for Parcels 1A and 1B. If the site is inadequate to provide the parking generated by the amount of floor area requested by the applicant, the applicant will have to obtain either offsite parking agreements or shared parking agreements prior to being able to receive building permits for further intensification of the site (or provide parking structures). A parking analysis to document that adequate parking per the UZC requirements should be required prior to issuing any additional building permit on these parcels.

Internal and cross lot access within DP-111 is based on a 50-foot access easement that runs north-south approximately 225 feet east of Rock Road. Staff would recommend that channelization for the free flow of vehicles and direct access to parking spaces from the access easement is prohibited

DP-111 is fully developed except for a vacant portion of Parcel 1 (Lot 3, Block 1, Mediterranean Plaza Commercial Second Addition) held in different ownership from Parcel 1A and located to the northeast of the application area. Other uses on DP-111, all on property zoned LC, include the Dairy Queen to the west, three strip center buildings with several restaurants, retail including a Petco, and office tenants to the southwest, a bowling alley to the south, a Wal-Mart on the next parcel to the south. The 14-screen movie theater is located on the adjoining CUP to the southeast. The property to the north of 32nd Street North includes another strip commercial building and a large office building.

CASE HISTORY: The property is platted as Lot 2, Block 1, Mediterranean Plaza Commercial Second Addition, recorded September 27, 1988. DP-111 originally was approved November 3, 1981, as Woodlawn Development No. 15. Amendment #1, approved March 17, 1987, configured the CUP with one large lot. Amendment #2, approved August 29, 1996, transferred a parcel from DP-194 to DP-111 and amended outdoor storage and parking for a Wal-Mart expansion. Amendment #3, to transfer more of DP-194 for expansion of the theater, was denied. Amendment #4, approved April 27, 2000, allowed more outdoor storage for Wal-Mart. Amendment #5, approved April 24, 2003, allowed the creation of Parcel 1A as a separate parcel and set maximum building coverage at 73,002 square feet and reduced the building setback from 75 to 50 feet along 32nd Street North. Since Amendment #5, two administrative

adjustments have increased building coverage per CUP adjustment provisions that allow up to a 10 percent increase of the overall CUP.

ADJACENT ZONING AND LAND USE:

NORTH:	LC, GO	Office, commercial strip center, vacant
SOUTH:	LC	Bowling alley, Wal-Mart
EAST:	GC	Theater
WEST:	LC	Restaurants, retail, office

PUBLIC SERVICES: On the Functional Classification Plan, Rock Road is designated as a major arterial, and is developed as a six-lane arterial with decel lanes and left-turn lanes and with a striped median area (not raised curb protected) at the intersection of Rock Road and 32nd Street North. It is one of the most heavily traveled streets in Wichita, with traffic volumes in 2007 (ADTs) of 24,000 vehicles per day on Rock Road at the intersection of 29th Street North. Traffic counts on Rock Road were not available at 32nd Street North, but traffic counts for 32nd Street North at its point of intersection with Rock Road were 1,800 vehicles per day. A traffic signal is located at this intersection and travelers regularly use the private access way between the Dairy Queen and Parcel 1A connecting with 32nd Street North to avoid left-turn movements onto and from Rock Road.

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 “regional commercial.” This is in conformance with the proposed amendment. **Commercial Objective III.B** encourages future commercial areas to: “Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses.” **Strategy III.B.2** seeks to integrate out parcels to planned centers through shared internal circulation, shared signage, similar landscaping and building materials, and combined ingress/egress locations. The CUP generally conforms to these guidelines.

RECOMMENDATION: Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED for Amendment #6 subject to the following conditions:

1. A site plan shall be required to be submitted and approved prior to the issuance of any future building permits on Parcel 1A and/or Parcel 1B by the Director of Planning; said site plan shall conform to the site plan approved by the Director of Planning July 6, 1987, and shall ensure the access easement generally running north-south approximately 225 feet east and parallel to Rock Road be protected to serve as a link between parcels for the free flow of vehicles by channelization and by prohibiting direct access of parking spaces onto this access easement.
2. No building permit shall be issued for any building that would exceed parking requirements of the Unified Zoning Code. If the site is inadequate to meet the parking requirements, a parking analysis to document compliance with UZC parking requirements shall be required prior to issuing any additional building permit(s). Evidence of compliance can include but is not limited to offsite parking agreements or shared parking agreements that meet UZC standards.
3. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
4. 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.

5. 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: DP-111 is fully developed except for a vacant portion of Parcel 1 (Lot 3, Block 1, Mediterranean Plaza Commercial Second Addition) held in different ownership from Parcel 1A and located to the northeast of the application area. Other uses on DP-111, all on property zoned LC, include the Dairy Queen to the west, three strip center buildings with several restaurants, retail including a Petco, and office tenants to the southwest, a bowling alley to the south, and a Wal-Mart on the next parcel to the south. The 14-screen movie theater is located on the adjoining CUP to the southeast. The property to the north of 32nd Street North, zoned LC and GO, includes another strip commercial building and a large office building.
2. The suitability of the subject property for the uses to which it has been restricted: The area is suitable for the use as currently zoned; this amendment represents an intensification of the types of uses already permitted on the same zoning district.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The main concerns are to ensure the access and cross-lot circulation is maintained to protect the interests of all property owners within the CUP and that the parking provided amply meets the needs, to avoid detrimental impacts on the other uses within the CUP.
4. Length of time the subject property has remained vacant as zoned: The Northrock 6 Cinema has been closed for three to four years.
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 "regional commercial." This is in conformance with the proposed amendment. **Commercial Objective III.B** encourages future commercial areas to: "Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses." **Strategy III.B.2** seeks to integrate out parcels to planned centers through shared internal circulation, shared signage, similar landscaping and building materials, and combined ingress/egress locations. The CUP generally conforms to these guidelines.
6. Impact of the proposed development on community facilities: The requested amendment will increase traffic on 32nd Street North feeding into Rock Road. The signalization at 32nd and Rock should accommodate this increase.

DONNA GOLTRY, Planning staff presented the staff report and DAB II recommendation provided as a hand out.

MOTION: To approve subject to staff recommendation.

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

5. **Case No.: ZON2008-15** - Deferred from the April 10, 2008 MAPC Meeting – Estate of Lela Virginia Tanner (Dale Tanner) / Mark Savoy Request City zone change from "SF-5" Single-family Residential to "LC" Limited Commercial on property described as;

The West 250 feet of the South 290 feet of the Southeast Quarter, Section 28, Township 27, Range 2 East of the 6th P.M., Sedgwick County, Kansas. Generally located 10402 East Harry (north of Harry, between Todd and Shiloh).

BACKGROUND: The applicant is seeking LC Limited Commercial (“LC”) zoning for 1.32 acres located on the north side of east Harry Street, approximately 2,600 feet west of Greenwich. The site is zoned SF-5 Single-family Residential (“SF-5”), and developed with what appears to be a vacant residence. The site has 250 feet of frontage along Harry Street, with two driveways.

Property to the east is zoned SF-5 and developed as a single-family residence on a large lot that wraps around to the north of the applicant’s site. Further east of the site is a utility substation, also zoned SF-5. Further north of the next door neighbor’s property is Reserve C of the Crystal Creek Addition, zoned SF-5, which is a single-family residential neighborhood. South of Harry Street and a drainage ditch are single-family residences, also zoned SF-5. West of the site is a church, zoned GO General Office (“GO”) and subject to Protective Overlay 94. PO-94 prohibits the following uses: group residence, limited; group residence, general; correctional placement residence, limited; correctional placement residence, general and hotel or motel; limits residential development to a maximum density of 17.4 dwelling units per acre and limits building height to 45 feet.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family Residential; large-lot single-family, drainage and single-family residential subdivision
SOUTH:	SF-5	Single-family Residential; single-family subdivision
EAST:	SF-5	Single-family Residential; single-family residence
WEST:	GO	General Office, subj. to PO-94; church

PUBLIC SERVICES: Harry Street is classified as four-lane arterial, and has 60 feet of half-street right-of-way, which is the current standard. All other municipal services are available or can be extended.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” map depicts this site as appropriate for “urban residential” uses. Commercial Location Guideline Number 1 contained in *The Wichita-Sedgwick County Comprehensive Plan* states that commercial sites should be encouraged to locate near arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion. Guideline Number 3 states that commercial sites should have site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses. Guideline Number 4 states that commercial uses should be located in compact clusters or nodes versus extending strip developments. As can be seen by the zoning and land use pattern surrounding the site, approval of LC zoning at this location at this time would place a spot of LC zoning in the midst of SF-5 zoned single-family uses and a GO zoned church property.

RECOMMENDATION: Based upon information available prior to the public hearing, planning staff recommends that the request for LC Limited Commercial zoning be DENIED. However, staff recommends that GO General Office zoning be APPROVED, subject to platting within one year and the following Protective Overlay development standards:

1. The following uses shall not be permitted: group residence, limited; group residence, general; correctional placement residence, limited; correctional placement residence, general; and hotel or motel.
2. Residential development shall be limited to a maximum density of 17.4 dwelling units per acre.
3. Buildings shall be limited to a maximum height of 45 feet.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property is located at a mid-mile location with frontage on an arterial street. SF-5 zoning and single-family residential uses are located on three sides of the property with a GO General Office lot developed with a church located to the west.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-5, Single-family Residential which permits a limited number of uses; however the site could continue to be used for residential purposes. The current home appears to need some level of repair, and its location fronting a four-lane arterial makes it less likely to remain attractive for residential use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The staff recommendation for GO General Office zoning subject to a Protective Overlay is the same zoning and use restrictions that were placed on the church property to the west. Approval of LC Limited Commercial zoning would introduce retail and office uses not found now in this immediate area. There are lots with LC zoning located further east and west of the application area; however they are extensions of LC zoning initially located at the intersection of section line roads.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial presumably could cause the applicant a relative economic loss; however the recommendation for GO General Office zoning subject to a Protective Overlay minimizes the potential loss. Approval would introduce retail or office uses that are not present today in the immediate vicinity of the application area, which could diminish surrounding owners' use and enjoyment of their property.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The adopted plan depicts this area as appropriate for residential uses, not commercial or office uses. With the approval of the GO zoning on the property to the west, GO zoning is open for consideration. As indicated above, commercial uses should be located in compact clusters or nodes versus extending strip developments. Limited Commercial zoning at this location is not consistent with this adopted location guideline.
6. Impact of the proposed development on community facilities: LC uses would increase the average daily traffic volume generated by this site; however community

HILLMAN asked whether the change was to LC or NR.

DALE MILLER, Planning staff presented the staff report request to GO.

MOTION: To approve subject to staff recommendation, as amended.

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

6. **Case No.: ZON2008-17** – Stephen Shaw (owner), KE Miller Engineering (agent) Request City zone change from "SF-5" Single-family Residential to "LC" Limited Commercial on property described as;

The South 288.7 feet of the West 5 acres of the East half of the Southwest Quarter of the Southwest Quarter, EXCEPT the East 30 feet and South 50 feet for Street, Section 14, Township 27, Range 1 West of the 6th P.M., Sedgwick County, Kansas. Generally located on the northwest corner of Central Avenue and Elder.

BACKGROUND: The application area is zoned SF-5 Single-family Residential ("SF-5") and was developed with a residence which was recently demolished. The .75 acre site is unplatted. The applicant wishes to develop the site with a commercial building and requests LC Limited Commercial ("LC") zoning. The site has one access point on Central, and no access points from Elder.

The applicant proposes a Protective Overlay (PO), see the attached document. The proposed PO would restrict uses deemed incompatible with the surrounding residences; it would be redundant to existing codes regarding screening, and landscaping. It would also limit parking lot lights to 25 feet in height, and prohibit signs on the north sides of buildings.

This portion of Central is predominantly commercially zoned and developed. Property west of the site is zoned LC and is developed with a furniture store. North of the site is SF-5 zoning and single-family residences. East of the site, across Elder, are SF-5 zoned single-family residences. South of the site, across Central, is a police and fire station with LC and TF-3 Two-family Residential ("TF-3") zoning.

CASE HISTORY: The site is unplatted, the former house on the site was built in 1948. This site requested a zone change to LC in 2001. The LC zoning was denied; the City Council instead approved NR Neighborhood Retail ("NR") subject to platting within one year. The applicant (not the same person as the current applicant) failed to file a plat, and the case was voided for failure to plat.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family residential
SOUTH:	LC and TF-3	Police and fire station
EAST:	SF-5	Single-family residential
WEST:	LC	General retail

PUBLIC SERVICES: Elder is an unpaved local street with a 60-foot right of way (ROW). Central is a five-lane paved arterial at this location with a central turn lane, and a 100-foot ROW. Traffic counts on this portion of Central are 19,976 vehicles per day. The 2030 Transportation Plan identifies Central as remaining a 5-lane arterial. The site is approximately 1000 feet from I-235 to the west. The site's drive on Central is 73 feet from Elder Street, and 240 feet from the next drive to the west on Central. Municipal water and sewer are available at the site.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies this site as appropriate for "Local Commercial." The Comprehensive Plan Commercial Locational Guidelines state the following: commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion; commercial development should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses; commercial uses should locate in compact clusters or nodes versus extended strip developments; and commercially-generated traffic should not feed directly onto local residential streets.

The Unified Zoning Code (UZO) would require screening between single-family residential development and any future development on this site, and would require setbacks from all property lines. Future improvements on the site would require a landscape plan.

The Access Management Policy would require 200 feet between “right-in right-out” drives, and 400 feet between full movement drives.

RECOMMENDATION: Central frontage makes this site undesirable for future single-family residential development. However, this request raises some concerns with regard to safe access and compatibility with residences across Elder. Most property owners on Elder (one has contacted staff) will not support a paving petition. The drive spacing on Central is not conducive to safe traffic flow. Therefore, staff recommends that high traffic generating uses such as convenience stores and drive through restaurants be prohibited on this site. Prohibiting lit signage from facing the residences to the east should mitigate some potential problems with neighbors. The site requires platting; that process will deal with access control and road improvements. Staff recommends that the applicant either dedicate complete access control to Elder, or guarantee paving consistent with City policy, with one access point from Elder.

Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within one year, and subject to the applicant proposed PO with the following additions:

1. Add to Item 2, restricted uses: convenience store, car wash, drive-through restaurants.
2. Add to Item 4, parking lot screening on the east property line shall be evergreen plant material or shall be a solid parking lot screening fence of masonry or wood.
3. Add to Item 5, no building signs facing east shall be illuminated.
4. Add item 12: The zone change to LC Limited Commercial shall be subject to platting within one year. The plat shall dedicate access control to Central, except for one opening adjacent to the west property line. The plat shall either guarantee full paving of Elder along the west frontage with one access point on Elder, or shall dedicate complete access control with no openings on Elder.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: This portion of Central is predominantly commercial zoning and development. Property west of the site is zoned LC and is developed with a furniture store. North of the site is SF-5 zoning and single-family residences. East of the site, across Elder, are SF-5 zoned single-family residences. South of the site, across Central, is a police and fire station with LC and TF-3 zoning.
2. The suitability of the subject property for the uses to which it has been restricted: The site could be developed under the current zoning with single-family residences. However, this may not be a desirable single-family residential location due to proximity to Central.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request would allow commercial development, restricted by a PO, which would bring additional traffic, trash, light, and noise to this portion of Elder. The proposed PO and staff recommended additions should mitigate potentially negative effects.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies

this site as appropriate for “Local Commercial.” The Comprehensive Plan Commercial Locational Guidelines state the following: commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion; commercial development should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses; commercial uses should locate in compact clusters or nodes versus extended strip developments; and commercially-generated traffic should not feed directly onto local residential streets.

5. Impact of the proposed development on community facilities: The proposed zone change should have no discernable increased impact on Central. However, without proper improvements or controls, commercial traffic could have a negative impact on Elder.

JESS MCNEELY, Planning staff presented the staff report and DAB VI recommendation provided as a hand out.

DIRECTOR SCHLEGEL asked how condition #4 would be reworded to reflect the changes and the approved plat.

MCNEELY said eliminating the wording “adjacent to west property line” would make it consistent with the plat that was approved earlier.

MOTION: To approve subject to staff recommendation.

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

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7. **Case No.: CON2008-14** - County Conditional Use to permit an accessory apartment on property zoned RR Rural Residential (“RR”) on property described as;

Beginning 1360 feet North of the Southwest corner of the Southwest quarter; thence North 345 feet; thence East 250 feet, thence South 50 feet; thence East 410 feet; thence South 295 feet; thence West 660 feet to beginning, except the West 40 feet for road right-of-way. Section 15-29-2E

A tract of land in the Southwest quarter of Section 15, Township 29 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning at the point 1360 feet North of the Southwest corner of said Southwest Quarter, thence North along the West line of said Southwest Quarter a distance of 345 feet; thence East parallel to the South line of said Southwest Quarter a distance of 250 feet; thence South parallel to the West line of said Southwest Quarter a distance of 50 feet; thence East 410 feet parallel with the South line of said Southwest Quarter; thence South parallel to the West line of said Southwest Quarter a distance of 295 feet; thence West parallel to the South Line of said Southwest Quarter a Distance of 660 feet; the point of beginning, subject to a road easement on the West 40 feet thereof. Generally located east of Greenwich Road and north of 93rd Street South.

BACKGROUND: The applicant is requesting a Conditional Use to allow an accessory apartment on RR Rural Residential (“RR”) zoned 4.44 acre tract located at 9336 Greenwich Road South. An existing home, with masonry and vinyl siding exterior, is currently located on the property. The applicant would like to add a second dwelling unit, located north of the existing home, for use by one of the applicant’s parents. The proposed accessory dwelling would be located approximately 237 feet north of 93rd Street South, 208 feet east of Greenwich Road and 20 feet from the north property line. Because the proposed

additional structure will be used as a dwelling unit, the Unified Zoning Code (UZC) requires “Conditional Use” approval for an accessory apartment.

The accessory apartment is to be approximately 30 feet by 64 feet in size, and is to be of metal exterior construction and color similar to an existing accessory building already located on the site. The site plan depicts an additional driveway off or 93rd Street South. The site plan should be modified to utilize existing drive approaches.

The immediate area is characterized by large lot/tract single-family residential development or agricultural use on RR zoning. The lots / tracts all have a minimum of approximately 4.5 acres and up. The subject site has frontage on both Greenwich and 93rd Street South. Greenwich Road is a paved two-lane County highway. 93rd does not show up on the transportation maps and resembles an unimproved drive, which dead ends beyond the site.

The UZC’s Conditional Use requirements for accessory apartments are as follows:

- (a) A maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling;
- (b) The appearance of an accessory apartment shall be compatible with the main dwelling and with the character of the neighborhood;
- (c) The accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling, including that it shall not be subdivided or sold as a condominium.
- (d) The water and sewer service provided to the accessory structure shall not be provided as separate service from the main dwelling.

CASE HISTORY: The subject site is unplatted. The site is located within the Derby area of zoning influence. The Derby Planning Commission considered and approved this request at their April 17, 2008 meeting. There were no protests to the request at the meeting.

ADJACENT ZONING AND LAND USE:

NORTH:	RR	Rural Residential; large-lot single-family residential
SOUTH:	RR	Rural Residential; large-lot single-family residential
EAST:	RR	Rural Residential; farmstead / agricultural
WEST:	RR	Rural Residential; agricultural

PUBLIC SERVICES: Sewer service is provided by an on-site lagoon. Water service is provided by a rural water district. Greenwich Road is a paved two-lane County highway. 93rd does not show up on the transportation maps and resembles an unimproved drive, which dead ends beyond the site. The 2030 Transportation Map shows no change to the status to these roads.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this site as appropriate for “rural areas.” The rural area category includes land that is located beyond projected 2030 urban growth areas. Land assigned the rural designation is intended to accommodate agricultural uses, rural based uses that are no more offensive than agricultural uses commonly found in Sedgwick County, and predominately larger lot residential uses utilizing individual or community water and sewer services. The policies of the UZC allow one accessory apartment to be associated with a principle dwelling as a Conditional Use if the proposed use is compatible with the principle dwelling, is in character with the surrounding residential development, is accessory to the main structure, remains in a single ownership, and obtains water and sewer service from the main dwelling’s hook-up.

The application area is located within Derby's "zoning area of influence" with a hearing date scheduled for April 17, 2008, which is prior to the MAPC's April 24 public hearing meeting.

RECOMMENDATION: Based upon information available prior to the public hearing, Staff recommends that the request be APPROVED subject to the following conditions being completed within a year:

1. The accessory apartment shall be subject to all requirements of Art III, Sec III-D.6.a of the Unified Zoning Code (UZC) for accessory apartments.
2. The site will be generally developed as shown on an approved site plan, obtaining and conforming to all applicable permits, including but not limited to building, health, and zoning, including connection to City water & sewer. The site shall utilize existing driveway approaches.
3. 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 hereof, 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: The area surrounding the subject site is characterized by large lot/tract single-family residential or agricultural use on property zoned RR with minimum lot sizes of approximately 4.5 acres or larger.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned RR, which accommodates agricultural uses, low-density single-family residential development and complementary land uses. The site is developed with a single-family residence and some accessory buildings, and could continue to be used as it is.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed accessory apartment will add a second dwelling unit to a lot that is located in an area where one dwelling unit per lot or tract is the norm; however the lots are all of sufficient size and it is unlikely that nearby owners would be detrimentally impacted. The proposed metal building will have an exterior metal color similar to an existing accessory structure making it compatible with an existing building and a neighboring metal residence.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested accessory apartment is in conformance with the "The Wichita-Sedgwick County Comprehensive Plan."
5. Impact of the proposed development on community facilities: None identified.

BILL LONGNECKER, Planning Staff presented the staff report.

MOTION: To approve subject to staff recommendation.

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

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8. **Case No.: CON2008-15** -Tara Development, Inc., Ruggles & Bohm c/o Terry Smythe Request City Conditional Use to permit a neighborhood pool on a lot zoned "SF-5" Single-family Residential and to allow parking within 8-feet of the property line on property described as;

Lot 1, Block 4, Casa Bella Addition, Sedgwick County, Kansas. Generally located North of Pawnee, west of 127th Street East, on the northeast corner of Casa Bella and Willowgreen.

BACKGROUND: The applicant is requesting consideration for a Conditional Use to permit a 20-foot (x) 40-foot “neighborhood swimming pool” on the undeveloped SF-5 Single-family Residential (“SF-5”) zoned Lot 1, Block 4, Casa Bella Addition. The Unified Zoning Code (UZC) defines a neighborhood swimming pool as a non-publicly owned swimming pool that is not located on the same lot as a residential dwelling unit but that is intended as an amenity for use by the residents and their guests of that subdivision or by a group of subdivisions in the immediate vicinity. Neighborhood swimming pools can be a “use-by-right” if it is identified in the platting of a reserve and a site plan is submitted for review and approval at the time of the platting. In this case no reserve was identified on the plat for a neighborhood pool. The UZC requires a Conditional Use for a neighborhood pool in the SF-5 zoning district.

The site is part of the now developing SF-5 zoned Casa Bella single-family subdivision. Most of the area around the site is undeveloped single-family lots, but there are two houses located south of the site (across Willowgreen Street) and another being built west of the site, across Casa Bella Street. Property located north of the site is unplatted, undeveloped and zoned SF-5. The larger general area consist of established, developed SF-20 Single-family residential (“SF-20”) zoned county single-family subdivisions, undeveloped or developing SF-5 subdivisions and large areas of unplatted, undeveloped SF-20 county lands, punctured by smaller unplatted, undeveloped SF-5 zoned properties.

The hours of operations and maintenance of the pool will be determined by the homeowner’s association. The code requires landscape street yards and buffer landscaping; outdoor light that employs cut-off luminaries and light mounting standards that are not higher than one-half the distance to SF-5 zoned property. Because the UZC classifies a neighborhood pool as a “residential use,” compatibility setbacks will not apply. The lot has platted setbacks, with the UZC’s setbacks for the SF-5 zoning district applying on the lot’s east side (a 6-foot interior side yard setback) and its north side (a 20-foot rear yard setback). As shown on the site plan there appears to be no encroachments into setbacks. The applicant is also requesting an adjustment to allow parking within 8-feet of the property line, along the Willowgreen Street frontage, although this not shown on the site plan. A deck is not allowed to project more than 5 feet into a required rear yard setback, which would be the north side of the site and it appears that this deck does not meet this standard. The applicant does not show a club house, if there is no clubhouse the 8 parking spaces shown on the site plan meet the minimum requirements of the UZC. The site plan shows no landscaping, lighting or trash receptacles.

CASE HISTORY: The Casa Bella Addition was recorded with the Register of Deeds February 6, 2006.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5 Undeveloped tract
SOUTH: SF-5 Single-family residences, undeveloped single-family lots
EAST: SF-5 Single-family residence being built, undeveloped single-family lots
WEST: SF-5 Undeveloped single-family lots

PUBLIC SERVICES: All utilities are available. Willowgreen and Casa Bella Streets are paved (with roll over curbs) residential streets.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide,” of the Comprehensive Plan identifies the site as appropriate for “urban residential.” This category encompasses areas that reflect the full range of residential development densities and types typically found in a large urban municipality. The site is part of a developing SF-5 zoned single-family residential subdivision, that is located within a larger area of SF-5 and SF-20 zoned lands. The UZC classifies the proposed neighborhood swimming pool as a residential use, which can be considered as a Conditional Use in the SF-5 zoning district.

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

1. Prior to the issuance of building permits the applicant shall provide for review and approval eight copies of a landscape plan consistent with Landscape Ordinance requirements, but including an evergreen buffer along the north and east sides of the site, where it abuts SF-5 zoning.
2. The property will be developed in general conformance with a revised site plan approved by Planning.
3. Allow parking within 8-feet of the front property line.
4. Development and use of this site for a neighborhood association swimming pool shall be in accordance with all applicable codes, including building, construction, health and operational standards.
5. Violation of the foregoing conditions, after appropriate due process considerations, can result in Conditional Use being declared null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property is located on the north edge of a developing single-family subdivision, with SF-5 zoning on all its sides. Undeveloped SF-5 zoned land abuts its north side. Access to the site is from Willowgreen Street, a residential street in a subdivision which, at this time, has only one way in and out. The site is within walking or biking distance for the neighborhood, and the off-street parking requirements minimize the number of parked cars on neighborhood streets. Small neighborhood pools are becoming commonplace in newer subdivisions.
2. The suitability of the subject property for the uses to which it has been restricted: The site could be developed as currently zoned, which would be a single-family residence on a typical sized lot for this subdivision. By code the pool is limited to use by residents of the neighborhood and their guests, which limits the pool's intensity of use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval will introduce a use that is not currently permitted by right. Traffic during the summer may increase when compared to a single-family residence, however landscaping and buffering may mitigate detrimental effects. If the pool is allowed to remain open into the late evening or night, pool operations may be detrimental to nearby residences since sound seems to carry further in the evening and nighttime.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The neighborhood pool is intended to be an amenity to this new neighborhood and could be used by the applicant to help sell lots in this developing subdivision.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: Although the swimming pool is for use by the neighborhood, it would assist in meeting Comprehensive Plan Objective VIII. A. of providing a diverse set of recreational opportunities for existing and future residents.
6. Impact of the proposed development on community facilities: Trips to this site would likely increase in the summer if the pool is approved when compared to a single-family residence. Use of the facility will be limited to neighborhood residents and their guests, thereby minimizing traffic volume and demand for other services such as police, EMS or code enforcement. Adequate community facilities and services are in place to meet expected demands.

BILL LONGNECKER, Planning Staff presented the staff report.

MOTION: To approve subject to staff recommendation.

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

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9. **Case No.: CON2008-16** - City of Wichita (owner/applicant) Hanney and Assoc., Architects c/o Joe Perez (agent) Request City Conditional Use request for a Safety Service (Fire Station) in "SF-5" Single-family Residential zoning on property described as;

Lot 1, EXCEPT the North 15 feet thereof, and the East 50 feet of lot 2 EXCEPT the the North 15 feet, Este Cate 2nd Addition, Sedgwick County, Kansas. Generally located West of South Hydraulic and north of Denker Street (2659 South Hydraulic).

BACKGROUND: The applicant seeks a Conditional Use to permit a Safety Service, or Fire station in SF-5 Single-family Residential ("SF-5") zoning. The site is developed with a residence, built in 1928, which will be demolished for the fire station. The site plan provided by the applicant demonstrates a Fire Station and associated parking. The site plan as provided would require an administrative adjustment for parking within the rear setback, and would require a minor street privilege approval for the parking shown south of the site within the Denker Street right of way.

North of the site is an SF-5 zoned legal non-conforming mobile home park, south of the site are SF-5 zoned single-family residences. East of the site, across Hydraulic, are SF-5 zoned residences and an LC Limited Commercial ("LC") zoned business. West of the site is an SF-5 zoned church and an SF-5 zoned neighborhood.

CASE HISTORY: The site is platted as Lot 1 except the north 15 feet, and the east 50 feet of Lot 2 except the north 15 feet of the Este Cate 2nd Addition in 1990. A replat of the site, the Fire Station 22 Addition, was approved by the City Council on April 1, 2008. The replat is awaiting recording.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Mobile home park
SOUTH:	SF-5	Single-family residential
EAST:	SF-5, LC	Single-family residential, retail
WEST:	SF-5	Single-family residential

PUBLIC SERVICES: The site has access to Hydraulic, a paved four-lane arterial with a 100-foot right of way at this location. The site also has access from Denker, a paved two-lane local street with a 60-foot right of way. All other municipal services are available at the site.

CONFORMANCE TO PLANS/POLICIES: The Wichita-Sedgwick County Unified Zoning Code Land Use Guide identifies the site as appropriate for Urban Residential development. The Unified Zoning Code would require building setbacks and screening from residences; the Landscape Code would require a landscape plan approved for this site.

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

1. The applicants shall obtain all applicable permits including, but not limited to: building, health and zoning.
2. Prior to the issuance of building permits, the applicant shall submit a site plan, to be approved by planning staff and the City Traffic Engineer. The site plan shall conform to all city codes,

or required administrative adjustments and permits shall be obtained.

3. The site shall be developed in conformance with the approved site plan.
4. The applicant shall submit a landscape plan, by a Kansas Landscape Architect, which conforms to the Landscape Code, to be approved by planning staff.
5. If a building permit has not been obtained within one year of approval, or if the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator 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:** North of the site is an SF-5 zoned legal non-conforming mobile home park, south of the site are SF-5 zoned single-family residences. East of the site, across Hydraulic, are SF-5 zoned residences and an LC Limited Commercial ("LC") zoned business. West of the site is an SF-5 zoned church and an SF-5 zoned neighborhood.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned SF-5, which primarily permits residential uses. The site could continue to be used without the Conditional Use as a single-family residence.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The requested Conditional Use will subject surrounding residences to increased traffic, noise, light, and activity in their neighborhood. The code minimum requirements for setbacks and screening, and a landscape plan should mitigate these concerns. Likewise, a site plan approved by staff and the City Traffic Engineer should mitigate traffic conflicts.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The Wichita-Sedgwick County Unified Zoning Code Land Use Guide identifies the site as appropriate for Urban Residential development. The Unified Zoning Code would require building setbacks and screening from residences; the Landscape Code would require a landscape plan approved for this site.
5. **Impact of the proposed development on community facilities:** The requested Conditional Use will increase traffic on Hydraulic and Denker. However, the proposed fire station will be increasing community safety in the immediate area.

JESS MCNEELY, Planning staff presented the staff report.

MOTION: To approve subject to staff recommendation.

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

10. **Case No.: CON2008-17** - Jeffrey Lane (owner), VA Credit Union (applicant), Key Management & Plaza Real Estate Inc., (agents) Request City Conditional Use to permit a bank or financial institution on property zoned "GO" General Office on property described as;

Lot 1 EXCEPT the West 10 feet for Street, Block D, Eastwood Village Addition, Sedgwick County, Kansas. Generally located Southeast corner of Oliver and Morris (804 south Oliver).

BACKGROUND: The applicant seeks a Conditional Use to permit a Bank or Financial Institution (a credit union) in GO General Office (“GO”) zoning. The site is developed with a 1,612 square-foot office building, built in 1978. The site is currently used for mental health counseling. The site currently has seven parking spaces, two access points from Oliver, and a screening fence bordering residential property to the east. The applicant indicates that no changes will be made to the site.

North and east of the site are SF-5 Single-family Residential zoned residences. South of the site is an LC Limited Commercial (“LC”) zoned fraternal institution. West of the site, across Oliver, is an LC zoned convenience store.

CASE HISTORY: The site was platted as Lot 1 except the west 10 feet for street, Block D, Eastwood Village Addition in 1948.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family residential
SOUTH:	LC	Fraternal institution
EAST:	SF-5	Single-family residential
WEST:	LC	Convenience store

PUBLIC SERVICES: The site has access to Oliver, a paved four-lane arterial with a 50-foot half-width right of way at this location. This portion of Oliver is currently under an improvement project. All other municipal services are available at the site.

CONFORMANCE TO PLANS/POLICIES: The Wichita-Sedgwick County Unified Zoning Code (UZY) Land Use Guide identifies the site as appropriate for Urban Residential. However, the site abuts an area along Oliver identified as appropriate for Local Commercial. The Unified Zoning Code requires a Conditional Use for Banks or Financial Institutions in GO zoning.

RECOMMENDATION: This is a small site, with a small building and limited parking. The site does however meet the UZY parking requirement of one space per 250 square feet of office space. The limited size of the credit union based on the size of the building and the one organization (the VA Hospital) that it supports should minimize customer traffic. The site size will not accommodate any future expansion. The two access point configuration could be improved with signage designating the parking entrance and exit. The proposed use may however generate less traffic than those uses permitted by right in GO zoning.

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

1. The applicants shall obtain all applicable permits including, but not limited to: building, health and zoning.
2. The site shall be developed in conformance with the approved site plan.
3. The applicant shall post an “ENTER ONLY” sign at the south entrance, and an “EXIT ONLY” sign at the northern drive. These signs shall not exceed six square feet in size.
4. No signs shall be permitted on the north side of the building.
5. If operations have not begun within one year of approval, or if the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator 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:** North and east of the site are SF-5 Single-family Residential zoned residences. South of the site is an LC Limited Commercial (“LC”) zoned fraternal institution. West of the site, across Oliver, is an LC zoned convenience store.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned GO, which permits general office uses. The site could continue to be used without the Conditional Use.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The requested Conditional Use could subject this portion of Oliver and the abutting neighborhood to increased traffic and activity. The proposed use may however generate less traffic than those uses permitted by right in GO zoning.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The Wichita-Sedgwick County Unified Zoning Code (UZC) Land Use Guide identifies the site as appropriate for Urban Residential. However, the site abuts an area along Oliver identified as appropriate for Local Commercial. The Unified Zoning Code requires a Conditional Use for Banks or Financial Institutions in GO zoning.
5. **Impact of the proposed development on community facilities:** The requested Conditional Use could subject this portion of Oliver to increased traffic. The proposed entry and exit sign should improve traffic safety at the site.

JESS MCNEELY, Planning staff presented the staff report.

MOTION: To approve subject to staff recommendation.

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

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

State of Kansas)
Sedgwick County)^{SS}

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

Given under my hand and official seal this _____ day of _____, 2008.

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

(SEAL)