

**METROPOLITAN AREA PLANNING COMMISSION**

**MINUTES**

**May 22, 2008**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, May 22, 2008, at 1:30 P.M., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Darrell Downing in the Chair; Don Anderson, Vice Chair; David Foster; Bud Hentzen; Hoyt Hillman; Bill Johnson; Ronald Marnell; Don Sherman (in @1:37 P.M.); Debra Miller Stevens and G. Nelson Van Fleet (in @1:37 P.M.). David Dennis; Michael Gisick; John W. McKay, Jr. and M.S. Mitchell were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Bill Longnecker, Senior Planner; Derrick Slocum, Associate Planner; Neil Strahl, Senior Planner and Maryann Crockett, Recording Secretary.

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1. Approval of the prior MAPC meeting minutes.

No minutes to approve.

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2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB 2008-34: Portion of Overall Preliminary Plat -- CASA BELLA SECOND ADDITION,** located on the west side of 127th Street East and on the north side of Pawnee.

**NOTE:** This final plat consists of the northwest and southeast portion of the overall preliminary plat approved for the Casa Bella Addition and represents the second phase of development. The street layout is consistent with the preliminary plat. Various lot sizes have been adjusted reflecting 8 fewer lots.

**STAFF COMMENTS:**

- A. The applicant shall guarantee the extension of sanitary sewer and City water (mains and laterals) to serve all lots being platted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the applicant's drainage plan.
- D. 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.
- E. 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.
- 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 City, 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. GIS has approved the plat's street names.
- J. 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.
- K. 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.)
- L. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- M. 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.
- N. 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.
- O. 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.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Westar Energy has requested additional utility easements to be platted on this property.
- R. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl

Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

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

**MARNELL** moved, **JOHNSON** seconded the motion, and it carried (8-0).

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**2-2. SUB 2008-35: One-Step Final Plat -- RISHEL ADDITION**, located on the south side of Ridge Road and south of Maple.

NOTE: This is an unplatted site located within the City. The site has been approved for a zone change (ZON 2007-55) from SF-5, Single-Family Residential to GC, General Commercial.

STAFF COMMENTS:

- A. Municipal services are available to serve the site.
- 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. The 10-foot utility easement along the east property line should be labeled as a drainage and utility easement.
- D. Traffic Engineering has approved the access controls. The plat proposes two openings along Ridge Circle.
- E. 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.
- F. 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.
- G. 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.
- H. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- I. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- J. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- K. The applicant is advised that various State and Federal requirements (specifically but not limited to

the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- L. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- M. Perimeter closure computations shall be submitted with the final plat tracing.
- N. 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.
- O. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

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

**MARNELL** moved, **JOHNSON** seconded the motion, and it carried (8-0).

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**2-3. SUB 2008-33: One-Step Final Plat -- RIVER OAKS MOBILE HOME PARK 2ND ADDITION**, located east of Hydraulic and on the north side of 55th Street South (extended).

NOTE: This is a replat of Reserve C in the River Oaks Mobile Home Park Addition in addition to unplatted land to the east. A zone change request to MH Manufactured Housing (ZON-2008-28) has been requested.

**STAFF COMMENTS:**

- A. Water and sewer services are available; however the 10-inch sanitary sewer main is the only sewer that is available for individual services.
- 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. A minimum pad needs to be platted. A 20-foot drainage easement along the east and south property lines is needed.
- D. Provisions shall be made for ownership and maintenance of the proposed reserves. A covenant shall be submitted regarding ownership and maintenance responsibilities.
- E. 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.

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

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

**MARNELL** moved, **JOHNSON** seconded the motion, and it carried (8-0).

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

#### **3-1. VAC2008-13: City vacation of portions of platted easement and portions of easement dedicated by separate instrument.**

**OWNER/APPLICANT:** Doris M Rishel Trust c/o Howard Rishel James R Perkins Trust  
City of Wichita c/o John Philbrick

**AGENT:** Baughman Company, PA, c/o Phil Meyer

**LEGAL DESCRIPTION:** Generally described as the platted 10-foot drainage and utility easement, running parallel to the east lot Line of Lot 9, Block A, Auburn Hills 11<sup>th</sup> Addition and extending into Reserve H, Auburn Hills 16<sup>th</sup> Addition & the 10-foot drainage and utility easement dedicated by separate instrument (Film 2256/Page 89), running parallel to the east side of the lot line of Lot 9, Block A, Auburn Hills 11<sup>th</sup> Addition and extending into Reserve H, Auburn Hills 16<sup>th</sup> Addition, all in Wichita, Sedgwick County, Kansas

**LOCATION:** Generally located between 135th & 151 Streets West, north of Kellogg Street, on the northeast side of Sandwedge Circle (WCC #V)

**REASON FOR REQUEST:** Additional buildable area

**CURRENT ZONING:** Subject properties and all adjacent and abutting properties are zoned SF-5 Single-family Residential (“SF-5”)

The applicants are requesting consideration for the vacation of the described portions of the platted drainage and utility easement and the drainage and utility easement dedicated by separate instrument. The GIS map shows no manholes, sewer or water lines in the subject easements. Comments from Storm Water and franchised utilities have not been received and are needed to determine if they have utilities located within the described easement. The Auburn Hills 11<sup>th</sup> Addition was recorded with the Register of Deeds August 30, 2001. The Auburn Hills 16<sup>th</sup> Addition was recorded with the Register of Deeds February 3, 2006.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works/Water & Sewer/Storm Water, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the platted drainage and utility easement and the drainage and utility easement dedicated by separate instrument as described in the legal description with the following 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 May 1, 2008 which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described portions of the platted drainage and utility easement and the drainage and utility easement dedicated by separate instrument and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.

- B. Therefore, the vacation of the portions of the platted drainage and utility easement and the drainage and utility easement dedicated by separate instrument described in the petition should be approved with conditions:
- (1) Vacate only the portions of the platted drainage and utility easement and the drainage and utility easement dedicated by separate instrument as described in an approved legal description, as approved by City Water & Sewer, Public Works, Storm Water and franchised utilities. Provide Planning Staff the approved legal description of the vacated portion of platted utility easement, via e-mail on a Word document.
  - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide City Public Works, Water & Sewer, Storm Water and franchised utilities with any needed plans for review for relocation or reconstruction of utilities. Provide any guarantees needed for the relocation or reconstruction of utilities. Provide any easements needed for the relocation or reconstruction of utilities. All must be completed prior to proceeding to the Wichita City Council for final action.
  - (3) All improvements, including reverting public sewer line and manholes to a private sewer line, shall be according to City Standards and at the applicant's expense.
  - (4) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate only the portions of the platted drainage and utility easement and the drainage and utility easement dedicated by separate instrument as described in an approved legal description, as approved by City Water & Sewer, Public Works, Storm Water and franchised utilities. Provide Planning Staff the approved legal description of the vacated portion of platted utility easement, via e-mail on a Word document.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide City Public Works, Water & Sewer, Storm Water and franchised utilities with any needed plans for review for relocation or reconstruction of utilities. Provide any guarantees needed for the relocation or reconstruction of utilities. Provide any easements needed for the relocation or reconstruction of utilities. All must be completed prior to proceeding to the Wichita City Council for final action.
- (3) All improvements, including reverting public sewer line and manholes to a private sewer line, shall be according to City Standards and at the applicant's expense.
- (4) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required

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

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

**JOHNSON** moved, **MARNELL** seconded the motion, and it carried (8-0).

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**3-2. VAC2008-14: City request to vacate portions and all of platted reserves.**

**OWNER/AGENT:** Ritchie Development Corp., c/o Jay Russell  
MKEC Engineering Consultants, c/o Greg Allison

**LEGAL DESCRIPTION:** Vacate portions of Reserve F and all of Reserve D, all in the Wilson Farms Addition, Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located east of Rock Road, south of 21st Street North, on the southeast side of Bradley Fair & Wilson Estates Parkways. (WCC #V)

**REASON FOR REQUEST:** Associated with lot split (SUB2008-30) & boundary shifts

**CURRENT ZONING:** Subject properties and all abutting and adjacent properties are zoned SF-5 Single-family Residential ("SF-5"). All in CUP DP-201

The applicant is requesting consideration for the vacation of a portion of platted Reserves F and all of platted Reserve D, all in the Wilson Farms Addition; see attached exhibit. The physical vacation of the described platted reserves triggers the vacation of the plattor's text, amending the uses permitted in the described reserves. Currently Reserve F's uses are restricted to open space, landscaping, lighting, irrigation, entry monuments and entry gates as confined in easements as indicated on the plat. (a) The applicant requests, per Exhibit Reserve F-1, (associated with Lot Split SUB2008-30) that this portion of Reserve F's uses be amended to allow SF-5 uses, to allow shared accesses from Lots 19-1 and 19-2 (residential lot split, SUB2008-30) to Bradley Fair Parkway, to allow a private gate not confined to an easement and to allow a call box, mail box, drainage and utilities confined to easements. (b) The applicant requests, per Exhibit Reserve F-2, F-3, and F-4, that this portion of Reserve F's uses be amended to allow SF-5 uses and open space only.

Currently Reserve D's uses are restricted to open space, landscaping, lighting, irrigation, and as an access drive to Lot 19, Block 1, the Wilson Farms Addition. The applicant requests, per Exhibit Reserve D-1 and D-2, that this portion of Reserve D's uses be amended to allow SF-5 uses and open space only.

Per the plattor's text, all reserves in the Wilson Farms Addition shall be owned and maintained by the homeowners association for the addition. Remove Reserves F-2, F-3, F4, D-1 and D-2, from that restriction and attached to abutting tracts/lots created by boundary shifts and/or residential Lot Split.

Comments from franchised utilities & Storm Water have not been received and are needed to determine if they have utilities located within the reserve. The Wilson Farms Addition was recorded with the Register of Deeds July 15, 1997.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, Storm Water, franchised utility representatives, and other interested parties, Planning Staff recommends approval to vacate the

described portions of Reserves D & F, all in the Wilson Farms Addition and the uses of those described portions of the platted reserves with the following 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 May 1, 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 platted Reserves F and all of platted Reserve D 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 platted Reserves F and all of platted Reserve D described in the petition should be approved with conditions:
- (1) Vacate the plattor text's uses in Reserve F-1 (per exhibit and associated with Lot Split SUB2008-30) to be amended to allow SF-5 uses, to allow shared accesses from Lots 19-1 and 19-2 (residential Lot Split, SUB2008-30) to Bradley Fair Parkway, to allow a private gate not confined to an easement and to allow a call box, mail box, drainage and utilities confined to easements. Provide Fire and Water & Sewer with access to/through the private gate. Provide Staff with a copy of the approved legal of Reserve F-1 via e-mail on a Word document.
  - (2) Vacate the plattor text's uses in Reserves F-2, F-3 and F-4 (per exhibit and associated with Lot Split SUB2008-30 and proposed boundary shifts) to be amended to allow SF-5 uses and open space only. Provide Staff with a copy of the approved legal of Reserves F-2, F-3 and F-4 via e-mail on a Word document.
  - (3) Vacate the plattor text's uses in Reserves D-1 and D-2 (per exhibit) to be amended to allow SF-5 uses and open space only. Provide Staff with a copy of the approved legal of Reserves D-1 and D-2 via e-mail on a Word document.
  - (4) Remove Reserves F-2, F-3, F4, D-1 and D-2, from the list of reserves owned and maintained by the homeowner's association(s) in the Wilson Farms Addition. Attached described reserves to abutting tracts/lots created by boundary shifts and/or residential Lot Split by restrictive covenants, originals to be provided to Planning Staff to go with the Vacation Order to be recorded with the Vacation Order.
  - (5) Dedicate by separate instrument a 20-foot utility easement to provide sewer to Lots 19-1 and 19-2, as created by residential Lot Split SUB2008-30. Originals to be provided to Planning Staff to go with the Vacation Order to be recorded with the Register of Deeds.
  - (6) Provide a copy of the recorded Lot Split and boundary shifts, to be placed in the vacation case file.
  - (7) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide guarantees as needed.
  - (8) All improvements shall be according to City Standards and at the applicants' expense.

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

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the plat text's uses in Reserve F-1 (per exhibit and associated with Lot Split SUB2008-30) to be amended to allow SF-5 uses, to allow shared accesses from Lots 19-1 and 19-2 (residential Lot Split, SUB2008-30) to Bradley Fair Parkway, to allow a private gate not confined to an easement and to allow a call box, mail box, drainage and utilities confined to easements. Provide Fire and Water & Sewer with access to/through the private gate. Provide Staff with a copy of the approved legal of Reserve F-1 via e-mail on a Word document.
- (2) Vacate the plat text's uses in Reserves F-2, F-3 and F-4 (per exhibit and associated with Lot Split SUB2008-30 and proposed boundary shifts) to be amended to allow SF-5 uses and open space only. Provide Staff with a copy of the approved legal of Reserves F-2, F-3 and F-4 via e-mail on a Word document.
- (3) Vacate the plat text's uses in Reserves D-1 and D-2 (per exhibit) to be amended to allow SF-5 uses and open space only. Provide Staff with a copy of the approved legal of Reserves D-1 and D-2 via e-mail on a Word document.
- (4) Remove Reserves F-2, F-3, F4, D-1 and D-2, from the list of reserves owned and maintained by the homeowner's association(s) in the Wilson Farms Addition. Attached described reserves to abutting tracts/lots created by boundary shifts and/or residential Lot Split by restrictive covenants, originals to be provided to Planning Staff to go with the Vacation Order to be recorded with the Vacation Order.
- (5) Dedicate by separate instrument a 20-foot utility easement to provide sewer to Lots 19-1 and 19-2, as created by residential Lot Split SUB2008-30. Originals to be provided to Planning Staff to go with the Vacation Order to be recorded with the Register of Deeds.
- (6) Provide a copy of the recorded Lot Split and boundary shifts, to be placed in the vacation case file.
- (7) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide guarantees as needed.
- (8) All improvements shall be according to City Standards and at the applicants' expense.
- (9) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation requests will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

**HENTZEN** moved, **JOHNSON** seconded the motion, and it carried (7-0).

**FOSTER** abstained due to a professional conflict of interest.

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**PUBLIC HEARINGS**

4. **Case No: ZON2008-22** – Robert S. Porter and Michael R. Thrull (Owners/Applicants) Baughman Company, PA, c/o Phil Meyer, Leisa Lowery, c/o JP Weigand (Agents) Request City zone change from "SF-5" Single-family Residential to "LC" Limited Commercial on property described as:

Lots 7 and 8, Block H, Westerlea Village Addition, Sedgwick County, Kansas. Generally located on the southeast corner of Ridge Road and University Avenue.

**BACKGROUND:** The applicants' request a zone change from SF-5 Single-family Residential ("SF-5") to LC Limited Commercial ("LC") on Lots 7 & 8, Block H, Westerlea Village Addition. The 1.09-acre site is located on the southeast corner of Mid-Continent Road/Ridge Road and University Avenue. The applicants propose to redevelop the site with unspecified commercial uses. The site is currently developed with two, one-story single-family residences (built 1969, 1956), which face Mid-Continent Road.

The surrounding area is characterized by a mixture of single-family residences, commercial uses and undeveloped property zoned for commercial uses. The properties to the south, northeast and east are zoned SF-5 and are developed with single-family residences (mid 1950s – mid 1960s). The most immediate property located west of the site (across the cul-de-sac Ridge Road South) is zoned LC with a Community Unit Plan (CUP) overlay, DP-37. This parcel is developed as a single-story, brick, dentist/medical office (1984). DP-37 extends west across Mid-Continent Road from the site, with the LC & GC General Commercial ("GC") zoned big box Lowes building supply center (1998) facing the site. Properties located north of the site (across University Avenue) are zoned LC, with multiple Protective Overlays attached to them. These properties are not developed, with the exception of a Pizza Hut Bistro restaurant (2005) located across University from the site. The possible rezoning of the subject site and the recent rezoning (ZON2007-55 & SUB2008-35) of two residential lots/single-family residences located south (across Taft Avenue) of the subject site, leaves four SF-5 zoned residential lots/single-family residences left from the 12 SF-5 zoned residential lots/single-family residences that originally fronted Mid-Continent Road/Ridge Road and Ridge Road South, from south of Taft Avenue to Maple Avenue.

Although the site has been identified in the Comprehensive Plan as appropriate for "Local Commercial" uses, the close proximity (abutting south and east sides of the site) of the site to an established single-family neighborhood requires any commercial uses on the site to be developed so as to minimize any negative impact on the neighborhood; the site was originally platted as two single-family lots and is part of the remaining western edge of this neighborhood. The earlier rezoning (1992- 2002 from SF-5 to LC) of properties located north of the site, across University, offers similar considerations to the subject site. These properties located north of University were SF-5 zoned single-family residences on lots platted from the same subdivision, the Westerlea Village Addition, as the subject site. To buffer the abutting and adjacent existing single-family residences from the unspecified commercial development on the site, planning staff recommends that a Protective Overlay (PO) be approved that continues the development controls established during the approval of the zoning changes on the adjacent northern properties. The recommended PO limits signage, lighting, noise, and building height; requires a six foot high masonry wall and a landscape buffer along the south and east property lines; and prohibits certain uses that are less compatible with residential development. If in the future the zoning of the residential properties to the south or east is changed to allow commercial uses, then the provisions of the Protective Overlay could be

amended, but planning staff finds that any high-intensity, auto-oriented commercial use of the subject site not appropriate at this time.

Access to the south subject lot is from Ridge Road South, a residential cul-de-sac, which was the result of past large scale redevelopment of the area in connection to the Kellogg/US 54 – Mid-Continent Road interchange. The north subject lot has access to Mid-Continent Road, a principal arterial, and the residential street University Avenue, via a circular drive. The proposed LC zoning would generate commercial traffic from the subject site onto the residential streets they currently have access to and into the residential neighborhood the site is part of; complete access control to Ridge Road South is recommended. Complete access control onto University may be necessary, as reviewed by the Traffic Engineer. Possible future rezoning of the SF-5 zoned single-family residences located south and east of the site make complete access control onto University and cross lot access a critical consideration. Planning staff recommends that the subject site be replatted to ensure that all access control, drainage plans, utilities and easements, cross lot access, sufficient street right-of-way and street improvements, including any needed guarantees, would be in place prior to the zoning being completed.

**CASE HISTORY:** The subject property is Lots 7 & 8, Block H, Westerlea Village Addition, which was recorded August 11, 1949.

**ADJACENT ZONING AND LAND USE:**

NORTH:	LC, SF-5	Restaurant, undeveloped, single-family residences
SOUTH:	SF-5, LC	Single family residences, dentist/medical office
EAST:	SF-5	Single family residences
WEST:	LC	Big box building supply center

**PUBLIC SERVICES:** The subject site has frontage to the cul-de-sac Ridge Road South, University Avenue and Mid-Continent Road. Ridge Road South and University Avenue are both paved residential streets with open ditches. Ridge Road South intersects, to the south, with Taft Avenue, a four-lane urban collector. Taft and University intersect with Mid-Continent Road a four-lane, with turn lanes, principal arterial. Mid-Continent Road merges with and becomes Ridge Road around its intersection with University. Ridge Road is a four-lane, with turn lanes, principal arterial. There is a raised, full curbed median strip on Mid-Continent/Road Ridge Road, from Maple Avenue to the Kellogg Street/US-54 interchange, with cuts at its intersections with Taft (traffic lights) and University. The 2030 Transportation Plan indicates no change to the status of any of these roads. Available traffic counts in the area show approximately 23,700 average trips per day on this section of Mid-Continent/Ridge Road and 10,800 average trips per day on this section Taft. Municipal water and sewer services are currently provided to the subject site.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the area between University Avenue, Taft, Mid-Continent Road/Ridge Road, and Summitlawn Drive as appropriate for “Local Commercial” development. The “Local Commercial” category includes commercial, office and personal service uses that do not have a regional draw. In order for the recommendation of the Land Use Guide to be consistent with the Commercial Locational Guideline regarding commercial traffic not accessing residential streets, the properties in this area would need to be replatted to front only Mid-Continent Road/Ridge Road, rather than the cul-de-sac Ridge Road South and University Avenue, which would remain residential streets. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. Additionally, the Commercial Locational Guidelines of the Comprehensive Plan recommend that commercially-generated traffic should not feed directly onto local residential streets.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to replatting within one year and subject to the following provisions of a Protective Overlay:

- A. No off-site or portable signs shall be permitted on the subject property. No signs shall be permitted along the face of any building or along any street frontage that faces or is across the street from any property that is in a residential zoning district.
- B. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from any abutting or adjacent properties that are in a residential zoning district. Light poles shall be limited to a maximum height, including the base of the light pole, of 15-feet. Light poles shall not be located within any setbacks.
- C. Outdoor speakers and sound amplification systems shall not be permitted.
- D. No buildings shall exceed one story in height with a maximum building height of 25 feet.
- E. A 6-foot high masonry wall shall be constructed parallel to the south and east property lines of the subject site, where it abuts existing single-family residences and SF-5 Single-family Residential zoning. A 15-foot wide landscape buffer will be provided along the south and east sides of the subject site.
- F. The subject site shall comply with the compatibility setback standards on the interior side yard (south) and rear yards (east).
- G. The following uses shall not be permitted: adult entertainment establishment; group residence; correctional placement residence; group home; recycling collection station; reverse vending machine; car wash; convenience store; night club; recreation and entertainment; restaurant with drive-in or drive-thru facilities; service station; tavern and drinking establishment; and vehicle repair.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by a mixture of single-family residences, commercial uses, and undeveloped property zoned for or in the process of being zoned for commercial uses. The zoning and land uses are single-family residential to the south, east and northeast of the site. Two single-family zoned residences located further south (across Taft Avenue) of the subject site are in the process of converting to commercial use; ZON2007-55 & SUB2008-35. From 1992 to the 2002, single-family lots, zoned single-family, located between Maple Street, University Avenue, Mid-Continent Road/Ridge Road and Summitlawn Drive have been rezoned (with multiple Protective Overlays attached to them) and replatted for commercial development. Most of these properties have not been developed, but it is reasonable to expect that a similar rezoning pattern/request will occur on the remaining SF-5 zoned single-family lots, located south of University and facing Mid-Continent Road/Ridge Road or commercial zoning and development.
- 2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned SF-5 which accommodates moderate-density, single-family residential development and complementary land uses. The site is currently developed with single-family residences; however, the residences face the principal arterial road Mid-Continent Road/Ridge Road and large box commercial making this site less desirable for single-family residential use. Recently rezoned single-family lots to commercial zoning and commercial development located north of the site, across University, also make this site less desirable for single-family residences. Additionally, the site is located under the approach to Mid-Continent Airport, which could make this site less desirable for residential use in the future.
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the conditions of a Protective Overlay which would limit signage, lighting, noise, and building height; require a six-foot high masonry wall and landscape buffer

along the south and east property lines; and prohibit certain uses that are less compatible with surrounding residential development.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Local Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The subject site is recommended to be replatted such that access is from an arterial, and the recommended conditions of approval should limit noise, lighting, and other activity from adversely impacting surrounding residential areas. Additionally, the Commercial Locational Guidelines of the Comprehensive Plan recommend that commercially-generated traffic should not feed directly onto local residential streets. The subject property is recommended to be replatted, in part to establish access control along University and the cul-de-sac Ridge Road South to prevent commercially-generated traffic from feeding directly onto these local residential streets. Replatting the residential sized lots would also ensure that drainage plans, utilities and easements, cross lot access, sufficient street right-of-way and street improvements, including any needed guarantees, would be in place prior to the zoning being completed.
  
5. Impact of the proposed development on community facilities: Detrimental impacts on traffic should be minimized through the replatting process, which should limit access to the subject site to an arterial street and through cross lot access. Other community facilities should not be adversely impacted.

**BILL LONGNECKER**, Planning Staff presented the Staff Report. He referenced a correction to the Staff Report on Page 4, Condition G. and commented that "group residence" should be removed from the uses not permitted.

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

**JOHNSON** moved, **MARNELL** seconded the motion, and it carried (10-0).

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**SHERMAN** and **VAN FLEET** in @1:37 P.M.

5. Case No.: ZON2008-23 – VL Richmond Revocable Trust, Attn: Margaret Richmond (Owner); David Wenz (Agent) Request City zone change from "SF-5" Single-family Residential to "GC" General Commercial, with protective overlay on property described as:

That portion of the Southeast Quarter of Section 22, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, lying between the Wichita-Valley Center Flood Control and Interstate Highway 235.

AND

Vacated Second Street lying adjacent to the South line of Lot 1, Block A, West Substation Addition, Wichita, Sedgwick County, Kansas, except the east 43 feet thereof, situated in the Northeast Quarter of Section 22, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas. Generally located at the termination of Gilda Street 1/2 mile south of Central and west of I-235.

**BACKGROUND:** The subject property is located a half mile south of Central with I-235 running along the east property line. The subject property is unplatted and contains 3.4 acres, currently zoned SF-5 Single-Family Residential (“SF-5”). The applicant has applied for a zone change to GC General Commercial (“GC”) on the subject site and the uses he proposes include elements of outdoor storage, vehicle storage yard and nursery and garden center type uses. The subject property is currently undeveloped, and is currently being used for outdoor storage and as a vehicle storage yard. A review of aerial photographs indicates that the site has been used for similar type uses as to what is being proposed over the past 10 – 15 years.

Use of the subject property for outdoor storage, vehicle storage and nursery and garden center is illegal under the property’s current zoning; however, no complaints have been received by the Office of Central Inspection regarding the illegal use of the property. The applicant has requested GC zoning, which is the first zoning district that permits the vehicle storage yard use of the property.

In addition to receiving GC zoning, the applicant will need to comply with the screening standards of the Unified Zoning Code and the Landscape Ordinance requirements. The screening standards for outdoor storage areas require a decorative fence, evergreen vegetation, or landscaped earth berms where adjacent to a residential zoning district or public street right-of-way. For the subject property, screening would be required along the north and east property line.

The character of the surrounding area is mixed with the City of Wichita Public Works Substation to the north and major barriers to the west (Wichita-Valley Center Floodway) and east (I-235). The subject property is triangular in shape, with just north, east and west property lines. The Substation (CON2001-00062) to the north is zoned SF-5 and the right-of-way for I-235 along the east property line provides a 270-foot buffer between the subject property and an electrical substation zoned SF-5. The Wichita-Valley Center Floodway runs along the west property line providing a 1,800-foot buffer between the subject site and SF-5 zoned property.

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

**ADJACENT ZONING AND LAND USE:**

NORTH:	SF-5	City Public Works Sub-station Facility
EAST:	Right-of-Way	I-235
SOUTH:	Wichita-Valley Center Floodway	
WEST:	Wichita-Valley Center Floodway	

**PUBLIC SERVICES:** Public sanitary sewer and water service are currently not available to this location. The site is currently served by an on-site well and septic system. The site has access to North Gilda Street, a two-lane unimproved/improved local road. There are no current traffic volumes for North Gilda Street.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide identifies the general location as appropriate for “major institutional” development. The Commercial Locational Guidelines recommend that commercial sites should be located adjacent to arterial streets and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. This particular site is unique in the fact that it is bordered on two sides by wide right-of-ways. Along the east side of the subject site is I-235 and along the west side is the Wichita-Valley Center Floodway. The property is also adjacent to the City Public Works substation to the north. While this site does not conform to the locational guidelines for commercial development, this particular site will be used for outdoor storage and vehicle storage, uses that are served well by being located away from residential areas.

**RECOMMENDATION:** Based on the information available prior to the public hearing, MAPD staff recommends the application be **APPROVED**, and subject to platting within one year.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The character of the surrounding area is mixed with the City of Wichita Public Works Substation to the north and major barriers to the west (Wichita-Valley Center Floodway) and east (I-235). The subject property is triangular in shape, with just north, east and west property lines. The Substation (CON2001-00062) to the north is zoned SF-5 and the right-of-way for I-235 along the east property line provides a 270-foot buffer between the subject property and an electrical substation zoned SF-5. The Wichita-Valley Center Floodway runs along the west property line providing a 1,800-foot buffer between the subject site and SF-5 zoned property.
2. **The suitability of the subject property for the uses to which it has been restricted:** The subject property is zoned "SF-5" Single-Family Residential, which does not permit storage uses. Vehicle storage yards are first permitted in the "GC" General Commercial zoning district. Given the site's location, access and the I-235 expressway, it is not likely that the site would redevelop with single-family residential uses.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Detrimental affects should be minimized by the screening, lighting, and compatibility standards of the Unified Zoning Code. Additionally, the subject property is separated by major barriers to the east (I-235) and west (Wichita-Valley Center Floodway) from lower intensity uses.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies:** The 2030 Wichita Functional Land Use Guide identifies the general location as appropriate for "major institutional" development. The Commercial Locational Guidelines recommend that commercial sites should be located adjacent to arterial streets and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas.
5. **Impact of the proposed development on community facilities:** No negative impacts on community facilities were identified at the time this report was prepared.

**DERRICK SLOCUM**, Planning Staff presented the Staff Report. He reported that the applicant had requested that they not be required to plat. He added that this zone change is subject to platting.

Responding to **HILLMAN**'s question concerning landscaping, **SLOCUM** said the highway was not elevated at this location. He briefly reviewed the site and pictures from the north, south, east and west. He indicated that staff felt the location was screened adequately.

Responding to a question from **HENTZEN** concerning exactly what "Outdoor Storage, Vehicle Storage" meant, **SLOCUM** briefly reviewed the definition contained in the Uniformed Zoning Code.

**FOSTER** referenced the screening requirements on the north and east property lines mentioned in the background information in the Staff Report and asked if these would still be required if the platting requirement is waived.

**MILLER** responded that the applicant will have to comply with screening and landscape requirements whether the site is platted or not.

Responding to **HILLMAN**'s comments concerning screening along the drainage ditch and the west side, **SLOCUM** commented that the nearest SF-5 Single-family Residential zoning was over 1,800 feet away and that no screening/landscaping was required. He added that the drainage ditch is already screened by the levee.

**FOSTER** asked if the City needed or anticipated needing any easements in the area.

**SLOCUM** said that would be addressed during the platting process.

**DAVE WENTZ, AGENT FOR MARGARET RICHMOND** (his mother-in-law) said the reason they do not want to plat is that they don't plan on doing anything to this property. He said it is just semantics; they are-not storing vehicles at the site. He said his son has a mowing and landscaping business and that he keeps three trucks and mowing equipment in a garage on the property. He said they also have an RV, a boat and another car parked there. He added that there was also a chain link fence along the "Big Ditch." He said platting was a very expensive proposition and that they don't plan on using the land for anything other than to store business equipment.

**HILLMAN** asked if the applicant planned to use the ground for a nursery or garden center.

**WENTZ** replied "No."

**RON KENT, 250 W. DOUGLAS, APT 2512** said he owned the property on the other side of I-235 directly to the west of this location and that he was present to speak in favor of the zoning request. He said his property is also zoned SF-5; that he has a building on the property that he currently is not allowed to use because the previous owner split the property; and although he bought the property with the building on it, it is illegally zoned.

Responding to a question from **JOHNSON** on the location of his property, **KENT** referred to the aerial map. He said his property was purchased from KG&E and then the property was split.

Responding to a question from **JOHNSON** concerning location of utilities, **SLOCUM** explained that water and sewer stop at Third Street right before the sub-station. He added that the Office of Central Inspection had referred the applicant to zoning because vehicle storage was not allowed in SF-5 zoning.

**JOHNSON** said although he understands the applicant not wanting to plat, he said he doesn't like these deals because this may well end up being someone else's property and then it will be a hassle to get it platted. He said he was not going to support the motion.

**MOTION:** To approve subject to staff recommendation, without the platting requirement.

**HILLMAN** moved, **HENZTEN** seconded the motion, and it carried (7-3). **FOSTER, JOHNSON, MILLER-STEVENS** – No.

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- 6. **Case No.: CON2008-22** –Board of Park Commissioners (Owner), T-Mobile Central LLC, c/o George Wyrick (Applicant), Ferris Consulting, c/o Greg Ferris (Agent) Request City Conditional Use to permit a wireless communication tower on property described as:

A tract of land lying in and being a part of the Northwest Quarter of Section 30, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, being more particularly described as follows: Commencing at the Northwest corner of said Northwest Quarter; Thence South 00 degrees 47'13" East, along the West line of said Northwest Quarter, a distance of 1282.53 feet; Thence North 89 degrees 12'47" East a distance of 527.63 feet to the point of beginning; Thence North 82 degrees 35'47" East a distance of 50.00 feet; Thence South 07 degrees 24'13" East a distance of 50.00 feet; Thence South 82°35'47" West a distance of 50.00 feet; Thence North 07°24'13" West a distance of 50.00 feet to the point of beginning. Containing

2500 square feet or 0.057 acres, more or less. Generally located east of 119th Street West and south of Maple Street.

**BACKGROUND:** The applicant, T-Mobile Central, LLC, is seeking a Conditional Use to permit the construction of a 120-foot high, galvanized steel, monopole cell phone tower. The 50-foot (x) 50-foot tower site is located in the SF-5 Single-family Residential ("SF-5") zoned 25.33-acre West Millbrook Park. The public park is located on the east side of 119<sup>th</sup> Street West, between Maple Street and the Calfskin Creek. Per the amended Wireless Communication Facility Ordinance (adopted by the WCC 4-08-08 & BoCC 4-9-08), new wireless communication facilities over 65-feet in height in the SF-5 zoning district may be permitted with a Conditional Use. The site is also located on a property designated as eligible for an Administrative Permit for wireless communication facilities, but because its 120-foot height exceeds the 65-foot limit for the permit, the application must go through the Conditional Use process.

The applicant's RF Engineer has provided (see attached letter #1) a letter that states that the proposed facility is needed to both provide, extend and improve phone service in this section of Wichita. The RF Engineer has also stated that the proposed tower will provide capacity relief for existing T-Mobile Towers in the area. The RF Engineer states that there are no towers or structures in the immediate 1-mile area that would allow co-location opportunities to meet their communication needs and has stated that the high volume of use has caused the area to experience frequent failed access. The wireless facilities map provided by the applicant shows the existing facilities in the area, from 167<sup>th</sup> Street West – 21<sup>st</sup> Street North – Tyler Road – south of Kellogg/US 54. This map is in general agreement with the case map generated by City IT. T-Mobile is shown to have five facilities on the map, which the RF Engineer has stated are at full capacity. The applicant has provided current and desired coverage maps.

The area is a combination of park land, a public golf course, established single-family residential neighborhoods, agricultural fields/undeveloped land, a small neighborhood shopping center and a convalescent home. All of the area is zoned SF-5, with the exception of the LC Limited Commercial ("LC") zoned neighborhood shopping center (built 2004 & 2006) and the B Multi-family Residential ("B") zoned convalescent home (1996); both are located on the southwest corner of Maple Street and 119<sup>th</sup> Street West. All of the development in the area is located in close proximity to the Calfskin Creek floodway, which runs through the area, crossing under 119<sup>th</sup> approximately 640 feet south of the site. The site itself and most of West Millbrook Park is located within the Calfskin floodway. There are two single-family residences (1983 & 1965) located approximately 280-feet west of the site. Further west of the site, across 119<sup>th</sup>, is a portion of the Auburn Hills Golf Course. North of the site is the north portion of West Millbrook Park, developed with approximately 6-acres of playground. There are no playgrounds within 330-350 feet of the proposed site. Single-family residential neighborhoods (platted 1964-1968) are located along the north and east portions of the park until the Calfskin separate the park and neighborhoods. The nearest single-family residence (1973) located east of the site is located approximately 370 feet northeast of the site. South of the site is more parkland and agricultural fields/undeveloped land. Existing mature groups of trees are common in the area, with the densest groupings around the Calfskin. There are also numerous small ponds in the area, including two located between the site and the closest two houses west of the site.

The site plan shows the 50-foot (x) 50-foot tower site located within the 25.33-acre West Millbrook Park. This portion of the park is open space. All single-family residences and other structures are outside the 120-foot fall area of the tower. The site plan shows no fencing around the site. It does show a 20-foot wide access/utility easement running from the site to 119<sup>th</sup> Street West; it does not indicate if it has any type of all weather surface on it. It also does not identify if the easement is current or will be dedicated and recorded. The site plan shows a cable gate at the easement's intersection with 119<sup>th</sup>. The site plan shows no light poles, power poles, cabinets, equipment or buildings located within the fenced-in area. The site plan also gives a general grouping of the existing trees. This existing landscape around tower site may provide sufficient screening between the facility and the abutting SF-5 zoned single-family

residences around it, but it must be determined if it meets screening requirements of the Unified Zoning Code (UZC) Art. IV, Sec. IV-B.3.b.1. Art. IV Sec. IV-C.5.b. of the UZC requires a setback equal to the height of the communication tower from the abutting properties and the site exceeds that standard.

The proposed tower and associated communication frequencies and wattages must meet standards determined by the Federal Aviation Administration (FAA) to pose no hazard to air navigation or interferes with other radio/communication frequencies. The applicant has not provided an analysis of airspace in the area, which must be provided to staff prior to building permits being issued. The applicant has not provided any proposed lighting of the tower, except to say it will not have strobes. Tower lighting must meet the FAA requirements or aircraft warning. The proposed galvanized surface of the tower will blend into the sky more readily than a red or white paint, which meets the intent of the "Design Guidelines" of the "Wireless Communication Master Plan." The proposed tower must allow co-location for three (3) other providers, which exceeds the UZC's minimum number for co-location. The applicant has not indicated if the tower will have a triangular "top hat" antenna array, the UZC recommends antennas mounted flush to the support structure over triangular "top hat" antenna arrays.

**CASE HISTORY:** The SF-5 zoned site is unplatted and is located within the 25.33-acre West Millwood Park. The Wichita Board of Park Commissioners and City Council have approved leasing this site to the applicant.

**ADJACENT ZONING AND LAND USE:**

NORTH:	SF-5	Park, single-family residences
SOUTH:	SF-5	Park, Calfskin Creek, agricultural fields/undeveloped land
EAST:	SF-5	Park, single-family residences
WEST:	SF-5	Park, single-family residences

**PUBLIC SERVICES:** No municipally supplied public services are required. The applicant will extend electrical and phone service to the site. The site has access to 119<sup>th</sup> Street West, a paved four-lane. The 2030 Transportation Plan shows no change to the current status of this road.

**CONFORMANCE TO PLANS/POLICIES:** Per the amended Wireless Communication Facility Ordinance (adopted by the WCC 4-08-08 & BoCC 4-9-08), new wireless communication facilities over 65-feet in height in the SF-5 zoning district may be permitted with a Conditional Use. The site is also located on a property designated as eligible for an Administrative Permit for wireless communication facilities, but because its 120-foot height exceeds the 65-foot limit the application must go through the Conditional Use process.

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

The 2030 Functional Land Use Guide classifies the site, West Millwood Park, as “park and open space.” It defines “park and open space” as land meant to accommodate parks, golf courses, public open space, private development reserves and recreational facilities/corridors (including natural drainage channels, easements, abandoned railway corridors, etc.). A wireless communication facility is a commercial use. Entry into residential areas is typically the final part of the business plan of most personal wireless providers. The facilities’ maps generated by the applicant and City IT/GIS services show the existing facilities in the area, some of which are in residential areas, thus the proposed site is not introducing a new use to the large area. The proposed location of the site within a portion of a public park (West Millwood Park) that is being used as open space and in the floodway of an existing creek drainage area (Calfskin Creek) will affect the fewest number of people with its presences while providing an opportunity to improve communication services to this portion of the community.

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

All requirements of Art. III Sec. III.D.6.g. of the Unified Zoning Code shall be met.

- A. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- B. The support structure shall be a “monopole” design that generally conforms to the approved site elevation and that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare. Antennas mounted flush to the support structure are preferred over triangular “top hat” antenna arrays and the applicant needs to demonstrate why the “flush” arrangement does not work.
- C. The support structure shall not exceed 120 feet in height and shall be designed and constructed to accommodate communication equipment for at least three (3) wireless service providers.
- D. The tower shall conform to FAA regulations in regards to analysis of airspace in the area, which includes conformation that the height of the tower is not a hazard to air navigation (including the need or not for lighting) and that the tower does not interfere with other radio/communication frequencies. The applicant shall submit a current copy of FAA approval to the MAPD and the Code Enforcement Office prior to the issuance of a building permit.
- E. The 0.05-acre tower site located within the owner’s 25.33-acres shall be developed in general conformance with the approved revised site and landscape plan. These plans must show the type and size of fencing around the site, parking, all light poles, lights, power poles, cabinets, equipment or buildings within the fenced in site or in the immediate area if it is to be used by the site. The plan must identify existing and/or proposed trees and shrubs, give their total numbers and their general size to determine if it meets screening requirements of the Unified Zoning Code (UZC) Art. IV, Sec. IV-B.3.b.1. The site plan must identify the utility access easement as being current or proposed. If it is proposed it must be recorded. The surface of the drive must be approved by the Zoning Administrator. All improvements shall be completed within a year and before the facility becomes operational.
- F. The applicant shall provide letters from existing towers in the general area of the proposed tower that states that co-location is not possible on their tower.
- G. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations. Provide the Storm Water Engineer with any required plans for review and approval of the site.
- H. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is a combination of park land, a public golf course, established single-family residential neighborhoods, agricultural fields/undeveloped land, a small neighborhood shopping center and a convalescent home. All of the area is zoned SF-5, with the exception of the LC zoned neighborhood shopping center and the B zoned convalescent home. All of the development in the area is located in close proximity to the Calfskin Creek floodway, which runs through the area, crossing under 119<sup>th</sup> approximately 640 feet south of the site. The site itself and most of West Millbrook Park is located within the Calfskin floodway.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-5 and is currently used as a public park. Most of the park is located in the Calfskin floodway and this particular portion is used as open space in the park. The site is suitable for its continued use as a public park. However, the site is also located on a property designated as eligible for an Administrative Permit for wireless communication facilities, but because its 120-foot height exceeds the 65-foot limit for the permit, the application must go through the Conditional Use process. Also, a Conditional Use may be granted to permit a wireless communication facility in the SF-5 zoning district; however, the facility should conform to the guidelines of the Wireless Communication Plan as much as possible. The proposed facility conforms to most of the plan's guidelines.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects on the single-family neighborhoods and businesses in the area should be minimized to a degree by the Conditional Use standards of the Unified Zoning Code, which should limit noise, lighting, and other activity from adversely impacting these properties. The location of the site on parkland and within the Calfskin floodway ensures future development around the site will occur outside the 25.33-acre West Millbrook Park, thus continuing the minimization of detrimental effects on the existing development and any future development. The location of Auburn Hills Golf Course also will continue to act as a buffer to keep any future development in the area away from the site.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility appears to conform to the Location Guidelines of the Wireless Communication Master Plan since there appears to be no other towers or tall structures in the vicinity of the site which can accommodate the communication needs of the applicant. It is always possible that other facilities may be presented as alternative/co-location sites during the public hearing, in which case the applicant will need to address those claims/opportunities for possible co-location. The proposed wireless communication facility mostly conforms to the Design Guidelines of the Wireless Communication Master Plan by minimizing the height, mass, proportion, and silhouette of the facility through its monopole design; by utilizing an unobtrusive color with a matte finish to minimize glare; and by being placed in a park where existing vegetation obscures some of the facility from view, plus ensuring that the future development will not be encroaching into the park. Antennas mounted flush to the support structure are preferred over triangular "top hat" antenna arrays and the applicant needs to demonstrate why the "flush" arrangement does not work. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. The site appears to meet that standard.
5. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed tower is not a hazard to air navigation (including the need or not for lighting) and that the tower does not interfere with other radio/communication frequencies. .

**BILL LONGNECKER**, Planning staff presented the staff report. He reported a correction to the Staff Report which was located on Page 5, Condition G. He asked that this requirement be removed.

Responding to a question from **FOSTER** concerning the memo dated April 8, 2008, **GREG FERRIS, AGENT FOR THE APPLICANT**, commented that this was a typo; that this was not an administrative permit, and that T-Mobile actually owns the tower located at 3201 North Ridge Road.

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

**JOHNSON** moved, **MARNELL** seconded the motion, and it carried (10-0).

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The Metropolitan Area Planning Department informally adjourned at 2:55 p.m.

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

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

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

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

(SEAL)