

**WICHITA-SEDGWICK COUNTY**  
**METROPOLITAN AREA PLANNING COMMISSION**

**MINUTES**

**November 5, 2015**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, November 5, 2015 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: David Dennis; Vice Chair; John Dailey; Bob Dool; Bill Ellison; David Foster; Matt Goolsby; Debra Miller Stevens; Bill Ramsey; Lowell Richardson; John Todd and Chuck Warren. Joe Johnson and Carol Neugent were absent. Staff members present were: Dale Miller, Director; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Jeff Vanzandt, Assistant City Attorney, Justin Waggoner, Assistant County Counselor and Maryann Crockett, Recording Secretary.

1. No Minutes for approval.

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

2-1. **SUB2015-00023: Final Plat – VASSAR ADDITION**, located on the Southwest corner of 63rd Street South and Clifton.

NOTE: This is a replat of a portion of the Clifton Cove Addition.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that the applicant needs to extend water (distribution) and sewer (laterals) to serve all lots.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Management advises that the Clifton Cove Addition Drainage Plan addresses this plat.
- D. The plat proposes one street opening along 63<sup>rd</sup> Street South. Traffic Engineering has approved the access controls.
- E. The Applicant shall guarantee the paving of the proposed streets. The paving guarantee shall include the emergency access drive within Reserve A.
- F. The plat denotes a hammerhead turnaround on Vassar Avenue. City Fire Department has approved the dimensions of the turnaround.
- G. The paving guarantee shall include the construction of an emergency access drive located within Reserve A that meets Fire Department standards. The emergency access drive shall be referenced in the restrictive covenant for the reserves. The text of the instrument shall indicate the type of driving surface to be installed and address installation and maintenance. Standard gating and signing are required per City Fire Department standards.

- H. 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 restrictive 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.
- I. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- 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. Approval of this plat will require a waiver of the lot depth-to-width ratio of the Subdivision Regulations for Lot 11, Block B and Lot 6, Block A. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. The Subdivision Committee recommends a modification of the design criteria in Article 7 of the Subdivision Regulations as it finds that the strict application of the design criteria will create an unwarranted hardship, the proposed modification is in harmony with the intended purpose of the Subdivision Regulations and the public safety and welfare will be protected.
- L. GIS has approved the street names.
- M. The MAPC signature block needs to reference "Dale Miller – Secretary".
- N. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted and inspected.
- O. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to [tricia.robello@sedgwick.gov](mailto:tricia.robello@sedgwick.gov) and nstrahl@wichita.gov.
- 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. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- U. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 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 acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater 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. Any and all relocation and removal of any existing equipment made necessary by this plat will be at the applicant's expense.
- Y. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: [kwilson@wichita.gov](mailto:kwilson@wichita.gov)).

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

**RAMSEY** moved, **DAILEY** seconded the motion, and it carried (11-0).

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**2-2. SUB2015-00037: One-Step Final Plat – SIGG ADDITION,** located west of 263rd Street West on the north side of 61st Street North.

NOTE: The site has been approved for a zone change (ZON2015-00011) from Rural Residential (RR) to Limited Industrial (LI) subject to a Protective Overlay regarding permitted uses. This is unplatted property located in the County designated as "rural" by the Wichita-Sedgwick County Comprehensive Plan. It is located in the Andale Area of Influence.

STAFF COMMENTS:

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact Metropolitan Area Building and Construction Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval. A restrictive covenant is required that prohibits non-domestic wastes on the site until public sewer is available.
- B. In conformance with the Urban Fringe Development Standards, for individual domestic wells that are proposed, a Safe Yield Analysis must be provided to Metropolitan Area Building and Construction Department to assure the availability of an adequate, safe supply of water that does not impair existing water rights. Easements shall be dedicated for potential future extension of public water and sewer.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. County Stormwater has approved the drainage plan.
- E. County Surveying advises the monuments shown on the preliminary plat do not match the monuments shown on the final plat.
- F. County Surveying advises all recorded easements need to be shown along with the recording data along the south line of the proposed plat and section line.
- G. County Surveying advises the reference to the previously platted land on the west should be shown. The road right-of-way of 70 feet along the section line on the west side of the plat should be shown. The tapering road right-of-way along the section line on the east side of the plat should be shown.
- H. County Surveying advises the center of section should be reestablished to match the stone found during the survey of “Bluestem Acres Second Addition” in 2002 so there will not be a gap or overlap with adjoining property.
- I. The platlor’s text shall reference, “Lots, Block and Street”.
- J. The plat name shall be denoted on the title block and in the platlor’s text as “Sigg Addition”, Sedgwick County, Kansas.
- K. County Public Works has approved one opening per lot to match the preliminary plat which shall be depicted as “access control except one opening”. Dimensions are needed along all segments of access control. The final plat shall reference the dedication of access controls in the platlor’s text.
- L. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.

- M.A Protective Overlay Certificate shall be submitted to MAPD prior to Board of County Commissioners consideration, identifying the approved Protective Overlay and its special conditions for development on this property.
- N. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to [tricia.robello@sedgwick.gov](mailto:tricia.robello@sedgwick.gov) and [nstrahl@wichita.gov](mailto:nstrahl@wichita.gov).
- O. 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.
- P. 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.)
- Q. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- R. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 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.
- T. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater 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.
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- W. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: [kwilson@wichita.gov](mailto:kwilson@wichita.gov)).

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

RAMSEY moved, DAILEY seconded the motion, and it carried (11-0).

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- 2-3. **SUB2015-00038: One-Step Final Plat – WASINGER 2ND ADDITION**, located on the west side of Webb Road, south of Harry Street.

NOTE: This is a replat of the Wasinger Addition in addition to a portion of the Caliendo 11<sup>th</sup> Addition. The applicant requests a zone change (ZON2015-00044) from General Office (GO) to Limited Commercial (LC).

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that Lot 1, Block A is currently being served by water and sewer.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the drainage plan.
- D. The platlor's text shall include language that "No signs, light poles, private drainage systems, masonry trash enclosures or other structures shall be located within public utility easements."
- E. One opening is proposed along Webb Road. Traffic Engineering has requested the opening be defined to match the site plan.
- F. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.
- G. On the final plat, the MAPC signature block needs to reference Dale Miller as Secretary.
- H. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to [tricia.robello@sedgwick.gov](mailto:tricia.robello@sedgwick.gov) and nstrahl@wichita.gov.
- I. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted and inspected.
- 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 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. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 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 acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater 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 advises that LaDonna Vanderford is the Area Construction Services Rep for this plat and can be reached at 316-261-6490. Any and all relocation and removal of any existing equipment made necessary by this plat will be at the applicant's expense.
- R. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: [kwilson@wichita.gov](mailto:kwilson@wichita.gov)).

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

**RAMSEY** moved, **DAILEY** seconded the motion, and it carried (11-0).

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**3. PUBLIC HEARING – VACATION ITEMS**

**3-1. VAC2015-00046: City request to vacate easements dedicated by separate instruments**, on property generally located south of Harry Street, north of Dora Avenue, on the east side of Seneca Street.

**OWNER/AGENT:** Cook Construction, c/o Larry Cook David & Maria C Lovett (owners)  
CEPD, c/o Harlan Foraker (agent)

**LEGAL DESCRIPTION:** Generally described as vacating a 20-foot, a 16-foot\* and a 14-foot\* wide (\*District Court Case #A-66769) sanitary sewer easements dedicated by separate instruments; FLM-PG: 28862999, Book 361 – Page 87-88, Book 361 – Page 89-90 & Misc. Book 361 – Page 91, all located on Lots 3, 4, 5, 6 & 7, West Park Gardens Addition, Wichita, Sedgwick County, Kansas. (see exhibit)

**LOCATION:** Generally located south of Harry Street, north of Dora Avenue, on the east side of Seneca Street (WCC #IV)

**REASON FOR REQUEST:** Sewer line has been relocated

**CURRENT ZONING:** The site and the abutting south property are zoned LC Limited Commercial. Adjacent west property (across Seneca Street) is zoned MF-29 Multi-Family Residential. Abutting north and east property is zoned TF-3 Two-Family Residential.

The applicant proposes to vacate a 20-foot, a 16-foot\* and a 14-foot\* wide (\*District Court Case #A-66769) sanitary sewer easements dedicated by separate instruments; FLM-PG: 28862999, Book 361 – Page 87-88, Book 361 – Page 89-90 & Misc. Book 361 – Page 91, all located on Lots 3, 4, 5, 6 & 7, West Park Gardens Addition. There were no platted easements shown on the lots or called out on the plat's text of the West Park Gardens Addition. An approved Private Sewer Project, #2220 PPS (OCA #607861), relocated the sewer line that was covered by the subject easements. Public Works has accepted a 20-foot wide easement to cover the relocated sewer line. Westar has existing equipment near the requested area but not in the three sanitary sewer easements that are being vacated. Applicant may need to contact Brian Ward, Construction Services Representative for this item. He can be contacted at 261-6859. The West Park Gardens Addition was recorded with the Register of Deeds October 27, 1923.

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

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

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time October 15, 2015, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by vacating the described portions of the sanitary sewer easements dedicated by separate instruments and that the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Provide Planning with a legal description of the vacated sanitary sewer easements dedicated by separate instruments on a Word document via E-mail that can be used on the Vacation Order. This must be provided to the Planning Department prior to this case going to City Council for final action.
- (2) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

#### **SUBDIVISION COMMITTEE'S RECOMMENDED ACTION**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide Planning with a legal description of the vacated sanitary sewer easements dedicated by separate instruments on a Word document via E-mail that can be used on the Vacation Order. This must be provided to the Planning Department prior to this case going to City Council for final action.
- (2) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

**WARREN** moved, **DAILEY** seconded the motion, and it carried (11-0).

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- 3-2. VAC2015-00047: City request for vacation of a platted street side yard setback , on property generally located midway between Harry Street and Mt Vernon Road, west of Webb Road, on the southwest corner of Cooper and Skinner Streets.**

**OWNER/APPLICANT:** Anthony V. Edwards & Colleen Ackerman (owners/applicants)

**LEGAL DESCRIPTION:** Generally described as vacating the platted 15-foot street side yard setback located parallel to the north property line of Lot 16, Block 2, Cedar Ridge 2<sup>nd</sup> Addition & the south side of the Skinner Street right-of-way, Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located between Harry Street and Mt Vernon Road, west of Webb Road, on the southwest corner of Cooper and Skinner Streets (1905 S. Cooper Street - WCC #II)

**REASON FOR REQUEST:** Remove encroachment

**CURRENT ZONING:** Subject property and all adjacent and abutting properties are zoned SF-5 Single-Family Residential

The applicants are requesting consideration for the vacation of the platted 15-foot street side yard setback located parallel to the north property line of Lot 16, Block 2, Cedar Ridge 2<sup>nd</sup> Addition and the south side of the Skinner Street right-of-way. A shed was permitted to be placed on the site of an old shed (built on a slab) that has been removed but was located within three-feet - four-inches (3-feet – 4-inches) of the north property line. There is a wooden fence located between the shed and Skinner Street. The subject corner lot is zoned SF-5 Single- Family Residential. The Unified Zoning Code's (UZC) minimum street side yard setback for the SF-5 zoning district is 15 feet; the same as the SF-5 zoned site's platted 15-foot street side yard setback. To remove the encroachment a vacation is required to reduce the platted 15-foot street side yard setback. The encroachment exceeds an Administrative Adjustment's 20% reduction thus the variance request. A variance, BZA2015-00053, has been filed. Traffic has reviewed the request and has determined that the shed does not fall within the sight obstruction triangle. There are no easements located within the platted setback. There are no utilities located within the platted setback. Water is located in the right-of-way. The Cedar Ridge 2<sup>nd</sup> Addition was recorded with the Register of Deeds June 30, 1981.

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

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

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time October 15, 2015, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by vacating the described portions of the platted street side yard setback and that the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Vacate the platted 15-foot street side yard setback located parallel to the to the north property line of Lots 16, Block 2, Cedar Ridge 2<sup>nd</sup> Addition and the south side of the Skinner Street right-of-way. Final reduction of the setback to three-feet – four-inches is set for review via the variance request BZA2015-00053, at the November 5, 2015, City Board of Zoning Appeals meeting.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer and franchised utilities/Westar with any needed plans for review for location of utilities. Provide a guarantee or approved plans for the relocation of any utilities. This must be provided to Planning prior going to City Council for final action.
- (3) All improvements shall be according to City Standards.
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

#### **SUBDIVISION COMMITTEE'S RECOMMENDED ACTION**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the platted 15-foot street side yard setback located parallel to the to the north property line of Lots 16, Block 2, Cedar Ridge 2<sup>nd</sup> Addition and the south side of the Skinner Street right-of-way. Final reduction of the setback to three-feet – four-inches is set for review via the variance request BZA2015-00053, at the November 5, 2015, City Board of Zoning Appeals meeting.

- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer and franchised utilities/Westar with any needed plans for review for location of utilities. Provide a guarantee or approved plans for the relocation of any utilities. This must be provided to Planning prior going to City Council for final action.
- (3) All improvements shall be according to City Standards.
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

**WARREN** moved, **DAILEY** seconded the motion, and it carried (11-0).

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**PUBLIC HEARINGS**

4. **Case No.: ZON2015-00043** - HD Realty, LLC, Attn: Brian Happy (Owner/Applicant) and Baughman Company, P.A., Attn: Russ Ewy (Agent) request a City zone change request from LC Limited Commercial to GC General Commercial with a Protective Overlay on property described as:

Lots 51 and 52, Linwood Acres Addition to Wichita, Sedgwick County, Kansas.

**VICE CHAIR DENNIS** announced that the case was deferred indefinitely.

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5. **Case No.: CON2015-00032** - Michael Boyd (Owner/Applicant) requests a County Conditional Use permit for an accessory apartment on RR Rural Residential zoned property on property described as:

The West 215 feet of the Northwest Quarter of the Northeast Quarter of Section 24, Township 25 South, Range 1 East of the 6<sup>th</sup> P.M., Sedgwick County, Kansas, except the North 50 feet for road.

**BACKGROUND:** The applicants are requesting a Conditional Use to allow an accessory apartment on unplatted property located at 3213 W. 101<sup>st</sup> Street North. The applicant plans to demolish the existing single-family residence on the site and rebuild the residence. During the time of construction, the applicant and his family will be living in the existing accessory structure and utilize the structure as an accessory apartment. After the principal structure is completed, the applicant plans to keep the

accessory apartment on the property. The Wichita-Sedgwick County Unified Zoning Code (“UZC”) defines an accessory apartment as a dwelling unit that may be wholly within, or may be detached from, a principal single-family dwelling unit. The 6-acre subject site is zoned RR Rural Residential (“RR”), and is located in the Valley Center zoning area of influence.

The site plan submitted by the applicant shows the location of the existing structure that is proposed to be the accessory apartment. With the accessory apartment being located to the south and west of the existing/proposed principal residence, the units will share the same proposed circle access drive onto West 101<sup>st</sup> St. North. The accessory apartment and new principal residence will be served by well water and a new septic system. The applicant has been working with the Metropolitan Area Building and Construction Department to ensure that both structures and all utilities are to code.

As per the Unified Zoning Code, the “Conditional Use” requirements for accessory apartments stipulate the following:

- (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.

Property to the north, south and west are zoned RR and is used for farming and agricultural operations. Property east of the subject site is also zoned RR and is utilized for a single-family residence.

**CASE HISTORY:** The property is in the rural area of the county, north of Valley Center and within Valley Center’s Zoning Area of Influence. The property is currently unplatted.

**ADJACENT ZONING AND LAND USE:**

NORTH:	RR	Farming and Ranch Operations
SOUTH:	RR	Farming and Ranch Operations
EAST:	RR	Single-family Residence
WEST:	RR	Farming and Ranch Operations

**PUBLIC SERVICES:** North 101<sup>st</sup> Street is an un-paved, two-lane section line road. The 2030 Transportation Plan projects no change in its status. The site is not within any rural water districts and is served by a well. The site is currently served by a lagoon, but with the additional residential structure, the applicant will be required to install a new septic system.

**CONFORMANCE TO PLANS/POLICIES:** The Comprehensive Plan identifies this property as being within the Small City 2030 Urban Growth Area for Valley Center. The designated small cities' urban growth area is generally located adjacent to their existing municipal boundaries, and indicates the reasonable direction and magnitude of growth these communities can expect to experience out to the year 2030. Determination of growth direction and amount is based upon municipal political considerations, anticipated municipal population growth, efficient patterns of municipal growth, current infrastructure limitations, cost effective delivery of future municipal services and environmental factors.

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

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 water and 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:** Property to the north, south and west of the subject site is zoned RR, and is use for farming and agricultural operations. Property east of the subject site is developed with a single-family residence on a large lot.
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 two accessory buildings, and could continue to be used as currently zoned.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Provided that the proposed accessory apartment meets all applicable codes, the proposed accessory use should have no effect on the surrounding properties.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The Comprehensive Plan identifies this property as being within the Small City 2030 Urban Growth Area for Valley Center. The designated small cities' urban growth area is generally located adjacent to their existing municipal boundaries, and indicates the reasonable direction and magnitude of growth these communities can expect to experience out to the year 2030. Determination of growth direction and amount is based upon municipal political considerations, anticipated municipal population growth, efficient patterns of municipal growth, current infrastructure limitations, cost effective delivery of future municipal services and environmental factors.

5. **Impact of the proposed development on community facilities:** If developed in compliance with the recommended conditions of approval, existing facilities would be adequate.

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

**RICHARDSON** requested clarification that according to the aerial photos and verbiage in the Staff Report, the auxiliary apartment is already there.

**SLOCUM** explained that the accessory structure was already there, and the applicants would like to convert it into an accessory apartment to live in while they rebuild their home.

**RICHARDSON** asked about prior approval for an accessory apartment.

**SLOCUM** said the structure has not been used as a dwelling unit, which is why the applicant has requested a Conditional use.

**DAILEY** asked for clarification about the septic system since the location already has a lagoon.

**SLOCUM** said the lagoon was okay for one dwelling unit; however, the Code requires a septic system for two dwelling units.

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

**GOOLSBY** moved, **DOOL** seconded the motion, and it carried (11-0).

6. **Case No.: CON2015-00033** - PHR Investments, Inc., c/o Howard Ricketts (Owner) request a City Conditional Use permit for car sales on LC Limited Commercial zoned property on property described as:

Lot 1 EXCEPT the East 82 feet, Block A, McLain Addition to Wichita, Sedgwick County, Kansas.

**BACKGROUND:** The applicant is requesting a Conditional Use to allow car and light truck and motor outdoor sales on the LC Limited Commercial zoned Lot 1, excluding the east 82 feet, Block A, McLain Addition. Per the Unified Zoning Code (UZC, Sec.III-D.6.x), outdoor vehicle and equipment sales may be permitted after consideration and approval of a Conditional Use on a site by site basis in the LC zoning district. The site is located at the northeast corner of Elm and West Streets. The 0.34-acre site was once developed as a small bank (built 1974) with drive-thru service. The site is currently vacant.

Between Kellogg Street/US Highway 54 (US 54) on the south end and Zoo Boulevard on the north end property with West Street frontage is almost completely developed with small commercial businesses. These businesses include regional and local convenience stores, national and regional grocery stores, national and local fast food restaurants, national and local sit down restaurants (some providing alcohol), a large local commercial shopping center, small commercial strips, small stand-alone retail and office, car repair (including one with a body shop), banks with drive-thru services, an almost equal number of payday loan offices, a few pawn shops, and two used car sales lots. The largest development in the area

is the exception to this mostly local commercial development , the Towne West Mall, located two-blocks west of West Street located up against the Interstate Highway 235 (IH 235) - US 54 interchange. North of Central Avenue the businesses are noticeably smaller and are open fewer hours than the businesses located south of Central Avenue. Two small 24-hour businesses operate north of Central Avenue, a local Mexican restaurant and a local (regional?) convenience store.

The immediate neighborhood begins with a LC zoned one-story payday loans building (built in 1966, looks like an old Pizza Inn) abutting the north side of the site with LC zoned one-story siding and windows sales office (built 1980) and a one-story commercial strip (built 1968) housing a restaurant and retail located further north. A GO General Office zoned 2-1/2 story small apartment building (built 1981) abuts the east side of the site. A TF-3 Two-Family Residential and SF-5 Single-Family Residential zoned neighborhood of mostly single-family residences and some duplexes (built late 1970s – mid 1980s) are located east, adjacent to the site. Development located south of the site, across Elm Street, include LC zoned one-story auto parts, a one-story Walgreens Drug store (built 2000), a one-story bank with a drive-thru (built 1972) and over three-acres of undeveloped GO zoned land. Development located west of the site, across West Street, include LC zoned one-story commercial strips (built 1967, 1973), a one-story bank with a drive-thru service (built 1994, 2007), a one-story flower shop (built 1955, 1998), an auto repair shop (built 1955, 1986) and a payday loans (built 1960). All of these nonresidential developments are local commercial types of uses.

There nearest outdoor car sales lots appear to be the two dealerships (CON2002-0005 and 2011-00038) located about four blocks south of the site on West Street between Douglas Avenue and 3<sup>rd</sup> Street and a recently approved car sales lot, associated with an existing auto repair business (CON2014-00034), located west of the Central Avenue – Zoo Boulevard intersection. The MAPC has recommended that buildings that had been used in the past for automobile activities, such as vehicle repair garages, be considered as possible sites for car sales. If the request is approved it would be the first car sales lot located north of Central Avenue. If the request is approved it is possibly the second time a building designed as a bank with drive-thru services became a stand-alone car sales lot.

The applicant has provided a site plan that shows the building, the canopy of the drive-thru service, the two existing drives onto Central Avenue and Elm Street, sidewalks, proposed parking and display areas, an existing pole sign, proposed parking barriers, a fenced trash receptacle, a grass area with two existing trees and Westar utilities. The site plan shows a display area blocking circulation between the site's Elm Street and Central Avenue driveways, this obstruction will have to be removed for internal circulation to provide unobstructed two points of ingress-egress. The site is almost entirely paved and as such there appears to be little opportunity for landscaping.

**CASE HISTORY:** The site is platted as Lot 1, Block A, McLain Addition, which was recorded with the Register of Deeds December 8, 1971. The site was annexed into the city sometime between 1951-1960.

**ADJACENT ZONING AND LAND USE:**

NORTH:	LC	Payday loans, office, commercial strip, auto repair
SOUTH:	LC, GO	Auto parts store, drug store, bank with drive-thru, undeveloped land
EAST:	GO, TF-3, SF-5	Small apartment, duplexes, single-family residences
WEST:	LC	Small commercial strips, small retail, bank, auto repair, payday loans

**PUBLIC SERVICES:** The subject property has access to West Street, a four-lane arterial street with a center turn-lane and Elm Street, a paved two-lane residential street. Municipal water and sewer services and all other utilities are currently provided to the subject property.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide of the Comprehensive Plan” identifies this site as appropriate for “local commercial” types of use. Medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants, personal service facilities and on a limited basis mini-storage warehouse and light manufacturing are examples of local commercial uses. All of these uses would be on a scale that would not have a significant regional draw. The UZC allows consideration of outdoor car sales on LC zoned lots as a Conditional Use on a site by site basis.

The “Commercial Locational Guidelines of the Comprehensive Plan” recommends 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 site has direct access onto West Street, a four-lane arterial, with a center turn-lane. The site’s access onto the residential Elm Street provided the needed access for the former bank’s drive-thru service. The site’s Elm Street drive lines up with the LC zoned auto parts’ drive, located south of the site, across Elm Street. The conditions attached to a Conditional Use can address site design issues, including, but not limited to the required solid screening along the site’s east side. The “Commercial Locational Guidelines” also recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg Avenue and Broadway Avenue, or other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities. As mentioned the closest car sales lots are located about four blocks south (and south of Central Avenue) of the site on West Street between Douglas Avenue and 3<sup>rd</sup> Street and a recently approved car sales lot (associated with auto repair), CON2014-00034, located west of the Central Avenue – Zoo Boulevard intersection. Approval would allow the first car sales lot located north of Central Avenue.

In the past the MAPC has identified smaller car sales lots as being more of a local commercial use in their nature, as opposed to the cluster of larger new car sales lots located primarily along Kellogg Avenue, Broadway Avenue or more recently along arterial intersections located in the northeast and northwest parts of the City, all which are more regional in their cliental draw. Consideration of a Conditional Use to allow car sales as accessory to a bank’s services to its customers is not uncommon. However, converting a site that was previously used as a bank with drive-thru service to a stand-alone car sales lot seems to be rare. The applicant’s proposal is not entirely out of character for this section of West Street, from Douglas Avenue to Central Avenue, but it will establish the first car sales lot located a block north of Central Avenue; CON2001-00020, car sales located on the southeast corner of West Street and Zoo Boulevard was denied. The applicant’s proposal allows another opportunity for the site to be occupied.

**RECOMMENDATION:** The site mostly conforms to the MAPC’s identifying smaller car sales lots as being more of a local commercial use in their nature. If approved the request would not introduce a new use to the section of West Street as there are car sales lots are located about four blocks south of the site on West Street between Douglas Avenue and 3<sup>rd</sup> Street and a recently approved car sales lot (associated with auto repair), CON2014-00034, located west of the Central Avenue – Zoo Boulevard intersection.

However, if approved it would establish the first car sales lot located a block north of Central Avenue on West Street. This is a tough call but, based on the information available prior to the public hearing, MAPD staff recommends the application be **APPROVED**, with the following conditions:

1. The Conditional Use shall be limited to the sales of cars and pick-up (light) trucks on Lot 1, excluding the east 82 feet, Block A, McLain Addition. No sale or rental of trailers, boats, motorcycles/scooters, recreational vehicles or trucks larger than pick-ups are permitted. All conditions of the Unified Zoning Code, Section III-D.6.x, outdoor vehicle and equipment sales shall be in effect.
2. Because the site has no building for any automotive service or repair work, none shall be conducted on the site. No outside storage of salvaged vehicles or vehicles waiting for repair shall be permitted in association with this use. No outside storage of parts, including tires, oil containers or any similar type of receptacles for new or used petroleum products.
3. All improvements to the property must be finished before car sales is permitted. Those improvements include a parking barrier, such as a heavy rail type, being installed along the west and south property lines of the site where it abuts the Central Avenue and Elm Street right-of-way, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public right-of-way, including the sidewalks. A six-eight foot wooden fence shall be erected on the east property line of the site.
4. No display or parking allowed on the north grass area of the site. The two trees located on the north side of the site in the grass area shall remain as shall the tree located along in the West Street right-of-way and the two trees located along the Elm Street right-of-way.
5. The applicant shall submit a revised site plan for review and approval by the Planning Director, prior to the selling of any cars or light trucks, within 45 days of approval by the MAPC or the City Council. The site plan will include, but not be limited to, internal circulation that will remain open at all time to allow access and connection to the Elm Street and Central Avenue driveways, a six-eight foot tall solid wooden fence along the east property line and parking barriers along the west and south property line. The site will be developed according to the revised site plan. No car sales will be allowed until the revised site plan is approved.
6. No temporary display signs are permitted, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons. All other signage will be per the "LC" zoning district.
7. There shall be no use of elevated platforms for the display of vehicles. All parking areas, areas where vehicles are displayed for sale must be on a concrete, asphalt or an approved all weather surface.
8. No outdoor amplification system shall be permitted.

9. The lighting standards of Section IV-B.4 of the Unified Zoning Code shall be complied with. No string-type lighting shall be permitted. Outside pole lighting shall be no taller than 14-feet, including the base, and directed onto the site and away from the residential development north and east of the site.
10. All trash receptacles, shall have solid 6-foot screening around it. The gate shall be of similar materials as the screening.
11. No selling of cars and pick-up (light) trucks shall be allowed until all permits have been acquired and all improvements to the site have been made.
12. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
13. 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.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The immediate neighborhood begins with a LC zoned one-story payday loans building (built in 1966, looks like an old Pizza Inn) abutting the north side of the site with LC zoned one-story siding and windows sales office (built 1980) and a one-story commercial strip (built 1968) housing a restaurant and retail located further north. A GO General Office zoned 2-1/2 story small apartment building (built 1981) abuts the east side of the site. A TF-3 Two-Family Residential and SF-5 Single-Family Residential zoned neighborhood of mostly single-family residences and some duplexes (built late 1970s – mid 1980s) are located east, adjacent to the site. Development located south of the site, across Elm Street, include LC zoned one-story auto parts, a one-story Walgreens Drug store (built 2000), a one-story bank with a drive-thru (built 1972) and over three-acres of undeveloped GO zoned land. Development located west of the site, across West Street, include LC zoned one-story commercial strips (built 1967, 1973), one-story bank with a drive-thru (built 1994, 2007), a one-story flower shop (built 1955, 1998), auto repair (built 1955, 1986) and a payday loans (built 1960). All of these nonresidential developments are local commercial type of uses.

The nearest outdoor car sales lots appear to be the two dealerships (CON2002-0005 and 2011-00038) located about four blocks south of the site on West Street between Douglas Avenue and 3<sup>rd</sup> Street and a recently approved car sales lot, associated with an existing auto repair business (CON2014-00034), located west of the Central Avenue – Zoo Boulevard intersection. The MAPC has recommended that buildings that had been used in the past for automobile activities, such as vehicle repair garages, be considered as possible sites for car sales. If the request is approved it would be the first car sales lot located north of Central Avenue. If the request is approved it would possibly be the second time a building designed as a bank with drive-thru services became a stand-alone car sales lot.

2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned LC. The property is suitable for the commercial uses to which it has been restricted, including its past use as a bank with drive-thru service.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of CON2015-00033 could encourage the application for more Conditional Use request for car sales on other properties on this section of West Street that are currently used for auto repair, payday loans or pawn shops. The result of such requests being approved would be a more auto focused commercial activity on this section of West Street, although on a physical scale not be out of character with the current local commercial activity; both sit down and fast food restaurants, offices, small commercial strips, grocery stores, a drugstore, payday loan businesses, several pawn shops, etc. The conditions of the Conditional Use are intended to minimize the negative impact of car sales on this site. Approval would at least have the currently vacant property occupied.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Commercial Locational Guidelines recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg, and other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities. If approved the request would not introduce a new use to the section of West Street as there are car sales lots located about four blocks south of the site on West Street between Douglas Avenue and 3<sup>rd</sup> Street and a recently approved car sales lot (associated with auto repair), CON2014-00034, located west of the Central Avenue – Zoo Boulevard intersection. However, if the request is approved it would be the first car sales lot located north of Central Avenue. There is no adopted neighborhood plan that would specifically discourage a car sales lot on this site. The Conditional Use proposal allows another opportunity for the site to be occupied.
5. Impact on Community Facilities: All public facilities are available. Existing road facilities are adequate.

**BILL LONGNECKER**, Planning Staff presented the Staff Report. He noted that DAB VI recommended approval of the application 7-0. He said the DAB requested a change in condition #6 for no animated signs. He said the site currently has a static sign illuminated from within and an electronic message board which will continue to operate. He commented this is not introducing a new use to the area; however, he noted that it will be the first used car lot north of Central Avenue. He reported that there have been no complaints or inquiries regarding the application.

**DAILEY** clarified so a message board is not considered an animated sign.

**LONGNECKER** said the Sign Code has a definition of electronic message signs having to do with the frequency in the changing of the script or image. He briefly reviewed the applicable section and definitions in the Sign Code, as referenced in the Staff Report.

**ELLISON** mentioned that he drove the area and there are seven (7) car lots within a mile of this location that have 5-8 flapping banners on them. He asked if the owner was good with the revision to item #6.

**LONGNECKER** said the owner has the same question. He said what is reflected in the Staff Report is standard language from the Zoning Code used with all car lot applications. He said he had a discussion with Commissioner Richardson regarding the banner issue and they got into the question of Code Enforcement, which he said the Planning Department does not do. He said enforcement is an issue for the Metropolitan Area Building and Construction Department (MABCD).

**RICHARDSON** said he spoke with staff and reviewed previous conditional use cases and he said they are pretty much verbatim regarding restrictions on pennants, streamers, pinwheels and lights. He said like Commissioner Ellison he also drove the area and all the businesses except one had the flapping banners. In fact, he said the Super Car Guys located at Douglas and West Street have 16 banners around the perimeter of the lot. He said his concern is that the Commission not approve any more of these conditional uses if the City is making up rules that no one is going to enforce. He also requested that someone from MABCD come and talk to the Commission about how they receive notice about these violations and how they enforce the code. He said he is also concerned about introducing car lots north of Central Avenue. He said for those reasons he was opposed to the application at this time.

**HOWARD RICKETS, 762 NORTH WEST STREET, PROPERTY OWNER** said he will be leasing the property to a tenant for the used car lot. He said they have no problems with what is being stipulated but asked about the banner situation. He said it will make it hard for his tenant if his is the only lot not able to have any banners. He asked if the Commission could regulate the number of banners. He said whatever the Commission decides, they will abide by it. He said the building has been vacant for a while and that no banks were interested in it because it is too small.

**MILLER** explained that MABCD operates on a complaint basis only. He said people can violate the UZC and unless someone turns them in, it is not investigated. He asked the Commission if they would authorize him to take their comments to MABCD and turn them in as a complaint if it was appropriate. He said the referenced conditions are in the UZC.

**RICHARDSON** said he understood that and said the Commission approves these applications feeling good that they are controlling what is being allowed, but frankly that doesn't happen. He wondered why the Commission does that and added that, essentially, it is open season and that doesn't make any sense to him.

**MOTION:** To approve subject to staff recommendation as amended by DAB VI.

**WARREN** moved, **RAMSEY** seconded the motion.

**DENNIS** said he does not want to penalize the applicant based on what everyone else is doing wrong. He said he was going to vote to approve the application, and report the violations at other locations to MABCD.

**MILLER STEVENS** asked Director Miller to ask MABCD why this provision is in the Ordinance, what is the purpose for not having banners, etc. She said that way the Commission can move forward with either removing the provision from the UZC or enforcing it.

**DIRECTOR MILLER** commented that the provision has been put into the UZC since he has been with the City. He said he believes it was a strong effort on the City's part to address these types of issues. He mentioned a previous City Manager and Planning Director. He said he would make MABCD aware of the issues discussed at today's meeting.

**ELLISON** said a key thing to any auto sales lot is that marketing effort, so not allowing banners is cutting the applicant's marketing effort in half.

**DAILEY** asked if the Advance Plans Committee should review the issue.

**DIRECTOR MILLER** said the UZC can be reviewed for appropriateness but he would need the direction of the full Commission to do that. However, he said he was hesitant because it takes a lot of staff time do UZC amendments, and right now staff is doing all they can do to keep us with processing current applications.

**FOSTER** asked for clarification of the DAB vote.

**LONGNECKER** reiterated that DAB approved the application 7-0. He added that Stormwater discharge was another issue discussed, since washing vehicles on site was not part of the application. He said they use a misting operation to keep dust off of the cars.

The **MOTION** carried (9-2). **ELLISON** and **RICHARDSON** – No.

7. **Case No.: PUD2015-00004** - Sherwood Construction Co., Inc. (David Sherwood) and Vantage Point Properties (Paul Jackson) / Baughman Company, P.A. (Russ Ewy) request a County zone change from SF-20 Single-family Residential to the Sunstone PUD Planned Unit Development on property described as:

A portion of the West Half of the Northwest Quarter of Section 36, Township 27 South, Range 2 West, of the Sixth Principal Meridian, Wichita, Sedgwick County, Kansas lying north of the north line of the A.T.&S.F. Railroad right-of-way within said Northwest Quarter more particularly described as commencing at the northwest corner of said Northwest Quarter; thence S00°39'56"E (assumed), along the west line of said Northwest Quarter, 1372.00 feet; thence N89°20'04"E, perpendicular to the west line of said Northwest Quarter, 60.00 feet to a point on the east road right of way of 135th Street West and for a point of beginning; thence continue N89°20'04"E, 1246.20 feet more or less to a point on the east line of the west half of said Northwest Quarter; thence S00°41'54"E, along the east line of the west half of said Northwest Quarter, 575.06 feet more or less to the north line of the A.T.&S.F. Railroad right of way; thence N86°04'43"W, along the north line of said A.T.&S.F. railroad right of way, 1250.54 feet more or less to the east road right of way of 135th Street West; thence N00°39'56"W, along the east line of 135th Street West, and parallel with the west line of said Northwest Quarter, 475.05 feet more or less to the Point of Beginning.

**BACKGROUND:** The applicant is seeking Planned Unit Development (PUD #47) zoning to allow the development of a multi-family residential complex that also includes a car wash and dog run. The use of the car wash and dog run is to be restricted to only residents of the proposed apartment complex. The property is zoned SF-20 Single-Family Residential (SF-20), and is located 1,600 feet south of West U.S. Highway 54/400 on the east side of South 135<sup>th</sup> Street West. The site contains 15.02 acres.

Proposed uses are those uses permitted by right in the MF-18 Multi-Family Residential district (MF-18), and a car wash that is not for general public use. A maximum of 270 dwelling units or 18 dwelling units per acre are proposed. Off-street parking is to be provided per the Unified Zoning Code (UZC). Twenty-foot building setbacks are proposed on all four sides of the property. At the time of platting a drainage plan is to be submitted. Signage is to be restricted to that permitted in the County Sign Code Section 6-346(c). No LED, billboard or off-site signage is permitted. Access shall be as indicated on the plan. Two points of access are proposed to South 135<sup>th</sup> Street West. The location of the driveways shall be approved at the time of platting.

Land located north of the application area is zoned SF-20 and is currently farmland. Land located to the east is zoned Limited Commercial (LC), subject to the development standards contained in Community Unit Plan (CUP) DP-320, and is currently farmland. South of the application area is land zoned SF-20, and SF-5 Single-Family Residential (SF-5). Land to the south is a hike and bike trail, utility substation and farmland platted (but undeveloped) for single-family residential use (Turkey Creek 3<sup>rd</sup> Addition). Property to the west is zoned Limited Industrial (LI), and developed with a concrete plant.

**CASE HISTORY:** On July 25, 2002, CON2002-00035 was approved. The conditional use permitted mining and quarrying of fill material. The conditional use for mining and quarrying expired July 25, 2006. The present application area is only a portion of the larger area approved for mining and quarrying.

**ADJACENT ZONING AND LAND USE:**

North: SF-20; farmland

South: SF-20, SF-5; utility substation, hike and bike trail and farmland

East: LC, subject to CUP DP-320; farmland

West: LI; concrete plant

**PUBLIC SERVICES:** South 135<sup>th</sup> Street West is a paved three-lane arterial that carried, in 2007, less than 800 average daily trips. Sanitary sewer is located over a quarter-mile away to the east. The closest water line is approximately 1,600 feet to the north along West U.S. Highway 54/400. Needed improvements can be guaranteed at the time of platting. If the site were to be developed to the maximum number of apartment units, 270, the average daily traffic generation rate is estimated to be 1,782 trips.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for “regional commercial” uses, and is located with Wichita’s 2030 urban growth area. The regional commercial category encompasses major destination area containing concentrations of commercial, office and personal service uses that have predominately regional market

area and high volumes of retail traffic. Regional commercial area may also include higher density residential housing and uses typically found in areas recommended for “local commercial” uses.

Multi-family residential uses may be used as transitional land use between single-family residential uses and higher intensity uses. Multi-family residential uses should have direct access to arterial or collector streets and should be sited where they will not overload or create congestion in existing and planned facilities or utilities.

**RECOMMENDATION:** Based upon the information available at the time the staff report was prepared it is recommended that the request be approved subject to the development standards contained in PUD #47, and the following conditions:

1. Platting of the property within one year of final approval.
2. Submission of four copies of the final approved PUD within 60 days of final approval.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Land located north of the application area is zoned SF-20 and is currently farmland. Land located to the east is zoned Limited Commercial (LC), subject to the development standards contained in Community Unit Plan (CUP) DP-320, and is currently farmland. South of the application area is more land zoned SF-20, and SF-5 Single-Family Residential (SF-5). Land to the south is a hike and bike trail, utility substation and farmland platted (but undeveloped) for single-family residential use (Turkey Creek 3<sup>rd</sup> Addition). Property to the west is zoned Limited Industrial (LI), and developed with a concrete plant. The property is located adjacent to the City of Wichita and is appropriately the subject of the current development application.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned SF-20 which primarily permits single-family residential uses on half-acre or larger lots and a few institutional and civic uses by right, such as churches, schools or parks. The site could be developed as currently zoned but rezoning the property to permit a more intense use is a more appropriate action given the site’s location in the direct path of urbanization.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed use would be buffered from the platted but undeveloped single-family development located south across the hike and bike trail. Land to the east is already zoned for commercial uses. Land to the east is a concrete plant. Land to the north is undeveloped but will likely be the subject of rezoning requests given its proximity to West Highway 54/400 and its scheduled improvements.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request would provide the public additional housing choice in the southwest part of the county. Denial would presumably represent a loss of economic opportunity for the property owner or the potential developer.

- 5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for “regional commercial” uses, and is located with Wichita’s 2030 urban growth area. The regional commercial category encompasses major destination area containing concentrations of commercial, office and personal service uses that have predominately a regional market area and have high volumes of retail traffic. Regional commercial area may also include higher density residential housing and uses typically found in areas recommended for “local commercial” uses. Multi-family residential uses may be used as transitional land use between single-family residential uses and higher intensity uses. Multi-family residential uses should have direct access to arterial or collector streets and should be sited where they will not overload or create congestion in existing and planned facilities or utilities.
- 6. Impact of the proposed development on community facilities: At the time of platting needed improvements can be identified and guarantees for needed improvements can be obtained.

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

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

**WARREN** moved, **ELLISON** seconded the motion, and it carried (11-0).

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**NON-PUBLIC HEARING ITEMS**

8. Other Matters/Adjournment

8-1. **2016 Planning Commission Calendar**

**MOTION:** To approve the 2016 MAPC/City BZA calendar as submitted.

**WARREN** moved, **RICHARDSON** seconded the motion, and it carried (11-0).

**FOSTER** asked about the County BZA calendar.

**DIRECTOR MILLER** clarified that the County BZA has a separate calendar that does not conflict with City MAPC/BZA meeting dates.

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**DIRECTOR MILLER** referred to the handout regarding lot size for Rural Home Occupations which he said the Commission will be asked to set a public hearing date at the next meeting.

The Metropolitan Area Planning Commission adjourned at 2:00 p.m.

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

I, W. Dale Miller, 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 \_\_\_\_\_, 2015.

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Dale Miller, Secretary  
Wichita-Sedgwick County Metropolitan  
Area Planning Commission

(SEAL)