

**STAFF REPORT**  
**(One-Step Final Plat)**

**CASE NUMBER:** SUB 2006-82 -- PEARSON COMMERCIAL ADDITION

**OWNER/APPLICANT:** Bruce A. And Esther L. Pearson, 2626 N. Maize Road, Wichita, KS 67205

**SURVEYOR/ENGINEER:** Poe and Associates, Attn: Tim Austin, 5940 E. Central. Suite 200, Wichita, KS 67208

**LOCATION:** South of 29th St. North, East side of Maize

**SITE SIZE:** 25.3 acres

**NUMBER OF LOTS**

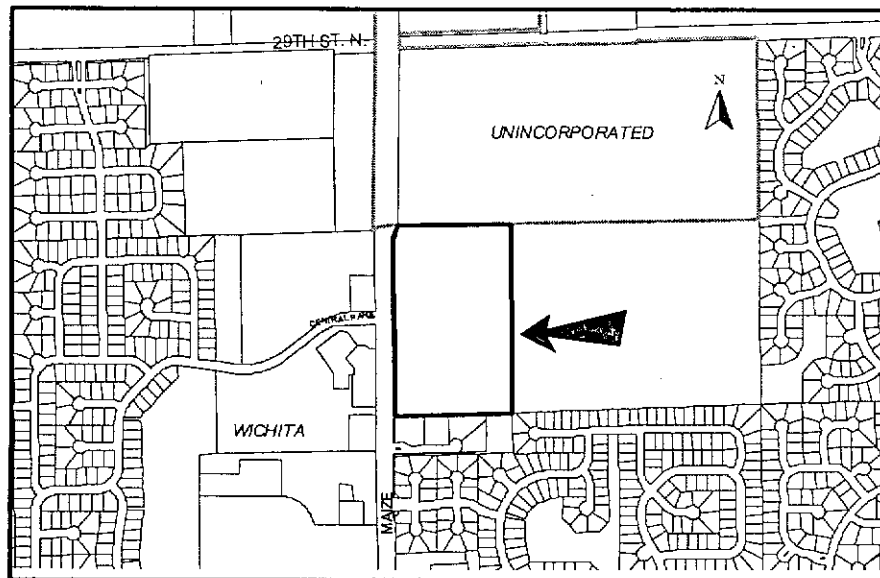
|              |          |
|--------------|----------|
| Residential: |          |
| Office:      |          |
| Commercial:  | 7        |
| Industrial:  |          |
| Total:       | <u>7</u> |

**MINIMUM LOT AREA:** 26,136 square feet

**CURRENT ZONING:** SF-5, Single-Family Residential

**PROPOSED ZONING:** LC, Limited Commercial, GC, General Commercial

**VICINITY MAP**



**NOTE:** The site has been approved for a zone change (ZON 2006-20) from SF-5, Single-Family Residential to LC, Limited Commercial and GC, General Commercial. The Pearson Commercial Community Unit Plan (CUP 2006-16, DP-297) was also approved for this site.

**STAFF COMMENTS:**

- A. The applicant needs to extend sewer to lots being platted. In lieu of main fees need to be added to petition. Easements also need to be shown. The existing house is connected to sewer. That connection needs to be sealed off if the house is removed. Water is available on Maize Rd but in lieu of assessment fees are applicable for connections.
- 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 needs to comment on the status of the applicant's drainage plan.
- D. In accordance with the CUP, the applicant shall guarantee installation of the fourth leg of the traffic signal (and associated signal upgrades) at the intersection of Central Park and Maize Road.
- E. Traffic Engineering needs to comment on the access controls. The plat proposes three openings along Maize Road. *The north and south access openings need to be denoted as rights-in/out.*
- F. The plat's text shall include reference to "Lots, Reserves and Blocks" in the owner's certificate.
- G. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- H. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- I. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- J. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for Lot 5. The Subdivision Regulations state that the maximum depth of all non-residential lots shall not exceed three times the width.
- K. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- L. In accordance with the CUP approval, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.

- M. 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.
- N. 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.)
- O. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. 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.
- Q. 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.
- R. 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 NPDES 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.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- U. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- V. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

**SUB 2006-82 -- One-Step Final Plat of PEARSON COMMERCIAL ADDITION**  
**October 12, 2006 - Page 2**

**NOTE:** The site has been approved for a zone change (ZON 2006-20) from SF-5, Single-Family Residential to LC, Limited Commercial and GC, General Commercial. The Pearson Commercial Community Unit Plan (CUP 2006-16, DP-297) was also approved for this site.

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**October 12, 2006 - Page 3**

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201 N. Wood • Wichita, KS 67212

*"Putting 30 Years Experience To Work For You"*

Phone: 316/729-0491  
Fax: 316/729-0768

TELEFAX

DATE: October 26, 2006  
TO: City of Wichita  
Planning Department  
Attn: Neil Strahl, Senior Planner  
FAX NO.: 268-4390  
FROM: Jeff W. Bannon  
RE: SUB 2006-82: Pearson Commercial Addition

COMMENTS: Neil, Transmitted is a letter requesting that the above-referenced case not move forward unless the drainage studies and plan are available for review by other developers in the Cadillac Lake basin. Could you please make this available to the committee for their consideration?  
Sincerely, Jeff W. Bannon

TOTAL PAGES (Including this one): three





201 N. Wood • Wichita, KS 67212

*"Putting 30 Years Experience To Work For You"*

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October 26, 2006

City of Wichita  
Subdivision and Utility Advisory Committee  
Attn: Neil Strahl

Re: SUB 2006-82: Pearson Commercial Addition

Dear Mr. Strahl:

It is my understanding that the City of Wichita engineering department has recommended that Case #SUB 2006-82: One-Step Final Plat -- PEARSON COMMERCIAL ADDITION be deferred based on drainage plans that are not complete. We have made an open records request for the drainage studies and drainage plan and just a few moments ago received a certified mail response indicating that our request is denied based on the plan and studies not being complete and therefore exempt.

Scott Lindebak told us the drainage studies and drainage plan involve more than just the Pearson Commercial Addition. We believe the recent drainage studies of the Cadillac Lake drainage basin conducted subsequent to the "Watershed Study for Cadillac Lake, Wichita, Sedgwick County, Kansas" presented to the City on March 24, 2003, have a great deal to do with that part of the drainage basin west of Maize Rd. Our property lies within the drainage basin west of Maize Rd.

We understand there is a substantial amount of funds that have been approved/reaffirmed by the Wichita City Council on July 19, 2005, for the Capital Improvement Program for storm water drainage improvements in the Cadillac Lake drainage



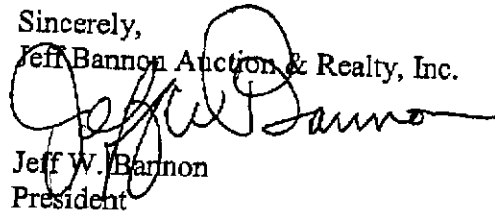
City of Wichita  
Subdivision and Utility Advisory Committee

October 26, 2006

basin. Item #6 of the Pearson Commercial Addition C.U.P. says "Final determination of any public improvements shall be determined at the time of platting".

Because we are in the planning stages of developing our parcel, we believe it would be grossly negligent and inappropriate for the Subdivision and Utility Advisory Committee to move forward with approval of SUB 2006-82 before drainage studies and the SUB 2006-82 drainage plan were complete and available to potentially affected developers in the Cadillac Lake basin. We respectfully ask for your consideration.

Sincerely,  
Jeff Bannon Auction & Realty, Inc.



Jeff W. Bannon  
President

JWB/mb  
Enc.



Comments for November 8, 2006 Subdivision Committee Agenda Item #4:

SUB 2006-82 – Pearson Commercial Addition

From: Jeff W. Bannon, adjacent land owner and developer

I have provided information on a yellow sheet to the members. In addition, I have a prepared statement I would like to have entered into the public record.

The proposed Pearson Commercial Addition involves much more than what is being presented. This plat will include the following:

- 1) Potentially \$1.7 million of public funds paid by the City at large earmarked for Cadillac Lake drainage improvements,
- 2) The plat will require imported soil extracted from City owned property to be placed and compacted on approximately 40 acres (3 to 6 feet deep, minimum), which are adjacent to and down-flow from my property. The 40 acres are the Pearson and Slawson tracts, exclusively.
- 3) In addition to the Pearson Commercial Addition, there is a \$3.5 million road project on 29<sup>th</sup> Street North between Maize Rd. and 119<sup>th</sup> Street West to be built with public funds. This road project is adjacent to my property and crosses the Cadillac Lake drainage basin.
- 4) My tract, the Pearson Tract, the Slawson Tract, that part of 29<sup>th</sup> Street North Adjacent to my property, and the “Genesis Tract” are all in the Cadillac Lake basin. All the hydrology in Cadillac Lake is connected. A total of over \$5 million in public funds have been identified for improvements that will directly impact the Cadillac Lake basin. All of these parcels have been identified in the Wichita-Sedgwick County Comprehensive Plan Functional Land Use Guide as “local commercial”.
- 5) I have asked for the before and after hydrology for the road project. I have asked for the drainage report on the Pearson Commercial property. I have been told there is a second drainage study that has been done by P.E.C. that is in the possession of the City. I have asked for all this information, and none of it has been forthcoming. As far as the 2<sup>nd</sup> drainage study being the property of the developers, this is inconsistent with the April 25, 2006 draft of the Development Agreement Regarding Development of 29<sup>th</sup> and Maize/Cadillac Lake which says, “The City is currently conducting a second drainage study to more precisely determine, among other things, its specific detention needs in the Cadillac Lake drainage basin.”
- 6) Allowing this plat without allowing everyone in Cadillac Lake to be fully informed and to have an opportunity to participate in the benefits of substantial public improvements is unacceptable. Allowing this plat to proceed at this time, in my opinion, is inappropriate, and it will result in preferential treatment of certain developers at the exclusion of others. This is un-American.

**STAFF REPORT**  
(One-Step Final Plat, Deferred 10/12/06, 9/28/06)

**CASE NUMBER:** SUB 2006-82 -- PEARSON COMMERCIAL ADDITION

**OWNER/APPLICANT:** Bruce A. and Esther L. Pearson, 2626 N. Maize Road, Wichita, KS 67205

**SURVEYOR/ENGINEER:** Poe and Associates, Attn: Tim Austin, 5940 E. Central. Suite 200, Wichita, KS 67208

**LOCATION:** South of 29th St. North, East side of Maize

**SITE SIZE:** 25.3 acres

**NUMBER OF LOTS**

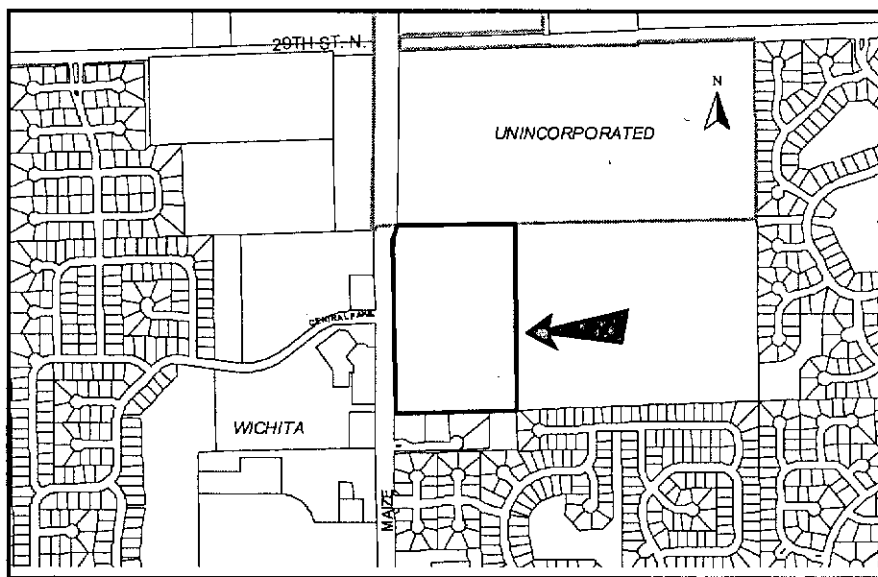
|              |   |
|--------------|---|
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| Office:      |   |
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| Industrial:  | — |
| Total:       | 7 |

**MINIMUM LOT AREA:** 26,136 square feet

**CURRENT ZONING:** SF-5, Single-Family Residential

**PROPOSED ZONING:** LC, Limited Commercial, GC, General Commercial

**VICINITY MAP**



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**October 26, 2006 - Page 2**

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**SUB 2006-82 -- One-Step Final Plat of PEARSON COMMERCIAL ADDITION**  
**October 26, 2006 - Page 3**

- M. On the final plat tracing, the MAPC signature block needs to reference "Darrell A. Downing, Chair".
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- V. 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. Westar Energy has requested additional easements.
- W. 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.

## JEFF BANNON AUCTION & REALTY, INC.

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201 N. Wood • Wichita, KS 67212 • (316) 729-0491 • fax (316) 729-0768

November 7, 2006

City of Wichita  
Subdivision and Utility Advisory Committee

Re: SUB 2006-82: Pearson Commercial Addition

Dear Committee Members M.S. Mitchell, Bill Johnson, Michael Gisick, Bob Aldrich, Don Anderson, Denise Sherman, Hoyt Hillman:

The City of Wichita paid Baughman Company in 2003 for a drainage study of the Cadillac Lake Watershed. This area consists of approximately 250 acres, which includes the land containing the plat you are considering, and it includes my 20 acres west of Maize Rd. The 2003 study says that existing conditions do not pose a threat to Chadsworth Addition.

Chris Carrier, the Storm Water Engineer in 2003 and currently Director of Public Works, responded to the 2003 Baughman study in a memorandum dated July 24, 2003, where he set out policy for development in Cadillac Lake and its drainage basins. It is my understanding that any development in the Cadillac Lake flood plain that follows the policy statement outlined by Mr. Carrier will do nothing but reduce concentrations of run-off south of the Cadillac Lake basin. This is so, because the method of compensating for detention areas filled for development in the flood plain is to excavate below existing grades and pump detained water from below grade to restore the "empty cup" (compensatory storage area). The rate of discharging via pump is slower than via the 200 cfs discharge through the conveyance pipe to Chadsworth. Therefore, part of the storm waters will not enter the Chadsworth detention area as quickly in these after-developed conditions.

The City of Wichita's Capital Improvement Program has budgeted one million dollars for drainage improvements to the Cadillac Lake basin. I have expressed my willingness and desire to cooperate with developers in the area and the City of Wichita to develop my parcel in cooperation with any drainage improvements in the area. I sent an engineered sketch plat and proposal to the City on May 31, 2006, and the City of Wichita, nor the developers copied, have responded to this correspondence. I would be glad to make this information available per your request.

My concerns with the approval of the SUB 2006-82 Pearson Commercial Addition being considered by you this November 8<sup>th</sup> are as follows:

- 1) The drainage plan for this project has not been made available for my review, and I can not ascertain if it complies with the July 24, 2003, policy statement as set out by Chris Carrier. Any development that does not comply with that policy statement could, in my opinion, have a negative impact on remaining parcels in the drainage basin. Mr. Carrier's policy called for compensating for any floodplain fill below elevation 1350', that runoff after development must not exceed the runoff before development, and for an additional 100 acre feet of detention storage to be provided in Cadillac Lake or the area west of Maize Road.
- 2) Mr. Lindebak said there will be two pumps, one on the Pearson Tract and one on the Slawson Tract (Newmarket V). If these pumps are sized to accommodate restoring the detention **only** for these

two projects, or if these developers argued that any additional pump proposed upstream from them would have a negative impact on them, the remaining parcels in the Cadillac Lake flood plain could be isolated from development. This would include my 20 acre tract, the parcel owned by Genesis north of my tract, and the Pracht tract. This is because any feasible development in the floodplain, in my opinion, will necessitate the use of the method of restoring detention via pumps. I believe the City of Wichita understands this, and a cooperative drainage plan was the purpose of the money allocated to a Capital Improvement Project for drainage improvements. Unfortunately, the developers of the Pearson Tract and the Slawson Tract are trying to monopolize the area by pushing a plan through that could have the effect of restricting other development in the area. The injustice is significantly magnified by the magnitude of public funding that is being solicited for their scheme.

2) The CUP indicates that public funding will be determined at time of platting. This public funding is premised on a Development Agreement dated April 25, 2006, and we understand has already been signed by the applicant of SUB 2006-82, and which the City of Wichita is a party. This Agreement states that the "public component" of the Agreement is to preserve wetlands and to increase detention capacity to protect Chadsworth from flooding.

2a) The wetland component is inconsistent with the fact the applicant has a lawsuit with the Corp of Engineers challenging their asserted jurisdiction, and the applicants appraisal of part of his property for the purpose of gifting it to the City of Wichita states that, "This value estimate is based on the assumption that the wetland designation for the subject property, proposed by the Army Corps of Engineers, is not legally valid." Even if the wetland component ultimately prevails, the Corps of Engineers and the City of Wichita have stated they want all wetlands east of Maize Rd. Isolating my property from the publicly funded mitigation plan does not accomplish the intent of the Corps of Engineers or the City of Wichita.

2b) As mentioned above, the 2003 drainage study indicates there is no current flood threat to the Chadsworth Addition; the only risk is development that does not follow Mr. Carrier's policy.

My conclusion is that the Development Agreement between the applicant of CUP 2006-82, the contract purchaser of the applicants property, the City of Wichita, and Newmarket V (Slawson property adjacent on the east and south to my property) is a means for the two parcels (Pearson tract and Slawson tract) to be developed with the City paying 60% of the cost of development. I am also suspect of the secret drainage report done by P.E.C. being in contradiction to the 2003 Baughman study, because P.E.C. is otherwise working exclusively for Slawson Companies in the Cadillac Lake area.

3) The development of these parcels is expensive because of the dirt excavation, the pump construction and operation, and potentially mitigation of wetlands. If this plat is approved, which includes a final determination of public funding, it could place a hardship on my efforts to develop my land if I am prevented from benefiting from any publicly funded drainage improvements. Furthermore, I believe it is inefficient to have multiple pumps to utilize the compensatory detention method described above. I would hope that the magnitude of public funding proposed would ensure that all the commercially developable land in the Cadillac Lake floodplain would be developed in cooperation.

4) The subdivision regulations provide for preliminary steps to the Final Plat, including a sketch plat and a preliminary plat to be considered by the subdivision committee. The sketch plat, "is encouraged, particularly for large-scale and complex projects..." This applicant has jumped ahead for quick approval

Jeff Bannon Auction  
November 7, 2006

of a very complex project involving other properties and public funding.

I am very upset with the way our City government has been manipulated in an attempt to defeat my interests. In addition to trying to prevent me from participating in publicly funded drainage improvements, our City government, at the direction of City Councilman Bob Martz, attempted to coerce me to give the City my road right-of-way in exchange for a short extension of time to complete platting requirements for an approved CUP for commercial development. Because the City would not get square on road plans or give any assurances regarding a cooperative effort for platting requirements, I did not agree to give the City my right-of-way, so they terminated my approved zoning application.

Currently, the City has filed condemnation against me for the 29<sup>th</sup> Street North road right-of-way in the floodplain, and they claim they do not have any before and after hydrology data for my consideration. The secret drainage study done by P.E.C. could cause a further change to the road plan according to Baughman Company.

This is a complex case, and I feel the way it is being handled makes it even more complex. It is unfortunate there is so much deception and that our planners may not be able to make informed decisions. It is not my intent to cause trouble. I am trying to influence an equitable use of public funding. I am also concerned the secrecy of the Pearson drainage plan prevents me from determining if there will be any negative impact to my property.

In order to make an informed decision, I believe the Subdivision Committee members need to know the following:

1. Do the drainage plans for the Pearson Tract and the Slawson Tract (Newmarket V) comply with the July 24, 2003, policy for development in the Cadillac Lake drainage basin?
2. Will the public funding proposed for the project ensure the feasibility for development of the remainder of the parcels in the basin without major modifications to approved pumps and without cost prohibitive concessions?
3. Will the public funding proposed for the project ensure that all affected wetlands in the basin, if the Corps jurisdiction prevails, be mitigated as part of this major capital improvement project?
4. What is the benefit to anyone other than the developers of the Pearson Tract and the Slawson Tract from the \$1.7 million of funds proposed to be paid by the public at large?

Until these questions can be answered, it is my request that this application not be approved. Please do not hesitate to contact me if you would like to discuss this further.

Sincerely,  
Jeff Bannon Auction & Realty, Inc.



Jeff W. Bannon  
President

JWB/mb

cc: Bruce Pearson  
Chris Carrier, Director of Public Works  
Don Slawson

NOVEMBER 8, 2006

STAFF REPORT

(One-Step Final Plat, Deferred 10/26/06, 10/12/06, 9/28/06)

**CASE NUMBER:** SUB 2006-82 -- PEARSON COMMERCIAL ADDITION

**OWNER/APPLICANT:** Bruce A. and Esther L. Pearson, 2626 N. Maize Road, Wichita, KS 67205

**SURVEYOR/ENGINEER:** Poe and Associates, Attn: Tim Austin, 5940 E. Central. Suite 200, Wichita, KS 67208

**LOCATION:** South of 29th St. North, East side of Maize

**SITE SIZE:** 25.3 acres

**NUMBER OF LOTS**

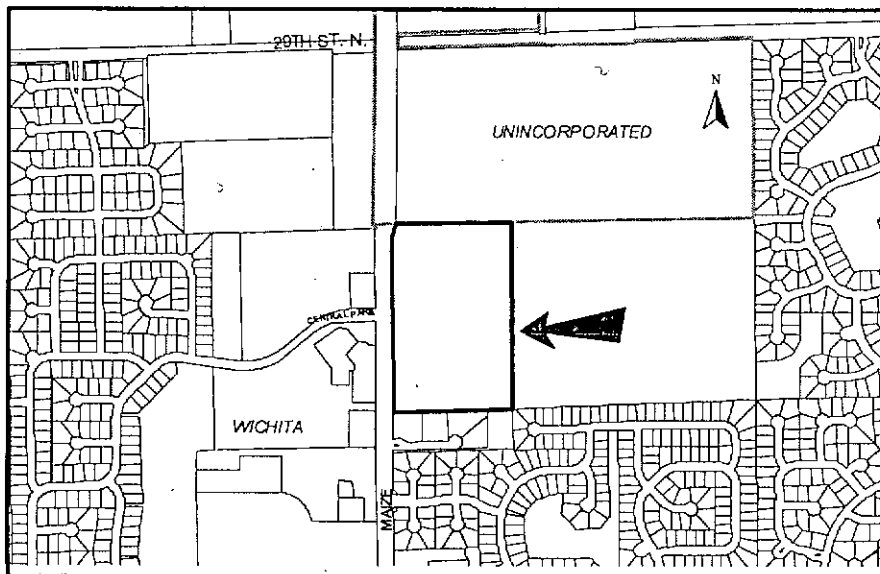
|              |          |
|--------------|----------|
| Residential: |          |
| Office:      |          |
| Commercial:  | 7        |
| Industrial:  |          |
| Total:       | <u>7</u> |

**MINIMUM LOT AREA:** 26,136 square feet

**CURRENT ZONING:** SF-5, Single-Family Residential

**PROPOSED ZONING:** LC, Limited Commercial, GC, General Commercial

**VICINITY MAP**





NOTE: The site has been approved for a zone change (ZON 2006-20) from SF-5, Single-Family Residential to LC, Limited Commercial and GC, General Commercial. The Pearson Commercial Community Unit Plan (CUP 2006-16, DP-297) was also approved for this site.

STAFF COMMENTS:

- A. The applicant needs to extend sewer to lots being platted. In-lieu-of main fees need to be added to petition. Easements also need to be shown. The existing house is connected to sewer. That connection needs to be sealed off if the house is removed. Water is available on Maize Rd but in lieu of assessment fees are applicable for connections.
- 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 needs to comment on the status of the applicant's drainage plan. City Engineering requests that the 50 acres adjoining the plat to the east should be included within the plat.
- D. In accordance with the CUP, the applicant shall guarantee installation of the fourth leg of the traffic signal (and associated signal upgrades) at the intersection of Central Park and Maize Road.
- E. Traffic Engineering needs to comment on the access controls. The plat proposes three openings along Maize Road. The north and south access openings need to be denoted as rights-in/out.
- F. The plat's text shall include reference to "Lots, Reserves and Blocks" in the owner's certificate.
- G. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- H. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body. The reserves will not be used for drainage purposes.
- I. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- J. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for Lot 5. The Subdivision Regulations state that the maximum depth of all non-residential lots shall not exceed three times the width.
- K. In accordance with the CUP approval, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- L. On the final plat tracing, the MAPC signature block needs to reference "Darrell A. Downing, Chair".

**SUB 2006-82 -- One-Step Final Plat of PEARSON COMMERCIAL ADDITION**  
**November 8, 2006 - Page 3**

- M. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- N. 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.)
- O. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. 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.
- Q. 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.
- R. 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 NPDES 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.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- U. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy has requested additional easements.**
- V. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

NOV 29 2006

METROPOLITAN PLANNING  
ROUTE 

## INTEROFFICE MEMORANDUM

**TO:** John Schlegel, Director of Planning  
Metropolitan Area Planning Department

**FROM:** Christopher M. Carrier, Director of Public Works

A handwritten signature in black ink, appearing to read 'C.M. Carrier'.

**SUBJECT:** Pearson Commercial Addition Plat

**DATE:** November 29, 2006

The purpose of this memo is to provide you with a status report on various items having to do with this plat that may be of interest to the MAPC and MAPD. Last week, Mr. Doug Moshier and myself had a telephone conference call with the applicant's various representatives on this project and I wish to report the following:

- 1) As of this date, I have approved the Drainage Study for this project that was recently completed by Professional Engineering Consultants. The drainage work that is to be completed as a part of this project will be on land to the east of the land being platted and it is the intent of the owner to deed this land to the City. Drainage facilities will then be constructed on the property as a part of the development, the purpose of which is to provide additional flood protection to properties in Chadsworth and other downstream subdivisions as runoff increases from properties that develop upstream. We are satisfied that what the applicants are proposing will go a long way to accomplish what is needed. If we are ever successful in having a public entity acquire the Pracht Wetland areas, then the drainage concept started on the Pearson property might be extended onto the Pracht property to accomplish the remainder of what's needed. It is somewhat unfair to ask those involved in the Pearson property to shoulder that full responsibility.
- 2) Under the terms of a development agreement which we ultimately intend to submit to the City Council for their review and approval, the City would be responsible for maintaining the stormwater detention area and pumps installed on the east portion of the Pearson property. The applicant or the successive owners, will be responsible for forever maintaining the wetland mitigation areas to Corps of Engineers standards. Should the responsible parties fail to perform this maintenance, the development agreement indicates that the City will have the ability to hire somebody to perform the maintenance work and charge the responsible parties an assessment for that cost, much as ad valorem taxes are charged. Thus, the City of Wichita would not be responsible for the maintenance of the wetland mitigation areas.

**RE: Pearson Commercial Addition Plat**

- 3) The Development Agreement indicates that the private developers and the City will jointly apply for the Corps of Engineers 404 Permit for Wetland Mitigation purposes. Any plat approval should be conditioned that the issuance of a 404 Permit by the Corps of Engineers must occur prior to the plat area being developed.**
- 4) For your information, the following documents have been prepared and will be a part of the City Council's consideration of this development proposal:**
  - a. A Development Agreement**
  - b. A Wetland Mitigation Plan**
  - c. An Alternatives Analysis**
  - d. A 404 Permit Application**

**In Summary, the Public Works Department would recommend that you approve the plat subject to the following conditions:**

- 1) That the applicant obtain the required Corps of Engineers 404 Permit for Wetland Mitigation;**
- 2) That the project be constructed in accordance with the conditions assumed in the PEC Drainage Plan; and,**
- 3) That all development details will be in accordance with the documents ultimately approved by the City Council for this project.**

**If you have any questions concerning the above, please let me know.**

**CMC:sab**

**c: Doug Moshier, Law  
Jim Armour, City Engineer  
Scott Lindebak, Stormwater Engineering**

**STAFF REPORT**

(One-Step Final Plat, Deferred 10/26/06, 10/12/06, 9/28/06)

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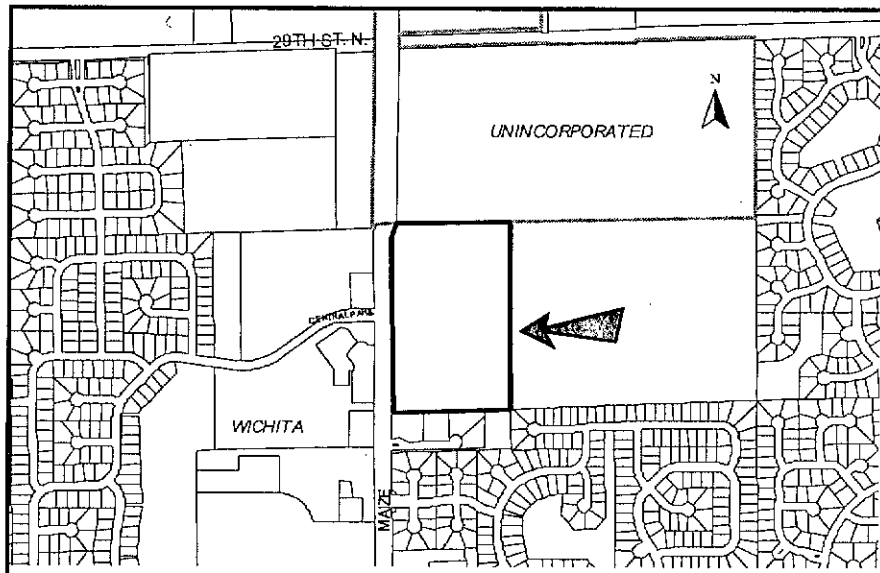
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LA m2 1101

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**STAFF COMMENTS:**

- A. The applicant needs to extend sewer to lots being platted. In lieu of main fees need to be added to the petition. Easements also need to be shown. The existing house is connected to sewer. That connection needs to be sealed off if the house is removed. Water is available on Maize Rd but in lieu of assessment fees are applicable for connections.
- 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** needs to comment on the status of the applicant's drainage plan. **City Engineering requests that the 50 acres adjoining the plat to the east should be included within the plat. The 50-ft drainage easement along the north property line should be platted as a Reserve.**
- D. In accordance with the CUP, the applicant shall guarantee installation of the fourth leg of the traffic signal (and associated signal upgrades) at the intersection of Central Park and Maize Road.
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**SUB 2006-82 -- One-Step Final Plat of PEARSON COMMERCIAL ADDITION**  
**November 30, 2006 - Page 3**

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201 N. Wood • Wichita, KS 67212

*"Putting 30 Years Experience To Work For You"*

Phone: 316/729-0491

Fax: 316/729-0768

**TELEFAX**

**DATE:** November 30, 2006

**TO:** City of Wichita  
Planning Department  
Attn: Neil Strahl, Senior Planner

**FAX NO.:** 268-4390

**FROM:** Jeff W. Bannon

**RE:** SUB 2006-82: Pearson Commercial Addition

**COMMENTS:** Neil, Transmitted is a letter requesting that the final consideration of the Pearson Commercial Addition be delayed for two weeks. Could you please make this available to the committee for their consideration?

Sincerely, Jeff W. Bannon

**TOTAL PAGES (Including this one):** three





## JEFF BANNON AUCTION & REALTY, INC.

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201 N. Wood • Wichita, KS 67212 • (316) 729-0491 • fax (316) 729-0768

November 29, 2006

City of Wichita  
Subdivision and Utility Advisory Committee

Re: SUB 2006-82: Pearson Commercial Addition

Dear Committee Members M.S. Mitchell, Bill Johnson, Michael Gisick, Bob Aldrich, Don Anderson, Denise Sherman, Hoyt Hillman:

There has been a new Cadillac Lake Drainage Study made available to our engineer, Sid Arpin with BG Consultants, on November 24, 2006. Mr. Arpin sent us a copy, which we were able to look at the evening of November 27<sup>th</sup>. Our initial review of this study indicates there appear to be inconsistencies and omissions within the study. It is clear that the study is not complete for what we feel the purpose and intent of the City of Wichita planners to be- that being to coordinate the use of private and public resources to achieve planned and orderly development. Additionally, we have not seen a revised policy statement from the City of Wichita in response to this new Cadillac Lake Drainage Study. Scott Lindebak has said, "A new policy statement has not been developed for Cadillac Lake drainage basin at this time."

Our letter to you dated November 7, 2006, suggested that four questions be answered prior to your committee approving SUB 2006-82: Pearson Commercial Addition. We do not believe there is anything in the new Cadillac Lake Drainage Study that effectively answers these questions.

You may believe question #4 has been answered based on the statement in the new Cadillac Lake Drainage Study which says, "Results of the study indicate that a **potential** flood hazard now exists within Chadsworth Subdivision...", and "The only viable option to control and reduce flows through the Chadsworth and other subdivisions downstream is to increase the detention capacity of the ponding area immediately north of Chadsworth within the main body of Cadillac Lake." Even though the study goes on to recommend an increase in detention capacity by a minimum of 90 acre feet on the east side of Maize Rd., the only engineered plan of the Pearson plat included in the report is marked as "PRELIM". This included plan closely resembles an approved fill permit plan with the Kansas Division of Water Resources (DWR) that **has been voided**. The new **approved plan with DWR** closely resembles the drawing of the mitigation plan by Burns and McDonnell. Neither the new approved plan with DWR, **nor** the drawing of the mitigation plan by Burns and McDonnell **are included** in the Cadillac Lake Drainage Study report. Matt Scherer, with DWR, said the new approved fill permit did not provide near the added detention storage provided with the first, now voided plan.

We have still not seen the drainage plan for the Pearson Commercial Addition. We have requested that Mr. Lindebak send a copy of the "approved" drainage plan for the SUB 2006-82: Pearson Commercial Addition, along with any narrative report to Mr. Arpin and to us, directly. We have asked for this information before, and have been told it is not available. Mr. Lindebak responded via e-mail at 5:02 PM on November 29, 2006, to our request at follows: "I have not received a PDF of the Pearson Commercial Addition drainage plan. According to Tim Austin,

the platting engineer of Pearson, a narrative is not a requirement of the subdivision regulations. The drainage plan is very rough and does not include many details. You are more than welcome to visit my office and look at my only copy at this time."

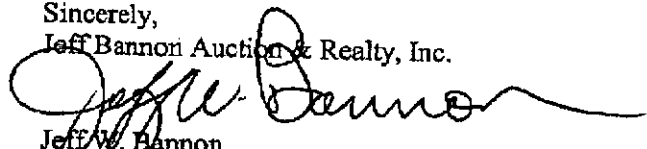
Our engineer, Sid Arpin, could have met with Scott Lindebak yesterday, to see the Pearson Commercial Addition drainage plan which was referred to by Mr. Lindebak as a one page "Tim Austin Special". Mr. Arpin has responded to Scott by requesting City of Wichita Staff to request that the Pearson Commercial Addition plat consideration by the Subdivision Committee be deferred two weeks. He concurs with us that the new Cadillac Lake Drainage Study is ambiguous and in need of clarification to evaluate the impact of plans recommended by the study on Jeff Bannon Auction & Realty, Inc.'s property (Spencer's Cove). This new Cadillac Lake Drainage Study is a 270 page report with a lot of information that does not seem to hang together very well. With the concerns with this report based on an initial review, we feel it is prudent to request time, **more than just the four days we have had available**, to intelligently respond to the study and its potential impact on our development plans. Mr. Lindebak has responded that, "The City will not request any further delays with the plat..."

It is and always has been our intent to cooperate in the development of our respective parcels located at 29<sup>th</sup> Street North and Maize Rd. We believe the approval of either of the two select parcels (Pearson Commercial Addition and Newmarket V Commercial CUP) to be included in the proposed improvement district, where public at large funding of at least \$1.7 million is a part, would be grossly unfair and negligent without inclusion of other proposed developments in the Cadillac Lake Drainage Basin, especially if the results of such approval(s) would have a negative impact on certain remaining parcels.

The November 7, 2006, letter I e-mailed to most of you and which has been made available to you in hard copy, invites you to contact me to discuss this further. I have not received contacts from any of you. The only willingness of City Staff to discuss this was the proposed meeting between Mr. Lindebak and my engineer. Mr. Lindebak requested that I not be present at the meeting. This last minute "due diligence" by the City of Wichita Engineering Department is similar to the last minute revelation of revised road plans for the 29<sup>th</sup> Street North road improvement one day prior to the date I was required to gratuitously give road right-of-way in exchange for a platting extension of the approved zone change and C.U.P. for Spencer's Cove. In that instance, the information was also incomplete and marked preliminary. Please stop requiring things to be done at the last minute and allow meaningful public input to be injected into this public process of Subdivision review. I again invite you to contact me if you should have any questions regarding my position in this matter.

We appreciate your consideration of a delay in the final consideration of the Pearson Commercial Addition.

Sincerely,  
Jeff Bannon Auction & Realty, Inc.



Jeff W. Bannon  
Resident

JWB/mb

cc: Chris Carrier, Director of Public Works  
Scott Lindebak, Stormwater Engineer