

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

April 19, 2012

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, April 19, 2012, at 1:30 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Shawn Farney, Chair; David Dennis, Vice Chair; Bob Aldrich; David Foster; Bill Johnson (Out @3:33 p.m.); Don Klausmeyer; John W. McKay, Jr.; Debra Miller Stevens; M.S. Mitchell; Morrie Sheets and Chuck Warren. Ron Marnell; Don Sherman and George Sherman were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Jess McNeely, Senior Planner; Derrick Slocum, Associate Planner; Kelly Rundell, Deputy City Attorney; Robert Parnacott, Assistant County Counselor and Maryann Crockett, Recording Secretary.

1. Approval of the April 5, 2012 Planning Commission meeting minutes.

MOTION: To approve the April 5, 2012 meeting minutes, as amended.

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

2. CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS

COMMISSIONER JOHNSON recused himself from this item.

- 2-1. SUB 2012-00005: ONE-STEP FINAL PLAT - DUGAN INDUSTRIAL 3RD ADDITION,
located east of Maize, north of MacArthur.

NOTE: This is an unplatted site located within the City of Wichita. The site has been approved for a zone change (ZON 2012-00004) from SF-5 Single-family Residential to LI Limited Industrial.

STAFF COMMENTS:

- A. The final plat tracing shall be submitted with a revised name, as an Addition now within Wichita exists with the name "Dugan Industrial 3rd Addition."
- B. City of Wichita Public Works and Utilities Department advises that water services are available to the site. A petition for sewer extension (mains and laterals) is needed.
- C. City Stormwater Management has approved the drainage plan subject to drainage easements being platted.
- D. Traffic Engineering has approved the access controls. The plat proposes one opening along K-42.
- E. The word "except" needs spelled correctly in the access control label.
- F. The legend needs expanded to include (C), (D) and (M).

- G. The MAPC signature block needs corrected to delete “day of.”
- H. A lot number and block number or letter shall be designated on the face of the plat.
- I. In the surveyor’s certificate, the reference to “K.S.A. 12-512(b)” should read “K.S.A. 12-512b.”
- 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 impacts of noise pollution in the habitable structures constructed on subject property.
- K. On the final plat tracing, the MAPC signature block needs to reference “Shawn Farney” as Chair.
- L. Approval of this plat will require a waiver of the lot depth-to-width ratio of the Subdivision Regulations. The Subdivision Regulations state that the maximum depth of all non-residential lots shall not exceed three times the width.
- M. The right-of-way width of K-42 needs to be denoted on the plat.
- N. In the legend, the spelling of “masonry” and “wrought” needs corrected.
- 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 platator’s text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- Q. 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.)
- R. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- S. 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.
- T. 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.

U. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System 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.

V. Perimeter closure computations shall be submitted with the final plat tracing.

W. A compact disc (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 disc. If a disc is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

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

ALDRICH moved, **MITCHELL** seconded the motion, and it carried (10-0-1).
JOHNSON – Abstained.

3. PUBLIC HEARING – VACATION ITEMS

3-1. VAC2012-08: County request to vacate a portion of platted complete access control.

APPLICANT/OWNER: Dustin Evans (owner)

LEGAL DESCRIPTION: Generally described as vacating that portion of platted complete access control beginning 50 feet south of the north lot line of Lot 3, Block A, Overview Hills Addition, to allow a drive from said lot's west lot line onto 135th Street West, Sedgwick County, Kansas.

LOCATION: Generally located southeast of the 135th Street West & 31st Street South intersection (BoCC #3).

REASON FOR REQUEST: Northwest corner is drier than the southwest corner of the site.

CURRENT ZONING: The site, abutting southern and eastern properties and adjacent northern properties are zoned SF-20 Single-Family Residential ("SF-20"). Adjacent western properties are zoned RR Rural Residential ("RR").

The applicant proposes to shift the platted permitted access onto 135th Street West from the south 20 feet of the west lot line of Lot 3, Block A, to a point beginning 50 feet from the north end of the west lot line of said lot. This would place the applicant's drive approximately 50 feet from the abutting northern property's drive. The abutting northern property was platted for access onto 31st Street South, not 135th; Lot 4, Block A, Overview Hills Addition. On the property located west of the site, across 135th, there is a circle drive onto 135th facing the general area where the applicant's proposes where his drive will go. 31st is an unpaved Afton Township Road. 135th is a paved County road. There are no public utilities located in the area of the vacation request. Comments from franchised utilities have not been received

and are needed to determine if they have utilities located within the area of the vacation. The Overview Hills Addition was recorded with the Register of Deeds October 24, 2001.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from County Public Works, 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 platted complete access control.

- 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 March 29, 2012, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the described portion of the platted complete access control and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Vacate that portion platted complete access control along the site's 135th Street West's frontage, as approved by County Public Works. Provide Planning Staff with a legal description of the approved vacated portion of the complete access control on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. All provided to Planning prior to the case going to Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (3) All improvements shall be according to County Standards and at the applicant's expense, including all required County permits, inspections and the construction of the drive onto 135th.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate that portion platted complete access control along the site's 135th Street West's frontage, as approved by County Public Works. Provide Planning Staff with a legal description of the approved vacated portion of the complete access control on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. All provided to Planning prior to the case going to Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (3) All improvements shall be according to County Standards and at the applicant's expense, including all required County permits, inspections and the construction of the drive onto 135th.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

KLAUSMEYER moved, **DENNIS** seconded the motion, and it carried (11-0).

3-2. VAC2012-10: City request to vacate a portion of a platted setback.

OWNER/APPLICANT: Don & Nancy Glenn

LEGAL DESCRIPTION: The south approximately 12 feet of the platted 35-foot street side yard setback that runs parallel to the north lot line of Lot 19, Block 12, Lincoln Heights Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located midway between Douglas Avenue and Kellogg Street, west of Oliver Avenue, on the southeast corner of Dellrose and Pershing Avenues. (WCC #IV)

REASON FOR REQUEST: Existing encroachment and proposed addition.

CURRENT ZONING: Subject property and all abutting and adjacent properties are zoned SF-5 Single-family Residential ("SF-5").

MOTION: To defer the item to the April 26, 2012 Subdivision and May 3, 2012 Planning Commission meetings.

FARNEY moved, **JOHNSON** seconded the motion, and it carried (11-0).

3-3. VAC2012-09: City request to vacate a portion of a platted setback.

- OWNER/APPLICANT:** Jimmy L. and Mary E. Porter
- LEGAL DESCRIPTION:** The south 10 feet of the platted 30-foot front yard setback that runs parallel to the north lot line of Lot 8, Block F, Prospect Park Addition, Wichita, Sedgwick County, Kansas.
- LOCATION:** Generally located east of Ridge Road, west of Dugan Avenue, on the south side of 35th Street South. (WCC #IV)
- REASON FOR REQUEST:** Existing encroachment and proposed addition.
- CURRENT ZONING:** Subject property and all abutting and adjacent properties are zoned SF-5 Single-family Residential (“SF-5”).

The applicants propose to vacate the south 10 feet of the platted 30-foot front yard setback, on the described lot. The UZC’s minimum front yard setback for the SF-5 zoning district is 25 feet. The applicants are requesting a reduction of the front yard setback to 20 feet. If the setback was not platted the applicants could request an Administrative Adjustment that would reduce the SF-5 zoning district’s minimum 25-foot front yard setback by 20%, resulting in a 20-foot front yard setback. Reduction beyond the 20-foot front yard setback would require a variance, which is a separate public hearing process. There are no platted easements within the platted setback. There are no manholes, sewer or water lines within the described portion of the platted setback. There are two storage sheds in the west 5-foot of a platted 10-foot wide easement located along the common lot line of Lots 8 and 9, Block F, Prospect Park Addition. Comments from Stormwater and franchised utilities have not been received and are needed to determine if they have utilities located within the described setback. The Prospect Park Addition was recorded with the Register of Deeds October 18, 1955.

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 setback.

- B. 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 March 29, 2012, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the described portion of the platted setback and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Vacate the south 10 feet of the platted 30-foot front yard setback that runs parallel to the north lot line of Lot 8, Block F, Prospect Park Addition, Wichita, Sedgwick County, Kansas.
- (2) Provide a Hold Harmless agreement relieving all utilities from liability for damage done to the storage sheds encroaching into the west 5 feet of a platted 10-foot wide easement located along the common lot line of Lots 8 and 9, Block F, Prospect Park Addition. This must be provided prior to the request going to City Council for final action.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
- (4) All improvements shall be according to City Standards and at the applicant's expense.
- (5) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the south 10 feet of the platted 30-foot front yard setback that runs parallel to the north lot line of Lot 8, Block F, Prospect Park Addition, Wichita, Sedgwick County, Kansas.
- (2) Provide a Hold Harmless agreement relieving all utilities from liability for damage done to the storage sheds encroaching into the west 5 feet of a platted 10-foot wide easement located along the common lot line of Lots 8 and 9, Block F, Prospect Park Addition. This must be provided prior to the request going to City Council for final action.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
- (4) All improvements shall be according to City Standards and at the applicant's expense.
- (5) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

KLAUSMEYER moved, **DENNIS** seconded the motion, and it carried (11-0).

PUBLIC HEARINGS

MCKAY suggested that the items that will take the least amount of time be addressed by the Commission first.

MOTION: To take items out of order and address items #5, #6 and #7 first.

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

COMMISSIONER SHEETS recused himself from the item.

CHAIRMAN FARNEY mentioned that he and most of the Planning Commissioners have had ex-parte communication on item #4.

4. **Case No.: ZON2012-09 (Deferred from 4-5-12)** - 21 Webb LLC, Michael and Debra Mildfelt (Owners) and MKEC c/o Brian Lindebak (Agent) request a City zone change from NO Neighborhood Office to GO General Office and LC Limited Commercial with an amendment to the Protective Overlay (PO #170) on property described as:

That part of Lot 1, Block 1, Remington Place, an Addition to Wichita, Sedgwick County, Kansas, described as beginning at the Northeast corner of said lot, thence West 125 feet, thence South 240 feet, thence East 55 feet, thence Southeasterly 78.11 feet to the East line, thence North along a curve 59 feet, thence North 6.25 feet, thence Northwest 81.05 feet, thence North 110 feet to the point of beginning.

BACKGROUND: This vacant site was originally zoned SF-5 Single-family Residential (“SF-5”) and owned by a church. The site was rezoned to NO Neighborhood Office (“NO”) with Protective Overlay PO-170 in 2006 with the intent of developing the site for senior housing and offices. The existing PO limits residential development to SF-5 density and prohibits the following NO uses: multi-family residential, duplex, church or place of worship, day care limited and general, recycling collection station (private), utility (minor), automated teller machine, parking area (commercial), wireless communication facility, asphalt or concrete plant (limited), and agriculture. The PO requires a 125 foot building and parking setback from the south property line. The PO also requires an 8-10 foot tall masonry wall on the southern edge of parking located within 200 feet of the south property line, along with six 8-10 foot tall evergreen trees south of the wall, and tree screening along the southern 300 feet of Cranbrook. The original 2006 request was for GO General Office (“GO”) zoning, but was reduced to NO zoning with the protective overlay after significant communication with residential neighbors. The developer seeking the zone change in 2006 submitted a letter to surrounding home owners stating that proposed buildings would be residential in character with pitched roofs and masonry incorporated into building facades. The property has a 40-foot pipeline easement running from the southeast corner to the northwest corner of the site. The site has an “L”-shaped platted reserve with an existing detention pond along the south and west property lines. The subject property plat has access control with two openings onto 21st Street North, and no access controls to Cranbrook.

The applicant now requests a zone change from the existing NO to LC Limited Commercial (“LC”) on the north 250 feet of the property, and GO on the balance of the property, along with an amendment to PO-170, see the attached zoning graphic and proposed Protective Overlay amendment from the applicant. The applicant indicates to staff that he wishes to develop a bank with drive through at the northeast corner of the property, and develop the balance of the property with an office development. Banks are not a permitted use in the existing NO zoning. The applicant indicates that he does not want to be restricted by the NO zoning limitation of 8,000 square feet per business for office use, nor does he want to be restricted by the existing PO 125 foot setback requirement from the south property line. The applicant’s proposed PO amendment only adds the bank with drive through and ATM uses on the property, it reduces the southern building and parking setback to 50 feet, it eliminates the masonry wall requirement and replaces it with evergreen trees spaced 8 feet. It prohibits trash enclosures within 100 feet of the south property line, limits building height to 35 feet (same as NO standards), prohibits metal building facades, and requires that building facades be masonry, stone, stucco, glass, or a combination thereof. The PO proposes sign restrictions that prohibit LED, off-site (billboard), and portable signs; and requires that signs be monuments and a maximum of 22 feet in height. Signage would be prohibited along the south and east property lines, and would be limited to two 150 square-foot signs along 21st Street; the proposed signage in LC zoning exceeds what would be permitted in NO or GO zoning.

Property north of this site, across 21st Street North, is zoned SF-5 and developed with single-family residences; backyards of these residences face the subject property. South of the site is also zoned SF-5 and developed with residences with direct views of the site from backyards. East of the site, across Cranbrook, is predominantly zoned SF-5 and developed with single-family residences with side yards facing the subject site. Most houses south and east of the site have brick masonry incorporated into their designs. East of the site, across Cranbrook, the north 215 feet of the application area faces an NO zoned neighborhood office development, rezoned from SF-5 in 2001. This NO zoned office development to the east is separated from SF-5 houses by a water detention reserve, the development buildings are 100% brick masonry with hipped slate roofs, brick masonry walls exist adjacent to parking and drive aisle areas, and trash enclosures are brick masonry. Staff and surrounding neighbors feel that the NO zoned office development to the east is a good example of an office development compatible with the residential neighborhood. Property west of the site is zoned B Multi-family (“B”) and developed with apartment buildings; the apartment buildings have gabled roofs, brick columns, and brick chimneys, and are also visually compatible with the surrounding single-family development.

This mile portion of 21st Street North has LC zoned Commercial Community Unit Plans (CUPs) at the northeast and southeast corner with Webb, and also has LC zoned CUPs at the northwest and southwest corners with Greenwich. The intervening mile section is primarily residential zoning and development, with the exception of office zoning on the subject NO zoned property, the discussed NO zoned property immediately to the east, and another NO zoned property further east.

CASE HISTORY: The property was rezoned from SF-5 to GO with PO-170 in 2006, and platted as Lot 1, Block 1 and Reserve N of the Remington Place Addition in 2001.

ADJACENT ZONING AND LAND USE:

NORTH	SF-5	Single-family residences
SOUTH	SF-5	Single-family residences
EAST	SF-5, NO	Single-family residences, neighborhood offices
WEST	B	Multi-family residences

PUBLIC SERVICES: The subject property has frontage along East 21st Street North, a 110-foot wide, five-lane arterial street with a central turn lane. This portion of Webb has daily traffic counts of 11,523 vehicles. The 2030 Transportation Plan recommends that this portion of Webb remain a five-lane arterial. The City Traffic Engineer states that a traffic signal light will not be considered at the 21st/Cranbrook intersection until daily traffic on Cranbrook exceeds 4,000 cars per day; the Traffic Engineer does not see this happening in the near future. Cranbrook is a two-lane local street with a 64-foot width tapering to 90 feet at the 21st Street intersection. All utilities are available at the site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the site as appropriate for “Major Institutional,” reflecting the property’s previous church ownership, and the platted reserve is designated as “Park and Open Space.” The zone change request is not consistent with this Land Use Guide designation. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials; commercial development should have site design features that limit noise, lighting and other activity from adversely impacting surrounding residential areas; commercial uses should be concentrated in clusters as opposed to strip development along arterials; and commercially generated traffic should not feed directly onto local residential streets. This LC request is not compatible with the Plan recommendation against “mid-mile” strip commercial locations, and it is not compatible with the Plan prohibition of putting commercial traffic on residential streets. The Office Locational Guidelines of the Plan recommend that office sites be located adjacent to arterial streets; the guidelines also indicate that low-density office uses can serve as a transitional land use between residential uses and higher intensity uses. The request for GO zoning is in general conformance with the Office Locational Guidelines.

The minimum standards of the Zoning Code, without a PO, would require screening between development on this site and residential development; screening can be achieved with walls, fences, or landscaping meeting the code definition of screening. The minimum standards of the Zoning Code will also require a compatibility setback on this site of 25-feet, requires that mechanical equipment and trash receptacles are screened from ground view, and limits light poles to 15 feet in height when within 200 feet of residential zoning. Minimum code requirements would also require a landscape plan for development on this site.

RECOMMENDATION: Planning staff has had extensive communication with the applicant and opposed neighbors on this case. Neighbors have filed a total of 33 protests amounting to 37 percent of the protest area, see attached. Several neighbors are opposed to LC zoning in general, they are opposed to the south setback reduction, and opposed to elimination of the masonry wall requirement. Neighbors fear that LC zoning with uses limited by a PO could change over time through PO amendments and adjustments, resulting in retail commercial development on the property. Staff would note that other POs in the City have been adjusted and amended over time loosening original restrictions. The applicant provided six letters of support from surrounding property owners for his request.

After application was made, Planning Staff further researched this request and determined that a bank with drive through can be permitted in GO zoning with a Conditional Use. Staff points out that this solution still permits a bank with drive through, GO zoning allows offices larger than 8,000 square feet, and GO zoning would alleviate the fears of several neighbors by eliminating the LC zoning. Staff also points out that GO zoning on the entire site would keep sign restrictions unchanged, and GO zoning would be compatible with Comprehensive Plan locational criteria. With increased intensity in zoning

(NO to GO), and uses (a bank with drive through), staff recommends that the PO amendment use several design standards to ensure compatibility with the surrounding neighborhood, consistent with standards established by the existing NO office development east of the application area. These proposed design standards are consistent with commitments the previous developer made with surrounding neighbors.

The existing pipeline easement and detention reserve on the site severely limit use of the south and west portions of the site; currently, only a very small portion of the site's southeast corner could be developed south of the existing 125 foot setback. And, neighbors along the south property line, currently protected by the 125 foot setback, are adamantly opposed to reducing the setback as it was established by the City Council in 2006. The applicant requested that the south setback be reduced to 50 feet, which staff would point out is twice the distance of the Zoning Code required 25 foot compatibility setback. However, until such time that the pipeline easement and detention reserve can be feasibly altered, staff does not see value in recommending a setback reduction. This would not preclude the applicant from coming back to the MAPC in the future for a southern setback reduction if pipeline easement and detention reserve changes become feasible.

Therefore, based upon the information available prior to the public hearings, planning staff recommends that the request for LC zoning and PO-170 amendment as requested by the applicant be **DENIED**, but that the request for GO zoning with a staff recommended PO amendment on the property, along with a Conditional Use for a bank with drive through on the north 250 feet of the property, be **APPROVED**, with the following staff recommended Conditional Use conditions and Protective Overlay amendment:

Conditional Use for Bank with Drive Through in GO zoning on the north 250 feet of the property:

1. The bank site shall be developed in conformance with a site plan approved by planning staff prior to issuing building permits.
2. The bank site shall be limited to one access point on 21st Street North, and one exit only access point on Cranbrook, approximately 190 feet south of the north property line and aligned with the drive aisle on the east side of Cranbrook.
3. The bank site shall maintain cross-lot access with the remainder of the contiguous GO zoned property.
4. All property development, signage, architectural design, screening, landscaping, trash enclosures and light pole heights on the site shall conform to GO zoning requirements and PO-170 requirements, consistent with the remainder of the contiguous GO zoned property.
5. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

Amended Protective Overlay 170 applying to the entire GO zoned property:

1. A bank with drive through is permitted on the north 250 feet of the site, as approved by Conditional Use.
2. Other permitted uses include office uses as permitted in GO, and all NO uses except: multi-family, duplex, church or place of worship, Golf Course, Group home (General), Recycling Collection Station (private), Parking Area (Commercial), Wireless Communication Facility, Asphalt or Concrete Plant Limited, and Agriculture.
3. Residential uses shall be restricted to the maximum density allowed by SF-5 zoning.
4. Buildings, parking and trash receptacles shall be setback 125 feet from the south property line, unless said setback is reduced with a PO amendment approved by the MAPC. All other building

setback requirements shall be per the underlying Property Development Standards as stated per the Wichita-Sedgwick County Unified Zoning Code.

5. A masonry wall 8-10 feet in height shall be placed along the southern most edge of parking and drive aisles located within 200 feet of the south property boundary, unless such parking and drive aisles are screened by a building. In addition to code required landscaping, a landscape buffer shall be placed south of the wall with a minimum of 6 conifer trees 8-10 feet in height.
6. Tree screening between parking areas and Cranbrook shall be placed from the southern boundary line to a point 300 feet north of the south boundary. Trees shall be similar to those on the east side of Cranbrook, and shall be 6-8 feet tall.
7. Signs shall be monument signs and otherwise conform to the sign code standards for GO zoning. No building or monument signs shall be permitted along south or east building facades.
8. Design standards shall require a 35-foot building height limit, no metal facades, buildings with a minimum of 50% brick masonry on all facades, gabled or hipped roofs, and trash enclosure screening walls consistent with the building brick masonry requirement.
9. Access controls on the site shall meet the City of Wichita Access Management Guidelines, and shall be limited to two access points on 21st Street North, and two access points on Cranbrook. The southernmost access point on Cranbrook shall be a minimum of 125 feet north of the south property line.
10. This Protective Overlay shall not be administratively adjusted in any way. All proposed changes to this Protective Overlay shall require a Protective Overlay amendment request to the MAPC.

Staff notes that the recommended PO amendment differs from the applicant's request in the following ways: the applicant requests to reduce the south setback from 125 to 50 feet, the applicant requests to remove the masonry wall parking lot screening requirement and replace it with evergreen trees spaced eight feet, the applicant requested design guidelines do not include pitched roofs or a masonry percentage requirement, the applicant's signage restrictions would allow 150 square-foot monument signs where staff's recommendation would limit monument signs to the GO standard of 96 square feet, the applicant's request for LC zoning would allow buildings signs at 20% of building elevations where staff's recommendation for GO zoning and sign restrictions would limit building signs to 32 square feet. Planning staff confirmed with legal that GO zoning with a Conditional Use for a bank with drive through can be approved by MAPC at this hearing, as this proposal is less intensive than the advertised and notified LC zoning request.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** Property north of this site, across 21st Street North, is zoned SF-5 and developed with single-family residences; backyards of these residences face the subject property. South of the site is also zoned SF-5, and developed with residences with direct views of the site from backyards. East of the site, across Cranbrook is predominantly zoned SF-5 and developed with single-family residences with side yards facing the subject site. Most houses south and east of the site have brick masonry incorporated into their designs. East of the site, across Cranbrook, the north 215 feet of the site faces an NO zoned neighborhood office development. This NO zoned office development to the east is separated from SF-5 houses by a water detention reserve, the development buildings are 100% brick masonry with hipped slate roofs, brick masonry walls exist adjacent to parking and drive aisle areas, and trash enclosures are brick masonry. Property west of the site is zoned B Multi-family and developed with apartment buildings; the apartment buildings have gabled roofs, brick columns, and brick chimneys.

2. **The suitability of the subject property for the uses to which it has been restricted:** The site could be developed with office and residential uses permitted in the NO zoning district; a previously mentioned NO zoned office development exists due east of this site. However, the site has remained vacant since rezoned to NO in 2006, and the applicant states that he cannot effectively develop the property under the current limitations.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Approval of the requested LC and GO zoning would subject the surrounding neighborhood to the more intense use of a bank with drive through, other potential LC uses should the PO be amended to allow them, increased signage, and the increased density of offices allowed in GO. Approval of the requested PO amendment would reduce the setback of buildings and parking from the southern neighbors, and would eliminate the masonry wall requirement adjacent to parking, potentially subjecting neighbors to increased light from vehicle headlights. Protesting neighbors are opposed to: a proposed increase in zoning intensity, the decreased setback, and the elimination of the masonry wall requirement.

The staff recommended GO zoning with Conditional Use for a bank with drive through, along with the staff recommended PO amendment, should mitigate the increased office density and bank with drive through use with: design standards, maintaining the established setback and masonry wall requirement adjacent to parking, and by maintaining signage standards as they currently exist.

4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the site as appropriate for “Major Institutional,” reflecting the property’s previous church ownership, and the platted reserve is designated as “Park and Open Space.” The zone change request is not consistent with this Land Use Guide designation. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials; commercial development should have site design features that limit noise, lighting and other activity from adversely impacting surrounding residential areas; commercial uses should be concentrated in clusters as opposed to strip development along arterials; and commercially generated traffic should not feed directly onto local residential streets. This LC request is not compatible with the Plan recommendation against “mid-mile” strip commercial locations, and it is not compatible with the Plan prohibition of putting commercial traffic on residential streets. The Office Locational Guidelines of the Plan recommend that office sites be located adjacent to arterial streets; the guidelines also indicate that low-density office uses can serve as a transitional land use between residential uses and higher intensity uses. The request for GO zoning is in general conformance with the Office Locational Guidelines.
5. **Impact of the proposed development on community facilities:** LC uses, and increased office density allowed by GO zoning, would increase traffic to this site beyond what the current NO zoning would generate. Also, the proposed PO amendment to reduce the building and parking setback would increase the impervious surface permitted on the site, increasing Stormwater runoff from the site. The staff recommended GO zoning, Conditional Use for bank with drive through, and PO amendment which maintains the existing 125 foot setback should have no

measurable impact on community facilities beyond the potential impact of development under the existing zoning and restrictions.

JESS MCNEELY, Planning Staff presented the Staff Report.

ALDRICH asked if there were any mid-mile commercial strips located in the general vicinity of the property now.

MCNEELY said yes; however, he noted that most Limited Commercial zoning is contiguous to corners. He briefly reviewed the zoning map and referenced mid-mile LC zoning along East 21st Street contiguous with Commercial Unit Plans (CUP's) at the corner with Webb Road surrounded by multi-family to the west and current NO zoning to the east; residential to the south and a Planned Unit Development (PUD) to the north. He said further east on the map, which is not shown, all commercial zoning is contiguous with the CUP's at the intersections.

ALDRICH asked if there were any mid-mile commercial strips located within the City.

MCNEELY replied yes.

ALDRICH commented that if the pipeline was moved prior to construction that would change the complexity of property developed.

MCNEELY replied yes and said they understand that the applicant was currently looking into that but as of now the pipeline easement has not been moved. He said if that happens and the easement is reconfigured, the applicant can request an amendment to the Protective Overlay (PO).

ALDRICH mentioned that the 8-foot on center trees will provide extremely dense screening.

MCNEELY acknowledged that it was dense; however, he added that it will still not block headlights pointed south and that was why staff recommended the 8-10-foot masonry wall. He also mentioned the parking prohibition within 200 feet of the south property line unless they are screened by a building.

GARY OBORNY, AGENT FOR 21 WEBB, LLC (PROPERTY PURCHASER AND DEVELOPER), 13824 PINNACLE referred to an aerial of the property and gave a brief history stating that the site had once been owned by a church that decided not to develop the property. He said the property was purchased by another developer; however, due to issues and opposition they could not make property development economically feasible so they settled on what they thought they could do with zoning and sold the property. He said the third buyer was also a commercial developer that after reviewing location of the pipeline, setbacks and square footage of the property decided he could not develop it and sold it at a financial loss. He said they entered into a purchase contract July 2011, and in August met with Planning Department Staff to discuss application changes that they are requesting now. He said when they left that particular meeting they had a comfort level that what they were asking for was reasonable and within the guidelines of the Comprehensive Plan, which is merely a guide. He said throughout the City and particularly along 21st Street there is much LI zoning that exceeds the mid-mile policy.

OBORNY said they purchased the property in October and contacted the Planning Department the next February to make application and start contacting area neighbors. He said they believe in

communication and up front disclosure because they build quality projects and try to be a good neighbor. He said they sent letters inviting neighbors to a Saturday morning breakfast meeting at their office so they could explain item by item the zoning changes they were asking for. He said 3 homeowners showed up. He said since they didn't get very good responses they contacted the neighbors' main advocate Jim Walker and scheduled another meeting 3 weeks later where 5 homeowners showed up. He said they walked the property with the 3 homeowners who came to the initial meeting and talked about ways to mitigate any kind of exposure of the neighbors to the development. He said since then they have continued to canvas the neighborhood door-to-door and have made multiple phone calls and continue to communicate the plan to the neighbors.

OBORNY briefly reviewed a slide of the zone change request including 2 possible locations for a bank on the property. He mentioned that they prefer the northeast corner location because of frontage along 21st Street for exposure of branding and signage. He said the other location was at the northwest corner. He said the bank location is the LC they are requesting. He said they would like additional signage in the form of a 54 square-foot stone and metal high quality monument sign. He said because they are developing a 60,000 square foot complex, they need that amount of sign footage to accommodate all the tenants. He said there will be no LED signs, offsite billboards and no moving parts. He said there would be halo-light florescent lighting. He commented that timing is everything in real estate. He said they are not asking for any other changes and added that with this proposed protective overlay they cannot make any changes on the property without going through the entire zoning process again.

OBORNY referred to slide 3 which was LC zoning identified in red as shown in the Comprehensive Plan. He referred to the Oaks property and noted that although it was being used as NO (Neighborhood Office) zoning he believed it was actually zoned LC. He said there were numerous locations throughout the City that don't fit the Comprehensive Plan which is a guide, not something that is set in stone. He said there were many properties located mid-mile throughout the City.

OBORNY mentioned correspondence they received regarding trash and said in response to that they have updated the plan to include 100 foot setbacks for the dumpsters. He said it was never their intention to have any of the trash locations on the exterior of the property. He also noted that the dumpsters will be surrounded by brick with metal doors.

MOTION: To give the applicant 2 additional minutes

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

OBORNY said they will put solid evergreens all along the south side of the development as well as a buffer of evergreens for the parking lot. He said there will be 2 sets of 8-10-foot evergreens on the property. He said the facade will be a contemporary design which they feel will make them unique in the business environment. He said they have had great response and that the first 2 buildings in the development are 70 % leased. He said tenants will consist of medical, financial planners and other businesses that work Monday through Friday and will leave the area by 5:00 p.m. each evening, which they feel is better than having a church that has their meetings Sundays weekends and evenings. He referred to the proposed landscaping for the project and referenced an example of another project they completed.

OBORNY concluded his presentation by stating that some of the numbers in the Staff Report were incorrect and said they have received support letters for the project. He said they now have support of

54.8% of owners within 200 foot and 11% neutral. He also noted that some of the homes within the 200-foot range are rentals. He said the protests were 33.4% within the 200- foot range. He said two people have even withdrawn their protest petitions. He said this is a \$15 million dollar project and it is not in their best interest to be cheap about what they are doing.

ALDRICH asked the applicant to address relocation of the pipeline?

OBORNY said they are awaiting documents from the attorneys and final corporate approval. He said they have agreed with the pipeline service to move the pipeline.

ALDRICH asked if that would occur prior to development.

OBORNY said moving the pipeline is about a 2 week process.

JIM WALKER, 2026 RED OAKS mentioned that he was at the Planning Commission in 2006 regarding this property and the application of a church presented by the developer. He said compared to what is happening today that developer did not get the cart before the horse. The developer wanted to understand what he was buying and how it was zoned before he closed on the property. He said at that hearing Commissioners mentioned the heft of protest petitions and recommended that the developer meet with the neighbors and work out a consensus and that is what they did. He said one of the quid pro quos of those meetings was that surrounding neighbors withdrew sufficient petitions to avoid the requirement of a super majority for approval of the proposed development by the City Council. He said that plan, which was subsequently approved by the Planning Commission and City Council, included NO zoning, no GO zoning, setbacks, screening and restrictions on additional uses. He said drive-thrus and ATM's were not included. He asked the Commission to compare this plan to the Remington Office Park right next door which includes gabled roofs, slate and masonry. He said Remington is a good Neighborhood Office development that is a good transitional area from an arterial street to a neighborhood of mostly all single family except NO and multi-family to the west. He said every rooftop within sight is a gabled roof and he thinks that is an appropriate limitation as recommended by Planning Staff. He said he thinks Planning Staff has done a remarkable job as "gate keepers" to analyze everyone's position. He said he can live with staff's recommendations even though he does not want a drive thru or ATM but he feels they are the professionals and he feels they did their best to measure everyone's input. He said the idea of how much money and profit the developer needs to make is bogus. He said it is all a function of what did the developer pay for the dirt. He said if the developer can get the pipeline moved great, but that is not under the purview of this Commission or him as a citizen. He said if the pipeline is moved into an L shape along the west and south of the property, it will negatively impact abutting properties. He said this development cries out to be a look alike to the Remington Office Park immediately to the east.

MOTION: To give the speaker 2 additional minutes.

FARNEY moved, **ALDRICH** seconded the motion, and it carried (11-0).

WALKER said if the pipeline is relocated then he believes it is a new ballgame. He said that part of the applicant's application that asks for the setback is grossly premature. He said he would like the Commission to consider what an appropriate buffer is after the pipeline gets moved.

JOHNSON asked if the pipeline is not moved does it make any difference what the zoning is on the pipeline easement.

WALKER said he believes it makes a difference on the size of buildings that can be put on the property.

JOHNSON asked how much of Mr. Walker's property actually abuts the applicant's property.

WALKER said approximately 50 feet.

OBORNY commented that what was feasible 6 years ago may not be feasible because the economy has changed. He stated that there was a 15-foot landscape buffer between the pipeline and the south property line. He noted for the record that the largest lineal property owner close to the application area supports the project. He said there is a heavily landscaped reserve adjacent to Mr. Walker's property and noted that the distance from Mr. Walker's deck to a building on the development is over 150 feet.

DENNIS asked the applicant to detail all the items they did not agree with in the Staff Report.

OBORNY said they disagree with everything listed in the Staff Report because they believe they are bureaucratic in nature. He gave as an example of what is or is not acceptable for materials. He said the predominate materials on the homes and apartment along 21st Street is siding with accents. He said there is brick work on the front of the homes. He said the backside of their property is going to be stucco which they believe is complementary as far as the quality level. He said as far as taste everything is the same you end up with a monolithic and vanilla world. He concluded by asking the Planning Commission to approve the zoning they requested.

DIRECTOR SCHLEGEL referred Commissioners to pages 5 and 6 of the Staff Report which outlined the differences between staff's recommendation and the applicant's request.

MILLER STEVENS commented since there seems to be significant diversion from what was recommended and what the applicant wants, would it be better to defer the item for further discussion between the City and the applicant.

MCNEELY replied that it was up to the applicant. He said staff has met with the applicant, agent and neighborhood extensively.

There was brief discussion concerning the location of the bank and signage.

MOTION: That the request for rezoning with the protective overlay submitted by the applicant be approved.

ALDRICH moved, **JOHNSON** seconded the motion.

There was brief discussion concerning buffering to the south, setbacks and landscaping.

MCNEELY said the existing PO has a 125-foot setback from the south property line and a landscape buffering requirement along the east property line along Cranbrook. He said the applicant is requesting that the setback be reduced to 50 feet.

SUBSTITUTE MOTION: To approve subject to staff recommendation.

FOSTER moved, **WARREN** seconded the motion, and it failed (6-4-1). **ALDRICH, DENNIS, FARNEY, JOHNSON, KLAUSMEYER,** and **MCKAY** – No. **SHEETS** – Abstained.

MILLER STEVENS requested clarification of the motion.

MCNEELY clarified staff's recommendations.

The **ORIGINAL MOTION** passed (6-4-1). **FOSTER, MITCHELL, MILLER STEVENS** and **WARREN** – No. **SHEETS** – Abstained.

5. **Case No.: CON2012-07 (Deferred from 4-5-12)** – Kerwin D. and Julie V. Thiessen, Trustees (Owner, Applicant, Agent) request a County conditional use request to allow an accessory apartment on property described as:

The Northwest quarter of the Northwest quarter of the Southwest quarter of Section 1, Township 26 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas.

BACKGROUND: The applicants are requesting a Conditional Use to allow an accessory apartment on unplatted property located at 7200 North Oliver (47th) Street. The applicant plans to construct a single-family residence with additional attached living quarters for a family member. 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 10-acre subject site is zoned RR Rural Residential (“RR”), and is located in the Kechi zoning area of influence.

The site plan submitted by the applicant shows the location of the residential structure that is proposed to have both the primary living unit and the accessory apartment. With the accessory apartment being attached to the primary structure, the units will share the same proposed circle access drive onto North Oliver. No square footage, no building materials, and no garage are shown for the residential structure; however, in order to be considered an accessory apartment the requested apartment must have less square footage than the principal structure/unit. Property to the north, south and east is zoned RR and is use for farming and agricultural operations. Property west of the subject site, across North Oliver, is in the Kechi city limits.

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.

CASE HISTORY: The property is in the rural area of the county and is currently unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	RR	Farming and Ranch Operations
SOUTH:	RR	Farming and Ranch Operations
EAST:	RR	Farming and Ranch Operations
WEST:	Kechi	

PUBLIC SERVICES: North Oliver (North 47th Street East) is a paved, two-lane arterial/section line road. The 2030 Transportation Plan projects no change in its status. The site is within Sedgwick County Rural Water District #1 and also is served by a well. The site appears to be served by a septic system, as it currently has no access to public sewer.

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan identifies this property as being within the Small City 2030 Urban Growth Area for Kechi. 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 east of the subject site is zoned RR, and is use for farming and agricultural operations. Property west of the subject site, across North Oliver, is in the Kechi city limits.
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 Kechi. 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 are adequate.

DERRICK SLOCUM, Planning Staff presented the Staff Report. He reported that the Kechi Planning Commission approved the request by a vote of 4-0 but added 2 conditions. He referred Commissioners to a handout on the item which was correspondence from the Kechi Zoning, Subdivision & Floodplain Administrator, Chris Morlan.

MCKAY clarified that currently there was no house located on the property.

SLOCUM said the applicant will build the house and accessory structure at the same time.

KERWIN THIESSEN, APPLICANT, 7200 N. OLIVER said they would build their home on the 10 acres. He said they may or may not build an accessory apartment or mother-in-law quarters.

MILLER STEVENS clarified that the applicant was in agreement with the Kechi recommendations.

THIESSEN responded yes

MOTION: To approve subject to staff recommendation and the Kechi Planning Commission recommendations.

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

6. **Case No.: CON2012-09 (Deferred from 4-5-12)** - Russell Yost (Owner/Applicant) and Pastor Michael Schoneweis (Owner/Applicant) request a County conditional use request for a proposed church on property zoned RR Rural Residential on property described as:

The South 393.5 feet of the North 1180.5 feet of the West 1007 feet of the Southwest Quarter of Section 7, Township 26 South, Range 2 East of the 6th P.M., except the West 30 feet for road.

BACKGROUND: The applicant is requesting a Conditional Use for a church in RR Rural Residential ("RR") zoning within the Kechi zoning area of influence. A Church or Place of Worship is a Conditional Use in the RR district. The application area is a 9.5-acre site, located northeast of the

intersection of North 63rd Street East (Woodlawn) and East 61st Street North, with the Kechi city limits abutting the east and south property lines. The site has access to North 63rd Street East, which connects with K-254, one-quarter mile south of the subject site.

The attached site plan indicates three proposed structures to be developed in three phases, located in the middle of the subject site. The structures are surrounded by the parking area, with the access road running east to west, connecting the parking area with North 63rd Street East. The *Wichita-Sedgwick County Unified Zoning Code (UZC)* requires one parking space per four seats in a church; the applicants will be required to demonstrate that the number of seats and parking spaces meets the UZC requirements before getting a building permit from Sedgwick County. The site plan show the proposed location of a garage for any church vehicles, located east of the parking area, a picnic area in a field east of the proposed church and the lagoon location southeast of the church site.

Property to the north and west of the subject site is zoned RR and is used for farming and agricultural operations. Property south and east of the subject site is in the Kechi City Limits.

CASE HISTORY: The property is in the rural area of the county and is currently unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	RR	Farming and Ranch Operations
SOUTH:	Kechi	
EAST:	Kechi	
WEST:	RR	Farming and Ranch Operations

PUBLIC SERVICES: North 63rd Street East (Woodlawn) is an unpaved, two-lane arterial/section line road. The 2030 Transportation Plan projects no change in its status. The site is within Sedgwick County Rural Water District #1, and also is served by a well. The site plan shows a lagoon southeast of the proposed structures, as it currently has no access to public sewer.

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan identifies this property as being within the Small City 2030 Urban Growth Area for Kechi. 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 applicants shall obtain all applicable permits including, but not limited to: building, health and zoning.
2. Development and maintenance of the site shall be in conformance with the approved site plan.
3. Pole lighting shall be no taller than 15-feet in height and shall be directed onto the church property and away from the adjacent properties.

4. Signage shall be per the Sedgwick County Sign Code.
5. If operations have not begun within one year of approval, or if the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** Property to the north and west of the subject site is zoned RR and is used for farming and agricultural operations. Property south and east of the subject site is in the Kechi City Limits.
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.
6. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Provided that the church or place of worship meets all applicable codes, the use should have no affect on the surrounding properties.
7. **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 Kechi. 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, current infrastructure limitations, cost of delivery of future municipal services and environmental factors.
8. **Impact of the proposed development on community facilities:** If developed in compliance with the recommended conditions of approval, existing facilities are adequate.

DERRICK SLOCUM, Planning Staff presented the Staff Report. He reported that the Kechi Planning Commission approved the request by a vote of 3-1 but added 3 conditions. He referred Commissioners to a handout on the item which was correspondence from the Kechi Zoning, Subdivision & Floodplain Administrator, Chris Morlan. In addition, he reported that the applicant requested a change in condition #5 of the Staff Report to increase the amount of time from 1 to 2 years. He said they are still working on funding for church construction and are not sure it will be done within the 1 year time frame.

MICHAEL SCHONEWEIS, APPLICANT commented that they have just started the fundraising process and feels that 2 years is enough time to start building.

DENNIS clarified that the applicant was in agreement with the Kechi recommendations.

SCHONEWEIS replied yes.

MOTION: To approve subject to staff recommendation and the Kechi Planning Commission and applicant's requests.

JOHNSON moved, **ALDRICH** seconded the motion, and it carried (11-0).

7. **Case No.: PUD2012-01 (Deferred from 4-5-12)** – Nancy J. Loescher and Donaldson-Leoscher Living Trust (Applicants/Owners) and Poe & Assoc., c/o Tim Austin (Agent) City request to create a mixed use Planned Unit Development (#37) on property described as:

The South 330 feet of lot 1, Block 2, Mission Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicants are proposing to replace the currently SF-5 Single-Family Residential ("SF-5") zoned platted property, with the proposed PUD #37, the Nahola Planned Unit Development ("PUD"); the applicant has provided a proposed site plan. A PUD is intended to:

- (1) Reduce or eliminate the inflexibility that sometimes results from strict application of zoning standards that were designed primarily for individual lots;
- (2) Allow greater freedom in selecting the means to provide access, light, open space and design amenities;
- (3) Promote quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations and land uses; and
- (4) Allow deviations from certain zoning standards that would otherwise apply if not contrary to the general spirit and intent of this Code.

The applicants' site was platted in a narrow and long configuration and out of character with the neighborhood's other lot sizes and configurations. The site's configuration has added to the site's poor access and poor visibility. The applicants' feel a PUD and a replat can best address these considerations. The applicants' proposed PUD shows the existing and proposed development, proposed development standards and uses.

A concrete block building is located along the site's Central Avenue frontage. Behind it (north) are two metal buildings and a building with lap siding. These buildings are located on Parcels 1 and 2, the south half of the applicants' site plan. The concrete block building and the closest metal building are being used as a day care; BZA 4-77. The building with the lap siding is being used by the day care business and the owners. The other metal building appears to be vacant, but has heating and air conditioning units. The undeveloped Elm Street cul-de-sac separates the south and north (Parcel 3) halves of the site. The north half of the site appears to be undeveloped since at least 1997 and possibly since the site was platted in 1957. Internal access from the undeveloped Elm Street cul-de-sac to Central Avenue is provided by a gravel drive, which turns into paved parking and access. Access from the undeveloped cul-de-sac to Central Avenue is not in a straight line. The undeveloped north half (Parcel 3) of the site has direct access onto the sand and gravel Murdock Avenue, while both halves have access to the sand and gravel Elder Street from the undeveloped Elm cul-de-sac.

The applicants' propose that all uses by right in the LC Limited Commercial ("LC") zoning district be permitted with the following exceptions: limited group residence, broadcast and recording studios, convenience stores, night clubs, restaurants with drive through windows, taverns and drinking establishments, wireless communication facilities, and all industrial, manufacturing and extraction uses. The applicants also propose the LC zoning district's development standards for this parcel instead of the

overruling compatibility standards. Compatibility standards apply to all uses in MF-18 Multi-Family Residential (“MF-18”) and less restrictive base zoning when such uses are located on “Zoning Lots” within 500 feet of property zoned TF-3 Two-Family Residential (“TF-3”) or more restrictive zoning. Parcel 1 has SF-5 zoning abutting all of its west side and most of its east side. The applicants’ request for all uses permitted by right in the LC zoning district triggers the UZC’s Compatibility standards. The site’s existing buildings may prevent the applicants from meeting the minimum 15-foot Compatibility setback standard on its east and west interior sides. The proposed 5-foot setback (except when provided on the PUD and that the setbacks be uniform for the whole PUD) along the site’s east and west sides is less than the SF-5 zoned site’s current 6-foot interior setback. The request reflects the LC zoning districts zero or if provided 5-foot setback standard, which provides little buffer for the abutting single-family residences.

The applicants propose Parcel 1 have a maximum of 10 dwelling units per acre. The UZC defines a Dwelling Unit as “...a Building or portion of a Building that contains living facilities...that includes provisions for sleeping, cooking, eating and sanitation.”; Sec.II-B.4.j. The applicants’ proposal would permit 10 single-family residences on lots of 4,356-square feet and 5 duplexes (two principle dwelling units within the same building) on lots of 8,712-sqaure feet. The site’s current SF-5 zoning requires a minimum of 5,000-square feet for a single-family residence and does not permit duplexes. The applicants’ proposed LC zoning standards requires 2,500-square feet for single-family and 4,000-square feet for a duplex. The applicants’ proposal allows single-family at a slightly greater density (2 units) than the current SF-5 zoning, but at a much lower density than what LC zoning district permits. The applicant’s proposal introduces duplexes (requires TF-3 zoning) and multi-family, but at a lower density than permitted in the TF-3 or LC zoning districts.

They also propose a maximum building height of 45 feet, as opposed to the LC zoning district’s maximum of 80 feet. The site’s current SF-5 zoning has a 35-foot maximum building height. The applicants’ request the Compatibility standards for height be waived. The Compatibility standards for height would start at 35 feet. The applicants’ propose signage as allowed in the LC zoning district. The applicants also prohibited pay day loans or similar businesses. The Unified Zoning Code (UZC) does not list ‘pay day loans’ as a use type, therefore it cannot be prohibited. City Law has ruled that pay day loans falls under the UZC’s definition of General Retail.

The 0.91-acre Parcel 2 contains the vacant metal building and abuts the south side of the unimproved Elm Street cul-de-sac. Parcel 2’s proposed uses are those permitted by right and Conditional Use in the GO General Office (“GO”) zoning district and an Event Center. An Event Center is first permitted in the LC zoning district. Sec-B.4k. of the UZC defines an Event Center as “...premises that are frequently rented out for public or private activities that are not repeated on a weekly basis, and are not open to the public on a daily basis at times other than when an event is scheduled.” The applicants are targeting the vacant metal building as the Event Center. The applicants also propose GO development standards for this parcel instead of the overruling compatibility standards; see previous comments on Parcel 1’s setbacks.

The applicants propose a maximum of 10 dwelling units per acre, which allows single-family at a slightly greater density (2 units) than the current SF-5 zoning, but at a much lower density than what GO zoning district permits. The applicant’s proposal introduces duplexes and multi-family, but at a lower density than permitted in the TF-3 or GO zoning districts.

The applicants also propose a maximum building height of 45 feet, which is less than GO zoning district's permitted 60 feet. However, the site's current SF-5 zoning has a 35-foot maximum building height. The applicants' request the Compatibility standards for height be waived. The Compatibility standards for height would start at 35 feet. The applicants' proposed signage as allowed in the LC zoning district, however Parcel 2 has no frontage on an arterial street.

The north most portion of the site is the undeveloped Parcel 3, which abuts the north side of the Elm Street cul-de-sac and has frontage on the sand and gravel Murdock Street. The applicants' PUD proposes all residential uses permitted by right in the TF-3 zoning district for Parcel 3. The applicants propose TF-3 development standards for this parcel. The applicants propose a maximum of 8 dwelling units per acre which allows single-family at the same density as the current SF-5 zoning, but at a much lower density than what the TF-3 zoning district permits. The applicant's proposal introduces duplexes and multi-family, but at a lower density than permitted by right in the TF-3's zoning districts.

The applicants also propose; a maximum building height of 35 feet, and; signage as allowed in the NR zoning district, however the site has no arterial frontage.

Other proposed standards for the PUD include; 1.25 parking spaces per dwelling unit, no offsite/billboard signs, no portable signs, no signs with rotating or flashing lights and ancillary architectural features to be allowed to encroach within the building setbacks but no closer than 3 feet from the front property line and no closer than 6 feet to the rear and side yard property lines.

The size, depth and narrow configuration of the platted site is out of character with the rest of the area's subdivisions' lot layouts, and this may have hindered the complete development of the site. Access off the site onto the undeveloped Elm cul-de-sac should not be permitted, until Elm is paved. The applicants have proposed vacating the cul-de-sac portion of Elm, leaving a 138-foot long dead end. For Elm to continue east and connect to the paved Doris Street, several SF-5 zoned single-family residences would have to become street right-of-way and there are no plans for such improvements.

LC zoning is the most common zoning for properties located along this portion of Central Avenue, from I-235 to West Street. The LC zoned development is mostly small retail. There are also scattered SF-5, TF-3 and GO zoned properties along this portion of Central. There are some vacant commercial buildings along this portion of Central. The properties abutting the east side of the site include a LC zoned limited animal care clinic located along Central and SF-5 zoned single-family residences located behind (north) the clinic all the way to Murdock Street. All properties located north of the site, across Murdock are zoned SF-5 and are developed as single-family residences. Properties abutting the west side of the site, from Central to Murdock, are zoned SF-5 zoned single-family residences. West of the abutting SF-5 zoned properties, across Elder Street is LC zoned retail, office and vacant commercial buildings. There are scattered TF-3 zoned properties in the single-family neighborhood located north, east and west of the site. Properties located south of the site, across Central include a LC zoned furniture store, a motorcycle repair garage, the LC and TF-3 zoned City Police and Fire complex and a small GO zoned apartment.

CASE HISTORY: The Mission Addition was recorded with the Register of deeds January 9, 1957. Use Exception BZA4-77 allowed a day care on the south half (Lot 1, Block 2) of the site. At their June 17, 2010 meeting the MAPC voted 9-0 to deny a request for TF-3 zoning with a Conditional Use for multi-family density for the north half of the site (Lots 1, 2, 3 and 4, Block 1); ZON2010-00017 and CON2010-0002. DAB VI also voted to deny that request at their June 7, 2010 meeting.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family residences
SOUTH:	LC, SF-5, GO, TF-3	Furniture sales, police and fire complex, motorcycle repair, apartment, single-family residences
EAST:	LC, SF-5, TF-3	Veterinary clinic, single-family residences
WEST:	SF-5, LC	Single-family residences, furniture sales, vacant commercial buildings

PUBLIC SERVICES: The north side of the site has frontage on Murdock Avenue, a sand and gravel, local residential street, with 60 feet of right-of-way. The middle of the site has frontage on Elm Street, an undeveloped public street at this location. Both Murdock and Elm intersect with Elder Street, a sand and gravel local residential street. The south side of the site has frontage on the four-lane arterial Central Avenue. There are no Capital Improvement Projects for road improvements in this area. Sewer is available to the entire site, but water will have to be extended to the north half of the site. The site is not in compliance with current standards regarding fire hydrants. All other utilities are available to the site; there is a utility/electric pole and underground utilities in undeveloped Elm Street.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the Wichita-Sedgwick County Comprehensive Plan identifies Parcels 2 and 3 as “Urban Residential.” The Urban Residential category reflects the full diversity of residential development densities found in a large urban municipality and residential-serving uses, such as schools and churches may be found in this category. Single-family residential, duplexes and multi-family residential are all compatible with the Urban Residential category. The applicants’ PUD would permit single-family residential at a slightly higher or equal density than the current SF-5 zoning. The PUD would allow duplexes and multi-family at a lower density than the proposed GO zoning districts’ development standards and lower than required by the TF-3 zoning district. There are uses permitted in the GO zoning district (as proposed on Parcel 2) that are not compatible with the Urban Residential category.

The Locational Guidelines for multi-family residential requires direct access onto an arterial. This may not be possible on Parcel 2, with the current development on it and Parcel 1.

This request partially conforms to the goals and objectives of the residential land use category of the Wichita-Sedgwick County Comprehensive Plan, which encourages residential redevelopment, infill and higher density residential development that maximizes the public investment in existing and planned facilities and services.

The 2030 Wichita Functional Land Use Guide identifies Parcel 1 as appropriate for “Local Commercial” development. The Local Commercial category includes commercial, office and personal service uses that do not have a regional draw. The Commercial Locational Guideline recommends that commercial traffic not access residential streets; Parcel 1 has direct access to the arterial Central Avenue. The Commercial Locational Guidelines of the Comprehensive Plan also recommends that commercial sites should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The applicant’s PUD proposes no compatibility setback or height standards, instead offering a minimum 5 foot setbacks and a maximum height of 45 feet. The applicant also proposes ancillary architectural features to be allowed to encroach within the building setbacks but no closer than 3 feet from the front property line and no closer than 6 feet to the rear and side yard property lines. Abutting single-family residential development is offered less buffer from proposed

commercial uses and development, while the applicants' proposed PUD tires to encourage development on this deep and narrow site.

RECOMMENDATION: Based on the background report and the findings, plus the information available prior to the public hearing, staff recommends the request be **APPROVED** subject to replatting within a year and the following revisions to the General Notes and Parcel Descriptions of the PUD:

General Notes

- (a) Change #3 from "...contains 6 Parcels..." to 3 Parcels, which reflects the PUD's "Parcel Descriptions"
- (b) Change #10 and #11 to meet the UZC's screening standards as found in Sec.IV-B. This includes solid screening for Parcel's 1 and 2, when multi-family or commercial development is present now or in the future on said Parcels.
- (c) Change #12 to no signage on Parcel 3 or Parcel 2. Signage for Parcels 2 and 3 will be located along Central Avenue, on Parcel 1.
- (d) Change # 19 to: the west side setbacks on Parcels 1 and 2 shall be established along the west edge of the current buildings, as verified by a survey and will be uniform or at 15 feet whichever is greater. Setbacks along the east sides of Parcels 1 and 2 shall match the west side setback. The west and east setbacks along Parcel 3 shall be uniform with Parcel's 1 and 2. The exception shall be the existing building with the lap siding on Parcel 1. A survey shall confirm its location from the east property line of Parcel 1. If said building is located closer to the east property line than the uniform setbacks, that deviation will be allowed only where said building is located. If said building is damaged to more than 50% of its market value, it cannot be rebuilt. No enlargement of the current said building.
- (e) Change #20 to allow encroachments into setbacks as permitted in the UZC, Sec.III-E.1.e (1).

Parcel Descriptions

Parcel 1

Uses – Uses permitted: Single-Family Residential, Duplex, Multi-Family Residential, Assisted Living, Group Home, Church or Place of Worship, Limited and General Day Care, Government Service, Hospital, Library, Nursing facility, Limited Animal Care, Bank or Financial Institution, Event Center, Funeral Home, Medical Services, General Office, Personal Care Service, Personal Improvement Service, Restaurant, General Retail, Second Hand Store, and Vocational School.

Parcel 2

Uses – Uses permitted: Single-Family Residential, Duplex, Multi-Family Residential, Assisted Living, Group Home, Church or Place of Worship, Limited and General Day Care, Nursing Facility and General Office.

Maximum Building Height – 35 feet

This recommendation is based on the following findings:

- (1) The zoning, uses and character of the neighborhood: LC zoning is the most common zoning for properties located along this portion of Central Avenue, from I-235 to West Street. The LC zoned development is mostly small retail. There are also scattered SF-5, TF-3 and GO zoned properties along this portion of Central. There are some vacant commercial buildings along this portion of Central. The properties abutting the east side of the site include a LC zoned limited animal care clinic along Central and SF-5 zoned single-family residences located behind (north)

the clinic all the way to Murdock Street. All properties located north of the site, across Murdock are zoned SF-5 and are developed as single-family residences. Properties abutting the west side of the site, from Central to Murdock, are zoned SF-5 zoned single-family residences. West of the abutting SF-5 zoned properties, across Elder Street is LC zoned retail, office and vacant commercial buildings. There are scattered TF-3 zoned properties in the single-family neighborhood located north, east and west of the site. Properties located south of the site, across Central include a LC zoned furniture store, a motorcycle repair garage, the LC and TF-3 zoned City Police and Fire complex and a small GO zoned apartment.

- (2) The suitability of the subject property for the uses to which it has been restricted: Parcels 1 and 2 of the SF-5 zoned site have non residential development, General Day Care that was permitted by a Use Exception (BZA 4-77). Parcel's 1 and 2 could continue to be used as they are today. Parcel 3 appears to have never been developed. Parcel 3 could be developed as single-family residential. The site was platted as a long and narrow subdivision (170' x 1209') and its subsequent poor access and visibility appears to be a restriction on development.
- (3) Extent to which removal of the restrictions will detrimentally affect nearby property: Introduction of non residential uses, non residential development standards and no compatibility standards deep into a single-family residential neighborhood is out of character with the area. The revised PUD attempts to lessen the negative impact on the single-family residential neighborhood, while recognizing the current development on the site and acknowledging the negative impact on the neighborhood of the site's 2.5-acres that appears to have never developed.
- (4) Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: "The "2030 Wichita Functional Land Use Guide" of the Wichita-Sedgwick County Comprehensive Plan identifies Parcels 2 and 3 as "Urban Residential." The Urban Residential category reflects the full diversity of residential development densities found in a large urban municipality and residential-serving uses, such as schools and churches may be found in this category. Single-family residential, duplexes and multi-family residential are all compatible with the Urban Residential category. The applicants' PUD would permit single-family residential at a slightly higher or equal density than the current SF-5 zoning. The PUD would allow duplexes and multi-family at a lower density than the proposed GO zoning districts' development standards and lower than required by the TF-3 zoning district. There are uses permitted in the GO zoning district (as proposed on Parcel 2) that are not compatible with the Urban Residential category.

The Locational Guidelines for multi-family residential requires direct access onto an arterial. This may not be possible on Parcel 2, with the current development on it and Parcel 1.

This request partially conforms to the goals and objectives of the residential land use category of the Wichita-Sedgwick County Comprehensive Plan, which encourages residential redevelopment, infill and higher density residential development that maximizes the public investment in existing and planned facilities and services.

The 2030 Wichita Functional Land Use Guide identifies Parcel 1 as appropriate for "Local Commercial" development. The Local Commercial category includes commercial, office and personal service uses that do not have a regional draw. The Commercial Locational Guideline recommends that commercial traffic not access residential streets; Parcel 1 has direct access to

the arterial Central Avenue. The Commercial Locational Guidelines of the Comprehensive Plan also recommends that commercial sites should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The applicant's PUD proposes no compatibility setback or height standards, instead offering a minimum 5 foot setbacks and a maximum height of 45 feet. The applicant also proposes ancillary architectural features to be allowed to encroach within the building setbacks but no closer than 3 feet from the front property line and no closer than 6 feet to the rear and side yard property lines. Abutting single-family residential development is offered less buffer from proposed commercial uses and development, while the applicants' proposed PUD tries to encourage development on this deep and narrow site.

- (5) Impact of the proposed development on community facilities: Any development on this site will bring more traffic onto the sand and gravel residential streets, Murdock and Elder. It will also bring traffic onto the unimproved Elm Street and the four lane arterial Central Avenue.

BILL LONGNECKER, Planning Staff presented the Staff Report. He reported that DAB VI approved the request by a vote of 7-0 per staff recommendations and added the following changes: change setback requirement to 10 feet; change Parcel 3 uses to include all Two-Family Residential (TF-3) zoning uses by right per the Unified Zoning Code; add event center and medical services to Parcel 2 as acceptable uses; and allow only residential gated access off of Elm Street with access to emergency personnel.

ALDRICH asked if Elm Street will need to be vacated.

LONGNECKER stated that it is platted as a cul-de-sac so a portion of it will be vacated.

ALDRICH asked about eliminating access onto Murdock which is a dirt road except for emergency personnel and the possibility of reducing the number of dwellings at the site.

LONGNECKER said the applicant currently has TF-3 zoning but is proposing a lower density than permitted by right. He said Single-Family Residential (SF-5) zoning would be less density than is currently allowed. He said paving could be resolved during the platting process with a no protest petition. He added that there are no plans in the Capital Improvement Program to pave roads in the area. He said the applicant could also do lot splits and have similar traffic density going out to Murdock. He said staff hasn't entertained that possibility of eliminating access to Murdock.

ALDRICH said he thinks it is a terrible idea to put additional traffic on dirt roads within the inner City. He said he would like to eliminate dirt roads in the City core. He suggested limiting access to and from Murdock except for emergency purposes only. He asked if entrance and exit off of Central would be sufficient.

LONGNECKER said staff was attempting to separate non-residential traffic from residential traffic. He said all non residential traffic would be eliminated from Elm, Murdock and Elder and come through Central. He said the applicant is proposing removing the building located on the site, which would allow a straight shot down Central. He stated that right now the applicant can go ahead by right and do several lot splits on each parcel and build. He said he is not sure what leverage the City has to shut the applicant off from the SF-5 zoning that is present.

MITCHELL asked if the applicant refuses an agreement on the 3 dirt streets that serve the area at the time of platting, what the City's options are.

LONGNECKER stated that the applicant has agreed to eliminate all non-residential traffic from Elm and allow only emergency access to parcels 2 and 1, which are primarily non-residential uses. He said the applicant has also agreed to the DAB recommendations. He said the City does not have access control off of Murdock. He suggested discussing the Murdock access control idea with the applicant.

TIM AUSTIN, POE AND ASSOCIATES, AGENT FOR THE APPLICANT commented that the DAB passed the request unanimously. He said they would not be receptive to complete access control onto Murdock. He said a couple of points to keep in mind is not only is the density being proposed for the duplexes less than what is allowed under TF-3 zoning, it is also less than what is allowed under SF-5 zoning. He said what they are proposing is less than what is currently allowed by right in SF-5 zoning. He commented that the number of vehicle trips was approximately 130 per day, which is less than 3 trips an hour so they are not talking about a lot of traffic. He said they would agree to participate in any costs per State Statutes as far as their pro rata share of paving; however, he felt that discussion would be better had at the platting stage.

MITCHELL asked if the applicant does lot splits, what access will be available to parcels that become additional lots that don't have access except to Murdock.

AUSTIN replied that access could be provided through private easement agreements. He said every square foot of the land will have access to public right-of-way if they develop the property that way.

MITCHELL clarified that the applicant would not be required to do any street improvements in order to do lot splits.

AUSTIN stated that lots splits are an administrative process and added that a requirement could be added by Planning Staff, but that would be addressed at the time an application for a lot split was filed. He said they have not had that discussion. He reiterated that they would be receptive to paying their pro rata share for any improvements.

MITCHELL asked if pro rata share meant a no protest petition

AUSTIN said they would have to take a look at that.

ALDRICH mentioned that the maintenance of the dirt roads is done very poorly. He said for what the City pays to have the road graded they could have paid for pavement over and over again. He said 130 vehicles are only going to add to the problems. He confirmed that the applicant would be totally opposed to access control along Murdock.

AUSTIN replied that is correct, they are against access control on Murdock. He said **COMMISSIONER ALDRICH** has a valid point about unpaved streets within City limits; however, he added that when you talk about doing something good for the neighborhood there has to be a balance between the greater good of the overall plan. He said one of the neighbors said they are excited to see development and that they understand the extra traffic; however, they said right now the property is vacant, unsecured, is a dumping ground for trash, has rodents, dust and is not mowed. He cautioned

about getting hung up on the unpaved streets and missing the bigger policy issue of how having the lot developed benefits the neighborhood.

MOTION: To approve subject to staff recommendation.

MCKAY moved **WARREN**, seconded the motion, and it carried (9-2). **ALDRICH** and **MITCHELL** – No.

-
8. **Case No.: ZON2012-11** – USD 259, c/o Shane Shumacher (Owner/Applicant) and Baughman Company, P.A., c/o Russ Ewy (Agent) request a City zone change from SF-5 Single-family Residential to GO General Office on property described as:

The southerly most 110 feet of lot 1, Block A, Dodge Elementary Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant requests a zone change from SF-5 Single-family Residential (“SF-5”) to GO General Office (“GO”) on 39,204 square feet consisting of the most-southerly 110 feet of Lot 1, Block A, Dodge Elementary Addition to Wichita, Sedgwick County, Kansas. The subject site is located north of the intersection of North Bebe Street and West 1st Street North. The applicant proposes to develop the property with a medical facility in association with Dodge Elementary School. There is currently no development on the site other than the elementary school, which is located just north of the subject site.

The medical facility will be opened year round and will serve Dodge Elementary School students, faculty and the surrounding neighborhood. Any development on the subject site will be required to meet screening, building setback and height, dumpster location, landscaping and all other requirements of the unified Zoning Code.

Property north of the site is zoned SF-5 Single-family Residential (“SF-5”) and B Multi-family Residential (“B”), and is currently developed with an elementary school. Property south, east and west of the subject site is zoned SF-5, and is currently developed with single-family residences.

CASE HISTORY: The site is described as Lot 1, Block A, Dodge Elementary Addition to Wichita, Sedgwick County, Kansas to Wichita, Sedgwick County, Kansas, which was recorded with the Register of Deeds March 18, 2010.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5 and B	Elementary School
SOUTH:	SF-5	Single-family Residences
EAST:	SF-5	Single-family Residences
WEST:	SF-5	Single-family Residences

PUBLIC SERVICES: North Bebe Street and West 1st Street North are both paved, two-lane urban collectors with no traffic counts. Municipal water and sewer does serve the subject area.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the site as appropriate for “Urban Residential” use. Urban Residential is a category that encompasses areas that reflect the full diversity of residential development densities and

types typically found in a large urban municipality. The range of housing types found includes: single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly (assisted living, congregate care and nursing homes). Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category. On the northern portion of the lot where the elementary school is located, the Functional Land use Guide identifies the area as appropriate for “Major Institutional” uses. Major Institutional is a category that includes institutional facilities of a significant size and scale of operation and could include a range of such uses as government facilities, military bases, libraries, schools, cemeteries, churches, hospital and medical treatment facilities.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request for the GO General Office (“GO”) zoning be **APPROVED** subject to the following Protective Overlay:

1. Permitted uses are those permitted by right in the SF-5 Single-family Residential (“SF-5”) zone district plus “medical service,” as allowed in the GO General Office (“GO”) district.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property north of the site is zoned SF-5 Single-family Residential (“SF-5”) and B Multi-family Residential (“B”), and is currently developed with an elementary school. Property south, east and west of the subject site is zoned SF-5, and is currently developed with single-family residences.
2. The suitability of the subject property for the uses to which it has been restricted: The subject site is zoned SF-5 Single-Family Residential, and is currently undeveloped. The property could continue to be used as zoned. Development of more single-family residences on the property would be confined to the remaining approximately 0.9 acre fronting West 1st Street North. The institutional use (elementary school) to the north has decreased the site’s value for possible single-family residential development.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The screening, lighting, and compatibility standards of the Unified Zoning Code and the landscaped street yard, and buffer requirements of the Landscape Ordinance will limit any possible noise, lighting, and other activity from the remaining single-family residences nearby.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial could possibly cause the applicant a relative economic loss and the school and neighborhood the possibility of an extra health care option. Approval could introduce medical facility into the neighborhood on vacant property and increase the health care options for the school and neighborhood.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the site as appropriate for “Urban Residential” use. Urban Residential is a category that encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes: single

detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly (assisted living, congregate care and nursing homes). Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category. On the northern portion of the lot where the elementary school is located, the Functional Land use Guide identifies the area as appropriate for “Major Institutional” uses. Major Institutional is a category that includes institutional facilities of a significant size and scale of operation and could include a range of such uses as government facilities, military bases, libraries, schools, cemeteries, churches, hospital and medical treatment facilities.

- 6. Length of time the property has remained vacant as currently zoned: The property was platted for the existing elementary school in 2010 and the remaining portion of the property that is the subject site for this rezone request is currently undeveloped.
- 7. Impact of the proposed development on community facilities: Approval of the request should not have a negative impact on community facilities; especially since all sewer and water lines are in place and roads have already been constructed.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **DENNIS** seconded the motion, and it carried (11-0).

- 9. **Case No.: CON2012-10** – George Shirley (Applicant) and Mike Douchant (Agent) City Conditional Use request for a Wireless Communication Facility on property zoned LC Limited Commercial on property described as:

Lots Two (2), Four (4), Six (6) and Eight (8) on Lawrence, now Broadway Avenue, in Powell’s Addition to the City of Wichita, Sedgwick County, Kansas.

MOTION: To defer to the May 17, 2012 meeting.

FARNEY moved, **JOHNSON** seconded the motion, and it carried (11-0).

- 10. **Case No.: CON2012-11** – Herlyne Hatcher Living Revocable Trust/Lorenzo S. Atkinson request a City Conditional Use for a wrecking and salvage yard on property described as:

Lots 54 and 56, Eagle now 8th Street, Supplement to Jones 1st Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant is seeking Conditional Use approval to permit “wrecking and salvage” on two platted lots (Lots 54 and 56) containing .23 acre located on the north side of East 8th Street, approximately 114 feet east of North Mosley Avenue (854 East 8th Street). The subject property is zoned LI Limited Industrial (“LI”), and is developed with a 1,104 square-foot residential type structure built in 1920 (CAMA file data). The structure predated adoption of the first Wichita zoning code (1921). The LI district does not permit residential uses. It is planning staff’s understanding the

structure is not used as a residence. (It is not clear if the existing structure meets Building Code standards. If the applicant has not previously addressed that issue, he may want to check with the Office of Central Inspection in the future.) The applicant indicates that the property has been used to store repossessed vehicles for many years; and the application under consideration is a natural expansion of his business. Inspection of the site from the street reveals three or four potentially non-operable vehicles located within the fenced-in area of the applicant's property. If the vehicles are inoperable, these vehicles by themselves would trigger the need for Conditional Use approval for wrecking and salvage even without the repossession business. The applicant indicates he might have as many as 15 vehicles on-site, but was not able to indicate how long a repossessed vehicle might remain on the site.

The application area has sixty feet of frontage on East 8th Street with one driveway located east of the site's principal structure providing access to the east side and rear of the property. The applicant's site plan seems to indicate the application area has two driveways; however, the Geozone aerial shows the western driveway to be located on the lot (Lot 52, owned by DAV Thrift Stores Inc.) located west of the applicant's lots. The site is fenced with an estimated six-foot tall chain-link fence that has sheet metal attached to some portions of the fencing. The western "tree line" depicted on the applicant's site plan is located approximately sixty feet (or two lots) west of the application area. There is an existing tree line located along the applicant's eastern property line, as shown on the applicant's site plan.

While the applicant's site plan is very detailed, it appears to not include a line delineating the exact boundary of the applicant's property. A revised site plan clearly showing the boundary of the applicant's property, particularly along the west side, would be helpful.

The applicant's two lots are located mid-block, and are two of nine lots that run north and south (fronting 8th Street) and back onto the side of other LI zoned lots located north of the application area that run east to west (with frontage on Mosley Avenue (west) and Washington Avenue (east)).

Except for the applicant's property, the other lots located immediately east and west of the application area and fronting 8th Street, are vacant. All land located in all directions from the application area is zoned LI; some of which is developed with warehouse or commercial type buildings and uses or is vacant.

A review of the an aerial of the properties located in the larger area reveals a significant amount of outdoor storage, not necessarily wrecked and/or salvaged vehicles, such as at 918 North Washington (located east of Washington, north of 8th Street) and 834 and 832 North Washington (located east of Washington, south of 8th Street). One of the distinctions between the applicant and the previously noted properties is the latter noted properties have effective screening while the applicant does not. Interstate Wrecking Service is located at the northeast corner of Mosley and East 9th Street and a Conditional Use (CON2011-32) that permits a vehicle salvage yard was approved for property located north of 10th Street and east of Mead.

One call received by staff from a neighboring property owner indicated that it has been necessary for them, on multiple occasions, to pay for the removal of items illegally dumped on their property. The applicant has indicated to staff that he too, has had a similar experience. Another caller that staff is aware of was opposed on the basis that the proposed use does not fit in with existing uses and they are trying to clean-up the area.

A “wrecking/salvage yard” is defined by the *Wichita-Sedgwick County Unified Zoning Code* (“UZC”) as a lot, land or structure, or part thereof, used for the collecting, dismantling, storing and/or salvaging of machinery, equipment, appliances, inoperable vehicles, vehicle parts, bulky waste, salvage material, junk, or discarded materials; and/or for the sale of parts thereof. Typical uses include motor vehicle salvage yards and junkyards (Article II, Section II-B.14.r). The (“UZC”) permits “wrecking/salvage yard” in the LI district only with Conditional Use approval, subject to supplementary use regulation D.6.e. Supplementary use regulation D.6.e states that wrecking and salvage yards may be approved in the LI district provided: 1) the use does not abut an arterial street, expressway or freeway; in the opinion of the Planning Commission; 2) the use will not adversely affect the character of the neighborhood; and 3) the use is enclosed by a fence or wall not less than eight feet in height and having cracks and openings not in excess of five percent of the area of such fence.

A “vehicle storage yard” is defined by the UZC (Article II, Section II-B.14.j) as the keeping outside of an enclosed building for more than 72 consecutive hours of one or more Motor Vehicles (except “inoperable vehicles”), boats, trailers or unoccupied recreational vehicles. The term vehicle storage yard does not include “wrecking/salvage yard.” Vehicle storage yards are permitted by right in the LI district.

CASE HISTORY: The property is platted as Lots 54 and 56, Eagle, now 8th Street Supplement to Jones 1st Addition, recorded in 1883. The property has probably been zoned Light or Limited Industrial since zoning was established by the City of Wichita in 1921. The 1937 zoning map depicted the site as being Light Industrial.

ADJACENT ZONING AND LAND USE:

NORTH: LI Limited Industrial; warehouse / office
SOUTH: LI Limited Industrial; vacant building / vacant
EAST: LI Limited Industrial; vacant
WEST: LI Limited Industrial; vacant

PUBLIC SERVICES: The property has access to municipal services. 8th Street has 75 feet of right-of-way.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide map indicates this site is appropriate for “employment/industry center.” The employment/industry center encompasses areas with uses that constitute centers or concentrations of employment or an industrial, manufacturing, service, or non-institutional nature. The range of uses includes manufacturing and fabrication facilities, warehousing and shipping centers, call centers and corporate offices.

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

1. In addition to the uses permitted by right in the LI district, vehicle wrecking and salvage is the only additional use permitted by this Conditional Use. The receipt, sorting, cutting, baling, recycling, processing, storing or resale of recyclable material (such as metal, glass, plastic or paper and as defined in Sec. II-B.11.e) or white goods, appliances, metal (not associated with a vehicle), steel, rags, non-vehicular machinery, aluminum, junk or similar materials is prohibited.

The wrecking and salvage of vehicles shall comply with applicable sections of the “Wichita-Sedgwick County Unified Zoning Code” (“UZC”) and UZC, Article II, Section II-B.14.r.

2. Screening walls shall comply with Sec. IV-B.3.h, except that the use of the large rectangular concrete blocks as fencing material is prohibited. All repossessed vehicles or vehicles being wrecked or salvaged shall be parked or stored inside the code required screening wall or fence.
3. In addition to the applicable regulations contained in the UZC, the site shall be developed, operated and maintained in compliance with the approved site plan, and with all applicable local, state or federal regulations, and/or permit or licensing requirements.
4. Employee parking spaces shall be provided per the UZC on an area paved with asphalt or concrete.
5. Stored materials, containers or bales shall be stored on a surface approved by the Office of Central Inspection. Any material stored on site that is related to the operation of the wrecking and salvage yard shall not be visible from ground level view.
6. Prior to the beginning of wrecking and salvage operations, a revised site plan depicting the western property line and any other identified items necessary to guide the use of, and to effectively enforce the development standards of, this Conditional Use shall be submitted for consideration for approval.
7. Storage of all of vehicles or their salvaged parts waiting to be processed and the containers they are stored in shall be organized and be maintained in an orderly manner, including an exposed perimeter, as specified by Environmental Health to prevent rodent harborage and breeding.
8. The applicant shall maintain at all times an active program for the eradication and control of rodents and other vermin.
9. Weeds shall be controlled within the subject property and adjacent to and along the outside perimeter of the screening fence.
10. Any locking devices on entrance gates shall meet Fire Department requirements. Access to and within the site shall be provided by fire lanes per the direction and approval of the Fire Department.
11. Access to the subject property shall be provided for on-going inspections of the site for groundwater and soil contaminants by Environmental Health and other applicable governmental agencies. If the inspections determine it to be necessary, the applicant shall be required to install monitoring wells and/or perform soil testing on the property to monitor the quality of groundwater and/or soil, and shall pay the cost of an annual groundwater and/or soil test for contaminants as designated by the Environmental Health.
12. Notification shall be given to Environmental Health of any on-site storage of fuels, oils, chemicals, or hazardous wastes or materials. A disposal plan for fuels, oils, chemicals, or hazardous wastes or materials shall be placed on file with Environmental Health. All manifests

for the disposal of fuels, oils, chemicals, or hazardous wastes or materials must be kept on file at the site and available for review by the Environmental Health.

13. The applicant shall implement a drainage plan approved by the City Engineer prior to the commencement of operations that minimizes non-point source contamination of surface and ground water.
14. 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.
15. All conditions of approval must be completed within one year of final approval; otherwise the Conditional Use shall be ruled null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The lots located immediately east and west of the application area and fronting 8th Street, are vacant. The property to the north is developed with a large building. Part of the land located to the south of the application area is developed with a vacant commercial building while other lots are undeveloped. All land located in all directions from the application area is zoned LI. The area is characterized by heavy commercial, warehouse or wholesale type uses. There is some outside storage located east of Washington north and south of 8th Street; however, it is effectively screened from ground level view.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned LI, which permits a wide range of non-residential potentially economically valuable uses. However, the fact that the site is only 60 feet wide, and is developed with a residential type structure (wooden construction, probably with a raised floor with limited weight bearing capacity, no overhead door access, interior walls not placed or designed for heavy commercial or industrial application) as opposed to a commercial type structure, probably limits the property's prospects for full industrial use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed development standards should address anticipated detrimental impacts. By limiting the materials available for wrecking and salvage to vehicles, some of negative aspects of a typical wrecking or recycling operation can be avoided. The requirement to bring the site's screening into compliance will also minimize potential impacts. There are other wrecking services in the general area, such as at the northeast corner of Mosley and 9th Street (Interstate Wrecking Service) and north of East 10th Street, east of Mead (CON11-32).
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide map indicates this site is appropriate for "employment/industry center." The employment/industry center encompasses areas with uses that constitute centers or concentrations of employment or an industrial, manufacturing, service, or non-institutional nature. The range of uses includes manufacturing and fabrication facilities, warehousing and shipping centers, call centers and corporate offices.

5. Support or opposition of neighboring property owners: Staff is aware of two callers opposed to the application.
6. Impact of the proposed development on community facilities: None identified.

DALE MILLER, Planning Staff presented the Staff Report. He reported that DAB VI recommended denial of the application.

ALDRICH asked if staff had received any opposition or support from surrounding property owners.

MILLER said he heard from one property owner who was present in opposition to the proposal. He added he may have heard from another nearby property owner in opposition.

DENNIS asked about baling vehicles on site, the small size of the property (.23 acres) and screening.

MILLER said the applicant indicated he does not need to do baling so that could be included as a prohibition. He said as far as screening is concerned, the applicant will need to put up fencing that meets the minimum screening requirements.

CHAIRMAN FARNEY asked about items #5 under the conditions and clarified that the applicant would not be able to stack vehicles.

MILLER indicated that was correct and said any materials may not be able to be viewed from ground level from the outside looking in.

JOHN BARRETT, 1011 W. FIRST AVENUE, GODDARD, KS, ATTORNEY FOR APPLICANTS noted that he understood the Disabled American Veterans (DAV) Store had concerns regarding mice, vermin, etc., and said that is not a concern at the applicant's location particularly compared to the other lots in the area including the salvage operation north of the DAV building. He reviewed numerous slides of conditions in the neighborhood including stored vehicles, junked cars and trucks, disabled construction equipment, piles of junk, rubbish, old water meters, board, pallet and pipe storage, untrimmed trees, downed fencing and screening or no screening, abandoned buildings, and also noise from helicopters coming and going to Via Christi Hospital, etc. He said this is not a normal salvage operation and that his client does not intend to bale vehicles. He said his client will obtain vehicles and strip them for parts or to make 1 or 2 operational vehicles. He said the applicant then hauls the remaining parts off to normal salvage yards.

JOHNSON (Out @3:33 p.m.)

BARRETT said this is an industrial neighborhood.

DENNIS asked about the requirement for a surface approved by the Office of Central Inspection (OCI). He asked if the applicant was going to pave the surface and mentioned leaking oil and anti-freeze and what needed to be done to protect the environment.

BARRETT responded that he was not sure what kind of surface was required and noted that many of the surrounding neighbors did not have pavement. He said it probably wouldn't be feasible for the applicant to pave the area. He said they believe they can provide "operational containment."

DENNIS asked about time frame and how long the vehicles are stored. He asked if the applicant was open to a time limit of say from of 60-90 days.

BARRETT referred the question to the applicant Mr. Atkinson.

LORENZO ATKINSON, 2608 N. WACO, APPLICANT said that was a hard question to answer. He said most vehicles are at the location for 3-4 months. He said he does the work himself with some temporary help. He said the repossession business is fairly limited to 2-3 banks. He said he does not compete for the repossession business but enjoys building older type cars. He said as far as addressing oil dripping on the ground, he had planned on putting in a rock surface. He said it would be expensive to pave the entire lot.

DENNIS commented that they are not bringing in pristine vehicles. He asked about baling, recycling, the resale of recycled materials and the resale of vehicles.

ATKINSON said they do not plan on doing baling. He said he sells parts to other salvage yards whose representatives usually stop by his location.

BARRETT said they would be open to having baling listed as an excluded use. He added that in effect all of this type of work is recycling.

HENRY HELGERSON, 601 N. ATHENIAN said he owns property to the north, west, east and the property referred to as the alley. He said he also owns the warehouse building at 920 N. Mosley. He provided pictures of the area for Commissioner's review and a handout of his statement. He said they have been in business for 75 years setting conventions and trade shows and selling flags. He said he was also present to speak on behalf of Franklin Bergquist, the Chief Executive Officer of the Disabled American Veterans (DAV) Thrift Store at 926 N. Mosley. He said they own all the surrounding land to this site. He added that combined, they have invested hundreds of thousands of dollars in this block and they have dozens of employees. He commented that the area to the east of this neighborhood is blighted and he wishes he could change that. He said people have been buying and rehabbing the warehouses in this area because they are good properties downtown. He said this is a small site that does not meet any of the requirements of the UZC and the location is a fire hazard because it has no second access to the property. He said he understands that the proprietor needs a business but said this is not a suitable site. He said the DAB voted against the proposal for the same items the Planning Commission has raised at this meeting which are environmentally it doesn't make sense, the lot is too small and the neighbors are opposed to it.

FRANKLIN BERGQUIST, CHIEF EXECUTIVE OFFICER OF THE DISABLED AMERICAN VETERANS (DAV) STORES said the DAV employs over 70 workers at the warehouse. He said they leave the doors open for cross ventilation. He said the warehouse is across the street from the salvage yard which will be detrimental to their operation. He said since moving to the building they have spent over \$2,000 on mice and rat control and added that the vermin will probably be back. He said people dump furniture in the back of the store and there is nothing they can do about it. He said he believes a salvage yard will create the same type of dumping problem. He also mentioned use of the parking lot to the east which is a narrow lot.

ALDRICH asked **MR. BERGQUIST** if he has contacted the Office of Central Inspection regarding conditions of the surrounding properties.

BERGQUIST said he has seen City staff in the neighborhood, but he doesn't know who called them.

ALDRICH commented that City staff only comes out when they receive complaints so he might want to keep that in mind.

BARRETT said he is not sure of the harm so far as rats and vermin are concerned. He said there is a much closer and bigger mess than Mr. Atkinson's property. He suggested that having Mr. Atkinson present and working at the location would be an inducement to keeping the vermin population down. He said there is no way use of this property is going to impact parking for the DAV. He commented that Mr. Helgerson said one area was owned by him; however, it has been treated as an alley for a long time so he can't speak to that. He mentioned possible setback issues if Mr. Helgerson were to build in the area. He concluded by saying that he didn't see how the applicant's operation is going to be any fire hazard to the DAV warehouse.

DENNIS mentioned the size of the property (.23 acres) and the fact that there are a number of blighted areas around it. He said he does not understand why the City would want to add to that situation. He also mentioned that he did not agree with item #1 in the Staff Report, the fact that there was no surface definition and no stipulation as to how long items can be stored at the location.

MOTION: To deny the application request.

DENNIS moved, **ALDRICH** seconded the motion, and it carried (9-1). **WARREN** – No.

-
- 11. Case No.: CON2012-12** – Melvin and Brent Davis (Owners) and Don Bean (Applicant) request a City Conditional Use for a Nightclub in the City (within 300 feet of residential zoning) in LC Limited Commercial zoning on property described as:

Lot 1, Block 1, Harvest Communications Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant seeks a Conditional Use to permit a Nightclub in the City on property zoned LC Limited Commercial ("LC"), generally located south of Lincoln Street and northeast of George Washington Boulevard (900 George Washington Blvd.). The proposed site is a 1953 theater building within a larger shopping center. The site has been used for some time as a rental reception facility and for live music performances. The applicant wishes to continue use as a rental reception and live music facility that would only be open when rented or for special occasions; the applicant indicates that he does not desire to be a nightclub open to the public on a regular basis. The applicant states that he wishes to obtain an Entertainment Establishment license, to allow live music and dancing, and he wishes to allow catered food and alcohol. Under the Unified Zoning Code (UZC) the combination of an Entertainment License and serving alcohol is defined as a Nightclub. Nightclub in the City is a permitted land use in the LC zoning district. However, the application area is within 300 feet of residential zoning and a church; the UZC requires that a nightclub located within 300 feet of residential zoning, a church, school or park be subject to Conditional Use review to determine if the particular site is suitable for the operation of a nightclub. Other space in this shopping center houses offices, medical services, and retail uses. The applicant indicates to staff that the building occupancy is 275 people. The

applicant's site plan (see attached) indicates 139 available parking spaces, 70 of which are on adjoining properties under separate ownership but within the same shopping center. This number of parking spaces meets the UZC parking requirement of 1 space per two patrons for a Nightclub.

Property north of the site, across Lincoln, includes an LC zoned fast food restaurant, B Multi-family ("B") zoned apartment developments, a TF-3 Two-family Residential ("TF-3") zoned church, and TF-3 zoned single-family residences. South of the site, across George Washington Boulevard, is a TF-3 zoned single-family residential neighborhood. East of the site is the remainder of the LC zoned Boulevard Shopping Center. West of the site, across George Washington Boulevard, is the LC zoned Cox Communications facility.

CASE HISTORY: The property was platted as Lot 1, Block 1 of the Harvest Communications Addition in 1988.

ADJACENT ZONING AND LAND USE:

NORTH:	LC, B, TF-3	Restaurant, multi- and single-family residential, church
SOUTH:	TF-3	Single-family residential neighborhood
EAST:	LC	Commercial strip center, medical offices
WEST:	LC	Office building, communications facility

PUBLIC SERVICES: The site has direct access points onto George Washington Drive and Lincoln Street. Lincoln and George Washington Boulevard are four-lane minor arterials at this location, and both are designated by the 2030 Transportation Plan to remain four-lane arterials. Lincoln has an 80-foot right-of-way (ROW) width at this location, and a daily traffic count of 9,681 vehicles per day. George Washington Boulevard has a 180-foot ROW at this location, to include local access to George Washington Drive on either side of the Boulevard, and a traffic count of 8,078. All normal public services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide, as amended in May 2005, of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* designates this site as "Local Commercial." The existing zoning and requested Conditional Use is in conformance with this designation. The property is not part of a CUP, and does not have any special site development regulations for use restrictions, buffering or screening.

RECOMMENDATION: Historically this site was a rental reception facility and live music venue, this specific building and business does not appear to have any negative impacts on the surrounding neighborhood. This site can only meet the UZC parking requirements with the use of shared parking from adjoining businesses with different business hours. Staff does not see this request negatively impacting surrounding properties with parking demand provided the applicant can obtain shared parking agreements with the parking lots shown on the site plan. A former nightclub located within the same shopping center but within a different building, approximately 250 feet east of the subject building, had significant legal and licensing issues several years ago. This former nightclub had significant negative impacts on the surrounding neighborhood. As such, several neighbors have contacted staff regarding this current case with questions and opposition. Most neighbors have no problem with this applicant wanting to continue his rental reception and live music venue business, although a few remain opposed. Staff feels that carefully crafted conditions could allow this business to continue operation without negative impacts on the surrounding neighborhood. Based upon information available prior to the

public hearings, planning staff recommends that the Conditional Use request be APPROVED, subject to the following conditions:

1. The Conditional Use for a Nightclub shall be for a rental reception facility, guests to be admitted by invitation only and not open on a regularly scheduled basis or to the general public. And, the facility may be used for a live music venue for special dates only; live music venue dates shall not exceed three times per month.
2. The Conditional Use for a Nightclub in the City shall be limited to a 275-person occupancy.
3. The Conditional Use shall be limited to the building identified on the approved site plan as the "Boulevard," and shall only use the parking identified on the approved site plan.
4. The applicant shall obtain a parking agreement with the two abutting property owners where parking is shown on the approved site plan. A copy of the parking agreement shall be filed with the Conditional Use and shall be provided to OCI.
5. The site shall be developed in general conformance with the approved site plan and in compliance with all city ordinances, including but not limited to: zoning, sign, building, fire and health codes and licensing requirements. Failure to conform to any city code and/or failure to maintain proper licensing will be a violation of the Conditional Use.
6. The parking lot shall be kept free of all trash and debris. No loitering, congregating or excessive noise shall be permitted in the parking lot. No outside loudspeakers or entertainment, including outside dancing, shall be permitted.
7. Operation of the Facility shall be limited to:
Sunday through Thursday - 12:00 p.m. – midnight
Friday and Saturday 12:00 p.m. - 2:00 a.m.
8. 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 the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property north of the site, across Lincoln, includes an LC zoned fast food restaurant, B Multi-family zoned apartment developments, a TF-3 zoned church, and TF-3 zoned single-family residences. South of the site, across George Washington Boulevard, is a TF-3 zoned single-family residential neighborhood. East of the site is the remainder of the LC zoned Boulevard Shopping Center. West of the site, across George Washington Boulevard, is the LC zoned Cox Communications facility.
2. The suitability of the subject property for the uses to which it has been restricted: The building could be remodeled to be used for a wide variety of LC uses allowed by the current zoning without a Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: A rental reception and live music facility will bring more late night activity to this location. However, this site has been used for these purposes without apparent impact on the surrounding neighborhoods. The proposed conditions should ensure the facility is used for scheduled special occasions only, they should keep parking limited to the applicant's site, and should mitigate noise and trash issues associated with the facility.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide, as amended in May 2005, of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* designates this site as “Local Commercial.” The existing zoning and requested Conditional Use is in conformance with this designation. The property is not part of a CUP, and does not have any special site development regulations for use restrictions, buffering, or screening.
5. Impact of the proposed development on community facilities: The facility should have no significant impact on streets and utility services, as its primary hours will be different than those of surrounding businesses. The proposed use will increase the need for oversight from the police and OCI to ensure compliance with licensing requirements and other conditions of approval.

JESS MCNEELY, Planning Staff presented the Staff Report.

ALDRICH clarified that the business is currently operating and asked if there were any citations for violations of City Ordinances.

MCNEELY said there have been no violations reported.

MCKAY clarified that the Commission was hearing the case due to its proximity to residential development and a church.

MCNEELY responded yes and added that otherwise this use would not require a conditional use permit.

DON BEAN, 6332 EILERTS, APPEARING FOR THE APPLICANTS MELVIN AND BRENT DAVIS AND AGENT FOR VICKY DECARSKY OWNER OF COMPLETE MUSIC AND LEASE OWNER OF THE BOULEVARD gave a brief history of the property mentioning that in 1953 it was known as the Fox Boulevard Theater; in 1982 it became Gold’s Gym; and in 1988 Harvest Communications came in and changed the zoning so they could turn the location into a television production studio with offices and recording studios. He said in approximately 2006 the American Poker League took over the building. He said after that Dr. Blake Shelton who owns the Southeast Chiropractic Clinic took over and started the Boulevard Banquet Hall providing a venue for wedding receptions. He said in 2010 Vicky Decarsky took over the operation. He said Ms. Decarsky also has a DJ music business and takes wedding pictures and has a wedding planner on staff that has an office at the facility. He said wedding receptions are the main revenue stream for the building; however, they also have corporate luncheons and Christmas parties and to fill in the gaps, they do live entertainment. He said they are similar to The Chapel and 21st Century Center on Broadway. He said it is not their intent to turn this into a nightclub. He said most of the events take place on Friday and Saturday and hardly anything goes on at the venue Sunday through Thursday. He said they are not open to the general public unless they have a live entertainment event. He said they do have some people who smoke outside the building during events, but they don’t consider that loitering. He said they have worked with the Fire Department Inspectors and brought the building up to code with exit lamps and emergency lighting. He concluded by stating that they think they are a pretty good neighbor.

BEVERLY DOMITROVIC, 1219 GEORGE WASHINGTON DRIVE said just as Mr. Bean said, they are a very good neighbor and they consider The Boulevard a little gem in the neighborhood.

JANIE GLEASON, 623 S. VOLUTSIA said she was President of the Sunnyside Neighborhood Association just north of the venue. She apologized to her neighbors and mentioned that they have not had a meeting since the letter on the rezoning was sent. She said personally she is in favor of this. She said this is not like the other clubs they have had which were detrimental to the neighborhood. She said she has been to The Boulevard and believes it is an asset to the community.

KAREN MARKWELL, 5733 JUNO STREET said this is an affordable place to have an event and said she is representative of the type of people who would visit The Boulevard to listen to music who are older, have jobs and want to be in by 7:00 p.m. and out by 11:00 p.m. She said she has never seen any problems at the location.

TAMMY BOWDEN, OPERATIONS MANAGER OF THE BOULEVARD said they provide wedding planning and event services include DJ's and video. She said they host all kinds of events at The Boulevard including birthday and anniversary parties and reunions; however, weddings are their business model and provide most of their revenue. She said the value they offer is hard to determine but in her opinion it is very high and of prominent value.

MOTION: To approve subject to staff recommendation.

MILLER STEVENS moved, **SHEETS** seconded the motion, and it carried (10-0).

-
12. **Case No.: CON2012-13** - DeVore & Sons (Owner/Applicant) and Mike Douchant (Agent) request a City Conditional Use for a Wireless Communication Facility on property zoned LI Limited Industrial on property described as:

Lot Sixteen (16), Comotara Industrial Park Fourth Addition to Wichita, Sedgwick County, Kansas.

MOTION: To defer to the May 17, 2012 meeting.

FARNEY moved, **JOHNSON** seconded the motion, and it carried (11-0).

-
13. **Case No.: CON2012-14** – the Catholic Diocese of Wichita, c/o Robert E. Hemberger (Owner/Applicant) and YMCA, c/o Jon McReynolds (Agent) request a City Conditional Use Daycare, General in SF-5 Single-family Residential zoning on property described as:

Lot 1, Block A, Church of the Magdalen 2nd Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant is seeking Conditional Use approval to permit a “day care, general” on 27.45 acres located at 12626 East 21st Street North, at the northwest corner of the intersection of East 21st Street North and North 127th Street East. The subject site is currently developed with a large church campus. The applicant proposes to use existing parts of the site for a pick-up and drop-off location for YMCA summer programs, and rooms within the existing church for activities. The request would allow parents to drop off their children at this location, have the children participate in activities until the bus arrives to deliver the children to the YMCA and its summer programs. When the program is complete for the day, the children are brought back to the church and participate in more activities until the parents are available to pick up their children.

The site plan that was submitted shows the aerial of the subject site. While it is known that there will be no changes to the site, staff will request as a condition a site plan that shows the location of the pick-up and drop-off location on the site and the location of the building on the campus that the applicant intends to use classrooms for the activities.

Per the *Wichita-Sedgwick County Unified Zoning Code* (“UZC”), a “day care, general” is permitted in the SF-5 district only by Conditional Use approval. The UZC defines a “day care, general” as a day care center that provides care, protection and supervision for more than ten individuals at any one time, including those under the supervision or custody of employees, or a day care center for ten or fewer individuals at any one time that is not operated as a home occupation.

Property north of the subject site is zoned MF-18, and is developed with single-family residences. Property east of the subject site is zoned LC and is currently undeveloped. Property south of the subject site is zoned SF-5 and LC, and is developed with a school and some undeveloped commercial property. Property west of the subject site is zoned SF-5, and is developed with a church.

CASE HISTORY: The property is platted as Lot 1, Block A, Church of the Magdalen 2nd Addition, to Wichita, Sedgwick County, Kansas, recorded on October 31, 2002. The site has had two administrative adjustments approved to allow for parking within the front setback (BZA2000-00065) and to allow a L.E.D. sign (BZA2007-00054).

ADJACENT ZONING AND LAND USE:

NORTH:	MF-18	Residential
SOUTH:	SF-5 and LC	School and Vacant Commercial Land
EAST:	LC	Vacant Commercial Land
WEST:	SF-5	Church

PUBLIC SERVICES: The subject site has frontage along North 127th Street East (east side of property), a four-lane, paved minor arterial without traffic counts at this location. The site also has frontage along East 21st Street North (south side of property), which is a four-lane, with center turn lane, paved principal arterial with no traffic counts at this location. Public water and sewer service are currently available to the subject property.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the site as appropriate for “Major Institutional” use. Major Institutional is a category that includes institutional facilities of a significant size and scale of operation and could include a range of such uses as government facilities, military bases, libraries, schools, cemeteries, churches, hospital and medical treatment facilities.

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

1. The Conditional Use shall comply with Article III, Section III-D.6.i of the UZC.
2. A revised site plan will be required to be submitted to the Planning Department within 60 days.
3. The property shall be developed and maintained in accordance with the revised site plan.
4. The applicant shall obtain all applicable local and state permits and operate in conformance to state regulations.

5. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

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

1. The zoning, uses and character of the neighborhood: Property north of the subject site is zoned MF-18, and is developed with single-family residences. Property east of the subject site is zoned LC, and is currently undeveloped. Property south of the subject site is zoned SF-5 and LC, and is developed with a school and some undeveloped commercial property. Property west of the subject site is zoned SF-5, and is developed with a church.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-5, which is a district primarily limited to low density residential uses and a few compatible nonresidential uses such as churches, parks or schools. The site is currently developed with a large church campus. The proposed use will utilize existing facilities on the subject site.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: No restrictions will be removed on the site due to the request. The use on the site already conducts similar operations. Pick-up and drop-off points and classrooms already exist on the site. The reason for this request is because another entity is requesting the use of the site and the activities proposed is not a part of an organized curriculum. The proposed use is defined as daycare, general and the reason for the Conditional Use request.
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 an additional pick-up and drop-off location for the YMCA summer camps. Denial of the application could presumably result in a reduction of location options for parents to drop-off and pick-up their kids for camp and a possible loss of revenue and participation for the YMCA summer camps.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the site as appropriate for "Major Institutional" use. Major Institutional is a category that includes institutional facilities of a significant size and scale of operation and could include a range of such uses as government facilities, military bases, libraries, schools, cemeteries, churches, hospital and medical treatment facilities.
6. Impact of the proposed development on community facilities: All public facilities are available and existing road facilities are adequate.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **DENNIS** seconded the motion, and it carried (11-0).

14. **Case No.: CON2012-15** - United School District 259, c/o Shane Schumacher (Agent) request a City Conditional Use for a Wireless Communication Facility on property zoned SF-5 Single-Family Residential on property described as:

A described tract being 10.00 feet either side of described centerline for 20' (x) 20' wireless communication facility and access to it. Centerline being further described as: Commencing at the Northeast corner of Lot 1, Block 1, South High School Second Addition to Wichita, Sedgwick County, Kansas; thence S 89°59'38" W, a distance of 135.00 feet, along the North line of said Lot 1, to the point of beginning; thence S 00°11'42" W, a distance of 490.00 feet, on a line parallel to the East line of said Lot 1; thence S 89°59'38" W, a distance of 240.00 feet, on a line parallel to the North line of said Lot 1, to an ending point of described centerline.

MOTION: To defer to the May 3, 2012 meeting.

FARNEY moved, **JOHNSON** seconded the motion, and it carried (11-0).

- 15. **Case No.: CON2012-16** – Westside Baptist Church, c/o Amos Greer (Owner/Applicant) and YMCA, c/o Jon McReynolds (Agent) request a City Conditional Use for a Daycare, General in SF-5 Single-family Residential zoning on property described as:

Lots 1-12 all, and Lots 13-25 odd and vacated alley, Stanton's Addition.

BACKGROUND: The applicant is seeking Conditional Use approval to permit a “day care, general” on 1.3 acres located at 304 South Seneca Street, at the southeast corner of the intersection of South Seneca Street and West Burton Avenue. The subject site is currently developed with a church campus. The applicant proposes to use existing parts of the site for a pick-up and drop-off location for YMCA summer programs, and rooms within the existing church for activities. The request is to allow parents to drop off their children at this location and then have the children participate in activities until the bus arrives to deliver the children to the location of the YMCA summer program. When the program is complete for the day, the children are brought back to the church where they can participate in more activities until the parents are available to pick up their children.

The site plan that was submitted shows the aerial of the subject site. While it is known that there will be no changes to the site, staff will request, as a condition, a site plan that shows the location of the pick-up and drop-off location on the site and the location of the building on the campus that the applicant intends to use classrooms for the activities.

Per the *Wichita-Sedgwick County Unified Zoning Code* (“UZC”), a “day care, general” is permitted in the SF-5 district only by Conditional Use approval. The UZC defines a “day care, general” as a day care center that provides care, protection and supervision for more than ten individuals at any one time, including those under the supervision or custody of employees, or a day care center for ten or fewer individuals at any one time that is not operated as a home occupation.

Property north of the subject site is zoned SF-5 and is developed with a park. Property east of the subject site is zoned SF-5 and TF-3 Two-family Residential (“TF-3”), and is currently with single-family residences and a duplex. Property south of the subject site is zoned SF-5, TF-3 and GC General Commercial (“GC”), and is developed with single-family residences, a duplex, retail shops and a warehouse. Property west of the subject site is zoned SF-5, B Multi-family Residential (“B”), MF-18

Multi-family Residential (“MF-18”) and TF-3, and is developed single-family and multi-family residential uses.

CASE HISTORY: The property is platted as Lots 1 thru 13 and Lots 15, 17, 19, 21, 23 and 25, Stantons Addition, to Wichita, Sedgwick County, Kansas recorded on December 13, 1886.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Park
SOUTH:	GC, SF-5 and TF-3	Retail/Warehouse, single-family residences and duplex
EAST:	SF-5 and TF-3	Single-family residences and duplex
WEST:	SF-5, B, MF-18 and TF-3	Single-family residences, Quadraplex, duplex

PUBLIC SERVICES: The subject site has frontage along South Seneca Street (west side of property), a four-lane, paved principal arterial with traffic counts of approximately 37,000 average daily trips at its intersection with Maple Street, just south of the subject site. The site also has frontage along West Burton Avenue (north side of property), which is a two-lane, paved local road with no traffic counts at this location. Public water and sewer service are currently available 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. This category of use encompasses areas that contain concentrations of predominantly commercial, office, and personal service uses that do not have a predominately regional market draw. The range of uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities.

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

1. The Conditional Use shall comply with Article III, Section III-D.6.i of the UZC.
2. A revised site plan will be required to be submitted to the Planning Department within 60 days.
3. The property shall be developed and maintained in accordance with the revised site plan.
4. The applicant shall obtain all applicable local and state permits and operate in conformance to state regulations.
5. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

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

1. The zoning, uses and character of the neighborhood: Property north of the subject site is zoned SF-5 and is developed with a park. Property east of the subject site is zoned SF-5 and TF-3 Two-family Residential (“TF-3”), and is currently with single-family residences and a duplex. Property south of the subject site is zoned SF-5, TF-3 and GC General Commercial (“GC”), and is developed with single-family residences, a duplex, retail shops and a warehouse. Property west of the subject site is zoned SF-5, B Multi-family Residential (“B”), MF-18 Multi-family Residential (“MF-18”) and TF-3, and is developed single-family and multi-family residential uses.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-5, which is a district primarily limited to low density residential uses and a few compatible nonresidential uses such as churches, parks or schools. The site is currently developed with a church campus. The proposed use will utilize existing facilities on the subject site.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: No restrictions will be removed on the site due to the request. The use on the site already conducts similar operations. Pick-up and drop-off points and classrooms already exist on the site. The reason for this request is because another entity is requesting the use of the site and the activities proposed is not a part of an organized curriculum. The proposed use is defined as daycare, general and the reason for the Conditional Use request.
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 an additional pick-up and drop-off location for the YMCA summer camps. Denial of the application could presumably result in a reduction of location options for parents to drop-off and pick-up their kids for camp and a possible loss of revenue and participation for the YMCA summer camps.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies this site as appropriate for local commercial types of use. This category of use encompasses areas that contain concentrations of predominantly commercial, office, and personal service uses that do not have a predominately regional market draw. The range of uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities.
6. Impact of the proposed development on community facilities: All public facilities are available and existing road facilities are adequate.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **DENNIS** seconded the motion, and it carried (11-0).

-
16. **Case No.: CUP2012-08** - Quiktrip West Corporation (Pam Friggel)/Integrity Auto (Ed Murabito, architect) request a CUP amendment to DP-273 Prairie Pond Plaza Community Unit Plan to add vehicle and equipment sales as a permitted use to Parcel 4B on property described as:

Lot 1 except beginning at the Northwest corner, thence East 303.73 feet, thence South 354.56 feet, thence West along the South line 264.27 feet, thence Northwesterly 35.52 feet, thence North along the West line 225 feet, thence Northwesterly 101.12 feet, thence North 5.21 feet to beginning, Block B, Prairie Pond Plaza 2nd Addition to Wichita, Sedgwick County, Kansas

BACKGROUND: The applicant is seeking an amendment to Parcel 4b of the Prairie Pond Plaza Community Unit Plan (CUP) DP-273 to permit “vehicle and equipment sales, outdoor.” Parcel 4b is

zoned LC Limited Commercial (“LC”) subject to the development standards contained in DP-273 that includes a prohibition against “vehicle and equipment sales, outdoor” (General Provision 22). Uses permitted in Parcel 4b, as well as the rest of the parcels within DP-273, except Parcel 3, “include uses defined by the limited commercial district, including, but not limited to: banks or financial institutions, assisted living, general retail and drive-thru restaurants. Restaurants that serve liquor can be developed as long as food is the primary service.”

The application area contains 1.40 acres, and is located north of East Kellogg, approximately 389 feet east of North 143rd Street East. The subject site is currently undeveloped. Access from 143rd Street to the site is provided in two ways: Kellogg Drive and a private drive. Kellogg Drive, at this location, is a frontage road with 50 feet of full street right-of-way that exits 143rd Street eastward (354.56 feet north of Kellogg) along the north side of Parcels 4a, that contains the existing Quiktrip, and 4b, the application area, turns south, forming the eastern boundary of the application area, before it turns back east, and runs further east along the north side of Kellogg/U.S. 54/400 where it dead ends approximately 770 feet further east of the application area; at the eastern boundary of DP-273. The second point of access to the site is via a driveway that runs east from 143rd Street, just north of the Kellogg/U.S. 54/400 right-of-way through the Quiktrip parking lot, and connects with Kellogg Drive at the southeast corner of the subject site. The site does not have direct access to Kellogg/US 54/400.

The applicant’s site plan depicts one point of access via a drive to East Kellogg Drive located on the east side of the property. The site plan also shows one building located on the northern end of the lot, approximately 45 feet from the site’s northern lot line. A fence is shown encircling the site. The applicant’s agent indicates it is a two-foot high railing designed to prevent ingress and egress to the site except at the proposed driveway. The site plan also shows a 35-foot building setback along the north and east property line but does not indicate building setback lines along the south and western property line. The existing CUP depicts a 35-foot building setback along the south property line and a 15-foot building setback along the west parcel line. Along the western border of the site plan there is a 98-foot by 7.28-foot indentation. If that land is to be excepted from Parcel 4b for use by Parcel 4a, a revised CUP drawing and parcel calculations should be provided if this request is approved.

DP-273 contains 17.11 acres that are divided between eight other parcels and one reserve. Except for one parcel, Parcel 4a, all the parcels within DP-273 are vacant. Parcel 4a, located west of the subject property, is zoned LC subject to the development standards of DP-237, and is developed with a Quiktrip convenience store. (At an earlier time, the application area was part of a larger parcel but has since been divided to create Parcels 4a and 4b.) DP-273 has a row of parcels (Parcels 1A, 1B and 3 with a minimum lot depth of 185 feet) located north of subject site and Kellogg Drive that separates the subject tract from a single-family residential subdivision, the Park East Addition, zoned SF-5 Single-family Residential (“SF-5”), that is located north of DP-273. Land immediately to the east, across Kellogg Drive, is zoned LC, subject to the development standards of DP-273, and is undeveloped. Further east are approximately 78 acres zoned SF-20 Single-family Residential (“SF-20”), developed with a residence. Property to the south, across Kellogg/U.S. 54/400, is zoned SF-20, and is developed with large-lot residences, approximately 26,136 square feet. The closest vehicle sales to the application area that staff is aware of are located one mile to the west, west of 127th Street, and one mile to the east, southeast corner of 159th Street and U.S. 54/400 (Andover).

“Vehicle and equipment sales, outdoor” are permitted in the LC zoning district only with Conditional Use approval, subject to Supplementary Use Regulations, Article III, Section III.D.6.x and D.6.hh. Supplementary Use Regulation Section III-D.6.x indicates vehicle and equipment sales:

- (1) Locations shall be contiguous to a major street.
- (2) Visual screening of areas adjacent to residential zoning districts shall be provided to protect adjacent properties from light, debris and noise.
- (3) All parking, outdoor storage and display areas shall be paved with concrete, asphalt or asphaltic concrete or any comparable hard surfacing material.
- (4) Lighting sources, including base or pedestal, pole and fixture, shall employ cut-off luminaries to minimize light trespass and glare, and shall be mounted at a height not exceeding one-half the distance from the neighboring lot, unless evidence is presented the light source will be aimed or shielded such that the light source is not visible from the neighboring lot. Light sources shall be limited to 15 feet in height within 200 feet of residential zoning districts.
- (5) No sound amplification system for projecting music or human voices shall be permitted on any property zoned NO or more intensive if the music and/or voices can be heard within any residential zoning district that is located within a 500-foot radius of the subject site. Outdoor speakers and sound amplification systems are not permitted.
- (6) No repair work shall be conducted except in an enclosed building, and no fender or body work is allowed.
- (7) No portable, flashing, moving or off-site signs shall be permitted and no streamers, banners, pennants, pinwheels, commercial flags, bunting or similar devices shall be permitted.

With respect to development standards listed above: (1) The subject location is adjacent to a major street (U. S. 54/400). (2) The subject site is separated from SF-5 zoning located to the north by 235 feet of street right-of-way and LC zoned land that is required by General Provision 14 of DP-273 to provide a screening wall as each parcel develops. (3) Recommended condition of approval number 7 below mirrors that requirement. (4) Parcel 4b is located 213 feet from residential zoning to the south, 235 feet from the north; 445 feet to the east and 805 feet to the east; therefore, this development standard does not apply. (Parcel 4b is permitted by General Provision 17 to have light poles up to 25 feet between the street wall line of the building and U.S. Highway 54; otherwise light poles are limited to 20 feet. General Provision 16 requires exterior lighting to be shielded to prevent light disbursement in all directions.) (5) Recommended condition of approval number 8 below mirrors that requirement. (6) Recommended condition of approval number 2 below mirrors that requirement. (7) Recommended condition of approval number 6 below mirrors that requirement.

For those lots zoned LC but located in a CUP, an amendment to the CUP takes the place of Conditional Use approval.

Signage is controlled by CUP General Provision No. 13 which states, in part, signs shall be in accordance with the Sign Code. Monument type signs are permitted along arterial roadways, spaced 150 feet apart. Flashing signs (except for signs showing only time, temperature and other public service messages), rotating or moving signs, signs with moving lights or signs which create illusions of movement are not permitted. No signs shall be allowed on the rear of any buildings. Freestanding monument signs are limited to a maximum height of 20 feet, except for Parcel 4a, which can have one monument type sign with a maximum height of 25 feet along the frontage of U.S. Highway 54. The maximum square footage of sign face allowed in Parcel 4b shall not exceed 80% of lot frontage.

All parcels are required to share similar parking lot lighting elements, and are to be shielded to prevent light disbursement in all directions. Parcel 4b is permitted to have light poles up to 25 feet between the street wall line of the building and U.S. Highway 54; otherwise light poles are limited to 20 feet

(General Provisions No. 16 and 17). Exterior audio systems that project sound beyond the boundary of the CUP are prohibited (General Provision No. 20). All building exteriors within the CUP shall share consistent architectural design, earth tone colors and textures, unless waived as outlined in General Provision No. 23. Parcel 4b shall maintain compatibility with either Parcel 4a or Parcels 1a, 1b, 1c and 2 as a group (General Provision No. 23).

CASE HISTORY: The Prairie Pond Plaza CUP and LC zoning (CUP2003-00075 and ZON2003-65) were approved by the MAPC on May 6, 2004; City Council approval was on June 8, 2004. The Prairie Pond Plaza 2nd Addition was recorded in 2007. Case number CUP2008-00036 (September 30, 2008) was an Administrative Adjustment to divide Parcel 1 into three parcels; consolidate Parcels 4 and 5; relocate the alignment of Kellogg Drive; increase the height of lighting to 25 feet on Parcel 4 and increase the sign height to 25 feet on Parcel 4. CUP2008-04 (March 21, 2008) was an Administrative Adjustment to divide Parcel 1 into three parcels; consolidate Parcels 4 and 5; relocate the alignment of Kellogg Drive; increase light height to 25 feet on Parcel 4 and increase sign height to 25 feet on Parcel 4. Additional Administrative Adjustments were completed on December 12, 2004 and June 1, 2007.

ADJACENT ZONING AND LAND USE:

NORTH: LC, subject to DP-273, SF-5; vacant, single-family residences
SOUTH: SF-20; large lot single-family residential (Springdale Country Club Estate)
EAST: LC, subject to DP-273; vacant
WEST: LC, subject to DP-273; Quick Trip convenience store

PUBLIC SERVICES: Public services are available or are available for extension. 143rd Street is designated on the 2030 Transportation Plan map as a two lane arterial, while U. S. 54/400 is shown as a four lane expressway. Traffic counts are not available for 143rd Street. In 2005-2006, U. S. 54/400 carried approximately 31,900 vehicles on an average day.

CONFORMANCE TO PLANS/POLICIES: Commercial location guideline number six (page 35 of 1999 update of *The Wichita-Sedgwick County Comprehensive Plan*) states that auto sales lots and other types of infrequent purchase or non-neighborhood serving commercial uses are to be guided to areas containing similar uses, and away from neighborhood commercial areas. The 2030 Wichita Functional Land Use Guide Map depicts the subject site, and all the land along the north side of U. S. 54/400, as being appropriate for “regional commercial” uses. Regional commercial uses are defined as major destination areas (centers and corridors) containing concentrations of commercial, office, and personal service uses that have predominately regional market areas and high volumes of retail traffic. These areas are located in close proximity to major arterials or freeways. The range of uses includes major retail malls, major automobile dealerships and big box retail outlets with a regional draw.

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

1. DP-273 is amended to permit “vehicle and equipment sales, outdoor” on Parcel 4b only. The site shall be developed, operated and maintained in compliance with the approved site plan and all applicable local, state and federal regulations, including, but not limited to the zoning code, landscape ordinance and sign code, unless specifically modified by the development standards of DP-273 or by other approved adjustment or amendment.

2. No automotive service or repair work shall be done on the site unless it is entirely within a building. No body or fender work shall be permitted without first obtaining "GC" General Commercial zoning.
3. If required, the applicant shall submit a revised site plan for review and consideration for approval by the Planning Director, prior to the issuance of a building permit within one-year of approval by the MAPC or the City Council.
4. Landscaping per city code, and as shown on an approved landscape plan, shall be installed prior to obtaining an occupancy permit. The applicant shall submit a landscape plan for consideration of approval by the Planning Director prior to obtaining an occupancy permit.
5. A parking barrier, such as a heavy rail type, shall be installed along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public right-of-way.
6. No temporary display signs are permitted, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, bunting, search lights, balloons or similar devices.
7. There shall be no use of elevated platforms for the display of vehicles. All vehicles for sale or for repair must be on a concrete, asphalt or an approved all weather surface.
8. No outdoor amplification system shall be permitted.
9. No outside storage of salvaged vehicles or vehicles waiting for repair shall be permitted in association with this use. Outside storage of parts, including tires, associated with the "car repair, limited," operation shall be within a 6-foot solid screened area.
10. Lighting standards shall be as outlined in General Provisions 16 and 17 of DP-273.
11. All trash receptacles, oil containers or any similar type of receptacles for new or used petroleum products or trash shall have solid 6-foot screening around it. The gate shall be of similar materials as the screening.
12. Driveway location shall be reviewed and approved by the Traffic Engineer prior to obtaining a building permit.
13. All improvements shall be completed within one-year of the approval of this amendment by the MAPC or the City Council. No selling of cars shall be allowed until all permits have been acquired and all improvements to the site have been made.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The properties immediately located on three sides of the application area are zoned LC, subject to the development standards detailed in CUP DP-273. All the property located within DP-273 is vacant except for the Quiktrip convenience store located immediately to the west of the subject site. Other vacant parcels

located within the CUP are located to the application area's north and east. DP-273 contains 17.11 acres and is positioned at the intersection of South 143rd Street East, a two-lane section line road and U. S. Highway 54/400, a divided four-lane expressway. South of U. S. 54/400 is a large lot residential subdivision developed with single-family homes. North of DP-273 is also a large lot single-family residential subdivision, zoned SF-5. East of the site is a large estate of approximately 77 acres zoned SF-20. The segment of U. S. 54/400 located east and west of the application is one of the few areas where single-family lots abut highway right-of-way.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC subject to the development standards contained in DP-273, which includes a prohibition on "vehicle and equipment sales, outdoor." The CUP lists 35 uses that were specifically prohibited when the LC zoning and the CUP zoning overlay were approved in 2004. The LC district permits 66 uses by right. Given the 31 other potential LC uses not prohibited by the CUP, it is probable the site could be put to an economically viable use.
3. Length of time the subject property has remained vacant: DP-273 was approved in 2004 and the property has remained vacant. Staff does not have any indication of how long the property has been on the market since it was zoned LC subject to DP-273 or of the reasonableness of the asking price. It appears Parcel 4b was created in 2008.
4. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed development standards should mitigate anticipated impacts of the proposed amendment. The site is buffered spatially from residentially zoned lots by either intervening LC zoned lots or by U. S. 54/400 right-of-way. The closest residentially zoned lots are located 213 feet away from the subject parcel, across U. S. 54/400. Lots located to the north are 235 feet away.
5. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Presumably denial would represent an economic and opportunity loss to the property owner and/or the prospective user if the request is denied. Approval would give the public another location in which to shop for vehicles.
6. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: Commercial location guideline number six (page 35 of 1999 update of *The Wichita-Sedgwick County Comprehensive Plan*) states that auto sales lots and other types of infrequent purchase or non-neighborhood serving commercial uses are to be guided to areas containing similar uses, and away from neighboring commercial areas. The 2030 Wichita Functional Land Use Guide Map depicts the subject site, and all the land along the north side of U. S. 54/400, as being appropriate for "regional commercial" uses. Regional commercial uses are defined as major destination areas (centers and corridors) containing concentrations of commercial, office, and personal service uses that have predominately regional market areas and high volumes of retail traffic. These areas are located in close proximity to major arterials or freeways. The range of uses includes major retail malls, major automobile dealerships and big box retail outlets with a regional draw.
7. Impact of the proposed development on community facilities: Community facilities are in place or are available for extension.

DALE MILLER, Planning Staff presented the Staff Report.

ED MURABITO, 412 RIVERVIEW, ARCHITECT for the proposed project said this will be a “high end” auto sales location operating from 9:00 a.m. - 8:00 p.m. with 2 employees and a small office building to handle sales. He said the location will not have the capacity for prepping or maintenance or service of automobiles. He said there will be no loud speakers and that the operation will be very low key. He said there will be 1 entrance to the site 200 feet from any close residential area.

DENNIS stated that the operating hours were not listed under the conditions in the Staff Report. He asked if the agent would object to operating hours being added as a requirement.

MURABITO said he does not believe that will be a handicap for his client at all.

GREG FRANCO, 394 HILLSDALE DRIVE said he lives adjacent to DP-273. He provided Commissioners a handout. He briefly summarized his statement saying that the protective overlay DP-273 was established for this site and the surrounding single-family neighborhood and requested that it stay in force. He said there is an existing traffic problem at this intersection now and it will get worse without roadway improvements and the addition of another business. He requested a traffic study before any commercial additions to the area; a stormwater runoff study for this particular usage; and no Kellogg entrance, no turn around, and no parking. He said there are other sites available that are more suitable for this type of business. He said part of the problem is that the Quiktrip is located too close to Kellogg causing traffic congestion problems. He also mentioned standing water and mud because of the landscaping east and west on 143rd Street. He said he does not agree with the Staff Report that 143rd Street is a major roadway. He said you can wait in a traffic line for up to a half hour to go from Kellogg onto 143rd Street. He said stormwater runoff from one acre of pavement can generate 825,000 gallons of water in a year. He asked how that might impact the subdivisions of Springdale Country Estates, Springdale Lake and Springdale East. He also mentioned possible pollution from oil and grease on the car lot.

MOTION: To give the speaker 2 additional minutes.

SHEETS moved, **FOSTER** seconded the motion, and it carried (10-0).

FRANCO said he located 6 areas for sale west of K-96 that would be better suited for vehicle and equipment sales, two of which already have existing buildings and are not adjacent to residential neighborhoods. He concluded by stating that the road improvements that are going to happen in the 2030 Wichita Functional Land Use Guide are a long way from now. He said until that time when traffic is not as congested, he requested that the Commission not allow another business to go into the site.

LARRY FRUITIGER, 102 SOUTH CARDINAL LANE, PRESIDENT PARKEAST HOMEOWNERS ASSOCIATION said there are 46 homes in Parkeast which is the area north of the site. He said the homes are large acre lots in a long established area. He said they expressed their concerns about this Community Unit Plan (CUP) in 2004 during the approval process and worked with the developer on the restrictions. He said the restrictions are there for a reason and that is to protect the surrounding neighborhood. He said the neighborhood wants those restrictions to remain in place. He said he has the same issues with the Quiktrip store citing trash, lights, and semi trucks parking along East Kellogg Drive and running all night. He said removing this restriction and allowing vehicle sales

will only add to the light issues. In addition, he said trucks unloading vehicles at the site late at night and sitting out there running all night will be another issue. He said when they previously met with the developer of the CUP they understood that there was going to be an 8-foot masonry wall built between the development and the neighborhood before anything was built on the property. He said that is not exactly what has happened. He said now it appears that the wall will happen as the individual lots are developed. He said this site does not have direct access to Kellogg and the intersection is now very congested and not adequate to handle turning traffic and traffic coming out of Quiktrip. He mentioned the need for a traffic study of the area and added that there are other lots available opposite of Lowe's and several vacant building sites that would be more suitable. He asked the Planning Commission to deny the request.

DAVID SUTTON, 330 SOUTH CARDINAL LANE said he lives just north of the property in question. He said he wanted to share his concerns about the issues already identified which he feels are valid points. He mentioned lighting and how this development would add to that problem. He added that headlights from Quiktrip traffic in the early morning and late evening are also a problem. He said access to this business will bring the vehicle lighting even closer to residences. He also mentioned noise pollution with the large semi-trucks idling overnight. He asked that this change in restrictions previously agreed to be denied.

KENT WEIXELMAN, 122 CARDINAL LANE said he was on the Parkeast Committee who met in good faith with the owner in 2004 to come up with a consensus between the developer and residents that resulted in the agreement on the current plan. He said this requested update is like an agreement between business partners and after a while if one of the parties discovered a loophole and decided to use it, by most people that would be considered unethical. He asked that the request be denied.

VERDINA NEWMAN, 340 SOUTH CARDINAL LANE said she doesn't know if they emphasized clearly enough how intrusive the lighting from cars coming out of Quiktrip can be. She said they come out of the drive to the north because the drive to the west of Quiktrip is too full and too backed up. She said semis sit with their lights on directly to the back of their homes where they like to spend leisure time on their patios in the evenings. She said when they moved there, they thought there was going to be a wall between that property and theirs. She said once the developer split the property and put the Quiktrip to the south, it was decided that the wall didn't need to be there. She said at least 1 semi parks and idles every night. She concluded by stating that it is intrusive to have lights shining in the back of your house all night long.

FOSTER asked if the problem was isolated to vehicular lights or from taller lighting at the Quiktrip.

NEWMAN said it was isolated to vehicular lights. She mentioned that Quiktrip has done a good job of placing the lights under the pumps so the building is taller than the lights themselves.

RICK TRAVIS, 250 SOUTH CARDINAL LANE said they encounter all the same problems such as noise, traffic, trash and people who cut through the neighborhood from Quiktrip. He said he understands that expansion of the highway to 3 lanes is scheduled for at least 5 years, which in reality probably means 10 years. He mentioned opening up access to the frontage road and that Kansas Department of Transportation (KDOT) may have a problem with that. He mentioned the semis that park nearby and run all night long. He said there are 3 to 5 wrecks a week at the location and added that cars stack up and you have to wait through 3 and 4 lights to turn north onto 143rd Street in addition to cars trying to turn south onto 143rd Street out of Quiktrip. He said the dirt that was along Kellogg which was

4-5 feet tall was a natural barrier to sound, but that was cut down to allow the drainage to work properly. He said the mound of dirt behind Quiktrip, with no grass, no trees and or wall, transfers sound up through the housing development and carries through the entire neighborhood. He said it is terrible. He said they can also hear traffic and noise from the turnpike and the truck driver's air brakes. He said they are trapped between 2 noise barriers. He said they don't need any more development until the City steps up with a traffic plan to solve the traffic problem. He said somehow the agreement got changed and now the walls don't have to be built until people purchase the lots to the north. He said the car lots on South Seneca have walls between them and residential areas so residents don't have to look onto the car lots.

ALDRICH asked if Mr. Travis got his gas at Quiktrip?

TRAVIS replied no, never.

JOHN NEWMAN, 340 SOUTH CARDINAL LANE said he buys his gas at Quiktrip and also picks up all the trash that blows over onto his property. He said the Commissioners have no idea the horrendous amount of traffic on East Lewis. He said it is so loud right in their backyard he can't explain how loud it is. He said semi-tractor trailers park along Lewis and leave their motors running all night long. He said he is against putting in a car lot at this location.

ED MUBARITO said about 10 years ago he drove through the area with his wife noting that it was a very pleasant enclosed beautifully landscaped loop; however, he mentioned to his wife that Kellogg will be developed at some point in time and that bothered him. He said the uses allowed in the area are very intense including drive thru restaurants and regular restaurants. He said his client has 2 businesses in town at Broadway and Kellogg and Hydraulic and Douglas which he said are unlike some of the establishments on South Broadway and South Seneca where they take in wrecked cars, part them out and throw the parts behind the building. He said vehicle deliveries will be during working hours of 9:00 a.m. – 8:00 p.m. He said this will be very low intensity as far as traffic is concerned. He said it could be a great deal worse if this is not allowed and some of the things that are allowed go onto the site. He said he sympathizes with the traffic, the lights and trucks idling at night, but he said they will not be adding those kinds of problems. He mentioned that Quiktrip does have drainage problems and they have spent time with a drainage engineer to address drainage that comes across their property.

FOSTER asked why Quiktrip is listed on the application.

MUBARITO explained that his client is purchasing the property from Quiktrip.

FARNEY asked where the car haulers will come into to deliver vehicles.

MUBARITO said car haulers will use the main entrance.

WARREN asked staff to list the types of business that are approved for this lot.

MILLER said Parcel 4B and DP-273 uses include uses defined in the LC zoning including but not limited to banks or financial institutions, assisted living, general retail and drive thru restaurants, restaurants that serve liquor as long as food is the primary service.

WARREN said he is asking himself if this type of business is going to add more traffic than the types of businesses that are already allowed. He said his experience is that car lots have fairly light traffic. He said therefore, he will be voting in favor of staff recommendation because he feels this is one of the lightest uses that this property can have and is more beneficial than a number of the types of businesses that are already allowed in this area.

MOTION: To approve subject to staff recommendation.

WARREN moved, **FARNEY** seconded the motion for discussion purposes.

DENNIS suggested adding a condition to limit the hours of operation to 9:00 a.m. – 8:00 p.m. and adding a condition that idling tractor trailers be prohibited on the property.

The motion maker and second agreed to the suggested additions to the motion.

FOSTER mentioned compelling information the Commission has received today regarding traffic, car lights and drainage. He said his **motion** would include additional conditions such as a traffic study, drainage plan and to amend the requirements of the CUP to require that the 2 lots to the north meet the screening requirement called for in the CUP.

CHAIRMAN FARNEY asked for a second on the motion.

DIRECTOR SCHLEGEL asked for clarification of the motion. He said the drainage plan and traffic study would be requirements of the applicant. He said the 2 lots to the north are under separate ownership. He said this applicant would have no way to compel the other owners to provide screening.

FOSTER asked about Quiktrip's ownership in the CUP.

MILLER said he understands that Quiktrip owns the 2 lots on the south side of the CUP. The rest of the CUP is under separate ownership.

FOSTER said he would like to amend the motion to require screening along the north side of the 2 southern parcels owned by Quiktrip.

There was further discussion regarding the motion and other issues including the type of screening, a prohibition on parking on the streets, whether the Commission could require Quiktrip to screen if they were not present at the meeting, and whether this was a contingent sale.

FIRST SUBSTITUTE MOTION fails due to lack of a second.

SECOND SUBSTITUTE MOTION: To deny the application.

SHEETS moved, **ALDRICH** seconded the motion, and it failed (3-7). **DENNIS, FARNEY, KLAUSMEYER, MCKAY, MILLER STEVENS, MITCHELL** and **WARREN** – No.

MOTION: To approve subject to staff recommendation.

WARREN moved, **FARNEY** seconded the motion, and it carried (7-3). **ALDRICH, FOSTER** and **SHEETS** - No.

The Metropolitan Area Planning Commission adjourned at 5:04 p.m.

State of Kansas)
Sedgwick County) ^{SS}

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

Given under my hand and official seal this _____ day of _____, 2012.

(SEAL)

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