

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

July 5, 2012

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, July 5, 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; Bob Aldrich; David Foster; Bill Johnson; Don Klausmeyer; Ron Marnell; M.S. Mitchell; Debra Miller Stevens and Chuck Warren. David Dennis; John W. McKay, Jr.; Morrie Sheets; Don Sherman; and George Sherman were absent. Staff members present were: Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Robert Parnacott, Assistant County Counselor and Maryann Crockett, Recording Secretary

1. Approval of the June 7, 2012 Planning Commission meeting minutes.

MOTION: To approve the June 7, 2012 meeting minutes, as amended.

KLAUSMEYER moved, **MITCHELL** seconded the motion, and it carried (9-0).

Approval of the June 21, 2012 Planning Commission meeting minutes.

MOTION: To approve the June 21, 2012 meeting minutes, as amended.

KLAUSMEYER moved, **MITCHELL** seconded the motion, and it carried (9-0).

2. CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS

COMMISSIONER JOHNSON recused himself from the item.

2-1. SUB2012-00016: One-Step Final Plat - INDUSTRIAL PARK COMPLEX 2ND

ADDITION, located 1/4 mile south of MacArthur Road, on the east side of K-15 Highway at 4218 Southeast Boulevard.

NOTE: This is unplatted property located in the County within three miles of the City of Wichita. It is in an area designated as "Employment/Industry Center" by the Wichita-Sedgwick County Comprehensive Plan.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that water and sewer services are available to serve the site.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. County Engineering has approved the applicant's drainage plan. City Stormwater Management requests a drainage plan. KDOT requests a drainage plan prior to site development.

- D. County Surveying advises that the dimension of 91.2 feet for Southeast Drive needs to be shown along the section line, not perpendicular to the right-of-way line.
- E. County Surveying advises that on the final plat, along the top under the words “Sedgwick County, Kansas” the bearing is inconsistent with the bearing listed in other places. It appears that 32” should be 31” E.
- F. The “Plant Easement” should reference “KG&E/Westar” to clarify that it is an electric utility easement. Both companies are listed in the easement document.
- G. The railroad name should be BNSF.
- H. Item 9 under “Notes” on the preliminary plat states there are no access controls which is incorrect. The plat denotes one opening along Southeast Drive. The final plat tracing shall reference the dedication of access controls in the platting text.
- I. The right-of-way width needs denoted for K-15 Highway.
- J. Provisions shall be made for ownership and maintenance of the proposed reserves. A covenant shall be submitted regarding ownership and maintenance responsibilities.
- K. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- L. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- M. The applicant is reminded that this site is located within three miles of the municipal boundaries of Wichita and will be heard by City Council. Therefore, the City Council signature block needs to be included on the final plat.
- N. The signature block for the Board of County Commissioners should be revised to read underneath the signature line, “Tim R. Norton, Chairman, Second District.”
- O. The owner’s Certificate needs to correct the spellings of the following: “Reserve A”, “an Owner’s Association”, “rights-of-way” and “stormwater”.
- P. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- Q. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.

- R. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- S. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- T. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- U. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- V. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (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.
- W. Perimeter closure computations shall be submitted with the final plat tracing.
- X. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- Y. 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.

MITCHELL moved, **ALDRICH** seconded the motion, and it carried (8-0-1).
JOHNSON – Abstained.

- 3. **PUBLIC HEARING – VACATION ITEMS**
- 3-1. **VAC2012-18: City request to vacate a portion of a platted storm sewer easement.**

- APPLICANT/AGENT:** Via Christi (applicant) PEC, PA, c/o Rob Hartman (agent)
- LEGAL DESCRIPTION:** Generally described as vacating the West 123.25 feet of a platted 20-foot Storm Sewer Easement being the North 20 feet of the West 362.5 feet of Lot 1, Block A, St. Joseph Medical Park Addition, Wichita, Sedgwick County, Kansas
- LOCATION:** Generally located east of Hillside Avenue, north of Harry Street and northeast of Clifton and Grand Avenues (WCC #III)
- REASON FOR REQUEST:** Future building site
- CURRENT ZONING:** The site is zoned GO General Office (“GO”) and LC Limited Commercial (“LC”). Abutting northern properties are zoned LC and TF-3 Two-Family Residential (“TF-3”). Adjacent (across Clifton) western properties are zoned LC and B Multi-Family Residential (“B”). Adjacent (across Harry) southern properties are zoned LC.

The applicant proposes to vacate the described portion of the platted 20-foot wide (x) 362.5-foot long storm sewer easement. Stormwater and water and sewer have utilities in the east 240 feet of the platted easement; that portion of the easement will be retained. There is a private “electrical switch gear” located in the portion of the subject easement, which the applicant proposes to relocate. No other utilities are located within the described portion of the easement. The St. Joseph Medical Park Addition was recorded with the Register of Deeds October 19, 1973.

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/Storm Water, 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 storm sewer easement.

- 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 June 14, 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 storm sewer easement 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) Retain that portion of the platted storm sewer easement that is needed by Stormwater, Water & Sewer and other utilities.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense, including the relocation of the "electrical switch gear." Provide any needed easements for relocated utilities, prior to this case going to City Council for final action.
- (3) All improvements shall be according to City Standards and at the applicant's expense. 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) Retain that portion of the platted storm sewer easement that is needed by Stormwater, Water & Sewer and other utilities.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense, including the relocation of the "electrical switch gear." Provide any needed easements for relocated utilities, prior to this case going to City Council for final action.
- (3) All improvements shall be according to City Standards and at the applicant's expense. 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.

MITCHELL moved, **ALDRICH** seconded the motion, and it carried (8-0-1).
JOHNSON – Abstained.

PUBLIC HEARINGS

4. **Case No.: CON2012-28** - Barbara J. Nottingham/Dennis H. Lawson request a County Conditional Use for a Recreational Vehicle Campground in RR Rural Residential ("RR") zoning for a single camping trailer on property described as:

The West 30 acres of the Northwest Quarter of Section 10, Township 29, Range 1 West of the 6th P.M., Sedgwick County, Kansas.

BACKGROUND: The applicant is seeking Conditional Use approval for a "recreational vehicle campground" ("RV campground") on one-half acre of land located south of West 79th Street South and approximately 2,230 feet west of South 55th Street West that is zoned RR Rural Residential ("RR"). The applicant owns a total of thirty acres, including the one-half acre of land intended for the RV campground. Dry Creek runs north to south through the applicant's thirty acres with another tributary to Dry Creek entering from the west, placing most of the applicant's ownership within the 100 or 500 year floodplain. The creek bottoms are heavily forested and provide good habitat for wildlife. Recently the applicant had the property surveyed to remove one-half acre, the northeast corner, of his ownership from the floodplain. The applicant then constructed a carport on the one-half acre in order to provide protection for a recreational vehicle that the applicant wishes to park on the site and leave for extended periods of time. The applicant purchased the thirty acres with the intention of using the property for personal outdoor activities, such as hunting and fishing. It is the applicant's intention to place a single recreational vehicle on the site and use it in lieu of a permanent structure. In short, the RV will substitute for a building and will be used as a country residence or hunting cabin. A septic system has been installed and a water well permit has been pulled.

Sec. III-D.7.b.(4) of the Wichita-Sedgwick County Unified Zoning Code ("UZC") lists garages, carports and private parking areas as residential accessory uses; therefore, parking of motor vehicles in residential districts is an accessory use, requiring a principal use or structure. Sec. III-D.7.b.(12) indicates the parking for more than 72 hours and / or the storage of certain motor vehicles and equipment in the County is permitted: (a) The following accessory uses shall be permitted in the unincorporated area of the County when such are the personal property of the occupant of the dwelling unit and are screened as specified in Section 19-22 of the Sedgwick County Code: 1) parking and / or storage of motor vehicles whether operable or inoperable and 4) parking and / or storage of unoccupied recreational vehicles.

The parking of a non-agricultural vehicle on RR zoned property that does not have a principal structure is prohibited. The UZC recognizes the following definitions dealing with parking:

"Parking" means the temporary location of motor vehicles (except for vehicles, inoperable), boats, trailers and unoccupied recreational vehicles.

"Parking area, ancillary" means an area other than a private or commercial parking area, street or alley that is located in any district from the most restrictive through NO (neighborhood office) inclusive, and that is used for the parking of passenger vehicles as accessory parking to a principal use that requires the same or more intensive district than the district in which the ancillary parking area is located. Parking area, ancillary, requires a Conditional Use in the RR zoning district.

"Parking area commercial" means an area or structure used or intended to be used for the off-street parking of operable motor vehicles on a temporary basis, other than as accessory parking to a principal nonresidential use. Parking area, commercial is first permitted in the GO General Office zoning district.

"Parking area private" means an area, other than a street or alley, used or intended to be used for the parking of the motor vehicles, boats trailers that are exempt from motor vehicle registration by the state or are registered or are required by law to be registered with Kansas 8M license plates in the County, and unoccupied recreational vehicles, any of which shall be owned, leased, borrowed, etc. by the occupants of a dwelling unit that is located

on the same zoning lot, and wherein not more than one commercial vehicle per dwelling unit is parked and the permitted commercial vehicle does not exceed 26,000 pounds gross vehicle weight rating.

“Vehicle storage yard” means 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. Vehicle storage yard is permitted in the RR district with Conditional Use approval, but is subject to supplementary use regulation mm.

Based upon the definitions noted above, the proposed placement of the applicant’s occupied RV on land not having a principal structure could not be construed to be some form of parking or storage, staff concluded the most logical approach to the circumstances was to call the activity a ‘recreational vehicle campground.’ Recreational vehicle campground means the use of land designed for occupancy by recreational vehicles for temporary or transient living purposes, including the use of camping spaces for tents.” A recreational vehicle campground is permitted in the RR district with Conditional Use approval.

All surrounding property is zoned RR. Property located to the north of West 79th Street South is used for large-lot residential, and/or agriculture. Land to the east is used for agriculture. The land located south and west of the proposed half-acre RV campground is owned by the applicant. Land located further south is agricultural while land located further west is used for large-lot residential.

CASE HISTORY: BZA2012-00020 approved on May 9, 2012, allowed the reduction of the front building setback from a section line road from 85 feet to 63 feet.

ADJACENT ZONING AND LAND USE:

NORTH: RR Rural Residential; large-lot single-family residences, agriculture
SOUTH: RR Rural Residential; owned by the applicant, agriculture
EAST: RR Rural Residential; agriculture
WEST: RR Rural Residential; owned by the applicant; large-lot single-family residences, agriculture

PUBLIC SERVICES: Public sewer and water service are not available. 79th Street South at this location has thirty feet of half-street right-of-way.

CONFORMANCE TO PLANS/POLICIES: The applicant’s thirty acres are designated by the Wichita and Small Cities 2030 Urban Growth Areas map a rural area, which encompasses land outside the 2030 urban growth area for Wichita and the small cities. This category is intended to accommodate agricultural uses, rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County.

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 permits a recreational vehicle campground located in the northeastern corner of the applicant’s ownership, as depicted on the approved site plan. The recreational vehicle campground is restricted the parking of one recreational vehicle.
2. The recreational vehicle campground shall be developed and maintained in general compliance with the approved site plan. All improvements and the operation of the recreational vehicle campground shall be in compliance with applicable local, state or federal regulations or codes.
3. If the Zoning Administrator finds that there is a violation of any of the conditions of approval 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 the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The application area is located in a rural portion of Sedgwick County and is surrounded by property that is zoned RR, some of which is developed with large-lot residences and some of which is used for agriculture.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned RR which permits, by right, single-family residences, manufactured home, group home and a few non-residential uses such as day care, limited, parks, golf course and agriculture. The site could be used as currently zoned, just not as conveniently or inexpensively as proposed.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request will introduce a use that is not currently in the area; however, the scale requested and the recommended conditions of approval should mitigate any detrimental impacts.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The public's health and safety should not be impacted by the request. Denial of the request could represent a loss in use and enjoyment to the applicant's property.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The applicant's thirty acres are designated by the Wichita and Small Cities 2030 Urban Growth Areas map a rural area, which encompasses land outside the 2030 urban growth area for Wichita and the small cities. This category is intended to accommodate agricultural uses, rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County.
6. Impact of the proposed development on community facilities: None identified.

DALE MILLER Planning Staff presented the Staff Report. He reported that the Haysville Planning Commission unanimously approved the proposal last week.

FOSTER referred to the case history on page 3 of the Staff Report. He noted that on May 9, 2012 the Board of Zoning Appeals (BZA) voted to reduce the setback requirement from 85 to 63 feet. He asked when it was determined that there was a need for the conditional use and what the BZA comments were regarding the "self-created" hardship.

MILLER responded that the BZA case was for locating the carport closer to the section line road. He said to his knowledge that is when the need for conditional use became apparent. He said he couldn't remember the comments of the BZA members and asked **COUNSELOR PARNACOTT** if he had any input.

BOB PARNACOTT, ASSISTANT COUNTY COUNSELOR explained that although he was present at the meeting, he did not participate as the legal representative of the BZA. He said the BZA made the finding based on the layout of the property and determined that the circumstances associated with the request did not pose a self-created hardship. He said allowing the applicant to locate the carport closer to the road would typically have been handled as an administrative adjustment up to 20%; however, the 63 feet was just a little over that percentage. He said the request just barely missed being handled by the administrative adjustment procedure.

MILLER referred to a picture of the site and explained that because of the tree line, there was not a lot of room or options for location of the carport.

FOSTER clarified that the carport was out of the flood plain.

MILLER responded yes.

FOSTER referred to the site plan and asked about the accessory structure on the property.

MILLER said he believed it was a shed, but stated that the applicant was present and he could answer that question.

DENNIS LAWSON, 230 NORTH WOOD, APPLICANT said that was a shed that has been on the property for 30 some-odd years which was used to store hay. He said at one time there were cattle on the site.

ALDRICH asked the applicant if he supported staff recommendations.

LAWSON responded yes.

FOSTER said although he agreed that this was a creative solution, he was concerned about setting a precedent and so he would not be supporting the motion.

MOTION: To approve subject to staff recommendation.

ALDRICH moved, **KLAUSMEYER** seconded the motion, and it carried (8-1).

FOSTER – No.

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5. **Case No.: ZON2012-17 and CUP2012-16** – Great Plains Ventures, c/o Ann Marque (owner) and Baughman Company, P.A., c/o Phil Meyer (agent) request to create the Great Plains Commercial and Multi-Family Residential Community Unit Plan and City zone change request from LI Limited Industrial ("LI") to GC General Commercial ("GC") to allow general commercial and/or multi-family residential development on property described as:

BACKGROUND: The applicant is seeking GC Limited Commercial ("GC") zoning subject to the development standards contained in the proposed Great Plains Commercial and Multi-Family Residential Community Unit Plan ("CUP") DP-326. The undeveloped, 12.03-acre site is currently zoned LI Limited Industrial ("LI") and is platted as Lots 2-6, Block 3, the Great Plains Business Park 3rd Addition. The Wichita-Sedgwick County Unified Zoning Code's ("UZC") LI zoning district does not allow residential uses, while the GC zoning district allows all residential uses with the exceptions of manufactured home, manufactured home subdivision and manufactured home park; UZC, Sec.III-D.1-5. The UZC recommends a CUP or a PO Protective Overlay ("PO") for GC and LC Limited Commercial ("LC") zoned sites of 6-acres or more, that are held under unified control at the time of initial approval. A CUP is intended to provide well planned and well organized residential, commercial and mixed development.

The site is located less than a ¼-mile south of 37th Street North, on the east side of Ridgewood Street, and north of K-96. The southernmost portion of the City of Bel Aire (single-family residential development) is located north of the site across 37th Street North. The site is the eastern end of a group of mostly LI zoned properties running from I-135 (west) to Edgemoor Boulevard (east) and on both sides of 37th Street North. Edgemoor does not extend to the site, thus the site has no access to Edgemoor. Smaller areas of LC and GC zoned properties break

up the area's LI zoning, as does undeveloped SF-5 Single-Family Residential ("SF-5") zoned properties. The Missouri – Southern rail road right-of-way is the northwestern border of the site's area.

Immediate development located north and west of the site are LI zoned office-warehouses, a manufacturing facility, office buildings, a motel, vacant land and a SF-5 Single-Family Residential ("SF-5") zoned church. The developed portion of this area looks more like a well tended industrial park with no outside storage or display. State highway K-96 abuts the south side of the site. Most of the east side of the site abuts the SF-5 zoned Chisholm Creek Public Park, with the rest of the east side abutting undeveloped SF-5 zoned land; Chisholm Trail Church of Christ Addition, recorded May 6, 2008. A FEMA Floodway (contained within platted reserves) runs north to south through the middle of this abutting undeveloped, SF-5 zoned land. This floodway must be addressed for future development of this property.

The applicant proposes to permit all GC uses except: sexually oriented business, correctional placement residence, night clubs, taverns and drinking establishments, recreational vehicle campground, asphalt and concrete plant, limited, cemetery. The applicant proposes restaurants with drive thru windows, convenience stores, service stations and vehicle repair, limited and general are allowed if located more than 200 feet from residential uses. The applicant also proposes that any overhead doors associated with vehicle repair, limited and general, warehouses and loading docks must not face residential zoning. The applicant proposes car washes in the CUP be subject to the supplementary use regulations of Sec. III-D.6.f of the Unified Zoning Code.

The site is shown as Parcel 1. Building setbacks are proposed to be 20 feet along street side yard, interior side yard and the rear yard lines. The front yard setback is proposed to be 25 feet. As noted the site abuts the undeveloped SF-5 zoned property on its east, interior side yard. The site's current LI and proposed GC zoned triggers compatibility setback standards of 25 feet. Staff recommends a 35-foot building setback (CUP standard) where the site abuts the undeveloped (non park land) SF-5 zoned property and the applicant's proposed setbacks everywhere else. Proposed maximum building coverage is 30 percent. Proposed maximum building height is 45 feet. The site's current LI and proposed GC zoned triggers compatibility height standards, which would impose of minimum height of 35 feet. Staff supports a waiver of the compatibility height standard because of the abutting public park preventing residential development and the impact of the undeveloped SF-5 property's floodway on its future development. Proposed screening is per the UZC; screening is required along the site's east side and a CUP requires a 6-8 foot tall masonry wall. Exceptions include when a site abuts a public or private park; most of the site's east side abuts Chisholm Creek Public Park. The applicant proposes 25-foot tall (including base and fixtures) light poles; the UZC has a 15-foot height limit when light poles are located within 200 feet residential zoning, which applies to this site. Proposed parking and screening for trash receptacles, outdoor storage, and loading areas are per the UZC. Landscaping is per the Landscape Ordinance. The applicant needs to add the UZC's nonresidential screening from roof top equipment. The applicant also proposes a total of 217 (multi-family) residential dwelling units, for a density of 18 (multi-family) residential dwelling units per acre. The applicant has provided architectural standards. The CUP proposes signage per the sign code with additional standards

CASE HISTORY: The site is located on Lots 2-6, Block 3, Great Plains Business Park 3rd Addition, which was recorded on June 13, 2002.

ADJACENT ZONING AND LAND USE:

NORTH:	LI, SF-5	Office, office- warehouses, manufacturing, vacant land, church
SOUTH:	K-96	State highway
EAST:	SF-5	Vacant land
WEST:	LI	Vacant land, office-warehouse, office, motel

PUBLIC SERVICES: Access to the site is provided by the paved and curbed, two-lane, local industrial road, Ridgewood Street. Ridgewood intersects with the paved, two-lane, minor arterial, 37th Street North. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan designates the site as “Employment/ Industry.” The Employment/ Industry category includes centers or concentrations of employment of 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. The site’s current LI zoning is not at odds with the Employment/ Industry category. Development in the area reflects the uses in this category. The current requested GC zoning more closely resembles the “Regional Commercial” category, but the site’s location at almost a ¼-mile south of the minor arterial 37th Street North, presents low vehicular visibility for commercial activity. The site does have visibility from K-96, but access to the site and its adjacent LI zoned development is limited to Ridgewood Street (a local industrial road) from its intersection with 37th Street North. The requested GC zoning district allows all residential uses with the already noted exceptions, while the current LI zoning does not; the GC zoning is district is a more restrictive than the LI zoning district. The requested GC zoning provides a transitional zoning and buffer between the LI zoned properties located west of the site and the abutting eastern, SF-5 zoned undeveloped property and the park. The proposed mixed use CUP provides additional standards to enhance the transitional zoning and buffer.

The site is located near the minor arterial street 37th Street North and from 37th it is close to access onto K-96. Access to and from the site’s area, to 37th is limited to Ridgewood Street. The site meets the locational criteria of the Comprehensive Plan. Ingress and egress will be determined at the time of a replat.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the proposed CUP and zone change be APPROVED, subject to replatting within one-year and the additional following development standards:

- A. In reference to General Provision 4 and the CUP drawing, include; a 35-foot setback (CUP standard) where the site abuts the undeveloped (non park land) SF-5 zoned property.
- B. Waive the Compatibility Height standards and allow a maximum 45-foot height.
- C. General Provision 5 shall include; If necessary, the CUP development plan shall be adjusted or amended to reflect final drainage requirements.
- D. General Provision 6 shall add; B. No Electronic Message Centers; E. add “...except shall not exceed...”; F. give more detail in regards to “...shall share similar elements in design.”
- E. Change General Provision 8 to include; A. “...and a 15-foot height limit (including fixtures, lamps and base) when light poles are located within 200 feet residential zoning.”
- F. Change General Provision 11 to include; a 6-8 foot tall masonry wall shall be placed along the east side of the site where it abuts the undeveloped SF-5 zoned (non park land) property.
- G. Change Provision 12 to include; the UZC’s standard for nonresidential screening from roof top equipment
- H. Revise General Provision 15 to; Permit all GC uses except sexually oriented business, correctional placement residence, night clubs, taverns and drinking establishments, outside storage, recreational vehicle campground, asphalt and concrete plant, limited, cemetery, and; restaurants with drive thru windows, convenience stores, service stations and vehicle repair, limited and general be allowed if located more than 200 feet from residential uses, and; any overhead doors associated with vehicle repair, limited and general, warehouses and loading docks must not face residential zoning, and; car washes in the CUP be subject to the supplementary use regulations of Sec. III-D.6.f of the Unified Zoning Code.
- I. Revise General Provision 18 to include; A restrictive covenant noting the conditions placed on this land shall be filed with the Sedgwick County Register of Deeds.
- J. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site is located less than a ¼-mile south of 37th Street North, on the east side of Ridgewood Street, south of the Missouri-Pacific railroad right-of-way and north of K-96. The south most portion of the City of Bel Aire (single-family residential development) is located northeast of the site across 37th Street North. The site is the east end of a group of mostly LI zoned properties running from I-135 (west) to Edgemoor Boulevard (east) and on both sides of 37th Street North. Smaller areas of LC and GC zoned properties break up the area's LI zoning, as does undeveloped SF-5 Single-Family Residential ("SF-5") zoned properties.

Immediate development located north and west of the site are LI zoned office-warehouses, a manufacturing facility, office buildings, a motel, vacant land and a SF-5 Single-Family Residential ("SF-5") zoned church. State highway K-96 abuts the south side of the site. Most of the east side of the site abuts the SF-5 zoned Chisholm Creek Public Park, with the rest of the east side abutting undeveloped SF-5 zoned land; Chisholm Trail Church of Christ Addition, recorded May 6, 2008. A FEMA Floodway (contained within platted reserves) runs north to south through the middle of this abutting undeveloped, SF-5 zoned land.

2. The suitability of the subject property for the uses to which it has been restricted: The currently LI zoned site could be developed similarly to the existing office-warehouses, manufacturing facility, office buildings and motel in its immediate area.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The down zoning from LI to GC will allow all residential uses with the exceptions of manufactured home, manufactured home subdivision and manufactured home park. The proposed GC zoning coupled with the proposed CUP will still not prohibit an office-warehouse, a manufacturing facility, office buildings, or a motel, which is the area's current development. The proposed GC zoning will eliminate some uses that are permitted by right on the LI zoning district
4. Length of time the property has remained vacant: The GeoZone 1997 aerial photo of the site shows it to be vacant.
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 designates the site as "Employment/ Industry." The Employment/ Industry category includes centers or concentrations of employment of 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. The site's current LI zoning is not at odds with the employment/ Industry category. Development in the area reflects the uses in this category. The current requested GC zoning more closely resembles the "Regional Commercial" category, but the site's location at almost a ¼-mile south of the minor arterial 37th Street North, presents low vehicular visibility for commercial activity. The site does have visibility from K-96, but access to the site and its adjacent LI zoned development is limited to Ridgewood Street (a local industrial road) from its intersection with 37th Street North. The requested GC zoning district allows all residential uses with the already noted exceptions, while the current LI zoning does not; the GC zoning is district is a more restrictive than the LI zoning district. The requested GC zoning provides a transitional zoning and buffer between the LI zoned properties located west of the site and the abutting eastern, SF-5 zoned undeveloped property and the park. The proposed mixed use CUP provides additional standards to enhance the transitional zoning and buffer.

The site is located near the minor arterial street 37th Street North and from 37th it is close to access onto K-96. Access to and from the site's area, to 37th is limited to Ridgewood Street. The site meets the

locational criteria of the Comprehensive Plan. Ingress and egress will be determined at the time of a replat.

6. Impact of the proposed development on community facilities: The project will generate increased traffic and demand for utilities and City supplied services; however, these demands would occur upon any development of the property and they can be met by existing or planned improvements.

BILL LONGNECKER Planning Staff presented the staff Report.

RUSS EWY, BAUGHMAN COMPANY, PA, AGENT FOR THE APPLICANT clarified that this was a proposed multi-family housing development within an existing business park, LI Limited Industrial zoning. He said during development of the project there was much debate regarding requesting MF-18 Multi-Family Residential zoning; however, there was a notion to retain some capacity for development of commercial or heavy business use in event the apartment complex did not come to fruition. He said; therefore, the request from LI to GC General Commercial required the CUP Community Unit Plan.

EWY referred to conditions A, E and F in the Staff Report which addressed setbacks; height limit of lighting; and type of screening required for the site. He said they have no problem with these provisions which he indicated are standard requirements per the Unified Zoning Code (UZC) if the site is developed for commercial uses; however, they are requesting changes to the provisions if the site is developed for an apartment complex. He added that it was his understanding that the Park Board will grant the applicant access to the park to the east. He said if this is developed as an apartment complex they would like it to be fenced with wrought iron (as opposed to a masonry wall). He concluded by referring to item I of the Staff Report and said that notice is typically submitted with the new CUP which puts future potential buyers on notice that there are additional zoning regulations affecting the site.

FOSTER asked if the applicant had the access agreement to the park in writing.

EWY commented that he just found out about that provision before this meeting; however, he added that the discussion should be reflected in Park Board minutes. He said the site plan does show 2 pedestrian access gates on the east side of the property.

FOSTER asked about provision #7 of the CUP regarding lighting being disbursed in a downward direction. He suggested that it make reference to shielding the lighting so it is not projected onto other properties.

EWY referred to provision #8 which he said was a standard UZC provision. He also mentioned limiting the height of the lights to 25 feet if developed as commercial or 15 feet if developed as residential. He said they would like to retain the language in the CUP.

FOSTER said he was concerned with light spilling over onto other properties.

EWY commented that the lighting would be shielded to direct the light in a downward direction.

WARREN questioned the either/or aspect of the request that if the property is developed as commercial or if the property is developed as an apartment there would be another set of rules. He asked staff to clarify how that was going to work and how the CUP would be worded to cover those contingencies.

LONGNECKER said items A, E and F would be adjusted depending on how the property develops, as either commercial or residential. He said they can get a copy of the agreement regarding access to the park from the Park Department.

MILLER clarified that **COMMISSIONER ALDRICH'S** motion included **COMMISSIONER FOSTER'S** suggestions regarding language on lighting.

MOTION: To approve subject to staff recommendation and changes to the lighting requirements.

ALDRICH moved, **MITCHELL** seconded the motion, and it carried (9-0).

NON-PUBLIC HEARING ITEMS

6. Other Matters/Adjournment

The Metropolitan Area Planning Commission adjourned at 1:55 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