

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

June 19, 2008

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, June 19, 2008, 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: M.S. Mitchell, Chair; Don Anderson (out @ 4:08 P. M.), Vice Chair; David Dennis; Darrell Downing; David Foster; Bud Hentzen; Hoyt Hillman; Bill Johnson; Ronald Marnell; John W. McKay Jr.; Don Sherman (in @ 1:35 P. M.); Debra Miller Stevens and G. Nelson Van Fleet. Michael Gisick was absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Bill Longnecker, Senior Planner; Derrick Slocum, Associate Planner and Lisa Estrada, Recording Secretary.

-
1. Approval of the June 5, 2008, MAPC meeting minutes

MCKAY moved, HILLMAN seconded the motion, and it carried (13-0).

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

Items may be taken in one motion unless there are questions or comments.

- 2-1. **SUB 2008-11: FALCON FALLS EAST ADDITION**, located south of 53rd Street North and on the east side of Hillside.

NOTE: This site is located in the County adjoining Wichita's city limits and annexation is required. The site is currently zoned SF-20 Single-family Residential ("SF-20") and will be converted to SF-5 Single-family Residential ("SF-5") upon annexation.

STAFF COMMENTS:

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed. Upon annexation, the property will be zoned SF-5 and allow for the lot sizes being platted.
- B. City Water Utilities Department requires the extension of water and sewer (mains and laterals) to serve all lots being platted.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. City Engineering has approved the drainage plan.
- E. Traffic Engineering has approved the access controls. The plat proposes one street opening along Hillside and complete access control along the remaining Hillside street frontage. Complete access control is needed on Highway 254.
- F. The plat has two Block B's.

- G. The building setback for Lot 25 adjoining Vassar Circle should be increased to 20 feet.
- H. A temporary turnaround for Vassar is needed at the east line of the plat. The plat's text should indicate that the vacation of the temporary turnaround area will be effective upon the extension of the street eastward.
- I. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets. The paving guarantee shall include the installation of a temporary turnaround for Vassar.
- J. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineer (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- K. Since Reserve E includes a swimming pool, a site plan shall be submitted with the final plat, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. The design for the pool must be submitted to Environmental Services for review prior to issuing a building permit for the pool.
- L. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- M. 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.
- N. Since this plat proposes the platting of narrow street right-of-way with adjacent "15-foot street drainage and utility easements," a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- O. The applicant shall submit a covenant that provides four (4) off-street parking spaces per dwelling unit on each lot that abuts a 32-foot or 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- P. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for Lot 32 adjoining Vassar Circle. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. The Subdivision Committee has approved the modification.
- Q. GIS requests the street stub to the east be named "Kite." Vassar should be renamed "Vassar Ave."
- R. City Fire Department has requested a restrictive covenant limiting development to 50 lots prior to construction of a secondary access.

- S. 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.
- T. 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.
- U. 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.)
- V. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- W. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- X. 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.
- Y. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Z. Perimeter closure computations shall be submitted with the final plat tracing.
- AA. Westar Energy has requested additional utility easements to be platted.
- BB. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendation.

SHERMAN moved, **HENTZEN** seconded the motion, and it carried (13-0).

- 2-2. **SUB 2008-29: BROAD STREET INDUSTRIAL PARK ADDITION**, located west of West Street and south of MacArthur Road.

NOTE: This is a replat of the Broad Street Addition in addition to adjoining unplatted property. This site is located in the County adjoining Wichita's city limits and annexation is required.

STAFF COMMENTS:

- A. Prior to this plat being forwarded to the City Council, the applicant shall apply for annexation to Wichita.
- B. Water Utilities Department requires a petition for future water services. Sewer has already been extended but sewer main in lieu of assessment fees are needed.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. County and City Engineering have approved the drainage plan.
- E. County Surveying advises that the Semcrude pipeline needs to be located on plat.
- F. County Surveying advises that utility easement Document #28947270 needs to be located.
- G. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- H. 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.
- I. 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.
- J. 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.)
- K. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- M. 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.

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

MOTION: To approve subject to staff recommendation.

SHERMAN moved, **HENTZEN** seconded the motion, and it carried (13-0).

- 2-3. SUB 2008-42: One-Step Final Plat -- IMBLER ESTATES 2ND ADDITION**, located on the northeast corner of 69th Street North and 151st Street West.

NOTE: This county plat is a replat of three lots in the Imbler Estates Addition, which includes the extension of a street. It is in an area designated as "Rural" by the Wichita-Sedgwick County Comprehensive Plan. It is located in the Colwich Area of Influence.

STAFF COMMENTS:

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval prior to MAPC.
- B. In conformance with the Urban Fringe Development Standards, for individual domestic wells that are proposed, a Safe Yield Analysis must be provided to Sedgwick County Code Enforcement prior to MAPC to assure the availability of an adequate, safe supply of water that does not impair existing water rights. Easements shall be dedicated for potential future extension of public water.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. This plat contains lots less than the required two-acre minimum lot size. A zoning adjustment will need to be approved for the affected lots.
- E. County Engineering requests the applicant's drainage plan. The applicant shall evaluate the need for the 30-foot floodway reserve on Lot 4. Approval of the drainage plan is needed prior to MAPC.
- F. County Surveying requests a benchmark datum.

- G. County Surveying advises that the taper in the major section right of way needs to be depicted properly.
- H. Sedgwick County Fire Department advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- I. County Engineering requests a contingent right-of-way dedication on 69th St. North as the Access Management Regulations requires a 60-foot half-street right-of-way width along rural arterials. The contingent dedication shall be referenced in the plat's text with the following language, "The contingent street dedication shall become effective in the event that the appropriate governing body determines a need for the right-of-way for any street-related purposes."
- J. Block number "1" shall be denoted on the face of the plat.
- K. The applicant shall guarantee the installation of the cul-de-sac to the 36-foot rock suburban street standard.
- L. For lots fronting on cul-de-sacs, the lot frontage is required to be 50% of the required lot width (200 feet). Lots 3 and 4 do not meet this 100-foot frontage requirement. The Subdivision Committee has approved a modification.
- M. Lots 3 and 4 do not conform to the 200-foot lot width standard which is measured at the building setback line. The Subdivision Committee has approved a modification.
- N. GIS has requested the cul-de-sac be labeled as "70th Ct. N." "70th St. N." should be labeled correctly.
- O. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- P. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- S. 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.
- T. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment

control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- W. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: Approve the Subdivision today hold sending to County Commission until those conditions have been approved by County staff.

HILLMAN moved, **JOHNSON** seconded the motion, and it carried (13-0).

2-4. SUB 2008-43: One-Step Final Plat – SCHOLZ COUNTRY ACRES ADDITION, located on the west side of 167th Street West and north of 69th Street North.

NOTE: This is unplatted property located in the County. It is in an area designated as “Rural” by the Wichita-Sedgwick County Comprehensive Plan. It is located in the Colwich Area of Influence.

STAFF COMMENTS:

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval prior to MAPC.
- B. In conformance with the Urban Fringe Development Standards, for individual domestic wells that are proposed, a Safe Yield Analysis must be provided to Sedgwick County Code Enforcement prior to MAPC to assure the availability of an adequate, safe supply of water that does not impair existing water rights. Easements shall be dedicated for potential future extension of public water.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. County Engineering requests the applicant’s drainage plan prior to MAPC. Additional information is needed on the 12-inch irrigation pipe and plans for removal.
- E. The preliminary plat should show adjacent owners.
- F. In accordance with Access Management Regulations for County plats, complete access control is required for arterials intersecting with local streets. Complete access control of 75 feet is needed along 73rd St. North from 167th St. West.
- G. Sedgwick County Fire Department advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.

- H. The applicant shall guarantee the installation of the proposed cul-de-sac to a 36-foot rock suburban street standard. The guarantee shall include the installation of a temporary turnaround.
- I. GIS has requested that “73rd St. N.” shall be renamed as “72nd St. N.” “167th St. W.” shall be labeled correctly.
- J. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- K. The 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.
- L. 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.)
- M. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. 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.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Sedgwick County Rural Electric has requested additional utility easements to be platted on this property.
- S. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: Applicant requested deferral.

HENTZEN moved, **DOWNING** seconded the motion, and it carried (13-0).

2-5. SUB 2008-44: One-Step Final Plat -- ROHMEYER ADDITION, located on the north side of 55th Street South and east of 183rd Street West.

NOTE: This is unplatted property located in the County. It is in an area designated as "Rural" by the Wichita-Sedgwick County Comprehensive Plan.

STAFF COMMENTS:

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval.
- B. In conformance with the Urban Fringe Development Standards, for individual domestic wells that are proposed, a Safe Yield Analysis must be provided to Sedgwick County Code Enforcement to assure the availability of an adequate, safe supply of water that does not impair existing water rights. Easements shall be dedicated for potential future extension of public water. In the alternative, the property shall be serviced by the Rural Water District.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. County Engineering requests a drainage plan.
- E. County Surveying requests a legend on the final plat.
- F. The plat proposes complete access control along the 55th St. South street frontage. In accordance with Access Management Regulations for County plats, complete access control is required for arterials intersecting with collectors. County Engineering has required complete access control of 150 feet along 179th St. West from 55th St. South.
- G. Sedgwick County Fire Department advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- H. The applicant shall submit a copy of the instrument, which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the appropriate governing body.
- I. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.
- J. The recording information for all pipeline easements shall be indicated on the face of the plat.
- K. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- L. 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.

- M. 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.)
- N. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. 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.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Sedgwick County Rural Electric has requested additional utility easements to be platted on this property.
- T. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: Applicant requested deferral.

HENTZEN moved, **DOWNING** seconded the motion, and it carried (13-0).

3. PUBLIC HEARING – VACATION ITEMS

3-1. VAC2008-16: City request to vacate a portion of a platted easement

OWNER/APPLICANT: Steve L Jacobs

AGENT: PEC, PA, c/o Rob Hartman

LEGAL DESCRIPTION: The east 20 feet of the west 30 feet of the platted 40-foot utility easement. 30 feet of the platted 40-foot easement is located on Lot 6, Block 3, the Chapel Hill 2nd Addition, with the remaining 10 feet of the platted 40-foot utility easement located on Lot 7, Block 3, the Chapel Hill 2nd Addition. All of the platted 40-foot utility easement runs parallel to the common lot lines of Lots 6 & 7, Block 3, the Chapel Hill 2nd Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located west of K-96 Highway, midway between 21st and 13th Streets North, and northeast of the Crestwood and Chapel Hill Streets intersection (WCC #II)

REASON FOR REQUEST: Additional space for development

CURRENT ZONING: Subject property and adjacent and abutting eastern, southern and western properties are zoned TF-3 Two-family Residential (“TF-3”). The abutting northern property is zoned MF-18 Multi-family Residential (“MF-18”).

The applicant is requesting consideration for the vacation of the described portion of the platted utility easement. The GIS map shows a storm water pipe, manholes and sewer line west portion of the subject platted easement, outside of the proposed vacated area. There are no utilities located within the described portion of the platted utility easement. The Chapel Hill 2nd Addition was recorded with the Register of Deeds April 5, 2003.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works/Water & Sewer/Storm Water, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the platted utility easement as described in the legal description with the following conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle and the Derby Reporter, of notice of this vacation proceeding one time May 29, 2008, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted utility 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.
- B. Therefore, the vacation of the portion of the platted utility easement described in the petition should be approved with conditions:
 - (1) Vacate only that portion of the platted utility easement as described in an approved legal description, as approved by City Water & Sewer, Public Works, Storm Water and franchised utilities. Provide Planning Staff the approved legal description of the vacated portion of platted utility easement, via e-mail on a Word document.
 - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide City Public Works, Water &

Sewer, Storm Water and franchised utilities with any needed plans for review for relocation or reconstruction of utilities. Provide any guarantees needed for the relocation or reconstruction of utilities. Provide any easements needed for the relocation or reconstruction of utilities. All must be completed prior to proceeding to the Wichita City Council for final action.

- (3) All improvements, including reverting public sewer line and manholes to a private sewer line, shall be according to City Standards and at the applicant's expense.
- (4) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

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

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **HILLMAN** seconded the motion, and it carried (13-0).

3-2. VAC2008-17: City request to vacate a setback dedicated by separate instrument

OWNER/AGENT: McDonalds Ozark Civil Engineering, c/o Earl Hacker

LEGAL DESCRIPTION: Generally described as the platted 35-foot front yard setback that runs parallel to 47th Street South on the north side of west half of Lot 3, Nolan's Garden Addition, Wichita, Sedgwick County, Kansas, as recorded on MISC BOOK 663/PAGE 217.

LOCATION: Generally located on the southeast corner of 47th Street South and Broadway Avenue (WCC #III)

REASON FOR REQUEST: Rebuild the McDonalds

CURRENT ZONING: The site and the abutting eastern property are zoned GC General Commercial ("GC"). The abutting southern and adjacent northern and western properties are zoned LC Limited Commercial ("LC").

The applicant proposes to vacate the described 35-foot front yard setback and replace it with the GC zoning district's 20-foot front yard setback. There is a 20-foot sanitary easement (Court Condemnation case #C-17046) within the proposed 20-foot setback, which has manholes and sewer line in it. There are no utilities located within the vacated portion of the described setback. The site is not part of the abutting (south and east sides of the site) CUP DP-48. There are CUP overlays on properties located west of the site, across Broadway Avenue, and north of the site, across 47th Street South. The Nolan's Garden Addition was recorded with the Register of Deeds December 21, 1925. The Lot Split of Lot 3, Nolan's Garden Addition was recorded with the Register of Deeds October 19, 2000.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval of the vacation of the described portion of the described setback with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle and the Derby Reporter, of notice of this vacation proceeding one time May 29, 2008, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the setback dedicated by separate instrument and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the setback dedicated by separate instrument described in the petition should be approved with conditions;
- (1) Vacate the 35-foot setback and replace with the GC General Commercial zoning district's 20-foot front yard setback.
 - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
 - (3) All improvements shall be according to City standards and at the applicant's expense.
 - (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 the 35-foot setback and replace with the GC General Commercial zoning district’s 20-foot front yard setback.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant’s expense.
- (3) All improvements shall be according to City standards and at the applicant’s expense.
- (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 staff recommendation.

JOHNSON moved, **HILLMAN** seconded the motion, and it carried (13-0).

PUBLIC HEARINGS

4. **Case No.: CON2008-18** (Deferred from May 8, 2008) – Saint Stephen’s Mission, Inc., c/o Saint Stephen’s Episcopal Church (owner & applicant); Creative Place Inc., c/o Dee Nelson (applicant) Request City Conditional Use for day care, general, on property zoned "SF-5" Single-family Residential.

Block E, Woodlawn Village 3rd Addition, Sedgwick County, Kansas, generally located 0.3-mile west of Rock Road midway between Central Avenue and 13th Street North, on the northwest corner of Killarney Place and Lawrence Lane (7404 Killarney Place).

BACKGROUND: The applicants are requesting a Conditional Use to operate a day care, general. The applicants propose to build an approximately 20,000-sqaure foot, two-story building for a day care that will house 150 preschool aged children at any one time. The building will be separate from the existing approximately 40,000-square foot Saint Stephen’s Episcopal Church. The church owned 5.94-acre site, Block E, Third Addition to Woodlawn Village, is zoned SF-5 Single-family Residential (“SF-5”). A church is permitted by right in the SF-5 zoning district. A day care, general (Unified Zoning Code, UZC, Art II, Sec II-B., 4a & b) is an establishment that allows for the care, protection and supervision of more than 10 individuals at one time on a regular bases away from their primary residence for less than 24 hours per day. A day care, general can be considered as a Conditional Use in the SF-5 zoning district. The owners of the proposed day care, Creative Place Inc, are not affiliated with Saint Stephen’s Episcopal Church

The conditions for a day care, general in the in the SF-5 zoning district, per Art III, Sec III-D 6.i of the UZC are: (a) Day care centers shall comply with all applicable state regulations. (b) When located in the residence of the care provider in a residential zoning district, day care centers shall comply with the general home occupation standards of Sec IV-E-3; this condition does not apply to this case. (c) Outdoor play shall be limited to the hours of 7:30 AM to 6:30 PM, if located within 100 feet of a lot containing a dwelling unit. (d) Provisions of parking spaces in Art IV, Sec IV-A, 4 may be provided by shared parking when the day care is located within an existing church or place of worship, however the day care must provide convenient off-street loading facilities as required. The applicants have provided site plans.

The proposed 20,000-square foot day care's operation schedule is year round, Monday-Friday, 7:15 AM to 6 PM, with the facility open to all preschool children, ages 22-months to five-years. Besides the proposed maximum 150 children on site at any one time, there will also be 25-30 staff members present at any one time. The applicants have stated (based on their current operations at the Independent School) that during the summer months, June to mid-August, the day care operates at approximately 60% of its capacity. The site plans show three (3) playground areas, one located south of the proposed facility and the other two located between the proposed facility and the church. The proposed areas for the playgrounds are located within 120 feet (south across Killarney Place) to 250 feet (west across the north to south drainage right-of-ways, "ROWS") from the nearest lots with single-family residences. The site plans do not show any proposed signage, lighting, landscaping or screening. The site plans do not show existing or proposed parking. A count taken off of the City's Geozone system shows approximately 87 parking spaces, which is sufficient, as the church will normally not use the parking during the proposed operation schedule for the day care. The elevations of the proposed facility show a two-story building, with the ground floor extending beyond the upper story towards the church's east side. There is a brick wainscot on the ground floor, with hardboard/hardiplank lap siding covering the rest of the wall area. The roofs are gables with asphalt shingles.

The site plans show a proposed entrance and exit off of Killarney Place, a drop off area located west of the facility and the vehicle queuing area. The site plan showing vehicle queuing also gives a break down of the arrival and departure times of the day care's clients and the total number of vehicles trips generated, as based on this arrival/departure times. The applicants' count shows a total of 313 trips generated by 120 students using the current facility's location at the Independent school. The applicants do not project the increase in the number of trips generated by the proposed facilities' 150 student limit (30 more students than their current facility) nor does it include the trips generated by the facilities 25-30 staff members, which also were not included in the trips counted (313) off of their current facility. With these additional trip calculations (30 additional students and 25-30 staff members) the proposed site could generate over 400 trips per day. The applicants have stated that peak times for trips are 7:15 AM-9:45 AM, with 129 cars and 2:50 PM-6:00 PM, with 116 cars. Traffic counts conducted by Public Works on Friday, April 18, 2008 show Killarney's traffic count for the 7:15 AM - 9:45 AM time to be 105-137 trips and 209-214 trips for the 2:50 PM - 6:00 PM time slot. The day care proposes two field trips per year, per class, with transportation provided by the parent's cars. Typically the field trips are for one classroom a time.

The subject site's neighborhood is located between the arterials 13th Street North (north) - Central Avenue (south) - Rock Road (east) - Woodlawn Boulevard (west). The arterial corners of the neighborhood are a mix of LC Limited Commercial ("LC"), GO General Office ("GO"), TF-3 Two-family Residential ("TF-3"), and B Multi-family Residential ("B") zoned businesses, duplexes and apartments, with the remainder (which is the majority) of the neighborhood being zoned SF-5 and developed as single-family residential. There are four other churches in the neighborhood (besides the subject site and an adjacent Baptist church), which are located on the south side of 13th Street North, with access directly onto 13th Street. The zoning of these four other churches is SF-5, TF-3 and GO. One of those churches operates a preschool (3-years to PreK) and school (K-8) on its site. There are over 700 children enrolled in these programs. The subject site, Saint Stephen's Church, (Third Addition to Woodlawn Village, recorded 10-17-1962), Celebration Baptist church (Pine Valley Estates, 01-15-1956) and Price Harris Elementary are all located adjacent to each other on the either the west or east sides of drainage channels/ ROWs. All

three of these nonresidential facilities are basically located in the middle of the single-family residential neighborhood. All three are zoned SF-5; churches and schools are permitted by right in the SF-5 zoning district. The elementary school recently added onto its building. A day care is not considered a school, as defined in the UZC.

A two-lane urban collector, Armour Lane, runs through the neighborhood from Central to 13th Street. 9th Street is classified as a collector, but ends at a north-south drainage channel/right-of-way (ROW) that separates the east and west sides of the neighborhood. In effect, 9th ends at its intersection with Armour Drive. There are no east – west collectors running through the neighborhood, in fact there is only one street, Killarney Place that crosses the drainage channel that run from above 13th to below Central. Killarney runs west from Rock, becoming Rutland Road after it crosses the drainage and turns south to Central.

The Killarney Place – Doreen Street intersection is located a short block (270 feet) from the subject site and represent the shortest route from an arterial (Rock) to the proposed facility. No matter how traffic enters this neighborhood to get to the proposed facility, the traffic will be in this vicinity of Killarney. The Killarney – Lawrence Lane intersection is the closest intersection to the proposed facility. Lawrence is short, residential street that wraps around the subject site's east and north sides, dead ending at the drainage channel. The Killarney Place – Doreen Street intersection has total traffic counts of 802-725 trips along Killarney and 360-256 trips along Doreen. These counts were provided by the Public Works as generated on Friday, April 18, 2008. Traffic was also counted Saturday, April 19, and Sunday, April 20. There was an approximate 10-18% drop in traffic during the weekend, although the west portion of Killarney actually had a slight increase (two cars) in traffic on Sunday. There was more traffic generated on Sunday than Saturday. Killarney does intersect with Rock Road, which has between 27,000-29,000 trips per day on this portion between Central and 13th Street; the 812 trips counted at the Killarney – Rock intersection appears to be local traffic generated by the neighborhood.

The “Institute of Transportation Engineer’s Trip Generation” model notes that as many as 500 trips could be generated by a day care. Trips generated by single-family residential development is more difficult to estimate because of the variables and uncertain information involved, but if the 5.94-acre subject site had not been developed as a church, but developed as 10,000 square foot lots (plus or minus the average lot sizes in the area) with single-family residences, as permitted by right, trips generated could be approximately 200 trips per day. If the site was developed with 5,000-square foot single-family lots, as permitted by right for the zoning district, it could generate approximately 400 trips per day, or basically the same as the proposed day care.

Approximately half of the 420 students to Price Elementary school are bused, with the remaining half coming by automobiles. Because this a magnet/English as a second language/neighborhood school, very few students walk or bike to school. As calculated by the “Institute of Transportation Engineer’s Trip Generation” models, an elementary school can generate similar trip totals as a day care, when it is operating.

CASE HISTORY: The subject site is part of the Third Addition to Woodlawn Village, which was recorded with the Register of Deeds October 17, 1962. There have been numerous calls inquiring about, protesting (most) or supporting the proposed day care.

Update on case history: DAB II heard this request at their May 5, 2008, meeting and recommended deferral. Prior to the May 8, MAPC public hearing, the applicants requested that the case be deferred, to allow them to modify their proposal. The MAPC recommended deferral, but recognizing that members of the neighborhood were present at the meeting, allowed short comments on the proposal. The applicants chose to not make comments at that time.

The applicants’ **revised proposal** is to instruct the clients of the proposed day care, to use Armour Drive to access the site, via Cresthill Road and Broadmoor Avenue during the times Price Harris Elementary

School isn't congesting Armour. They propose to instruct their clients to travel to their site via Killarney Place and Broadmoor Avenue between the hours of 8:45 AM – 9:15 AM and 3:45 PM – 4:15 PM: see attached e-mail letter from Lester Limon.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	single-family residences, drainage, church
EAST:	SF-5	single-family residences
SOUTH:	SF-5	single-family residences
WEST:	SF-5	single-family residences, drainage, school

PUBLIC SERVICES: The subject property has access to Killarney Place and Lawrence Lane, paved, two-lane residential streets. As previously noted Killarney is the only street in this neighborhood that crosses the north to south drainage channel. Killarney intersects, with Rock Road, more than ¼-mile east of the site, and as Rutland Road with Central Avenue, less than a ½-mile to the south. Lawrence Lane dead ends against the drainage channel on its northwest end and ends at its intersection with Killarney on its south end. Killarney has no sidewalks and it appears sidewalks are the exception rather than standard in the neighborhood. Armour Lane, an urban collector is located approximately ¼-mile west of the site, across the drainage channel, via Broadmoor Avenue and Cresthill Road, both paved residential streets. The 2030 Transportation Plan shows no change to any of the above mentioned streets' status. There are no CIP projects to build another vehicular bridge across the drainage channel. All services/utilities are available to serve the site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this site as appropriate for “Major Institutional.” This category includes institutional facilities of significant size and scale of operation and could include a range of such uses as government facilities, military bases, libraries, schools, cemeteries, churches, hospitals, and medical treatment facilities. The UZC classifies day cares as a “public and civic” use. The “Public/Institutional Location Guidelines of the Comprehensive Plan” states that these uses that serve residential areas should be grouped together along with the neighborhood commercial centers and located near parks or along intersections of greenways/recreational corridors. It also states that they should have convenient access to arterial streets and public transportation. The policies of the UZC allow consideration of day care general as a Conditional Use in the SF-5 zoning district, with application of the standards of Art III, Sec III-D.6.i and on a site by site consideration.

The subject site is located in the middle of a single-family residential neighborhood. The site has no direct access to any arterial or collector streets. The site is not located by neighborhood commercial centers or parks. The site, as platted, is large enough for additional development.

RECOMMENDATION: The applicants have stated that the proposed day care provides several opportunities for Saint Stephen's Church and the area. Saint Stephen's sees the day care as a method to introduce the church to citizens using the day care. The day care is not affiliated with the church, is under separate ownership and will occupy a separate building. Also as a result of families using the day care, some may decide to join the church, thus insuring that the church membership is at the least retained and at best increased with younger families. A church with stagnate membership could face an eventual decline in membership and possibly the church itself could be abandoned. A vacant church on property zoned SF-5 does not easily lend itself to conversion to this zoning district's permitted uses. Even if the separate day care facility was approved, there is no guarantee that there would be an increase or retention in church membership, thus the prospect of a vacant 40,000-square foot church standing by a 20,000-square foot day care. This scenario suggests future zoning change or Conditional Use requests on the site. The church also sees the proposed day care as an opportunity to offer educational opportunities to the immediate neighborhood and the community outside of the neighborhood. The proposed day care operator currently has its facility located in at the Independent School, located on the south side of Douglas Avenue, midway between Rock and Webb Roads, and approximately 1 ½-mile from the proposed site. The Independent School site has direct access onto an arterial, Douglas, and has no

vehicular access through single-family residential neighborhoods. This facility at the independent School is going to be closed and it is probable that, at least in the beginning of its operation at the proposed site, most of its current clients would follow it here. It is also probable, in the beginning that most of the clients would be from outside the neighborhood. The size of the church property, as it was platted in 1962, lends itself to more development on it and it is reasonable for the church to be able to further develop this property, based on the property's platted size.

The issue with the church site for the day care is its location. It falls short of the locational criteria of the Comprehensive Plan: it is not grouped together along with neighborhood commercial centers and it does not have convenient access to arterial streets. The church is located in the middle of a single-family residential neighborhood with access to it limited to residential streets. Access to the church is also limited by existing subdivision design and drainage channels that limit east to west access through the neighborhood to one residential street, Killarney Place. For the most part, the subdivision design of the area did not include sidewalks or parks, thus the streets carry both vehicular traffic, pedestrian traffic and recreational traffic. The proposed day care would increase traffic being generated from the middle of the neighborhood, which admittedly is a pattern established by the adjacent (separated by drainage channel) elementary school. Unlike the subject site, Saint Stephens, the elementary school does abut and have direct access onto Armour Lane and 9th Street, both urban collectors. Armour Lane is located approximately ¼-mile west of the site, across the drainage channel, via Broadmoor Avenue and Cresthill Road (both residential streets). Staff feels the request has merit, based on the size of the church site, but that the large site's location in the middle of the single-family residential neighborhood, on residential streets is not appropriate for the proposed use. Staff also recognizes that a school, as defined in the UZC, could go on this site by right and create a similar increase to traffic in the neighborhood. But, even for a school, a use permitted right, the site would still fall short of the locational criteria for this type of use. Based on the information available prior to the public hearing, planning staff recommends that the application be DENIED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The subject site's neighborhood is located between the arterials 13th Street North (north) - Central Avenue (south) - Rock Road (east) - Woodlawn Boulevard (west). The arterial corners of the neighborhood are a mix of LC Limited Commercial ("LC"), GO General Office ("GO"), TF-3 Two-family Residential ("TF-3"), and B Multi-family Residential ("B") zoned businesses, duplexes and apartments, with the remainder (which is the majority) of the neighborhood being zoned SF-5 and developed as single-family residential. There are four other churches in the neighborhood (besides the subject site and an adjacent Baptist church), all located on the south side of 13th Street North, with access directly onto 13th Street. The zoning of these four other churches is SF-5, TF-3 and GO. One of those churches operates a preschool (3-years to PreK) and school (K-8) on its site. The single-family development was platted from the mid 1950s (most of the area west of the drainage channels) to the mid 1980s. The subject site's large size (5.94-acre Lot E, Third Addition to Woodlawn Village, recorded 1962) is not typical of the surrounding single-family lots, but it is adjacent (but separated by drainage channels) to the similar sized 9.9-acre Price Harris Elementary site and the smaller 1.55-acre Celebration Baptist Church site. The elementary school generates traffic from outside the neighborhood, with half of its 420 students being bused (half mini buses – half regular size buses) to the school. Sidewalks are the exception rather than standard in this neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The subject site is zoned SF-5 and is currently developed as a church which, is permitted by right in SF-5 zoning. The site could continue to be used for a church, although it has never been fully utilized the property's size. The site could be redeveloped as a use permitted by right, such as single-family residential or a school. But, even for a school, a use permitted right, the site would still fall short of the locational criteria for this type of use.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: A day care with a proposed capacity for 150 children, plus 25-30 staff would increase nonresidential traffic on the residential streets in the neighborhood. Killarney Place would be the street that would have the most notable increase, as it is the street that everyone would have to use to enter and exit the subject site. The increase in traffic would be year round, during the facility's operation schedule, 7:15 AM to 6 PM, Monday through Friday. The day care's hours of operation are generally in the hours when people are going to work, going to school or at work, but continue past the normal elementary school hours of adjacent Price Harris Elementary. Unlike the elementary school the day care would be operating year round, but at an estimated 60% capacity during the summer term from June to mid August. The traffic increase generated by the day care would be similar to the development of a school of the same size on the site, without certain considerations. Those considerations include, if a school offered bus service and did not operate during the summer months, which would mean the traffic generated by the school, would be less by possibly more than half of the day care. A school is permitted by right in the SF-5 zoning district.
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 this site as appropriate for "Major Institutional." This category includes institutional facilities of significant size and scale of operation and could include a range of such uses as government facilities, military bases, libraries, schools, cemeteries, churches, hospitals, and medical treatment facilities. The UZC classifies day cares as a "public and civic" use. The "Public/Institutional Location Guidelines of the Comprehensive Plan" states that these uses that serve residential areas should be grouped together along with the neighborhood commercial centers and located near parks or along intersections of greenways/recreational corridors. It also states that they should have convenient access to arterial streets and public transportation. The policies of the UZC allow consideration of day care general as a Conditional Use in the SF-5 zoning district, with application of the standards of Art III, Sec III-D.6.i., on a site by site consideration. This site falls short of the locational criteria.
5. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The church occupies maybe half of the total 5.94-acres it owns and as such the property is underutilized. The proposed day care would bring a development to the site that is not affiliated with the church, but which the church supports because of the day care's educational and care function for preschool children. The proposed day care is no guarantee that church membership would stabilize or increase. A possible impact of a declining church membership is the possible abandoning of the church, leaving a vacant 40,000-square foot building in the middle of the neighborhood, without or with the proposed separate 20,000-square foot day care building/use. This scenario suggests a possible future zoning change or Conditional Use requests on the site. This would have a negative impact on the neighborhood as would the day care generating an increase of traffic in the neighborhood, coming from mostly outside the neighborhood, at least in the beginning, if not always. This increase would be generated from the middle of the neighborhood by the proposed day care, with its proposed 150 children and the 25-30 staff members of the day care. This area has few sidewalks for pedestrian traffic and no parks, thus the residential streets carry vehicular, pedestrian and recreational traffic, which would have to contend with the proposed day care's possible additional approximately 400 trips per day, with a possible drop off during the summer months.
6. Impact of the proposed development on community facilities: There will be traffic increases onto Killarney Place and the other residential streets in the neighborhood from the site year round, Mondays – Fridays, 7:15 AM to 6 PM.

However if the MAPC finds the proposed day care an appropriate use, Staff recommends approval with the following conditions:

1. All applicable requirements of Art III, Sec III-D.6.i of the Unified Zoning Code shall be met. Operation of the facility will be year round, Mondays – Fridays, 7:15 AM to 6 PM.
2. The site shall be developed in general conformance with the approved site plan and elevations. All improvements shall be completed within one year of approval of the Conditional Use by the MAPC or governing body, as applicable. The applicants will provide a revised site plan, showing proposed/additional landscaping, screening, signage and lighting. It will limit ingress and egress to Killarney Place. The revised site plan shall be provided within 3 months of approval by the appropriate body.
3. The day care shall operate only as long as the church continues to operate on this site.
4. Meet with the Traffic Engineer to determine the feasibility of methods of slowing traffic down along Killarney Place and any other street as determined by the Traffic Engineer.
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.

MITCHELL It's my understanding that a number of people were able to address the Planning Commission at a previous hearing, due to number of persons interested in cases today, if you spoke on that item before, we have your information on record, it's not necessary to repeat it here again today and we would ask you not to.

HILLMAN I've been approached numerous times by both sides on this issue, but I have not made a decision. My decision will be based on information provided in public hearing.

MITCHELL Is any member on the planning commission who did not get contact on this case. We all did, and none of us have made up our mind.

BILL LONGNECKER Planning staff presented staff report, noting that Staff's recommendation was to deny the request, based on the size of the facility and it not meeting the locational criteria for this type of use with this size. He also noted that the traffic numbers present in the report had all been questioned by both the applicant and the neighborhood. He stated that staff had based their numbers on models taken from the "Institute of Transportation Engineer's Trip Generation," and that staff had also used the numbers provided by the applicant. Using these two sources, traffic generated from the proposed day care would be over 400 trips per day. He brought to the members' attention the traffic counts along Killarney, provided by Public Works. He noted that the applicant's modification to their original request, which was the reason for their requested deferral, was to instruct the parents of the day care children to use certain roads at certain times of the day. He pointed out to the members that staff was giving an option to approve with conditions, but that Condition # 3 on page 9 needs to be taken off.

APPLICANT LESTER LIMON, PKHL ARCHITECTURE, applicants' agent, 110 E. Fourth, Newton, KS. We've always known this Conditional Use permit process involves a public hearing and it's always been our intention to inform the neighborhood. We've had one voluntary neighborhood meeting to introduce facts. At that time we listened to public comment and submitted our application to planning staff. Upon review of the staff report we decided to review with them the possible changes as well as meet with Traffic Engineer. Due to the timing of the District Advisory Board and Metropolitan Area Planning Commission meetings it was not possible to meet with staff and the neighborhood prior to the May 9th MAPC deadline, as we also needed to take into consideration the comments and request from the District Advisory Board meeting. We submitted our written request for deferral to Mr. Longnecker, Tuesday, May 7th. We assumed Planning Commission would defer the agenda item in total and allow us

time to provide a more complete presentation. This commission decided to table the item at our request but unfortunately heard the public remarks portion without an adequate basis of understanding from us. We feel this has adversely affected your perception of our project.

On May 28, under the direction of the first DAB meeting, we held a small meeting with chosen representatives from the neighborhood with Councilwoman Schlapp in attendance, only as an observer. This meeting is outlined in the report I'm giving you now. A week prior to this meeting we released the information to the neighborhood, which you have in your packets. Three days ago we gave the same presentation to DAB, and their recommendation was for denial based on the planning staff's recommendation. We hope that you can be open minded as recommendation by legal council at the last meeting. After our application was made public the church received verbal threats of arson against it and callers have harassed and belittled church staff to the point of tears. There have been inappropriate and abusive contacts made to the Director of Discovery Place at the Douglas Street center. In fact, one confrontation ended in charges being filed against a member of the neighborhood.

The Discovery Place child care facility has been located currently, and for the past 23 years, on East Douglas at the Independent School. Discovery Place is ending their lease arrangement with the Independent School because of the school's expansion, and Discovery is looking for a new home. Discovery Place operates between the hours of 7:15 A. M. and 6:00 P.M., and they currently have 200 children enrolled. They are currently licensed for approximately 120 children on site at any one time. They are a nonprofit corporation and their board is currently in a fund raising campaign for this project. They have looked at four sites, some to be built on and some with buildings that would have to be renovated. The overwhelming need of the facility is natural outdoor space, which the teaching program would use. St. Stephens, at the urging of the Bishop, absorbed the membership of St. Albans Episcopal Church nearly two years ago when St. Albans closed. At that time the Bishop strongly recommended St. Stephens to move from its current location to a new address and facility, but it was the wish of the St. Stephens' membership to stay where they've been for 40 years. St. Stephens has always had, and will continue to have, a mission to provide education to young people. In fact, St. Stephens once had a preschool program in its current building. We understand through public meetings that the concerns of the neighborhood are the following: that the day care will generate too much additional traffic in the neighborhood; that there is no way to control traffic in the neighborhood; the current and future conditions of the streets as impacted by the day care; the safety of the neighborhood with the additional traffic and the noise generated by the day care.

Discovery Place has plans to license this facility for 150 children. Today the facility manages 120 children between ages of 22 months and 5 years old in their current location. The number of children at this facility has been a hard concept for the neighborhood and DAB to understand, but what's important to consider is because a child care center has a fluid population. The number we'll need to consider for this discussion purpose is the final licensed capacity and not the enrolled population. Vehicular traffic can be debated as it pertains to the current 120 child facility. On sheet 3 of 6 you can see the break down of the traffic occurring right now on the current Discovery Douglas Road facility in 5 minute increments as counted by staff. Today 314 cars travel between 7:15 A. M. and 6:00 P. M. In the (St. Stephens) Woodlawn subdivision we have the presence of Price Elementary School at 7th Street and Armour Drive. Its hours are between 9:00 A. M. and 4:10 P. M., Monday thru Friday. It has two classes of all day kindergarten. It operates a before school program from 7:00 A. M. to 8:50 A. M., and an after school program from 4:10 P. M. to 5:45 P. M. Current enrollment is 420 children, 48% arrive and depart daily by bus. These 13 buses arrive on 9th Street approximately 10 minutes prior to school starting, and depart 10 minutes after school concludes. The other 52% of the students are collected by private means. The before and after school programs are facilitated in the gymnasium, with parents dropping off and picking up at other times other than the 9:00 to 4:00. Their latch key program parents que along Armour Drive. I propose to you that the parents of Discovery Place can be educated to use Armour Drive, a designated collector street, to access our site via Cresthill Road and Broadmore Avenue during those times Price Harris isn't congesting Armour. We propose that between the hours of 8:45 A.M. and 9:15 A.M. and again between 3:45 A. M. and 4:15 P.M. the parents of Discovery could access the site via Killarney

Place and Broadmore Avenue. During these times these two streets will see a total of 40 cars. There have been many opposed that say parents cannot be trusted to follow the drop off rules, but I submit to you that the access to the Independent School site is a complex but highly organized process that relies on the parents following a strict schedule of times and routes, and that this site need be no different. Unfortunately for the neighborhood, whether by design or not, and because of its access across the drainage ditch Killarney Place acts as a collector for the east portion of the neighborhood. Killarney is a roughly paved street because of this traffic. Most of the folks use this street either as an access path for Price Harris Elementary or for St. Thomas, and know that the intersection of Killarney Place and north Rutland Street is the only access point across the drainage ditch; therefore the increased traffic is causing the deterioration of the street. I agree with the neighborhood that street repair is needed in this section of the subdivision and that is the responsibility of the street department with the City of Wichita. I would urge you not only to define Killarney as a collector but recommend improvements to it to bring it to collector status. As for the safety of the residents of Woodlawn Village, I can only support their desire for sidewalks along Killarney Place from Rock Road to north Rutland, and up to Cresthill connecting to Armour. Further, we can see the need for traffic control signage at the intersection of Killarney Place and north Rutland Street as a means to help slow traffic. Also, pedestrian signage, as well as posted speed limit signage, would allow better control not only for law enforcement and for of the neighborhood. Finally, in regards to the concern of an increase in noise, Discovery Place is a model of education which encourages outdoor experiences; it's what's pulled us toward this partnership. We intend to spend a great deal of time outdoors, and children are children after all. Our children are in smaller groups, are less vocally active than the children in the K-5 program at Price Harris. Members of the Commission, there is no way to satisfy those folks who don't want increased traffic in the neighborhood, and we only have the capacity to regulate the traffic we will generate. We've demonstrated that the population of the center is scattered throughout the day, and it will remain that way. Further, we hope that by working with the City Planning staff, the Traffic Engineer, by listening to the neighborhood concerns, and by explaining our reasons for pursuing this project in a professional and logical manner demonstrates our willingness to be good neighbors while allowing St. Stephens the right to develop not only their mission as a parish but also their private property. Dee Nelson, Director of Discovery Place and Father Steve Muse, Director of St. Stephens are also here and can answer questions you have of them.

MCKAY I'd like to see how many are here to speak.

MITCHELL How many people wish to speak today that did not earlier? I estimate about a dozen.

After some discussion, the commission voted 12-1 to limit speaking time to three minutes.

MITCHELL Mentioned to the speaker that he was limited to three minutes.

FATHER STEVE MUES, 9502 E. LAKEPOINT I want to thank all of you for all the work you do on our behalf. My wife and I moved to Wichita three years ago and think it's a wonderful City and you share in making it that kind of place. We are all together here in our commitment to the quality of life in our neighborhoods in Wichita. I have eight points and I will be as concise as I possibly can. (1) St. Stephens' has had plans for a school /preschool since before it was built over forty years ago, and the original drawings included plans for a school. The land St. Stephen's owns has always been reserved for the purpose of a school, and now we have that opportunity with Discovery Place's Early Childhood Educational program. (2) It is "common practice" for Episcopal Church congregations to have supportive and collaborative connections with preschools and schools, and there are numerous examples of this easily observed throughout the country. (3) It is also a "common practice" for these church related schools to have separate 501c3 status in addition to the church's non-profit statues designation. This is often done for insurance, fundraising, and liability reasons. (4) The Discovery Place proposal does involve an affiliation with St. Stephens and The Episcopal Diocese of Kansas. (5) Conversations about how the relationship between St. Stephens and Discovery Place School would be structured include "cross board membership" between the two entities with board of director members from each entity serving on the other's board. (6) St. Stephens along with many Episcopal Churches includes within its

mission and ministry a commitment to life-effectiveness education, to the experiencing and teaching of those things that help children and adults achieve their God-given potential.

MITCHELL Sir, your time is up. Do you need additional time to complete what you have given us in writing?

MUES I can do that, my secretary has it in writing.

MITCHELL We all have a copy. Do you need additional time for this presentation?

MUES I could use 30 seconds.

MOTION TO APPROVE an additional 30 seconds passed.

FATHER MUES The Discovery Place proposal is a legitimate and church approved expression of our mission and ministry, an important part of a long-time vision. It represents a valuable collaboration and sharing of resources between two respected, stable proven entities which will be of great service to the neighborhood and the larger Wichita community. It should be supported, and I hope you will support it.

RANDY SCHAEFFER, 7405 KILLARNEY I want to make the comment that today you said the people who spoke last time couldn't speak this time, but at the last meeting, you said if Discovery changed their proposal, then those people would be allowed to speak again, and they did change their proposal. One of the things they talked about is one of our biggest concerns, traffic. The proposal has been to have people come in from different ways at different times of the day, and I have several comments about that. We can't get people to use their turn signals and that's the law. We can't get people to use their seatbelts and that's the law. We can't get people to go the speed limit and that's the law. Now we're going to expect people to suddenly agree to go specific ways at different times of the day. No matter how many different ways you go this site, everyone ends up on Killarney, because they all have to turn in at the same place. I also want to say that we are talking about Discovery Place at this site. The Episcopal Church is a good neighbor, and both the church and Discovery are good citizens in our community. The issue is putting a commercial enterprise into an area that simply can't handle it. This isn't an issue of a church or the daycare center; it's about throwing a commercial enterprise right in the middle of a residential area, with no other commercial enterprise within a half of mile.

DEE NELSON, 8313 E. DOUGLAS Founder and Director of Discovery Place preschool which works currently in corporation with Independent School and Hillside Christian Church. For the past 23 years Discovery Place has been dedicated to providing the highest quality early childhood education for children, their families, and the community. Discovery Place joined the Independent School in 1985 to provide an early childhood education program in order to ensure children would enter kindergarten with the best possible educational foundation. We are a nonprofit school, serving children 2-6 years of age. In addition to serving our own children our staff members collaborate with other programs for all children. These partner programs include the Opportunity Project, Head Start, Rainbows United, Boys and Girls Club, and St. James Episcopal Church. Our research based philosophy of education reflects what is known as the best practice in early education. Our curriculum is informed by innovative world curriculum developed by schools in Italy. This approach was named among the best programs by Time Magazine. This approach is changing our views of young children. Our governor proclaimed 2007 as the year of the preschooler, promoting universal prekindergarten in schools across our state. At Discovery Place we believe all children deserve to be educated in carefully designed indoor and outdoor environments that reflect respect for their potential. We believe that all member of the community have the responsibility to honor the rights of all children.

MITCHELL Your time is up.

NELSON Asked for 30 seconds.

MITCHELL Motion and Second.

NELSON Some view early childhood programs as commercial enterprises; we feel that view disrespects our work and our children. An educational environment should reflect the values and cultures of our neighborhoods. That is why we are excited about our collaboration with St. Stephens Episcopal Church.

DOWNING Do you have daycare or preschool?

NELSON The difference between the two is a kind of antiquated approach to early childhood. Daycare is no longer considered the work we do with children under the preschool age, and it's considered a preschool educational facility that can include an all day component.

SHERMAN Why the change in affiliation from Hillside to St. Stephens?

NELSON We have been at The Independent School for 23 years. They have grown from being an elementary school, to becoming all grades through high school. This growth is squeezing us off the Independent School campus and is the reason we're looking for a new place.

SHERMAN I think Mr. Limon said you looked at four locations.

NELSON More.

SHERMAN Did you rule out every location or is there a runner up?

Side B Tape 1

NELSON The last I counted, and it's been a few years, there were 1,400 children on the Independent campus including our 120 preschoolers. I am guessing over 1,000.

SPEAKER FROM AUDIENCE I counted at one point that over half of our students at Independent had been at some time enrolled at Discovery Place.

NELSON Did I answer the question?

RICHARD FOOT, 7506 NORFOLK CIRCLE I am the Vice Chancellor, the Episcopal Diocese of Kansas. The Diocese contains an area that is located basically east of Highway 81 in Kansas. I am here to represent the Bishop and the Diocese and they recommend that the Conditional Use be approved. The articles of the corporation of St. Stephens and the constitution of the Diocese provide that if St. Stephens sells off or encumbers their property they must have the permission of the Bishop and the counselor trustees. Today we've heard that schools have always been a part of the church. Discovery Place is a non profit 501c corporation; it's a license program with local memberships and a national organization including the association for education of young children. Their North American alliance and their practice in their curriculum is in harmony with those standards and with the organization that they represent. To put the issue in perspective, as Mr. Longnecker did, if we had a school for children kindergarten up thru fourth grade it wouldn't be necessary to have this hearing. I have circulated a letter from Bishop Dean Wolfe that sets out his feelings on it and he recommends that the Conditional Use be approved. When St. Stephens was organized it was designed to have a school ring around the church building as it now stands, which would maintain the school. It's in that purpose we intend to carry on with that endeavor. The partnership between St. Stephens and Discovery Place seems to be right to the Bishop and the congregation of the churches. I recommend that it be approved.

SALLY ALEFS, 7711 DONEGAL I have lived in neighborhood for 20 years, I have worked part time at Discovery Place preschool for 14 years, and have been a member St. Stephens Episcopal Church for 15

years. I cover all three interested parties in this proposed idea within my own house. I want my church to prosper and grow in its mission. I want my employer to prosper and find a suitable place to relocate and I would like my neighborhood to continue to prosper. My neighbors and I really do not disagree as much as you might think. I, like them, do prefer that traffic not increase in our neighborhood, but my perspective as a St. Stephens' member tells me change on the church property is coming. I have looked the list of possible uses for the St. Stephens' property that would not require any change of zoning to occur to allow any input from the neighborhood. These uses include a private recycling center and a group home among others. I do not like the list and where I differ from those who oppose this change, is that since a school is allowed by right on this site, I would prefer to work with a well respected, organized entity and a Discovery Place preschool rather than take my chances. Today, you will hear from many neighbors how a majority of them are against the proposal. I would like for you to know in social situations or while out walking my dog, I have spoken to numerous neighbors who support the collaboration of St. Stephens and Discovery Place preschool.

CLIFFORD N. FARHA, 7225 E. CRESTHILL COURT I wanted to talk specifically about the traffic impact upon our neighborhood. Discovery Place was kind enough to give us the enrollment and the number of cars that would be arriving at their school everyday. As we looked at that, we do see that 141 cars arrive in the neighborhood generating 282 movements. In a whole day those 160 children generate 676 total movements for the day. That is an 84% increase in traffic on residential street. Our primary concern is traffic. No matter how we look at it our streets are residential and are very narrow and have a lot of winding curves. We're asked to accept on a weekly basis over 3,000 additional new movements arriving in our neighborhood to service a Civic enterprise, which is still a commercial enterprise located in the middle of the neighborhood using residential streets. It was our understanding that the policy of the City does not allow residential streets to be utilized for commercial purposes. We hope you would respect uses of the neighbors, the planning staff as well as the District Advisory Board and deny this request.

KAREN NORTON, 7531 E. 26th COURT I've had a very privilege relationship with Discovery Place, I was head of the Independent School from 1980 to 2006 and I worked extensively with Dee Nelson and her staff. In the summer of 1985, as Independent School was preparing to go to East Douglas we were finalizing arrangements to join up with Discovery Place. It was a unique relationship, which had two 501c schools in one building, but we knew with collaborate spirit we could make it work. Through the 21 years I've worked with them, both the Independent School and Discovery Place grew, as a matter of fact we grew so fast we outgrew our building and Mr. Garvey built a building especially for them because he realized what a contribution Discovery Place made to the city. High quality early childhood education is imperative. The emphasis of Discovery Place on the individual child's environmental awareness, the arts, and school readiness makes them significantly different from preschools and daycares. In their 23 years of existence they have provided a superb start to several thousand children. One of the greatest challenges we had was coordinating traffic for the Independent School, Discovery Place and Wichita Swim Club. We had over 1,000 cars a day coming in and out of the property, but we managed to develop a very logical approach to traffic, which was efficient and safe. On our map I've placed pins at the household of every Discovery Place student, as you can see the students come from all over including Valley Center and Maize. What people do not understand is the preschool can sit down with parents and find out where they're coming from and create a plan. We wouldn't be having the discussion if 9th Street had been extended, it could then serve as a collector. I don't know why it was never extended; perhaps Killarney and Rutland were already acting as collector streets. One concern neighbors have is the fear that drivers will not be paying attention, that's the least of my concerns, at least with our parents. Preschool parents are generally good drivers and they know they have their children's young lives in their hands, and the good news is that very few of these kids have older brothers and sisters that are driving so we won't have teenage drivers coming to pick them up. At the DAB meeting one person mentioned that there were no examples of preschools within a neighborhood but there are some. For example both the Learning Ladder and East Heights are on Douglas but they have to be accessed on the neighborhood and New Song Academy is not on an arterial. In your packet you see a chart of traffic flows.

MITCHELL Your time is up.

NORTON Asked for 30 seconds.

MITCHELL Motion to approve additional 30 seconds.

NORTON Our arrival and dismissal hours are not the same ones as those with Price Harris, and we can work with families to avoid high traffic times. I honestly believe that most people in the neighborhood won't significantly notice the increase in traffic. Good quality early childhood education is imperative for the health and growth of our city. Allowing St. Stephens and Discovery Place to collaborate is good for children, good for the neighborhood, and good for Wichita.

DAN ENGEL, 701 N. DOREEN I support Planning Department's recommendation that this request be denied. The location of the proposed site has no direct access and is some distance from the arterial streets Rock Road, Central, Woodlawn and 13th, that bound the neighborhood. There are two collector streets within this area, neither of which is adjacent to this piece of property. To get to the church property it's necessary to travel along residential streets not intended for the load or type of traffic the proposed site would bring. These residential streets Rutland, Broadmore, Cresthill and Killarney have no sidewalks and these streets are the ones used by the neighbors to walk, jog and are the ones our children use to ride their bikes in. My point is regardless of the proposed suggestion that traffic be asked to travel along Armour or 9th Street, it still requires cars to travel along Cresthill and Broadmore and Killarney to get to the property. These are residential streets without sidewalks and not intended for the traffic load we are discussing today.

SUSIE STALLINGS, 14435 E. 9TH STREET NORTH I consider myself as a neighbor of both neighborhoods. My comments will be short, due to the lack of time; I'm here to bring attention to the map you received in your packet today for this meeting. This is a very powerful visual aid that was introduced to DAB meeting Monday night. However, it has come to the church's attention that this map is incorrect. Since Monday night's DAB meeting, not one but five households have notified the church that they are represented on the map as red and opposed to the request. The map should be representing them as green which is for the permit to build a preschool. One household even commented that no one has approached them for their opinion. This map clearly overstates the true representation of those opposed to the project in the neighborhood and casts doubt to whether there are others.

SUZANNE LAYCOCK, 7622 KILLARNEY PLACE I am not affiliated with St. Stephens or Discovery Place. I do however support the recommendation by Bill Longnecker to deny this request. I understand and appreciate the missions of St. Stephens and Discovery Place and I hope they can continue to serve their members and the children of Wichita successfully. It is a legitimate request of St. Stephens but I simply disagree that my neighborhood is the most appropriate location, both of these entities need room grow and the area in which they currently reside on has a very fixed limit on which to do that. My main concern is safety and quality of life. My husband and I have two young children, ages 4 & 7, so I do understand the needs for a daycare, the needs for a preschool and the needs for a church. After living in five states in ten years and reflecting on the quality of life which would be best for our family, we came to the conclusion that this is the nicest neighborhood in which we've had the opportunity to reside. I believe this is the result of good City Planning, which has been in place all these years. Mr. Longnecker has denied the request due to the guidelines that have enabled this neighborhood to maintain its character and quality for the past 30 plus years. Please continue to protect it, and its residence the way you have in the past. Another point I want to make is that our neighborhood already has five churches and two schools located right within the boundaries, and that St. Thomas' preschool already serves this area.

ANTHONY SINGER, 7925 KILLARNEY I live at corner of Killarney and Rock Road and I want to echo the sentiments of one of the earlier speakers. I have nothing against St. Stephens and Discovery Place, this is simply a matter of traffic and the affect it will have in my neighborhood. I want to talk briefly about some of the traffic problems already present and explain to you what an increase to it would

do. At the corner of Killarney and Rock Road, if traffic attempts turn left, we have a situation where traffic already backs up two to three cars deep. If we have any events in the neighborhood such as a garage sale, or something of that nature, traffic backs up five or six more cars deep. If the daycare is allowed to go in, during the time frame from 8:00 A. M. to 8:30 A. M., when they are proposing to put an additional 60 cars through the neighborhood, you're going to back cars all the way along Killarney. This is the time when parents are trying to get their kids to school and people are trying to get to work, this simply is not going to work. We have nothing against daycares or the church; we just do not believe this is going to work in this neighborhood. As I understand it, they have two proposals to solve the traffic problem. One is to tell busy parents in the morning to filter back through the neighborhood via an indirect route, drop their children off and then exit the same way. That's not going to happen. If you're busy in the morning you're going to take the most direct route, which is to come up Rock Road and go straight down Killarney. The other proposal they have is to turn Killarney into a collector and put in sidewalks. My only response to that is why should the City bear the burden of installing sidewalks and potentially having to widen the street all to support one commercial enterprise? The site they have chosen simply does not fit their intended use and that's why staff is recommending that it be denied, why the DAB is recommending that it be denied and I would ask you to do the same.

SUSANNE GRAHAM, 1401 N. CASTLE ROCK ROAD My spiritual home is at St. Stephens Episcopal Church at 7404 Killarney. I have been a member of this church for a very long time, since 1963. I grew up in this neighborhood. My husband and I were married in the church, my children were baptized there and my father still lives across the street from the church. St. Stephens is my church home and I consider myself a neighbor. Like many entities St. Stephens has a mission and that mission is our north star; we believe that we are called by God to be a Christ center, a caring community living out the gospel of God for all people. Like other families in this neighborhood our church family wants to do what is best for our community. We have been involved in numerous outreach programs in the area and many of our members serve in leadership positions in various charitable organizations. One of our most important outreach is our collaboration with Price Harris communications magnet, our neighbor to the west. We've had a long term relationship with this elementary school, even using the building as a meeting place for several years. In the last few years our church has made an ongoing commitment to provide financial and volunteer support to the teachers, students and families, strengthening the existing services for this quality elementary school. The reason we are here today is to request the opportunity to collaborate with Discovery Place and continue the work of our mission, providing additional outreach and reinforcing our commitment to children and their rights. It is my belief that the positive elements of this project far outweigh manageable issues associated with increased traffic. Positive elements such as the fact that it's a perfect union of two entities with similar missions working together for the benefit of children, the fact that it's a convenient location for existing and future Discovery Place families and the fact that this is a potential opportunity to link a quality early childhood program with a highly valued, newly renovated neighborhood elementary school. The question has been posed; what's in it for us and our neighborhood? I maintain that we are their neighbors and have demonstrated our commitment to the neighborhood in many ways. We want to keep our building and grounds in good shape and that many of neighbors took advantage of the public access to our grounds. I would even go so far to say we are major stake holders willing to invest in our property to bring added value to the area. I ask that you consider the suggestions that been brought to you today regarding traffic, look beyond the short term stumbling blocks, and think about the future. Isn't our neighborhood better served by a thriving vibrant and stable community focused church and wouldn't you agree that our children deserve the opportunity for an excellent early childhood educational experience?

RAFFAELE FAZIO, 702 N. DOREEN I want to speak to the solution proposed by the Discovery Place to handle the traffic issue. I was part of the small group of neighbors that was invited to meet after the deferral of the MAPC meeting. I appreciated their willingness to try and deal with the traffic issue, but when I asked them how they were going to regulate compliance with this, they said they couldn't. When asked what the consequences were if there is no compliance, they stated that there were no consequences. What we have here are people making a promise that cannot be kept. The obligation is with the parents using Discovery that don't live in this neighborhood. Out of that one square block area around the church

you have five people who are associated with Discovery Place and everybody else is coming in from outside the neighborhood and they don't have to bare the burden of the traffic generated by Discovery. I would also like to talk about what a vote in favor of the Discovery Place permit would mean; it would be against the will of an overwhelming majority of the neighbors who are directly impacted by the traffic. We have petitions to prove that, you have copies of that. It would also mean a vote against the will of the people who were on the map that was highlighted within 350 feet of the site. I am going to assume that some were mistakenly put on the map, thus the protest number drops to 80%. That's 40 out of 51 neighbors against it; 80% of the neighbors within 350 feet of the site are against this. It will be a vote against their will. It will also be a vote against the eight DAB members, who recommended against this, with one abstaining. If you vote for this, it would be for the benefit of a few who don't live in the neighborhood and against the will of all of these people who have to bare the burden of the increase in traffic.

MARILYN GRIGGS, 7213 CRESTHILL COURT 67206 I've lived in the neighborhood for 30 years. I appreciate respect and honor, St. Stephens and Celebration Baptist, both were there before Discovery. I am a former educator and a volunteer preschool teacher in my own church so I am very aware of the need for quality education for our preschoolers. The issue I cannot get by is the lack of access to this area, which is bound by 13th, Central, Woodlawn and Rock Road. My biggest concern is Rock Road. Anyone who wants to go north when they leave St. Stephens property has to go on to Killarney. I don't know how often you travel Rock Road, but it is a mess and one of the most accident prone intersections, is Central & Rock Road; it's a dangerous situation. In the beginning, I think that Discovery Place could probably control the traffic. I've seen public schools attempt to do that before. But I promise you in a few years the parents that are there that weren't there before are going to be saying "what were they thinking putting us in here where we have to take our lives in danger trying to get on Rock Road." The only other way is to come around Killarney across Cresthill and up Armour and when you get up to 13th and Armour you have another traffic jam at certain times of the day because of St. Thomas. I apologize and am appalled as I am sure all of my neighbors are at the idea that someone would make threats against the church. My opposition is about the safety of not only our neighborhood children, but the children going to St. Thomas, Price Harris and the Discovery children. I urge you to vote no, strictly because of the traffic issue problem.

ROGER LOWE, 7842 KILLARNEY PLACE Our house is located three houses west of Rock Road. My wife and I have lived there 36 years. If you have a question about the concerns that people talked today about traffic, turning on and off of Rock Road, I would invite you to live with us for a couple weeks and ride with me in the car to experience that, because it is a problem today with the traffic that is there now. No one has mentioned today about the additional vehicles that will come in from commercial enterprise to support products and services to this additional commercial enterprise, which would be added to the traffic discussed earlier. I would suggest that you take into consideration the fact that the staff recommended that it be denied, as did the DAB.

MITCHELL Are there any other speakers? Seeing none the applicant has rebuttal.

APPLICANT LESTER LIMON, PKHL ACHITECTURE A statement from Mr. Longnecker at one of our previous meetings referred to a reasonable right of St. Stephens to develop their property. Due to poor planning two decades ago an east collector street was never built. Gentlemen, while your not responsible for the actions of your predecessors you must wear their scars; you must address every opportunity we put before you to correct these injustices. In fact, on page 233 of UZC, there is a section called nonconformities created by public action. They address specifically sizes of sites and setbacks but I feel the policy is the same in regards to the street. We are not unreasonable people and we'll listen to any alternatives, but you must find in favor of our proposal and task us with the four conditional items in Mr. Longnecker's report to give us the opportunity to be good stewards of your approval .

MILLER-STEVENS You have spoken, and the others have also, about current conditions. Can you give me information about your projective growth for Discovery Place and the possible impact growth would have?

LESTER LIMON, PKHL ARCHITECTURE We currently have 129 licensed capacity. We have applied for a 150 capacity child care center; there will be no growth beyond 150 children.

SHERMAN You mention four other locations, where were those locations?

LESTER LIMON, PKHL ARCHITECTURE In general terms, we had one location that was north of the northeast bypass off of Woodlawn, and we had two independent sites. When I say independent, I mean they were non-built sites that were out near Greenwich.

SHERMAN None of those locations, when compared to this location, measured up?

LESTER LIMON, PKHL ARCHITECTURE For various reasons the vacant sites that were east of our location, turned out to be too expensive. Again, we are a nonprofit so we have to raise all our funds. The one location that was north of the bypass on Woodlawn was a structure that was under construction and we were hoping to get in as a lease tenant and renovate that building.

SHERMAN Was that financial too?

A LESTER LIMON, PKHL ARCHITECTURE The building was adequate, but the outdoor site area was inadequate.

SHERMAN What is the square feet of your proposed building?

LESTER LIMON, PKHL ARCHITECTURE 20,000 square feet.

MARNELL Is the City Traffic Engineer available?

PAUL GUNZELMAN, TRAFFIC ENGINEER Introduced himself.

MARNELL Have you met with the applicant and looked at the data provided having to do with traffic counts on this project?

GUNZELMAN I have met with them, it's been a few weeks ago. I have seen that data.

MARNELL Would you mind commenting on it? I'm referring to page 3 of 6 data.

GUNZELMAN They went over their existing traffic, arrival and departure times, during the morning and afternoon, and those numbers look like the ones I saw. When Mr. Longnecker brought this case to my attention, I put some counters out in this area to count the traffic. I do have those numbers; there are a little over 830 vehicles on Killarney during the day. The proposed day care will definitely impact those numbers that currently exist.

MARNELL How do these numbers look in terms of capacity on those streets added to the existing counts?

GUNZELMAN Adding to existing traffic, the streets could probably handle it, but the volume would be on the high end.

MARNELL It would seem to me, the problem for congestion would appear to be turning left on Rock Road or attempting to run east on Central where you would be making left hand turns. Is that your

assessment of what would be congestion out of this level of traffic? For creating congestion would it be the left hand turns as in Rock Road out of Killarney?

GUNZELMAN East bound on Killarney to go north? Probably, and you heard some of that, the gaps on Rock Road they probably do stack up to make the left.

MARNELL Considering the traffic getting out and taking right hand turns, with generally no more vehicles than this, it wouldn't be deemed to congest the area. I know left turns can be problematic on Rock Road. I live in the area where Beech lets out. If you want to go against the traffic it's very difficult to turn left. I've managed to live with it for many years, by going right or going in a different direction. But the street capacity itself is not in question as far as you can see.

GUNZELMAN Not with the counts I had. This count was just west of Rock Road on Killarney; the highest volume in the hour, taken on April 18, was 87 vehicles, and that was in the afternoon, 4:00 P. M. to 5:00 P. M.

JOHNSON Has there been ever been any consideration or do you know of any in regards to crossing the drainage there on 9th?

GUNZELMAN We had gone out with some Planning staff members and looked at that. I'm not a drainage engineer, but there are a couple of different drainage areas that are crossing where 9th would be connecting into Lawrence Lane. We have a structure coming out of the existing pond and then we have a drainage canal on the west side as well, and they all meet right there where a connection would be made.

JOHNSON Anywhere up and down there, would there be a way to get cost for a crossing?

GUNZELMAN Not being a drainage guy I don't feel comfortable answering that.

HILLMAN Do we have access to a drainage person?

MITCHELL No.

HILLMAN I can see potentially walkways here for pick up and delivery on the west side, bridges for kids either tied to the north side of Killarney or from the school yard. My question is if that is possible?

MITCHELL My memory is there is a foot bridge along the alignment on 9th Street for the school, but I don't believe it would serve this use.

MOTION: To approve the applicant's application for the Conditional Use.

MARNELL moved, **MCKAY** seconded the motion.

MARNELL I think they do have right to develop this site and that the increase in traffic is not unreasonable and people will adjust to it.

JOHNSON Asked if the motion included the items on page 9, conditions 1, 2, 4 and 5.

MARNELL Yes it would

SUBSTITUE MOTION: To deny.

VAN FLEET moved, **SHERMAN** seconded the motion.

VAN FLEET We have heard discussion today on two different proposals, one being a business marriage between the church and a successful child care. The other proposal, as I see it and it being the reason why we are here; is what the appropriate use for the property is. It seems to me that overwhelming testimony has been presented to us, stating that this is not the right place no matter how good the marriage business proposal may be. I support staff position, which is well reasoned, that the Conditional Use be denied.

SHERMAN This is stressing me out, with the church and the community at odds like this, it's really unfortunate. I am very pro business, I believe everybody has a right to put a business where they need to, but business rule one is location, location, location and I just do not believe this is the right location for the proposed use.

DENNIS I agree. I am very torn on this issue. I've listened very carefully to all the comments. I believe strongly in early education for our children, which can benefit them a great deal, but again the location to me is not appropriate for the use that is being proposed. I think I will vote against it.

HENTZEN I am going to vote against the substitute motion. I happen to believe very strongly in neighborhood schools and neighborhood care of young people, and we've adjusted to traffic all over the city to allow that to happen at the private schools, 501c organizations. In fact, we are infected with what I call self appointed activist, who try to stop things in their own neighborhood. I think the idea saying that we are going from a church to a commercial operation, is not correct, because what they requesting is not a commercial operation. I've never heard that when we tried to place a high school, either public or private, that we were going to put in a commercial operation. We've adjusted to that time and time again whenever we started a private school or parish.

Tape 2 side A

MOTION: To deny.

VAN FLEET moved, **SHERMAN** seconded the motion, and it carried (7-6).

JOHN SCHLEGEL, PLANNING DIRECTOR All those who were here on this item, this is a Conditional Use, and it's final action by the Planning Commission unless appealed by someone to the City Council.

-
5. **Case No.: ZON2008-21 and CUP2008-15** - Todd Parker (owner); Poe and Associates, Incl., c/o Tim Austin (agent), Christian Ablah (agent) Request Creation of DP-313 Parker Addition Community Unit Plan and City zone change from "SF-5" Single-family Residential to "LC" Limited Commercial on property described as:

The Southeast Quarter EXCEPT the North 1643 feet and EXCEPT West 1645 feet and EXCEPT part beginning 75 feet West of the Southeast corner of the Southeast Quarter; thence North 175 feet of the West 200 feet of the South 178.75 feet; thence Northeasterly 25.28 feet; thence East 175 feet to beg & EXCEPT East 50 feet & South 50 feet for Roads & EXCEPT 4.67 acres for Highway, Section 15, Township 27, Range 2 East of the 6th P.M., Sedgwick County, Kansas.

AND

That part of the Northwest Quarter of the Northwest Quarter lying north and West of K-96 Highway, EXCEPT Roads, Section 23, Township 27, Range 2 East of the 6th P.M. Sedgwick County, Kansas. Generally located on the northwest corner and southeast corner of Central Avenue and 127th Street East.

BACKGROUND: The applicant proposes to create a commercial community unit plan (“CUP”) containing 29.5 acres with nine parcels located on the northwest and southeast corners of the intersection of Central Avenue and 127th Street East and running parallel to K-96. Ten acres (10.1) of the CUP is zoned “LC” Limited Commercial and the applicant has requested to rezone the balance of the CUP (19.4 acres) from SF-5 Single-family Residential to LC. Parcels 1-7 would comprise the property to the northwest of the intersection, except for the 0.8 acre corner tract that is under separate ownership and already developed as a convenience store with gas islands and a single-bay car wash. Parcels 8 and 9 would comprise the property bordered by Central Avenue, K-96, the south I-135 ramp and 127th Street East.

All parcels except Parcel 2 would allow uses permitted by right in the LC district. Parcel 2, located on the western edge of the CUP along Central adjacent to Crestlake Addition, would be restricted to NR Neighborhood Retail (“NR”) uses. Uses prohibited on the entire CUP are: cemetery, correctional placement residences, taverns, nightclubs, drinking establishments or adult entertainment establishments (sexually oriented businesses). Additional prohibitions are on auto-oriented uses (service stations, convenience stores with gas islands, restaurants with drive-in or drive through facilities and vehicle repair) within 200 feet of residential zoning, overhead doors facing residential districts, and screening of these types of trash, mechanical equipment, loading docks and service areas.

The CUP provides architectural standards, consistent design of lighting elements and height limitation of 20 feet, landscape palette consistency and more stringent planting ratios, avoidance of neon and florescent lighting on buildings. A standard masonry wall is required on the north and west property lines of Parcels 1, 2 and 7. Additional signage and lighting provisions are suggested to protect the adjacent residential development under construction from the commercial uses.

Perimeter setbacks are 35 feet. However, the CUP proposes reducing the front setback to 20 feet if the area between the right-of-way line and the street wall line (defined as a line extending from the front building façade) is limited to landscaped area only. Only one drive aisle (defined as a two way drive aisle with parking spaces on one or two edges, which is a paved area of approximately 60 feet for two lines of parking and 42 feet for one line of parking spaces).

Pedestrian connectivity and internal site circulation and cross circulation are required. Maximum building coverage would be 30 percent; maximum gross floor area would be 35 percent of total land area, and maximum building height would be 35 feet. The requested number of buildings is large, being ten for Parcel 9, eight for Parcels 1 and 8, five for Parcels 5, 6 and 7, and three for Parcels 2, 3 and 4.

The CUP proposes a sign plan consisting of a more limited number of sign locations, and specifies the maximum sizes permitted. Continuous movement signs are prohibited, temporary banners/pennants are allowed per specific guidelines. Building wall signage is limited to use of individual letters, with three feet height of letters for Parcel 1 and two feet for other parcels, and otherwise would seem to be per Wichita Sign Code.

The property is vacant. The tract excluded from the CUP on the northwest corner of Central Avenue and 127th Street East has a convenience store with gas islands and a single-bay car wash on property zoned LC. The property on the southwest corner of Central and 127th is zoned LC and has a strip commercial building with retail/personal service types of uses and a bank, but over half of this CUP (DP-247) is undeveloped. A warehouse, self-service storage facility and a vacant tract is located on the next property to the west of DP-247. The land to the north and west of Parcels 1, 2 and 7 is zoned SF-5 and is being developed in single-family residences in Crestlake Subdivision and Preston Trails. The property to the west of Parcel 8 along 127th Street East is held in large residential lots. The property to the south of Parcel 9 is vacant land with OW Office Warehouse (“OW”) zoning and is part of DP-248. The KTA southbound ramp forms the southern boundary of Parcel 9. K-96 borders the property on the east. The land east of K-96 is zoned SF-5 and consists of single-family development in Bridgefield Subdivision and Crestview, an assisted living facility and a church.

CASE HISTORY: The property is not platted. DP-255 KTP Center Addition Community Unit Plan (CUP2001-00005) and an associated zone change to LC and GO General Office (“GO”) (ZON2001-00009), was approved in 2001 for a larger tract of 51 acres, but which included the northwest 12 acres in Parcels 1-7 of this request. This case was denied and closed for failure to plat.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5,	Single-family residential, assisted living, church
EAST:	SF-5	Single-family residential
SOUTH:	LC, OW	Commercial strip center (retail/personal services, bank, warehouse, self-service storage, vacant
WEST:	SF-5	Single-family residential

PUBLIC SERVICES: Central Avenue is classified as a minor arterial street and constructed as a four-lane arterial with a center turn lane from Garnett Street, which is located one block west 127th Street East, and continuing past the bridge over K-96. Traffic counts on 127th in 2007 were 11,000 vehicles per day (ADTs). 127th Street East is classified as a minor arterial street. North of Central, it is constructed as a four-lane arterial with a center turn lane, and had traffic counts of 4,875 ADTs in 2007. South of Central, it is constructed as a two-lane arterial with a center turn lane, and had traffic counts of 3,738 in 2007. The KTA ramp is a divided four lane entrance/exit to the Turnpike and K-96. K-96 is classified and constructed as a four-lane limited access freeway.

The state has complete access control along the KTA ramp bordering the south boundary of Parcel 9. It is recommended that the drive alignment between Parcel 2 and Parcel 3 be shifted to align with Garnett Street, that drive openings shall be aligned with existing drives on 127th Retail Addition and that the remaining frontage shall be platted per Access Management Policy.

Other normal public services are available.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide, Map as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “local commercial.” This CUP would be in conformance with this guideline.

In terms of conformance with commercial goals/objectives/strategies and locational guidelines, it partially conforms to **Commercial Goal/Objective B** of “Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses.” It conforms to **Strategy III.B.1** of locating local commercial development (neighborhood centers) in areas shown on the Land Use Guide at the intersection of two arterial streets and it is within the area shown for urban expansion. The CUP incorporates provisions conforming to **Strategy III.B.2** of integrating out parcels to planned centers through shared internal circulation, similar landscaping and building materials, and combined ingress/egress. **Strategy III.B.3** seeks to reduce access points along arterial streets; which would be accomplished through alignment of the drive with Garnett Street and following access management for the other access points. **Commercial Locational Guideline #1** of the *Comprehensive Plan* recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use, and **#4** recommends compact clusters versus extended strip development. The proposed CUP incorporates provisions related to architectural, landscape, signage, lighting, screening and other features to comply with this guideline.

RECOMMENDATION: Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2008-00021) to LC for the property zoned SF-5 subject to platting within one year.
- B. APPROVE the Community Unit Plan (DP-313), subject to the following conditions:
1. Revise General Provision #4 to state: "Signage will be permitted as allowed by the Sign Code, City Code Title 24.04, with the following additional conditions/ limitations."
 2. Revise General Provision #4A to prohibit off-site signs and billboards.
 3. Clarify that General Provision #4C to state: "Each parcel shall be permitted monument style ground signage as indicated in the Sign Schedule. Please refer to 'Legend: Proposed Monument Sign' schedule on this document."
 4. Limit the height of monument sign on Parcel 2 to 15 feet.
 5. Add to General Provision #4F: "Prohibit building wall signs facing residential on Parcels 1-7."
 6. Revise General Provision #13 to limit height of lighting to 15 feet within 100 feet of residential zoning.
 7. Revise General Provision #23 to require construction of the masonry wall when any portion(s) of Parcels 1, 2 and/or 7 are developed.
 8. Provide guarantees for left turn center lanes and right turn decel lanes to all full movement approaches at time of platting.
 9. It is recommended that the drive alignment between Parcel 2 and Parcel 3 be shifted to align with Garnett Street, that drive openings shall be aligned with existing drives on 127th Retail Addition and that the remaining frontage shall be platted per Access Management Policy.
 10. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
 11. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
 12. The ordinance/resolution establishing the zone change shall not be published until the platting has been recorded with the Register of Deeds.
 13. Prior to publishing the ordinance/resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-313) includes special conditions for development on this property.
 14. 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 property is vacant. The tract excluded from the CUP on the northwest corner of Central Avenue and 127th Street East has a convenience store with gas islands and a single-bay car wash on property zoned LC. The property on the southwest corner of Central and 127th is zoned LC and has a strip commercial building with retail/personal service types of uses and a bank, but over half of this CUP (DP-247) is undeveloped. A warehouse, self-service storage facility and a vacant tract is located on the next property to the west of DP-247. The land to the north and west of Parcels 1, 2 and 7 is zoned SF-5 and is being developed in single-family residences in Crestlake Subdivision and Preston Trails. The property to the west of Parcel 8 along 127th Street East is held in large residential lots. The property to the south of Parcel 9 is vacant land with OW Office Warehouse ("OW") zoning and is part of DP-248. The KTA southbound ramp forms the southern boundary of Parcel 9. K-96 borders the property on the east. The land east of K-96 is zoned SF-5 and consists of a single-family development in Bridgefield Subdivision and Crestview Subdivision, an assisted living facility and a church.

2. The suitability of the subject property for the uses to which it has been restricted: The current zoning, SF-5 and LC, is suited for development although the presence of commercial use to the south of Parcels 1-4 may deter the viability of residential uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The CUP provisions should diminish the detrimental effects of the development on nearby residential property.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The “2030 Wichita Functional Land Use Guide, Map as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “local commercial.” This CUP would be in conformance with this guideline. In terms of conformance with commercial goals/objectives/strategies and locational guidelines, it partially conforms to **Commercial Goal/Objective B** of “Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses.” It conforms to **Strategy III.B1** of locating local commercial development (neighborhood centers) in areas shown on the Land Use Guide at the intersection of two arterial streets and it is within the area shown for urban expansion. The CUP incorporates provisions conforming to **Strategy III.B.2** of integrating out parcels to planned centers through shared internal circulation, similar landscaping and building materials, and combined ingress/egress. **Strategy III.B.3** seeks to reduce access points along arterial streets; which would be accomplished through alignment of the drive with Garnett Street and following access management for the other access points. **Commercial Locational Guideline #1** of the *Comprehensive Plan* recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use, and **#4** recommends compact clusters versus extended strip development. The proposed CUP incorporates provisions related to architectural, landscape, signage, lighting, screening and other features to comply with this guideline.
5. Impact of the proposed development on community facilities: The development will add traffic to the arterial streets, but the improvements on Central are adequate. If significant activity occurs on 127th, the street may need expansion. Other municipal services are available.

DONNA GOLTRY Planning staff presented staff report. DAB II voted to approve this request, but heard concerns from a community member who lived across the street to the east concerning lighting, building signage and similar impacts. I’ve spoken to the agent about the DAB recommendation. Apparently, although the DAB recommended in favor, they asked that we look at ways to mitigate the impact. The suggestion I have been given by the agent was that they would offer to plant trees for a landscaping type buffer at a rate of one tree per 50 feet along that K-96 buffer. I would point out you that, from the standpoint that landscaping, normally the buffer will accrue naturally along a freeway, but it actually wouldn’t here because the site is not at grade with K-96.

MILLER-STEVENS Asked Donna if she could point out where the nearby residential is located.

GOLTRY Preston Trails and Crest Lake Addition, which is under development, is nearest the property where they have asked for LC zoning.

TIM AUSTIN, POE & ASSOCIATES, Agent for the applicant stated the applicant was in agreement with staff comments.

KEVIN JONES, 13109 E. BRIDEFIELD PLACE As mentioned earlier, I spoke to the other day to DAB II. And, I have spoken to a number of neighbors. Our property backs up to K-96 and K-96 is

depressed there. We have a great view of this property, particularly Parcels 8 and 9. In theory we really don't have a problem with this application. Our only concern is Item #28 on the CUP, where it talks about the 200- foot setback from residential areas for limiting those types of businesses. We're a little more than 200 feet; we're about three times that. The agent has been very responsive about adding screening. Some of us have screening in our back yard, it's great in the summer but the screening goes away in the winter time. We also have 6-foot walls. Most of our houses are built on an elevation and extend in height above that wall. So we have a great view of that property. Our biggest concern will be convenient store, gas station type of business on those two plats. We'd like to see that part of CUP changed, other than that we have no objections.

MITCHELL Asked **AUSTIN** if he would answer the question about screening.

AUSTIN I didn't think there was a question with screening. There's no landscape requirement along with K-96. After the meeting the other night and consultation with Donna we added a landscape buffer requirement where none was required before, I feel like we've already answered that question.

MITCHELL You think you have satisfied his concern.

AUSTIN Yes.

MOTION: To approve.

MARNELL moved, **HENTZEN** seconded the motion, and it carried (13-0).

FOSTER Would the motion include the additional buffering recommended by staff?

MARNELL Asked **GOLTRY** if that was separate from the staff report.

GOLTRY Stated would need to be added.

MARNELL Yes it would be added.

-
6. **Case No.: ZON2008-24 and CON2008-23** – Munizr Razzaq & Murad Abdel -Razzaq Request County zone change from RR Rural Residential to LC Limited Commercial and County Conditional Use permit to allow Vehicle and Equipment Sales, Outdoors on property described as:

West 183 feet of the East 823 feet of the South 350 feet of the Southeast Quarter of the Southeast Quarter, EXCEPT Road on South, Section 4, Township 29, Range 1 East, Sedgwick County, Kansas. Generally located on the north side of 79th Street South, 1/8 mile west of Hydraulic Avenue (1506 E. 79th Street South).

BACKGROUND: The applicants proposes to sell used automobiles and light trucks on the 1.34-acre unplatted, RR Rural Residential ("RR") zoned tract. LC Limited Commercial ("LC") zoning is the first zoning district that allows the sale of vehicles outdoors with a Conditional Use permit, thus the applicants' request for the LC zoning and the Conditional Use. The applicants also propose to repair vehicles and then sell them. The LC zoning district permits "vehicle repair, limited." Vehicle repair, limited (Unified Zoning Code {UZC}, Art.II, Sec.II-B, 14h) allows repair and maintenance services on vehicles within a completely enclosed building, but does not include "paint and body shops" (UZC, Art II, Sec.II-B, 14i). Body and paint shops are first allowed in the GC General Commercial ("GC") zoning district. A "vehicle storage yard" (UZC, Art.II, Sec.II-B, 14j) is first permitted in GC zoning district, while a "wrecking and salvage yard"(UZC, Art.II, Sec.II-B, 14r) is first permitted in the CBD, Central Business District ("CBD") zoning district. The site is located in the county, less than a mile southeast

from the City of Haysville. The site is in Haysville's area of zoning influence, which means the Haysville Planning Commission must consider the request prior to the MAPC's consideration.

Because the applicant has stated that he does not plan to expand his operations beyond its present area, the GIS aerial will serve as a site plan. The 2006 GIS aerial of the site shows two large buildings, with one of them (the south most building) listed as a 2,760-square foot single-family residence built in 1960. The other large building, located north of the residence, appears to be accessory outbuilding. Neither of these buildings looks residential, having a curved "hanger" shape. There is a smaller outbuilding, located to the west of the residence and slightly in front of it. The aerial shows maybe 39 vehicles scattered in the back yard, which is enclosed by a solid wood fence. The site does not appear to have any paved parking areas or landscaping.

The site and its abutting eastern and western neighbors, (all located west of Hydraulic Avenue, on both sides of 79th Street South) are zoned RR while the rest of their neighbors, on all sides of them, are mostly zoned SF-20 Single-family Residential. All abutting and most of the adjacent properties are developed as single-family residences, with the older residences (most built in the 1950s) usually built on regular shaped, unplatted tracts around an acre in size. The newer residences in the same area are built (1992-2002) on platted lots, around an acre in size. There are approximately 65 property owners and/or single-family residences within 1,000 feet of the subject site. This western portion of the area has very little vacant land and one of those vacant properties has the only nonresidential zoning in the area. This mostly vacant, platted (Hancock 5th Addition, 12-17-1981) LC zoned property (SCZ0736) is located on the northwest corner of 79th and Hydraulic, approximately 150 to 400 feet east of the subject site. There is an accessory structure on the LC zoned property, which is owned by the RR zoned single-family residence located between the subject site and the LC zoned property. The rest of the area east of the site, across Hydraulic, is zoned RR and is used for agriculture. In the past this area around 79th and Hydraulic was developed as fruit orchards, such as Blood or Hancock Orchards, which may explain the design of the site's two large buildings.

CASE HISTORY: The County Office of Code Enforcement has cited this property for operating an illegal salvage yard in 1997 and 2000, the current owners were not the property owners at those times. The current property owners have had tickets written for operation of a wrecking/salvage yard and commercial parking in RR zoning. The current property owners are currently in the County courts for the above cited illegal activities. Code Enforcement directed the applicant to come into compliance, either by rezoning or conforming to the uses allowed in the RR zoning district.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-20	single family residences
SOUTH:	SF-20	single family residences
EAST:	RR, LC	single-family residence, vacant land, agricultural land
WEST:	RR, SF-20	single-family residences

PUBLIC SERVICES: 79th Street South and Hydraulic Avenue are paved two lane County highways and are classified as minor arterials. The 2030 Transportation Plan shows no change in the status of these roads. There are no traffic counts at the 79th – Hydraulic intersection. There is no public water or sewer available to the site or the area. All other utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies this area as being in the City of Haysville's "urban growth area." A small city's urban growth area is defined as being generally located adjacent to the city's boundaries and indicates the reasonable direction and magnitude of growth these communities can expect to experience out to the year 2030. The City of Haysville's land use map shows this property as being suitable for residential development. The proposed LC zoning, to allow vehicle repair, limited, and the Conditional Use for car sales does not comply with the Haysville plan. Commercial Objective III.B encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses." Commercial Locational

Guideline #3 of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting and other activity from adversely impacting surrounding residential areas. The site, its proposed zoning and proposed Conditional Use mostly fail to meet these criteria.

RECOMMENDATION: Staff usually does not support the introduction of car sales into an area where none exist. The exceptions to introducing car sales into an area where none exist, has been on LC zoned sites where an existing garage (vacant or active) has been supported for a Conditional Use for car sales. The results of these approvals are at best mixed, as they can add more mechanical clutter on sites that may have been marginal in regards to their economic vitality and their positive contribution to a neighborhood and its appearance. This site is requesting LC zoning in an attempt to continue to operate what appears to be, at best, a nonconforming vehicle repair limited business and at worst an auto salvage yard, which is why it is currently in County court. LC zoning does not permit a wrecking/salvage yard. The requested Conditional Use to sell cars and light trucks, which the applicants propose to repair and then sell, could encourage continuation of a nonconforming use under the approval of the requested LC zoning for vehicle repair limited, plus introduce car sales, which is not established in the area, on a site that is best suited for residential use. Based upon information available prior to the public hearings, planning staff recommends that the request for the LC zoning for vehicle repair, limited and a Conditional Use to allow car sales be **DENIED.**

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

1. **The zoning, uses and character of the neighborhood:** The character of the neighborhood is predominately RR and SF-20 zoned single-family residential development, mostly located west of Hydraulic Avenue, on both sides of 79th Street South. The older residences (most built in the 1950s) have usually been built on regular shaped, unplatted tracts around an acre in size. The newer residences in the area are built (1992-2002) on platted lots, around an acre in size. There are approximately 65 property owners and/or single-family residences within 1,000 feet of the subject site, which makes this a densely populated area of Sedgwick County. This portion of the area has very little vacant land and one of those vacant properties has the only nonresidential zoning in the area. The mostly vacant, platted (Hancock 5th Addition, 12-17-1981) LC property is located on the northwest corner of Hydraulic and 79th, approximately 150 to 400 feet east of the subject site. The rest of the area east of the site, across Hydraulic, is zoned RR and is used mostly for agriculture.
2. **The suitability of the subject property for the uses to which it has been restricted:** The property is zoned RR, but because of its size (1.34-acres) it is probably more suitable for single-family residential. The property is currently out of compliance with the uses permitted in the RR zoning district and is in County court for operating a wrecking/salvage yard and commercial parking. The proposed LC zoning for vehicle repair, limited and the requested Conditional Use for car sales would not permit a wrecking/salvage yard.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** This site is requesting LC zoning in an attempt to continue to operate what appears to be, at best, a nonconforming vehicle repair, limited business and at worst an auto salvage yard, which is why it is currently in County court. LC zoning does not permit a wrecking/salvage yard. The requested Conditional Use to sell cars and light trucks, which the applicants propose to repair then sell, could expand a nonconforming use on a site that is best suited for residential use. Continuation of the current activity, let alone introduction of a new auto related uses on the site is out of character with the area and does nothing to enhance the value of the area's many single-family residences. The proposed zoning would also sandwich an existing single-family residence between the applicants' proposed uses and their requested LC zoning and the existing LC zoning on the northwest corner of 79th Street South and Hydraulic Avenue.

4. Conformance of the requested change to adopted or recognized Plans/Policies: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this area as being in the City of Haysville’s “urban growth area.” A small city’s urban growth area is defined as being generally located adjacent to the city’s boundaries and indicates the reasonable direction and magnitude of growth these communities can expect to experience out to the year 2030. The City of Haysville’s land use map shows this property as being suitable for residential development. The proposed LC zoning to allow car repair, limited and Conditional Use for car sales does not comply with the Haysville plan. The property is currently out of compliance with the uses permitted in the RR zoning district and is in County court for operating a wrecking/salvage yard and commercial parking.
5. Impact on Community Facilities: There is no public water or sewer available to the site or the area. All other utilities are available to the site. Existing road facilities are adequate.

NOTE: Per the UZC, the RR and SF-20 zoning districts permit automobile painting, upholstery, rebuilding, renovation, reconditioning, body and fender works, and overhaul conducted entirely within an enclosed structure with no outdoor storage of vehicles, parts or equipment, as a ‘rural home occupation’, if a site conforms to all eight criteria listed in Art.IV, Sec.IV-E, 6, a-h; see attached. The subject site does not meet a number of these criteria; it is not 20-acres in size, is closer than 600 feet to a dwelling unit wherein no rural home occupation is conducted, per the GIS aerial the storage area is larger than 10,000-square feet in size and is located closer than 200 feet from the any other property line and public street right-of-way and because the site is less than 5-acres it would not qualify for consideration as a Conditional Use.

However if the MAPC finds the requested zoning and Conditional Use to be appropriate for this site, Staff proposes the following Protective Overlay and conditions:

- (1) The LC Limited Commercial zoning will permit by right only vehicle repair, limited, which must be conducted entirely within an enclosed structure with no outdoor storage of vehicles, parts or equipment.
- (2) A Conditional Use will be permitted only for the sale of automobiles and light trucks. All standards per Art. III, Sec.III-D, x, 1-6 of the UZC’s supplemental use regulations will apply; see attached.
- (3) All compatibility setbacks will be observed and no parking or display of vehicles will be allowed within them.
- (4) Provide a landscape plan for review and approval by the Planning Department, within 6 months of approval by the MAPC or governing body, or the application will be considered null and void.
- (5) Provide a revised site plan, including the car sales area, customer and employee parking, parking barriers, concrete or asphalt parking, storage and display areas, easements, setbacks, the office, the garage, lighting, trash, solid screening, etc, within 6 months of approval by the MAPC or governing body, or the application will be considered null and void.
- (6) All improvements to the site must be completed within one year of approval by the MAPC or governing body, or the application will be considered null and void.
- (7) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use or the provisions of the Protective Overlay, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This case was withdrawn by the applicant.

7. **Case No.: ZON2008-25** – Ronald and Leah Garcia (owners/applicants) Request County zone change from SF-20 Single-family Residential to LC Limited Commercial on property described as:

The East ¾ of the North 440 feet of the Northeast Quarter excluding the West 660 feet and excluding the East 800 feet and excluding the North 50 feet for road, Section 12, Township 27, Range 2 East of the 6th P.M., Wichita, Sedgwick County, Kansas. Generally located the south side of 21st Street North, 1/5 mile west of 159th Street East (15621 East 21st Street North).

BACKGROUND: The applicant is seeking LC Limited Commercial (“LC”) zoning on 4.7 acres located on the south side of 21st Street North and 1/5 mile west of 159th Street East. The application area consists of one unplatted tract zoned SF-20 Single-family Residential (“SF-20”). The site is developed with a single-family residence and some accessory buildings. The site has approximately 445 feet of frontage on 21st Street. Currently, 21st Street is a two-lane arterial, but is scheduled to be improved to five-lanes in the next couple of years.

Most properties located in the larger area surrounding the application are zoned SF-20 and developed with agricultural or single-family residential uses; however the land located north of 21st Street East has been annexed by the City of Wichita, and is zoned SF-5 Single-family Residential (“SF-5”) but has been approved as Parcel 1 of DP-303, Monarch Landing Community Unit Plan. Parcel 1 has been approved for LC zoning, subject to platting, but is restricted to those uses permitted in the NR Neighborhood Retail (“NR”) district, but not including the special individual commercial use size limits found in the NR district (no individual commercial use can exceed 8,000 square feet; restaurants are limited to a maximum size of 2,000 square feet and drive-through service is not allowed), and the GO General Office (“GO”) district. Overhead-doors, drive-through or in car service, service stations, fuel outlets or gas pumps are also prohibited if located within 100 feet of any single-family residential lot or if these uses are facing any single-family lot. CUPs also have 35-foot interior side setback and masonry wall buffer requirements.

Property to the south is zoned SF-20 and is currently vacant agriculture land. The property to the east is zoned SF-20 and is currently vacant, but the property has been approved for LC zoning subject to the provisions of Protective Overlay #206. Property to the west is zoned SF-20 and is developed with a single-family residence and outbuildings, but this property has just recently been approved by the MAPC for a zone change to LC subject to provisions of a Protective Overlay, which mirror the Monarch Landing restrictions discussed above.

The segment of 21st Street located east of K-96 Highway is a rapidly changing corridor that, in the last few years, has seen increasing levels of both residential and commercial activity. On the Butler County side there have been a new Andover school, the Cornerstone Commercial Planned Unit Development and a new hospital built in the northeast quarter-section adjoining 21st Street and 159th Street. West of 159th Street, in addition to the two commercial tracts discussed earlier, there have also been a number of new urban-scale residential subdivisions, churches, private school and another new Andover school.

CASE HISTORY: This property is currently unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	“SF-5” Single-family Residential <i>(Approved for NR and GO uses subject to DP-303)</i>	Residence
SOUTH:	“SF-20” Single-family Residential	Ag. Land
EAST:	“SF-20” Single-family Residential <i>(Zone change to LC subject to provisions of Protective Overlay #206)</i>	Vacant
WEST:	“SF-20” Single-family Residential <i>(Zone change to LC with a Protective Overlay approved by the MAPC on May 8, 2008)</i>	Residence

PUBLIC SERVICES: The site has direct access to East 21st Street North, a two-lane principal arterial street with no traffic volume counts near this location. The subject property has access to water, with a water main running along the north property line. Public sewer service will have to be extended to the subject site.

Improvements to 21st Street, between K-96 and 159th Street East are scheduled to begin around the spring of 2008. 21st Street is currently a two-lane asphalt road with drainage ditches. The proposed improvement would consist of a five-lane roadway with two through lanes in each direction. Left turn lanes will be provided at all three intersections with the 21st Street at 127th Street East, 143rd Street East and 159th Street East. Drainage improvements are included in the project as well as 5-foot sidewalks on both sides of the street the length of the project. It is estimated that the project would take 12 to 15 months to complete.

CONFORMANCE TO PLANS/POLICIES: The application area is located within “Wichita’s 2030 Urban Growth Area.” Land located within the 2030 Urban Growth Area has the potential to be developed by 2030 depending upon population growth and market trends. Land Use-Commercial/Office Goal Statement III states there should be an adequate supply of land to promote successful commercial activity in appropriate areas throughout the County. Objective B of the Land/Use-Commercial/Office policies indicate that future retail/commercial area should be developed to complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses. Commercial location guidelines indicate that commercial sites should be encouraged to locate near arterial streets or major thoroughfares in order to avoid traffic congestion; commercial development should have required site design feature that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding land uses and commercial uses should be located in compact clusters or nodes versus extended strip developments.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within one year and the following Protective Overlay conditions:

1. Even though the site is zoned LC zoning, permitted uses are those permitted in the NR Neighborhood Retail (“NR”) district, but not including the special individual commercial use size limits found in the NR district, and the GO General Office (“GO”) district. Overhead-doors, service stations, fuel outlets or gas pumps are also prohibited if located within 100 feet of any single-family residential lot or if these uses are facing any single-family lot.
2. Front, interior side and rear building setbacks shall be 35 feet, where adjacent to residential zoning.
3. Masonry screening walls shall be installed along side or rear property lines where adjacent property is zoned TF-3 or more restrictive; otherwise applicable code screening standards shall be required.
4. All buildings within the tract are to share similar architectural character, color and predominate exterior building materials, as approved by the Planning Director. Building walls shall not utilize metal as a predominate exterior façade material.
5. Lighting elements (pole, fixtures, lamps, hoods, etc.) shall be similar in character with a maximum height of 25 feet above ground. If the light pole is to be located within 100 feet of a residence pole height is limited to 15 feet above ground. Extensive use of back lit canopies and neon or fluorescent tube lighting on buildings is not permitted and is prohibited.
6. Signage shall be per code except: no flashing, moving, portable, billboard, off-site, banner or pennant signs (except time and temperature) shall be permitted; ground signs shall be monument

style, sharing similar elements of design; spaced 150 feet apart with a maximum height of 20 feet and have a maximum sign face area of 150 square feet. Window signage shall be limited to 25 percent of window area. Building wall signage shall not be permitted on any façade that faces an abutting lot zoned TF-3 or more restrictive.

7. No occupancy permits shall be issued for any development without public sewer and water service.
8. Access shall be as approved by the appropriate traffic engineer. Internal and cross lot circulation shall be provided at the time of platting to ensure smooth circulation between abutting tracts and within the tract. Prior to the issuance of a building permit the Traffic Engineer shall approve all access and circulation improvements
9. A pedestrian circulation system shall be provided that connects all buildings within the development and with each other and sidewalks.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property to the north, across 21st Street is zoned SF-5, developed with some residences, but is approved for NR and GO subject to DP-303, the Monarch Landing Community Unit Plan. Property to the south is zoned SF-20 and is currently vacant agriculture land. The property to the east is zoned SF-20 and is currently vacant, but the property has been approved for LC zoning subject to the provisions of Protective Overlay #206. Property to the west is zoned SF-20 and is developed with a single-family residence and outbuildings, but this property has just recently been approved by the MAPC for a zone change to LC subject to provisions of a Protective Overlay that mirror the Monarch Landing restrictions.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "SF-20" Single-family Residential. Due to its location next to an arterial street, the intersection of section line roads and plus its close proximity to an approved commercially zoned CUP, it is unlikely that the subject property will continue to be viable as single-family residential property.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The scale and impact of any development within LC zoning should be mitigated by the site development requirements related to access management, landscaping, screening, lighting and signage.
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 would presumably be an economic loss for the property owner and/or developer. Approval would add to the inventory of land available for retail or office development.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The application area is located within "Wichita's 2030 Urban Growth Area." Land located within the 2030 Urban Growth Area has the potential to be developed by 2030 depending upon population growth and market trends. Land Use-Commercial/Office Goal Statement III states there should be an adequate supply of land to promote successful commercial activity in appropriate areas throughout the County. Objective B of the Land/Use-Commercial/Office policies indicate that future retail/commercial area should be developed to complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses. Commercial location guidelines indicate that commercial sites should be encouraged to locate near arterial streets or major thoroughfares in order to avoid traffic congestion; commercial development should have required site design feature that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding land

uses and commercial uses should be located in compact clusters or nodes versus extended strip developments.

6. Impact of the proposed development on community facilities: Drainage, access and right-of-way dedication could become issues in the development of this site, due to the size of the subject site, all of which will be addressed during the platting of the subject properties.

DERRICK SLOCUM Number 3 on the Protective Overlay reads masonry screening walls shall be installed along the side or rear property lines where adjacent to property zoned TF-3 or more restrictive. The only thing the applicant wants to change is the addition of a landscaped berm as a possible option with the masonry wall. They want to match it up to the property to the east which had a zoning case heard and approved in Jan 2008.

HENTZEN Do you accept that recommendation?

SLOCUM Yes.

FOSTER On that earlier application to east didn't it involve picking up the berm literally and moving it to the south, would the berming be on the subject property?

SLOCUM It would have to be on the subject property.

MOTION: To grant the request to change from a landscape wall to a berm and landscaping.

HENTZEN moved, **MCKAY** seconded the motion, and it carried (13-0).

-
8. **Case No.: ZON2008-27 and CON2008-24** – Resource Recovery Management, LLC/Robert W. Kaplan Request County zone change from SF-20 Single-family Residential to RR Rural Residential and County conditional use permit for a construction and demolition landfill on property described as;

The Southeast Quarter, except roads on East and South, Section 21, Township 28 South, Range 1 W of the 6th P.M., Sedgwick County, Kansas. Generally located west of Ridge Road and north of 55th Street South.

BACKGROUND: The applicant is seeking RR Rural Residential (“RR”) zoning and Conditional Use (“CU”) approval to permit a “construction and demolition” (“C&D”) landfill on approximately 160.8 acres located northwest of the intersection of Ridge Road and West 55th Street South. The 160-acre application area is zoned SF-20 Single-family Residential (“SF-20”), is currently used as cropland and has approximately one-half mile of road frontage along both Ridge Road and 55th Street South. The SF-20 zoning district does not permit landfills; however the RR district does permit landfills with conditional use approval. Near the center of the site there are two 50-foot wide utility easements running east-west through the site.

The applicant’s site plan depicts three major landfill areas or phases, a composting area and a drainage detention/retention. Approximately 94 acres of the site will be used for C&D landfill operations, with a storage capacity of 6.4 million cubic yards. Phase I is proposed to be located in the northeastern quadrant of the quarter-section. The entrance to the site is to be located approximately 450 feet south of the northeast corner of the application area, using Ridge Road to enter Phase I. The Ridge Road entrance is to be the project’s only entry point. Roadways located internally to the site will provide interior traffic circulation to the other fill areas. Also located in Phase I, located south of the entrance, is to be a building

housing the: scale, office, training room and storage. Ten parking spaces are shown nearby the multi-use building. On average, there will be six employees operating the facility.

The Phase I fill area is designed to extend to the west, creating a Phase II fill area that would occupy most of the northwestern quadrant of the site. The toe of the fill area for Phases I and II is to be setback from Ridge Road 175 feet; 150 feet from the north and west property lines and 50 feet from the south, adjacent to a fifty-foot wide Kansas Gas and Electric Company easement.

Approximately the southern 1,060 feet of the site is proposed to contain the Phase III fill area. Again, the toe of the fill area would be setback 175 feet from Ridge Road; 150 feet from 55th Street South and from the western property line. The northern toe of the Phase III fill area would be setback 50 feet from a Kansas Gas Supply pipeline easement.

In the center portion of the site, located between the two utility easements, the applicant proposes to locate a detention/retention pond and an area for composting. On the east-center portion of the site, the applicant indicates six acres of the site will be dedicated to the composting of construction/demolition waste and other inert waste. On the west-center portion of the site, there will be a detention/retention pond.

At the time that filling begins, each fill area will be fenced with a six to eight-foot chain-link fence. Landscaping and berms are to be installed as depicted on the site plan. The fill areas may be excavated prior to depositing fill material in order to increase capacity and to provide soil for the proposed berms. The applicant proposes to fill up to 80 feet above existing grade, and is requesting a 33-year life span. Staff is advised the site is currently free of groundwater contamination.

The applicant indicates they expect approximately 400 tons of waste to be delivered daily.

The applicant proposes hours of operation of 6:00 A.M. to 6:00 P.M., Monday through Friday; 6:00 A.M. to 4:00 P.M. on Saturday and closed on Sunday. Open space with an option to continue recycling is the site's proposed post-closure use. Recycling will require an amendment to the proposed conditional use or a new application.

Surrounding properties are zoned SF-20, except the southeast corner that is zoned GI General ("GI") Industrial, and used for crop production. There are at least three single-family residences located to the west of the site, approximately 667 feet, 927 feet and 2,650 feet away. Except for Air Products, all of the land located west of Ridge Road near the application area is used for agricultural activities. The closest other residence is located approximately 2,133 feet to the north, east of Ridge Road, and is zoned SF-20. There are some other residences located one-half mile to the north, north of 47th Street South and one-half mile line west of Ridge Road; also zoned SF-20. An electric utility station is located one-half mile east of the site, and is zoned LI Limited Industrial ("LI"). One-half mile south of the site, east of Ridge Road, is the Occidental Chemical plant, zoned GI. Northeast of the Occidental plant, southeast of the site, is a grain elevator, zoned LI. Air Products is located approximately 1.25 miles south of the application area, and is also zoned GI. RR zoned land is located ½ mile south of the application, west of Ridge, and is located one mile west of the application area, just south of 55th Street. The border between the SF-20 and RR zoning districts was likely established in 1958 when land located approximately within three miles of the then city limits of Wichita were zoned SF-20 and land beyond that three mile distance was zoned RR.

The site is located approximately 2.5 miles south of Mid-Continent Airport. The recommended conditions of approval require compliance with applicable local, state and federal regulations. The applicant supplied a page from their licensing application indicating that Federal Aviation Administration Office (FAA) Advisory Circulars AC150/5200-33B titled *Hazardous Wildlife Attractants on or near Airports* and AC150/5200-34A titled *Construction or Establishment of Landfills [MSWLF] near Public Airports* do not apply to C&D landfills. Staff contacted Mid-Continent staff regarding the application, and was advised to contact the FAA. The program manager for the regional FAA office replied to staff's

inquiry stating: “My understanding is that this is a construction and demolition landfill that will not accept putrescible waste and will not be co-located with other waste disposal operations. Such landfills generally do not attract wildlife and are compatible with airport operations.”

The greater Wichita area currently has three C&D landfills in operation: the City of Wichita’s at Brooks Landfill and C&D Recyclers operate a facility at 4250 West 37th Street North and at 3299 Southeast Boulevard; none of which are located in the southwest quadrant of the county. The facility at 4250 West 37th Street is permitted up to 70 feet in height on their fill areas. However long it takes for the fill area to reach 70 is the time frame for that conditional use. The 3299 Southeast Boulevard facility is to cease operations in December 2010, and the height of fill was limited to five feet above the grade of the Santa Fe Railroad tracks.

With respect to recycling, staff from the FAA has advised planning staff that composting is not allowed on airport property, but is allowed off of airports so long as the fill material does not contain putrescible materials.

With respect to drainage, the site plan depicts a detention/retention pond in the left center of the site. The plan also depicts that drainage will flow south to the center of the southern property line where an existing drainage structure exists underneath 55th Street South. By code, the applicant is to design a drainage plan that limits the amount of runoff that occurs after development to the amount of runoff that existed prior to development. Due to the expense involved in developing a detailed drainage plan, detailed drainage plans are typically developed when the property is platted, not during the conditional use hearings. Staff has been advised by at least two interested neighbors that due to the very level topography of the area, drainage is a concern as it does not take very much rain before the water ponds, and it takes a few days for the land to finally drain. There have also been expressions of concern if the height of the fill material will speed up the rate of runoff, thereby increasing the volume and the potential that stormwater could inundate Ridge Road. Any improvements needed to address drainage issues would be guaranteed at the time of platting. (See recommended condition of approval G below.)

With respect to groundwater, “location restriction D” listed below requires a five-foot separation from the predicted maximum water table elevation to the bottom of the landfill cell. Also, it is planning staff’s understanding that local regulations require the applicant to insure that an impermeable barrier is either present in walls and bottom of each cell or is installed, or monitoring wells are installed. Staff has been advised that Occidental Chemical has water wells located within a mile of the site to the north and within 1.5 miles to the south. Occidental Chemical also has a 14 inch water line running along the west side of Ridge Road, adjacent to the application area that serves their plant located south of the application area. Occidental Chemical also has many monitoring wells in the area and is concerned that they may have to install additional wells to protect their interests if the request is approved without further study.

Another concern expressed by at least one resident has to do with the potential for a vapor release from Occidental or any of the other industrial uses in the area that may deal in materials that are “heavier than air”; will the mounds created by the fill impede or delay the dispersal of heavier than air material to a degree that the presence of the landfill increases the hazard to nearby residences?

Per the Sedgwick County Sign Code, the site will be limited to an eight square-foot sign unless modified by the conditions of approval listed below.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH: SF-20 Single-family Residential; farmland
SOUTH: SF-20 Single-family Residential; farmland
EAST: SF-20 Single-family Residential; farmland

WEST: SF-20 Single-family Residential; farmland

PUBLIC SERVICES: Publicly supplied sewer and water service is not available at this location. Ridge Road is a paved two-lane section line road with 50 feet of half-street right-of-way. 55th Street South is a sand and gravel two-lane section line road with 30 feet of half-street right-of-way. At the time of platting, the applicant may be asked to install a south-bound right-turn lane and a north-bound left-turn lane on Ridge Road at the entrance to the landfill. The closest City of Wichita supplied sewer and water service is approximately 1.5 to 1.75 miles away (following current street right-of-way lines) at 47th Street South and Hoover. 47th Street and 63rd Street east of Ridge Road do not connect with Hoover. The main paved routes to the site from Wichita or Haysville would be coming west on 55th Street or south from K-42 on Ridge Road or west on MacArthur and then south on Ridge Road. Sedgwick County Fire Station No. 34 is located at 71st Street South and West Street, and would likely be the first responder to any fires or medical emergencies at this location.

CONFORMANCE TO PLANS/POLICIES: The application area is located within the City of Wichita's 2030 Urban Growth Area. Land located within a city's urban growth area is currently undeveloped, but has the potential to be developed by the year of 2030. "Landfills" are categorized by the Comprehensive Plan as a "major utility/transportation" use. Location guidelines contained in the Comprehensive Plan indicate that major utilities should be located near support services and be provided with good access to major arterials and should be extensions of existing industrial uses. The plan also recognizes the need to minimize the potential for environmental contamination while maintaining cost efficiency by proper management of construction debris generated within the county.

The County's Comprehensive Plan also contains an objective that states an intention to enhance and encourage agricultural activities within Sedgwick County, recognizing that viable agricultural land exists within the County.

The proposed site has been reviewed by Sedgwick County's Solid Waste Management Committee and has received their approval (May 5, 2008). Licensing by the County is required as is conformance with the County's C & D landfill design and operation requirements. Pertinent site design requirements include:

- A. No operations shall be located closer than 500 feet of an occupied dwelling, school, or hospital that was occupied on the date when the owner first applied for a permit, unless the owner of such dwelling, school or hospital consents in writing. (The nearest occupied residences are located approximately 780 feet southwest and 980 feet west of the site.)
- B. Newly permitted C&D facilities shall maintain a minimum 150-foot buffer from the edge of the C&D landfill's property line. (The proposed site plan meets this standard.)
- C. Surface water drainage and control systems shall divert surface water away from areas where waste is present or from operational areas. (Item G in the conditions of approval addresses this requirement.)
- D. Discharge of pollutants is prohibited.
- E. C&D facilities shall be reasonably screened from adjacent roads, streets, and commercial or residential properties except at points of ingress and egress, to a minimum height of 8 feet by the use of berms, walls, fences or plantings. (The proposed site plan depicts plant materials to be located along the eastern, southern and the southern 1/3 of the western side of the site. Berms are depicted along the southern 1/3 of the western side of the site and along the northern and southern 1/3 of the eastern side of the site, and along the southwest and southeast corners of the site. Plant materials and berms are absent along the western side of the Phase II fill area.)
- F. Landscaping shall be maintained in proper order.
- G. Facility property and property within one-half mile from the facility shall be kept reasonably free of debris, litter or vectors resulting from the C&D facility. (See item E in the conditions of approval.)

- H. Access roads to the facility shall be all weather and negotiable at all times. Load limits on bridges and access roads shall be sufficient to support traffic generated by the facility. (Access to the site is proposed to be off of Ridge Road, and see Item D in the conditions of approval.)

Location restrictions include:

- A. C&D facilities shall not be located within the 100-year floodplain unless protected by flood control levees. (Site appears to be out of 100-year flood plain)
- B. C&D facilities will not cause significant degradation of wetlands. (Applicant must provide documentation that this is not a wetland area.)
- C. C&D facilities will not result in the destruction of critical habitat of endangered or threatened species nor contribute to the taking of same. (No evidence has been presented which would suggest that this is an issue.)
- D. The vertical separation between the lowest point of the lowest cell and the predicted maximum water table elevation shall be sufficient to maintain a five foot vertical distance between deposited material and the water table elevation.
- E. No permit for a C&D facility shall be issued on or after the effective date of this resolution if such area is located within one mile of an intake point for any public water supply system. The owner may petition the County Commissioners for an exception based upon proof of protection of the public water supply.

RECOMMENDATION: An industrial use such as a landfill could be a compatible land use to many of the area's existing industrial uses since a landfill typically has a low number of employees when compared to a residential subdivision or other industrial use, and the existing industrial uses in the area have the potential to represent a hazard to residential uses. Agricultural activities are also compatible with industrial uses. Because of the existing industrial uses in the area, it is likely there is already a significant amount of truck traffic. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within one year, and subject to the following conditions:

- A. Demolition and construction solid waste resulting from the construction, remodeling, repair, repair and demolition of structures, roads, sidewalks and utilities as further defined in K.S.A. 65-3402(u) shall be the only landfill material permitted. Household solid waste, hazardous or toxic wastes, as defined by K.S.A. 65-3430 et. seq. shall not be permitted for disposal at this site.
- B. The landfill operation shall obtain all applicable permits or licenses prior to depositing landfill material on the site. Operations shall proceed in accordance with all regulations and conditions established by the Kansas Department of Health and Environment (KDHE), Wichita-Sedgwick County Health Department, FEMA, the Corps of Engineers, the Department of Wildlife and Parks or any other agency having jurisdiction or oversight authority for the activities conducted on the application area.
- C. A landfill operator shall be on the site during all hours of operations for the purpose of screening incoming loads for authorization, inventory of the type, size and quantity of loads, and direction of loads to the appropriate cells. Access to the subject property shall be prohibited except during the hours of operation.
- D. The delivery of construction and demolition waste to the site shall be only by way of paved roads.
- E. A minimum 8-foot high fence shall be installed around the perimeter of the site to minimize the blowing of any materials onto adjacent properties. The fence shall be either chain link or welded or woven wire with openings no larger than two inches. The fence shall be installed prior to the beginning of filling operations.

- F. Upon written notice of any violation by the appropriate zoning administrator or any agency authorized to permit, review or evaluate operations, operations shall cease and the violation shall be corrected within 48 hours.
- G. A detailed grading/drainage plan shall be submitted to the Sedgwick County Department of Public Works for review and approval prior to commencement of operations. As part of that review, the Department may require that easements be dedicated for drainage purposes. A copy of the approved grading and drainage plan shall be submitted to the Planning Department for filing with other case materials. The operation of the landfill shall be in conformance with the approved grading and drainage plan, and with the approved "Site Plan." Landfill operations shall be conducted so as to minimize the area that could blow. In order to minimize the potential for blowing material, a maximum of 3 acres at any one time may be utilized as fill area. Prior to the opening of any new area, the previous area shall be graded and seeded with at least 18 inches of clean cover material. All fill, work or drive areas shall be maintained in a manner that minimizes blowing dust or fugitive material.
- H. The maximum height of fill material shall not exceed 80 feet in height; and landfill and composting operations shall cease 33 years from the date of final approval. It shall be the responsibility of the applicant to notify the planning staff and the Director of County Code Enforcement of the date when filling began; otherwise the time period shall run from the date of MAPC or BoCC approval, whichever is latest.
- I. A landscape plan shall be submitted for review and approval by the Director of Planning. All plant materials shall be maintained in good condition and shall be replaced as necessary and immediately within the context of the growing season. Evergreens, a minimum of 5-feet in height shall be installed between the fill areas and the property lines at a rate of at least one tree per 15-feet. The landscaping is to be installed prior to beginning fill operations on the site.
- J. Right-of-way dedications commensurate with those required by the Subdivision Regulations shall be required if existing rights-of-way are substandard.
- K. If required, a revised site plan shall be submitted for review and approval.
- L. The C&D landfill shall be developed and operated in compliance with all conditions of approval or the Conditional Use shall be considered null and void. Operations shall commence within one year of the date of final approval or the Conditional Use shall be declared null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Most properties immediately surrounding the application area are zoned SF-20, and used for crop land. The southeast corner of the intersection of 55th Street South and Ridge Road is zoned GI General Industrial, and used for crop production. There are single-family residences located to the west of the site. An electric utility is located one-half mile east of the site, and zoned LI Limited Industrial. One-half mile south of the site, on Ridge Road, is the Occidental Chemical plant, zoned GI General Industrial. Northeast of the Occidental Chemical plant, southeast of the site, is a grain elevator, zoned LI. One mile to the east is a solid waste transfer station, zoned LI Limited Industrial. In general, the area east of Ridge Road is a mix of industrial and agricultural uses while the area west of Ridge Road is agricultural. RR zoning exists anywhere from immediately south of 55th Street, one mile west of the application area to 1.5 miles south of the application area.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-20 Single-family Residential, which permits low density residential and a few other

residentially compatible uses, as well as agricultural activities. The site is currently farmed and could continue to provide an economic return as currently used (cropland) and zoned.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Rezoning the site to RR allows the applicant to request the conditional use for the landfill. The SF-20 district does not permit a conditional use application for a landfill. Therefore, the request for RR zoning opens the door for the conditional use request for the landfill. The majority of Sedgwick County is zoned RR, and approval of RR zoning would not in and of itself permit the requested landfill. In fact, the RR district is a more restrictive district from the standpoint that the RR district requires a two-acre minimum lot size while the SF-20 district permits lots as small as 20,000 square feet. The recommended conditions of approval contained in the conditional use are designed to minimize foreseeable detrimental impacts of a C&C landfill. Truck traffic will probably increase; however there probably already is substantial truck traffic in the area due to the grain elevator and Occidental Chemical, and the applicant will be required to provide any needed traffic improvements at the time of platting. Fencing, berms and landscaping are required to limit fugitive debris and to screen at-grade work areas. The recommended hours of operation are more restrictive than what typically occurs with agricultural activities. A drainage plan is required at the time of platting to address stormwater issues. Sedgwick County's and the Kansas Department of Health and Environment's standards are designed to address other foreseeable 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: Approval would benefit the community at large by providing an additional C&D landfill site in a quadrant of the city that currently does not have such services; and will increase competition for such services. The only other C & D landfill located in the southern part of the Wichita metro area is scheduled to close in 2010. Approval could negatively impact adjacent property owners by introducing a use that is not currently in the area, and whose potential collateral impacts may be seen as disruptive to a farming lifestyle. Presumably denial would be an economic loss to the property owner.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The application area is located within the City of Wichita's 2030 Urban Growth Area. Land located within a city's urban growth area is currently undeveloped but has the potential to be developed by the year of 2030. "Landfills" are categorized by the Comprehensive Plan's as a "major utility/transportation" use. The site has access to a paved arterial road, Ridge Road, and can be viewed as an extension of the existing industrial uses in the larger area: Occidental Chemical, Air Products, grain elevator, utility substation and a municipal solid waste transfer station. The plan also recognizes the need to minimize the potential for environmental contamination while maintaining cost efficiency by proper management of construction debris generated within the county. The site is located in reasonable proximity to sites expected to generate the majority of the waste.

The County's Comprehensive Plan also contains an objective that states an intention to enhance and encourage agricultural activities within Sedgwick County, recognizing that viable agricultural land exists within the County.

6. Impact of the proposed development on community facilities: The site does not require municipally supplied sewer or water service. Truck traffic on Ridge Road will increase and may require improvements, and if needed, will be identified at the time of platting. Sedgwick County Fire Station No. 34 is located at 71st Street South and West Street, and would likely be the first responder to any fires or other emergencies at this location. Due to the change in use, additional traffic and code enforcement and road maintenance will likely be required.

JOHNSON Mentioned he's going to abstain from this item, he's had business dealing with Mr. Dugan.

SHERMAN My employer at Westar Energy has issue with this, there's a Director here with Westar who is going to speak during public comment, and I will have to excuse myself from this item.

FOSTER must recuse myself from this case since my firm has provided services to Waste Connections.

MITCHELL Asked if there was anyone who did not receive exparte comment on this item.

JOHNSON I, too, need to excuse myself from the proceedings. I have done work with Waste Connections in the past.

DALE MILLER Planning staff presented the staff report.

MILLER-STEVENS The information that we were just given on this hearing, are you aware if it's in compliance with what you said, because there's some differences on the pictures that you showed in regards to phase I and II. Is the rest of the document accurate?

MILLER What I have here is what was submitted with the application. I have not seen what you apparently have there.

BOB KAPLAN, AGENT, 430 N. MARKET My representation technically here this afternoon is of John Dugan and his family corporation. You'll note that the applicant, Resource Recovery Management LLC., is a Dugan Company; that's a John Dugan family operation. I'm representing Mr. Dugan. However, my assignment by Mr. Dugan was to work with Waste Connections on this application. I want to tell you up front that it's been a real luxury to work with these folks. They have tremendous expertise. They have tremendous experience and they've done their homework. They've done their regulatory work, and they've come in and done a lot more preapproval work than ordinarily you might expect. Site selection on this site has been in process for a long time. Mr. Harv Ebers is here. He's out of Missouri. He does site selection work for Waste Connections, and has been looking a long time for a suitable C&D site. If you want detail on site selection, if you want to know what he's looked at, why this is the site, Harv is here to address any questions you may have in that regard as far as regulatory issues, agency issues are concerned. They've submitted applications to a dozen agencies already. They've received favorable responses. They're not done yet, but to the extent that they have responses, and we have a list of the agencies. If you have questions about that, Mark Adams is out of Colorado, the Waste Connection office, and Mr. Adams is here to discuss with you any technical aspects or technical concerns you may have. The preliminary drainage plan; and we did do a preliminary drainage plan that was done by Golder Associates out of Lakewood Colorado. Their Engineer, Tim Cazier, is here from Colorado if you have questions about technical aspects about drainage. What we've done preliminarily, and even before approval, is we've gone through the regulations. We've gone through the regulatory hurdles and we've been busy filing those applications and obtaining those approvals so far have been very well received with favorable responses, including the Sedgwick County Solid Waste Committee who has approved the application. Recognizing that there is not a perfect site for a C&D; having done all the research and all the work, I've identified three basic premises on which we work. One of course is the need. Currently three C&D facilities are in Sedgwick County. My good friend and sometimes client, Ron Cornejo owns two of them. One of which is C&D Recyclers South. This one, as I understand, is presently scheduled to close in 2010. That's one I myself handled for Cornejo & Sons approximately 10 years ago. The Brooks Landfill, as you well know, is City owned. That's in the northern part of the county and then we have the former Ritchie facility in the 3700 block of West 37th and that is also now a Cornejo facility, having acquired that from Ritchie, I think, before Ritchie sold its operations to LaFarge. We have nothing basically in the southern part of the County. If we're going to have construction, we're going to need disposal. According to Waste Management and Harv and all the work we've done, there is clearly a need; it provides a service. The County needs it. The applicant needs it, and we do need disposal if were going to continue with construction. Some of you have technical expertise in hydrology issues; in matters of this sort. I am going to suggest to you because of the comments I anticipate you are going to hear has to

do with technical aspects, surface water, sub surface water, environmental, drainage, pollution and all of those things are governed by a respected agency. In other words, we have an agency locally or in the state that is responsible for each of those issues. So what I'm suggesting to you is that we deal with land use and we leave those technical aspects and issues to those agencies that are required to review them and approve them. We are a state permit. We are not going anywhere without a permit from The Kansas Department of Health and Environment. We do not have that at this point, and we can't operate without it. We've got all these agencies that will provide their expertise, and of course Waste Connections will provide their expertise in working with them. I believe the technical issues ought not to be a substantial part of this discussion this afternoon, except I have the engineer here, and the people from Waste Connection. That brings us back to land use. We believe that this site is best suited to minimize neighborhood impact. You are going to have an impact on folks. I don't know where you can put a C&D that is not going to have some impact. I'm not suggesting it's perfect. I'm suggesting that with all research that Waste Connections has done, it's got access. It's going to meet all the legal and regulatory requirement. It's going to be most advantageous to the County, and to this applicant. Of course, the applicant has his own factors, the route, traffic and matters of this sort. We have looked long and hard for a site that meets the criteria and regulations; that is best suited for C&D and has the least impact on any neighboring residence. Here we've got three. None of them are located within 500 feet. The closest is 700 feet, and I understand the concerns. It has to go someplace. Having looked and researched it, this is an appropriate site for this. We are doing it in phases. Mr. Ewy is here. He will run you through the rest of the slides. They will do a very good job of berming and landscaping.

RUSS EWY, AGENT, BAUGHMAN COMPANY, discussed the applicant's slide presentation.

MITCHELL Time has expired, and asked if the Commission wanted to give him the opportunity to go through rest of slides?

HENTZEN How much time is needed?

EWY There are only seven slides, one minute.

MITCHELL Mentioned he had a motion and second to give the applicant additional one minute.

EWY (continued showing slides) Monitoring wells are a part of plan for the site. He also indicated that a very limited amount of man power would be needed on-site; very limited amounts of actual operation on-site.

HENTZEN Since it's within the development of the City; did you say the 2030 plan? Is that what you told us?

MILLER Yes, The Comprehensive Plan map outlines future urban growth areas for the City of Wichita that goes out to the year 2030.

HENTZEN Does it go before any District Advisory Board?

MILLER No, it's a County application. It's not submitted to any District Advisory Board.

MITCHELL Mr. Kaplan, I'm not sure who would answer this but, I didn't see anything in the report or on the drawing to indicate a recycling of construction material such as crushing concrete, recycling asphalt, that kind of thing.

EWY That's correct. You don't see that because that's not going to occur on the site. Rock crushing and the recycling of asphalt would be a separate conditional use, and there's no intention at this stage to have that type of facility here.

MITCHELL Any material of that type brought to this location would be buried instead of recycled.

EWY I would presume so.

MITCHELL I am sure we have a number of people who want to be heard on this issue, with time restraints. I would entertain a motion to limit your conversations. If you promise not to repeat each other we may not have to do that. We will start out with a normal 5 minutes.

DIANE THOME SEILER, 3920 S. 215TH STREET WEST, GOODARD KS. I am here speaking for myself, my brothers, sisters; all of whom are represented or present here today, and all are residents and landowners in Sedgwick County. We own and my brother Larry resides upon and farms the adjacent 160 acres to the west of the proposed zoning site change. I am here to say for all of us that we strongly oppose the application by Resource Recovery Management, LLC for zoning change, and the issuance of a Conditional Use permit for the construction and operation of a construction and demolition landfill on the 160 acre tract at the corner of Ridge Road & 55th Street South.

It is a known fact that when landfills are built, any kind of landfill, surrounding properties decrease in value. Therefore it is a fact that all landowners and property owners in the immediate area of the proposed zone change will be adversely affected. I would venture to say that none of you on this board or the people you represent would want this in their backyard. We need to recall what happened previous to Brook's Landfill closing. City and County officials held town hall meetings in the local communities such as Clonmel & Furley; communities to be impacted by possible landfill sites. The people were given the chance to voice their opinions, and because of overwhelming opposition no landfill site was found to be acceptable. The governing bodies decided and did the right thing by representing the citizens. The decision was made to ship trash to existing accepting facilities. The property, land owners and citizens to be impacted by this zoning change have only been given a few weeks to address the issues involved. The applicant on the other hand, a non-resident business, has had up to a year and a half to build a case for rezoning. I am here to say that citizens you represent have not changed and will not change their minds. We do not want a landfill of any kind.

This land is productive farmland, and has been for generations and will for generations to come if allowed. The construction of landfill on productive farmland, or any land for that matter raises many environmental questions. One very important issue to consider is ground water contamination. The landfill, as proposed, will become the home for all kinds of construction materials, for example, treated lumber which is not allowed to be burned because of the toxic fumes created. So what happens when the same toxins seep into groundwater? Also, air quality will suffer as numerous contaminants will be widely dispersed by the Kansas winds to surrounding properties. The quality of our property and our lives will be adversely affected by their facility.

The MAPC and County commissioners know adequate facilities already exist, and are aware of plans to maintain a South Sedgwick County disposal option without the need for the construction of additional landfills in the County.

I ask you to do the right thing. Listen to the citizens you represent. Use the "Golden Rules" for decision making as outlined for board members and you will find that you cannot and should not grant this zoning change.

On a personal note: Our grandfather purchased the 160 acres adjacent to the property proposed for zoning change in 1940, it became the home where my parents raised 7 children. It was paid for with hard work and sweat equity. It provided a living for our parents and family as we have farmed and improved our land for nearly 70 years. We survived a May 1965, tornado, after which my father while looking over the devastation was quoted as saying he'd like to "sell the place and get out"---but he didn't. He stayed, we stayed, we cleaned up, we rebuilt and we are still there.

We ask that City, County and government agencies not assume that families who have cared for their land for generations...

MITCHELL Approved 30 seconds.

SEILER Would you welcome the destruction of their traditions and their way of life? Would Wichita consider dumping their own construction trash in the vacant areas of Wichita? That would be an insult to the residents of an area of the city. How is it any different for rural residents?

FLORENCE BERGKAMP FOR CHARLES HORNER He lives in Raleigh NC, at 4409 Touchstone Forrest Road. I am an out-of-state owner of a producing farm (SW/4 of 22-28-1W in Sedgwick County) that lies directly across Ridge Road and east of the proposed construction waste site currently under your consideration. Since I will not be able to attend your meeting in person, I have asked one of the Bergkamps to read the following statement that summarizes my strong opposition to rezoning this area for a debris disposal site.

As a former Kansan who was born and raised in Wichita and whose family has held and managed farm operations in the state for three generations, I am deeply concerned about the proposed zoning change in Sedgwick County for the following reasons. Despite the precautions cited in the zoning petition, a waste site of this type and magnitude (up to 80' high) of varied construction contaminants into the groundwater of an area that is currently free from contamination. Although difficult to predict, the sustained effect of such pollution on surrounding agricultural land or on growing crops poses an undeniable risk and could prove financially disastrous for local farmers. The proposed site also raises the possibility of air-borne particles—such as insulation, Styrofoam, plastic sheathing, shingles, asbestos backing, etc.-that could pose health risks to near-by residents. Uncontained debris would interfere with farming practices, increase maintenance costs, and reduce crop as well as land value. The proposal to create a composting facility on the east side of the property adds to my concern about the proliferation of wind-driven contaminants in the surrounding area.

The location of this site in the midst of productive farmland would have a negative impact on the local agricultural economy-in both the short and long terms. Because of aesthetic, safety and environmental issues, a site of this description would diminish property values and encourage the future loss of agricultural land. It would also increase the personal liability of farmers and landowners through a higher probability of accidents, vandalism, roadside dumping and destruction of adjacent properties-all stemming from the daily flow of people, heavy equipment, and increased traffic along Ridge Road. Since the proposed entrance to the waste site is located on the NE corner of the quarter, and since there are several culverts on the east side of Ridge Road that allow access to my property and offer a tempting place for a U-turn, the potential for trespass, littering, and damage to a field of crop is a major concern. Unless the disposal site is monitored 24/7 and has appropriate measures to suppress fire, it poses the threat of sizeable conflagration that might be difficult to extinguish and that could subject a large area (including the airport) to drifting smoke, burning embers, and toxic fumes for a sustained period of time. My last concern involves the broader issue of protecting traditional farmland and preserving the crops that benefit both the local and national economy. Until the bank that manages my sister's trust sold the property now under consideration as a waste site, this land and the quarter I own formed a half section of quality farmland that was purchased by my grandfather and successfully operated for three generations. I do not oppose the construction of a waste site on this property because of my heritage. I oppose it on the sound rationale that farmland with proven history of good production (in this case, wheat, soybeans, and milo) should not be lost-especially to a waste facility that does not require fertile soil for its intended purpose. At a time when agricultural acreage is disappearing at an alarming rate and the world is coming to the realization that we cannot squander valuable natural resources without incurring severe consequences, it seems economically shortsighted and environmentally unsound to turn agricultural land into a non-producing dumpsite.

Tape 2 Side B

MITCHELL Approved an additional 30 seconds.

BERGKAMP If such a site is really needed, and this is something the city should assess, then it would be my recommendation to seek out a location better suited to that purpose and less harmful to one of our most precious resources-the land that grows food for the world and sustains our very existence.

ANDERSON out @4:08

TOM STUHLIK, WESTAR ENERGY, 818 KANSAS AVE, TOPEKA KANSAS I work for Westar Energy. My responsibility at Westar is executive director of transmission operations from there I direct planning operations of all transmissions at 69,000 volts and above for Westar Energy. Westar Energy is committed to the safe, reliable and quality of electrical service to our customers in this area, as well as throughout eastern Kansas. As you can see from the earlier drawings and layouts, Westar has several transmission facilities out in this area. The plant to the east of this site is a generation plant for us. We have several transmission lines coming out of here. The one line that we are concerned with is a 138-thousand volt line that runs directly west of the power plant, and actually crosses right in the center of this property. As you can see the ultimate height of that landfill is proposed to be 80 feet. Our conductor out on that particular line is 60 or 70 feet from the ground. Our concern out here is for blowing debris or any type of air movement that that could blow things into our power line; this will result in a short which will cause outages to a significant number of customers. It would also result in power quality issues for us. Large faults out here will essentially dip that voltage down. Westar Energy is not really opposed to this project, however, we would want the developer to pay for movement of this transmission line out of the way and relocate it into area where we will not have concern about blowing debris that could get into power lines. We would be willing to sit down with the developer and develop cost estimates for moving the lines.

MARNELL I assume you have easement across the center of that property or ownership?

STUHLIK A 50-foot easement.

MARNELL Is it in the drawing they had.

STUHLIK It's essentially on the north side of the retention pond and compost area.

MIKE GANNAWAY, 64300 SOUTH RIDGE, OCCIDENTAL CHEMICAL Our local office is located one-half mile south of proposed landfill site. We speak neither of opposition or support of the overall landfill location. We maintain a neutral position on the main issue of location of the landfill but, however we've indentified two concerns that we would asked to be adequately addressed before this landfill proposal moves any further forward. Rainfall runoff and drainage is our primary concern. The pictures you were shown earlier were earlier this year. If you look today, the land is well flooded. We own the 280 acres on the west side of Ridge Road immediately south of the proposed location. The majority of this property is used for agriculture purposes. It lays to the south from the proposed location. Additionally, our manufacturing plant is located one-half mile south on the east of Ridge Road. The applicant's property drains to the south across our property and the outflow is on the south end of our property on down toward 63rd and 71st Street South. The typography of the immediate area surrounding the subject property is flat. Currently, large rain fall events like we experienced in the last three weeks caused both properties, the proposed location and ours, to fill and stand with water. They slowly drain to the south over time; taking several days to a week to drain. The run off collects in pools on our non-plant property. Anytime the inflow exceeds the natural outflow at the south end of the property the levels build. Recently the levels in the ditch on either side of the Ridge Road were within 6 inches of running back into the front entrance of our plant. Our concern is we understand the code addresses drainage and run off, and that they must look at the amount of runoff prior to the development. Typical developments pave driveways, roads, patios, sidewalks which increases the amount of run off because it reduces the

amount of soil. We are not concerned about the amount; we currently get all the amount. We are concerned about the rate. With landfill hills in place we are concerned about the rate of increase. Our main concern is that we will have in flow flooding into the front gate of our manufacturing plant on the east side of Ridge Road. We feel the impact of this potential future flooding presents a serious enough potential threat to the interruption of our business that we would support the deferment or postponement of any vote for recommendation of this zoning change to the County Commission until the applicant has had adequate time to fully design and present a drainage and run off plan upfront. Normally that's not done until platting because of the expense. We feel this is a serious enough threat to our potential business that we would like to see it done upfront. That plan should address both the amount and rate of rain water runoff onto our and other surrounding properties. The study should address the run off effects created by the ever increasing elevations and the slope lines as the landfill matures, eventually covering 160 acres to 70-80 feet in height. It should also include the remedies necessary to prevent these created problems. We understand the permitting process for the proposed landfill will continue to eventually include other agencies, and other state and federal agencies. We just ask that our local agencies hold the proposed facility to the highest environmental and technical standards in order to protect groundwater from any contamination associated with the operation of the C&D Landfill throughout its operational lifetime and beyond. We also own and operate four industrial water wells in the area to supply the manufacturing plant with process water, and drinking water for the employees. Three of the wells are classified as public drinking water supply wells. They are located at one mile north and just a half mile north of the proposed site. We would also like some science based assurance from the applicant that these water supply well won't be impacted by the project.

LINUS LAUER, 3802 WESTPORT I own 80 acres north of this. East of Ridge Road is the Greenwich Cemetery that was farmed in 1877, two years after this became a property, and another thing out there is Chisholm Trail which runs from the cemetery across this land and across the RN; across the western part of area being considered. My family has owned this property for 72 years. (showed pictures)

MITCHELL Your time is up.

HENTZEN Couldn't see your picture. Asked **LAUER** if he could point out on the where his house was.

LAUER (pointed out on map where his property was located)

CHARLES BECKER, 5741 S. MAIZE ROAD I live a mile and half from this site. I am the Township Trustee for Waco Township. We have a problem with this road constantly, 55th and 63rd. 63rd is almost impossible at times. (Show slides). I live in an area of green space south and west of the Cowskin, Dry Creek and Wichita-Valley Center Flood Control (Big Ditch). This comprises the areas of Schulte, Oatville and Haysville. After its completion, the Big Ditch, more or less, served as a buffer or barrier to residential and commercial development until the early 1950's. After that time, industrial development occurred along the Missouri-Pacific Railroad line, which comprised the Frontier Chemical Plant (now Occidental Chemical Corp), Abbott Laboratories Products (now Air Products) and Murray-Gill.

MITCHELL Your time is up.

BECKER Requested additional 30 seconds.

MITCHELL Motion to approve an additional 30 seconds.

BECKER This industrialization steadily caused the environmental living conditions of the area to steadily decline. During the 1980's, a federal lawsuit was filed involving several individuals and 30 families to force attention of governmental environmental regulatory agencies in fulfilling their obligation to protect citizens and the environment. Four years of litigation ended in a settlement from an unjust Justice System. Several environmental groups presently monitor and conduct remedial testing of the soil,

the water and the air. This will most likely occur into perpetuity. The land involved with the zoning request is located at 55th South & Ridge Road.

MITCHELL Your 30 seconds is up.

BECKER Asked for additional time.

MITCHELL No, we have a number of people here to speak, we have your information.

THOMAS BERGKAMP, 8231 W. 55th STREET SOUTH We are asking you to deny zoning and conditional use change for the following reasons: Possible groundwater contamination. A public water source is less than one-half mile north of site, 4 irrigation wells are from 2,000 feet to $\frac{3}{4}$ mile away. There are three single family residences located west of site. Each one utilizes well water. They are approximately 667 feet, 927 feet and 2,650 feet away. Westar also has numerous wells $\frac{1}{2}$ to $\frac{3}{4}$ mile east of site. Two-hundred sixty-four acres drain thru this site. If water flows too fast off the 70-80 feet tall piles of debris property to the south of the site could have the potential to flood more severely and possibly run into Occidental Chemical Facility. Retention ponds can not do their job if they are all ready full. KDHE and Corp of Engineers need to be involved now.

This site has two intermittent streams that go thru the property north and south. If allowed to interfere with natural drainage, farmers from north, west and south could be severely affected.

We flood irrigate 160 acres across the street and downstream from this site, and reuse the irrigation water that runs off by pumping it out of a recovery pit and back onto our growing crops. If any contaminates from this site run off and into the water in our recovery pit we would be pumping it back onto growing crops. This is productive land with proven yields of 60 bushels of soybeans and 190 bushel corn, today's market value of the crops is well over \$200,000 dollars.

Methane gas and Hydro sulfide gas can be produced from biodegradable waste. Sheetrock and organic matter produce anaerobic condition, and then bacteria grow and produce the gas. These pose an unnecessary risk to our groundwater.

Poor quality land should be used. This property is prime farmland. With proper farming practices and land has been and can be highly productive. The applicant will not be harmed by denial of this zone change because he is not the end user and can continue farming the property as he has been doing.

Our understanding is that between the city and C-D Recyclers there is capacity for 50-75 years, this shows there is not a need for a C&D landfill.

In conclusion, a landfill is inconsistent with the latest revisions to the Comprehensive Plan (see 2030 Wichita Functional Use Guide Map). This is not the highest and best use of the property, and could restrict use of more beneficial Industrial Development. Thank you for your time and we hope you decision shows you have this community's best interest in mind.

PEGGY GIESEN, 3762 FAIRLAWN I am a retired health nurse. I've worked 30 years for the Wichita-Sedgwick County Department of Community Health. I live in Prospect Park Addition, north of the proposed site. This will certainly be a public health issue. Please do not allow this rural scene of agriculture beauty and quiet country, residential properties to be disrupted by this proposed incompatible development.

DENNIS WOODS, 5201 S 119TH STREET WEST, CLEARWATER, KS I'd like to finish up Mr. Becker statement. What is not decided in this is an additional industrial dumping ground (demolition graveyard) for the debris of downtown Wichita and the area. What will eventually be viewed when

looking in the direction of the metropolitan skyline will be an unaesthetic mountain of rubble as high as 80 feet. This “mountain” will be comprised of rubble surrounded by a ribbon of weeds and high fences where once stood a field of waving amber grain that provided bread for your dinner table. My great hope is that the Planning Commission does not scoff at my request and will consider how such an industrial waste site can affect highly productive agricultural land values for the area. In agriculture, a weed is considered as a plant out of place and so it is with an operation as being proposed.

In the zoning change request, the vague term, “to be used as a conditional use permit,” tends to lead one to believe the owners can do anything with the property as they choose. Does this not have any legal recourse to the rights of the property owners surrounding the site?

I am not going to willingly accept another nameless, faceless corporation as a neighbor in my community. Who are these investors? Is this just another example of how urban realtors, developers, and investors operate in boundlessly ferreting out disinterested absentee landowners that have inherited their family farm? These landowners sell their legacy at land prices that shut out what any farmer can afford. As a hot commodity the property is then offered to any buyer often without any regard of how it affects others in the rural community. Is there no conscience for these individuals in adding to their pyramid of wealth of personal greed!

We have a ‘visioneering’ concept of our own in the rural areas of the county. In the county, a development plan should consider what is compatible and acceptable to the surrounding landowners and residences.

Therefore, I request this application for a change in zoning to be denied in the best interest for this part Sedgwick County.

In my own behalf one thing I’ve heard as a common threat throughout these comments is due diligence. Let’s do the work upfront as opposed to waiting after the fact and getting into situations that end up having to recover already environmentally compromised area.

BOB KAPLAN Mr. Chairman, I am going to defer my rebuttal time to Mr. Ebertz. I want you to hear from Harv. I want to tell you this is not a waste landfill. As you know, it’s a C&D so debris, noise and dust...people are confused. We have done a great deal of preliminary drainage concepts and plans. We’ll continue to work with Westar. We’ll work with KG&E. We’ll work with any of these folks who have issues. The entrance is off Ridge Road, it’s not off of 55th Street.

HARV EBERTZ I’m a graduate Civil Engineer and a licensed professional engineer. For some 10 years I’ve spent in Wichita and Sedgwick County area I have been developing viable safe and environmental facilities for the handling of solid waste in Wichita and Sedgwick County Kansas. I have spent years exploring the land’s properties in and around the Wichita Kansas and Sedgwick County Kansas area. At this time, we are looking at a site to provide essential service to the citizens and residents of this community and region; that is a convenient and safe disposal of construction and demolition waste. In my travels around your community and the community of these neighbors here speaking today, you cannot site a construction and demolition landfill on a neighborhood lot, and you cannot site such a facility in the middle of a major residential or educational location. In my search for an acceptable site, ladies and gentlemen on this commission, for this facility, an acceptable site is this area here.

MITCHELL Your rebuttal time up. Do you need more time?

HARV EBERTZ No.

MITCHELL On the plan given to us it’s showing a drainage pond, where is the outlet for that pond?

HARV EBERTZ On the descriptive plan we submitted on the application. I think it would be beneficial to this commission to hear from our professional engineer who developed this drainage plan.

TIM CAZIER I am a Professional Engineer, Graduate Engineer, this is a preliminary plan. There are several options where the outlet can run, but it will run out to west and south or potentially to the east and then south to the existing three culverts underneath 55th Street.

DENNIS Made a motion to deny.

MITCHELL No second.

MOTION: To approve subject to staff comments.

MARNELL moved, **MCKAY** seconded the motion.

MARNELL Continued that this is just a preliminary point and all the issues that have been raised will need to be addressed with both KDHE and the county in terms of the drainage.

HENTZEN Stated there's enough information before us that we ought to at least ask our drainage people in the County, the Solid Waste Committee or somebody about these issues that were brought up. I do not think we have near enough information to approve this.

MITCHELL I will not support the motion to approve, based on the fact that there's far too limited information available at this point. I would have liked to have seen, at this point, a motion to defer, and give the governmental agencies, the applicant and the landowners in the area an opportunity to review and go further.

HENTZEN If you're not in that position to make that motion.

HILLMAN I agree with Mr. **HENTZEN** and yourself. We simply do not have enough information. I am familiar with the topography in the area and there is a tremendous amount of water that will reside in that area at anyone time. I do not believe those questions have been answered yet.

SUBSTITUTE MOTION: To defer until additional information has been gathered and presented to us.

HILLMAN moved, **DENNIS** seconded the motion, and it carried (9-0-3).

MITCHELL Asked **BOB PARNACOTT**, County Counselor, do we have a motion pending or is it appropriate to make a substitute motion?

BOB PARNACOTT Indicated a substitute motion was appropriate if that's what you're making.

DOWNING I will support substitute motion. I have a tough time supporting a not in my back yard position. If we take that to its ultimate conclusion nothing will ever get done because we would always just leave it set where it was years ago. Having said that I think there are two issues that need to be resolved before we pass judgment on this - one is the electrical transmission lines. Do the people who are proposing this agree to the cost of moving the lines; is it possible? I would assume that's expensive. The other thing is the drainage issue. Often times, especially in a flat area, drainage issues don't manifest itself initially. So we need someone who can look at that drainage plan, not a permanent plan but a drainage plan in some form, that gives us some preliminary information, some confidence, that as we increase the height and the surface area, the runoff will not increase with the surface area, and will move

downstream at a normal pace so we don't flood someone or cause some environmental issues associated with drainage.

HILLMAN This whole area looks a problem to me, I've driven through there; it looks like a lack of coordination from various neighbors how to handle the drainage. Some of them did a little bit of planning but the rest of them aren't coordinating their efforts. This is not going to just take the development plans for the landfill; it's going to take multiple owners in agreement to create some kind of permanent flow area for this whole land. This is a long term plan and project.

9. **Case No.: ZON2008-29** – Koch Real Estate Holdings Attn: Randy Lair (owner/applicants); Ruggles & Bohm, Attn: Terry Smythe (agent) Request City zone change from SF-5 Single-family Residential to LI Limited Industrial on property described as:

The East Half of the Northwest Quarter of Section 35, Township 26 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, EXCEPT Railroad right-of-way, AND EXCEPT the North 40 feet for Road right-of-way, AND EXCEPT Koch Office Park, an Addition to Sedgwick County, Kansas; Together with the East Half of the Southwest Quarter of said Section 35 lying North of the Highway right-of-way, EXCEPT Railroad right-of-way. Generally located south of 37th Street North and 1300 feet east of Hillside.

BACKGROUND: The applicant requests a zone change from SF-5 Single-family Residential ("SF-5") to LI Limited Industrial ("LI") on a 62-acre unplatted tract located east of North Hillside Avenue, on the south side of North 37th Street. The applicant, Koch Industries, owns a large amount of property around this location, including properties bordering the subject property in all directions, some already zoned LI, and some zoned SF-5. The subject property is currently undeveloped, and this particular request was filed for possible future business expansion.

Property directly abutting the subject site is zoned either LI or SF-5. Property to the south, across the train tracks, and the property to the north, across North 37th Street, are both zoned SF-5 and are currently undeveloped. The property abutting the east and west side of the application area is zoned LI. The property to the west is developed with a manufacturer and nursery and garden center. The property to the east is developed with the Koch Industries Office Complex.

In addition to industrial uses, LI zoning also allows retail, commercial and office activity. LI zoning also permits building heights up to 80 feet and higher with additional setbacks. Sixty-two acres of LI zoned land developed at 30 percent building coverage would allow 810,216 square feet of gross building coverage. Traffic generation rates for light industrial uses are approximately 7 average daily trips (ADT) per 1,000 square feet of floor area creating an ADT of 8,507; shopping centers can generate as much as 42 trips per 1,000 square feet or up to an additional 51,043 ADT.

CASE HISTORY: The subject site is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5 Single-family Residential ("SF-5")	Vacant Land
SOUTH:	SF-5 Single-family Residential ("SF-5")	Ag. Land
EAST:	LI Limited Industrial ("LI")	Office Complex
WEST:	LI Limited Industrial ("LI")	Manufacturing / Nursery

PUBLIC SERVICES: The property currently fronts North 37th Street, a four-lane paved minor arterial, at this location, with current traffic volumes of approximately 6,227 vehicles per day near this location. 37th Street appears to have 103 total feet of right-of-way. The standard half-street right-of-way width for arterial is 60 feet. Hillside intersects with 37th Street North to the west. The applicant will need to work

with the Traffic Engineer prior to platting to determine if a traffic impact study needs to be completed for the subject property. Public water and sewer service are available nearby to serve the site. The nearest sewer main is located approximately 500 feet to the east on the property abutting to the east. The nearest water main runs along the north property line, along North 37th Street.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as an “Employment/Industry Center” within the Wichita 2030 Urban Growth Area. “This category encompasses areas with uses that constitute 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 current zoning request of LI for the 62-acre subject site is in conformance with the Comprehensive Plan’s recommended development patten.

In terms of conformance with commercial goals/objectives/strategies and locational guidelines, the application conforms to the **Industrial Goal** to “Promote the expansion of the industrial base through the provision of suitable industrial sites.” The **Industrial Objective** is to “Promote industrial activities and development in a manner that is compatible with the built and natural environment,” as well as **Strategy IV.A1** of protecting areas identified as industrial in the Comprehensive Plan from encroachment or expansion of residential land uses, by requiring appropriate buffers for expansion of the residential use when a nuisance situation is likely to be created. **Strategy III.B.3** seeks to channel traffic generated by industrial uses to the closest major thoroughfare with minimum impact upon local residential streets.

Industrial Locational Guideline #1 of the *Comprehensive Plan* recommends that industrial areas should be located in close proximity to support services and be provided good access to major arterials, city truck routes, belt highways, utility truck lines, rail spurs, airports and as extensions of existing industrial uses. **Industrial Locational Guideline #2** recommends that industrial traffic should not feed directly onto local streets in residential areas and **#3** that industrial uses should be generally located away from existing or planned residential areas, and sited so as not to generate industrial traffic through less intensive land use areas.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**, subject to replatting within one year.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** Property directing abutting the subject site is zoned either LI or SF-5. Property to the south, across the train tracks, and the property to the north, across North 37th Street, is both zoned SF-5 and is currently undeveloped. The property abutting the east and west property line is zoned LI. The property to the west is developed with a manufacturer and nursery and garden center. The property to the east is developed with the Koch Industries Office Complex.
2. **The suitability of the subject property for the uses to which it has been restricted:** The subject property is zoned SF-5. Due to its location next to an arterial street, the intersection of section line roads and plus its close proximity to existing industrial zoning and uses, it is unlikely that the subject property will continue to be viable as single-family residential property.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The scale and impact of any development within LI zoning should be mitigated by the site development requirements related to access management, landscaping, screening, lighting and signage. Also, the applicant owns nearly all the half-section of land surrounding the application area.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as an “Employment/Industry Center” within the Wichita 2030 Urban Growth Area. “This category encompasses areas with uses that constitute 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 current zoning request of LI for the 62-acre subject site is in conformance with the Comprehensive Plan’s recommended development. In terms of conformance with commercial goals/objectives/strategies and locational guidelines, the application conforms to the Industrial Goal to “Promote the expansion of the industrial base through the provision of suitable industrial sites.” The Industrial Objective is to “Promote industrial activities and development in a manner that is compatible with the built and natural environment,” as well as Strategy IV.A1 of protecting areas identified as industrial in the Comprehensive Plan from encroachment or expansion of residential land uses, by requiring appropriate buffers for expansion of the residential use when a nuisance situation is likely to be created. Strategy III.B.3 seeks to channel traffic generated by industrial uses to the closest major thoroughfare with minimum impact upon local residential streets.

5. Impact of the proposed development on community facilities: Drainage, access and ROW dedication could become issues in the development of this site, due to the size of the subject site, all of which will be addressed during the replatting of the subject properties.

MITCHELL It’s my understanding that the applicant had a request, we may not need a full presentation, it correct Mr. Slocum?

SLOCUM Yes sir.

FOSTER I need to excuse myself from this case as well we are currently doing landscape architectural services for the applicant.

DERRICK SLOCUM Planning staff at this time applicant and staff are in agreement with everything except for the platting requirement of course we require plat within one year of the zoning and they will end up asking not to plat.

HENTZEN I own and operate a business about ½ mile from this place.

SLOCUM We are in agreement with everything except the platting. I will have the applicant speak why they won’t want to plat.

CHRIS BOHM, RUGGLES & BOHM Koch owns this property, the part to the west was zoned with some blanket zoning changes as Limited Industrial some years ago and then over the years they did plat to the east basically the large triangular piece with their big complex and it’s also zoned Industrial as well, they came to us a couple of months ago with a request to build an accessory structure just to the west, that’s a product testing site, its an accessory structure, it’s run remotely from inside of their main operation, they want to place off to the side of their campus. The logic behind this we need the zoning to build this monitoring facility, we don’t want to plat because that’s the only thing they plan on building there, I even met with Koch management yesterday to ask if they had anything else to build there. They insist upon the fact that they want to build this testing facility roughly delineated on that sheet, that’s the only thing they have plans for, the reasoning behind not platting is we would have to plat all the way to 37th Street North to get access to a public street, for security reasons they would like to access that testing site off of their public driveway which runs across the west side of their property. I would propose is if we could a Protective Overlay that would not require platting but would allow them to build this monitoring facility in the general area delineated on that sheet, with the stipulation if they did any other building project within any of this zoning area it would require platting of that area and this lot as well. That area

to the west has been zoned and unplatted. I did talk to Kurt Schroeder with Central Inspections yesterday about this and asked him if he would have a problem with the construction of this facility with the proper under line zoning without a plat and he said he would if he could get the concurrence of the Planning Commission, he also made the comment if it's one spot that some condition was placed that it was only that area and if anything else went on that it would have to be platted.

HENTZEN Wanted to ask how many square feet in that building?

BOHM The building is 120 on one side and 85 on the other, and it's bounded by a fence with a 50-foot perimeter outside of it.

HENTZEN What community infrastructure would you need? Do you need water and electricity?

BOHM Electricity, they will have toilet with sink just for convenience, they have on site sewer system, a private station that pumps into the City sewer and a fire hydrant for fire protection.

HENTZEN Will people be working be working in it everyday?

BOHM No, it is not a building that will be occupied. It is run by remote control. They have a bathroom for convenience. It is mostly an outdoor structure. It's got a control building with some inside electrical equipment and then the bathroom.

HENTZEN Is that in the County or City?

BOHM City of Wichita, currently zoned SF-5 through an annexation that was done sometime ago.

HENTZEN Just wondering if there was a fire who would put the fire out.

BOHM First response, whoever's the closest responder in Sedgwick County.

MITCHELL Asked Mr. Bohm three drainage systems in the area, any of them show flood plain or flood way?

BOHM No, they do not.

MOTION: To approve zoning without platting with an overlay.

HILLMAN moved, **HENTZEN** seconded the motion, and it carried (9-1-1).

JOHNSON opposed.

SCHLEGEL The suggestion that Chris put on the table was a Protective Overlay that would restrict the building location to what's shown on this site plan.

BOHM We'd be happy to write a legal description and any other building site would require platting of the whole entire parcel.

-
10. **Case No.: CON2008-27** - Jerry D. and Tamara N. Brown Request County Conditional Use permit for an accessory apartment in RR Rural Residential zoning.

Beginning at the Southeast corner of the Southwest Quarter of Section 18, Township 25 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, thence West 570 feet; thence North 522 feet; thence East 570 feet; thence South 522 feet to the point of beginning. Generally located on

the north side of 101st Street North, midway between 63rd and 79th Streets East (7128 E. 101st Street North).

BACKGROUND: The applicants are requesting a Conditional Use to allow an accessory apartment on a 6.86-acre RR Rural Residential (“RR”) zoned unplatted tract. The site is located in rural, unincorporated Sedgwick County, on the north side of 101st Street North, midway between 63rd (Woodlawn Boulevard) and 79th (Rock Road) Streets East. One of the applicants’ 80-year old mothers will live in the proposed accessory apartment, while the applicants will continue to live in the existing approximately 1,611-square foot single-family residence. This residence (listed as a farmstead in the GIS files) was built in 1908, is a two-story frame house with lap siding and gable roofs. Because the proposed additional structure will contain a kitchen, bathroom and sleeping quarters, it is classified as a dwelling unit and thus requires a Conditional Use approval for an accessory apartment.

The site plan shows the development of the site including the proposed accessory apartment located in line and east of the existing residence, septic, water the driveway and 101st Street North. The proposed accessory apartment is an approximately 1,248-square foot (26 feet 4 inches (x) 48 feet) residential designed manufactured home on a permanent concrete foundation. The site plan does not show the site’s existing outbuildings nor does it show if the accessory apartment and the primary residence will share the same drive onto 101st Street.

The subject site is located in rural, RR zoned, Sedgwick County, with scattered residences in the area. There are agricultural fields located on all sides of the subject site, with the nearest neighbors/residences located southeast (1980), across 101st, east (1996), and approximately ¼ -mile east and southwest (1890, 1978) of the site. All of the land abutting and adjacent to the site is zoned RR.

The Unified Zoning Code’s (UZC) Conditional Use requirements for accessory apartments are as follows:

- (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 subject site is an unplatted tract.

ADJACENT ZONING AND LAND USE:

NORTH:	RR	Agricultural fields
SOUTH:	RR	Agricultural fields, farmsteads
EAST:	RR	Agricultural fields, farmsteads
WEST:	RR	Agricultural fields, farmstead

PUBLIC SERVICES: 101st Street North is a paved, two-lane County Highway. 63rd and 79th Streets East are sand and gravel Lincoln Township roads. The 2030 Transportation Plan projects no change in their status. The site is in Rural Water District 2. Some Rural Water Districts will not allow another residence to hook up to the same line/meter as the primary residence. The site has no access to public sewer and is served by septic. All other necessary utilities are present.

CONFORMANCE TO PLANS/POLICIES: The “Wichita and Small Cities 2030 Urban Growth Areas Map” designates this area as “Rural.” The Rural category encompasses land outside of the 2030 urban growth areas for Wichita and the small cities. This category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provisions for future water and sewer services. The policies of the UZC allow one accessory apartment to be associated with a principle dwelling as a “Conditional Use” if the proposed use is compatible with the principle dwelling, is in character with the surrounding residential development, is accessory to the main structure, remains in a single ownership, and obtains water and sewer service from the main dwelling hook-up. This application appears to conform to these plans and policies.

RECOMMENDATION: Based upon information available prior to the public hearing, Staff recommends that the request be APPROVED subject to the following conditions being completed within a year:

1. The accessory apartment shall be subject to all requirements of Article III, Section III-D.6.a of the Unified Zoning Code; including appearance of the accessory apartment shall be compatible with the primary residence. Some Rural Water Districts will not allow another residence to hook up to the same line/meter as the primary residence. If that is the case on this property, then Staff recommends that the applicant provide a letter from the Rural Water District, stating that it does not allow another residence to hook up to the same line/meter as the primary residence. The letter will provide the basis for a waiver of condition (d) of Article III, Section III-D.6.a of the Unified Zoning Code.
2. The site will be generally developed as shown on the site plan, obtaining and conforming to all applicable permits, including but not limited to building, health, and zoning. The accessory apartment will be completed within one-year of approval of the Conditional Use by the appropriate governing body.
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: The area’s character is rural with agricultural fields and scattered farmsteads and single-family residences. The site is outside all of Sedgwick County’s small cities growth areas. The area is located in northeast corner of Sedgwick County, in Lincoln Township, a rural, mostly RR zoned part of the county.
2. The suitability of the subject property for the uses to which it has been restricted: Accessory apartments are allowed as a Conditional Use in RR zoning, provided the applicant and the site meet the specified criteria. The application and the site appear to meet these criteria.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental effect should be minimized by the conditions for accessory apartments by the UZC and the conditional use.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Unified Zoning Code (UZC) makes specific provision for accessory apartments in RR zoning. This application appears to comply with all the provisions outlined in the UZC for accessory apartments.
5. Impact of the proposed development on community facilities: The applicants’ request should have a minimal impact on community facilities. The site is in Rural Water District 2. There is no public sewer available and the site is served by a septic system.

BILL LONGNECKER Planning staff presented staff report.

JERRY BROWN, APPLICANT I'm the owner of the property who wishes to get Conditional Use permit for my mother so I will have her next to me to take care of her in her elderly years.

MITCHELL Do you agree to the three conditions in the report

BROWN Yes. There was an issue about the road that's going into it, I sketched the site plan myself, and it has a gravel driveway going up to that, I just wanted to make sure that wasn't going to be an issue, it if we could take the driveway in through our existing driveway.

LONGNECKER Which is what we prefer.

MITCHELL Asked **LONGNECKER** if they built a second driveway would it have to comply with the County's standards, is that correct?

LONGNECKER That's correct. We just told the applicant we want them to share the same drive.

MITCHELL Asked the applicant if he agreed to share the driveway.

BROWN Yes.

LARRY & KATE BIERMAN, 8001 E. 101ST STREET We didn't know what this was going to be about until and read the documentation. We have total empathy for what Mr. Brown wants to do. We believe live and let live, but I will say this in consideration of the existing environment. We moved out there 12 years ago. We wanted to live in farm country which it is, it's, meaning there's single family dwellings, mostly on farms. We support farming and ranching. The few exceptions are there could be as small as 10-acre single family dwellings situations. It is mostly farm country. Our issue is we moved out there for minimal population and housing density. Having two single family dwellings on seven acres, which is the smallest parcel out there, side by side, is just not consistent with the environment. Mr. Brown is a new resident. His mother is ill. He has an emergency situation he has to address. I guess our feeling is if we were in the same situation, we would accommodate our mother and expand the existing dwelling. Frankly, we don't want a mobile home in that neighborhood.

SHERILYN HURST, 7500 E. 101ST STREET NORTH We saved about 20 years for our dream house out in the country, like most people do. It was our choice to live in the county. We looked around for about a year before we could find property we wanted. Our home is our investment. This comes down to protecting our investment. Building another home or bringing in a double-wide on a piece of land not even seven acres, will congest the neighborhood. It will not be as quiet either. It will lower the value of our property, just like when they built a large home a mile from us, it increased the value of our property. Today it will lower the value of our property, and when he sells this he is going to have to sell both houses as one unit. It's going to be harder to sell. Then it will probably become a rental which will also potentially lower our value. We have no problem if they want to add on to their present dwelling, which would increase the value of their property as well as ours with an added benefit of getting a better return on their investment when they sell their house. To protect our investment, the value of our home, we are opposing this request, and ask that you consider our request. The more the merrier is not why we, and most people, moved to the country. I'd like to add also that several of our neighbors had to leave earlier. They were here at the beginning of the hearing.

JEANETTE ULBRICH, 7219 E 101ST STREET NORTH I have lived within 2 miles where I live now since I was nine years old, so I know the country pretty good. We want a country home. We don't want a lot of houses around. I got 80 acres, and I want my 80 acres to myself.

BROWN I have a picture of what we are putting there. It's just a small manufactured home. It has a roof, a regular kind of roof. It's just a small place for her. She's right next to us. She didn't want to be in same home with us, and she wants her own privacy.

HILLMAN Question for staff. Typically on a deal like this, I see a Conditional overlay or situation where you accommodate and bring in, like a portable or mobile home, and it's available for the life span of the need of the person involved? Then that's not a permanent fixture. When that person passes they get a chance to take the mobile home away. I was wondering if that was the design of this particular request.

LONGNECKER The County does allow a temporary accessory apartment for medical hardship and those typically are not on a foundation. Within 90 days of the occupant of those leaving that accessory apartment, the applicant is to remove those. We did talk about that as a possibility, but at this point we were looking at putting it on a permanent foundation which is certainly not out of character with accessory apartments that we have both in the City and the County.

DENNIS I just looked at the picture. It looks like it's already being constructed. Is this an approval after the fact?

LONGNECKER No.

BROWN That's just an example produced from the manufacturer of the home where we've been looking at. We haven't purchased anything yet. This is just a proposal.

MOTION: To approve per staff comments.

JOHNSON moved, **MARNELL** seconded the motion, and it carried (10-1-0).
FOSTER opposed.

-
11. **Case No.: CON2008-28** – Neal Dornbusch (owners); Lucy Dome (applicant) Request City Conditional Use permit for a Beauty Salon (personal care service)in GO General Office zoning on property described as;

Lot 1, EXCEPT the East 140 feet thereof, Atkisson Addition, Wichita, Sedgwick County, Kansas. Generally located approximately 700 feet east of the intersection of East Central Avenue and North Edgemoor Drive, on the south side of Central (5739 E. Central Avenue).

BACKGROUND: The applicant is requesting a Conditional Use to allow a personal care service on 0.20 acres of platted property zoned GO General Office ("GO") in the Atkisson Addition located east of North Edgemoor Drive, on the south side of Central. The request is being made to allow the applicant to open a beauty salon at this location. Currently, this site is a single-family residence, but will be converted to allow the intended use. Personal care services are allowed as a permitted use in the NR Neighborhood Retail ("NR") zone district but require a Conditional Use permit in the GO zone district.

The surrounding uses are mixed in nature. There are single-family homes to the south and west. However, many of the homes on the south side of Central between Brookside Parkway and Hillcrest Avenue have converted to office and personal care uses. Across Central Avenue is a variety of commercial, retail and restaurant uses. The zoning pattern reflects the mix of uses in this area. Property to the south and west is zoned SF-5 Single-family Residential ("SF-5"). Property to the north, across Central Avenue, is zoned LC Limited Commercial ("LC") and property directly to the east of the subject site is zoned GO.

The applicant submitted a site plan that shows the existing house since the applicant plans to re-use the home as the beauty shop. The applicant proposes to accommodate parking with the existing paved parking area on site. The proposed use and square footage of the use will require four parking spaces. There are currently 7-9 spaces existing on the subject site. The applicant proposes to leave the site as is, and does not foresee any future changes on the property.

CASE HISTORY: The subject site was platted as the Atkisson Addition in 1988, also the site was rezoned from AA, Single-family residential to BB, Office zoning in June 1988. (AA is the equivalent to SF-5 single-family Residential (“SF-5”) and BB is the equivalent to GO General Office (“GO”). Along with the zone change a restrictive covenant was established that prohibited the lots covered under this zone change from being combined or utilized in any way with the residentially zoned property to the south.

ADJACENT ZONING AND LAND USE:

NORTH:	“LC”	Fast Food Restaurant(s) Retail Strip Store
SOUTH:	“SF-5”	Residence
EAST:	“GO”	Office
WEST:	“SF-5”	Residence

PUBLIC SERVICES: Sewer and water are available to this site. Access to the subject site is off of east Central Avenue, a designated principal arterial with a traffic count of 22,000 average daily trips at the Central and Edgemoor intersection.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as “Local Commercial” within the Wichita 2030 Urban Growth Area. “This category encompasses areas with uses that contain concentrations of predominately commercial, office and personal service uses that do not have a significant 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. On a limited presence basis, these areas may also include mini-storage warehousing and small scale, light manufacturing uses.”

Commercial Locational Guideline #1 of the *Comprehensive Plan* recommends that commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion. The proposed development complies with this guideline. **Guideline #5** stated that commercially-generated traffic should not feed directly onto local residential streets, and **#6** states commercial uses that are not located in planned centers or nodes (including large free-standing buildings, auto-related and non-retail uses) should be guided to other appropriate areas such as: the CBD fringe; segments of Kellogg; established areas of similar development; and, areas where traffic patterns, surrounding land uses and utilities can support such development.

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 subject property shall be developed in general conformance with the approved site plan.
2. The subject property shall be developed in conformance with all applicable codes to include but not limited to: zoning, sign, building, fire, and health codes. (This conditional use does not modify or void the requirements contained in the earlier restrictive covenant.)
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 the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding uses are mixed in nature. There are single-family homes to the south and west. However, many of the homes on the south side of Central between Brookside Parkway and Hillcrest Avenue have converted to office and personal care uses. Across Central Avenue is a variety of commercial, retail and restaurant uses. The zoning pattern reflects the mix of uses in this area. Property to the south and west is zoned SF-5 Single-family Residential (“SF-5”). Property to the north, across Central Avenue, is zoned LC Limited Commercial (“LC”) and property directly to the east of the subject site is zoned GO.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property could be developed with uses as stipulated by the GO General Office (“GO”) zone district. The Unified Zoning Code (“UZC”) allows for additional uses through the application of a Conditional Use permit, provided the applicant and site meet the review criteria as stipulated by UZC.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: This area is transitional in nature, with a general use shift from residential to office and service uses. The approval of this Conditional Use permit should not have a significant impact on the surrounding property owners or the safety of traffic along Central Avenue.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as “Local Commercial” within the Wichita 2030 Urban Growth Area. “This category encompasses areas with uses that contain concentrations of predominately commercial, office and personal service uses that do not have a significant 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. On a limited presence basis, these areas may also include mini-storage warehousing and small scale, light manufacturing uses.” Commercial Locational Guideline #1 of the *Comprehensive Plan* recommends that commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion. The proposed development complies with this guideline. Guideline #5 stated that commercially-generated traffic should not feed directly onto local residential streets, and #6 states commercial uses that are not located in planned centers or nodes (including large free-standing buildings, auto-related and non-retail uses) should be guided to other appropriate areas such as: the CBD fringe; segments of Kellogg; established areas of similar development; and, areas where traffic patterns, surrounding land uses and utilities can support such development.
5. Impact of the proposed development on community facilities: The proposed use will increase the turning movements on this portion of Central, which has a center turn lane. There should be no negative impacts or increased use of community facilities.

MOTION: To approve subject to staff recommendation.

HILLMAN moved, **MCKAY** seconded the motion, and it carried (13-0).

-
12. Development Trends Update Request Report Distribution and Information only

MITCHELL We had a development trends update to be discussed. Can we defer to another meeting?

SCHLEGEL The blue memo passed from the City Attorney regarding changes in the Kansas Open Meeting Act. They do apply to this board. You will need to be aware of this. I don't think it will have any practical affect or change on how you conduct business now.

The Metropolitan Area Planning Department informally adjourned at 5:16 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 _____, 2008.

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

(SEAL)