

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

May 8, 2008

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission (MAPC) was held on Thursday, May 8, 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: Darrell Downing in the Chair; Don Anderson, Vice Chair; David Dennis; David Foster; Bud Hentzen; Hoyt Hillman; Bill Johnson; Ronald Marnell; John W. McKay, Jr. ; Don Sherman ; Debra Miller Stevens and G. Nelson Van Fleet. M.S. Mitchell and Michael Gisick were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; Derrick Slocum, Associate Planner; Neil Strahl, Senior Planner and Maryann Crockett, Recording Secretary.

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1. Approval of April 10, 2008, and April 24, 2008, MAPC meeting minutes:

Approve the April 10, 2008, MAPC Minutes.

MOTION: To approve the minutes.

HILLMAN moved, **HENTZEN** seconded the motion, and it carried (10-0).

Approve the April 24, 2008, MAPC Minutes.

MOTION: To approve the minutes as amended.

SHERMAN moved, **ANDERSON** seconded the motion, and it carried (10-0).

MCKAY and **FOSTER** in @1:32 P.M.

2. **CONSIDERATON OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB 2007-115: Revised One-Step Final Plat -- VIA CHRISTI - WEST CAMPUS ADDITION**, located on the north side of 21st Street North and on the east side of 151st Street West

NOTE: This site is located in the County within three miles of Wichita's boundary. It is in an area designated as "2030 Urban Growth Area" by the Wichita-Sedgwick County Comprehensive Plan. The site has been approved for a zone change (PUD 2007-04) from SF-20, Single-Family Residential to PUD, Planned Unit Development.

This revised plat includes a new street.

STAFF COMMENTS:

- A. City of Wichita Water Utilities Department has required the applicant to guarantee the extension of City water and sanitary sewer (mains and laterals) to serve the lot being platted in accordance with the Water Utilities master plan. An outside-the-city water and sewer agreement shall be provided. City Engineering requests an off-site easement for the sewer extension.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. County Engineering has approved the final drainage plan.
- D. County Engineering has requested access control except one opening along 151st St. West south of 23rd St. North. All access openings along 151st St. West shall be a minimum of 20-foot wide. Complete access control is needed from the north property line extending south to the point of the future Northwest Bypass. Three points of access are permitted between 23rd St. North and the Northwest Bypass which includes an opening for a frontage road.
- E. County Surveying advises that the benchmark notes need a section number.
- F. County Engineering has requested that the plat's text should include language that the owners of the reserves will bear the cost of any repair or replacement of improvements within the reserves resulting from street construction, repair, or maintenance.
- G. County Fire Department notes that the property is not located in the city limits of Wichita. Item #20 of the PUD2007-00004 needs to reflect the Sedgwick County Fire Code.
- H. Access drives will need to conform to the requirements of the Sedgwick County service drive code, particularly Division 2 of said code. It is noted an existing access to a tower conflicts with the access drive policy.
- I. Sedgwick County Fire Department advises that on-site water for fire protection must be provided on-site that meets or exceeds the fire flow requirements of the Sedgwick County Fire Code.
- J. The applicant shall guarantee the paving of the proposed street.
- K. County Engineering requires a guarantee for reconstruction of 151st St. West.
- L. The applicant is advised that due to encroachment of a portion of the proposed Northwest Bypass on this plat, the property is subject to meeting the requirements of the Corridor Preservation Plan Overlay District (CP-O) prior to the issuance of any building permits. The applicant will be platting a building setback along the future right-of-way.
- M. Provisions shall be made for ownership and maintenance of the proposed reserves. A covenant shall be submitted regarding ownership and maintenance responsibilities.
- N. 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.

- O. In accordance with the PUD approval, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- P. An adjustment or amendment to the PUD will be needed to reflect the revised plat.
- Q. A PUD Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved PUD and its special conditions for development on this property.
- R. GIS will meet with the applicant to discuss the street name.
- S. 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.
- T. 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.)
- U. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- V. 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.
- W. 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.
- X. 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.
- Y. Perimeter closure computations shall be submitted with the final plat tracing.
- Z. 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.

- AA. 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.

HILLMAN moved, **SHERMAN** seconded the motion, and it carried (12-0).

2-2. SUB 2008-24: One-Step Final Plat -- GLENGATE WEST ADDITION, located south of 21st Street North and west of Greenwich Road

NOTE: This is a replat of the west portion of Oak Creek 3rd Addition. The number of lots has increase by one. The width of the private street (Reserve A) has been revised. The reserve adjoining Chateau Parkway has been vacated. The Oak Creek Community Unit Plan (CUP 2004-09, DP-274) was also approved for this site.

STAFF COMMENTS:

- A. Water Utilities Department has required a guarantee for the extension of water to serve all lots being platted. A guarantee for the extension of sewer (mains and laterals) is needed to serve Lots 7-16. Lots 1-6 have access to sewer.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the applicant's drainage plan.
- D. The applicant shall guarantee the paving of the private street (Reserve A) to a public street paving standard. As private improvements, such guarantee shall not be provided through the use of a petition.
- E. A covenant shall be submitted regarding the private street (Reserve A), which sets forth ownership and maintenance responsibilities. The plattor's text shall reference the platting of Reserve A for private street purposes.
- F. Since this is a replat of a previous Addition involved with the ownership and maintenance of reserves for that Addition, but not being replatted by this Addition, the above covenants and/or other legal documents shall be provided which provides for this Addition to continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.
- G. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- H. For those reserves being platted for drainage purposes, the required covenant that provides

for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.

- I. A note shall be placed on the final plat, indicating that this Addition is subject to the conditions of Oak Creek Community Unit Plan (CUP 2004-09, DP-274).
- J. The applicant shall submit a covenant that provides four (4) off-street parking spaces per lot that abuts a 32-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.
- K. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- L. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- M. 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.
- N. County Surveying notes that Reserve B needs to be located with respect to the northwest line of the plat.
- O. The platator's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- 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: To approve subject to staff recommendation.

HILLMAN moved, **SHERMAN** seconded the motion, and it carried (12-0).

2-3. SUB 2008-25: One-Step Final Plat -- FIRST PENTECOSTAL CHURCH ADDITION, located on the southeast corner of MacArthur and Hydraulic

NOTE: This is a replat of the Pentecostal 2nd Addition and the Ed Dwire Addition in addition to adjoining unplatted property. The site has been approved for two zone changes: ZON 2007-48 from SF-5 Single-family Residential to LC Limited Commercial (Lots 2 and 3), and ZON 2007-49 from SF-5 Single-family Residential to GO General Office (Lot 4 and Reserve A). A Protective Overlay (PO) #196 was also approved for this site addressing signage, lighting, and permitted uses. PO #197 was approved for the site addressing permitted uses, lighting and signs.

STAFF COMMENTS:

- A. Water Utilities Department advises that water and sewer services are available for Lots 1 and 2. Lots 3 and 4 have access to water, and sewer needs to be extended to serve these lots.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the applicant's drainage plan.
- D. Traffic Engineering has approved the access controls. The plat proposes five openings along MacArthur and two openings along Hydraulic.
- E. The joint access opening shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.

- F. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.
- G. Traffic Engineering has approved the right-of-way along MacArthur.
- H. Because of the landlocked nature of Reserve A being platted, a means of access for maintenance shall be provided.
- I. 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.
- J. 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.
- K. 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.
- L. A PO Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved PO and its special conditions for development on this property.
- M. 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.
- N. 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.
- O. 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.)
- P. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- Q. 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.

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

MOTION: To approve subject to staff recommendation.

HILLMAN moved, **SHERMAN** seconded the motion, and it carried (12-0).

2-4. SUB 2008-26: One-Step Final Plat -- KINGSBURY ADDITION, located north of 45th Street North and on the east side of Hoover Road

NOTE: This is an unplatted site located within the City. A Conditional Use (CON 2007-42) was approved for a Major Utility for a wastewater treatment plant.

STAFF COMMENTS:

- A. Water Utilities Department advises there is no need for water or sewer service at this time.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the applicant's drainage plan.
- D. Traffic Engineering has approved access controls. The plat proposes one access opening along Hoover in accordance with the approved site plan.

- E. 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.
- F. 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.
- G. 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.
- H. 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.)
- I. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- J. 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.
- K. 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.
- L. 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.
- M. Perimeter closure computations shall be submitted with the final plat tracing.
- N. 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.
- O. 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.

HILLMAN moved, **SHERMAN** seconded the motion, and it carried (12-0).

2-5. SUB 2008-27: One-Step Final Plat -- FOLIAGE FOURTH ADDITION, located north of 13th Street North and on the west side of Webb Road

NOTE: This is a replat of a portion of Reserve B in the Foliage Addition in addition to adjoining unplatted property.

STAFF COMMENTS:

- A. Water Utilities Department has required that the applicant guarantee the extension of City water and sanitary sewer (mains and laterals) to serve all lots being platted.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the applicant's drainage plan.
- D. The plat proposes complete access control along Webb Road. A street opening extends from a private street (Foliage Drive). Traffic Engineering has approved access controls.
- E. County Surveying notes that the easement on the east line of Lot 3 & 4, Block 1 overlaps the wall easement and is not labeled.
- F. At northeast corner of Lot 1, Block 1, it needs to be denoted where the drainage and utility easement changes to just a utility easement. This demarcation also needs to be denoted on the northwest and southwest corners of Lot 7, Block 1.
- G. The applicant shall guarantee the paving of the private street (Reserve D) to a public street paving standard. As private improvements, such guarantee shall not be provided through the use of a petition.
- H. A covenant shall be submitted regarding the private street (Reserve D), which sets forth ownership and maintenance responsibilities.
- I. 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.
- J. 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.

- K. Since this plat proposes the platting of a narrow street, adjacent 15-foot street, drainage and utility easements are needed.
- L. Since this plat proposes the platting of a narrow street 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.
- M. The applicant shall submit a covenant that provides four (4) off-street parking spaces per lot that abuts a 32-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.
- N. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- O. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- P. The 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.
- Q. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- R. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- S. 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.
- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- U. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System 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.

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

HILLMAN moved, **SHERMAN** seconded the motion, and it carried (12-0).

2-6. SUB 2008-28: One-Step Final Plat -- JOHNSON'S NURSERY ADDITION, located north of 21st Street North and on the east side of Hoover Road

NOTE: This is an unplatted site located within the City. The site has been approved for a zone change (ZON 2007-69) from SF-5 Single-family Residential to LC Limited Commercial with a Conditional Use (CON 2008-03) for a nursery.

STAFF COMMENTS:

- A. Water Utilities Department has advised that water is in the process of being extended to serve this area. A petition for future sewer is requested.
- B. Since sanitary sewer is unavailable to serve this property, the applicant shall contact City Environmental Services 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. The applicant must obtain a permit from City Environmental Services prior to construction.
- 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 applicant's drainage plan.
- E. The applicant proposes access control along Hoover in accordance with Access Management Standards. "Complete access control" shall be revised to "access control." Access control shall be referenced in the plattor's text.
- F. 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.
- G. The signature line for the City Clerk needs to be revised to reference "Karen Sublett."
 - 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 platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
 - 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.

HILLMAN moved, **SHERMAN** seconded the motion, and it carried (12-0).

3. PUBLIC HEARING – VACATION ITEMS

3-1. VAC2008-11: Vacation of a platted street side setback.

APPLICANT/OWNER: Elba Montanez

LEGAL DESCRIPTION: Generally described as the east 13 feet of the platted 25-foot street side yard setback that runs parallel to Woodchuck Lane on the west side of the west half of Lot 1, Woodchuck Villas 2nd Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located south of Maple Street, east of Tyler Road on the southeast corner of Woodchuck Lane & University Avenue. (WCC #V)

REASON FOR REQUEST: Room addition

CURRENT ZONING: Site and abutting eastern and southern properties are zoned TF-3 Two-family Residential (“TF-3”) & are developed as single-family residences. Adjacent northern (across University Avenue) and western properties (across Woodchuck Lane) are zoned SF-5 Single-family Residential (“SF-5”) & are developed as single-family residences (west) and (north) an elementary school.

The applicant proposes to vacate the east 13 feet of the platted 25-foot street side yard setback, making a 12-foot setback in its place. The zoning of the subject site is TF-3. The lot has been split by sell/two separate owners and developed with a single-family residence on each half of the lot. The lot does meet the minimum standards for a single family residential lot in the TF-3 zoning district. The UZC requires a minimum of a 15-foot street side yard setback for the TF-3 zoning district. If this was not a platted setback the applicant could have applied for an Administrative Adjustment, which would reduce the TF-3 zoning district’s 15-foot street side yard setback by 20%, resulting in a 12-foot setback, which is what the applicant is requesting. The applicant proposes to build a room addition onto the residences, thus the vacation request. There is a platted easement located within the south end of the remaining setback, which covers a sewer line; this easement will remain in place. There are no water lines within the platted setback. Comments from franchised utilities have not been received and are needed to determine if they have utilities located within the described portion of the platted setback. The Woodchuck Villas 2nd Addition was recorded with the Register of Deeds July 2, 1979.

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 platted 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 April 17, 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 setback and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted setback described in the petition should be approved with conditions;
- (1) Vacate the east 13 feet of the platted 25-foot street side yard setback. This setback runs parallel to Woodchuck Lane and is located on the west side of the west half of Lot 1, Woodchuck Villas 2nd Addition.
 - (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 east 13 feet of the platted 25-foot street side yard setback. This setback runs parallel to Woodchuck Lane and is located on the west side of the west half of Lot 1, Woodchuck Villas 2nd Addition.
- (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.

SHERMAN moved, **HENTZEN** seconded the motion, and it carried (12-0).

3-2. VAC2008-00012 - City vacation of a portion of platted complete access control.

OWNER/AGENT: Dr. Michael Williams MKEC Engineering Consultants c/o Greg Allison

LEGAL DESCRIPTION: Generally described as allowing one (1) 60-foot right turn drive along the site's 21st Street North frontage of Lot 1, University Gardens 2nd Addition, Wichita, Sedgwick County, Kansas (WCC #I)

LOCATION: Generally located at the northeast corner of 21st Street North and Oliver Avenue

REASON FOR REQUEST: Allow an additional opening

CURRENT ZONING: The site and abutting northern and eastern properties are zoned LC Limited Commercial ("LC"), are in CUP DP-8, are not developed, or developed as medical office, strip retail and self-storage. An abutting northern property is zoned SF-5 Single-family Residential ("SF-5") and is developed as a single-family residence. Adjacent southern properties (across 21st) are zoned SF-5 and LC and are developed as a church, an office and a nursing home. Adjacent western properties (across Oliver) are zoned SF-5 and are developed as single-family residences & the WSU golf course.

The applicant has applied for the vacation of a portion of the platted complete access control along the site's 21st Street North frontage. The applicant is requesting a 60-foot wide right turn only drive onto 21st Street. The site has a platted permitted 30-foot drive located on its east end. The request is associated with a Commercial Lot Split, SUB2008-21, of the subject site: Lot 1, University Gardens 2nd Addition. 21st is classified as a principal arterial and Oliver is classified as a minor arterial. 21st is a paved 4-lane road with center and frontage turn lanes. Oliver is a 4-lane road with a center turn lane. Average traffic trips per day are 19,465 – 22,757 trips along 21st and 16,240 – 14,691 trips along Oliver. The proximity of the proposed drive to the intersection, 189.99-feet, and the existing permitted platted 30-foot access on the site's east side, 129.80 feet are short of the standards for access management. Per the Subdivision Regulations, 10-104, Modification of Design Criteria, the MAPC may modify design criteria. In the past staff

has recommended modified design criteria, which has been approved by the MAPC. The University Gardens 2nd Addition was recorded with the Register of Deeds March 3, 1977.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from Public Works, the Traffic Engineer, franchised utility representatives and other interested parties, Planning Staff recommends to approve the vacation request 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 April 17, 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 complete access control and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted complete access control described in the petition should be approved with conditions;
- (1) Vacate the complete access control as proposed by the applicant, to allow one (1) right in – right out drive all onto 21st Street North, as approved by the Traffic Engineer. Design standards will include a pork chop median(s), with a standard, not a roll over curb, around it. Provide Planning with a legal description of the vacated access control on a Word document, via e-mail.
 - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
 - (3) All improvements shall be according to City Standards and at the applicant's expense, including any new driveways from private property onto public ROW and closing of any existing drives. Provide Public Works with a guarantee to ensure that those improvements will be made.
 - (4) The vacation case will not be in effect until Lot Split 2008-21 has been approved.
 - (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation 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 complete access control as proposed by the applicant, to allow one (1) right in – right out drive all onto 21st Street North, as approved by the Traffic Engineer. Design standards will include a pork chop median(s), with a standard, not a roll over curb, around it. Provide Planning with a legal description of the vacated access control on a Word document, via e-mail.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (3) All improvements shall be according to City Standards and at the applicant's expense, including any new driveways from private property onto public ROW and closing of any existing drives. Provide Public Works with a guarantee to ensure that those improvements will be made.
- (4) The vacation case will not be in effect until Lot Split 2008-21 has been approved.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation 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.

SHERMAN moved, **HENTZEN** seconded the motion, and it carried (12-0).

PUBLIC HEARINGS

4. **Case No.: ZON2008-19** – Wells Cargo, LLC / PEC (Rob Hartman) Request County zone change from "SF 20" Single family Residential to "LC" Limited Commercial on property described as;

Beginning at a point 260.00 feet East of the Northwest corner of a tract of land known as the North 440.00 feet of the East ¾ of the Northeast Quarter of Section 12, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas; thence East 200.00 feet; thence South 440.00 feet; thence West 200.00 feet; thence North 440.00 feet to the place of beginning.

AND

Beginning 460 feet East of the Northwest corner of a tract known as North 440 feet of the East ¾ of the Northeast Quarter; thence East 200 feet; thence South 440 feet; thence West 200 feet; thence North 440 feet to beginning, Except North 50 feet for Road. Section 12, Township 27, Range 2 East of the 6th P.M., Sedgwick County, Kansas. Generally located south of 21st Street North, 1/4 mile west of 159th Street East.

BACKGROUND: The applicant is seeking LC Limited Commercial (“LC”) zoning on 3.56 acres located approximately 1,560 feet west of 159th Street East, south of 21st Street North. The application area is divided between two 1.78 acre unplatted tracts, both of which are 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 409 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.

The current applicant is also the owner of the 4.03 acres located at the southwest corner of 159th Street and 21st Street. That property was recently approved for LC zoning (ZON2007-00067) subject to platting. There are 4.73 acres under separate ownership located between the applicant’s property located at the corner of 159th and 21st Street and the applicant’s property that is the subject of this application.

Except for the land located north of 21st Street East, other nearby properties are zoned SF-20 and developed with agricultural or single-family residential uses. The property located north of 21st Street East 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.

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.

The NR district has a front setback of 20 feet, a rear setback of 10 feet and interior side setbacks of zero or five feet and a 35-foot maximum building height. The NR district permits a wooden fence, berms, solid evergreen landscaping or some combination of the three as zoning screening material. Due to the site’s width, compatibility building setbacks of 25 feet along the side and rear lot lines will be required as long as the adjoining property is zoned TF-3 Two-family Residential (“TF-3”) or more restrictive. Trash dumpsters are to be located 20 feet from property zoned TF-3 or more restrictive.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH: SF-5 Single-family Residential, approved for NR and GO uses subject to DP-303, 3.B restrictions; vacant
SOUTH: SF-20 Single-family Residential; farmstead

EAST: SF-20 Single-family Residential; residential
WEST: SF-20 Single-family Residential; residential

PUBLIC SERVICES: 21st Street North is currently a two-lane arterial; however 21st is scheduled to be improved to a five-lane arterial in 2008. A water line is adjacent to the site however sewer service will have to be extended to serve the site.

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: Since the application area is an isolated tract surrounded on three sides by residential zoning and residential or agricultural uses, and there is a likelihood that the property to the east will ultimately be rezoned to a nonresidential district, there is a need to customize the development standards for this tract. Based upon information available prior to the public hearings, planning staff recommends that the request for LC Limited Commercial zoning be APPROVED, but 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 properties located to the east, south and west are zoned SF-20 and developed with large-lot residential and/or agricultural uses. The property to the north is currently zoned SF-5 but has been approved for NR and GO uses subject to platting and DP-303, 3.B restrictions, and is undeveloped. The site abuts 21st Street, which is a rapidly changing arterial street from agricultural and large-lot residential uses to urban scale residential lots and commercial uses.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-20, which primarily permits only low density residential and agricultural uses, and a few nonresidential uses compatible with residential uses. The site's proximity to 21st Street, which is to be improved to five-lanes, and the approval of nonresidential zoning, north, across 21st Street make the site less suitable for residential use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: As recommended, the proposed rezoning is similar to that which was approved north of 21st Street. Properties located immediately to the east, south and west are residential or agricultural and would likely experience increased traffic, noise and light if the site is developed with nonresidential uses. However, the proposed development standards will mitigate anticipated negative side effects.
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 site is adjacent to an arterial street, and is located within the projected 2030 urban growth area. The request would be in more compliance with adopted policies if it were an extension of an already commercially zoned tract; however, it is likely that the site will ultimately be a nonresidential tract given the zoning pattern found north of 21st Street and the development pattern typically seen along arterial streets and arterial street intersections.
6. Impact of the proposed development on community facilities: There will be increased traffic but existing or planned improvements will be able to accommodate anticipated

impacts.

DALE MILLER referred Commission members to a slight change in the language of the Staff Report. Responding to a question from **DIRECTOR SCHLEGEL**, **MILLER** verified that the applicant was in agreement with the change.

MOTION: To approve subject to staff recommendation.

MCKAY moved, **ANDERSON** seconded the motion, and it carried (12-0).

Later in the meeting two individuals requested permission to speak on the item so the Commission rescinded the motion to approve the item as a Consent Item.

DALE MILLER, Planning Staff presented the staff report.

ROBERT HARTMAN, PEC, said the zoning request is identical to what is located across the street. He commented that they are in agreement with staff comments.

HEIDI COBLE, 15511 E. 21ST STREET said she lives directly south of the area being discussed. She said they purchased the property consisting of 22 acres 5 years ago. She commented that they liked the fact that it was outside of town and that it was their little "slice of paradise." She said she understands that 21st Street is definitely going to be widened as progress happens and that they want to protect their property. She said she had four requests/questions/comments: 1) What is the applicant planning on doing with the property? 2) She said they are concerned about their safety as they enter and exit their driveway, especially if commercial property is being added in the area. 3) She said the area is residential and hasn't been zoned Limited Commercial and that it will be two sides of an island. 4) She asked what provisions were being made to keep traffic and noise down in the area. 5) She said although the tree line helps with noise control, she asked about the possibility of installing a berm to help with noise and the sound of commercial traffic.

ACTING CHAIR DOWNING commented that they would ask the agent to answer those questions.

MICHAEL MURPHY, 14021 NORTH POINT DRIVE, referred to his home on the map and commented that he shares the driveway with the Cobles. He said that this is an island annexation in a residential area and requested that the Commission hold up granting re-zoning until it is decided what is going to be done with the property to the east. He urged the Commission not to take any action on this request until the other land is zoned.

ROB HARTMAN, PEC, said they do not have specific users lined up for the area but added that it will be used for neighborhood retail. He said they plan to comply with the City's Access Management Policy on the design of 21st Street as far as turn lanes and access points along the street. He said he understands that the property owner to the east has applied for rezoning for commercial neighborhood retail uses. He mentioned that a screening wall will be required as well as landscaping and that there will also be restrictions on lighting.

Responding to questions from **FOSTER** concerning the existing trees on the north and the appropriateness of installing a berm, **HARTMAN** said they haven't looked at it the site that close and they are not sure if the trees are located on their property; that it looks like they run right along the property line but that it is hard to tell without a survey. He said as far as berming is

concerned, they would have to use half the site to get the berm high enough to do any good.

DALE MILLER commented that the area is subject to platting and that a drainage plan will be provided for review at that time.

HEIDI COBLE said they would be willing to donate the land to put the berm on.

ACTING CHAIR DOWNING commented that was between the Cobles and the applicant.

MOTION: To approve subject to staff recommendation.

MARNELL moved, **MCKAY** seconded the motion, and it carried (12-0).

FOSTER asked about amending the motion to factor in protection of the existing trees to the south.

MARNELL responded that he would leave the motion as it was, and added that the property owner has indicated their willingness to work with the applicant.

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5. **Case No.: ZON2008-20** – James A. Eliot (owner/applicant) Request County zone change from "SF 20" Single family Residential to "GC" General Commercial to permit expansion of self serve warehouse on property described as:

Beginning 808.5 feet North of the Southeast corner of the North half of the Northeast Quarter; thence North 262.58 feet to a point 264 feet South of the Northeast corner; thence West 330 feet; thence North 32 feet; thence West 300 feet; thence North 232 feet; thence West 154.09 feet to the Northwest corner of the East 1/3 of the North half of the Northeast Quarter; thence S 518.12 feet; thence East 797.87 feet to beginning EXCEPT East 50 feet and EXCEPT North 60 feet for Roads. Section 17, Township 28, Range 1 West of the 6th P.M., Sedgwick County, Kansas. Generally located south of MacArthur and west of Tyler (8929 W. MacArthur).

BACKGROUND: The applicant requests a zone change from SF-20 Single-family Residential ("SF-20") to GC General Commercial ("GC") on a 0.62 acre unplatted tract located south of MacArthur and west of Tyler. The applicant owns a total of 6.52 acres at this location, with 1.2 acres already being developed with storage units and the remainder of the applicant's property zoned SF-20 and developed with the applicant's single family residence. The subject property is proposed to be developed with more storage units as an expansion of the existing self-storage service warehouse, directly to the east of the subject site.

The surrounding area is characterized primarily by agricultural uses with Mid-Continent Airport and Mid-Continent Industrial Park within the general vicinity. The property to the north across MacArthur is zoned SF-5 Single-family Residential ("SF-5"), is owned by Mid-Continent Airport, and is undeveloped. The property to south and west is zoned SF-20, is owned by the applicant, and is developed with a single-family residence. The property to the east is zoned GC and is developed with a self-service storage facility.

Since the majority of the surrounding properties have residential zoning, screening will be required along the south and east property lines. The compatibility setback standards will require

a 25-foot building setback along the south and east property lines unless a Zoning Adjustment is granted by the Planning Director and Zoning Administrator to reduce or waive the compatibility setback. Since the property adjoins the Wichita city limit, annexation will be required as a condition of platting; therefore, the property will be developed according to the requirements of the City's Landscape Ordinance.

CASE HISTORY: The subject property is currently unplatted. The application for the rezone is an extension of GC zoning that was approved in 2002 (ZON2002-00054)

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Airport Owned Property
SOUTH:	SF-20	Single family
EAST:	GC	Self-Storage
WEST:	SF-20	Ag. Land

PUBLIC SERVICES: The subject property has frontage along MacArthur, a two-lane arterial street. Current traffic volumes on MacArthur are approximately 5,200 vehicles per day. Access to the site will be made available by the existing drive located on the existing GC zoned property to the east. This access drive is permitted to be a full movement drive due to its distance from the nearest intersection (Tyler and MacArthur) under the Access Management Policy, and also since urban density development is expected in the future in this area, this allows for the urban access management policies to be applied to the subject property. The subject property meets the right-of-way width and drive separation requirements of the Access Management Policy. Public water and sewer service are not available to the subject property; therefore, a guarantee for the extension of water and sewer service and a restrictive covenant limiting the subject property to domestic uses until sanitary sewer service is extended will required as a condition of platting.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Industrial" development. In fact, the property is within a 15 square mile area around Mid-Continent Airport that is identified as appropriate for industrial development. The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial uses be located in close proximity to support services such as major arterials, truck routes, highways, utilities trunk lines, rail spurs, and airports.

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

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood:** The surrounding area is characterized primarily by agricultural uses with Mid-Continent Airport and Mid-Continent Industrial Park within the general vicinity. The property to the north across MacArthur is zoned SF-5 Single-family Residential ("SF-5"), is owned by Mid-Continent Airport, and is undeveloped. The property to south and west is zoned SF-20, is owned by the applicant, and is developed with a single-family residence. The property to the east is zoned GC and is developed with a self-service storage facility.
- 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, and conforms to the 20,000 square foot minimum lot size, however, due to the lack of available municipal sewer service and

being located in close proximity to Mid-Continent Airport's approach zone to one of the runways, future residential development is not suitable for the area, as reflected by the Land Use Guide recommending industrial development for the area.

3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Detrimental effects on remaining residentially-zoned properties in the area should be minimized by the screening, lighting, and compatibility standards of the Unified Zoning Code and the buffer, screening, and street yard requirements of the Landscape Ordinance, which should limit noise, lighting, and other activity from adversely impacting these properties.
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 appropriate for "Industrial" development. The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial uses be located in close proximity to support services such as major arterials, truck routes, highways, utility trunk lines, rail spurs, and airports. The subject property conforms to both the Land Use Guide and the Locational Guidelines.
5. **Impact of the proposed development on community facilities:** No detrimental impacts on community facilities are anticipated since access and utility issues will be addressed according to adopted policies through the platting process.

MOTION: To approve subject to staff recommendation.

MCKAY moved, ANDERSON seconded the motion, and it carried (12-0).

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6. **Case No.: CON2008-06** – The previous application withdrawn on March 27, 2008. A request for a Special Review for an existing off site billboard sign, which does not meet the required 300-foot separation from residential zoning. Request to increase the height of this legal nonconforming billboard from 45 to 55 feet, exceeding the sign code height limit.

That part of Lot 1, New Western 4th Addition, Wichita, Sedgwick County, Kansas, described as: Beginning at the Northeast corner of said Lot 1; thence S 00 degrees 01'00" E along the East line of said Lot 1, 184.89 feet; thence S 89 degrees 58'49" W along the South line of a 30 foot drainage and utility easement in said Lot 1, 224.06 feet; thence N 00 degrees 00'00" parallel to the Northernmost tangent portion of the West line of said Lot 1, 184.97 feet to a point on the North line of said Lot 1, 92 feet East of the Northwest corner thereof; thence S 90 degrees 00'00" E along the North line of said Lot 1, 224 feet to the point of beginning. Generally located south of Kellogg Drive and west of Beverly (5325 E. Kellogg Drive).

BACKGROUND: The applicant's off-site advertising billboard sign is a legal non-conforming billboard because it is 140 feet from residential zoning and residences southeast of the site, whereas the Wichita Sign Code requires a 300-foot separation from billboards to residential zoning and residences. The billboard is also legal non-conforming as it is currently 45 feet tall, and the sign code would limit this sign to 36 feet in height. The billboard is a 14 by 48 foot, or 672 square foot off-site advertising sign mounted above a commercial building (see the attached

site plan and elevation provided by the agent). The two sided (east and west facing) billboard is located south of East Kellogg Drive, west of Beverly. This site is along the East Kellogg Expressway frontage between the Oliver Street overpass and the Edgemoor overpass.

The applicant recently sought and received a Sign Code Administrative Adjustment to change the west facing sign face to an electronic message board, or LED sign. To alter a legal non-conforming sign, the non-conformity must be reduced. The applicant reduced the sign by eliminating skirting below the sign. The Sign Code allows administrative adjustments to raise signs above elevated highways; however, this portion of Kellogg is not elevated but rather at grade.

The applicant now wishes to raise this legal non-conforming sign from 45 to 55 feet, requiring this special review by the MAPC. The Sign Code section 24.04.225(a) states that *“An application for a permit for installation of a new or enlarged (size or height) off-site billboard sign located closer to a residentially-zoned lot or use than allowed by Section 24.04.222.4d of this code (300 feet) shall require a public hearing and approval by the Planning Commission or, if forwarded to the Wichita City Council for final action, shall require approval by the Wichita City Council.”*

North of this site is the Kellogg Drive frontage road, and the Kellogg Freeway. North of Kellogg is the GO General Office (“GO”) zoned Veterans Administration Hospital. West of the VA Hospital are TF-3 Two-family Residential (“TF-3”) zoned single-family residences; east of the VA is an LC Limited Commercial (“LC”) zoned retail store. South of this site is an LC zoned restaurant under the same ownership as the applicant, and MF-29 Multi-family Residential (“MF-29”) zoned single and two-family residences. East of the site are LC zoned offices and automobile repair, and TF-3 zoned single and two-family residences. West of the site is an LC zoned hotel and restaurant under the same ownership as the application area, an LC zoned office, and MF-29 zoned single-family residences. The nearest other billboard is 390 feet west of this site.

This request was first heard by the MAPC on March 27, 2008, the agent for the applicant withdrew the request at that hearing. The agent stated in the hearing that he wished to change the initial height increase request from eight to 14 feet. The applicant has since contacted staff, and again adjusted its request to a 10-foot height increase. Staff has re-advertised and re-notified the request for a 10-foot height increase, which is to be heard by DAB III and re-heard by the MAPC.

CASE HISTORY: The site was replatted as a portion of the New Western 4th Addition in 1995. The existing billboard was in place prior to the 2004 Sign Code amendments, which set the 300 foot minimum spacing between billboards and residences.

ADJACENT ZONING AND LAND USE:

NORTH:	GO, TF-3, LC	VA Hospital, retail, single-family residences
SOUTH:	LC, MF-29	Restaurant, two and single-family residences
EAST:	LC, TF-3	Office, auto repair, two and single-family residences
WEST:	LC, MF-29	Hotel, restaurant, office, single-family residences

PUBLIC SERVICES: The site has access from the Kellogg Drive service road, and Beverly, a local/residential street.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide”

of the Comprehensive Plan identifies this site as appropriate for “Regional Commercial.” Commercial Objective III.B of the Comprehensive Plan encourages commercial areas to: “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.”

The 2004 updates to the Sign Code regarding billboard off-site signs were adopted with the objective of preventing billboards within 300 feet of residences, and with the objective of preventing the increase in size or height of legal non-conforming billboards within 300 feet of residences.

RECOMMENDATION: The Sign Code states that the purpose of the community’s sign regulations are: to eliminate potential hazards to motorists and pedestrians; to encourage signs, which by their location and design, are harmonious to their surroundings; eliminate excessive and confusing sign displays; provide a reasonable balance between the need of the sign and outdoor advertising industries while improving and preserving the visual qualities of the community and to promote health, safety and general welfare. This sign is located along an expressway signed for 60 mile per hour speeds.

Staff analysis concluded the following: The existing billboard is visible from eastbound Kellogg east of the Oliver overpass. The existing billboard is visible from westbound Kellogg, east of the Edgemoor overpass, and west of the Edgemoor overpass. The billboard is visible from the north/south oriented Oliver and Edgemoor overpass bridges. An on-site sign for the Wichita Inn may partially obscure this sign from eastbound traffic; however, the hotel sign is on the applicant’s site, and could be adjusted to improve visibility of the billboard.

Staff does not see from the information available that an increase in height of ten feet would improve visibility of this sign. Nearby residences, particularly those 140 feet southeast of the site, would be subjected to an increased visual effect from this billboard if the sign height is increased by ten feet. Without information from the applicant demonstrating its need for increased sign height, and weighing the increased negative visual effect on the residents the code is intended to protect, staff does not find that the request can be supported. Two neighbors opposed to this request attended the March 27, 2008 MAPC hearing. One of those neighbors e-mailed a letter of opposition to planning staff, see the attached letter.

Based upon information available prior to the public hearings, planning staff recommends that the request be DENIED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: North of this site are the Kellogg Drive frontage road, and the Kellogg Freeway. North of Kellogg is the GO zoned Veterans Administration Hospital. West of the VA Hospital are TF-3 zoned single-family residences; east of the VA is an LC zoned retail store. South of this site is an LC zoned restaurant under the same ownership as the applicant, and MF-29 zoned single and two-family residences. East of the site are LC zoned offices and automobile repair, and TF-3 zoned single and two-family residences within 140 feet of the sign. West of the site is an LC zoned hotel and restaurant under the same ownership as the application area, an LC zoned office and MF-29 zoned single-family residences.
2. The suitability of the subject property for the uses to which it has been restricted: The

existing billboard off-site sign has legal non-conforming use rights at the current height. The existing height exceeds what the Sign Code would permit today, and appears to function adequately for the applicant.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request would allow the legal non-conforming billboard to increase in height from 45 to 55 feet, further visually affecting nearby residences.
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 “Regional Commercial.” Commercial Objective III.B of the Comprehensive Plan encourages commercial areas to: “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.” The 2004 updates to the Sign Code regarding billboard off-site signs are intended to protect surrounding land uses, particularly residences, from the negative visual effects of billboards. The City Council adopted the Sign Code with the objective of preventing billboards within 300 feet of residences, and with the objective of preventing the increase in size or height of legal non-conforming billboards within 300 feet of residences.
5. Impact of the proposed development on community facilities: Traffic on Kellogg Drive and Beverly should not be affected by any changes to the existing billboard.

JESS MCNEELY, Planning staff presented the staff report. He commented that this was a “Special Review” under the City’s Sign Code as opposed to being heard by the Board of Zoning Appeals. He said DAB III voted unanimously to recommend denial of the application.

ART STANFILL, 410 WEST ELLIS COURT, representing the applicant, said Kellogg renovations have decreased property values and business on the south side of the roadway because of the way it was developed. He referred to the Staff Report concerning the road “grade” and commented that billboards are supposed to be viewed from a long-distance away. He said views of this billboard are obstructed dramatically from the east and west because of the walls of the Kellogg improvements. For these reasons, he requested that the Commission approve this request. He mentioned the e-mail submitted opposing this request, and commented that the property owners must have understood when they bought their property that it was next to commercial zoning. He added that they have elected not to put up a digital sign that would reflect into the neighborhood. He concluded by stating that they don’t think raising the sign will affect City codes or set a precedent because they feel this request for a variance is unique.

MCKAY clarified that if nothing was done, the sign was grandfathered in at the location as it is.

MARNELL asked if the sign was moved west to the center lane in the parking area would that make it outside the 300 foot requirement. He also asked if the residences were “owner-occupied” properties.

MCNEELY said the sign was approximately 140 at its present location and that he didn’t believe moving it to the center lane in the parking area would put it outside the 300 foot requirement. He clarified that the measurement is 300 feet from the sign to the edge of a residential property. He added that he believed the nearest property was a duplex.

There was brief discussion concerning how the 300 feet was measured and zoning of the

surrounding area.

Responding to a question from **JOHNSON, MCNEELY** commented that the Sign Code states 300 feet from residential zoning or residential development. He said even if the area is rezoned Limited Commercial, it is still developed with residences.

MOTION: To grant the request.

HENTZEN moved, **ANDERSON** seconded the motion, and it carried (9-3).
FOSTER, HILLMAN and **MILLER STEVENS** – No.

HENTZEN commented that after dealing with County and City employees for 45 years as a small businessman and private investor, he said he would like to see an atmosphere of employees trying to help people “make it happen” instead of employees doing every damn thing they can to keep things from happening. He said he wanted to consider the private businessman because he thinks that this is a reasonable request.

DENNIS added that he also thought the request should be approved because the sign is difficult to see from both east and westbound Kellogg. He commented about this being the very first case to fall under the new Special Review provision of the sign code, and he initially did not want the first request under the code to be granted this waiver. He also mentioned that he didn’t believe raising the sign ten feet was going to make it any more visible in the neighborhood.

MARNELL said he was also going to support the motion because being a customer of billboard sign companies, he understood that the faster the speed, the further away you have to be to see the billboard sign. He said he believes the impact of this sign has been damaged in its current location by Kellogg construction. He also said he doesn’t believe raising the sign 10 foot higher is going to affect the neighborhood.

STEVENS MILLER said she was going to vote no on the item. She referenced Mr. Hentzen’s remarks regarding businesses and said she has been a business owner herself. She said the City has made concessions to this applicant by granting an administrative adjustment for the LED sign; however, she feels the Commission needs to respect the residential area and provide protection for them as well.

FOSTER said he seconded **MILLER STEVENS’** comments and added that there was a broader issue of community planning and general aesthetics. He commented that there had been previous discussion that this was already a “legal non-conforming use” and not to make it any more “non-conforming.” He said he was going to vote against the motion.

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7. **Case No.: CON2008-18** -Saint Stephen’s Mission, Inc., c/o Saint Stephen’s Episcopal church (owner & applicant) Creative Place Inc., c/o Dene Nelson (applicant) Request City Conditional Use for day care, general, on property zoned "SF 5" Single family Residential on property described as:

Block E, Woodlawn Village 3rd Addition, Sedgwick County, Kansas. Generally located approximately 1/4 mile west of Rock Road and midway between Central Avenue and 13th Street north on the northwest corner of Killarney Place and Lawrence Avenue (7404 Killarney Place).

BACKGROUND: The applicants are requesting a Conditional Use to operate a day care, general. The applicants proposed to build an approximately 20,000-square 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 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 shall 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 six-years. Besides the maximum 150 children on site at any one time, there will also be 25-30 staff members present at any one time. During the summer months, June to mid-August, the day care operates at approximately 60% of its 150 child capacity. The site plan shows 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 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. No elevations of the proposed facility were provided. The site plan(s) does 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 site plans show a proposed drop off area, located west of the facility, and vehicle queuing. The site plan showing vehicle queuing also gives a breakdown 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 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 commercial, office, duplex and multi-family 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. 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 ROWs. All three of these nonresidential facilities are

basically located in the middle of the single-family residential neighborhood. The elementary school recently added onto its building.

A two-lane urban collector, Armour Lane, runs through the neighborhood from Central to 13th Street. There are no east – west collectors running through the neighborhood, in fact there is only one street, Killarney Place that crosses the drainage ROWs that run from above 13th to below Central. This drainage ROW(s) separates the east and west sides of the neighborhood. 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 is approximately 600 feet from the drainage ROW. The Killarney Place – Doreen Street intersection has traffic counts of 802-725 trips along Killarney and 360-256 trips along Doreen. These counts were provided by the Traffic Engineer 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 (2 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 applicant has stated that the proposed day care will generate an additional 314 trips per day. This trips generated total does not consider daily staff trips generated by the 25-30 staff members. 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 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 700 students to Price Elementary school are bused, with the remaining half either coming by automobiles, walking or by bike. An elementary school can generate similar trip totals as a day care.

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.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	single-family residences, 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 Killarney Place and Lawrence Lane, both two paved, 2-lane residential streets. As previously noted Killarney is the only street in this neighborhood that crosses the north to south drainage ROW. 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 ROW on its north end and ends at its intersection with Killarney. Killarney has no sidewalks and it appears sidewalks are the

exception rather than standard. Armour Lane, an urban collector is located approximately ¼-mile west of the site, across the drainage ROW, via Broadmoor Avenue and Cresthill Road (both residential streets). The 2030 Transportation Plan shows no change to any of the abovementioned streets' status. There are no CIP projects to build another vehicular bridge across the drainage ROWs. 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 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 “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 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 of the church.

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. 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 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 a service to the immediate neighborhood and the community outside of the neighborhood. The proposed day care operator currently has its facility at the Independent School, located on the south side of Douglas Avenue, midway between Rock and Webb Roads; approximately 1 ½-miles 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 site 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 applicants have also stated that operation of a day care on the church property could also increase revenues to the church, which would assist it in maintaining the church property as well as improvements to the property. The size of the church property lends itself to more development on it and it is reasonable for the church to be able to further develop this property.

The issue with the church site 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 residential neighborhood with access to it limited to residential streets. Access to the church is also limited by existing subdivision design and drainage ROW(s) 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 ROW) elementary school. Unlike Saint Stephen's, the elementary school does abut and have access onto Armour Lane, an urban collector. Armour Lane is located approximately ¼-mile west of the site, across the drainage ROW, via Broadmoor Avenue and Cresthill Road (both residential streets). Staff feels the request has merit, 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. 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 commercial, office, duplex and multi-family 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. The single-family development was platted from the mid 1950s (most of the area west of the drainage ROWs) to the mid 1980s. The subject site's large size (5.94-acre Lot E, Third Addition to Woodlawn Village, recorded 1962) lot is not typical of the surrounding single-family lots, but it is adjacent (but separated by drainage ROWs) to the 9.9-acre Price Harris Elementary site and the 1.55-acre Celebration Baptist Church site. The elementary school generates traffic from outside the neighborhood, with half of its 700 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 or redeveloped as a use permitted by right, such as single-family residential or a school.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: A day care with a capacity for 150 children would increase nonresidential traffic on the residential streets in the neighborhood, with Killarney being the street that would most likely have the most notable increase. 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 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, with the school not operating during the summer months. 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 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. 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 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 a small area of the total 5.94-acres it owns and as such the property is underutilized. The church’s proposal would bring additional development to the site that would in turn expand the church’s mission and possibly increase church membership. A possible impact of a declining church membership is the possible abandoning of the church, leaving a vacant building in the middle of the neighborhood. The proposed day care is no guarantee that church membership would stabilize or increase. The impact on the neighborhood is an increase of nonresidential traffic in the neighborhood, with the increase in the nonresidential traffic being generated from the middle of the neighborhood. This area has few sidewalks for pedestrian traffic and no parks, thus the streets carry vehicular, pedestrian and recreational traffic.
6. Impact of the proposed development on community facilities: There will be traffic increases onto Killarney Place and the 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.
2. The site shall be developed in general conformance with the approved site plan. 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 site plan, showing proposed landscaping, screening, signage and lighting. The applicant will also provide elevations of the day care, which will incorporate architectural features that compliment the existing church or have residential design features. To be provided within 3 months of approval by the appropriate body.
3. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations. Construction shall begin within two-years of approval of the Conditional Use.

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.

ACTING CHAIRMAN DOWNING stated that the agent/applicant has requested a deferral on this item; however, he noted that there were people present to speak on the issue. He said with the Commission's approval, he would like to let those folks who want to make comments speak today, and delay any decision on the application at the request of the agent. He asked for an opinion by the Law Department on that procedure.

JOE LANG, CITY LAW DEPARTMENT, said the Commission may do that; however, if the agent comes back with substantive changes to the application; the public comments may not be as relevant. He said it would be appropriate to hear from the people who are present to speak on the issue.

HILLMAN asked why the applicant was asking for a deferral.

ACTING CHAIR DOWNING said he was not aware that the Commission has ever denied a deferral request, at least since he has been on the Commission.

BILL LONGNECKER, Planning Staff, said that a day and half ago the applicant requested a deferral of the case for today's meeting and had also requested a special DAB II meeting, allowing them to make an unspecified modification on the proposal. He added that DAB II had heard the case Monday and had deferred making a recommendation on the application. He said the applicant has also requested to meet with staff prior to the rescheduled MAPC meeting and the requested special DAB meeting. He said there could be a one or two month delay, and that there needed to be sufficient time to notify the neighborhood of the new DAB date as well as the new MAPC public hearing date. He also noted that neither the applicant nor the neighborhood had a full contingent of supporters at the meeting, as both had been advised of the deferral request.

MCKAY asked if the applicant made arrangements to talk to the neighbors.

LONGNECKER said prior to the DAB meeting, the applicant had met with the neighborhood at the church to present the concept. He stated that the city staff had not arranged that meeting, but had been present, by request, to talk about the Conditional Use process.

ACTING CHAIR DOWNING requested that the applicant officially request a delay for a month or some other time in the future.

LESTER LIMON, PKLHS ARCHITECTS, NEWTON, KS formally requested that the MAPC table this agenda item in order to give them time to meet with the City Staff and the Traffic Engineering to present their modified plan and then go back to DAB II and the MAPC.

ACTING CHAIR DOWNING asked the public that was present if they would be able to return at a later date to express their opinions on the modified request.

RAFFUELE FOZIO, 702 N. DOREEN, responded that some of the people present may not necessarily be able to attend another meeting in 30-60 days, especially since the meetings are held in the middle of the afternoon and people have to take time off of work to attend. He requested that the Commission allow the time for people to speak.

Responding to a question from **DOWNING, LANG** said any decision was at the discretion of the MAPC; they could defer the entire item or hear it today and continue to hear it at a later date with any changes. He advised that the Commission did not have to hear the item today if they did not want to.

MCKAY suggested that that the MAPC go ahead and hear the public present at the meeting today without a whole lot of repetition of comments.

MOTION: To hear from the public present at today's meeting, but to cut the time allotted to two minutes for each speaker.

MCKAY moved, **SHERMAN** seconded the motion, and it carried (12-0).

HENTZEN clarified that the same people would be allowed to speak the next time the case is heard.

LANG commented that was correct.

JOE JOHNSON, DAB II, clarified that the item has been rescheduled to be heard by DAB II on Monday, June 16, 2008.

MOTION: To defer the item to the Thursday, June 19, 2008 MAPC Hearing.

MARNELL moved, **HILLMAN** seconded the motion, and it carried (12-0).

DALE MILLER, asked **JOE LANG** about the appropriateness of letting the neighbors speak, but not the applicant.

LANG explained that the applicant will be given a chance to make a full presentation at some point and that they now were available to answer questions, if asked, by the Planning Commission.

WILLIAM LONGNECKER, Planning Staff presented, as he noted, an abbreviated overview of the staff report.

HENTZEN referred to the queuing map and asked if that traffic would come back out onto Killarney.

LONGNECKER responded that was correct.

LESTER LIMON, PKHLS ARCHITECTS, AGENT FOR THE APPLICANT stated they would like to defer their presentation at this time and let public comment go ahead.

LANG reminded the Commissioners to keep their minds open which should alleviate some concern that a case has to be made today.

LIMON expressed concern saying the reason for his deferring their presentation was that they had previously asked staff that the case not be heard today. He mentioned the impact of hearing public comments without hearing the applicant's presentation. He said they would rather wait until they have the full time allotted for the presentation, complete plans and supporters present.

DAN ENGEL, 701 N. DOREEN, said he can only speak about what is currently being proposed, since they don't know about any changes to the plan; he might have a different opinion. He said the proponents of the plan have pointed out that the area's current zoning allowed for use such as a school and he realizes they have the right to build something on their own property; however, he concerns were for the traffic alone. He stressed that he was not against churches, schools, or children, but the traffic they dumped in the neighborhood. He commented that the applicant has suggested that the day care would bring an additional approximately 122 cars through the neighborhood twice a day, which he thought was low.

RAPHUELE FOZIO, 702 N. DOREEN, said they would like to ask as a courtesy that they be made aware of any meetings between Planning staff and the applicant and of the information discussed so they can plan and prepare a challenge. He said he would like the Commission to keep in mind that they will hear a lot of numbers throughout this process. He also mentioned that the number of families that attend the day care who actually live in the area is extremely low. He said of the overwhelming number of people who are affected by this proposal, 90% are against it. He said the people who are benefiting from the day care don't have to bear the burden or consequences.

DAN LOVELAND, 834 LAWRENCE LANE, commented that of the homes that were notified by the City within 350 foot of the church, 90% of the homeowners are against the proposal, 10% are for it.

CLIFF FARHA, 7225 EAST CRESTHILL COURT said he was concerned about traffic and mentioned the possibility of an additional 626 traffic movements throughout the neighborhood, and the possibility of more traffic traveling on Killarney. He said according to the projected traffic counts provided by the architectural firm, there will be approximately a 75 % increase in traffic in the area, not including staff and commercial delivery trucks needed to operate the facility. He mentioned traffic trying to leave the area and how difficult it was to take a left onto either Rock Road or Central Avenue. He said it is a heavily congested area and that it is already a safety risk to leave the neighborhood.

ROBERT HADLEY, 673 N. BROADMOOR, said his property directly faces the proposed school and that he was never sent an e-mail, never received a phone call, and no one came door-to-door to inform him what was going on, and he is the most affected by this project. He said this proposed building will be open 12 hours a day, 5 days a week and that people will be coming and going at all hours of the day. He mentioned trash trucks, milk and food trucks and other supply trucks that will be a constant disruptive factor in the neighborhood, in addition to the approximately 500 additional cars a day. He said he also has serious concerns about access of emergency vehicles into the area. He concluded by saying that the entire proposal is not going to fly; that hundreds of people are opposed to it; and that they have signed petitions. He said they are going to fight this thing because the proposed school will destroy the neighborhood.

_____ **FOZIO, 702 N. DOREEN STREET** said Doreen and Killarney are the primary access points from the proposed site to Rock Road. She said it takes 5-7 minutes now to take a left onto Rock Road with cars waiting to take a left "backlogged" along the street. She asked the Commission to keep the nature of the neighborhood and zoning as it was intended and platted for

back in the 1950's. She concluded by urging the Commission to consider the needs of the neighbors who live in the area and maintain the character of the neighborhood.

MADRI ENGEL, 701 N. DOREEN, said the experts in the Planning Department have recommended that this request be denied. She said over 100 neighbors agree. She concluded by submitting a petition with over 100 signatures on it who are directly affected and live in the neighborhood.

JACK FEIDEN, 7761 KILLARNEY COURT, said he was concerned because people who were both for and opposed to this request were notified not to come to this MAPC meeting. He said there is not one through street going east to west in the area. He said in 35 years he has seen a tremendous increase in the amount of traffic along Rock Road. He also mentioned the increased traffic due to Price Harrison Elementary and St. Thomas Aquinas Schools. He questioned the traffic numbers cited in the Staff Report saying that he felt those numbers were low and that was scary and not very representative of the situation. He concluded by mentioning how traffic backs up on Rock Road when someone is attempting to turn into the neighborhood. He said he would like the Commission to continue the residential neighborhood with residential traffic.

DARRYL ROBERTS, 734 LAWRENCE LANE, mentioned traffic and how difficult it was to get out onto arterials from the neighborhood. He also mentioned that the day care center was a commercial business and not a church program. He added that there were no sidewalks in the neighborhood, although Lawrence Lane has a sidewalk, and that residents walk and run in the street. He concluded by saying that there is a large number of empty nesters in the area that walk in the neighborhood and that this proposal would make that activity a safety hazard. He ended by mentioning that the church has been a good neighbor and they have been good neighbors of the church.

ALFORD KRAUSE, 926 LAWRENCE LANE said he was concerned about the condition of Killarney itself; that the road is full of pot holes. He requested that the City step up to take care of the road.

SUZANNE LAYCOCK, 7622 N. KILLARNEY PLACE said as a representative of the young families in the neighborhood who are opposed to this special use request, they are concerned about traffic and safety issues since there are no sidewalks in the area. She said there are many young families with children who bike, skateboard, and walk dogs in the street. She said the area bounded by Rock Road and Central has become incredibly difficult to get in and out safely because of traffic. She said although quality day care is important to Wichita and the reputation of Discovery Place is excellent, she said this is not the appropriate location. She said most preschools are located off main arterial streets. She said this location is literally located on a dead end street bordered by houses.

MCKAY asked staff to provide the different streets that provide ways to get in and out of this location, rather than one or two particular streets.

LONGNECKER mentioned that there were a number of ways into the area, but that none of them were direct and that all traffic would eventually be at Killarney, Lawrence or Donegal,

MCKAY also asked that staff or the applicant provide a survey or projection as to where the majority of people who will use the day care are coming from.

LIMON stated that information could be provided by address and zip code.

SHERMAN asked for clarification that the day care was a business and not part of church?

LIMON stated that the day care was a not-for-profit organization.

Responding to a question from SHERMAN concerning other site locations, LIMON said this was the fourth site they looked at.

8. Case No. CON2008-19 - Kenneth & Lois Smith (owner) Mike Ysidro (Applicant) Greg Ferris (agent) Request City Conditional Use for wrecking/salvage yard in "LI" Limited Industrial zoning on property described as:

Lots 1 and 2, Block 1, Rainbow Sales Addition, Sedgwick County, Kansas. Generally located East of West Street and north of MacArthur Road (3950 S. West).

BACKGROUND: The applicants are requesting a Conditional Use to permit a wrecking/salvage yard on the LI Limited Industrial ("LI") zoned 4.75-acres of the east 3/4 of Lots 1 and 2, Block 1, Rainbow Sales Addition. The site is located approximately 135 – 110 feet east of West Street and approximately 175 feet north of MacArthur Road.

The Unified Zoning Code (UZC, Art.III, Sec.III-D.6.e) requires a Conditional Use for a wrecking/salvage yard in the LI zoning district. A wrecking/salvage yard is a lot, land, or structure used for the collecting, dismantling, storing, and/or salvaging of machinery, equipment, appliances, inoperable vehicles, vehicle parts, bulky waste, salvage materials, junk, or discarded materials; and/or for the sale of parts thereof. Typical uses include motor vehicle salvage yards and junkyards. The applicants are proposing to store and auction/sell wrecked/inoperable vehicles that are owned by insurance companies as total insurance losses, an insurance pool. The use of land for storage of inoperable vehicles, as defined above, in LI zoning is a Conditional Use.

Per the UZC, Art III, Sec III-D.6.e, the conditions for Conditional Use for a wrecking/salvage yard in the LI zoning district are:

- (1) Is not abutting an arterial street, expressway, or freeway;
- (2) In the opinion of the Planning Director, will not adversely affect the character of the neighborhood; and
- (3) Is enclosed by a fence or wall not less than eight feet in height and having cracks and openings not in excess of five percent of the area of such fence.

The applicants have stated there will approximately 200 insurance pool vehicles stored on the site at any one time, with an auction every two-weeks, on a Tuesday, 10:00 A.M. to 1:00 P.M., year round. During the auction day a shuttle bus (similar to an airport shuttle) will periodically drive potential buyers through the storage site for inspection and the auctioning of the vehicles. The applicants have stated that a 4-inch speaker will be used to amplify the auctioneer's voice. Aside from the auction, the business itself will be open to potential buyers 8AM to 5PM, Monday to Friday, year round. The applicants have stated that there will be no mechanical or body work done on the vehicles stored on the site and that the insurance companies will not allow that work on the vehicles. The applicants have also stated that there will be no dismantling of vehicles on the site, nor will there be the storage and sale parts on the site. Delivery of the vehicles will be by

truck, which will be parked inside the completely screened site. The site plan/aerial shows the location and size of the storage/sales site, an existing office/garage/warehouse, utility easements, and solid fencing. The fencing is metal, with no height given. The site plan shows no lighting, parking, signage, setbacks or landscaping. The applicants have stated that they propose no signage or lighting other than what exist.

The area is a mix of county and city land. The county land is zoned SF-20 and is used as agricultural land, including farmsteads, and single-family residential. It also includes a Buddhist church and agricultural land abutting all of the north side and a portion of the west side of the subject site. The city lands are mostly zoned LI, but include a small GC General Commercial (“GC”) zoned retail site and LC Limited Commercial (“LC”) zoned vacant land, single-family residence, manufactured home and agricultural land abutting the subject site’s south side. All of the properties located west of the subject site, across West Street, are zoned LI and are developed as office/warehouse, office/warehouse/retail, a truck terminal, a salvage yard, and agricultural land.

CASE HISTORY: The subject property was platted/recorded as the Rainbow Sales Addition, February 29, 1980.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-20, LI, GC	Buddhist church, retail, single-family residence
SOUTH:	LC	Vacant, single-family residence, manufactured home
EAST:	LC, SF-20	Agricultural land
WEST:	LI	Office/warehouse/retail, salvage yard, truck terminal

PUBLIC SERVICES: The subject property has direct access to West Street, a paved four-lane minor arterial. It is also has access to MacArthur Road, from West Street, which is a paved two-lane minor arterial, with a center turn lane. The 2030 Transportation Plan shows both roads to be four-lane arterials. Traffic counts at the West – MacArthur intersection are 8,899 to 5,727 trips per day. Municipal water is available to the subject site, but sewer services are not. All other utilities/services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies the general location as appropriate for “Employment/ Industry Center” development. The Land Use Guide identifies salvage yards as appropriate for land identified for “Processing Industry” uses, which promotes more intensive land uses than the “Employment/ Industry Center” classification. However the applicants’ proposed use is more restrictive than a motor vehicle salvage yard or junkyard. The applicants are proposing to store and auction/sell wrecked/inoperable vehicles that are owned by insurance companies as total insurance losses, an insurance pool. The applicants have also stated that there will be no mechanical or body work done on the vehicles stored on the site and that the insurance companies will not allow that work on the vehicles. The applicants have further stated that there will be no dismantling of vehicles on the site, nor will there be the storage and sale parts on the site. With these self imposed restrictions, the proposed used has some characteristics of a car sales lot, which includes a regularly changing inventory of vehicles to auction or sell. The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial uses should be located in close proximity to support services and provided good access to major arterials, truck routes, belt highways, utility trunk lines, along railroads, near airports and as extensions of existing industrial uses. Industrial uses should be located away from existing or planned

residential areas, and sited so as not to generate travel through less intensive land uses. The proposed site meets these locational guidelines for industrial 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 Conditional Use shall authorize the operation of a wrecking/salvage yard to store and auction/sell of wrecked/inoperable vehicles that are owned by insurance companies as total insurance losses, an insurance pool. There shall be no mechanical or body work done on the vehicles stored on the site. There shall be no dismantling of vehicles on the site, nor will there be the storage and sale of vehicle parts on the site. In no event shall the Conditional Use authorize collecting, dismantling, storing, and/or salvaging of machinery, equipment, appliances, bulky waste, salvage materials, junk, storage or bailing of solid waste, scrap paper, rags, metallic scrap materials or discarded materials; and/or for the sale of parts thereof. An auction of the wrecked/inoperable vehicles that are owned by insurance companies as total insurance losses (an insurance pool) shall be every two weeks, on a Tuesday, 10:00 A.M. to 1:00 P.M., year round.
2. All of the conditions of UZC, Art.III, Sec.III-D.6.e will be enforced, including the approval of fencing or wall materials. Compatibility setbacks will be applied to the north and a portion of the east side of the site. No parking/storage of vehicles is allowed within the setbacks. Compatibility noise standards shall apply to the site and those standards will be extended to the south side of the site, where there are existing single-family residences. An approved landscape buffer of evergreens, a minimum of 5 feet in height shall be planted every 25 feet where the site abuts residential zoning or residential uses (north, south and a portion of the east side of the subject site) and every 40 feet where it abuts (the east side of the subject site) commercial zoning. The landscape buffer shall be a minimum of 15 feet, except where compatibility setbacks are applied. Trees shall be planted at the rate required by the Landscape Ordinance for a landscape street yard. All landscaping shall be irrigated and shall be planted and maintained in general conformance with a landscape plan approved by the Planning Director prior to operations beginning. The access gates are permitted in the concrete wall at the points denoted on the approved site plan.
3. An on-site parking area paved with asphalt or concrete with a paved access drive to West Street shall be provided for employee and customer parking. The paved access drive will also be used for the delivery of vehicles for sale or auction. Parking shall be per the UZC and will be shown with the landscape plan.
4. Unpaved areas for the storage of and auction/sell of wrecked/inoperable vehicles that are owned by insurance companies as total insurance losses shall be an approved all-weather surface.
5. A revised site plan addressing the conditions of approval shall be approved by the Planning Director prior to the beginning of the operation.
6. No wrecked/inoperable vehicles shall be visible from ground-level view from West Street or abutting properties.

7. Storage of all wrecked/inoperable vehicles shall be in an orderly manner with an exposed perimeter as specified by the Environmental Services to prevent rodent harborage and breeding.
8. The applicant shall maintain at all times an active program for the eradication and control of rodents.
9. Weeds shall be controlled within the subject property and adjacent to and along the outside perimeter of the screening fence.
10. Any locking devices on entrance gates shall meet Fire Department requirements. Access to and within the site shall be provided by fire lanes per the direction and approval of the Fire Department.
11. Access to the subject property shall be provided for on-going inspections of the site for groundwater and soil contaminants by Environmental Services and other applicable governmental agencies. If the inspections determine it to be necessary, the applicant shall be required to install monitoring wells and/or perform soil testing on the property to monitor the quality of groundwater and/or soil, and shall pay the cost of an annual groundwater and/or soil test for contaminants as designated by the Environmental Services.
12. Notification shall be given to Environmental Services of any on-site storage of fuels, oils, chemicals, or hazardous wastes or materials. A disposal plan for fuels, oils, chemicals, or hazardous wastes or materials shall be placed on file with Environmental Services. All manifests for the disposal of fuels, oils, chemicals, or hazardous wastes or materials must be kept on file at the site and available for review by the Environmental Services.
13. The applicant shall implement a drainage plan approved the City Engineer prior to the commencement of operations that minimizes non-point source contamination of surface and ground water.
14. The applicant shall obtain and maintain all applicable local, state, and federal permits necessary for the operation of a wrecking/salvage yard.
15. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

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

1. The zoning, uses and character of the neighborhood: The surrounding area, a mix of lands located in the city and the county, is characterized by mostly limited industrial types of uses, such as office/warehouse, office/warehouse/retail, and truck terminal. There is a salvage yard in the area. There are also county residential uses, agricultural land, vacant retail, small retail and a Buddhist temple, which abuts the north side of the subject site. Properties surrounding the subject site are zoned LI, LC and SF-20. The proposed use is not out of character with the zoning and uses of the area.

2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned LI. A wrecking/salvage yard may be permitted with a Conditional Use in the LI zoning district.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects on nearby property should be minimized by the recommended conditions of approval, which include screening and landscaping the proposed use from nearby commercial and residential uses.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Employment/ Industry Center" development. The Land Use Guide identifies salvage yards as appropriate for land identified for "Processing Industry" uses, which promotes more intensive land uses than the "Employment/ Industry Center" classification. However the applicants' proposed use is more restrictive than a motor vehicle salvage yard or junkyard. The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial uses should be located in close proximity to support services and provided good access to major arterials, truck routes, belt highways, utility trunk lines, along railroads, near airports and as extensions of existing industrial uses. Industrial uses should be located away from existing or planned residential areas, and sited so as not to travel through less intensive land uses. Because the applicants have proposed conditions that are intended to make the subject property more compatible with light industrial uses in the vicinity, it meets most of these locational guidelines.
5. Impact of the proposed development on community facilities: Water is available to the site, but sewer is not. The use of this property should have limited impact on community facilities.

BILL LONGNECKER, Planning Staff presented the staff report. He reported that there was a change in Condition #2 in the Staff Report concerning the landscaping on the north side of the property including the buffer and the number of trees. He indicated these changes are within the standards of the Landscape Ordinance.

GREG FERRIS, AGENT FOR APPLICANT said they agree with staff's recommendations and comments including the extra landscaping requirements. He commented that the lot is currently being used for Police Department auctions and that they would like to continue using it as an auction site, as well as a storage lot. He commented that the term "Wrecking/Salvage" was a little misleading and stated that there would be so salvaging operations or part sales at the site.

DALE ZOGELMAN, said he owned the property directly across the street from this site. He commented that the City can't control the current property salvage and wreckage yards and that he was strongly opposed to this. He also questioned the notices that the City mailed notifying people along West Street. He also mentioned how the City and County couldn't decide whose responsibility it was to mow the ditch in the area. He asked why the City would annex an area if they can't take care of it. He said they were promised amenities at the time of annexation, but not one has happened. He concluded by saying that he realized the City has to grow but these things need to be done properly. He said he was opposed to this application. He further commented that the City denied Berkamp Construction's application for a rock crushing plant in the middle of a wheat field, but they are thinking about putting a salvage yard right on west street.

JAMES _____, commented that this wasn't a traditional salvage yard, but more of an

auto auction. He said they sell cars for the insurance industry, every two weeks. He said they would not be “parting out” cars at the site.

HILLMAN asked about landscaping around the property.

JAMES _____, said he had aerial views of their current operations in other areas so Commissioners could see how cars are set up, the fencing around the areas, and the paved parking. He said they haven’t talked about bushes and things of that nature.

LONGNECKER stated that there was certain landscaping that was required by the Landscape Ordinance and that the agent was aware of those requirements.

JOHNSON asked for a brief review of the site plan.

LONGNECKER briefly reviewed the site plan and pictures of the current property.

HENTZEN asked how long the current operation at the site has been on-going.

FERRIS responded that the site has been used as a tow-yard for over 20 years.

FOSTER asked for further clarification of the landscape buffering, screening, and fencing. He recommended that the evergreens, because of their slow growth, be placed every 10-12 feet.

Responding to **HILLMAN’s** question concerning neighborhood notification, **LONGNECKER** explained that the ownership list was prepared by a licensed abstractor and that they notified up to 300 feet for areas located in the City limits, and 1,000 feet for areas located in Sedgwick County.

FERRIS commented that over 16 people notified on the ownership list; that the list was prepared by Security Abstract Title; that the list met the application requirements; and that the list was available for review. He commented that the land owner on the North side of the site had worked out agreement with the Buddhist Temple for screening. He said they will comply with the Landscape Ordinance in addition to some extra-ordinary landscaping that they have agreed to install. He said on the east they are only buffering from a farm field. He said to the south the area is zoned Limited Commercial even though it is used as residential. He said what staff recommended for landscaping far exceeds requirements and what has been worked out with the neighbors to the south. He again mentioned an important point was that this is not a “salvage yard” and that the conditional use permit does not allow that. He said the Unified Zoning Code only has “salvage yard” in its definitions, although this conditional use would restrict them to only selling cars.

MOTION: To approve subject to staff recommendation.

MCKAY moved, **ANDERSON** seconded the motion, and it carried (12-0).

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9. **Case No.: CON2008-20** - KP Properties Attn: Steve Barrett (applicant) Baughman Company, PA., Attn: Russ Ewy (agent) Request City Conditional Use for nursery and garden center in "LC" Limited Commercial zoning to store trees.

The South 600 feet of the East 600 feet of the Southeast Quarter of Section 28, Township 27- South, Range 2 East of the 6th P.M., Sedgwick County, Kansas. Generally located west of Greenwich and north of Harry.

BACKGROUND: The applicant is requesting a Conditional Use to establish tree storage for a nursery and garden center business, Tree Guys Landscaping. The subject site is located on the northwest corner of the intersection of East Harry Street and South Greenwich Road. The property is zoned LC Limited Commercial (“LC”). The applicants have been contacted by the Office of Central Inspection for operating the existing use at this location without a Conditional Use permit. A nursery and garden center can operate in the LC zone district with a Conditional Use permit, but such use will also have to abide by the eleven (11) Supplementary Use Regulations found in the Unified Zoning Code (“UZC”) in Section III-D.6 (z)

Property to the north is zoned SF-5 Single-family Residential (“SF-5”), SF-20 Single-family Residential (“SF-20”) and GO General Office (“GO”) developed with a residence and offices. Property to the south is zoned LC and is developed with a bank, strip store and some vacant commercially zoned land. Property to the east is zoned LC and is currently developed with a farmstead. Property to the west is zoned LC, SF-5, and SF-20 and is currently vacant commercially zoned land and agricultural land.

The site plan submitted with the application shows the location of the proposed tree storage within the subject site and the orientation of the access and driveways through the site. The site plan does show the location of the two signs on each frontage and the possible location of a small stone pile. However, the applicant will have to modify this site plan to show the location of a possible storage container. Since this site will primarily be used for tree storage, with no buildings for retail sales and no customers, staff feels that there will not be a need for off-street parking. However, according to Section III-D.6 (z) #10, due to the type of business, the amount of off-street parking and loading spaces based on the gross floor area of buildings could be inappropriate. Also, the applicant will have to provide an all-weather surface for the drive aisles and loading areas to prevent tracking mud or other such debris onto Harry Street and Greenwich Avenue. The Planning Commission may have the final determination on the type of road surface and number of parking and loading spaces required for the use, if the Commission deems it necessary.

CASE HISTORY: The property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-20, SF-5, GO	Ag. Land, Residence, Office
SOUTH:	LC	Bank / Vacant Land
EAST:	LC	Residence
WEST:	SF-20, LC	Residence, Vacant Land

PUBLIC SERVICES: The subject site currently has access to East Harry Street, a four-lane paved minor arterial street, with current traffic volumes of approximately 12,420 vehicle trips per day and South Greenwich Road, a two-lane paved minor arterial street with current traffic volumes of approximately 13,200 vehicles per day at this location. The half road right-of-way on Harry Street is 40-feet and 50-feet along Greenwich. According to the Access Management Guidelines, major intersections require a total ROW, at the approach, of 150-feet (75-feet from the section line) for a distance of 250-feet from the intersection. There will need to be dedication of ROW during future replatting of the property to bring the applicant’s part of the intersection up to current standards. The subject property does not currently have access to public sewer or

public water service. The nearest sewer line stops 75 feet west of the subject site and the nearest water line(s) run along the frontage of the subject site along both Harry Street and Greenwich Road.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for “local commercial” development. The Commercial Locational Guidelines of the Comprehensive Plan recommend 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 request conforms to the Land Use Guide and Commercial Locational Guidelines of the Comprehensive Plan. The Unified Zoning Code contains 11 Supplementary Use Regulations for nurseries and gardens centers located in the “LC” Limited Commercial zoning district. The request conforms to all of the Supplementary Use Regulations.

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

1. Conditional Use permit shall expire in four (4) years from the time of approval, with the opportunity to renew in one-year increments after the four (4) years have expired.
2. The seasonal nursery and garden center shall conform to all requirements of Section III-D.6.z. of the Unified Zoning Code.
3. One temporary portable storage container, not to exceed 200 square feet and properly screened, would be allowed.
4. A revised site plan shall be prepared to designate the location of a possible temporary storage enclosure.
5. The site shall be developed in general conformance with the approved site plan.
6. Lighting, of any kind, is prohibited.
7. The applicant shall obtain all applicable permits, including but not limited to: building, health, and zoning.
8. Signs limited to two (2), 32 square-foot freestanding signs.
9. On-site sales are prohibited.
10. Construction of other improvements shall be completed within one year of approval by the appropriate governing body.
11. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VII hereof, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** Property to the north is zoned SF-5 Single-family Residential (“SF-5”), SF-20 Single-family Residential (“SF-20”) and GO General Office (“GO”) developed with a residence and offices. Property to the south is zoned LC and is developed with a bank, strip store and some vacant commercially zoned land. Property to the east is zoned LC and is currently developed with a farmstead. Property to the west is zoned LC, SF-5, and SF-20 and is currently vacant commercially zoned land and agricultural land.
2. **The suitability of the subject property for the uses to which it has been restricted:** The property is zoned LC and is suitable for other LC type of uses.

3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Conformance to the eleven (11) Supplementary Use Regulations found in Section III-D.6.z of the Unified Zoning Code (“UZC”) should limit any potential negative impacts on the surrounding properties.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for “regional commercial” development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The request conforms to the Land Use Guide and Commercial Locational Guidelines. The Unified Zoning Code contains 11 Supplementary Use Regulations for nurseries and gardens centers located in the “LC” Limited Commercial zoning district. The request conforms to all of the Supplementary Use Regulations.
5. **Impact of the proposed development on community facilities:** No detrimental impacts on community facilities are anticipated.

MOTION: To approve subject to staff recommendation.

MCKAY moved, **ANDERSON** seconded the motion, and it carried (12-0).

HILLMAN, MARNELL and **JOHNSON** out at 3:35 P.M.

10. **Case No.: DER2008-04** - Request An amendment to Section III-B.2.c (4)of the Wichita-Sedgwick County Unified Zoning Code (“UZC”), April 19, 2001 edition, to allow “Vehicle storage yard” subject to Conditional Use approval in the RR Rural Residential (“RR”) district, and add to the UZC - Section III-D.6.mm “Vehicle storage in the RR district.” Section III-D.6.mm establishes minimum development standards (such as location, maximum area, use, setbacks, paving, screening, lighting, noise and impact on onsite wastewater treatment systems) for the storage of vehicles in the RR.

Generally located County-wide.

Background: Applicants, who operate a party and entertainment bussing service in Wichita and Sedgwick County, appeared before the planning staff at a developmental review meeting held in mid 2007. During that meeting, they explained their situation: the parking of five large passenger buses on their RR Rural Residential (“RR”) zoned property, a violation of the Unified Zoning Code (UZC). Planning staff suggested some options, including buying/leasing another site that is zoned for that particular use, a potential variance case or a possible rezone to a more intense zoning. Staff conveyed to them that they would have to address the hardship requirement of a variance and demonstrate that the current illegal use was not self-imposed if they were to have a successful variance request. Also, even though the rezone option could be a solution, staff stated that it would be difficult to support such a request given the site’s location, existing development and zoning patterns and location guidelines for GC General Commercial (“GC”) zoning. (GC zoning is the first zoning district that permits “Vehicle Storage Yard.”)

On November 9, 2007, an application for a zone change from RR to GC was submitted by the applicants. Since the application area is located in the Haysville Zoning Area of Influence, the case was heard by the Haysville Planning Commission on December 13, 2007. At that meeting they voted to deny the request as presented.

The case was then heard by the Metropolitan Area Planning Commission (MAPC) on December 20, 2007. After some discussion with staff and the applicants, the MAPC voted 13-1 to approve the rezone to GC subject to a Protective Overlay that limited GC uses on the site to Vehicle Storage Yard. The case was then heard by the Sedgwick County Board of County Commissioners (BoCC) on January 23, 2008. The BoCC decided to defer action on the case, and directed the planning staff to draft an amendment to the UZC which would make the proposed use, Vehicle Storage Yard, a Conditional Use option in the RR zone district.

The current language of the UZC does not address Vehicle Storage Yard as a Conditional Use in the RR zone district. The first zone district that allows Vehicle Storage Yards is the GC district, where it is allowed as a permitted use. The proposed amendment would add Vehicle Storage Yard as a Conditional Use in the RR district subject to the recommended Supplemental Use Regulations for Vehicle Storage Yards, which are listed under the attached Delineated Changes to the UZC.

Analysis: According to the minutes of the January 23, 2008, meeting of the Board of County Commissioners, the Commission expressed the need for this type of an amendment since there is a possibility that cases similar to these applicants may occur in the future. Currently, there are up to three party bus type operations and up to ten limousine operations within Wichita and the County. A similar party bus operation was in the same position as the applicants, in regards to parking their buses on a RR zoned property in the County, between Wichita and Valley Center. Planning staff informed the operator of that company of the same information that was conveyed to the applicants. That operator decided to lease land to park his buses in the City of Valley Center that was zoned for that particular use.

As indicated above, the UZC does not currently contain a Conditional Use option for Vehicle Storage Yards. Only five (5) zone districts allow it as a permitted use. Those zone districts are: GC General Commercial ("GC"), CBD Central Business District ("CBD"), LI Limited Industrial ("LI"), GI General Industrial ("GI") and AFB Air Force Base ("AFB"). All of the zone districts that allow Vehicle Storage Yards are the most intense and least restrictive zone districts in the zoning code.

Recommendation: Based upon information available prior to the public hearing, staff recommends the proposed amendments to the UZC be **APPROVED**.

1. **The zoning, uses and character of the neighborhood:** The proposed amendments would allow Vehicle Storage Yards to be located, with a Conditional Use, in the RR zone district. Vehicle Storage Yards is a use that is comparable in intensity to uses allowed in the zoning districts GC General Commercial ("GC"), CBD Central Business District ("CBD"), LI Limited Industrial ("LI"), GI General Industrial ("GI") and AFB Air Force Base ("AFB"). All of the zone districts that allow Vehicle Storage Yards are the most intense and least restrictive zone districts in the zoning code. By allowing Vehicle Storage Yards as a Conditional Use in the RR zone district, the County would be allowing an intense use in the least intensive and most restrictive zone district in the zoning code.

2. The suitability of the subject property for the uses to which it has been restricted: The code does not currently list Vehicle Storage Yards as a specified land use in the RR zone district. The proposed amendments would provide specificity regarding the use as a Conditional Use in the RR zone district and what minimum standards should be applied.
3. Extent to which removal of the restrictions will detrimentally affect nearby properties: Failure to approve the request will leave the code in its current state and would not allow Vehicle Storage Yards in the RR zone district. Vehicle Storage Yards in a RR zone district may have an effect on a residential development in regards to traffic and aesthetics. Proper screening and setbacks could minimize the aesthetic impacts and control of the hours of operation for a Vehicle Storage Yard could minimize the possible traffic impacts.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The proposed amendment to allow Vehicle Storage Yards in the RR zone district will add a use to the RR district that is not now allowed. The RR district permits agricultural equipment to be stored outside without requiring public review. This amendment would allow for the storage of nonfarm vehicles, but only after public review. The recommended language is designed to minimize anticipated land use conflicts that could be generated by this particular use and still promote the public's health, safety and welfare.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The *Wichita-Sedgwick County Unified Zoning Code* is one of the primary tools used to implement the goals and policies contained in the Comprehensive Plan. One of the goals of the Comprehensive Plan is to minimize land use conflicts by identifying in a general way where land suitable for commercial and industrial uses should be located. Each zoning request is reviewed against criteria specified in the Comprehensive Plan and the zoning code. Therefore, approval of the proposed amendment would add a specified use to the list of uses that may be approved as a Conditional Use only after carefully considering adopted plans and policies.
6. Impact of the proposed development on community facilities: Additional traffic in rural areas could be anticipated, but existing facilities should be in place or can be required as part of the conditional use review.

DELINEATED CHANGES TO THE UNIFIED ZONING CODE

Section III-B. Base District Regulations

Insert the following text into III-B.2.C(4) Conditional Uses – Industrial, Manufacturing and Extractive Uses

RR, Rural Residential District

Purpose. The purpose of the RR rural residential district is to accommodate very large-lot, single-family residential development in areas where a full range of municipal facilities and services are not available and not likely to be available in the near future. The RR district is generally compatible with the "Rural" designation of the *Wichita-Sedgwick County Comprehensive Plan*. The RR district is intended for application in unincorporated Sedgwick County.

Permitted uses. The following uses shall be permitted by-right in the RR district.

Residential uses

- Single-family
- Manufactured home (only in the County and subject to Sec. III-D.6.1)

Public and civic uses

- Day care, limited, subject to Sec. III-D.6.i
- Golf course
- Group home, limited
- Parks and recreation
- Recycling collection station, private, subject to Sec. III-D.6.q
- Utility, minor

Commercial uses

- Kennel, hobby, subject to Sec. III-D.6.k
- Wireless communication facility, subject to Sec. III-D.6.g

Industrial, manufacturing and extractive uses

- Asphalt or concrete plant, limited, subject to Sec. III-D.6.d

Agricultural uses

- Agriculture, subject to Sec. III-D.6.b

Conditional Uses. The following uses shall be permitted in the RR district if reviewed and approved by the Planning Commission in accordance with the procedures and standards of Sec. V-D.

Residential uses

- Accessory apartment, subject to Sec. III-D.6.a
- Group residence, limited and general
- Neighborhood swimming pool, subject to Sec. III-D.6.aa

Public and civic uses

- Cemetery
- Church or place of worship
- Community assembly
- Correctional facility, subject to Sec. III-D.6.h
- Correctional placement residence, limited and general, subject to Sec. III-D.6.h
- Day care, general, subject to Sec. III-D.6.i
- Government service
- Safety service
- School, elementary, middle and high
- Utility, major

Commercial uses

- Airport or airstrip
- Animal care, limited and general
- Bed and breakfast inn
- Kennel, boarding/breeding/training, subject to Sec. III-D.6.k

Parking area and/or accessory drive, ancillary, subject to Sec. III-D.6.p
Recreation and entertainment, indoor and outdoor, subject to Sec. III-D.6.o
Recreational vehicle campground
Riding academy or stable

Industrial, manufacturing and extractive uses

Asphalt or concrete plant, general
Landfill
Mining or quarrying
Oil and gas drilling
Rock crushing
Solid waste incinerator, subject to Sec. III-D.6.v
Transfer station
Vehicle Storage Yard, subject to Sec. III-D.6.mm

Agricultural uses

Agricultural research
Agricultural sales and service
Grain storage

Property development standards. Each site in the RR district shall be subject to the following minimum property development standards. Setbacks and heights are for principal structures. See Sec. III-D.7.e for setbacks and heights for accessory structures. See also Secs. III-E.2.e(2) and III-E.2.e(3) for setbacks on unplatted tracts or major roadways. Compatibility standards in Secs. IV-C.4 and IV-C.5 may take precedence.

Minimum lot size: two acres; however, larger minimum lot size may be required per subdivision requirements for uses served by sewage lagoons, subject to the special district regulations of Sec. III-B.2.e

Minimum lot width: 200 feet

Minimum front setback: 30 feet

Minimum rear setback: 25 feet

Minimum interior side setback: 20 feet

Minimum street side setback: 20 feet

Maximum height: 35 feet; 45 feet if located at least 25 feet from all lot lines; no maximum height limit for barns, silos and other similar farm buildings; heights for Conditional Uses to be determined as part of the Conditional Use approval.

Special RR district regulations. The following special regulations shall apply to property in the RR district.

Lot size requirements for uses served by sewage lagoons. The minimum lot size for uses served by sewage lagoons shall be 4.5 acres, except that lot size

for residential lots may be reduced to a minimum of two acres if approved by the Health Department, and if the lot is included in a platted and recorded addition in which lots are clustered in an arrangement with one or more open space reserves, and the overall density of the addition, including all lots and rights-of-way and open space, does not exceed one lot per five acres.

Section III-D.6. Supplementary Use Regulations

Create the following text for III-D.6.mm Vehicle Storage Yard in RR

- 6. Supplementary Use Regulations.** No permit shall be issued for any development or use of land unless the activity is in compliance with all applicable supplementary use regulations specified in this section. The supplementary use regulations of this section are not applicable to lots in the AFB air force base district. In the case of conflict with zoning district property development standards or other regulations of this Code, the more restrictive requirement shall apply, unless otherwise specifically provided.

mm. Vehicle storage yard in RR. Only lots developed with a residence as the principal structure are eligible to apply for a conditional use to permit outdoor vehicle storage. A vehicle storage yard, approved as a conditional use in the RR district shall be subject to the following minimum standards, provided, however, the planning commission may establish additional conditions if determined necessary in order to protect adjacent property owners and the public interest. All applicable requirements, inspections and permits shall be in place prior to the commencement of vehicle storage.

- (1) Location.** The storage area shall be located behind the property's principal structure; and at no time shall any vehicles be driven or parked on or over any component of onsite wastewater treatment systems;
- (2) Area.** For sites two acres or less in size, vehicle storage yard may occupy up to 11 percent of the property's square footage; for sites greater than two acres the vehicle storage area shall not exceed 10,000 square feet;
- (3) Use.** The vehicle storage yard shall be used for the storage of licensed operable vehicles only, and in no case shall it be used for sales, repair work, dismantling, or mechanical servicing of any vehicles or equipment, or for storage of materials or supplies. Nonmechanical servicing such as replacing windshield washer fluid, light bulbs and interior cleaning shall be allowed;
- (4) Setbacks.** The minimum setback for any stored vehicles from any residence constructed before the conditional use is approved shall be 20 feet. The setback requirement can be modified or waived if the applicant demonstrates there is sufficient screening to substitute for the setback protections;
- (5) Paving.** The storage area and all entrance/exit drives on private property shall be surfaced with an all-weather surface that meets the approval of the director of county code enforcement, and shall be maintained in good condition and free of weeds, trash and other debris;

- (6) **Screening.** Visual screening of areas contiguous to residential zoning districts shall be provided to protect adjacent properties from light, debris and noise, and to preserve adjacent property values. In no case shall screening be less than that required by Sec. IV-B.1-3, unless the applicant demonstrates adequate screening may be provided through alternative means, and the requirements imposed by Sec. IV-B.1-3 would be overly burdensome on the applicant;
- (7) **Lighting.** If lighting facilities are provided, lighting shall be in compliance with the lighting standards of Sec. IV-B.4;
- (8) **Noise.** The compatibility noise standards of Sec. IV-C.6 shall be complied with provided, however, outdoor speakers and sound amplification systems shall not be permitted.

DERRICK SLOCUM, Planning staff presented the staff report

CHARLES PHEASTER, 9453 N 135th STREET WEST, said this item should have been included in the Unified Zoning Code book and he recommended that the Commission approve this change as written.

FOSTER referred to Section III, D-6. Supplementary Use Regulations, and asked if an operation like a trucking company would be allowed.

SLOCUM responded that a trucking company wasn't specifically targeted, but as long as they abide by these regulations they may apply.

MOTION: To approve subject to staff recommendation.

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

11. Case No.: Sedgwick County Solid Waste Management - Request Sedgwick County Solid Waste Management Plan Update, June 2007-08: Finding of Consistency with the W-SC Comprehensive Plan

Background: According to state statute, Sedgwick County is the designated planning authority for Solid Waste Management within the borders of the County, and is required by KDHE to adopt and update a solid waste management plan. These plans must be reviewed every five years and updated to include a timeline depicting solid waste benchmarks for the next 10 years. The Sedgwick County ten-year solid waste management plan update is due to KDHE by June 10, 2008.

State statutes also provide that the Plan and updates are developed by a Solid Waste Management Committee, which in Sedgwick County is staffed by the Sedgwick County Department of Environmental Resources. The Sedgwick County Solid Waste Management Committee is composed of 16 members. KDHE has requirements on committee membership. There must be representatives from the recycling industry, waste haulers, first-class cities, second-class cities, unincorporated areas, citizens groups, general industry, the general public, etc. The committee has met monthly on this issue since October 2007. The committee has reviewed the various components of the current Solid Waste Plan, studied relevant options, and made

recommendations. Based on this, the Sedgwick County Department of Environmental Resources has prepared the draft *Sedgwick County Solid Waste Management Plan Update, June 10, 2007-June 10, 2008*.

Kansas Statute 65-3405 (k) requires the county's solid waste management plan to be reviewed by the planning commission having authority for the area to determine consistency with the comprehensive plan. Accordingly, the draft Plan was submitted to the Advance Plans Committee for review and comment at its meeting of April 24, 2008.

Analysis: The following is a summary of the Sedgwick County Solid Waste Management Committee recommendations as contained in the draft *Sedgwick County Solid Waste Management Plan Update, June 10, 2007-June 10, 2008*:

1. **Conduct a new waste analysis** to learn about changes to the waste stream since the last analysis (conducted in 1997), for the purpose of future planning. Recommended starting on January 1, 2009.
2. **Collection of Municipal Solid Waste (MSW)**: Leave the Plan the way it currently is, relative to collection services, i.e., maintain free market collection and encourage cities to look into franchising. (Note that this item was stated incorrectly in the Wichita Eagle.)
3. **Collection and Waste Minimization Issue: Volume-based trash rates (also known as Pay-As-You-Throw (PAYT))**: Propose that there be two sizes of containers, with the first being the current size of container (90 gallons) and the second being the smaller container, being no more than 50 gallons, with a minimum 30% cost differential between the two. Additionally, \$2.50 a bag will be paid for overflow. Implementation would be as convenient as possible to the haulers and consumers. Recommended starting on June 1, 2010.
4. **Curbside Recycling**: Recommend mandatory subscription, voluntary participation curbside recycling (residents must pay, but do not have to participate) that would be implemented in tandem and on the same time schedule as a PAYT solid waste disposal trash service. Recommended starting on June 1, 2010.
5. **Bans**: Place a ban on grass clippings entering the transfer stations. This is a ban on grass only, not fallen leaves, which was in the original plan. Recommended starting ban on January 1, 2009.
6. **Special Waste**: The 2008 Household Hazardous Waste remote collections sites would accept e-waste and that the county will use the data from that collection to do further research for a permanent solution. Also recommended that County staff work to find an environmentally responsible method of disposal of e-waste.
7. **Final Disposal**: Leave the disposal option section of the solid waste plan as it is currently stated (utilize transfer stations; include county-owned landfill; explore integration of new technology).

The Wichita-Sedgwick County Comprehensive Plan contains three specific strategies related to solid waste management in Wichita-Sedgwick County. They are listed below:

Strategies:

VI.D1. Reduce the solid waste generated in the County through the implementation of education programs and specific community goals for recycling and composting.

VI.D2. Amend the Sedgwick County Solid Waste Management Plan in order to allow the option for the establishment of a new landfill site in Sedgwick County.

VI.D3. Encourage alternative waste management practices, promote economically viable, state-of-the art solutions and support environmentally sensitive methods of disposal in all solid waste management activities.

Staff has reviewed the seven recommendations contained in the *Sedgwick County Solid Waste Management Plan Update, June 10, 2007-June 10, 2008* and has determined them to be consistent with these Comprehensive Plan strategies as follows:

- Strategy VI.D1: Recommendations 1, 4 & 5 are consistent with this strategy.
- Strategy VI.D2: (Already provided for in the current Solid Waste Management Plan)
- Strategy VI.D3: Recommendations 2, 3, 6 & 7 are consistent with this strategy.

The Advance Plans Committee also reviewed the seven recommendations in the draft Plan Update and unanimously passed a motion recommending that the MAPC find the *Sedgwick County Solid Waste Management Plan Update, June 10, 2007-June 10, 2008* to be consistent with the Wichita-Sedgwick County Comprehensive Plan as amended.

Recommendation/Action: It is recommended that the MAPC find the *Sedgwick County Solid Waste Management Plan Update, June 10, 2007-June 10, 2008* to be consistent with the Wichita-Sedgwick County Comprehensive Plan as amended.

DAVID BARBER, Planning Staff presented the staff report. He said Sedgwick County is requesting that the MAPC make a determination that this Plan is consistent with the Comprehensive Plan. He briefly referred to the three specific strategies and seven recommendations contained in the report. As background, he said the Plan was reviewed by the Advance Plans Committee and added that staff is recommending that it is consistent with the Comprehensive Plan.

MOTION: To find that the Sedgwick County Solid Waste Management Plan Update, June 10, 2008-June 10, 2009 is consistent with the Wichita-Sedgwick County Comprehensive Plan, as amended.

MCKAY moved, **ANDERSON** seconded the motion, and it carried (9-0).

HENTZEN asked if they were voting that the Plan is consistent with the Comprehensive Plan or that it is not inconsistent with the Plan. He said he views the Comprehensive Plan as a guideline, not as a rule or statute.

Responding to **FOSTER's** question concerning grass clippings and the recommendation to wait until 2010 for recycling, **SUSAN EARLENWEIN, DIRECTOR OF SEDGWICK COUNTY DEPARTMENT OF ENVIRONMENTAL RESOURCES**, explained that was put off into the future to give trash haulers time to gear up, buy recycle bins and volume size trash bins, as well as educate the public. She also explained that the Kansas Department of Health and Environment (KDHE) had certain guidelines. She said the Sedgwick County Solid Waste Management Committee will present this to the Board of County Commissioners for a vote on

May 28, 2008.

The Metropolitan Area Planning Department informally adjourned at 3:50 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)