

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

May 21, 2009

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, May 21, 2009, 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, Chair; G. Nelson Van Fleet, Vice Chair; David Dennis; Shawn Farney; David Foster; Bud Hentzen; Hoyt Hillman; Bill Johnson; Ronald Marnell; John W. McKay Jr.; Debra Miller Stevens and M.S. Mitchell. Don Anderson and Don Sherman were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; Derrick Slocum, Associate Planner; Bob Parnacott, County Counselor and Maryann Crockett, Recording Secretary.

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1. Approval of the May 7, 2009 MAPC meeting minutes:

MOTION: To approve the May 7, 2009 Minutes as corrected.

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

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB 2009-21: One-Step Final Plat -- OAK CREEK OFFICE PARK ADDITION**, located on the south side of 21st Street North and west of Greenwich Road. (Deferred 4/09/09 and 4/23/09)

NOTE: This is a replat of Lot 1, Block 1 and Reserve B of the Oak Creek Addition. This site is also contained within the proposed Parcels 3, 3A and 3B, and Reserves I and J of the Oak Creek CUP (DP-274).

STAFF COMMENTS:

- A. City of Wichita Water Utilities Department requests a petition for extension of sanitary sewer (laterals) and City water services (distribution mains).
- 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. Stormwater Engineering has approved the applicant's drainage plan.
- D. Traffic Engineering has approved access controls. The plat proposes one access opening along 21st St. North.
- E. 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.

- F. 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.
- G. 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.
- H. The Applicant needs to request a CUP adjustment.
- I. A note shall be placed on the final plat, indicating that this Addition is subject to the conditions of the Oak Creek CUP (CUP 2004-09, DP-274).
- J. The vicinity map should be corrected.
- 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 title block should be corrected to read "An Addition to Wichita, Sedgwick County, Kansas."
- N. The plattor'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.
- 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 the recommendation of the Subdivision Committee and staff recommendation.

JOHNSON moved, **MITCHELL** seconded the motion, and it carried (12-0).

PUBLIC HEARING – VACATION ITEMS

3-1. VAC2009-09: City request to vacate platted street right-of-way (ROW).

APPLICANTS/OWNERS: Joseph G. Cepardona, Summer D. Mason, Laura & Donald Horning, & Ruby K Ziegler

LEGAL DESCRIPTION: Generally described as that portion of the platted, public street right-of-way of Bayley Street, located between Doreen & Longfellow Streets, abutting the south sides of Lot 6, Block C, Broadmoor Addition, & Lot 9, Smith and Mann Addition and the abutting the north sides of Lots 1 & 3, all in Block F, Broadmoor Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located south of Lincoln Street and west of Rock Road. (WCC # II)

REASON FOR REQUEST: Street has never been developed or is developed as a gravel private drive.

CURRENT ZONING: The site is a platted, undeveloped public street ROW. All abutting and adjacent properties are zoned either SF-5 Single-family Residential (“SF-5”) or TF-3 Duplex Residential (“TF-3”).

The applicants are requesting the vacation of the described portion of Bayley Street. The west half of Bayley is not developed (looks like a yard) and east half functions as a gravel, private drive, serving three property owners, two on the north side and one on its south side. There is a barricade separating the west and east halves of this portion of Bayley. The west half of Bayley is higher than the east half of Bayley. There are drainage considerations in this portion of Bayley, as there are drainage grates located in the

curb east of the Longfellow – Bayley intersection. The property owner on the south side of the east half has not signed the application or petition to vacate and requests comments from Storm Water in regards to the drainage. There are sewer (north to south) and water lines (east to west) located within the proposed vacated ROW; all of the vacated ROW will be retained as easement, unless dedication of easements for specific utilities are provided to staff to go with the Vacation Order to Council and subsequently for recording with the Register of Deeds. Vacating this portion of Bayley will not disrupt traffic in the area, nor will it deny anyone access or create a dead end street. This portion of Bayley was platted on the Broadmoor Addition, which was recorded with the Register of Deeds October 14, 1949. Note: Lot 5, Block C, the Broadmoor Addition was later included in a replatted as Lot 9, the Smith and Mann Addition (property located on the north side of the east half of Bayley), recorded September 22, 1972.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works/Water & Sewer/Storm Water, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of platted street right-of-way.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time April 2, 2009, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the described portion of platted street right-of-way 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.

Considerations (but not limited to) associated with the request to vacate the described portion of platted street right-of-way have been identified, therefore, the vacation of the portion of the platted street right-of-way described in the petition should be approved with conditions:

- (1) All of the vacated ROW will be retained as easement, unless dedication, by separate instrument, of easements for specific utilities is provided to staff to go with the Vacation Order to Council and subsequently for recording with the Register of Deeds. Provide Planning Staff with a legal description of the approved vacated ROW on a word document via e-mail.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. Retain all public ROW until all utilities have been relocated, as needed. Provide Planning Staff with conformation of this requirement being completed or that suitable guarantees have been provided.
- (3) All improvements shall be according to City Standards and at the applicant's expense, including any needed extension of curb or drainage improvements. Provide Public Works/Storm Water with all needed guarantees and plans to ensure that those improvements will be made, prior to this vacation case going to City Council for final action.
- (4) If the east half of Bayley is included in the vacation, the following consideration is included; Lot 9, the Smith and Mann Addition, has been split by sell, creating separate ownership between the east and west halves. Provide a restrictive covenant establishing the north 30 feet of the east half of the vacated Bayley Street as a shared private drive, for the east and west portions of Lot 9, the Smith and Mann Addition.

- (5) 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) All of the vacated ROW will be retained as easement, unless dedications, by separate instrument, of easements for specific utilities are provided to staff to go with the Vacation Order to Council and subsequently for recording with the Register of Deeds. Provide Planning Staff with a legal description of the approved vacated ROW on a word document via e-mail.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. Retain all public ROW until all utilities have been relocated, as needed. Provide Planning Staff with conformation of this requirement being completed or that suitable guarantees have been provided.
- (3) All improvements shall be according to City Standards and at the applicant's expense, including any needed extension of curb or drainage improvements. Provide Public Works/Storm Water with all needed guarantees and plans to ensure that those improvements will be made, prior to this vacation case going to City Council for final action.
- (4) If the east half of Bayley is included in the vacation, the following consideration is included; Lot 9, the Smith and Mann Addition, has been split by sale, creating separate ownership between the east and west halves. Provide a restrictive covenant establishing the north 30 feet of the east half of the vacated Bayley Street as a shared private drive, for the east and west portions of Lot 9, the Smith and Mann Addition.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

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

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

3-2. VAC2009-15: City request to vacate a contingent dedication of street right-of-way and a portion of street right-of-way.

APPLICANT/AGENT: Wichita Airport Authority c/o Victor D. White (applicant) PEC c/o Rob Hartman (agent)

LEGAL DESCRIPTION: Generally described as a triangular shaped contingent dedication of

ROW located on the southwest corner of Lot 1, Block A, Colonel James Jabara Airport Addition, and the south 30 feet of the 29th Street North, half street ROW, which runs parallel with the south lot line of the above noted lot, all in Wichita, Sedgwick County, Kansas.

LOCATION: Generally located north of K-96 and east of Webb Road (WCC #II).

REASON FOR REQUEST: Contingent dedication of ROW and half street ROW not needed

CURRENT ZONING: The sites are dedicated, undeveloped public street right-of-ways. Abutting and adjacent properties are zoned LI Limited Industrial (“LI”), SF-5 Single-Family Residential (“SF-5”), LC Limited Commercial (“LC”) and GO General Office (“GO”).

The Colonel James Jabara Airport Addition’s platters text described the triangular shaped ground as a contingent dedication of right-of-way (ROW) “...contingent upon the public using such tract of ground as ROW for the northeast circumferential highway (K-96).” The applicant has provided an e-mail from K-DOT and Public Works indicating that they do not need the described contingent dedication of ROW for K-96. The City, applicant and K-DOT are the abutting property owners around the triangular shaped contingent dedication of ROW. The applicant has proposed reverting the contingent dedication of ROW for K-96 to a dedication of ROW to the City; see dedication. The Colonel James Jabara Airport Addition was recorded with the Register of Deeds August 23, 1983.

The 30-foot wide, 29th Street North half street ROW is the south half of the 29th Street North ROW remaining from previous vacations (V-1679 & V-1701) of the north half of 29th. The applicant owns the properties located on both sides of the proposed vacated 29th half street ROW. The applicant’s property is developed as Jabara Airfield. The presences of the active airfield and its close proximity to the undeveloped, 29th half street ROW, makes the continuation of 29th unlikely, as indicated by the previous vacations of the north half of 29th. There appears to be no manholes, water or sewer lines in any of the described ROWs. Comments from franchised utilities and Storm Water have not been received and are needed to determine if they have utilities located within the described ROWs.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works/Water & Sewer/Storm Water, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of platted contingent dedication street ROW and the half-street ROW.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time April 30, 2009, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the described portion of platted contingent dedication street ROW and the half-street ROW 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.

Considerations (but not limited to) associated with the request to vacate the described portion of platted street right-of-way have been identified, therefore, the vacation of the portion of platted contingent

dedication street ROW and the half-street ROW described in the petition should be approved with conditions:

- (1) Dedication of ROW (vacated contingent dedication) to the City; provide prior to the case going to Council for final action, for recording at the Register of Deeds with the vacation Order.
- (2) Extend complete access control on along the vacated 29th Street North's Webb Road frontage on the Vacation Order.
- (3) Retain those portions of the vacated street ROWs as utility and drainage easements as determined by City Public Works/Storm Water and franchised utilities. Provide Storm Water with the needed plans in reference to any drainage improvements on Lot 1, Block A, Colonel James Jabara Airport Addition that may impact the vacated ROW/now ROW dedicated to the City. Provide any additional easement as needed by dedication by separate instrument, prior to this vacation case going to City Council for final action.
- (4) Provide Planning staff with a legal description of the approved vacated ROW on a word document via e-mail.
- (5) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. Retain all public ROW until all utilities have been relocated, as needed. Provide Planning staff with conformation of this requirement being completed or that suitable guarantees have been provided.
- (6) All improvements shall be according to City Standards and at the applicant's expense, including any curbing, drainage lines/gutters/outlets. Provide Public Works with all needed guarantees, petitions or project references to ensure that those improvements will be made, prior to this vacation case going to City Council for final action.
- (7) 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) Dedication of ROW (vacated contingent dedication) to the City; provide prior to the case going to Council for final action, for recording at the Register of Deeds with the vacation Order.
- (2) Extend complete access control on along the vacated 29th Street North's Webb Road frontage on the Vacation Order.
- (3) Retain those portions of the vacated street ROWs as utility and drainage easements as determined by City Public Works/Storm Water and franchised utilities. Provide Storm Water with the needed plans in reference to any drainage improvements on Lot 1, Block A, Colonel James Jabara Airport Addition that may impact the vacated ROW/now ROW dedicated to the City. Provide any additional easement as needed by dedication by separate instrument, prior to this vacation case going to City Council for final action.
- (4) Provide Planning staff with a legal description of the approved vacated ROW on a word

document via e-mail.

- (5) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. Retain all public ROW until all utilities have been relocated, as needed. Provide Planning staff with conformation of this requirement being completed or that suitable guarantees have been provided.
- (6) All improvements shall be according to City Standards and at the applicant's expense, including any curbing, drainage lines/gutters/outlets. Provide Public Works with all needed guarantees, petitions or project references to ensure that those improvements will be made, prior to this vacation case going to City Council for final action.
- (7) 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

FOSTER recused himself from this item.

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

HILLMAN moved, **JOHNSON** seconded the motion, and it carried (11-0-1). **FOSTER** abstained.

PUBLIC HEARINGS

3. **Case No.: ZON2009-11** - Beran Properties, LLC (applicant/owner), Savoy Company, PA, c/o Mark Savoy, request City zone change from GO General Office ("GO") to OW Office Warehouse ("OW") on property described as:

Lot 1, Block 1, Oak Knoll 3rd Addition to Wichita, Sedgwick County, Kansas; generally located southeast of the of Oak Knoll Street and Pawnee Avenue intersection, approximately 1/3 mile east of Rock Road.

BACKGROUND: The applicant originally requested consideration for LI Limited Industrial ("LI") zoning, with a Protective Overlay (PO), for Lot 1, Block 1, Oak Knoll 3rd Addition. The subject site is a 3.8-acre, undeveloped, GO General Office ("GO") zoned property. At the April 6, 2009, DAB II meeting, the requested LI zoning was approved with changes to the PO. At the April 9, 2009, MAPC hearing, the MAPC deferred a recommendation on the zone change, directing the applicant to meet with protesters from the abutting residential neighborhoods in an attempt to resolve the issues associated with the zone change. The applicant has met with the neighborhood and the result is the that the applicant is now requesting OW Office Warehousing ("OW") zoning with a revised PO.

The applicant owns the western, abutting, 3.72-acre, LI zoned, Lot 1, Block A, Bray Lines 2nd Addition; recorded on 6-19-1984. This abutting western property is developed as the applicant's concrete contractor's yard; SCZ0493, "R-1" Suburban Residential to "E" Light Industrial, approved on 11-04-1981. This contractor's yard has an office, warehouses/garages, outdoor storage of concrete forms, rebar, ties, fuel, chemicals, sand, gravel, trucks, scoops and other

equipment and materials needed for the business of forming concrete walls and other concrete products. The proposed OW rezoning would allow the applicant to expand their business while eliminating some uses objected to by the neighborhood. The applicant has built an 8-foot masonry wall along the subject site's east and south sides. The applicant has also placed an 8-foot tall masonry wall separating the subject site's north ¼ from the south ¾ of the site.

Property abutting and adjacent to the site on its west and north (across Oak Knoll Street) sides are zoned LI and OW. Besides the applicant's LI zoned contractor's yard, there is a Durham school bus staging yard, gas storage tanks (probably the oldest development in the area), an electrical substation, self storage warehouse and platted (1999), undeveloped land. A SF-5 Single-family Residential ("SF-5") zoned, developed, single-family residential subdivision (Oak Knoll Addition, recorded 10-31-1979) abuts the south side of the site. A MF-29 Multi-family Residential ("MF-29") zoned condo developments (Oak Knoll Addition, recorded 10-31-1979) abuts the site's east side. The southern abutting residential development existed prior to the applicant's existing contractor's yard. There are MF-29 and TF-3 Duplex ("TF-3," platted mid 1970s) zoned duplexes located north of the site, across Pawnee Avenue.

CASE HISTORY: The subject site was rezoned from "AA" One Family to "A" Two Family, subject to platting, August 14, 1979. The subject site was platted as Lot 1, Block 1, Oak Knoll Addition, and recorded with the Register of Deeds October 31, 1979. The site was annexed into the City between 1971 and 1980. The site was rezoned from "R-6" General Residential to "BB" Office February 13, 1995. The BB zoning request was approved, with the observation that it would serve as transitional zoning between the existing residential development on its south and east sides and the existing contractor's yard, gas storage businesses and other existing industrial uses west and north of it, along Rock Road and Oak Knoll Street. The site was replatted as the Oak Knoll 3rd Addition, recorded with the Register of Deeds July 29, 1999. Since subject site was first platted in 1979, it has never been developed.

ADJACENT ZONING AND LAND USE:

NORTH:	OW, MF-29, TF-3	Undeveloped, duplexes, self storage warehouse electrical substation
SOUTH:	SF-5, LI	Single-family residences, undeveloped,
EAST:	MF-29, SF-5	condos, single-family residences
WEST:	LI	contractors yard, school bus staging yard, gas storage tanks

PUBLIC SERVICES: Municipal water and sewer services are available to this site. Oak Knoll Street merges with Pawnee Avenue along the north side of the subject site. Oak Knoll /Pawnee are classified as minor arterials at this location. Oak Knoll is a paved two lane road with open ditches running on either side of it. Oak Knoll has 50 feet of half-street right-of-way; the current standard is 60 feet. Pawnee is a curbed, paved 4-lane street at this location.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan designates the site as appropriate for "Urban Residential" development. The Urban Residential category includes all housing types found in the municipality. The OW zoning request does not match the Urban Residential category. The Land Use Guide designates properties abutting and adjacent to the site as appropriate for "Processing Industry" (west side of site) and (north, across Oak Knoll) "Employment/ Industry Center."

The Processing Industry category's uses are those associated with primary extraction, processing or refinement of natural resources or recycling of waste materials, service or non-institutional nature. The range of uses includes aggregate and concrete plants, refineries, slaughterhouses, rendering and primary agricultural processing plants, salvage and recycling yards. The gas storage tanks are an example of this type of use.

The Employment/Industry Center category's uses constitute centers or concentrations of employment of an industrial, manufacturing, service or non-institutional nature. The range of uses includes manufacturing and fabrication facilities, warehousing and shipping centers, call centers and corporate offices. The proposed OW zoning for expansion of the applicant's contractor's yard is not at odds with this classification.

Industrial locational guidelines state that: (a) Industrial areas should be located in close proximity to support services and be provided good access to major arterials, city truck routes, belt highways, utility truck lines, rail spurs, airports and as extensions of existing industrial uses; (b) Industrial traffic should not feed directly into local streets in residential areas and (c) Industrial uses should be generally located away from existing or planned residential areas and sited so as not to generate industrial traffic through less intensive land use areas. The subject site has direct access to a minor arterial, Oak Knoll Street, from which it can get to Rock Road, a major arterial, or Pawnee Avenue, a minor arterial at this location. There are existing industrial uses, the gas storage tanks, which have been in this area prior to the residential development. None of the development along this portion of Oak Knoll is residential, office or commercial. The existing development includes self storage warehouse, electrical substation, the applicant's contractor's yard, bus storage/staging yard, and the previously mentioned gas storage tanks, thus the proposed zone change is not introducing a new use. Traffic from the site will not be using any local roads. The site does meet the locational criteria for an industrial development; with the exception that there is existing residential development abutting its south and east sides. The single-family development was in place prior to the applicant's contractor yard.

RECOMMENDATION: The applicant's request will allow expansion of an existing business, onto property that has remained undeveloped for 30-years, i.e., at least since the time of its original platting in 1979. The gas storage tanks, located west of the site along Rock Road, appear to be the oldest development in the area, dating back to at least the mid 1950s. These storage tanks established an industrial use in the area before subsequent development around it. The single-family residential development, abutting the subject site's south side, was established prior to the applicant's contractor's yard, which will expand onto the subject site, if the requested zoning is approved. Balancing the request to expand an existing business plus develop land that has been vacant for at least 30-years while protecting the earlier developed single-family residences and the condo development is critical. Typically the MAPC considers supporting the expansion of existing businesses, while being aware of protecting the property values and character of the existing neighborhood. With that in mind, staff recommends APPROVAL of OW Office Warehouse ("OW") zoning with the following provisions of a Protective Overlay:

- (a) Retain the GO General Office zoning along the east and south 25 feet of Lot 1, Block 1, Oak Knoll 3rd Addition (subject site). This will serve as a 25-foot setback, open space, landscape buffer on the south and east sides of the subject site, where it abuts the existing residential developments.
- (b) No paving, storage, parking, or placement of equipment, including cars, trucks, graders, power shovels, skid steer, forklifts, chemicals, fuels, sand, gravel, forms, rebar, ties, hand tools or any materials or products within the 25-foot setbacks that serve as the open space, landscape buffer. No trash receptacles may be placed within the 25-foot setbacks that serve as the open space, landscape buffer, and all trash receptacles shall be screened.
- (c) No operation of power equipment is permitted within the 25-foot setbacks that serve as the open space, landscape buffer.
- (d) No stacking of materials higher than 7 feet is permitted. All dirt, gravel or sand stored on the site will be watered to control dust, and placed on the northwest end of the site, at a distance no greater than 200 feet south of Oak Knoll and 200 feet from the west property line and will be enclosed on three sides with solid screening.

- (e) The Unified Zoning Code's Compatibility height standards are in effect, except that no building shall exceed a maximum height of 50 feet.
- (f) No bay doors or openings on buildings are allowed on their south or east facing walls.
- (g) All vehicle repair shall be done inside existing or new buildings.
- (h) Parking of trucks and motorized equipment on the site will be no closer than 100 feet from the subject site's south side, where it abuts single-family residential development, and no closer than 50 feet around the rest of the subject site, where it abuts multifamily residential and/or condo development. All parking and storage areas will be per City Code; gravel for the areas where there is the storage of equipment and materials, paving for any drives and circulation aisles into the storage areas. The gravels areas will be watered, as needed, to control dust.
- (i) The following uses are permitted, except over the east and south 25 feet:
College or University; Government Service; Community Assembly; Day Care, General; Library; Safety Service; Animal Care Limited; Automated Teller Machine; Bank or Financial Institution; Broadcast/Recording Studio; Construction Sales and Service; Farmer's Market in the City; Monument Sales; Nurseries and Garden Centers; Office, General; Personal Care Service; Personal Improvement Service; Post Office Substation; Printing and Copying, Limited; Retail General; Vocational School; Warehouse, Self-service Storage; Research Services; Warehousing; Wholesale or Business Services.
- (j) The limitation on outdoor storage contained in the OW district is waived. Materials that may be stored outside shall be limited to those associated with the uses permitted by this PO. Materials stored outside shall not occupy any setback or buffer areas established by this PO.
- (k) Lighting standards must be no taller than 15 feet, including the base, and be hooded to direct light onto the site, away from residential property. No lights shall be placed within the 25-foot setbacks that serve as the open space, landscape buffer.
- (l) A mix of evergreens, as listed in the landscape ordinance, shall be planted with a minimum height of two to three feet above the existing 8 foot concrete screening wall and planted on 16-foot centers, within the 25-foot setback, open space, landscape buffer, along the south and east sides of the subject site. Any replacement of dead evergreens would be per the same minimum height of two to three feet above the existing eight-foot concrete screening wall and will be done during the planting season when they died. The landscape plan shall prepared by a licensed landscape architect, be reviewed and approved by the Planning Department prior to the ordinance being published. The landscape plan shall include an irrigation system for maintenance of the approved landscape. All planting and the irrigation system must be in place within the 2009 planting season.
- (m) The solid masonry screening walls, along the east, south and north sides of the subject site shall be retained and shall be maintained in good repair.
- (n) No outside speakers/amplification communication system capable of being heard beyond the applicant's property line shall be utilized.
- (o) The applicant shall dedicate 10 feet of ROW, as agreed by the applicant and the Traffic Engineer, along Oak Knoll, and provide proof of the dedication prior to the ordinance being published.
- (p) The site shall be developed and operated in conformance with all applicable local, state and federal codes.
- (q) If the Zoning Administrator finds that there is a violation of any of the provisions of the Protective Overlay, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the zoning is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property abutting and adjacent to the site on its west and north (across Oak Knoll Street) sides are zoned LI and OW Office Warehouse ("OW"). Besides the applicant's LI zoned contractors yard, there is a Durham school bus staging yard, gas storage tanks (probably the oldest development in the area), an electrical substation, self storage warehouse and platted (1999), undeveloped land. A SF-5 Single-family Residential ("SF-

5”) zoned, developed, single-family residential subdivision (Oak Knoll Addition, recorded 10-31-1979) abuts the south side of the site. A MF-29 Multi-family Residential (“MF-29”) zoned condo development (Oak Knoll Addition, recorded 10-31-1979) abuts the site’s east side. The southern abutting residential development existed prior to the applicant’s existing contractor’s yard. There are MF-29 and TF-3 Duplex (“TF-3”, platted mid 1970s) zoned duplexes located north of the site, across Pawnee Avenue.

2. The suitability of the subject property for the uses to which it has been restricted:
The subject site was rezoned from “AA” One Family to “A” Two Family, subject to platting, August 14, 1979. The site was again rezoned, this time from “R-6” General Residential to “BB” Office February 13, 1995. The BB zoning request was approved, with the observation that it would serve as a transitional zoning between the existing residential development in the area and the existing contractor’s yard, gas storage businesses and other existing industrial uses along Rock Road and Oak Knoll Street, while allowing more opportunities for the site to develop. The existence of the earlier industrial types of uses appears to have discouraged development of the site as residential. Location along Oak Knoll Street appears to offer poor visibility for office. Since subject site was first platted in 1979, it has never been developed.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Balancing the request to expand an existing business plus develop land that has been vacant for at least 30-years, while protecting the earlier developed single-family residences and the condo development is critical. The provisions of the proposed Protective Overlay (PO) are intended to provide protection for the earlier developed residential properties, while allowing the expansion of an existing business. Issues the PO attempt to address include noise, dust and the visual impact of a contractor’s yard abutting an earlier developed single-family residential neighborhood.
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 designates the site as appropriate for “Urban Residential” development. The Urban Residential category includes all housing types found in the municipality. The LI zoning request does not match the Urban Residential category. The Land Use Guide designates properties abutting and adjacent to the site as appropriate for “Processing Industry” (west side of site) and (north, across Oak Knoll) “Employment/ Industry Center.”

The Processing Industry category’s uses are those associated with primary extraction, processing or refinement of natural resources or recycling of waste materials, service or non-institutional nature. The range of uses includes aggregate and concrete plants, refineries, slaughterhouses, rendering and primary agricultural processing plants, salvage and recycling yards. The gas storage and the electrical substation reflect the uses associated with this category.

The Employment/Industry Center category’s uses constitute centers or concentrations of employment of an industrial, manufacturing, service or non-institutional nature. The range of uses includes manufacturing and fabrication facilities, warehousing and shipping centers, call centers and corporate offices. The proposed LI zoning is being requested for expansion of the applicant’s contractor’s yard, thus it is not at odds with this classification.

Industrial locational guidelines state that: (a) Industrial areas should be located in close proximity to support services and be provided good access to major arterials, city truck routes, belt highways, utility truck lines, rail spurs, airports and as extensions of existing industrial uses; (b) Industrial traffic should not feed directly into local streets in residential areas and (c) Industrial uses should be generally located away from existing or planned residential areas and sited so as not to generate industrial traffic through less intensive land use areas. The subject site has direct access to a minor arterial, Oak Knoll Street, from which it can get to Rock Road, a major arterial, or Pawnee Avenue, a minor arterial at this location. There are existing industrial uses, the gas

storage tanks, which have been in this area prior to the residential development. None of the development along this portion of Oak Knoll is residential, office or commercial; self storage warehouse, electrical substation, the applicant's contractor's yard, bus storage/staging yard, and the previously mentioned gas storage tanks, thus the proposed zone change is not introducing a new use. Traffic from the site will not be using any local roads. The site does meet the locational criteria for an industrial development; with the exception that there is existing residential development abutting its south and east sides. The single-family development was in place prior to the applicant's contractor yard.

5. Impact of the proposed development on community facilities: There will be an increase of truck traffic generated by the expanded contractor's yard and the subsequent toll on the road surface. Oak Knoll already has a high number of large vehicles on it, with the bus staging yard providing a significant number of trips during the morning and evening hours. The impact on public water and sewer should be minimal.

BILL LONGNECKER, Planning Staff presented the Staff Report.

FOSTER referred to Item C under conditions in the Staff Report and asked if mowers and other landscape equipment used for maintenance of the landscape buffer would be allowed.

LONGNECKER said that power tools used for maintenance of the landscape buffer would be added to C as an exception.

MCKAY asked if the applicant and neighbors had met and worked out their issues.

LONGNECKER said the applicant, the neighbors and staff had met at the applicant's site. The meeting resulted in the more restrictive OW zoning and the changes in the PO, which are reflected in the staff report. After that meeting staff had sent out a letter to all the participants of the meeting, everyone on the ownership list and to everyone who had signed up to speak at the first MAPC hearing on this case. The letter reflected the change in zoning, to OW, and the revised PO, as shown in today's staff report.

MCKAY thanked the applicant for meeting with the neighbors.

MOTION: To approve subject to staff recommendation.

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

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4. **Case No.: PUD2008-08** – Bijan Moussavi (owner); Robert Kaplan (agent) Request City PUD Planned Unit Development for office use on property described as:

The East 378.64 feet of the South 592 feet of the South half of the Southwest Quarter of Section 29, Township 27, Range 2 East of the 6th P.M., Sedgwick County, Kansas, generally located midway between Rock and Webb Roads, on the northeast corner of Harry and Longford Streets.

BACKGROUND: This request was heard by the MAPC (9-2) on December 4, 2008. DAB II recommended denial of the request (5-3) on December 3, 2008. The request generated a 19.72% protest petition. The applicant withdrew the request before going to City Council and has since significantly revised the PUD request; changes were based on neighbor concerns. The City Council then heard this item on May 5, 2009, and voted to send the revised request back to the MAPC and DAB for public hearing process review. This revised Staff Report is based on the revised PUD request.

The applicant proposes to create PUD #29, the 4.73-acre Moussavi Office Park Planned Unit

Development, see the attached PUD document provided by the applicant. The “PUD” Planned Unit Development special zoning district would replace the current zoning district of SF-5 Single-family Residential (“SF-5”) on one parcel. The PUD would permit single-family residential use, two-family residential use, office (general), medical service, and convalescent care facility (general). Signs are per the Sign Code (the PUD does not designate which zoning district within the code), with only one 96 square-foot, 16-foot tall sign on Harry; off site, portable, and variable message signs are prohibited. All lighting is to be shielded away from residential areas with a 15-foot height limit; trash receptacles and roof equipment require screening. Landscaping is required per the Landscape Code, utilities are to be underground. The PUD requires screening, but would waive screening adjacent to multi-family parking, and would allow screening to be achieved with evergreen vegetation or berms in accordance with the Zoning Code. Architectural design standards require consistent exterior building materials of brick, stone, or stucco, consistent colors, and pitched roofs. Building setbacks are 70 feet from the north property line, 25 feet from the south property line, and 15-feet from the east and west property lines. Building heights are limited to 35 feet. A total of six buildings are permitted with a building coverage of 20%, a gross floor area ratio limited to 20%, and the entire development not to exceed 28,400 square feet of gross floor area. Access to the site is from Harry.

North and west of the site are SF-5 zoned single-family residences. South of the site, across Harry, are SF-5 and MF-29 Multi-family Residential (“MF-29”) zoned multi-family residences. East of the site are TF-3 Two-family Residential (“TF-3”) zoned single and multi-family residences.

CASE HISTORY: The property is unplatted, the site is developed with three single-family residences and outbuildings.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family residences
SOUTH:	SF-5, MF-29, CUP DP-79	Multi-family residences
EAST:	TF-3, CUP DP-53	Two and multi-family residences
WEST:	SF-5	Single-family residences

PUBLIC SERVICES: Harry is a five-lane section line arterial street with a 100-foot right-of-way (ROW), and a daily traffic count of 24,592. All municipal services are available at the site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the *Wichita-Sedgwick County Comprehensive Plan* identifies this site as Urban Residential. This category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The commercial location guidelines of the Comprehensive Plan state that commercially-generated traffic should not feed directly onto local residential streets. The office location guidelines of the Comprehensive Plan state that office uses should be located adjacent to arterial streets; that local service-oriented offices should be incorporated within or adjacent to neighborhood and community scale commercial development; and that low density office use can serve as a transitional land use between residential uses and higher intensity uses.

The Unified Zoning Code states that a PUD is intended to create a superior quality development that may not conform to all the requirements of the Unified Zoning Code by:

- (1) Reducing or eliminating the inflexibility that sometimes results from strict application of zoning standards that were designed primarily for individual lots;
- (2) Allowing greater freedom in selecting the means to provide access, light, open space and design amenities;
- (3) Promoting quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations and land uses; and

- (4) Allowing deviations from certain zoning standards that would otherwise apply if not contrary to the general spirit and intent of this Code.

The proposed PUD incorporates architectural standards, building height limits, and building coverage limits that could enhance the quality of the proposed development. The applicant would be required to provide screening which meets the standards of the Zoning Code.

RECOMMENDATION: Several residential neighbors were opposed to the original request, which included access from Longford Street. Revisions to the PUD by the applicant considered the neighborhood concerns. Based on these comments and information available prior to the public hearing, staff recommends the application be APPROVED subject to platting within one year and subject to the following conditions:

1. Amend Provision 5 to state “Signs shall be in accordance with the Sign Code for the NO Neighborhood Office zoning district, with the following additional requirements:”
2. The applicant shall submit 4 revised copies of the PUD to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: North and west of the site are SF-5 zoned single-family residences. South of the site, across Harry, are SF-5 and MF-29 Multi-family Residential (“MF-29”) zoned multi-family residences. East of the site are TF-3 Two-family Residential (“TF-3”) zoned single and multi-family residences.
2. The suitability of the subject property for the uses to which it has been restricted: The property could continue to be used for single-family residential as it is currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the requested PUD would affect nearby property with increased traffic, activity, noise and light. The proposed PUD could mitigate these effects provided it meets minimum zoning code standards.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The “2030 Wichita Functional Land Use Guide” of the *Wichita-Sedgwick County Comprehensive Plan* identifies this site as Urban Residential. This category encompasses all residential development densities and types typically found in the municipality. The office location guidelines of the Comprehensive Plan state that office uses should be located adjacent to arterial streets; that local service-oriented offices should be incorporated within or adjacent to neighborhood and community scale commercial development; and that low density office use can serve as a transitional land use between residential uses and higher intensity uses. The Unified Zoning Code states that a PUD is intended to create a superior quality development that may not conform to all the requirements of the Unified Zoning Code.
5. Impact of the proposed development on community facilities: The proposed development would generate more traffic on Harry than the current residential development. However, Harry continues to have adequate capacity, and any traffic increase from this PUD would be minimal.

MCKAY recused himself from this item and left the bench.

JESS MCNEELY, Planning Staff presented the Staff Report. He stated that DAB II is scheduled to re-hear the revised case on June 1, 2009.

FOSTER remarked that he thought item #8 in the Staff Report, which referred to access onto Longford needed to be deleted. He commented that he thought this was a much better plan than the original, especially for the neighbors.

BOB KAPLAN, AGENT FOR THE APPLICANT said although the application had been previously approved by the Commission, he said he and the applicant worked with the Development Review Committee and made substantial changes to the application in an effort to satisfy the concerns of the neighborhood regarding traffic and other issues. He said by adding the nine residential lots to the west, they have reduced the area of the site by 30 percent. He said they are in agreement with the conditions listed; they have increased setbacks; limited access to Harry Street only; and have architectural standards.

HILLMAN asked if the opening on Harry would be right in, right out only.

KAPLAN asked **RUSS EWY, BAUGHMAN COMPANY** to address the traffic plan.

RUSS EWY, BAUGHMAN COMPANY, AGENT FOR APPLICANT said the access point onto Harry is practically the only place where it can be located. He said it may be a site design issue with City Traffic Engineering and the City may choose to require right in, right out only.

CHUCK SIMON, 1215 S. LONGFORD, HEDGEWOOD HOMEOWNER'S ASSOCIATION, Referred to Golden Rule #4 regarding how long the property had been vacant and said the Crandall family lived on the property since 1939 until the time property was sold. He said he was happy that there would be nine new homes across the street. He also thanked the two Commission members who voted against the original proposal in December. He referred to a PowerPoint presentation, specifically the area around Harry and Webb. He mentioned that the Countryside Office Park was similar to what was being proposed for their residential neighborhood but that it is located in a more appropriate area for an office park or commercial enterprise. He referred to a sign for the office park that advertised vacancies (29 out of 54 office suites were occupied) and commented that this proposed development may experience the same vacancies. He reviewed the entire residential area surrounding the proposed site, which consisted of single-family homes and some multi-family complexes.

KAPLAN declined rebuttal, but asked if there were any additional questions.

MOTION: To approve subject to staff recommendation.

MITCHELL moved **JOHNSON** seconded the motion, and it carried (11-0-1).
MCKAY abstained.

MCKAY back on the bench.

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5. **Case No.: ZON2009-13 and CON2009-14** - John Peninger (owner) Salpulpa Auto Pool (applicant), Greg Ferris (agent) Request County Zone change from SF-20 Single-Family Residential and LC Limited Commercial to LI Limited Industrial and Conditional Use for Wrecking/Salvage Yard to expand existing auto pool.

A tract in the Southwest Quarter of Section 12, Township 28 South, Range 1 West of the 6th P.M. Sedgwick County, Kansas, described as: Beginning at a point on the West line and 1435.93 feet South of the Northwest corner of said Southwest Quarter; thence East, parallel with the North line of said Southwest Quarter, 325 feet'; thence North, parallel with the West line of said Southwest

Quarter, 504.08 feet; thence East, parallel with the North line of said Southwest Quarter, 367.15; thence South parallel with the West line of said Southwest Quarter, 1376 feet more or less to a point 350 feet North of the South line of said Southwest Quarter; thence West parallel with the South line of said Southwest Quarter, 180 feet; thence North, Parallel with the West line of said Southwest Quarter 822.8 feet more or less to a point 1485.93 feet South of the North line of said Southwest Quarter, thence West, parallel with the North line of said Southwest Quarter, 512.15 feet to a point on the West line of said Southwest Quarter; thence North, along the West line of said Southwest Quarter, 50 feet to the point of beginning, generally located on the east side of West Street, north of MacArthur Road.

BACKGROUND: The applicant has an existing auto pool yard at 3950 S West Street in LI Limited Industrial (“LI”) zoning, approved as CON2008-19 by the MAPC on May 8, 2008. The applicant now wishes to expand the auto pool, and requests this zone change and conditional use.

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 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 propose to store and auction/sell wrecked and inoperable vehicles that are owned by insurance companies as total insurance losses; commonly referred to as an insurance pool. The use of land for storage of inoperable vehicles, as defined above, requires a Conditional Use for wrecking and salvage in LI zoning.

The UZC Art II, Sec II-B.14.q, requires the following Conditional Use supplementary conditions for a wrecking/salvage yard in the LI zoning district:

- (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 8.4-acre application area is currently designated by the county tax assessor as farm/ranch land. The West and MacArthur intersection area is primarily zoned LI with some LC Limited Commercial (“LC”) and SF-20 Single-family Residential (“SF-20”) zoning east of West Street. North of the site is LI zoned property used for warehousing and storage. South of the site is an LC zoned single-family residence and manufactured home site. East of the application area is SF-20 zoned farming and ranch land. West of the site and on the east side of West Street is are two SF-20 zoned church properties, SF-20 zoned farming/ranching land, LI zoned retail, and an SF-20 zoned single-family residence. On the west side of West Street are LI zoned warehousing and truck terminal land uses.

CASE HISTORY: The property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	LI	Warehousing
SOUTH:	LC	Single-family residence, manufactured home
EAST:	SF-20	Farming/ranch land
WEST:	LI, SF-20	Church, farm/ranch land, single-family residence, warehousing truck terminal

PUBLIC SERVICES: The subject property has access to West Street, a paved four-lane minor arterial. MacArthur Road is immediately south of the site, and consists of 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, sewer services are not available. 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’ proposal is to store and sell wrecked/inoperable vehicles as an insurance pool. The applicants’ previous Conditional Use prohibits mechanical or body work on the site, and prohibits the storage and sale of parts on the site. With these restrictions, the proposed use is similar to 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: Two residential neighbors submitted letters opposed to this request. Both neighbors own property over 400 feet southeast of the site. One commercial neighbor west of the site submitted a letter of support, and one church property west of the site submitted a letter of support. Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**, subject to platting and the following conditions which are consistent with the existing Conditional Use conditions:

1. The Conditional Use shall authorize the operation of a wrecking/salvage yard to store and auction/sell wrecked/inoperable vehicles that are owned by insurance companies as total insurance losses; commonly referred to as an insurance pool. There shall be no mechanical or body work done on the site. There shall be no dismantling of vehicles on the site. There shall be no storage or 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 materials or discarded materials and/or the sale of parts thereof. An auction of wrecked/inoperable vehicles owned by insurance companies as total insurance losses (an insurance pool) shall be every two weeks, on a Tuesday, from 10AM to 1PM, year round.
2. All of the conditions of UZC, Art II, Sec II-B.14.q will be enforced, including the approval of solid fencing or wall materials. Compatibility setbacks will be applied to all property lines shared with residential zoning. Vehicles shall not be parked or stored within required setbacks. Compatibility noise standards shall apply to the site. An approved landscape buffer of evergreen trees, a minimum of 5 feet in height shall be planted every 25 feet where the site abuts residential zoning with residential or institutional uses, and every 40 feet where the site abuts commercial zoning. The landscape buffer shall be a minimum of 15 feet. All landscaping shall be irrigated and shall be planted and maintained in general conformance with a landscape plan approved by Planning staff prior to operations beginning.
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 and selling of wrecked/inoperable vehicles shall be an approved all-weather surface.
5. A revised site plan and landscape plan addressing the conditions of approval shall be approved by the Planning Director prior to beginning 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 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 Environmental Services.
12. Notification shall be given to Environmental Services of any on-site storage of fuels, oils, chemicals, hazardous waste or hazardous materials. A disposal plan for fuels, oils, chemicals, hazardous wastes or hazardous materials shall be placed on file with Environmental Services. All manifests for the disposal of fuels, oils, chemicals, hazardous wastes or hazardous materials must be kept on file at the site and available for review by Environmental Services.
13. The applicant shall implement a drainage plan prior to the commencement of operations. The drainage plan shall be consistent with the plat, approved by the responsible government engineer, and shall minimize 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.

This 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 type uses, such as office/warehouse, retail uses, and truck terminals. Another salvage yard exists west of this site on MacArthur; this request is the expansion of an approved auto pool yard. Other surrounding land uses include residences, agriculture, and churches. Properties surrounding the subject site are zoned LI, LC and SF-20. The proposed use is not out of character with the zoning and land uses in the area.

2. The suitability of the subject property for the uses to which it has been restricted: The site is primarily zoned SF-20 with a small portion of LC. The site is within an industrial area. The existing zoning on the site would prohibit most land uses common to the surrounding area.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental effects on nearby property should be minimized by the recommended conditions of approval, which include monitoring, screening and landscaping. Residential uses near the site will most likely convert to non-residential uses over time.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies the 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’ proposal is to store and sell wrecked/inoperable vehicles as an insurance pool. The applicants’ previous Conditional Use prohibits mechanical or body work on the site, and prohibits the storage and sale parts on the site. With these restrictions, the proposed use is similar to 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.
5. Impact of the proposed development on community facilities: Use of this property as proposed should have limit impact on community facilities.

JESS MCNEELY, Planning Staff presented the Staff Report and an additional staff recommendation memo which eliminates the recommendation for specific auction days, would allow auctions once per week, and specified that landscaping would be required abutting commercially zoned property only if that property is developed with residential uses. He also clarified that the request would not be subject to platting until such time that the owner needed a building permit.

MCKAY asked if solid screening enclosed the entire site.

MCNEELY said code requires solid screening in addition to landscaping in areas abutting residential uses. He said the site plan will make that more explicit.

MARNELL asked how the revision on the auctions will affect the current conditional use permit for the site issued in 2008.

MCNEELY commented that change can be handled with an administrative adjustment to the existing conditional use permit.

HILLMAN referred to correspondence Commissioners received regarding other auto salvage yards in this area including comments on wrecked and rusted cars; fences made of pieces of tin; and the fact that no fence no matter how high could hide the mess. He clarified that cars would not be stacked. He also asked about inspections and enforcement of standards/code in the area.

MILLER commented that it is possible that the existing salvage yards in the area are non-conforming uses that were established prior to 1985 and pre-date the Unified Zoning Code (UZC). He said staff would speak with the Office of Central Inspection (Code Enforcement).

FOSTER referred to item number two in the Staff Report, and commented that the UZC reference needed to be corrected. He said he also has concerns about the correspondence received regarding the current conditions in the area. He asked about the “solid screening” options and who verified them.

MCNEELY commented that solid screening could be a number of materials including concrete, masonry, wood or metal. He said fencing that was less than solid was out of conformance with the code.

MITCHELL asked about requiring annexation.

MCNEELY referred that question to the agent.

GREG FERRIS, FERRIS CONSULTANTS, AGENT FOR THE APPLICANT, SALPULPA AUTO POOL, THE CONTRACT PURCHASER referred to a map of the area and indicated that the area in blue is an existing auto pool which will be purchased by Salpulpa Auto Pool. He also mentioned that the two lots north of MacArthur Road (directly south of the site) will be used for parking and added that a security guard may live in one of the homes. He referred to the area outlined in black as the zone change. He said the reality is that the City needs to have these types of lots and what better place to locate them than in an area that already has existing use. He commented that he met with the two neighbors who submitted letters. He said the issues they mentioned in their correspondence were not referring to the existing auto pool at the site, but the other existing salvage yards in the area. He said condition number one of the Staff Report specifically prohibits salvage yards, but the UZC does not have a provision for what his applicant does. He said the only way to address the issue is to ask for a conditional use which clearly prohibits any salvage use including parts, machinery and dismantling vehicles on site. He said they have received letters of support from the people mostly impacted by the proposed use. He said a screening fence around the entire property is required by Code. In addition, he said they will provide a 15-foot landscape buffer on the west and south. He said this proposed use at this location this makes sense. He said the area is almost entirely industrial; and it is located along an arterial with access to I-235. He said they will provide screening for residential properties to the south and east. He concluded by saying that there will be approximately 6-8 employees at the site so it will not be an intensive use, but more like a used car lot. He said a used car lot at this location is allowed by right, but because these vehicles are inoperable, they have to go through this process. He concluded by saying that this was an expansion of an existing lot, not new use in the area.

MITCHELL commented about the references in the Staff Report to Environmental Services, which is a City operation. He asked if they intend to stay in the County shouldn't that be County Code Enforcement? He said staff originally recommended platting within one year and then changed it until a building permit is required, which could be forever. He said there is a problem with municipal services in the area because of insufficient petitions. He said he thinks sewer and other municipal services should be part of a realistic development plan.

FERRIS he said they already have a building and don't need water and sewer or any other services for the expansion. He said they have agreed not to oppose annexation so they do not believe that is an issue. He said they also don't need platting for any reason including a drainage plan, storage of materials, and dedication of ROW. He said staff did not see any reason they needed to go to the expense of platting. He added that the property may have already been included in the Rainbow plat.

FARNEY asked who owns the vehicles when they come on site.

FERRIS said the insurance companies.

JAMES ORANGE, 3616 WEST MACARTHUR referred to correspondence from a neighbor **MERLE SOUDERS** where he outlined their concerns with the application including water, pollution, vermin, rodents, noise, privacy and property values. He said the strip on the west is what he looks at from his backyard. He commented that the aerial was an old picture because the area is now full of cars, recreational vehicles and trucks that are visible above the fence. He said he would rather see a farm field than a 1,300 foot fence. He said he is also concerned about property values because he and his wife have worked hard to make their property look good and this proposal will definitely be a detriment to their property value.

FERRIS said he has visited the site and that the new owners will make sure that vehicles will not be above the fence and added that they are not allowed to stack vehicles. In addition, he said the applicant has agreed to construct 12-foot fences in some areas to address recreational vehicles and trucks. He said they will comply with all the conditions recommended in the Staff Report including vermin eradication and those types of things. He said the vehicles are constantly moved in and out of the site and that they don't have the same types of issues as salvage yards.

FARNEY referred to condition number one in the Staff Report and asked who checks on this.

MCNEELY said code enforcement enforces any conditions. He said the County had requested that the applicant apply for annexation so there is not dual (City and County) enforcement at the site.

MILLER said County Code Enforcement did not want to "split" enforcement of the site and; therefore, agreed to annexation. He said they agreed that the applicant would request annexation of this specific area as a condition of approval of the application, as opposed to unilateral annexation of the area. He said the Commission could add a condition that the applicant request annexation to address that issue. He added that typically platting isn't required until a building permit is issued.

MCKAY clarified that the annexation would be just this application area.

MILLER said yes, and referred to the area outlined in black.

FOSTER asked if it would be appropriate to put a time limit on the annexation condition.

MILLER suggested something to indicate the annexation needed to be completed prior to the release of the conditional use permit and zone change, provided they are approved by the Board of County Commissioners.

MOTION: To recommend that the application be denied unless the area is annexed or approve the application subject to staff recommendation including the addition of a condition that approval is subject to annexation and platting.

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

SUBSTITUTE MOTION: To approve subject to staff recommendation and the changes agreed to by the applicant and require that the applicant apply for annexation of the area within 120 days of the approval of the application. He clarified that there was no platting requirement.

MARNELL moved, **JOHNSON** seconded the motion, and it carried (10-2).
MCKAY and **MITCHELL** – No.

6. **Case No.: CUP2009-10** - Neville Family Trust, c/o Rita Neville-Landwehr (owner/applicant), Alvin & Karla Neville (owner/applicant), Catholic Diocese of Wichita, c/o Robert Hemberger (owner/applicant), Baughman Company, P.A., c/o Russ Ewy (agent) Request DP-11 Tyler Acres CUP Amendment #5 to allow a bank and financial institution on property zoned GO General Office and to reconfigure Parcels 5 and 6.

That part of Lot 1, Tyler Acres Fifth Addition, Wichita, Kansas, described as beginning at the Northeast corner of said Lot 1; thence South along the East line of said Lot 1, 220'; thence West 91'; thence South 134' more or less; thence West 68' more or less; thence North 356' more or less, to a point on the North line of said Lot 1; thence East to beginning; TOGETHER WITH, all of Lot 5, Tyler Acres Fifth Addition to Wichita, Sedgwick County, Kansas, generally located north of Central and west of Socora.

BACKGROUND: Community Unit Plan DP-11 is located north of west Central Avenue and west of North Socora Street. The applicant requests a minor amendment (#5) to CUP DP-11 to allow "bank or financial institution" use on a new proposed Parcel 11, and the proposed reconfiguration of Parcels 5 and 6. Currently, Parcel 5 is zoned GO General Office ("GO") and Parcel 6 is zoned GO with some LC Limited Commercial ("LC") on the west side of the parcel. DP-11 currently contains ten parcels. Currently, Parcels 5 and 6 allow as follows:

Parcel 5

Net Area: 83,700 Sq. Ft. or 1.32 acres

Maximum Land Coverage shall not exceed 30% of the net land area or 25,110 Sq. Ft.

Maximum Gross Floor Area: 33,480 Sq. Ft.

Floor Area Ratio: 40%

Maximum Building Height: 55 Feet

Number of Buildings: 6

Building Setbacks:

Socora: 35 Feet

North Line: 30 Feet

South Line: 30 Feet

Parking Ratio: per the zoning ordinance

Proposed Uses: Any use permitted in the "BB" (GO) zoning district, except for boarding houses, lodging houses, boathouses and cemeteries.

Parcel 6

Net Area: 164,370 Sq. Ft. or 3.77 acres

Maximum Land Coverage shall not exceed 30% of the net land area or 49,311 Sq. Ft.

Maximum Gross Floor Area: 65,748 Sq. Ft.

Floor Area Ratio: 40%

Maximum Building Height: 35 Feet

Number of Buildings: 3

Building Setbacks:

South Line: 30 Feet

North Line: 30 Feet

East Line: 30 Feet

Parking Ratio as per Zoning Ordinance

Proposed Uses: Intermediate Care Facility, Retail Uses, Theater, Restaurant, Offices, Private Club, Bowling Alley, Skating Rink

Access Points: 1 to Central

The applicant proposes to reconfigure Parcels 5 and 6, subject to a lot split, and amend the access control for Parcel 6 to move the existing location for access to Socora. The most substantial change to DP-11 proposed by this amendment is the creation of Parcel 11 by the reconfiguration of Parcels 5 and 6. Parcel

11 is to be located on the southeastern portions of old Parcel 5 and 6, and is also shown on the application for the lot split. In addition, the creation of Parcel 11 will reduce the “net area” of Parcels 5 and 6, which will also change the “maximum land coverage” and “gross floor area” for both parcels. The following provisions are proposed for Parcels 5 and 6 and the new Parcel 11, only the provisions that will change are shown for Parcels 5 and 6:

Parcel 5

Net Area: 39,100 Sq. Ft. or 0.90 acres

Maximum Land Coverage shall not exceed 30% of the net land area or 11,730 Sq. Ft.

Maximum Gross Floor Area: 15,640 Sq. Ft.

Number of Buildings: 1

Building Setbacks: See Drawing

Parcel 6

Net Area: 159,630 Sq. Ft. or 3.66 acres

Maximum Land Coverage shall not exceed 30% of the net land area or 47,889 Sq. Ft.

Maximum Gross Floor Area: 63,852 Sq. Ft.

Building Setbacks: See Drawing

Access Points: One to Central and one to Socora

Proposed Parcel 11

Net Area: 49,340 Sq. Ft. or 1.13 acres

Maximum Land Coverage shall not exceed 30% of the net land area or 14,802 Sq. Ft.

Maximum Gross Floor Area: 19,736 Sq. Ft.

Floor Area Ratio: 40%

Maximum Building Height: 35 Feet

Number of Buildings: 1

Building Setbacks: See Drawing

Parking Ratio as per Zoning Ordinance

Proposed Uses: Bank and Financial Institution and any use permitted in the “GO” General Office District, except for boarding houses, lodging houses, boathouses and cemeteries

The total area of the CUP will not change and along with the zoning of Parcels 5, 6 and 11. The addition of the bank and financial institution use should have little if any impact to the entire CUP and to this portion of the CUP. Bank and financial institution is permitted in the GO zone district with a Conditional Use and allowed by right in LC and is a use similar to those currently found in CUP DP-11, which also includes another bank branch. There is no change proposed in this CUP amendment in regards to signage, screening or landscaping, and all development is to conform to the existing requirements of CUP DP-11.

Property along the south side of the site is zoned LC Limited Commercial (“LC”), is under the same CUP, DP-11, and the same plat, the Tyler Acres 5th Addition (9-2-1983). Most of this property is developed with a bank or financial institution, a retail store and a fast food restaurant. Property west of the site is zoned LC and is also under the same CUP, DP-11 and the same plat. Half of the property is developed and the other half is vacant. Part of the property is developed with a full-service restaurant and a fast food restaurant. The vacant part is suitable for additional commercial uses. Property along the north side of the site is zoned SF-5 Single-family Residential (“SF-5”) and is developed with a church or place of worship and is platted as the St. Francis of Assisi Park II Addition (9-29-1983). Property east of the site, across Socora Street is zoned GO, under the same CUP as the subject site CUP, DP-11 but a separate plat, Tyler Acres 6th Addition (7-5-1983). The GO property is developed with a Surgery Center and other medical/dental offices.

CASE HISTORY: The application area is platted as Lot 5 of the Tyler Acres Fifth Addition (recorded September 2, 1983). The Tyler Acres CUP DP-11 was approved on May 17, 1966. There have been a

significant number of adjustments to the CUP, which include the reconfiguration of parcel boundaries, the adjustment of building setback lines, the elimination of residential storage units, the addition of “assisted living” as allowable uses and adjustments to sign spacing.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Church / Place of Worship
SOUTH:	LC	Bank / Retail / Restaurant
EAST:	GO	Medical Office / Clinic
WEST:	LC	Restaurant / Undeveloped Land

PUBLIC SERVICES: Parcels 5 and 6 are accessible from Socora Street, which is designated as a residential street and used as a point of access for other uses in the CUP. Municipal water and sewer services are currently provided to this site.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this site as appropriate for local commercial types of use. This category of use encompasses areas that contain concentrations of predominantly commercial, office, and personal service uses that do not have a predominantly regional market draw. The range of uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities.

The commercial locational guidelines of the Comprehensive Plan recommends that commercial uses should be located adjacent to arterial streets; in compact clusters; and to have site design features that limit noise, lighting, and other aspects of commercial activity that may adversely impact surrounding residential areas.

RECOMMENDATION: The proposed CUP amendment, reconfiguration of Parcels 5 and 6, the addition of Parcel 11 and the addition of “bank and financial institution” as a permitted use in Parcel 11, should not have a negative effect on community facilities or surrounding property owners. There are similar uses, some more intense in nature, found within the CUP, with the nearest residential use located approximately 700-feet north of the subject site, separated by a large church and a KinderCare facility. The future development of the parcels will have to conform to the regulations of the CUP which are developed to mitigate any possible negative impact on the surrounding property, neighborhood, or public facilities.

Based on this, plus the information available prior to the public hearing, staff recommends the request be **APPROVED** subject to the revised CUP plan.

1. Revise the provisions of Parcel 5 to read:
Net Area: 39,100 Sq. Ft. or 0.90 acres
Maximum Land Coverage shall not exceed 30% of the net land area or 11,730 Sq. Ft.
Maximum Gross Floor Area: 15,640 Sq. Ft.
Number of Buildings: 1
Building Setbacks: See Drawing
2. Revise the provisions of Parcel 6 to read:
Net Area: 159,630 Sq. Ft. or 3.66 acres
Maximum Land Coverage shall not exceed 30% of the net land area or 47,889 Sq. Ft.
Maximum Gross Floor Area: 63,852 Sq. Ft.
Building Setbacks: See Drawing
Access Points: One to Central and one to Socora
3. The provisions for the new parcel, Parcel 11, should read as follows:
Net Area: 49,340 Sq. Ft. or 1.13 acres
Maximum Land Coverage shall not exceed 30% of the net land area or 14,802 Sq. Ft.

Maximum Gross Floor Area: 19,736 Sq. Ft.

Floor Area Ratio: 40%

Maximum Building Height: 35 Feet

Number of Buildings: 1

Building Setbacks: See Drawing

Parking Ratio as per Zoning Ordinance

Proposed Uses: Bank and Financial Institution and any use permitted in the "GO" General Office District, except for boarding houses, lodging houses, boathouses and cemeteries

4. The CUP plan will need to be revised to show changes that have been made on the CUP by previous administrative adjustment and amendments. A "cleaned up" version of the CUP will be required when the applicant submits the 4 revised copies of the CUP to the Metropolitan Area Planning Department.
5. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
6. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
7. The transfer of title of all or any portion of the land included within the Community unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
8. The applicant shall submit 4 revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property along the south side of the site is zoned LC Limited Commercial ("LC"), is under the same CUP, DP-11, and the same plat, the Tyler Acres 5th Addition (9-2-1983). Most of this property is developed with a bank or financial institution, a retail store and a fast food restaurant. Property west of the site is zoned LC and is also under the same CUP, DP-11 and the same plat. Half of the property is developed and the other half is vacant. Part of the property is developed with a full-service restaurant and a fast food restaurant. The vacant part is suitable for additional commercial uses. Property along the north side of the site is zoned SF-5 Single-family Residential ("SF-5") and is developed with a church or place of worship and is platted as the St. Francis of Assisi Park II Addition (9-29-1983). Property east of the site, across Socora Street is zoned GO General Office ("GO"), under the same CUP as the subject site CUP, DP-11 but a separate plat, Tyler Acres 6th Addition (7-5-1983). The GO property is developed with a Surgery Center and other medical/dental offices.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned GO and LC with a CUP overlay. The property is suitable for office type uses to which it has been restricted. The addition of a bank and financial institution as a permitted use in Parcel 11 is a common use that can be found in the GO and LC zone districts. The proposed reconfiguring of the parcels will have little effect on the existing CUP.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The

addition of a bank and financial institution as a permitted use and the reconfiguring of parcels should have no negative impact on surrounding commercial or institutional uses; no residences are in the immediate area. Landscape requirements will not be reduced, and visual aesthetics along Central Avenue will not be negatively impacted.

- 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 site as appropriate for local commercial types of use. This category of use encompasses areas that contain concentrations of predominantly commercial, office, and personal service uses that do not have a predominantly regional market draw. The range of uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. The commercial locational guidelines of the Comprehensive Plan recommends that commercial uses should be located adjacent to arterial streets; in compact clusters; and to have site design features that limit noise, lighting, and other aspects of commercial activity that may adversely impact surrounding residential areas.
- 5. Impact of the proposed development on community facilities: The proposed reconfiguring of parcels and the addition of bank and financial institution as a permitted use should have no negative impact on community facilities, and will encourage better use of the land and surrounding pedestrian facilities.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation including the addition of the sixth condition.

MITCHELL moved, **JOHNSON** seconded the motion, and it carried (12-0).

The Metropolitan Area Planning Department informally adjourned at 2:35 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 _____, 2009.

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

(SEAL)

