

**METROPOLITAN AREA PLANNING COMMISSION**

**MINUTES**

**March 19, 2009**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, March 19, 2009, at 1:30 P.M., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Darrell Downing, Chair; G. Nelson Van Fleet, Vice Chair; Don Anderson; David Dennis; Shawn Farney; David Foster (in @1:31 P.M.); Bud Hentzen; Hoyt Hillman; Bill Johnson; Ronald Marnell; M.S. Mitchell; Don Sherman (in @1:31 P.M.) and Debra Miller Stevens. John W. McKay, Jr. was absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Jess McNeely, Senior Planner; Bill Longnecker, Senior Planner; Derrick Slocum, Associate Planner; Joe Lang, Chief Deputy City Attorney; Bob Parnacott, County Counselor and Maryann Crockett, Recording Secretary.

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1. Approval of the February 19, 2009, and March 5, 2009, MAPC meeting minutes

Approval of the February 19, 2009, MAPC meeting minutes.

**MOTION:** To approve the February 19, 2009, Minutes as amended.

**HILLMAN** moved, **MITCHELL** seconded the motion, and it carried (11-0).

Approval of the March 5, 2009, MAPC meeting minutes.

**MOTION:** To approve the March 5, 2009, Minutes as amended.

**MITCHELL** moved, **HENTZEN** seconded the motion, and it carried (11-0).

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**FOSTER** (in @1:31 P.M.)  
**SHERMAN** (in @1:31 P.M.)

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

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

- 2-1. **SUB 2009-15: One-Step Final Plat -- NORTH POINTE SENIOR LIVING ADDITION,** located south of 29th Street North, and on the east side of Woodlawn. (MAPC deferred on 3/5/09)

NOTE: This is a replat of a portion of the Woodlawn North Pointe Addition. The plat will be revised to denote three lots.

STAFF COMMENTS:

- A. City of Wichita Water Utilities Department has required a guarantee for the relocation/abandonment/installation of water (distribution mains) and sewer (laterals) for the plat. A recorded 10-foot private easement is needed for the existing sewer service line that serves the building at Lot 1, Block 1.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Engineering has approved the drainage plan.
- D. "Private street" as included in the description of uses for Reserve A should be revised to "private drive."
- E. Provisions shall be made for ownership and maintenance of the proposed reserves. A covenant shall be submitted regarding ownership and maintenance responsibilities.
- F. 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.
- G. The preliminary plat needs to show the names of adjacent owners.
- H. A cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- I. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- J. 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.
- K. 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.)
- L. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- M. 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.
- N. 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.
- O. 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.

- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto: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.

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

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**2-2. SUB 2009-13: One-Step Final Plat -- CHISHOLM TRAIL CHURCH OF CHRIST ADDITION**, located on the south side of 37th Street North and west of Woodlawn.

NOTE: This is an unplatted site located within the City. A Conditional Use (CON 2008-07) for a Daycare Center has been requested.

STAFF COMMENTS:

- A. City of Wichita Water Utilities Department has noted that municipal services are available to serve the site.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Engineering has approved the revised drainage plan subject to a minimum pad elevation added to the face of the plat and the expansion of Reserve A added to cover the offsite drainage from the pond to the property east of this site. As requested, County Engineering has received a drainage plan.
- D. County Surveying notes that the existing right-of-way for Edgemoor along a portion of the west property line needs to be shown.
- E. County Surveying notes that a portion of the plat is in Zone A of the floodplain.
- F. County Surveying notes that the northwest corner of the northeast quarter corner description needs to be corrected.
- G. County Surveying notes that bearings and a distance are needed on the south line of Reserve A.
- H. County Surveying notes that a dimension is needed on the south line of the lot, east of Reserve A.
- I. Adjacent owners are needed.

- J. The plat denotes four openings along 37<sup>th</sup> St. North. Traffic Engineering has approved the access controls.
- K. Traffic Engineering has requested the dedication of additional right-of-way along 37<sup>th</sup> St. North to conform to the 60-foot half-street right-of-way required by the Access Management Regulations.
- L. GIS has requested the street be labeled as “37<sup>th</sup> St N.”
- M. The spelling of “Deeded” in the legend and “Church of Christ” in the notary certification needs to be corrected.
- N. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- O. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- P. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant’s responsibility to contact all appropriate agencies to determine any such requirements.
- T. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. 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](mailto: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.

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

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**2-3. SUB 2009-18: One-Step Final Plat -- SMARSH FARMS ADDITION**, located south of 53rd Street North, and on the west side of 199th Street West.

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

STAFF COMMENTS:

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval.
- B. In conformance with the Urban Fringe Development Standards, for individual domestic wells that are proposed, a Safe Yield Analysis must be provided to Sedgwick County Code Enforcement to assure the availability of an adequate, safe supply of water that does not impair existing water rights. Easements shall be dedicated for potential future extension of public water and sewer.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. County Engineering has approved the drainage plan. Minimum pad elevations need to be established based on the flood study. Floodplain language needs to be included in the plattor's text. The floodway reserve shall include the floodplain as shown on the FEMA map.
- E. The plat denotes two openings along 199<sup>th</sup> St. West including one joint opening. County Engineering has approved the access controls.
- F. The joint access openings shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- G. Sedgwick County Fire Department advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- H. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineer (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- I. 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.

- J. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- M. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- N. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. 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](mailto: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.

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

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**3. PUBLIC HEARING – VACATION ITEMS**

**3-1. VAC2009-04: City request to vacate a sewer easement creation by prescription**

**OWNER/APPLICANT:** Cerebral Palsy Research Foundation, c/o Marsha Anderson

**LEGAL DESCRIPTION:** The public sewer easement, established by prescription in Project- C26-33, Book L 168, located entirely on Lot 2, Block 5, Crestview Heights 1<sup>st</sup> Addition, Wichita, Sedgwick County, Kansas

**LOCATION:** Generally located east of Oliver Avenue, southeast of 21<sup>st</sup> Street North and Battin Avenue (WCC #I)

**REASON FOR REQUEST:** Additional space for development

**CURRENT ZONING:** Subject property and abutting northern, eastern and southern properties are zoned GO General Office (“GO”) and LC Limited Commercial (“LC”). Adjacent property is zoned LC.

The applicant is requesting consideration for the vacation of the described public sewer easement, which was established by prescription when the 8-inch clay sewer line was installed. The GIS map also shows manholes and in the described sewer easement. The GIS map shows no water located in the described sewer easement. There are no other utilities located within the described easement. The Crestview Heights 1<sup>st</sup> Addition was recorded with the Register of Deeds December 20, 1956.

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 public sewer easement, that was established by prescription.

- 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 February 26, 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 above-described public sewer easement, which was established by prescription easement and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.

Therefore, the vacation of the public sewer easement, which was established by prescription described in the petition, should be approved with conditions;

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

complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE’S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

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

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

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

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4. **Case No.: ZON2009-06** - Dr. Antoine Wakim (owner & applicant); Kim Edgington (agent) request a City zone change from SF-5 Single-family Residential to NO Neighborhood Office on property described as:

Lot 10, Block 1, Country Acres Addition to Wichita, Sedgwick County, Kansas, generally located midway between Ridge and Tyler Roads, on the north side of Central Avenue and east of Woodchuck Lane.

**BACKGROUND:** The applicant requests a zone change from SF-5 Single-family Residential (“SF-5”) to NO Neighborhood Office (“NO”) on a 0.20-acre piece of property generally located midway between Ridge and Tyler Roads, on the north side of Central Avenue and east of Woodchuck Lane. The property requesting the rezone is currently developed with a single-family residence and the applicant proposes to expand his existing dental office, which is located on the adjoining property to the west.

The surrounding property to the north and east is zoned SF-5 and is occupied by single-family residences. The property to the south of Central is GC General Office (“GO”) and SF-5, and is developed as a strip office center. Property adjoining the west property line of the subject site is zoned GO, and is developed with a dental office. Other uses along Central to the east are predominately single-family residences and retail, restaurant and office uses to the west.

**CASE HISTORY:** The property is platted as Lot 10, Block 1, Country Acres Addition, recorded June 21, 1955.

**ADJACENT ZONING AND LAND USE:**

NORTH:	SF-5	Single-family Residence
SOUTH:	SF-5	Single-family Residence
EAST:	SF-5	Single-family Residence
WEST:	GO	Dental Office

**PUBLIC SERVICES:** Central Avenue is a six-lane principal arterial with turn lanes. The approximate 2007 annual average daily traffic was 55,000 vehicles per day. Woodchuck and Cottontail Lanes are both local, residential roads with no recorded traffic counts. All normal public services are available.

**CONFORMANCE TO PLANS/POLICIES:** The “Wichita Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies the requested rezoning tract as appropriate for “Urban Residential.” The Comprehensive Plan objective for commercial/office use for areas outside downtown Wichita (**Objective III.B**) is to “Develop future retail/commercial areas which complement existing commercial activities provide convenient access to the public and minimize detrimental impacts to other adjacent land uses.” **Strategy III.B.3** seeks to reduce the number of access points along arterial streets; implementation of this strategy is through the Access Management Policy.

**Office Locational Guideline #1** indicates that office uses should generally be located adjacent to arterial streets. **Office Locational Guideline #3** indicates that local, service-oriented offices should be incorporated within or adjacent to neighborhood and community commercial developments. **Office Locational Guideline #4** indicates that low-density office use can serve as a transitional land use between residential uses and higher intensity uses.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends the zone change be APPROVED.

This recommendation is based on the following findings.

1. **The zoning, uses and character of the neighborhood:** The surrounding property to the north and east is zoned SF-5, and is occupied by single-family residences. The property to the south of Central is GC General Office (“GO”) and SF-5, and is developed as a strip office center. Property adjoining the west property line of the subject site is zoned GO, and is developed with a dental office. Other uses located along Central to the east are predominately single-family residences and retail, restaurant and office uses to the west.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is currently developed with a single-family residence and is zoned SF-5. The site could remain as presently zoned, but rezoning to NO is also not unreasonable, especially since property with more intensive zoning, GO, adjoins the west property line, and other office zoned property is located across Central Avenue. The immediate area is currently developed with considerably more single-family uses than office type uses.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed NO zoning would allow for similar types of development that are already established in all directions around the subject site. NO zoning allows residential uses as well as office uses. Unified Zoning Code development standards will limit known adverse impact on surrounding residential developments.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “Wichita Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies the requested rezoning tract as appropriate for “Urban Residential.” The Comprehensive Plan objective for commercial/office use for areas outside downtown Wichita (Objective III.B) is to “Develop future retail/commercial areas which complement existing commercial activities provide convenient access to the public and minimize detrimental impacts to other adjacent land uses.” Strategy III.B.3 seeks to reduce the number of access points along arterial streets; implementation of this strategy is through the Access Management Policy. Office Locational Guideline #1 indicates that office uses should generally be located adjacent to arterial streets. Office Locational Guideline #3 indicates that local, service-oriented offices should be incorporated within or adjacent to neighborhood and community commercial developments. Office Locational Guideline #4 indicates that low-density office use can serve as a transitional land use between residential uses and higher intensity uses.
5. Impact of the proposed development on community facilities: Provided that drainage and traffic access standards are met, community facilities should not be impacted. Other usually provided municipal services are available.

**DERRICK SLOCUM**, Planning Staff presented the Staff Report.

**KIM EDGINGTON, AGENT FOR THE APPLICANT** said she wanted to clarify that Dr. Wakim does not plan to expand his current business operation for patients but will use the site for an employee break room, staff offices, and storage. She said the amount of business at the location shouldn't change because of this proposed use. She said they would like to put employee parking in back of the house to open up the present parking area for patients. She said the site (with the house) will remain the same; they do not want to demolish the existing structure. She said they would like to close the driveway onto Cottontail and connect with the existing parking lot on the current office site.

**SERENA LUBBER, 7901 COTTONTAIL** said she owned the property next to the lot to be rezoned. She said the neighbors and her are concerned about proposed changes to the property. She said the agent said the existing home will remain there with possible parking in the back and she wanted to know how that was going to work. She also asked if there was going to be some type of barrier between her property and the rezoned property. She said she is concerned about the turn in because traffic at Woodchuck and Cottontail is very congested. She said they are also worried about pedestrian traffic in the area because there is a high school, middle school and elementary school nearby and students walk to and from school in the mornings and evenings. She concluded by stating that the existing dental office has not been a good neighbor and maintained their property. She said they are concerned as to whether the additional lot will be maintained the way it should be.

**FOSTER** asked **MS. LUBBER** if she thought shutting off access on north Cottontail would ease the traffic problem.

**LUBBER** said it was possible that would be beneficial. She also suggested the possibility of turning from Central directly into the dental office, instead of turning onto Woodchuck to go to the doctor's office.

**SHERMAN** asked if there was a barrier between her property and the proposed rezoning site.

**LUBBER** said currently there was a 4-foot chain link fence.

**KIM EDGINGTON** said her client will be constructing a privacy fence along the east property line to provide screening from the neighbors. She said they are not proposing any driveways from Central and said she doubted that would meet “access management principals.” She said drives already exist on Woodchuck and Cottontail and those will be used to provide access to this lot. She said they don’t foresee that this proposal will cause any changes to pedestrian traffic in the area which should remain the same. She said there has been discussion concerning landscaping on the existing site and said they hope that by alleviating the current parking crunch, they will be able to provide better aesthetics for the entire site as a combined two parcel project.

**DENNIS** mentioned adding the privacy barrier to the motion.

**EDGINGTON** commented that when her client met with the Development Review Committee, they understood that they would have to provide some type of screening.

**MOTION:** To approve subject to staff recommendation and complying with Unified Zoning Code requirements concerning a privacy barrier.

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

**MILLER** said providing a barrier to the east was a standard code requirement, and that is why it was not specified in the staff recommendation.

**FOSTER** asked if the motion included closing the drive out onto Cottontail.

**DENNIS** said he didn’t see any benefit in adding that to the motion.

**FOSTER** said it will reduce traffic onto the residential street.

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5. **Case No.: ZON2009-07** – Kirk Excavating (applicant); Yearout Associates, Inc., c/o David Yearout (agent) requests a City zone change from SF-5 Single-family Residential to NO Neighborhood Office on property described as:

The West 437.06 feet of the South 299 feet of the East 874.12 feet of the North half of the Southeast Quarter of the Northeast Quarter of Section 7, Township 27, Range 1 West of the 6th P.M., Sedgwick County, Kansas, generally located on the west side of Maize Road and about 1/3 mile south of 21st Street North (1903 North Maize Road).

**BACKGROUND:** The applicant requests NO Neighborhood Office (“NO”) zoning on a three-acre site, currently zoned SF-5 Single-family Residential (“SF-5”). The applicants state that they desire to “Rezone the property to be more compatible with the potential future use, thereby making the property more marketable.” Currently, the site is developed for Kirk’s Excavating with metal structures, a private dispatch tower, outdoor stockpiles of dirt and gravel, tractors, various types of trucks, trailers, and earthmoving equipment used by the excavation business. The excavation business on the site was registered as a legal nonconforming use in 2005. NO zoning would permit all uses under the current SF-5 zoning; and the following uses by right: general office, medical service, general day care, general group home, and automatic teller machine.

North and west of the site is an SF-5 zoned church. South of the site is an SF-5 zoned residential subdivision. Immediately east of the site is an SF-5 zoned residence with a home occupation; further east,

fronting Maize, is an NO zoned office development. The site has access from Maize via an access easement along the south boundary of the two properties east of this site.

**CASE HISTORY:** The unplatted site received a Conditional Use in 1973 (CU-156) to permit a metal storage building for agricultural and non-agricultural storage. The site sought a rezoning to PUD #21 in 2005; a component of that PUD was a wireless communication tower. The PUD was approved, subject to conditions different than those desired by the applicant, therefore the PUD was not completed and the application voided.

**ADJACENT ZONING AND LAND USE:**

NORTH:	SF-5	Church
SOUTH:	SF-5	Single-family residential
EAST:	SF-5, NO	Single-family residential, offices
WEST:	SF-5	Church athletic fields

**PUBLIC SERVICES:** Maize is a four-lane arterial street with a traffic count of 18,642 vehicles per day at this location. The 2030 Transportation Plan designates this portion of Maize to remain a four-lane arterial. All other normal public 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 the application area as “Local Commercial,” along with the two properties east of this site. The Local Commercial category includes commercial, office, and personal service uses that do not have a significant regional market draw. 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.

If zoning on the property is changed, The Unified Zoning Code (UZC) would require that any development (other than single or two-family residential) have compatibility setbacks and screening from the abutting SF-5 zoning. Also, the Landscape Code would require a landscape plan on this site if developed for non-residential use.

**RECOMMENDATION:** This site does not have direct access to Maize, and would require that future business traffic cross a residential property via an access easement in order to reach the application area. Any future development on this site would require the maintenance of ingress and egress rights. Also, a zone change on this site would “sandwich” the residential property to the east with non-residential zoning. The residential property owner immediately east of the application area contacted staff, and is opposed to this zone change. This zone change request would have fewer conflicting issues if the residential property to the east were included in the zone change application.

This site has a legal non-conforming use which originally existed in the County, was annexed into the City, and had urban scale uses develop around it. Neighborhood scale offices (such as the offices east of this site, fronting Maize) could be more compatible with the abutting properties than the current legal nonconforming excavation business. The zone change request is consistent with the Comprehensive Plan.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year, to include an ingress/egress easement across the property to the east, ensuring access from Maize Road.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: North and west of the site is an SF-5 zoned church. South of the site is an SF-5 zoned residential subdivision. Immediately east of the site is an

SF-5 zoned residence with a home occupation; further east, fronting Maize, is an NO zoned office development.

2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed with single-family residences as it is currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Rezoning and office development could negatively affect the residence east of the site with increased traffic on an access easement across the residential site.
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 the application area as “Local Commercial,” along with the two properties east of this site. The Local Commercial category includes commercial, office, and personal service uses that do not have a significant regional market draw.
5. Impact of the proposed development on community facilities: The proposed zone change and office development would have a marginally greater impact on community facilities than uses permitted under the current SF-5 zoning.

**JESS MCNEELY**, Planning Staff presented the Staff Report.

**HENTZEN** asked if the current operation was included in this application.

**MCNEELY** explained that any zone change will be subject to platting. He said Kirk Excavation can continue to operate as a legal non-conforming use regardless of the requested zone change.

**HENTZEN** said he was impressed with the idea of office zoning, but if the property remains as a dirt contractor, he's not real sure.

**DAVE YEAROUT, YEAROUT ASSOCIATES, 1710 POST COURT, EL DORADO, KANSAS** said Kirk Excavation does have the intention of relocating their operation to another site. He said they would like to get this property in condition to be marketed and they believe Neighborhood Office (NO) is consistent with zoning along Maize Road. He said they have been located at the site since the mid 1960's and added that everything around them has built up. He gave a brief background of the PUD request in 2005, and the approval of the request without the requested cell tower and other conditions which made the request untenable, so the application was scrapped. He said they have access easements dating back to 1987 in perpetuity and that the current plat shows the easements. He added that the applicant maintains the road along the easement. He commented on the historic relationship between the two properties. He said they are looking at the long-term prospective and developing the site to be compatible and consistent with zoning along Maize Road. He said this request was a step closer to making the lot compatible with the entire neighborhood and region as the west side continues to develop. He mentioned that there were other medical office buildings on Maize Road and that direct access to main arterials is not needed.

**HENTZEN** asked if the client would be willing to have a condition added that he be gone from the area within two years.

**YEAROUT** responded that the client would like to be gone as quickly as possible; however, that might depend more on the economy than anything else.

**MITCHELL** asked about problems with using this property with Single-family Residential zoning immediately east.

**YEAROUT** stated that the applicant currently has to cross his neighbor's property to get access to their lot. He commented that issues arise between neighbors over time and they did not feel it was appropriate to try to get the neighbors to the east to participate in the zone change at this time.

**TERRY ROBERTS, 1905 NORTH MAIZE ROAD** said he was the neighbor immediately east of Kirk Excavation. He said he did not know if he was for or against this request because he needed more information in order to make a decision. He agreed that there was an easement on his property and that the applicant maintained the road; however, he said he has had to cut down trees at great expense to himself. He said he is concerned that this proposal may take more of his land. He said as his parents' age, they would like to add onto their home and have them move in. He said he would love to see offices. He said the lack of privacy between his lot and the excavating company and trucks coming up and down the road have not been issues. He said once you get past the offices, the road is dirt. He asked if that will be paved. He admitted that they were aware of the construction company when they purchased the property; however, he said they did not foresee changing zoning to NO. He said they are happy and plan on adding on to their home. He said he does not know how this change is going to affect them when they file for permits to build and expand. He concluded by saying that his biggest concern is that he doesn't have enough information to make a good call on this proposal.

**MITCHELL** asked about the width of the access drive from Maize Road.

**YEAROUT** said the easement is 30 feet.

**MITCHELL** asked if 30 feet was going to be wide enough for a road back to the application area.

**MILLER** said a standard two-lane right-of-way is 24 feet wide or two 12 foot lanes. However, he said if there is high traffic volume, the City Traffic Engineer may seek more than 30 feet.

**MITCHELL** explained to **MR. ROBERTS** that the application use would dictate the size of the easement and right-of-way.

**ROBERTS** clarified that if the road stayed the way it was and was paved, that would not be a problem, but if they want more of his property, he would definitely have a problem with that.

**MITCHELL** asked **MR. ROBERTS** if he wanted to include his area with the plat.

**ROBERTS** said he was not following the question. He said they are a single-family dwelling and asked why they should change to NO.

**MITCHELL** said including the area in the plat would not change zoning, and suggested that **MR. ROBERTS** think about working with the applicant.

**FOSTER** asked about existing fences and screening to the south.

**ROBERTS** said fencing on the south side was 4-foot fencing up to 8-foot fencing.

**YEAROUT** said they are willing to work with the neighborhood. He said they would like to position the property to be developed as neighborhood office. He said Kirk Excavation is not interested in developing the adjacent property; that is up to those land owners. He said if the entire area is rezoned to NO, the house could continue as single-family residential. He said they are willing to work with the neighbor on the plat.

**JOHNSON** asked until the residential lot to the east is platted and a permit issued, how would rezoning it to NO affect the property owner's ability to add onto the house.

**MILLER** said he believed the residence could be registered as a non-conforming use which can expand up to 30%.

**MOTION:** To approve subject to staff recommendation.

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

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6. **Case No.: CUP2009-05** - Northwest Centre, LLC (applicant) Request City DP-106 Amendment #2 to Parcel 4 to allow a nursery and garden center on property zoned LC Limited Commercial on a seasonal basis:

That part of Lot 4 beginning 5.01 Feet West of the Southwest corner of Lot 2; thence North 65 Feet; thence Northwesterly 76.12 Feet; thence North 352.17 Feet; thence West 146.65 Feet; thence North 147.06 Feet to the North line of Lot 4; thence East 563.56 Feet to the Northeast corner; thence South 439.13 Feet; thence West 398.5 Feet to the Northwest Corner of Lot 2; thence South 200 Feet; thence West 5.01 Feet to beginning, Block 1.

AND

Beginning 405.01 Feet West of the Southeast corner of Northwest Village Addition; thence Northerly 493.29 Feet; thence West 146.65 Feet; thence Northerly 147.06 Feet to a point on the North line 563.56 Feet West of the Northeast corner of Lot 4; thence West 170 feet; thence South 82 Feet; thence West 50 Feet; thence South 282 Feet; thence East 87 Feet; thence South 275.12 Feet; thence East 393.34 Feet; thence 277.12 Feet; thence East 213 Feet; thence South 277.13 Feet; thence East 44 Feet to beginning, Block 1.

AND

That part of Lot 4 beginning 49.01 Feet West of the Southwest corner of Lot 2; thence North 277.13 Feet; thence West 213 Feet; thence South 277.13; thence East 213 Feet to the beginning, Block 1, generally located northeast of the intersection of Tyler Road and 13th Street North.

**BACKGROUND:** The applicant proposes Amendment #2 to DP-106 Northwest Village Community Unit Plan to allow a nursery and garden center on the east half of Parcel 4, as shown on the attached site plan. The nursery and garden center would be operated for six months per year and require a dedicated area of approximately one acre from Parcel 4, when including the parking spaces necessary for the use. The property is zoned LC Limited Commercial ("LC").

The proposed use is for a nursery and garden center with a large aluminum frame structure with shade material on top, for display of merchandise. A second structure would be a structure for the sales area. More plants and items for sale would be displayed in the open area in front of the aluminum structure. The total footprint of the area is 16,800 square feet. This does not include the required parking stalls to compliment the nursery and garden center use. Calculated at the standard rate of four spaces per 1,000 square feet of gross leasable area (and open display areas for nursery and garden centers are calculated at this rate or, at the discretion of MAPC, at a higher rate), the required parking for the nursery and garden center would be about 67 spaces. Altogether, the total land area for the use would be approximately one acre. The applicant has requested the maximum time length for a temporary structure per the building code of six months, April 15 through October 15. Restroom facilities are required for employees. The lessee could obtain an agreement from one inline store in close proximity to the site to provide these facilities.

Other components are delivery and unloading spaces, screening of outdoor work and storage areas, etc. The applicant has indicated they would keep the “canon” carts for unloading plant materials to a minimum and store empties in the rear of the inline buildings. Any outdoor storage areas (by the main use or behind the inline buildings) would have to be screening per the Unified Zoning Code for outdoor work and storage areas. Proposed screening in the main use is by lattice and screening fabric similar to the shade fabric on the top of the aluminum structure.

Keeping the structures off of easements dictates the area available for the use since Parcel 4 is bisected by a large pipeline easement. The site plan shows display of merchandise on the pipeline easement, but permission for this display would be at the discretion of the pipeline easement grantors. If not granted, it could result in reduced area of display.

Requested signage was for three signs, consisting in size of 3’ by 4’ vinyl on the front facade, 4’ by 6’ on a side and 4.5’ by 20’ vinyl on the W Truss (canopy) of the aluminum structure. This amount of signage may exceed the 20 percent limitation for building signage in LC and may need reduced to comply with the Wichita Sign Code.

Existing uses within the CUP include two freestanding banks on separate parcels, Wesley Medical Center’s emergency facilities and doctor’s offices on the west half of Parcel 4, and three inline buildings with a variety of uses on the northeast and east edge of Parcel 4. The inline buildings include two restaurants (The Bean Scene and Egg Crate) near the proposed nursery and garden center and a third restaurant east of the freestanding bank. A discount store and a few small retail uses are located within the inline buildings, but medical and general office or vacancies comprise the bulk of the inline tenants. All of these uses are located on property zoned LC. The CUP also includes a residential area to the north zoned MF-29 Multi-Family Residential (“MF-29”) and developed with single-family and duplex residences. The property to the east of the CUP is the Wesley Rehabilitation Hospital on property zoned GO General Office (“GO”). Northwest High School is located south of the shopping center on a 160-acre tract zoned SF-5 Single-Family Residential (“SF-5”). The northwest corner of Tyler and 13<sup>th</sup> is developed with a Dillons that has a seasonal nursery and garden center, located on property zoned LC.

**CASE HISTORY:** The property is platted as Northwest Village Addition, recorded October 29, 1980. DP-106 Northwest Village Community Unit Plan was approved originally on July 15, 1980. Amendment #1 was approved November 11, 2004 adding the use of safety service for the emergency facilities.

**ADJACENT ZONING AND LAND USE:**

NORTH:	LC, MF-29	Restaurants, offices, scattered retail, vacant
SOUTH:	SF-5	School
EAST:	LC, GO	Bank, restaurant, offices, Wesley Rehabilitation Hospital
WEST:	LC	Wesley Emergency Room and medical offices, bank

**PUBLIC SERVICES:** 13<sup>th</sup> Street North is six-lane major arterial abutting the application area, center turn lanes along the shopping center. Average daily traffic (ADTs) was calculated as 17,000 vehicles per day in 2007. All normal public services are available to the site.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “local commercial.” The proposed development would be in conformance to the local commercial designation, or might be considered more of a regional commercial destination type of use. It has aspects both in conformance and in conflict with **Commercial Goal/Objective B** of “Develop future retail/commercial areas which complement existing commercial activity, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses.” The seasonal nursery would fill in a large parking field that is often sparsely used with a destination type of specialty retail during half the year and would encourage more retail shoppers to frequent the center. However, the placement of the temporary structure in front of the inline shopping center buildings and the

relatively large size of the seasonal garden center use will partially block visibility to the retail stores and restaurant uses located behind it. The proposed use conforms to **Strategy III.B.1** of locating local commercial development (neighborhood centers) in areas shown on the Land Use Guide at the intersection of two arterial streets and **Commercial Locational Guideline #1** of the *Comprehensive Plan* recommends that commercial sites should be located adjacent to arterial streets. The proposed use does not add any additional points of access to Tyler or 13<sup>th</sup> Street, in support of **Strategy III.B.3**, to limit the number of access points along arterial streets.

**RECOMMENDATION:** Based on these factors, plus the information available prior to the public hearing, staff recommends the request for Amendment #2 to DP-106 be APPROVED subject to the following conditions:

1. Seasonal nursery and garden center shall be permitted as a Conditional Use in Parcel 4. The CUP document shall be revised to add the requirements for the nursery and garden center.
2. The applicant shall submit a revised site plan for the seasonal nursery and garden center that complies with these conditions of approval. The site plan and attachments shall be reviewed and approved by the Planning Department prior to issuance of any temporary building permit for this use.
3. The seasonal nursery and garden center shall be located in temporary structures accompanied by outdoor display space as shown on the approved site plan and attachments compliant with these conditions.
4. The use shall operate no more than a total of six months or from April 15 to October 15, with a week allowed before and after this period of operation for erecting and removing the temporary structure.
5. Hours of daily operation shall be limited to the hours of operation of the shopping center except in the evening when the hours may be extended to sundown.
6. The design of the temporary structures shall be substantially as shown on the attached Exhibit 2, with color of shade fabric in grey or black and color of awning roof material similar to the accent colors on the permanent buildings on the site.
7. All outdoor work and storage areas, such as areas storing empty carts or containers, shall be screened from ground level view by screening materials consisting of wooden trellis panels backed with mesh fabric or by other screening materials similar in appearance and color to the permanent building facades in the CUP.
8. Restroom facilities for employees must be provided and may be provided by agreement with a permanent use in the center upon approval of the Superintendent of Central Inspection. No portable-potties are allowed.
9. The number of parking spaces shall be sufficient to comply with the combined requirement of the seasonal nursery and garden center and the other uses in the shopping center.
10. No temporary buildings shall be located within any setbacks or easements.
11. The use shall be operated in conformance with all requirements of Article III-6.D of the Unified Zoning Code for a conditional use for a nursery and garden center on property zoned LC and with all requirements of Article III-B.14 pertaining to outdoor display and outdoor storage in LC unless specifically modified by the site plan as approved by the CUP amendment and all applicable site development regulations of Article IV, including but not limited to screening of trash containers, loading and unloading facilities, noise, lighting etc.
12. Signage shall be per the Wichita Sign Code.
13. Landscaping for Parcel 4 shall be in compliance with the Landscape Ordinance.
14. Prior to utilization of the nursery and garden center use, the operator (owner or lessee who seeks the temporary building permit) shall annually submit a report to the Zoning Enforcement Division of Office of Central Inspection that demonstrates compliance with the approved site plan (See Exhibits) and conditions specified herein.
15. In the event the nursery and garden center is not operated for two successive seasons, the conditional use may be terminated as a permitted activity, and the applicant would need to seek an administrative adjustment for reestablishing the use prior to issuing the temporary building permit.

16. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
17. 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.
18. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Existing uses within the CUP include two freestanding banks on separate parcels, Wesley Medical Center's emergency facilities and doctor's offices on the west half of Parcel 4, and three inline buildings with a variety of uses on the northeast and east edge of Parcel 4. The inline buildings include two restaurants (The Bean Scene and Egg Crate) near the proposed nursery and garden center and a third restaurant east of the freestanding bank. A discount store and a few small retail uses are located within the inline buildings, but medical and general office or vacancies comprise the bulk of the inline tenants. All of these uses are located on property zoned LC. The CUP also includes a residential area to the north zoned MF-29 Multi-Family Residential ("MF-29") and developed with single-family and duplex residences. The property to the east of the CUP is the Wesley Rehabilitation Hospital on property zoned GO General Office ("GO"). Northwest High School is located south of the shopping center on a 160-acre tract zoned SF-5 Single-Family Residential ("SF-5"). The northwest corner of Tyler and 13<sup>th</sup> is developed with a Dillons that has a seasonal nursery and garden center, located on property zoned LC.
2. The suitability of the subject property for the uses to which it has been restricted: The area is more suitable as currently zoned and allowed by the community unit plan for a permanent use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The nursery and garden center could block the visibility of potential shopping center patrons, particularly for uses to the northwest of its location on the parking lot. However, this detrimental effect could be offset by increased customer traffic to the site, to the extent that some of these customers also may patronize the other uses at the shopping center.
4. Length of time the subject property has remained vacant as zoned: The shopping center has a relatively high proportion of office tenants generating very modest retail traffic, mixed with a few retail uses and several restaurants. A number of the tenancies are vacant. This translates into a relatively high level of vacant parking spaces on Parcel 4.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "local commercial." The proposed development would be in conformance to the local commercial designation, or might be considered more of a regional commercial destination type of use. It has aspects both in conformance and in conflict with **Commercial Goal/Objective B** of "Develop future retail/commercial areas which complement existing commercial activity, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses." The seasonal nursery would fill in a large parking field that is often sparsely used with a destination type of specialty retail during half the year and would encourage more retail shoppers to frequent the center. However, the placement of the temporary structure in front of the inline shopping center buildings and the relatively large size of the seasonal garden center use will partially block visibility to the retail stores and restaurant uses located behind it. The proposed

use conforms to **Strategy III.B.1** of locating local commercial development (neighborhood centers) in areas shown on the Land Use Guide at the intersection of two arterial streets and **Commercial Locational Guideline #1** of the *Comprehensive Plan* recommends that commercial sites should be located adjacent to arterial streets. It does not add any additional points of access to Tyler or 13<sup>th</sup> Street, in support of **Strategy III.B.3**, to limit the number of access points along arterial streets.

6. Impact of the proposed development on community facilities: The requested amendment will increase traffic on 13<sup>th</sup> Street North and Tyler Road, but both streets are wide, with ample capacity to accommodate the additional traffic.

**DONNA GOLTRY**, Planning Staff presented the Staff Report.

**FARNEY** mentioned the gas line indicated on the site map, and asked why a structure would be allowed on top of that.

**GOLTRY** explained that a structure is not allowed in the easement or setback, but that outdoor display is allowed because it is not a permanent or semi-permanent structure, and it can be moved. She said she will let the applicant's agent address permission from the holder of the pipeline easement, since any use over the easement/setback is subject to obtaining permission from the pipeline easement holder. She added that the original site plan was modified to get the structure off the easement.

**FARNEY** asked about the regulations on handicapped parking.

**GOLTRY** said there is a formula used for general retail in the Unified Zoning Code (UZC), which is a ratio of approximately 4 per 1,000 square foot of retail, and that handicapped parking is provided as a ratio of the overall number of parking spaces as regulated in the UZC.

There was brief discussion concerning the different language and conditions recommended by staff on this application and CUP2009-06. It was the general consensus that the conditions and language were similar on both applications.

## **TAPE 1, SIDE 2**

**FOSTER** asked about screening along 13<sup>th</sup> Street and asked what else might come into play such as trees.

**GOLTRY** referred to a revised landscape plan submitted by the applicant. She said they have reviewed the CUP conditions, the CUP landscape plan and the Landscape Ordinance. She said they did a quick calculation and estimated that the number of trees on the site is commensurate with the landscaping code requirements. Regarding screening with a continuous row of shrubbery, it was felt it might be "out of character" for the area since the rest of the shopping center, east and west, have groupings of shrubbery rather than a continuous row. She said they are looking at ways to enforce the "spirit of intent" of the Code, and add some landscaping additions and embellishments that don't seem so out of character with what is already present.

**FOSTER** said he thought that would be right on target given the aesthetics of the property to the south.

**BRADY MILLER, OXIDENTAL MANAGEMENT, 8111 E. 32<sup>nd</sup> ST N., STE 101, WICHITA, KS 67226** referred to the site plan and commented that the orange area (which shows as two separate areas on the site plan) was one area, but he could not remove the line because of the computer program he was working with to develop the site plan. He also mentioned the sales cabana (blue area), the truss structure, and indicated the pink area will be the display area. He said the pipeline easements belong to Conoco and Qwest, and they are working with them to

obtain the required permissions. He said they are in agreement with all staff comments. He further clarified the easement boundaries and setbacks for **MITCHELL**.

**HENTZEN** asked what facilities the applicant will need such as water, electric, and what else?

**BRADY MILLER** commented that they will operate only within daylight hours, but they will need electricity for the cash registers, fans and irrigation system. He said restroom facilities will be provided by one of the tenant spaces.

**MOTION:** To approve subject to staff recommendation.

**FARNEY** moved, **MITCHELL** seconded the motion, and it carried (13-0).

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7. **Case No.: CUP2009-06** – Cambridge Market, LLC and Two Girls Investments, LLC Attn: Fred Hanley, Managing Member (owner) Request City DP-213 Amendment #1 to Parcels 1 and 2 to allow a nursery and a garden center on property zoned LC Limited Commercial on a seasonal basis.

Lots 1 and 2, Block 1, Hanley Commercial Addition, an Addition to Wichita, Sedgwick County, Kansas, generally located southeast of the intersection of 21st Street North and Webb Road.

**BACKGROUND:** The applicant proposes Amendment #1 to DP-213 Hanley Commercial Community Unit Plan to allow a nursery and garden center on the northern portion of Parcel 2, as shown on the attached site plan. The nursery and garden center would be operated for six months per year and require a dedicated area of approximately 2/3 acre from Parcel 2, when including the parking spaces necessary for the use. The applicant also requested the ability to locate the property on Parcel 1 but did not provide a specific site plan associated with this location. The property is zoned LC Limited Commercial (“LC”).

The proposed use is for a nursery and garden center with two aluminum frame structures up to 5,000 square feet in size combined with shade material on top, for display of merchandise. More plants and items for sale would be displayed in the open area in front of the aluminum structure. The total footprint of the area is approximately 9,600 square feet. This does not include the required parking stalls to compliment the nursery and garden center use. Calculated at the standard rate of four spaces per 1,000 square feet of gross leasable area (and open display areas for nursery and garden centers are calculated at this rate or, at the discretion of MAPC, at a higher rate), the required parking for the nursery and garden center would be about 39 spaces. Altogether, the total land area for the use would be approximately 2/3 acre. The application is for the maximum time length for a temporary structure per the building code of six months, April 15 through October 15. Restroom facilities are required for employees. The lessee could obtain a lease from an inline space or an agreement from one inline store in close proximity to the site to provide these facilities.

Other components are delivery and unloading spaces, screening of outdoor work and storage areas, etc. Carts for unloading plant materials should be kept to a minimum and empties stored in the rear of the inline buildings. Any outdoor storage areas (by the main use or behind the inline buildings) would have to be screening per the Unified Zoning Code for outdoor work and storage areas.

Keeping the structures off of setbacks would require a shifting of the site plan, since the structure is shown as 20 feet from the right-of-way line, which violates the 35-foot setback of the CUP.

Existing uses within the CUP include two restaurants, several retail businesses and personal service businesses in the main inline buildings. A freestanding restaurant is located directly west of the proposed nursery and garden center site on Parcel 2. A vacant parcel in the CUP abuts the site on the east. The

entire CUP is zoned LC. The property to the east of the CUP is a large apartment project zoned B Multi-Family Residential (“B”). The property to the south is a large senior living project, zoned GO General Office (“GO”), and a bank on property zoned LC. The property to the north is a bank, a restaurant and vacant land, all zoned LC.

**CASE HISTORY:** The property is platted as Hanley Commercial Addition, recorded August 29, 1995. DP-213 Hanley Commercial Community Unit Plan was approved October 18, 1994.

**ADJACENT ZONING AND LAND USE:**

NORTH:	LC	Bank, restaurant, vacant
SOUTH:	LC, GO	Shopping center, restaurant, senior living project, bank
EAST:	LC, B	Vacant, apartments
WEST:	LC	Shopping center tenants

**PUBLIC SERVICES:** 21st Street North is six-lane major arterial abutting the application area, with center turn lanes along the shopping center. Average daily traffic (ADTs) was calculated as 15,500 vehicles per day in 2007. All normal public services are available to the site.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “local commercial.” The proposed development would be in conformance to the local commercial designation, or might be considered more of a regional commercial destination type of use. It has aspects both in conformance and in conflict with **Commercial Goal/Objective B** of “Develop future retail/commercial areas which complement existing commercial activity, provides convenient access to the public and minimize detrimental impacts to other adjacent land uses.” The seasonal nursery would fill in a large parking field that is often sparsely used with a destination type of specialty retail during half the year and would encourage more retail shoppers to frequent the center. However, the placement of the temporary structure in front of the inline shopping center buildings and will partially block visibility to the shopping center uses located behind it. The proposed use conforms to **Strategy III.B.1** of locating local commercial development (neighborhood centers) in areas shown on the Land Use Guide at the intersection of two arterial streets and **Commercial Locational Guideline #1** of the *Comprehensive Plan* recommends that commercial sites should be located adjacent to arterial streets. The proposed use does not add any additional points of access to 21<sup>st</sup> Street North or Webb Road, in support of **Strategy III.B.3**, to limit the number of access points along arterial streets.

**RECOMMENDATION:** Based on these factors, plus the information available prior to the public hearing, staff recommends the request for Amendment #1 to DP-213 be APPROVED subject to the following conditions:

1. Seasonal nursery and garden center shall be permitted as a Conditional Use in Parcel 2. The CUP document shall be revised to add the requirements for the nursery and garden center.
2. The applicant shall submit a revised site plan for the seasonal nursery and garden center that complies with these conditions of approval. The site plan and attachments shall be reviewed and approved by the Planning Department prior to issuance of any temporary building permit for this use.
3. The seasonal nursery and garden center shall be located in temporary structures accompanied by outdoor display space as shown on the approved site plan and attachments compliant with these conditions.
4. The use shall operate no more than a total of six months or from April 15 to October 15, with a week allowed before and after this period of operation for erecting and removing the temporary structure.
5. Hours of daily operation shall be limited to the hours of operation of the shopping center except in the evening when the hours may be extended to sundown.

6. The design of the temporary structures shall be substantially as shown on the attached Exhibit 2, with color of shade fabric in grey or black and color of awning roof material similar to the accent colors on the permanent buildings on the site.
7. All outdoor work and storage areas, such as areas storing empty carts or containers, shall be screened from ground level view by screening materials consisting of wooden trellis panels backed with mesh fabric or by other screening materials similar in appearance and color to the permanent building facades in the CUP.
8. Restroom facilities for employees must be provided and may be provided by agreement with a permanent use in the center upon approval of the Superintendent of Central Inspection. No portable-potties are allowed.
9. The number of parking spaces shall be sufficient to comply with the combined requirement of the seasonal nursery and garden center and the other uses in the shopping center.
10. No temporary buildings shall be located within any setbacks or easements.
11. The use shall be operated in conformance with all requirements of Article III-6.D of the Unified Zoning Code for a conditional use for a nursery and garden center on property zoned LC and with all requirements of Article III-B.14 pertaining to outdoor display and outdoor storage in LC unless specifically modified by the site plan as approved by the CUP amendment and all applicable site development regulations of Article IV, including but not limited to screening of trash containers, loading and unloading facilities, noise, lighting etc.
12. Signage shall be per the Wichita Sign Code.
13. Landscaping for Parcel 2 shall be in compliance with the Landscape Ordinance.
14. Prior to utilization of the nursery and garden center use, the operator (owner or lessee who seeks the temporary building permit) shall annually submit a report to the Zoning Enforcement Division of Office of Central Inspection that demonstrates compliance with the approved site plan (See Exhibits) and conditions specified herein.
15. In the event the nursery and garden center is not operated for two successive seasons, the conditional use may be terminated as a permitted activity, and the applicant would need to seek an administrative adjustment for reestablishing the use prior to issuing the temporary building permit.
16. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
17. 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.
18. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Existing uses within the CUP include two restaurants, several retail businesses and personal service businesses in the main inline buildings. A freestanding restaurant is located directly west of the proposed nursery and garden center site on Parcel 2. A vacant parcel in the CUP abuts the site on the east. The entire CUP is zoned LC. The property to the east of the CUP is a large apartment project zoned B Multi-Family Residential ("B"). The property to the south is a large senior living project, zoned GO General Office ("GO"), and a bank on property zoned LC. The property to the north is a bank, a restaurant and vacant land, all zoned LC.
7. The suitability of the subject property for the uses to which it has been restricted: The area is more suitable as currently zoned and allowed by the community unit plan for a permanent use.
8. Extent to which removal of the restrictions will detrimentally affect nearby property: The nursery and garden center could block the visibility of potential shopping center patrons, particularly for

uses to the northwest of its location on the parking lot. However, this detrimental effect could be offset by increased customer traffic to the site, to the extent that some of these customers also may patronize the other uses at the shopping center.

9. Length of time the subject property has remained vacant as zoned: The shopping center has been developed within the past five years, and continues to add new tenants.
10. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “local commercial.” The proposed development would be in conformance to the local commercial designation, or might be considered more of a regional commercial destination type of use. It has aspects both in conformance and in conflict with **Commercial Goal/Objective B** of “Develop future retail/commercial areas which complement existing commercial activity, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses.” The seasonal nursery would fill in a large parking field that is often sparsely used with a destination type of specialty retail during half the year and would encourage more retail shoppers to frequent the center. However, the placement of the temporary structure in front of the inline shopping center buildings and will partially block visibility to the shopping center uses located behind it. The proposed use conforms to **Strategy III.B.1** of locating local commercial development (neighborhood centers) in areas shown on the Land Use Guide at the intersection of two arterial streets and **Commercial Locational Guideline #1** of the *Comprehensive Plan* recommends that commercial sites should be located adjacent to arterial streets. It does not add any additional points of access to 21<sup>st</sup> Street North or Webb Road, in support of **Strategy III.B.3**, to limit the number of access points along arterial streets.
11. Impact of the proposed development on community facilities: The requested amendment will increase traffic on 13<sup>th</sup> Street North and Tyler Road, but both streets are wide, with ample capacity to accommodate the additional traffic.

**DONNA GOLTRY**, Planning Staff presented the Staff Report.

**HILLMAN** said he was concerned about the limited parking and asked if this will meet the overall guidelines for occupants in the shopping center.

**GOLTRY** commented that the applicant provided documentation on parking and scaled back the proposal to fit within the parameters. It would be their responsibility to verify to OCI that they comply with the parking requirements.

**MIKE DECKER, 121 NORTH MEAD, WICHITA, KS 67202, AGENT FOR THE APPLICANT** said they are in agreement with staff’s comments and that he would entertain any questions.

**MOTION:** To approve subject to staff recommendation.

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

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8. **Case No.: CON2009-06** – Justin Stucky requests a County Conditional Use for agricultural sales and service on property zoned RR Rural Residential on property described as:

The North half of the Southwest Quarter lying South and West of the Little Arkansas River in Section 10, Township 25, Range 1 West of the 6th P.M., Sedgwick County, Kansas, generally located north of 109th Street North, on the east side of Ridge Road.

**BACKGROUND:** The applicant is proposing a Conditional Use for “Agricultural Sales and Service” on the 12.675-acre, RR Rural Residential (“RR”) zoned tract. The Unified Zoning Code (UZC), Art. II, Sec II-B, 1(k), defines Agricultural Sales and Service as “...an establishment primarily engaged in the sale or rental of farm tools and implements, feed and grain, tack, animal care products, propane, butane, anhydrous ammonia, farm supplies, and the like, and including accessory food sales and machinery repair services.” The applicant proposes to repair and sell repaired farm equipment. The applicant does not propose to repair and/or sell trucks or automobiles. The applicant does not live on-site, and does not have immediate plans to do so. The County Zoning Administrator concurred with Planning that this proposal is considered Agricultural Sales and Service, thus the Conditional Use request. The site is located within the City of Sedgwick’s “zoning area of influence,” and as such, will be considered by their Planning Commission at their March 17, 2009, meeting; UZC, Art. V, Sec. V-b, 4(d). The City of Sedgwick is located in both Sedgwick and Harvey counties.

The applicant has provided a survey and a site plan/exploded view of the property. The site plan shows an existing 60-foot (x) 64-foot metal building, with attached security lights. The plan designates a 40-foot (x) 64-foot portion for repair work and a 20-foot (x) 64-foot portion for storage. There is a 12-foot (x) 12-foot property maintenance building, and proposed gravel drive, parking and display areas. The site plan also shows an existing 3-rail vinyl fence and underground water and electrical services. The site plan does not show any additional buildings, outside storage area, pole lights, or trash receptacles. The RR zoning district does not permit outdoor storage or a vehicle storage yard.

The area around the site is zoned RR, and is mostly active agricultural fields broken up by the Little Arkansas River, which flows through and along the north and east sides of the site. At this site, a dense run of trees follows the river and provides screening along the site’s north, east, and a portion of the south sides. The nearest residences are two single-family residences (built 1910 and a manufactured home) located across Ridge Road, west of the site. There are another seven single-family residences (1914-2001) within a ½-mile of the site located along Ridge Road or 109<sup>th</sup> Street North.

**CASE HISTORY:** The property is an unplatted, 12.675-acre, RR Rural Residential (“RR”) zoned tract, with an existing 60-foot (x) 64-foot metal building. The site is located within the Little Arkansas floodway and flood zone. The site is located within the Equus Beds Groundwater Management District #2.

**ADJACENT ZONING AND LAND USE:**

NORTH:	RR	Little Arkansas River, farm land, single-family residence
SOUTH:	RR	Little Arkansas River, farmland
EAST:	RR	Little Arkansas River, farmland
WEST:	RR	Ridge Road, two single-family residences, farm land

**PUBLIC SERVICES:** There is no public water or sewer available. The site is outside of all Rural Water Districts. The site has direct access onto Ridge Road, a paved two-lane, Sedgwick County highway/arterial. Ridge Road has 100 feet of right-of-way (ROW) at this site. Current standards are 120 feet of ROW; the County Engineer request 10-feet of (ROW). Ridge Road is the main north – south arterial into the City of Sedgwick. The City of Sedgwick’s 2008-2030 Comprehensive Plan shows approximately 1,972 trips for this portion of Ridge Road. The site is located in an area that is the FEMA (Little Arkansas) flood zone and floodway, which means any additional development within it, must be addressed with an approved drainage plan and must meet all standards for construction of buildings/structures on the site, per the County Engineer and Code Enforcement.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide” of the *Wichita-Sedgwick County Comprehensive Plan* identifies this area as “rural” and just outside of the City of Sedgwick’s growth area. The rural classification is outside of any city’s growth area and is intended to accommodate agricultural uses, rural based uses that are no more offensive than those agricultural uses

commonly found in Sedgwick County and predominately large lot residential development. The proposed repair and sale of repaired farm equipment on this site could be considered as a complimentary land use for this predominately agricultural area with certain considerations, including: screening, storage and disposing of chemicals generated by repairing of the farm equipment, lighting and compliance with the County standards for development within the floodway and flood zone. The RR zoning district does not permit outdoor storage or a vehicle storage yard.

The UZC provides for Agricultural Sales and Service as a Conditional Use limited to "...an establishment primarily engaged in the sale or rental of farm tools and implements, feed and grain, tack, animal care products, propane, butane, anhydrous ammonia, farm supplies, and the like, and including accessory food sales and machinery repair services." The applicant proposes to repair and sale repaired farm equipment. The applicant does not propose to repair and/or sale light trucks, dump trucks or automobiles. The County Zoning Administrator concurred with Planning that this proposal is considered Agricultural Sales and Service, thus the Conditional Use request. The UZC does not have specific standards for Agricultural Sales and Service as a Conditional Use, but refers (UZC, Art. V, Sec V-D.8) to the nine review criteria as listed in Art V-C.8. Additionally, the MAPC may attach additional specific conditions to a proposed Conditional Use in order to ensure that it fully complies with the criteria of this Code; UZC Art. V-D.6

The site is located within the City of Sedgwick's 2008-2030 Comprehensive Plan, which shows the site to be and continued to be used for agriculture. This Plan's current and projected land use for the site agrees with the "2030 Wichita Functional Land Use Guide" of the *Wichita-Sedgwick County Comprehensive Plan*. The Sedgwick Plan places the site within the Equus Beds Groundwater Management District #2 and is sensitive to activities that would contaminate this water resource, which is a water source for the Sedgwick County metro areas as well as being used for irrigation of the county's agricultural fields.

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

- (1) The site will be used for the mechanical repair of farm equipment. Sale of repaired farm equipment is permitted. No repair and/or sale of light trucks, dump trucks, automobiles, motorcycles or scooters. **No retail sales.** All service or repair work conducted on the site shall entirely within a building. No body or fender work shall be permitted.
- (2) No temporary display signs are permitted, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons. All other signage will be per the RR zoning district
- (3) All parking, circulation and outdoor display areas will be on a surface approved by County Code Enforcement and County Fire. No use of elevated platforms for the display of farm equipment.
- (4) The storage of all chemicals and fluids associated with the mechanical repair of farm equipment will be on a concrete surface in containers approved by County Code Enforcement and reviewed by Equus Beds Groundwater Management District #2.
- (5) No outdoor storage of parts, equipment waiting to be repaired or chemicals.
- (6) A parking barrier, such as a heavy rail type, shall be installed along all perimeter display areas adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked farm equipment does not encroach onto public right-of-way
- (7) All development on the site shall comply with the County and FEMA standards for development within the floodway and flood zone. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations

- (8) All outside trash receptacles shall have solid screening around them.
- (9) Maintain enough of the existing trees along of the north, east and south sides of the site to provide screening for the adjacent and abutting lands.
- (10) No outdoor amplification system shall be permitted.
- (11) Dedicate by separate instrument 10-foot of right-of-way,
- (12) The lighting standards of Section IV-B.4 of the Unified Zoning Code shall be complied with. No string-type lighting shall be permitted. Outside pole lighting shall be directed onto the site and away from all adjacent residential development.
- (13) The site will be developed as shown on an approved site plan. No selling or repair of farm equipment shall be allowed until all permits have been acquired and all improvements to the site have been made.
- (14) If operations have not begun within one year of approval, or if the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the surrounding area: The area around the site is zoned RR and is mostly active agricultural fields broken up by the Little Arkansas River, which flows through and along the north and east sides of the site. At this site, a dense run of trees follows the river and provides screening along the site's north, east, and a portion of the south sides. The Little Arkansas' floodway and flood zone restricts development of the area. The area is located in the northeast portion of the Equus Beds, which is a water source for the Sedgwick County metro areas as well as being used for irrigation of the county's agricultural fields. The nearest residences are two single-family residences (built 1910 and a manufactured home) located across Ridge Road, west of the site. There are another seven single-family residences (1914-2001) within a ½-mile of the site located along Ridge Road or 109<sup>th</sup> Street North.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned RR, which primarily permits agriculture uses and large lot residential uses. The site could be used for a single-family residence or agriculture without the Conditional Use. The proposed repair and sale of repaired farm equipment on this site could have a low negative impact or this predominately agricultural area when matched with certain considerations, including; screening, storage and disposing of chemicals generated by repairing of the farm equipment, lighting and compliance with the County standards for development within the floodway and flood zone. The RR zoning district does not permit outdoor storage or a vehicle storage yard.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The site will introduce a new use into the area, the repair of farm equipment and the sale of repaired equipment. The proposed uses immediate proximity to the agricultural community around it could be complimentary. Development of the all of the (+) 12-acre site is restricted by its location next to the Little Arkansas River and its floodway and flood zone, which makes a smaller site and lessens the negative aspects of the proposed use, because of its restricted size. The conditions attached to the Conditional Use should minimize negative impact of the development.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested Conditional Use is in general conformance with the *Wichita-Sedgwick*

*County Comprehensive Plan.* Per the UZC, Agricultural Sales and Service may be considered as a Conditional Use in the RR zoning district, on a site by site consideration. The site is located within the City of Sedgwick's 2008-2030 Comprehensive Plan, which shows the site to be and continued to be used for agriculture. The site's size and conformation is defined by ownership, Ridge Road and the Little Arkansas River, with its dense grouping of trees, all which make the site a less than ideal agricultural field. The Sedgwick plan does not address this type of use outside of its city limits.

5. Impact of the proposed development on community facilities: Anticipated impacts should be minimal and are addressed by the recommended conditions.

**BILL LONGNECKER**, Planning Staff presented the Staff Report.

**LONGNECKER** said the City of Sedgwick Planning Commission approved the application with the conditions recommended by staff and added approval for an 8' x 4' sign on the site. He said there was also discussion concerning water and the fact that the Little Arkansas River flows through the site. He said the applicant is willing to address concerns regarding the location of the property within the floodway/flood zone through the platting process.

**MITCHELL** said that if the applicant has agreed to plat, then that would answer his question.

**JUSTIN STUCKY, 11244 NORTH RIDGE ROAD** said he agrees with **MR. LONGNECKER'S** recommendation. He said he is a life-long resident of Sedgwick and grew up fishing in the river and wants to take care of it as much as anyone. He said he agrees to plat the area because he feels it will help him and everyone in the future.

**MOTION:** To approve subject to staff recommendation with the addition of platting and an 8' x 4' sign.

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

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## 9. OTHER MATTERS/ADJOURNMENT

**DIRECTOR SCHLEGEL** referred Commission members to Victor White's correspondence included in the agenda packets inviting Commission members to an "Airport Compatible Land Use Planning and Policy Workshop" Friday, April 10, 2009, from 8:00 A.M. – 12:00 P.M. He referred to the meeting agenda and commented that this will be an opportunity to educate planners and the community about compatibility of land uses around the airport. He said there will also be discussion concerning a reasonable way of regulating land uses around the airport.

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**VAN FLEET** referred to a handout he provided at the February 19, 2009, MAPC meeting showing six transportation projects recommended and prioritized by WAMPO for stimulus funding. He said that list has been overcome by events mostly because action was taken before the legislation was carefully reviewed. He said because the time frame has been relaxed; a new round of requests for projects has come in for review and recommendation by WAMPO. He said he will provide that list with any changes sometime towards the end of April.

**HILLMAN** asked if the additional information used to reprioritize items will be brought to the MAPC for review and if there will be a need for a revote by the MAPC.

**VAN FLEET** said he would report on the next action taken by WAMPO.

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**JOHNSON** asked if staff thought it was worth the effort to have a workshop for new members. He said planning issues could be clarified along with other items requested by Commission members.

**DIRECTOR SCHLEGEL** said that could be done. He mentioned that it has been staff's experience that workshops turn out to be pretty worthwhile.

**CHAIRMAN DOWNING** asked for a show of hands and commented that workshops always produce more than you think they are going to.

**MOTION:** To direct staff to set up a workshop within 30 days. It was also agreed that Commissioners would provide items for workshop discussion.

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

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The Metropolitan Area Planning Department informally adjourned at 2:40 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)