

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

July 8, 2004

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, July 8, 2004, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Ronald Marnell, Chair; Morris K. Dunlap, Vice-Chair; James Barfield (In @ 1:40); Darrell Downing; John W. McKay Jr.; Bud Hentzen; Bob Hernandez; Elizabeth Bishop (In @ 1:36); M.S. Mitchell; Harold Warner Jr.; Gary K. Gibbs; Denise Sherman and Frank Garofalo. Bill Johnson was not present. Staff members present were: John Schlegel, Director of Planning; Dale Miller, Current Plans Supervisor; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Daniel Nguyen, Associate Planner; and Lisa Estrada, Recording Secretary.

❖ **PLANNING COMMISSION ITEMS**

1. Approval of June 10, 2004, and June 24, 2004 meeting minutes.

MARNELL Approval of June 10th, and June 24th meeting minutes; are there any additions or corrections to those minutes?

GAROFALO On page 30 of the June 24, 2004 minutes, the motion that was made to grant 10 minutes for the engineer from Oklahoma to speak solely about their findings; after review of the drainage information but limited to that. I think there was other information in the motion. I think it was four minutes for rebuttal.

MARNELL Yes, four minutes for rebuttal to that, and to hear from the County Engineer.

GAROFALO I think that needs to be included in the minutes for that motion.

MOTION: To approve June 10, 2004 and June 24, 2004 meeting minutes, as amended.

MARNELL moved, **GAROFALO** seconded the motion, and it carried (9-0).

2. Sedgwick County Water Supply and Wastewater Management Assessment, presentation by Susan Erlenwein, Director Environmental Resources.

The purpose of this report is to determine the status of quantities of water supply and wastewater disposal mechanisms for the cities and unincorporated areas within Sedgwick County. This assessment is intended to be used as a planning tool by various local governments, planners, and developers to help select appropriate water supplies and wastewater treatment/disposal technologies, thereby minimizing risks to human health, water resources, and the economy of Sedgwick County.

There are 20 incorporated cities in Sedgwick County. The City of Wichita obtains its water from Cheney Reservoir and from water wells located north of the city in the Equus Beds. Seven other cities contract with the City of Wichita to obtain all or part of their water supply. The remaining cities obtain their water through their own water wells or contract with other cities.

Fourteen incorporated cities report that they have adequate water supplies for at least 11-50 years into the future. Six of the incorporated cities know that their current water supply may not be adequate within the near future (next 5-10 years).

Wichita has developed an integrated water supply plan. Assuming that this plan is implemented in its entirety, they will have sufficient water supply until the year 2050 for all of the incorporated cities within Sedgwick County. Although the City of Wichita is developing a plan that would have adequate water supply for all of the cities in Sedgwick County, this does not imply that the other cities in the County would wish to contract for this water supply. Each city would have to consider its own water supply situation vs. the additional costs of running distribution lines from Wichita's water source as well as the additional surcharges incurred through contracts with the City of Wichita. Should second and third class cities develop their own water supplies and not contract with the City of Wichita, they should extend the predicted water supply for Wichita beyond the year 2050. If Wichita is not able to implement its integrated water supply plan, then the City of Wichita only has an adequate water supply until the year 2015.

Residents, businesses, and industries located in the unincorporated portions of Sedgwick County have several options for obtaining their water supplies. They have the ability to obtain water through private water wells. There are some areas within Sedgwick County where the underlying rock, however, is impermeable and the quantity of water is not sufficient to fulfill the intended use. Depending upon location, the customer may be able to obtain water through a rural water district. Additionally, those located near a city may be able to hook up to a city's water supply. The customer's choice of water supply may depend upon their location.

Concerning wastewater management, 12 of the 20 cities have wastewater treatment plants. The remaining 8 cities either have discharging or non-discharging lagoons. Fifteen cities have an adequate wastewater management system in place for at least 11-50 years into the future. Five of the incorporated cities know that their current wastewater management system may not be adequate within the near future (5-10 years).

Residents, businesses, and industries located in the unincorporated portions of Sedgwick County also have several options for managing their wastewater. Soils must be tested for percolation rates to determine if a sewage lagoon, septic system, or alternative sewage system is appropriate. Those located near a city may have the option to hook up to a city's sewage system.

Whether one is addressing water supply or wastewater management, there currently appears to be a lack of coordination between incorporated cities and a lack of planning to address the effect of development in sensitive groundwater areas. The intensity of development also needs to be considered in how it affects the water supply and wastewater management in an area.

Opportunities for cooperation between all levels of local government exist so that not only adequate water supply and wastewater management capacity is available for the next 50 years but also future development will not adversely impact the water quality for the citizens of Sedgwick County.

SUSAN ERLLENWEIN Sedgwick County Environmental Resources presented a report. There are many groups involved. We couldn't have done it without a grant from the Kansas Department of Health and Environment to help fund this study. We also received information from the Planning Department, and numerous County Departments, such as GIS Code Enforcement, Environmental Resources and the Conservation District. It wouldn't have been possible without representatives from the 20 incorporated cities within the County who supplied us information for this report. The purpose is to identify existing water supply sources and wastewater facilities and what their capacities are, and will they meet future growth for our communities? So it will be an indicator for future needs for cities and the County. It could be used for a planning tool for developers, and that becomes very important to those who might use this. The report includes demographics of the County and the cities. Within it the past and future of waste supplies for the cities, the past and present future wastewater management practices for those 20 incorporated cities and a variety of maps are included in this map. You received a CD of this report. It's over 200 pages long, and of that, 100 pages are figures. There are quite a few maps in the report. It shows the 20 incorporated cities outlined in various colors. I want to give two examples of Goddard, Kansas; the location map is included in report. Goddard is located west of Wichita along Highway 54. It's outlined in blue on the map. Another example is Derby, Kansas. Again a location map is provided showing its location in blue, southeast of Wichita along K-15. The State wanted us to show recreational areas. This map shows green areas for parks. The wastewater treatment plant has a capacity to treat 2½ million gallons of wastewater per day, and currently they're at 1.7 million gallons per day. So they have plenty of capacity in the wastewater treatment plant. From these two examples, I hope you see that we've done this for every city, plus provided the information they gave us on their past uses, current uses and future uses for water. As you well know, some of the cities have been doing a lot of annexation lately and surpassed their predicted growth areas and that makes this map out of date already and as time goes on we will have to update this report not only for growth areas but as systems change we'll have to change that as well I hope to do 5 year updates on this report. If you live in an unincorporated area and your close to a city you may be able to hook on to that cities water supply or you may have to drill your own water well for water supply for your property water supply can vary throughout the county the depth to the ground water the quantity and quality of water can vary and at the current time there's no one source map to show that depth of water throughout the County. USGS has done some studies in the past very limited, also if you want water if your in one of the rural water districts you can possibly hook on to rural water district by paying a fee plus a monthly fee for water use. We have 8 different rural water districts part of Sedgwick County some in northeast part of county go over to surrounding counties. You have water well choice hooking up to a city if you're nearby or hooking up to rural water district. For wastewater treatment in the unincorporated area you may have to put in a septic tank and a lateral system and you'd want to do that with a sandy soil if it's a clay type soil you would put in a lagoon system and if your near a city you may be able to hook on to their wastewater system. In the report for each city the city's told us what their area of influence is and what the requirements are for hooking up for water or wastewater. After looking at report and talking to all the cities and visiting with their representatives and looking at their facilities I have some conclusion in back of report as you are well aware Wichita utilizes 65% of their water from Cheney reservoir 35% from the Equus mainly located in Harvey County to the north. 14 cities indicated they have adequate water supplies for the next 11-50 years and Wichita is one of those, 6 cities are in need of additional water supply they indicate they have less than 10-year capacity. They're well aware of their needs and looking at alternatives should be put in more water wells or do we contract with another city or rural water district for that supply. Observations from talking to members within the city not only did we find a lack of coordination within some city governments but between city governments what each other are doing. With this report has really done put all of this information from the cities into one document and you can go to this and determine what the cities capacities are for future growth what is the wastewater and water supply capacity and do they need to improve that.

MITCHELL Appendix A beginning at page 198 and appendix B beginning at page 200 both of these are labeled as graph one for water supply report and the other for sewage systems, I wanted to call to your attention that what's in the report is not the current addition of the graph significant changes made since version in report.

ERLENWEIN That's correct. This project took over a year to develop and when we went to print this and develop it that was our latest version we received from Code Enforcement, it's still in draft form now it's not been approved yet by County Commission and that's one of those updates we need to do situations change those will also have to change as well.

MITCHELL Thank you.

BISHOP I thought the historical approach was very interesting but either I missed it or it wasn't there I didn't see any of the history of 4 mile creek, I did see a reference to it on the section on Wichita and referring to the fact that the City of Wichita purchased it but I didn't see background history I think that's a very valuable element to include in report like this that's going to be used for planning purposes.

ERLENWEIN Your correct it was the history of that particular sewer plant was not there I'll add that in future update.

DUNLAP I'm curious about your reference to the 8 rural water districts do you also include a source of supply for them in your report.

ERLENWEIN In some of the districts that were able to give information yes, some of the districts weren't able to get a hold of to answer the questions.

MARNELL Is this report available to the public somewhere?

ERLENWEIN Because it's over 200 pages and over 100 of those are color figures we can have it available in printed form but can cost money, or we have on CD so they can contact Environmental Resource Department and we can get it to them. .

MARNELL Very good report.

3. Sedgwick County Capital Improvement Program 2005-2009, presentation by Peter Giroux, Senior Management Analyst, Budget; Jim Weber, Deputy Director, Sedgwick County Public Works; and Stephanie Knebel, Manager, Facility Project Services.

The attached infrastructure project pages (drainage, roads, bridges) and spreadsheets for Facilities and Drainage as well as Roads and Bridges reflect the 2005-2009 Capital Improvement Plan as presented to the Board of County Commissioners in budget hearings on June 23. We do not anticipate any changes for the Recommended Budget. We are forwarding them for inclusion in the mail out to MAPC members.

There have been numerous changes since we first presented the plan to the Advance Plans Committee. Most are related to KDOT funding for the Northwest Bypass acquisition and anticipated funding for 2009. Significant changes include:

1. **R237, Widen 63rd St. South, Buckner to Rock**. Derby will participate and pay for upgrade to urban standard.
2. **R267, 199th St. W. from US 54 to 21st St. N.** This reconditioning project has been planned for in house design and has been slipping back in the CIP due to sales tax declines. We will request 80% KDOT funding (\$1,740,000) for construction in 2009 and match it with 20% Local Sales Tax (\$435,000). The right of way activity (\$200,000) is moved to 2006.
3. **R302: 63rd St. S. from Broadway to Hydraulic**. This is a new project that will extend the 4-lane pavement on 63rd St. from Hydraulic to Broadway. We will request 80% KDOT funding (\$2,610,000) for construction in 2009 and match it with 20% LST (\$650,000). After KDOT includes this project in their schedule, we will include funding in future CIP's for design, right of way and utility relocation activities. This project will extend 4-lane pavement all the way from Broadway to Rose Hill and enhance the usefulness of our investments on 63rd.
4. **R270, Recondition 279th St. North**. Scope of project was reduced due to good current and projected condition of the road.
5. **R280, Right of Way Acquisition, NW Bypass**. Moved from 2005 to 2006 consistent with KDOT plans.

Attachments

1. Facility/Drainage Spreadsheet
2. Roads/Bridges/Summary Spreadsheet
3. Infrastructure Project Pages (Drainage, Roads & Bridges)

PETER GIROUX primary CIP support for our program within Sedgwick County and I'm accompanied with David Spears who is the County Engineer, Director of Public Works and also the Chairman of the CIP committee. We provided you with maps, and the spreadsheets that cover both road bridge and drainage as well as the facilities, there was a minor error in the spreadsheet that's been corrected, I would note the project pages include the latest traffic counts that were completed within the last couple of months, that should be helpful. I want to make these short brief, significant changes then we'd like to request you find the recommended CIP consistent with the Comprehensive Plan. This has been shifted into 2006 consistent with State plan both the City of Wichita and Sedgwick County only will contribute a maximum of 1.5 million for this right-of-way accusation. We were notified additional funding made available by the State and that enabled us to add 2 projects to 2009. We anticipate traffic picking up substantially. The second we'll complete a 4 lane of 63rd Street from the Butler County line when it's completed all the way to Broadway will have considerable KDOT other peoples as part of project funding. Did you have any questions relative to what we've provided.

GAROFALO Has the project from 63rd Street South on Hydraulic down to Haysville has that project been put back.

GIROUX It's in program I'd have to take a look.

GAROFALO I think it says 2009 for construction.

GIROUX As I discussed in our previous meetings we essentially turned 4 years into 5 with reduction in sales tax. Jim Weber had a considerable job to make adjustments within the available funding.

DAVID SPEARS Director of Public Works Are you talking about Hydraulic, city limits on south.

GAROFALO Right.

SPEARS Yes it dropped back a little ways and that was one project that was discussed when we presented to the Commission and there is some talk about eliminating the project from the County CIP because the City has annexed on both sides of road I don't know where that's going to end up right now it is still in the CIP we made a comment a few years ago to do it it's under design by Baughman Company now we still plan to do it unless it gets removed by the Commission.

DUNLAP You referenced sales tax is it getting better or do you see it yet?

GIROUX Were projecting a very mild increase for the year, I gave Mr. Hentzen a copy of the latest monthly report that's on line and there's a very mild increase forecast for the year.

MOTION: Recommendation which is consistent with Comprehensive Plan.

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

GIROUX The CIP is scheduled for approval on August 11th we'll have on line hopefully by the 22nd. We do have an evening public hearing on July 27th and then 2 other public hearings.

❖ **TRANSPORTATION ITEMS**
Metropolitan Planning Organization (MPO)

4. Amendment to the 2004-2008 Transportation Improvement Program (TIP).

Planning Staff is requesting an update to the 2004 Transportation Improvement Program (TIP) to reflect changes to the attached project. KDOT is requesting a revision to an existing TIP project and we are amending the TIP to facilitate KDOT and the FHWA/FTA in their programming. There is an existing City of Wichita bridge project (13th St. N. @ Cowskin) that needs to be amended in the TIP. A change in the funding category from the Bridge Program to the Surface Transportation Program (STP) and budget is needed to ensure a timely letting.

The Transportation Improvement Program (TIP) is the MPO's document identifying all significant transportation projects for the next five years throughout Sedgwick County. Federal regulations require that projects using federal funds must be prioritized and programmed in this TIP document by the MPO.

The MPO (Metropolitan Area Planning Commission) is required to update and submit the five-year transportation program to the Kansas Department of Transportation (KDOT) when there are changes to the program. The timing of this submittal is essential in order to obligate federal funds to the Wichita area projects.

Recommendation: Amend the Transportation Improvement Program 2004-2008 as presented and authorize the Chairman to sign on behalf of the MPO.

DANIEL NGUYEN Planning staff Transportation Division presented report. We are here to request an amendment to 2004-2008 Transportation Program. In with coordination with KDOT and City of Wichita Public Works, we are requesting that an existing Transportation Improvement Program (TIP) bridge project to be changed from a funding category of Bridge Program to a Surface Transportation Program (STP) Program and an increase in budget of the federal share from \$2 million to \$2.1 million.

MOTION: Approve amendment.

GAROFALO moved, BISHOP seconded the motion, and it carried (13-0).

❖ **SUBDIVISION ITEMS**

5. Consideration of Subdivision Committee recommendations

MARNELL Note for the record agenda item 5-7 (DED20040-17) the summary shows that was a vote of 2-2 and that's a typo that was approved 4-0.

5-1. SUB2004-71 – One-Step Final Plat – HONG'S ADDITION, located on the north side of 31st Street South and west of Webb Road.

NOTE: This site has been approved for a zone change (ZON 2002-04) from SF-20, Single-Family Residential to LC, Limited Commercial. A conditional use (CON 2002-19) has also been approved for Outdoor Display and Storage. This site is located in the County within three miles of Wichita's city limits. It is in an area designated as 2010 Urban Service Area by the Wichita-Sedgwick County Comprehensive Plan.

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. **City Water and Sewer Department** requests a petition for future extension of sanitary sewer and City water services. 10-ft utility easements shall be platted around the perimeter of the property.
- C. **County Engineering** needs to comment on the status of the applicant's drainage plan. ***A drainage plan is needed.***
- D. The vicinity map needs to be corrected.
- E. **County Engineering** needs to comment on the access controls. The plat denotes two openings along 31st St. South. **County**

Engineering has approved the west opening. County Engineering recommends that the east opening is closed and the drive on the south side facility be relocated west in alignment with the drive on the north side.

The Subdivision Committee has required a meeting between the Applicant and County Engineering to resolve this matter.

- F. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings.
- G. Per **Sedgwick County Fire Department**, access drives to any structure in excess of 150 feet from the edge of the roadway will need to be installed prior to final framing inspection, preferably before the start of any above grade construction work. Such drive to be installed according to fire department specifications: (1) Twenty feet of drivable surface is provided the entire length of the access drive designed to withstand the weight of fire apparatus in inclement weather with provisions for turning fire apparatus around. (2) To meet fire department specifications, the surface will need to be an all-weather material consisting of rock or gravel, ground asphalt, laid asphalt or concrete. It is to be applied a minimum of 4 inches in depth consistently over the entire width and length of the driving surface (gravel is prone to problems during extended periods of rain or snow and should be used with caution unless a good solid compacted base has been installed).
- H. The benchmark needs to be corrected.
- I. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- J. The applicant is reminded that this site is located within three miles of the City Limits of Wichita and will be heard by City Council. Therefore, the City Council signature block needs to be included on the final plat.
- K. The Applicant is reminded that the Conditional Use approval required the dedication of a contingent right-of-way along the east property line of the Hong's Village Addition located to the south.
- L. The West line of the SE ¼ of section 5 needs to be denoted correctly.
- M. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- N. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- O. The applicant shall install or guarantee the installation of all utilities and facilities, which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- V. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- W. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov) This will be used by the City and County GIS Department.

MARNELL We have a request by the applicant to defer until the meeting of the 22nd Subdivision items 5-1 (SUB2004-71) and 5-2 (SUB2004-72).

MOTION: Approve for deferral until July 22, 2004.

GAROFALO moved, **BISHOP** seconded the motion, and it carried (13-0).

5-2. **SUB2004-72 – One-Step Final Plat – HARRIS ADDITION, located on the south side of Harry and west of Rock Road.**

NOTE: This is an unplatted site located within the City.

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of sanitary sewer to serve the lots being platted along with an appropriate utility easement. **Fees in lieu of assessment are needed to connect to water services.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. Private stormwater improvements are needed at time of site development. Stormwater Management should be contacted regarding the platting of a minimum pad.**
- D. The plat proposes one joint opening along Harry with the property to the west. Distances should be shown for all segments of access control. **Traffic Engineering has approved the proposed opening as a right-in/out opening only.**
The Subdivision Committee has required a meeting between the Applicant and the Traffic Engineer to resolve this issue.
- E. A cross-lot access agreement with the property to the west shall be provided.
- F. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- G. The legal description needs to be corrected to delete reference to Tract B and to revise Tract A.
- H. The frontage dimension needs to be corrected.
- 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 plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities, which 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 applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- 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 NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.

- R. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- S. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MARNELL We have a request by the applicant to defer until the meeting of the 22nd Subdivision items 5-1 (SUB2004-71) and 5-2 (SUB2004-72).

MOTION: Approve for deferral until July 22, 2004.

GAROFALO moved, **BISHOP** seconded the motion, and it carried (13-0).

5-3. **SUB2004-74 – One-Step Final Plat – METRO BUILDING SUPPLY ADDITION, located south of 37th Street North and on the west side of Hillside.**

NOTE: This is an unplatted site located within the City.

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted. **City Engineering** needs to comment on the need for other guarantees or easements.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. ***The drainage plan is approved.***
- D. The plat proposes two street openings to Hillside. ***Traffic Engineering has approved one opening with full turning movements, another opening limited to right turns in-out only. A note shall be placed on the plat regarding access controls being in accordance with the Access Management Regulations.***
- E. **Traffic Engineering** has requested a petition for left and right turning lanes.
- F. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- G. The applicant shall submit a copy of the instrument, which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the City.
- H. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.
- I. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- J. The applicant shall install or guarantee the installation of all utilities and facilities, which 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 applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- 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 NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Q. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- R. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

DUNLAP I will have to declare conflict in interest, I sold property consultant for applicant.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **MCKAY** seconded the motion, and it carried (12-0-1) **DUNLAP** abstained.

5-4. **SUB2004-75 – One-Step Final Plat – SHOAL CREEK THIRD ADDITION, located west of 143rd Street East and south of Central.**

NOTE: This is a replat of a portion of the Shoal Creek Addition. The lot sizes have been increased resulting in nine fewer lots.

STAFF COMMENTS:

- A. Petitions have been provided with Shoal Creek Addition for sewer, water, drainage and paving improvements. **New petitions are needed for future improvements.**
- B. **Debt Management** has requested the submission of a respread agreement for special assessments due to the lot reconfiguration.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- E. Since this plat proposes the platting of narrow street right-of-way with adjacent "15-foot street drainage and utility easements", a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- F. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- G. Since this is a replat of a previous Addition involved with the ownership and maintenance of reserves for that Addition, but not being replatted by this Addition, the above covenants and/or other legal documents shall be provided which provides for this Addition to continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.
- H. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 32-ft street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- I. **GIS** needs to comment on the plat's street names. **Hollow shall be denoted as "Spring Hollow".**
- J. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- K. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- L. The applicant shall install or guarantee the installation of all utilities and facilities, which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

- M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- S. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy has requested additional easements.**
- T. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

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

5-5. **SUB2004-76 – One-Step Final Plat – HAWTHORNE FOURTH ADDITION, located on the north side of 21st Street North and east of 127th Street East.**

NOTE: This is a replat of a portion of the Hawthorne Addition. Lindsay Circle - the platted street extending from 21st Street North - has been reoriented to extend from Camden Chase.

STAFF COMMENTS:

- A. Petitions have been provided with Hawthorne Addition for sewer, water, drainage and paving improvements. **New petitions are needed for future improvements.**
- B. **Debt Management** has requested the submission of a respread agreement for special assessments due to the lot reconfiguration.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- E. **Traffic Engineering** has requested a petition for turn lanes
- F. Lot 9 is bi-zoned with the east 319.73 feet zoned GO, General Office. Either a zone change shall be submitted for the remainder of the lot or a restrictive covenant shall be submitted limiting the uses on the western portion to those permitted in the SF-5 zoning district.
- G. The plat proposes two openings to 21st St. North. **Traffic Engineering has approved the two openings. A note on the plat shall specify that the two access points shall be placed in accordance with Access Management Standards pertaining to both sides of 21st Street.**
- H. **GIS** has requested the street name by labeled Lindsay.
- I. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- J. Since this is a replat of a previous Addition involved with the ownership and maintenance of reserves for that Addition, but not

being replatted by this Addition, the above covenants and/or other legal documents shall be provided which provides for this Addition to continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.

- K. For those reserves being platted for drainage purposes, the required covenant, which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- L. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- M. A covenant shall be submitted regarding Reserve C, platted for private street purposes, which sets forth ownership and maintenance of the private street, and future reversionary rights of the reserve to the lots benefiting from the reserve.
- N. A restrictive covenant was recorded with the Hawthorne Addition guaranteeing the paving of the private street to a public street pavement standard. A new covenant needs to be submitted for this Addition.
- O. A non-masonry wall with a removable gate is required for the portion of the wall easement that crosses the 25-ft utility easement. The wall easement shall be referenced in the plat's text.
- P. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- Q. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- R. The applicant shall install or guarantee the installation of all utilities and facilities, which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- S. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- T. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- U. 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.
- V. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- W. Perimeter closure computations shall be submitted with the final plat tracing.
- X. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Y. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Z. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

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

5-6. **DED2004-14, DED2004-15, DED2004-16 – Dedication of Access Control and a Utility Easement. Generally located on the east side of Woodlawn and south of 29th Street North.**

- a) **DED 2004-14 -- Dedication of Access Control from Dan P. Unruh, InSite Medical Partners, LLC, 8100 E. 22nd Street, Bldg. 2100-4, Wichita, KS 67226, for property located on the east side of Woodlawn, south of 29th Street North.**

LEGAL DESCRIPTION: The north 334.30 feet and the south 350.40 feet of the west property line of Lot 1, Block 1, Hinkle's Addition, Sedgwick County, Kansas, except for the described tract of land beginning at the southwest corner of said Lot 1; thence

north along the west line of Lot 1 on an assumed bearing of N 00° 00'00" E for a distance of 584.50'; thence S 89° 55'53" E for a distance of 334.00 feet; thence N 00°00'00" E parallel with the west line of Lot 1 for a distance of 217.00'; thence S 89°55'53" to a point on the east line of Lot 1, said point being 801.50' north of the southeast corner of Lot 1; thence south along the east line of Lot 1, for a distance of 801.50' to the southeast corner of Lot 1; thence west N 89° 55'45"W along the south line of Lot 1 to the point of beginning.

PURPOSE OF DEDICATION: This Dedication is a requirement of a lot split case (SUB 2003-129) for complete access control along Woodlawn.

b) **DED 2004-15** -- Dedication of Access Control from John Mullen, Galichia Medical Properties, LLC, 2600 N. Woodlawn, Wichita, KS 67220, for property located on the east side of Woodlawn, south of 29th Street North.

LEGAL DESCRIPTION: Beginning at the southwest corner of Lot 1, Block 1, Hinkle's Addition, Sedgwick County, Kansas; thence north along the west line of Lot 1 on an assumed bearing of N 00° 00'00" E for a distance of 584.50'; thence S 89° 55'53" E for a distance of 334.00 feet; thence N 00°00'00" E parallel with the west line of Lot 1 for a distance of 217.00'; thence S 89°55'53" to a point on the east line of Lot 1, said point being 801.50' north of the southeast corner of Lot 1; thence south along the east line of Lot 1, for a distance of 801.50' to the southeast corner of Lot 1; thence west N 89° 55'45"W along the south line of Lot 1 to the point of beginning.

PURPOSE OF DEDICATION: This Dedication is a requirement of a lot split case (SUB 2003-129) for access control, except for two openings, along Woodlawn.

c) **DED 2004-16** -- Dedication of a 20-Foot Utility Easement from Jason Stucky, Galichia Medical Properties, LLC, 2600 N. Woodlawn, Wichita, KS 67220, for property located on the east side of Woodlawn, south of 29th Street North.

LEGAL DESCRIPTION: A point of beginning at the southwest corner of Lot 1, Block 1, Hinkle's Addition, Sedgwick County, Kansas; thence north along the west line of Lot 1 on an assumed bearing of N 0° E for a distance of 412.80'; thence bearing N 90° E for a distance of 175'; thence south parallel to the west line of Lot 1 for a distance of 20'; thence N 90° W for a distance of 155'; thence south parallel to the west line of Lot 1 for a distance of 392.83' to the south line of Lot 1; thence E along the south line of Lot 1 for a distance of 20' to the point of beginning.

PURPOSE OF DEDICATION: This Dedication is a requirement of a lot split case (SUB 2003-129) for construction and maintenance of public utilities.

AGENT/SURVEYOR: AM Consulting, Inc., 142 N. Emporia, Wichita, KS 67202

STAFF RECOMMENDATION: Accept the Dedications.

MOTION: To approve, subject to staff comments and citing the findings in their report.

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

5-7. **DED2004-17, Dedication of a Utility Easement. Generally located west of West Street and south of Central**

AGENT/SURVEYOR: Gregg A. Tennant, AIF, 2113 N. Prescott Cr., Wichita, KS 67212

LEGAL DESCRIPTION: A four-foot utility easement for the west 152 feet of the south half of Lot 9, Block 7, Parkwilde Addition to Wichita, Sedgwick County, Kansas.

PURPOSE OF DEDICATION: This Dedication is a requirement of a lot split case (SUB 2004-60) for a utility easement.

STAFF RECOMMENDATION: **Accept** the Dedication.

MOTION: To approve, subject to staff comments and citing the findings in their report.

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

❖ **PUBLIC HEARING — ZONING ITEMS**

6a. **Case No.: CUP2004-17 DP276 (Associated with ZON2004-30)** – Young Men's Christian Association of Wichita, c/o Dennis Schoenebeck (owner); MKEC Engineering Consultants Inc, c/o Greg Allison (agent) Request Creation of The Northwest YMCA Community Unit Plan;

and

6b. **Case No.: ZON2004-30 (Associated with CUP2004-17 DP276)** - Young Men's Christian Association of Wichita, c/o Dennis Schoenebeck (owner); MKEC Engineering Consultants Inc, c/o Greg Allison (agent) Request Sedgwick County Zone Change from "SF-20" Single-family Residential to "LC" Limited on property described as;

A tract of land in the South Half of the Southeast Quarter of Section 2, Township 27 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, described as follows:

Beginning at the Southeast corner of said Southeast Quarter; thence S 88 degrees 37'28" W on a Kansas South Zone Grid Bearing along the South line of said Southeast Quarter, 1610.93 feet; thence N 00 degrees 43'52" W, parallel with the East line of said section, 609.35 feet; thence S 88 degrees 37'28" W, parallel with the South line of said section, 308.47 feet; thence N 00 degrees 43'52" W, parallel with the East line of said section, 704.11 feet; thence N 88 degrees 33'52" E, along the North line of the South Half of said Southeast Quarter, 1919.42 feet to the sixteenth corner on the East line of said Southeast Quarter; thence S 00 degrees 43'52" E, along the East line of said Southeast Quarter, 1315.46 feet to the point of beginning. Generally located at the northwest corner of 21st Street North and 135th Street West.

MAPC DEFERRED JUNE 10, 2004

At the MAPC meeting held June 10, 2004, the request to rezone 59 acres to "LC" Limited Commercial and to create DP-276 Northwest YMCA Addition Community Unit Plan was deferred until the MAPC meeting of July 8, 2004.

The deferral was to provide time for the adjoining property owner's engineer to review and comment on the proposed drainage plan for the site.

At the MAPC meeting held June 10, 2004, the applicant's agent requested some changes in signage to limit building signage on the rear of any building except to allow one non-illuminated sign up to 400 square feet in size on the north elevation of Parcel 1, and to add the restriction of no building signage on the west elevation of Parcel 1 as long as the tract is zoned residential.

It is staff's understanding that meetings have been held between the applicant and the applicant's agent/engineer, the adjoining property owner and attorney, and county engineering staff. Flooding and drainage problems and potential solutions have been discussed, but no written report or summary of the discussion is available at this time.

The applicant's agent has indicated that the C.U.P. will be revised as recommended in the original staff report for June 10, 2004, to prohibit convenience stores and service stations on Parcels 2, 5, 6 and 7, and clarify that uses permitted by the C.U.P. are only those uses permitted by right and not by Conditional Use unless specifically identified.

General Provision #10A also is being revised to prohibit the lighting of the ball fields.

Based on the revised information available from the agent, staff's revised recommendation is as follows:

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

- A. APPROVE the zone change (ZON2004-00030), subject to platting of the entire property within one year;
- B. APPROVE the Community Unit Plan (DP-276), subject to the following conditions:
 1. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration
 2. 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
 3. All property included within this C.U.P. and zone case shall be platted within one year after approval of this C.U.P. by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
 4. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-276) includes special conditions for development on this property.
 5. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property to the north and west is in suburban estates, including a large acreage with a horse farm, or agricultural use. Forest View Addition is located to the east of 135th Street West. The residential lots in this subdivision are about two-third to three-fourth of an acre in size. The property south of 21st Street North is in similar sized residential lots. Also, a church is located south of the main parcel and the property to the west of the existing church is held as another church site. All of these properties are zoned "SF-20". The property to the southeast of the intersection is zoned "LC" and "SF-5" and is developed by the city of Wichita for utility purposes.
2. The suitability of the subject property for the uses to which it has been restricted: "SF-20" Single-family Residential remains a realistic use for part of the property. The northern half of the site that is in the floodway is not suitable for any development and the portion in the floodplain is not suitable for residential use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The development will change the complexion of use along the western edge of Wichita. This could become a major activity node. The presence of commercial use across 135th Street West could affect the residential development in Forest View Addition, but many of the C.U.P. provisions (buffer, lowered sign heights, some restrictions on building orientation and materials, use

restrictions) are designed to mitigate the impact. Drainage issues have already received scrutiny and will continue to need intense scrutiny in the platting phase to prevent flooding impacts both downstream and upstream.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "low density residential". **Commercial Objective III.B** encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.1** seeking to channel new strip commercial uses to areas identified on the "Wichita Land Use Guide", and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. The **Commercial Locational Guideline #3** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed C.U.P. is in conformance with the Comprehensive Plan commercial objective/strategies and land use locational guidelines for minimizing detrimental impacts and planned development, although it conflicts with the Comprehensive Plan designation for "low density residential" use.
5. Impact of the proposed development on community facilities: Traffic increases from the development should be addressed by accel/decel, possible left-turn lane and possible signalization, but the dramatic change in traffic will still be highly visible. The development will increase pressure to make permanent improvements to 21st Street North in particular.

MARNELL Last time we had this item heard, I excused myself from the bench and sat in the gallery and heard the testimony but didn't participate in questions at the end because I thought there was a potential conflict of interest. I've had that resolved. So I will be sitting in on this one.

MCKAY Ron, on my particular case, I also abstained because of prior contact with the YMCA. What does legal say about me; conflict of interest?

SCHLEGEL We have legal staff here, so they can help us out on this. Do you want to restate your case again?

MCKAY The YMCA approached me and said look at this; see what you think of it.

SCHLEGEL Did you state an opinion one-way or the other on it?

MCKAY I want the ruling. Either I'm in or I'm out; one of the two.

SCHLEGEL Unless your going to gain financially from this, it's not an conflict of interest, I think is what the attorneys would say. You do have a bylaw stipulation that if you previously expressed an opinion regarding this case that you should take yourself out.

ROBERT PARNACOTT Assistant County Counselor This is a County case. I do recognize Joe Lang is primarily the legal advisor, and certainly I'd encourage him to jump in if he has any comments or questions. I think we have to look at the bylaws on your question, sir, and it simply reads--ultimately this is going to have to be your determination. It's hard for me to give good legal guidance; it's a very fact sensitive issue--but you would have to disqualify yourself according to your bylaws if you've expressed an individual opinion on the determination of the matter or otherwise expressed yourself in a way that infers an opinion has been formed prior to your hearing this matter as part of the Commission. I can give you more guidance if you want to talk more about what you think you might have said.

MCKAY Prior to this ever happening, myself and two or three other developers were called in; this is our plan, look at it, and we did. That's as far as it went.

PARNACOTT So you have not yet expressed an individual determination or opinion on this matter. And, in that case, I think you are free to participate.

MCKAY Thank you.

MITCHELL Mr. Chairman, in my case I have requested an opinion about several of the issues connected with this case, and I will excuse myself from the bench during discussion, and will not vote.

BARFIELD Before we do that, I'd like to say that I had a conversation with representatives of the YMCA.

GAROFALO I also been contacted by the Executive Director, but he just asked me if I had any questions, and I said I'd have to review everything. And he said call me if you have any questions.

PARNACOTT I've had a request from the attorney for one of the opponents of the zoning case. He'd like to lodge an objection at this point. I think you ought to have it on the record, and let him come forward to make his objection so it's part of the record. He's not going to make a long statement; he just wants to state his objection for the record.

CLARK NELSON Attorney for Alan and Roberta Whetzel, I simply lodge an objection to anyone that previously recused themselves from this proceeding. In this particular case, this is an ongoing situation, and I don't think that's something that can be undone at this time. And for other reasons, I don't know what the details are. For the protection of the record, I hereby object to the same.

DONNA GOLTRY Planning staff presented report. This case was heard extensively one month ago, so I will summarize a few major issues. First of all, we did hear a lot of the public testimony before, but we did defer the case primarily because of the applicant's opposition had requested additional time for their engineer to look at the drainage study. As a result of that, both the applicant has a

power point presentation this afternoon, as well as the adjacent property owner's agent has a presentation to make on the drainage issues. There are probably two issues primarily associated with this case. There are two major issues that relate to this case, and the first is drainage/flooding issues, which will be extensively discussed by all the engineers. We also have the County Engineer here. The second issue, which is more of a minor issue, this is the area where they requested commercial parcels. And I would say staff has adopted a compromise position that is reflected in our approval process. And that is, we met with applicant's agent early on, and we looked at what kinds of commercial development would be occurring at that corner, and discussed what would be the types of development characteristics that would help mitigate any impact on the surrounding property owners. As a result of that, the C.U.P. has a number of characteristics that were designed to mitigate intensity of commercial use and impact on the surrounding properties. And, in particular these included restricting auto sales lots, vehicle repair uses. It included having double façade buildings along 135th, limiting the signage on 135th to 12 feet in height and to 20 feet in height on 21st, having restrictions of lighting within 150 feet of the residential zoning to 14 feet in height, prohibiting metal facades. In addition, too, if you recall at the previous case (hearing), staff has requested that convenience stores and service stations also be prohibited on four of the parcels that were more proximate to the residential areas. And that was a talking point at that meeting (referring to MAPC hearing on June 10th), with no decision made in between. We were notified by the agent that they have agreed to remove those uses from the table. The presentation that we have, from the staff point-of-view, is probably a lesser intensity of commercial use than we sometimes see at the corners of major intersections. However, I will say that because of the volume of interest that we've received in this case, obviously not everyone is in agreement with staff's position on this issue, and, in fact think perhaps this is more intense than it would need to be.

You have received some additional information. Mr. Whetzel, the property owner to the north who owns a large suburban tract with horses; he owns a lot of property to the north. His attorney has presented a paper to you, and I don't know if you've had the opportunity to read through this paper. It basically goes through the nine "Golden" factors and presents their opposition to the case, and how they feel it doesn't meet the "Golden" rules. I've highlighted (referring to the "Golden factors") the ones that I think are significant. As far as the comments that they've made about how the "removal of the restrictions will affect nearby properties", and of course, their main point is due to the drainage, and the second point is due to the significant increase in traffic having a negative effect on residential properties. In terms of item #2, the "impact of proposed development on community facilities", they point out that those are two County roadways, and not designed to accommodate the additional traffic to be generated. The bypass is a number of years in the future, they say five to 10 years. I actually think it's quite a bit more in the future than 5-10 years. I would note, in passing, that the CUP does call out for a number of permanent improvements to 21st and 135th that are designed somewhat to mitigate these traffic impacts, as well as some interim improvements. And, in addition, I will recall to your attention the fact there was an error in the original staff report stating they were requesting two openings onto 135th and when, in fact, the CUP as presented to you only shows one full-movement opening. In terms of "public health and safety", they said it increased the impact on 135th to the residents, and would result in more of a loss and hardship to those property owners compared to the minimal loss and hardship to the YMCA site. "Opposition and support of neighborhood residents"--they point out about protest petitions. With respect to the "zoning, uses and character of the surrounding area," the LC zoning existing on the southeast corner of the intersection is actually developed with a pumping station. And there's a church nearby. "Conformance with the adopted Comprehensive Plan"--this is a major point, with the Comprehensive Plan showing low density as suitable; with "suitability for the subject property to uses to which it has been restricted" they stated that it could be used for a church or residential use.

And regarding "length of time" the property has been undeveloped, I would point out that it's in the 2010 urban service area of Comprehensive Plan, at the fringe of new development.

I've received three kinds of protest today. The protest map is what would be protests from people who are from the immediate surrounding area. We have not had the time to do the thorough calculations on the exact percentages. I do estimate it's over 20 percent, and it's probably around 30 percent. Yesterday we received a protest petition form that was signed by well over 400 people. These people are actually not people who are within the immediate vicinity of the case but they are people who primarily live close, in fairly close proximity, to areas that have been subject to flooding. I tried to do some spot-checking of the locations of the people who signed the protest petitions. We had a few from the Dell, Oak Cliff Subdivision, Golden Hill Subdivision, Briarwood, Lost Creek, Westlink. That is the primary location of those people, and they basically live on or near the intersection of Maple and Maize and extending up to 119th Street West and 13th Street. In terms of what staff recommended, we recommended approval based on our findings. We went over the staff's position on the five points that we highlighted on the "Golden factors" last time. I won't go through them all. I will point out in terms of "conformance to requested change in adopted or recognized policies" and the Comprehensive Plan, in the situation where there is a request where we know it differs from what is shown on the Comprehensive Plan, we both state that, as is stated in the case, but then we also evaluate how does the proposed development conform with our commercial locational guidelines and evaluate it from that standpoint too. That evaluation shows all that. A lot of the types of uses that they're proposing to do will mitigate some of the impacts, and make it not as intense on the properties to the east.

I think the main issues that are to be discussed today are those that deal with the drainage. I've received seven emails. Those were all protests to approval of this case.

DUNLAP You may not have had time to evaluate this yet, but the letter from Nelson you mentioned we received today, has that changed the staff's position recommending approval?

GOLTRY No.

BARFIELD This was deferred so that some of the homeowners could have their engineers look at this. Have you heard or had any conversation with their engineers?

GOLTRY Excuse me, could you repeat the question.

BARFIELD We originally deferred this to allow their engineer's time to look at this.

GOLTRY Me, personally no.

BARFIELD Has the MAPD heard anything?

GOLTRY No, the meetings that were held with regard to engineering...I believe they've all been between the engineers. County Engineering staff has met with them. City Engineering staff has attended some of the meetings as well.

SCHLEGEL I haven't heard anything.

GOLTRY I haven't been directly involved with any of the meetings on the engineering issues, not that I would bring that much to the table on that particular case because that's not my expertise.

BARFIELD Has the number of protest increased since the last time we heard this?

GOLTRY Definitely.

MARNELL Is the hydrologist here that was to make the report?

Dr. ELLEN STEVENS I live in Stillwater Oklahoma at 2223 N. Glenwood Drive. I have a Ph.D. in Engineering from Oklahoma State University, and then the appropriate degrees leading up to that. I'd like to say that he talked about time; I've taken a lot of time since this was brought to my attention, since I was approached. I feel like I've studied the area intensively, both through the written record, and mapping that I was able to obtain on my own. I walked about, and have driven the site through the creek area, through the YMCA and over Mr. Whetzel's property, and also the lake area and surrounding neighborhoods. I visited with Mr. Whetzel and some of his neighbors, and seeing the area where the problems we've seen documented through photographs of extensive flooding, I've seen those areas firsthand. I walked them; I photographed them myself. This is the official affected FEMA floodplain map of the area. And, of course as you've probably have seen, there's a newer map that's been proposed for adoption that actually shows even a smaller area. But what you need to notice about this map is what we have here—the huge area that is floodplain, with just a small area sandwiched in between that's out of the floodplain; that's clearly developable land. Obviously this is a serious issue not just for Mr. Whetzel, but many people other people in his neighborhood. And from what I just heard about the protests, it's a serious issue for the whole surrounding area. And even before I heard about that, when I came here today, the first thing I thought to myself was, what we need here is a regional storm water management plan. I personally, if it were me, I'd like to see a regional storm water management plan in place before there's any development in the floodplain anywhere in this area, not just right there but throughout the whole surrounding area. One of the things that you may have heard is discussion about the notion of compensating for alterations in the floodplain; for example, the proposal that excavating equal volumes, as is filled will reduce the impact. (Speaker pointing to floodplain diagram) The water spreads out gradually into it; infiltrates into the ground. It fills up small depressions. That's the natural and beneficial function of a floodplain. There would be the same volume. We've covered over the floodplain just slightly above the water surface, but that is covered over and then we have a small little excavation there, and those are intended to show that they're roughly the same area. And if the floodplain was the same size from back to back we would have the same volume, but I think you can appreciate just looking at the sketch, that we have just completely mitigated, we've taken away the beneficial effect of the floodway. We have reduced the area of floodplain. We have increased water from building and converting to impervious area. We just feel like the water has to go somewhere and that someplace is up.

You will probably hear, you may have heard already, that there are computer models that suggest that, in fact this does not happen—that there is no change in the water surface elevation. There's not change in the height of flooding as a result of these changes. The extra water is squeezed in floodplain. What I want to suggest is that the models we are using, and I use them myself all the time--and they are great for their intended purpose--are inadequate to represent this situation. What we are talking about here is a flood routing situation accounting for a floodway as it passes down through a river. Whereas the models we all use, that are good for their purpose, is really intended to track energy loss and friction loss from a more static situation. I worked with models of the area mainly because I was asked to see if there were different alternatives that could work better for these people. What I found out was even with very drastic changes in the input to this model, it was totally insensitive to those changes. For example, what I can show with the same model, if you divert half of the water away from this property, take it out of the flow totally--don't even put it anywhere--there's no change in the flooding. We know that can't be true. We have to go on what we know—not on just what a mathematical model that is not necessarily suitable for this purpose—we have to go by what we know, not necessarily what the model tells us. And we know that extra water plus less place for it to go does mean higher water usually. We will rely on our model to tell us how much. And, in this case, that's just not happening.

The proposed pond and the berm would go up through, hearing all the reports from people, of where water was within inches of their garage or within inches of their barn or within inches of overtopping the road. In other words, we are looking at a situation of inches. It's very critical that everything be analyzed correctly. I want to suggest that there's error inherent just in the models themselves based on the precision of the information that is put into it. This is based on one-foot contour information. In between those one-foot contours, we don't know plus or minus half of a foot exactly where our land is. We don't know exactly where our water is, and what were looking at. The situation where the smallest error in anything could, for example, things are very carefully planned. Any bleed-over of water will cause everything to function not as planned; maybe way more water on Mr. Whetzel than what he's anticipating or the reverse. Could be way more water going into the neighborhood than was anticipated. It could be worse consequences than that. These are what I consider real fundamental problems just with the overall concept of developing in this particular floodplain. At this point in time, I'm going to briefly mention some solutions that I see for these people, and time permitting, I have some concerns about the proposal, and it's analysis. The best and most permanent solution would be to formulate and implement a regional storm water management plan. Since that will take some time, some things that could help right now; one thing would be to divert water under high flows away from that site. One possible path is along 21st Street and let it go back into the creek downstream where it would not be a problem there in that constricted area. Another place would be to divert the water at the north end of the berm, going across the narrowest part. And then, finally, another thing that would help folks is one of the reasons why the floodplain functions the way it is. There is somewhere a constriction caused by that bridge at 135th Street, which has a very small opening. Another solution that would give these people a little freeboard, a drop in their water surface by a foot, would be to enlarge that bridge, and set it at a higher elevation.

MARNELL Your time has expired. Do you need additional time?

Dr. STEVENS I did have one or two things that I'd like to talk about. Can I have another two minutes?

MOTION: To approve an additional 2 minutes.

DUNLAP moved, **BISHOP** seconded the motion, and it carried (12-0-1).

Dr. STEVENS There is no room for error in this assessment. What we're looking at this (*pointing to slide on PowerPoint*) is where the water comes up 135th, then goes into the pond. That whole analysis really depends on knowing what you have there, at your pond; knowing what your water surface is, knowing how the water accumulates in the pond, how fast it runs in, how fast it runs out, and how it accumulates, because where the level of the water is, right there at that place, is going to affect all the way down that street. What I did not see in any of the material presented was that the analysis assumes that the water level in the pond would stay relatively constant. It was analyzed on that basis, and I feel like with all this extra water, I don't know the answer to the question. But, I feel the question needs to be posed, exactly how does water surface fluctuate into that pond? And it needs to be answered. Some other issues that I didn't see addressed that I think will be a concern to these neighbors is increasing the water discharge by approximately five fold in their ditch. Has the issue of increased erosion and instability of the banks and ditch been addressed? Also, the other thing that goes along with extra water is the embankment in the pond there; the stability and spillway and outlet issues for that pond. I have not seen them addressed at all. If it were me, I'd be concerned. Finally, there are some other discrepancies that I noticed that probably aren't that bad, but they have to do with elevation in the berm, reported in the narrative, and then how it was actually represented in the models.

MARNELL Is there anyone that wasn't heard at the last public hearing that would like to be heard? Is there a representative from the neighborhood association that wanted to make a presentation? Who is that?

GOLTRY I don't know that I mentioned a neighborhood representative. I did get a voice mail this morning from a neighborhood group stating their opposition. I'm not aware that she was planning to attend meeting today. What I was stating was we have 400 plus signatures that came from those neighborhoods.

MOTION: Those people who like to speak from the public who didn't speak at the last hearing will be allowed two minutes.

MARNELL moved, **DUNLAP** seconded the motion, and it carried (12-0-1). **MITCHELL** abstained.

MARNELL Sir, the public hearing for this was held 30 days ago, and it was closed but we're going to allow you to speak since you've showed up.

RAY BOESE 13414 W. 23rd Street North, I live right east of Mr. Hill. His pond is the one that runs over that. She was addressing (*referring to Dr. Stevens*)-ran over through the driveway, plus all the water is coming from Mr. Hill's pond to me. And the creek is coming behind and the water is high. I've never had trouble, but I am concerned that water coming off Mr. Hill will affect my building. I think down the Dry Creek needs cleaned out. It will not carry the water. Another thing is right now we got ground absorbing this moisture. We're going to have 49 acres of concrete and pavement that doesn't go nowhere but except down the creek. That's what we need to get rid of. I don't think a four-acre pond is big enough to retrieve that. I never had any trouble and don't want any trouble.

SAM EBERLY 13131 W. 21st

ATTORNEY For the YMCA Out of order, he spoke at the last hearing.

MARNELL This is for people who didn't speak at the last public hearing, I believe you did sir.

EBERLY I thought in the paper it said that this was a public meeting today.

MARNELL It's the continuation of the public hearing and we are continuing it, but you've already spoken.

EBERLY And I had questions that I had asked and nobody has answered them. The staff didn't answer them today and I'd like to ask them again.

MARNELL No, sir. Thank you. Next speaker please.

JOHN STRUNK 14920 W. 21st Street North To me it seems like the main concern is for the areas to the east of you. Mr. Whetzel and myself, we are north and west. As you raise that water level, and restrict it over in that area, it will build up and move further west and north over our properties. My land is adjoining to Mr. Whetzel's, on the west side. As of now, I have no floodwater that comes back onto my property, but it is awfully close. And, if you restrict the water there and make it a smaller holding area, that you're trying to do by raising certain areas of that property, it's got to put more water on me. The only thing I'm asking is if you have a pond that's full, how much water is it going take? There's just no way you are going to pump it dry every time after a rain and run it back in the creek. If you have a full pond, a full pond is full.

DANA BRUGGEMAN 2240 N. 135th Street Mine is the third house to the north off of 21st Street. Directly between my house and the Kottass's's, is where they're proposing the entranceway off 135th. I got small children who ride bikes through there. So I am very concerned about any type of entranceway, as well as any flooding. We have a garage in the back of our property that has already flooded once, and has come very close to flooding again. Fortunately, our house has not had any problems, but I'm concerned with any type of development in this area. Again, we would have that. I also have a flood reserve agreement that Sam Eberly had to sign back in 1990 that basically says he is not able to build. He fully understands by placing this portion of the tract in said floodway

reserve, that no human habitat may be built and that any other obstruction to be placed therein shall be only permitted only with the approval of the Kansas State Board of Agriculture. So, I guess the question is, he cannot build in the floodway but yet we're allowing other buildings to be built there? I also have concerns about the berm. I think the elevation is 2,156 feet, and the road is 2,155 feet down at one end. I'm not sure that the height of the berm will be adequate to address any problems for what we have.

AUDIENCE I think you mean 1,356.

BRUGGEMAN 1,356, sorry.

CHAD EBERLY 13115 W, 21st Street My family has managed to operate a six-generation business. Since 1960, the flooding on the Cowskin Creek has always been a problem with our business. We have learned to work with the current flooding without pushing more water onto our neighbors. My concern is no one should be allowed to build in the floodplain or floodway. Since the YMCA has consistently changed their plans from originally not bringing dirt into the area to now bringing dirt into the area, I don't believe that we can trust them to take care of us as neighbors like we should be taken care of, with the current flooding problem. And the addition of the commercial corner should not be allowed to make things worse that the YMCA is already making. I hope to see the seventh generation of the Eberlys to be able to make a living off of our business. And I also would like to ask the question one more time to any of you who may know, why can they build in floodplain/floodway and we cannot? And you can stop that clock while I'm waiting on your answer, because I will wait.

MARNELL Start the clock, continue.

EBERLY Did it not say when I was asking a question is when the clock was not running?

MARNELL You are not asking questions of the Commission, you present whatever evidence you want or whatever testimony.

EBERLY I have thank you very much, I appreciate your time.

MARNELL Anyone else wish to be heard on this item. Seeing none, the applicant has four minutes to rebottle.

KEN SHANNON 820 N. Linden, Wichita, Kansas I'm the volunteer board president of the Greater Wichita YMCA. I felt after our last meeting, I sat here listened and observed, and thought maybe you felt we haven't been reaching out to the neighbors. And, I wanted to present that. Now that we've mentioned here, since we announced the acquisition of this property we've had three neighborhood meetings in January, April and May covering lots of concerns/questions they had--trying to answer them, trying to explain, being very forthright of what it was that are wanting to do with the property. Since then we've also had an additional four meetings with Mr. and Mrs. Whetzel and their attorneys, again, trying to resolve, answering questions and present different solutions to this whole issue. We've made considerable concession, as staff mentioned, to the neighbors, trying to be good neighbors with them. We haven't been able to resolve everything, but we really worked hard at trying reach out; making what we think is considerable concessions in how we would develop this land from no lighting in our ball fields to the berm work, and so forth, in hopes of alleviating some of the drainage and flooding issues that are there. Since most of this is about the flooding, I'm going to turn the rest of time to MKEC who will address that.

KEN KALLENBACH Mid Kansas Engineering Consultants There's been a lot of points that have been talked about. We're going to address as many, I think, of the drainage questions that were raised. We probably won't cover them, and, maybe the thing to do is if the Commissioners have additional questions on the drainage that you feel should be addressed, we will do that. We have a total of 21 slides to help explain by graphics what is going on. It's a fairly detailed approach, but in summary, we have modeled this property; we've modeled the run off. We have high confidence we're right on target. Just last week we were able to go out and do some surveying work on the Whetzel property to look at possibilities of some flood protection around one of the barns that now goes under some water, just to see if that could be done, and if that's something the YMCA would want to consider. And while we were there, we made note of the high water marks on the barn record over the past 20 years. They fit the high water marks on 135th Street and on the 21st Street Bridge. If you interpolate between that, those mile lines, they fit our model very well, within inches. We think there's no error in it. Therefore, we had to run that same model with the grading plan that we had proposed for this property, and do not find any rise in the high water surface elevation either north, south, east or west. And the basic premise of water flow would be that as the neighbor to the west just mentioned. And, he hasn't been to the meetings, to my knowledge before; that he would be the one concerned upstream people. If we're doing some damage, if we're filling in the floodplain, filling the floodway, doing anything to block a channel, you'd expect the water surface elevation to rise upstream, not downstream. And we checked that very thoroughly, and we do not find that to be the case, as well as downstream on Whetzel's property. We feel we have, as point #2 says, if are able to do the proposal.

MARNELL Your time has expired. Do you need additional time to finish?

KALLENBACH I'd like to have more time.

MARNELL How much more time.

KALLENBACH Can we have five minutes?

MOTION: Additional two minutes.

BARFIELD moved, **DUNLAP** seconded the motion, and it carried (12-0-1). **MITCHELL** abstained.

KALLENBACH The second thing that's important in terms of our partnering with the neighbors and trying to cooperate and solve some existing some problems out there is to build the berm on the east side of the YMCA's property, and on the west side 135th. That's point #2. Once we do we block all the Dry Creek flooding that goes across 135th and impacts them by surrounding houses at

the higher flood stages, we then have to handle the local flood waters that flow down 135th Street, from the south at 21st Street. That's the reason why we need to make improvements in the ditch and in the culverts along 135th Street because some of that water goes under 135th to the west, through the YMCA property. That is the flooding that happens from Dry Creek going over the street is 18 CFS; a very small part of the 4,600 CFS that comes under the bridge at 21st Street. We take out of floodplain—we are removing 11 acres. We are not, however, reducing at all, the storage that the floodplain has because of increasing the depth of the ground that's in that pond area. Primarily, we have all the storage replaced in that pond area. We're not counting the pond below the normal water surface. It's the ground above the pond's normal water surface that stores water at the flood stage, and that is balanced on the YMCA's site.

GAROFALO What is the purpose of the berm?

KALLENBACH We'd be happy not to do the berm. We thought the neighbors wanted to be protected from the flooding of Dry Creek that comes back at high water times. The water actually flows to the southeast away from Dry Creek, fills up our property, goes across 135th, and then surrounds the neighbors. The neighbors built in the floodplain; they have built their houses wisely above the 100-year flood. Those homes are built in the floodplain, as it exists out there. That water now goes across 135th. We have the fortunate circumstance that on the south end of our property, and at the north end, there's enough elevation we can create a berm connecting those two high points to block the flows that reverse themselves and goes to the east.

GAROFALO What will happen to all the water that you block?

KALLENBACH The water that is blocked, we're replacing the storage. We still have the storage on our site to handle that water. We have no increase in the water surface elevation. The water that is blocked is 18 CFS. It's an 18-inch pipe that carries the water finally under Forest View, and gets it over and sort of back into Dry Creek to the east of our property. The 18-inch cfs pipe, if that water needs to be replaced, we have offered the Whetzels to that. We simply have to put pipe appropriate to 18 CFS through the top of the berm, let that water go to the east, and it's easy to get out of there because it's only 18 CFS. It's not a big volume of water that surrounds houses. We can handle that easily in the ditch on the east side of 135th.

GAROFALO What about that pond?

KALLENBACH The pond there is an aesthetic pond with; except for the extent that right now above the normal water surface elevation. That pond, there's a lot of dirt—we're going to take that dirt off--it's going to be full of water. When the flood comes we don't count that. That's the ground that we'll take out of there, then can hold storage once it's removed in the floodplain. That amount of dirt that we take out will balance with the dirt that we place in the floodplain below the 100-year elevation. The other question that's come up? We are probably going to bring dirt, we will bring dirt into the site to raise pad elevations on the commercial, on the YMCA site, but it will only be dirt brought in for above the existing 100-year floodplain. And that area does not store water now. It's a change. We've always said this, but some of it got lost in translation.

GIBBS Is the berm to be construed as a dam?

KALLENBACH The berm could be construed as a levy, a dam, a berm, or whatever prevents water from flowing from west to east. We plan on landscaping it in the setbacks. There will be some 30 to 35 feet of green space between neighbors and any commercial in that area.

GIBBS If so, what's to prevent the detained water from running out your exit driveway on 135th Street?

KALLENBACH It will be high enough. The entrance will be over the top of the berm at that particular point. We don't have to raise the berm too much. The sag is a little further north.

BISHOP What is the purpose of requesting the LC Zoning?

KALLENBACH We are requesting a lot of uses in LC zoning, not LC straight zoning, but the purpose is we'll see development on this corner, and on this property. And the YMCA would like to have a hand in controlling that and obviously there's value to that.

HERNANDEZ With your studies, is it conceivable that you might alleviate the flooding problem?

KALLENBACH We have 50.1 acres. We have in this whole drainage basin, some 15,000 acres that drains into Dry Creek. We don't think you can do anything on 50 acres that would substantially reflect any change in the downstream flooding; it's such a small part of whole property. Ellen's mentioned that she'd like to see no future development on this until there's a regional drainage plan. If somebody's going to do that, we obviously have to abide by any policy like that. This property, we're doing more than is required than for any other development in a floodplain. Right now this could be developed as 20,000-square foot single-family homes, hospitals, schools. The whole property could be filled; the floodway could be filled. That would take up the whole floodplain. We are not proposing to do that. We are proposing a whole different standard for the YMCA because we know the problem exists. We are retaining all the storage on this property. We've modeled it extensively, and we see no rise in the water surface elevation.

HERNANDEZ A simple yes or no would have sufficed. Do you think it might deviate toward the surrounding neighbors?

DUNLAP I have a question relating to one of the other potential alternatives that she mentioned. I don't know if you had time to study it. I didn't ask her because she's not familiar with all the neighborhoods and what happens out there all of the time, what we know is the Eberly Farm area floods. If we run that water down 21st Street won't that aggravate their situation?

KALLENBACH We as an Engineering firm, we'd choose not to be a part of that solution. If Ellen wishes to be, she can. That's what we are not trying to do here. We are helping the people on the east side. One of the parts of your questions was, can we help anybody here? We can help the people to the east side; we can block that and keep water from setting on their property. What we are doing taking some flows on north side of neighbors, that can, would still happen. We talked with the neighbors on the north side,

Mike Hill, Chris Green. Mr. Boese has presented his case. We're prepared to spend \$15,000 to armor Mike Hill's pond and redo some of the piping to get ride of some of the local drainage that comes out of the 30 acres to the south of 21st, now splits and goes into the YMCA property, and goes north. We need to take care of that. We need to take care of bigger culverts in the ditch along 135th, and that's part of plan of the proposal, and we've written that to the property owners.

DUNLAP I guess I need to rephrase the question. You are not talking just about the people on the east side here. We're talking about a whole area, and part of that area is Eberly Farm. Are we doing anything to improve or to worsen their situation?

KALLENBACH We won't worsen their situation. Eberly Farm, they can do things on their property; they need to get it approved. They need to do the studies that we've done. They need to do the modeling; see what the impacts of the development are. And that's the process we go through. That's what we've done for the YMCA at some considerable effort. We think this is not impacting downstream people. That's why we don't want to take water east along 21st Street, because there is flooding on the Cowskin. The storage is important here. That's why we are maintaining our property.

SHERMAN I think you answered part of my question. My question was whether the people on the east side are not having flooding problems today? What you are going to do is not go to add to that, correct?

KALLENBACH I think they would disagree. I think they say they have flooding problems now unless they believe the water that stands around their homes, in their front yards, in their ditches for 12 or more hours when Dry Creek floods is not a flooding problem. If they don't want the berm, we don't want the berm. It's a cost to the YMCA.

SHERMAN The berm will prevent that? The Whetzels and the Eberlys on the other side, you said there's no improvement?

KALLENBACH No adverse impact. We do not have a rise in the 100-year flood elevation through their property. We were more concerned with the rise upstream on Mr. Shank's property and we checked that very carefully. As I said, if you are filling, we had the same storage. No adverse <TAPE CHANGE>... If you are doing some fill in the floodplain, then you need to take a look at it. That's why we chose to take out as much ground of floodplain as we're putting in, so we have the same storage.

SHERMAN In essence, the improvements would only improve on one side. But there's no adverse impact, is what you're saying, on the other side. That's what you saying?

KALLENBACH That's right.

SHERMAN That's with your model.

KALLENBACH We've run the model with the improvements, with the berm in there, and that's our conclusion, which we are confident in.

GAROFALO The staff report indicates that you've had meetings with the opposition. As a result of these meetings, did you make changes or have any agreements, or did you just agree to disagree.

KALLENBACH Early on, about the first meeting, we knew there was flooding on the east side of 135th, and we came up with the berm idea pretty quick. We just looked at the opportunity we had to connecting to high points, and being able to protect them. I think that's the major improvement to their property we did. As is through with the different protections on 135th Street, the uses along there we've taken out--convenience store and filling station--which we had in up until the last meeting, there's all kinds of protection that are normal if you've got homes across an arterial street. We're on two arterial streets, but still we know we're in a context here of residential. People agreed to no drive-through. In fact, we will agree, we have it there only on the west side of the parcels. Nothing on the east side; no drive-through fast food has to be on west side. With the Whetzels, in particular, we did propose that we would be willing to, with no responsibility of ours for flooding of their property because it exists right now, go in and if they support this plan, go in and put a floodwall around their horse barn which does flood at the present time. We've agreed to them to put the pipe through the top of the berm 18CFS which now crosses 135th Street; which now goes their direction, which is additional water but out of 4,600 CFS we believe has no impact on them. We can take that to the east. That's a cost to the YMCA also. We've made a further offer to them that we are going to need some dirt on this property. It's going to come from offsite. Out of the floodplain we're going to build up pads. It's not just going to be 100-foot level, but two foot above in an unpadding area like this. We would need to bring dirt in from offsite. We made them the offer that we would attempt to negotiate purchase of dirt from them out of their floodway, which is totally unusable land for development. It might be a win-win for both parties, and we didn't hear from them. Neither did we hear from them as proposed on Tuesday when we met that we were going to get their study on drainage, which was to be presented to us yesterday. That was presented today.

BISHOP Can you show me where, or if, there's any relationship to Dry Creek basin and the Cowskin basin.

KALLENBACH The thing that makes some of this water, taking the 18 CFS to the east, work well is that there's a drop of about seven foot in elevation between where Dry Creek goes north and comes back around to the south. And then, the connection juncture of Dry Creek and the Cowskin is in that area just north of 21st Street. The idea of improving 135th Street Bridge would need a lot of study to open that up, that Ellen presented. If you're going to do that, you'll need to study what happens to Chris Green and this floodplain flood elevation to the south. It'll have to be studied, or Eberly's or anybody else in Cowskin.

GIBBS Your projected retention on the property, retention of the surface water, you don't anticipate any effect on your proposed Light Commercial on the south end of the property?

KALLENBACH We believe that water should not be detained on our property. When we are talking about equal storage, we think that's important we have floodplain storage and we think the water comes off our buildings and our parking lot should get into Dry Creek and get gone out of here before the peak on Dry Creek arrives about anywhere from six to eight or nine hours later. If we

detain water on this property and let it out as would be planned in a lot of areas, then we'd be dumping that water into Dry Creek at an inopportune and unfortunate time, we believe. The pond is not detention.

MARNELL Is that berm just a one foot differential?

KALLENBACH Were going to put the berm one to two feet above the 500-year flood; not much difference out here between the 100 and the 500.

AUDIENCE How's that compare to the height of the road?

MARNELL Please don't do that again. Second question, I think I heard you state that any dirt that your bringing in is not going in the floodplain?

KALLENBACH Any dirt that we bring into the site will be above the existing 100-year flood elevation.

MARNELL Would you respond to the concern that was raised about the pond that I believe is off this property (*pointing to a pond east of 135th*), but is on adjacent property; the effect of it being full.

KALLENBACH Yes, it's a consideration. When we're taking the local drainage from 30 acres that lies to the south of the neighbors that are here today, and get that water staying in the ditch on the east side, then we have to look at Dr. Hill's pond. We've studied that. He stated in early meetings that he wanted more water in there; he doesn't get it in small rains. We don't know if he's changed his mind on that. We have told him that we'll armor the spillway and take a swale and go to the southeast and go across Chris Green's driveway, put a culvert in under his driveway, and handle that additional flow. It was mentioned that there's five times the flow once we cut the berm. We do the berm, and we keep all the drainage on the east side. It's actually not five times the volume; it's five times the CFS. There's a rush of water that comes that we have to handle. That's why the culverts have to be bigger. And we have to handle the flow through his pond and under Chris Green's driveway. That's one solution. Another solution, we believe, is go redo Forest View Drive, take the water straight across into Dry Creek because it's right there. But there's an existing system in place, so if we have an agreement from the property owners that's the best deal, then that's what we'll do.

MARNELL I'll assume that will take some kind of easement or authorization from those property owners? Are they also beneficiary of that action? Are we talking about the same property?

KALLENBACH Dr. Hill to the north, the pond owner, has stated that he is the beneficiary to the extent that he wants more water in his pond. The drainage area is not large enough to support the pond except when it gets flooded. It gets some water in from the local storms. It takes about 25-30 acres of drainage to fill a pond, keep it full of water. Summer, October back through July, that's about what this basin is. What happens right now, that water doesn't all get to him, it splits and all comes under 135th and into the YMCA, with the berm that no longer happens, and he'll get water all the time.

DAVID SPEARS Director of Public Works Sedgwick County, I don't have a presentation, I'm not an expert on hydrology. Our staff in our Stormwater Management Department and also in our Highway Department, some of our engineers, and engineer technicians have looked at the figures and data and model that Mid Kansas had supplied us. And we are in agreement with it. We find that this particular development of itself will have no detrimental affect on water elevation on Dry Creek or the Cowskin.

BISHOP Is the subject property in the floodplain? And what is the definition of floodplain?

SPEARS Like I said I'm not an expert in hydrology and I feel like I really can't answer that question; somebody else may be more qualified than I.

BISHOP I have a number of questions along those regards Mr. Spears, so I'm really disappointed. For instance, we have a map that shows FEMA Zone A. There's one that says 100-year floodway line. It appears that the line that the applicant's engineer was referring to is the 100-year floodway line. What is FEMA Zone A? What is FEMA?

SPEARS I'm sorry, I don't know the answer to your question.

KALLENBACH Could I be allowed to help?

CLARK NELSON I am going to log an objection now. His four minutes have turned into 30.

MARNELL Do you want to hear his answer or not?

BISHOP I'd like to hear it from either City or County staff.

MARNELL He said he didn't know.

BISHOP It's a simple question; I have some other questions for Mr. Spears.

KALLENBACH Would you wish an answer to that Commissioner?

BISHOP Yes.

KALLENBACH It's shown on this map, and I think David's here in Jim's absence today, and maybe hasn't seen this is the map. This is the map that Ellen had that showed the FEMA regulatory floodplain. We know it's bigger than that. We know it comes down in here and it goes around the neighbors. As they will tell you about her map, the FEMA didn't even show it going over the neighbors. They've all expressed the observation it crosses 135th, and that was studied in 1998 by Black and Vetch, and that's when it was

defined. It's the official floodplain line that we all need to deal with. It's been approved by the County as opposed to this narrow one up here.

BISHOP Has there been a study of the Cowskin drainage basin?

SPEARS Yes, Black and Vetch has done that. And, in fact, there's a meeting tonight at 7:00 at the Extension Service at 21st and Ridge. I'm not sure it's this particular section. I know the Corps of Engineers will be there, and they approved a piece down between Kellogg and Maple, but that's getting off this subject. Yes, there has been a study done, and in fact; it was done by Black and Veatch and Mid Kansas, I believe, also assisted them in some parts of that. And that models parts of the cross sections that were used for this study.

BISHOP My point in asking that, Mr. Spears, is are we gradually moving toward having a regional stormwater drainage plan.

SPEARS I think that would be up to the political bodies to decide if we wanted to do that. I think our concerns in Engineering are, you can look at one snap shot, one picture of this. And you have the YMCA doing this, and maybe, okay, what if along the creek you have another one and then another one? The cumulative effect, what's that going to be? And who's going to look at the cumulative effect of it all? Each one could probably approve their own individual one didn't have any effect, but what our concern is, overall, is the cumulative effect. And that may also be what Ellen was referring to.

DUNLAP There been references made to a proposed floodplain map, new one, do you know anything about that?

SPEARS No, I don't. I know if FEMA has done maps and if there's a revised one. There could be, but I don't know.

BISHOP What is our policy in regard to development in the floodplain area whether it's FEMA Zone A or the 100-year floodplain? Do we have a policy and what is it?

DALE MILLER Our policy is that, typically, it's reviewed at the time the property is platted. A drainage plan is submitted with the plat, and the drainage plan is reviewed and alternatively approved or disapproved, or whatever the case is. The plat won't proceed without the drainage plan being approved. So alternatively the plan is approved; then they are required to develop in conformance with the approved drainage plan. As we pointed out the last time, for community unit plans, the purpose statement specifically includes language that says at time that the Community Unit Plan is considered that it's appropriate to consider drainage at that time. That's why it's appropriate for you to be discussing it now. What typically would happen is the Community Unit Plan would be approved; it would be given whatever time period, a year usually, to complete the plat. And when the plat is considered, then that drainage plan will be approved and they will have to develop in conformance with that approved plan.

BISHOP In other words it sounds as if we do not have a policy in regard to making decisions on Community Unit Plans and zone cases.

MILLER I would not agree with that statement. We do have a policy. It is the drainage plan is submitted.

BISHOP That's after the decision has been made on the use.

MILLER As part of the Community Unit Plan you can discuss drainage, and so, that's what you are doing here.

MARNELL Would this come back if it went through this process? Would the plat still have to have the drainage plan reviewed and approved separate from this?

MILLER I would assume so, yes.

DUNLAP I am curious because like Mr. Eberly, I was required to sign a reserve agreement when I applied for a building permit for a home. Is that different than this property and if so why is it different?

SCHLEGEL I can only speculate that at the time you went to pull that building permit, that a drainage study was done, and as part of that drainage study, that was the recommendation that was made by Public Works to place that on as a conditional of approval.

MILLER Donna may have had more discussions with County Public Works. In lieu of a drainage study that if your proposing to develop a project on a piece of property that has not been studied, that they then ask you to set up this reserve area and agree to the kinds of agreements that he was asked to be done. Otherwise you are required to do a full blown study, which someone can fairly attest to is fairly expensive, and so it's kind of a way to allow for individual property owners to develop buildings without going through the expensive process of studying their property; that's the difference.

GOLTRY And also, when there are major developments if they are preferring to utilize the floodplain, they will go through the map amendment process to seek to pull the property out of the floodplain, by whatever means they can demonstrate through the hydrology. And in the case of an individual owner who doesn't want to pursue that policy, then they are signing that they are going to abide by the agreement.

BARFIELD Have there been previous attempts to develop this particular site?

GOLTRY Not that I'm aware of. This is in the urban fringe. It's just in the farthest reaches of where we've been developing. There's a church that's been developed to the south. As far I know, this is about the farthest out for commercial development on 21st. Eberly Farm does exist to the southeast. Eberly Farm is a more unique property situation; it's been there for quite awhile.

BARFIELD The reason for my question is I thought I heard from someone that they were not able to built or develop on this site whereas the YMCA is.

MILLER I believe that was Mr. Eberly saying that because of the process he went through with the reserve area on his property; that he is now prohibited on certain areas on his property, because of the agreement he's agreed to without doing the study; whereas on this one they are doing the study. So that's the distinction between the two properties.

MARNELL If Mr. Eberly chose to do the study, then would the development, any future development would be allowed, or is that a binding restriction running with the land; kind of a reserve, do you know?

MILLER I don't know. I've exhausted the extent of my information about drainage reserves already.

MARNELL No further questions? We'll bring it back; close the public hearing, bring back to the Commission for discussion.

HENTZEN I'm still concerned about not allowing these folks who thought they were coming to a public hearing to be heard. I realize we had a public hearing last time, and we closed it. I realize that the paper doesn't make our agenda, but I read that article in the paper, and it implied to me we were going to continue the public hearing today. What I'd like your help on, I want to make a motion that we hear those people that want to speak to us today. And I'm also able to propose that you give them two or three minutes apiece, or 30 minutes on the clock, which ever comes first. I'm not willing to have another 25 or 30 people saying the same thing, but I am concerned about them coming thinking they were going to give us some additional information, and then us not hear it. I'm worried about that. I'm going to propose that we open the public hearing and I'll see if I can get a motion.

MARNELL To the people who'd spoke before as well?

HENTZEN As well, they might have information that they didn't present; maybe they didn't know it.

MARNELL What's your motion?

HENTZEN To reopen the public hearing and give the people who thought they were going to speak an opportunity to do so.

MARNELL How long?

HENTZEN As I suggested, I think a couple of minutes apiece or 30 minutes total, that's my motion.

MARNELL Two minutes or 30 minutes?

HENTZEN Well I think if only five of them want to get up, I don't think they need 30 minutes. I'm just trying to give you an indication of what we can do because of the clock, and if the Commissioners don't make my motion then I'll be quiet.

MARNELL The motion is for two minutes. Do you have a second for it?

MOTION: To open the public hearing including those who spoke at the last public hearing for an additional two minutes apiece.

HENTZEN moved, **BISHOP** seconded the motion, and it carried (11-1-1). **MCKAY** opposed.

DUNLAP Yes, I have a little discussion. I don't disagree. I will probably support the motion. However, I'm pretty concerned about the precedent we're establishing here. We have a lot of cases that come before us that a lot of people want to continue to give input on, and we've already had two opportunities now with further opportunity several points down the road. I'll support your motion, Commissioner, but I'm very concerned about establishing a precedent that every time somebody on television or the radio or the newspaper says were going to do something that we have to do it. I don't think that's right.

HENTZEN I have the same concern.

BARFIELD I totally concur with you. My only question to you would be why would you wait so long? Why didn't you interject that at the very moment when he denied that gentleman the right to speak? Secondly, I think I would say this. I don't think we're allowing the paper to set the agenda, but I think also, the Chairman in the very beginning, if he felt that perception, the Chairman should have said at the very beginning that this is not a public hearing.

WHETZEL Thank you very much for allowing me to speak. I have very little to say. What I say, I believe; I and my wife are the ones that hired Ellen to check out the engineering because we are forced to go out of town to find somebody who would come to our city because all the engineering firms do business with the County and the City. Ellen has represented us today. I would like to set the motion straight. We have had several meetings. The dates on the screen were correct. On June 18 in the afternoon, I offered the YMCA five acres of the Lucky W ground directly across Dry Creek where Dry Creek backs out on the YMCA's property if it would help the flooding situation. There's a lot of opposition. They jumped on it in a heartbeat. Ellen was there. Ken Kallenbach was there. Ken's boss was there, who owns MKEC, was there. And after looking at it a few minutes, they said it will not help. I withdrew my offer. Last week MKEC called on behalf the YMCA and asked would we donate two acres of ground because they needed a short hall to place 50-60,000 cubic feet of dirt in the floodplain, 15 yards per truck. That is several hundreds of truckloads. Their attorney called yesterday for clarification; would we get back to them. We returned the call. He called today at 11:58. We were not in the office at 11:59. I wanted to set that straight. Roberta and I own 200 acres straight to the north, 25 percent of it is out of the floodplain/floodway. We've owned parts of the ground for 23 years. We have 4,800 feet of road frontage that is out of the floodplain that, some day we will be up here, that we'd like to develop, that will be our request.

WESLEY KOTTAS 2226 N. 135th Street West I'm the second house north of 21st Street. A couple of questions I'd like to ask you personally is, when is this community going to start being proactive instead of reactive? Important question. It's a lot easier to try to

solve a problem now than later. This berm, approximately 1,356 feet elevation, we are all wondering about water coming across the road. This berm is essentially going to be a dam. Do we need this berm for the housing on the east side? Heck yes, because water comes over 135th Street anywhere today, anywhere from two to four feet over the road, depending upon where you are at on that road because it dips down. If this berm is going to work as a dam, this water needs to get out of there in efficient fashion, because right now that whole property, Parcels 2 and 7, are completely under water. Currently today when it floods, those are the closest two at that corner of 135th and 21st Street North. If you'll allow them to put a drive there, which is virtually in front of my house, again if that drive is not high enough, water is going to come into the neighborhood. Inches make a world of difference? What if these two culverts that they were going put around the pond, what if they plug up, with trash? What about more westerly development, more water run off? If the calculations are fine today, great; but what about tomorrow? There's going to be more westerly development. We better be ready for it.

JACK VANSKIVER 2256 N 135TH West Mrs. Bishop, you had some questions, good questions. I'm sorry the County didn't know how to answer. But you notice on this map there's another blue line that crosses their little ball field that designates the floodway area where they cannot touch that to raise it up. They are proposing part of their ball field in the floodway area, per this map here. If they're going to keep it to that level and excavate that out, that's one thing. What I've been hearing today, that's all going to be raised, which means they will be in violation of FEMA policy. The floodway, they cannot raise up; they can only excavate down, go around it, but they can't touch it as far as raising it up to a higher level. The floodplain, for the policy, they can raise up two feet above. Then they are out of the floodplain and then they go up. Augusta did this several years ago. During our major floods we had, they were flooded even though they were two feet above the floodplain. They still got flooded because that policy that "worked", Mother Nature said, "I don't agree." This is what were concerned about; mother nature doesn't agree with some of your policies, and I think this needs revisited to see exactly they are going to do in the floodway.

CLARK NELSON Attorney for Allen and Roberta Whetzel Just a couple of comments. I know of a number of people that would had been here but for the fact that it had been reported by Counsel on this Commission that no one would be heard other than the Engineer. I still challenge whether a fair hearing is occurring. My position is that unless your satisfied that the engineering is exactly correct, you cannot approve this application. Contrary to what Mr. Miller says, this is a flood issue. It impacts the neighbors. It is an appropriate issue that had to be decided in order to approve the C.U.P. and the zoning; ask the County Counselor that question. We have presented to you opinions from an engineer who, that say, we've got a lot of questions over here on where this is going to work. There is no margin of error. I'm sorry, but there's no margin of error. There's a lot of errors being committed today with respect to this plan. I submit to you it cannot be approved today on that basis and I appreciate your negative vote.

SAM EBERLY 13131 W. 21st I won't even talk about the issue, it's been addressed, why I can't build and they can. The issue is, we've got to stop it. I'm 61 years old, was born and raised on this, I have seen the creek come up and down week after week. I have seen it come up year after year. It changes dramatically; it doesn't do the same thing all the time. It cuts over different places and does different things. All I think is, we all need to do is, stop and back up and say how much more can we do as far as everyone wants to have their back deck in the creek. Let's get away from the flooding. Let's get away from the floodplain or floodway. It doesn't make any difference; lets get out of it, leave it alone, let mother nature take it's course. We've made our mistakes. We've made many of them up and down the creeks, both the creeks, Dry Creek, Cowskin Creek, and Calfskin Creek. We've all made mistakes in the development we've allowed to be done. Let's stop, back up, and think what we are doing. I challenge you today to do that. Thank you very much for your time.

MARNELL Applicant has two minutes for rebuttal and please keep it to the latest comments since you've rebutted the other testimony.

KALLENBACH I think we would just say that were confident of our modeling. We're confident of our surveying. We've had it wedged in between information on the Whetzel's farm and the bridges' historic flooding on two of the nearby bridges. We are being held to a higher standard than other development in a floodplain. We're not filling whole property of the floodplain. We are retaining storage on this property to help with the situation and building a berm to the east. We feel like we deserve your approval of this application. If something does need to happen in the way of the whole basin, and we're talking about moratorium on the development, until the policy changes greatly, and the policy would have to change quite a bit to just do what we're doing, that would be a whole another step. You'd have to go quite a bit beyond of what were doing in terms of floodplain management. We will obviously abide by any policy that you come up with, but we'd like not to be held hostage for the problems that's been evident this past month, particularly with respect to record level rains. We know people have gotten wet. We know they have property they knew would get wet, and it's happened time and time again. We've been kind of a lightning rod for the whole thing out here. The YMCA deserves to go forward with this project, we believe.

MARNELL We'll again close the public hearing; bring it back to Commission for discussion.

BISHOP I have some real concerns about the practice and the policy we have to look to and to follow in regard to development in floodway area or floodplain fringe. It appears what we're allowed to do is discuss it, but we don't have any guidelines, what kind of criteria to consider, for that discussion or how to weigh different factors. And so the discussion generally ends up as--well, that will be taken care of at the time of platting. And it seems to be a practice that assumes, absolutely assumes, that all land is buildable, and I'm not so sure that's true. We've been, for a long time, have needed, a drainage basin study that would lead to a drainage basin planning policy that would give us some guidance for this sort thing, because it is incremental in nature. We've got this corner. It's a problematic corner, but it's a development that probably would be welcome in any other corner because it's got some really positive things going for it. But the floodplain and the floodway issues are very problematic for me. I would like to make a motion to deny the application for that reason.

MOTION: Deny the application.

BISHOP moved, **BARFIELD** seconded the motion, and it failed (4-8-1). **HENTZEN, DOWNING, MARNELL, DUNLAP, HERNANDEZ, WARNER, MCKAY, SHERMAN** opposed **MITCHELL** abstained.

GAROFALO I think I'm going to support the motion from the standpoint that there's a lot of questions yet. There's a lot of disagreement apparently on whether or not this is going to be good or bad; whether it will aggravate the situation or not with the flooding. I'm also concerned a lot with what Mr. Spears said about the cumulative effect of these developments along there. It seems like we had these problems with the Cowskin, and all the other skins for years and years, and nothing's being done. There's going to a meeting tonight. Whether eventually it will happen, I hope it does. I'm concerned about the cumulative affect also. I have nothing against the YMCA. I used to be a member. I think maybe they need to find a better location that may not be as problematic as this one. I think I'm going to support the motion.

GIBBS I have some of the same concerns that Mr. Garofalo has, mostly about the numbers that have been presented for the opposition, of the concern of the effort that's been made to prove their point.

MARNELL I'm not going to support the motion. We've heard from the County, who are our experts. If we can't believe in the science of these things, then I think were going to be at a loss, and we're going to be back into motion everywhere. We can't just say we have these models, and then there okay part of the time, but they're not going to work because we don't like them. I am not going to support motion.

DUNLAP I won't be supporting the motion either. We've come to a point where it's all about whether or not it's going to flood, whether it's going to be worse or better. I do respect the doctor from Oklahoma; what we do know is MKEC has always presented us with good data, and it's probably accurate. I won't support the motion either.

BISHOP I've observed this board for a number of years, even prior to serving on it, and I've been serving on it for some time now. And I can tell you that every time we consider a case, we are told it's going to be drainage neutral, and that's not the way it happens because it's more complicated than that. And the incremental effects then are felt; there's got to be a better way.

MOTION: To accept the staff recommendation to approve the Community Unit Plan.

DUNLAP moved, **HERNANDEZ** seconded the motion, and it carried (8-4-1). **GIBBS, GAROFALO, BISHOP, BARFIELD**, opposed. **MITCHELL** ABSTAINED.

SCHLEGEL Dale, we probably ought to instruct people on how to file a protest petition, and the deadline for doing that.

MILLER If you haven't already done so, there's a form that you can turn in that we can provide in the office. Those protest petitions have to be turned in 14 days from today in order to be valid. The effect of the protest petition is those folks that represent land area of 20 percent or greater in the 1,000-foot ring around the perimeter of property, if there are sufficient protest or 20 percent or greater, and I think based on Donna's comments earlier, I believe you already have that, then it will require a super majority vote of the County Commission to approve this request over the neighbors' objections.

MCKAY We were approving 6a and 6b in the motion?

MARNELL Yes.

CLARK NELSON When is the County Commission meeting?

MILLER It's 27 days from today.

SCHLEGEL That's still uncertain because they want to make sure it's on an agenda where they have a full board there, and there's a number of Commission dates in July when one or more of the Commissioners are absent.

MILLER Typically it goes 27 days from the day that the Planning Commission takes action. If you sign up on the sheet located up there on the table, we'll send you a follow up letter that will give the actual date of the County Commission meeting. Barring some sort of deferral or request by the applicants for deferral or from the opponents, then typically it's heard 27 days from today.

SCHLEGEL But the Commissioners have requested that it be scheduled for a date when all five will be present.

GOLTRY The follow up letter goes out by a week after today; it doesn't go out tomorrow.

The Metropolitan Area Planning Department informally adjourned at 3:51 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 _____, 2004.

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

(SEAL)